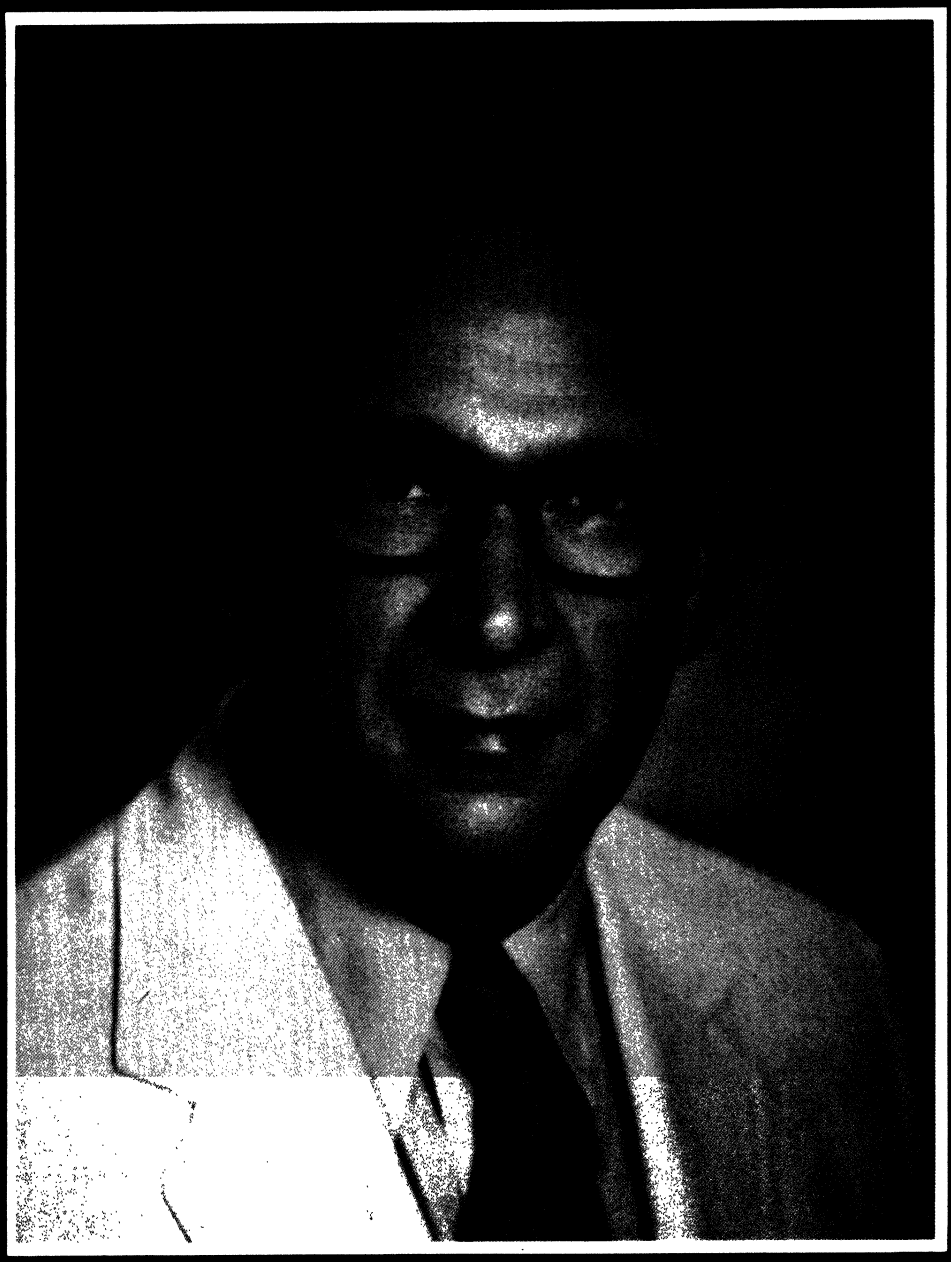
Spring 1981

LITERATURE of LIBERTY

A Review of Contemporary Liberal Thought

Contemporary Currents in Libertarian Political Philosophy

by David Gordon



John Hospers

LITERATURE *of* LIBERTY

A Review of Contemporary Liberal Thought

Volume IV, No. 1 Spring 1981

Bibliographical Essay

Summaries

Index

Editorial Staff

Literature of Liberty, published quarterly by the **Institute for Humane Studies**, 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 *Literature of Liberty* by the associate editors.

Subscriptions and correspondence should be mailed to *Literature of Liberty*, 1177 University Drive, Menlo Park, California 94025. The annual subscription rate is $12 (4 issues). Single issues are available for $4 per copy. Overseas rates are $20 for surface mail; $34 for airmail. An annual cumulative index is published in the fourth number of each volume. Second-class postage paid at Menlo Park, California, and at additional mailing offices.

ISSN 0161-7303

Associate Editors

Editorial

Professor John Hospers's principled life, voluminous writings, and precise scholarship are of a piece, wedding theory and practice in the Socratic pursuit and clarification of the true, the good, and the beautiful. His speculative analysis—practiced over thirty-five years of a productive scholarly career —has advanced and illuminated his chief areas of philosophic concern: social-political philosophy, ethics and art theory. All the while he engaged in the rigorous demands of a teacher and a scholar, he practiced what Theodore Roszak in *The Dissenting Academy* describes as "the spirit of Socrates," the responsibility of the academic to participate in the discussion of the vital public issues of our individual rights and liberties. Making the proper and central business of the academy this Socratic examination of man's life with respect to its moral qualities, Professor Hospers's work is highly germane to the following bibliographical essay. Professor Hospers's scholarly practice thus embodies the insight of F.A. Harper, founder of the Institute for Humane Studies:

> . . . it is clear that if one would change the society in which he lives, in some major way, there must first occur a change in the philosophical position of key intellectual leaders. This will then bear fruit in its time. There is no other way. All history confirms this.

Professor Hospers's Socratic spirit of open-minded examination of the key issues of philosophy has shone through his fairness as editor of the *Personalist* (now the *Pacific Philosophical Quarterly*) when, in the early 1970s he opened the journal's pages to the long-neglected discussion of rights, egoism, and normative political philosophy in general. Director of the School of Philosophy at the University of Southern California, his teaching method reflects Socrates' manner of philosophizing. He enjoys proposing specific cases and counter-examples to his students as a way of questioning unexamined assumptions.

This same Socratic spirit informs his numerous books and articles. Professor Hospers's complete bibliography would run to several pages, but a sample of titles, many of them classroom standard texts, that have been translated into several languages may serve to indicate his scope:

- *Philosophic Method and Analysis:*

  Introduction to Philosophic Analysis. 2nd ed. New York: Prentice-Hall, 1967.

  "What Is Explanation?" *Journal of Philosophy* (June 20, 1946):356–377.
  "What Is Knowing?" *The Graduate Review of Philosophy* 1(Fall 1956):3 –12.

- In *Aesthetics:*

  Meaning and Truth in the Arts. Chapel Hill:University of North Carolina Press, 1946.
  "Problems of Aesthetics." In the *Encyclopedia of Philosophy* ed. Paul Edwards. New York: Macmillan-Free Press, 1967, pp. 35–36.
  "Philosophy of Art." In the *Encyclopedia Britannica.* 15th ed., 1974 pp. 40–56 (26,000 words).

- In *Ethics:*

  Human Conduct. New York: Harcourt Brace Jovanovich, 1961.
  "Ethical Egoism." *The Personalist* 51(Spring 1970):190–195 (with Wilfrid Sellars).
  Readings in Ethical Theory, 2nd ed. New York: Appleton-Century Crofts, 1970.
  "The Literature of Ethics in the Twentieth Century." *Literature of Liberty* 3(Autumn 1980):5–41.

- In *Social and Political Philosophy:*

  "Political Ethics." In *Human Conduct.* New York: Harcourt Brace Jovanovich, 1961. Chapter 8.
  Libertarianism: A Political Philosophy for Tomorrow. Los Angeles: Nash Publishing Co. 1971
  "What Libertarianism Is." In Tibor Machan (ed) *The Libertarian Alternative* Chicago: Nelson Hall Co., 1974, pp. 3–20.

Even this partial listing of his scholarship impresses one with John Hospers's achievement in philosophic theory. Just as remarkable has been his ability in converting theory into practice. Not simply an abstract aesthetician, his is adept as a practicing critic of music, movies, and literature, not to mention his skills as a gourmet

cook. His fusion of theory and practice is equally impressive in political philosophy. He is as much at home in analyzing the normative foundations of rights as in running for the presidency in 1972, when he held out the remote but exhilarating Socratic promise of installing a philosopher-president in the White House. Much of his commitment to human freedom and individual rights he imbibed from the values practiced by the independent and self-reliant Dutch farming community of Pella, Iowa, where he was born in 1918.

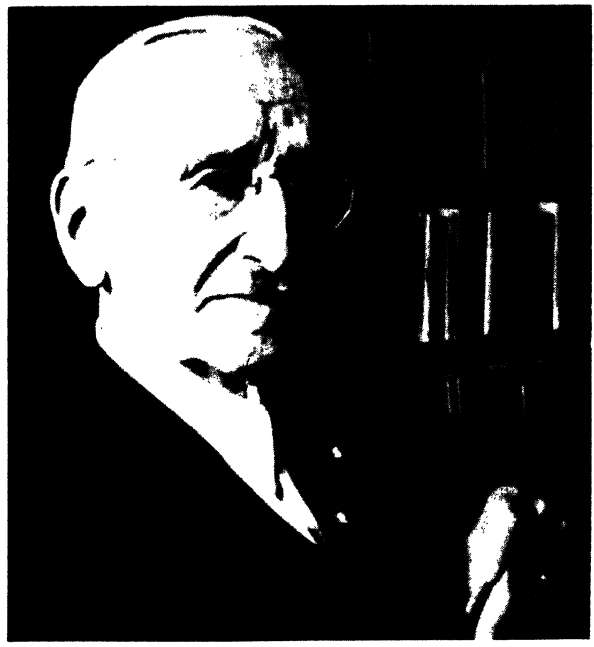
This last consideration leads us to the vital Socratic inquiry —the nature, preconditions, and justification of a free and humane society—a theme which John Hospers has skillfully analyzed together with the libertarian philosophers surveyed in David Gordon's following essay. This Socratic inquiry into human rights and liberty, involving life-and-death issues of man's survival, demands no less than a *full* Socratic examination making use of all resources of every philosophic tradition or mode of thinking that can shed some light on these issues.

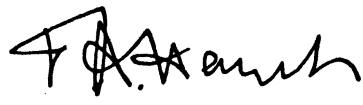
In his *Critique of Religion and Philosophy,* the late Walter Kaufmann similarly stressed the need to bring the *full* "heritage of Socrates" to bear on the central questions of man's lot, his nature, mortality, and freedom. In Kaufmann's terms, an adequate Socratic inquiry into human freedom and rights would require our combining "two perennial tendencies," that of the "analyst" and of "the existentialist," that is, logic and intuition, scholastic analytic rigor and romantic insightful vision. The true Socratic investigation into the mystery of man's freedom and meaning in the universe avoids the exclusive polarities of either undisciplined vision or unpoetic analysis. Our inspiration as philosophers could well be Socrates' insistence at the end of the *Crito* (on the very eve of his death on behalf of the examined life) for a union in the psyche of Apollo and Dionysus, of rational *logos* and Bacchic music or *mythos*. In a word the examination of human rights and freedom demands the integrated philosophizing of scientific visionaries.

In Friedrich Hayek's analysis, the theorists of human freedom and rights are today polarized into two camps. The dominant camp consists of "constructivist rationalists," who, uninformed by man's history, biology, evolution, or place in nature and universe, derive substantive rights from abstract self-evident axioms. The second camp, which Hayek endorses, avoids the undue rationalism of the successors of Aristotle, Aquinas, Hobbes, Kant, Moore, or Rand, and seeks to explore the implications for human ethics and social philosophy of man's biological, social, and historical evolution in the universe. Socrates might have been inclined to suspect that both camps

contain a measure of truth and that there may be more than two camps which might have something of value to contribute to our understanding of freedom.

The philosophic profession has been rising in complaint about the domination by one philosophical approach. This need for pluralism in approaches and methodology in philosophy is mirrored in the reality of pluralism on rights theory among libertarian thinkers. In a world of new sciences—biochemistry, quantum theory, systems analysis—any discipline must adopt a pluralist attitude or destroy creativity and discovery. New truth will be accepted in a discipline only in an atmosphere of freedom to choose. Yale historian Franklin L. Baumer has shown in *Modern European Thought* that the modern world has increasingly abandoned the generally static outlook of earlier ages and has gradually adopted a world view that recognizes dynamic process and continuity in change. As in earlier ages, the academic world may be the last to accept the reality of dynamic process and continuity in change.





FRIEDRICH A. HAYEK

Nobel Laureate in Economic Science

Bibliographical Essay

Contemporary Currents in Libertarian Political Philosophy

by David Gordon

Introduction: Between Ethics and Political Theory

Political philosophy, after being consigned to a premature burial by the logical positivists in the 1930s and 1940s, has revived and, during the past decade, has enjoyed a dramatic rebirth. The reasons for this rebirth? John Rawls's 1971 work, *A Theory of Justice,* has been particularly influential in revitalizing scholarly interest in normative political theory. Rawls's study represents a complex and detailed presentation of a political philosophy supporting in large measure the politics of the contemporary welfare state. Rawls has thereby provoked an enormous amount of critical commentary and channeled creative energies into normative political theory. Not all of the theorists sharing this reawakened interest in the relation between ethics and political theory, however, agree that the existing welfarist order of things is the summit of political wisdom. Notable among the dissenters are a group who wish to continue the individualist currents of classical liberalism. For these thinkers, a just society would be one properly grounded in the promotion of individual liberty. These libertarian writers have already won wide recognition for their defense of a free society; and, at least since the publication in 1974 of Harvard philosopher Robert Nozick's National Book Award-winning *Anarchy, State, and Utopia,* the libertarian perspective has become one which no one seriously interested in political theory can afford to neglect. But the libertarian perspective is no lock-step, dogmatic, ideology. Although agreeing to a large extent on the nature of a free society, the libertarian theorists have markedly different opinions concerning its ethical justification.

But first of all, what are the questions of particular importance for libertarian political theorists? They investigate a problematic area occurring at the boundary of ethics and normative political theory. How are we to ethically justify the claims which political theory makes about the way in which we ought to organize society? In particular, how are we to defend claims to rights? Naturally, the problem presented assumes a very different form depending upon the variety of political theory being considered: an ethical justification of a Marxist society will probably be quite different from that of a distributist regime along the lines advocated by G. K. Chesterton. Rather than consider a number of different political theories, however, we shall concentrate on libertarianism, an approach which sharply restricts, if it does not eliminate altogether, the role of the state in a just social order. Since libertarian theorists usually advance very strong claims about individual rights, they have often been forced further into the realm of ethics than have other sorts of theorists.[1] Further narrowing the field, we shall not offer a comprehensive appraisal of all libertarian work on this topic but instead shall concentrate on a few writers.[2] We will begin by considering Friedrich A. Hayek's distinction between two schools of libertarian or individualist philosophy.

F. A. Hayek: Two Schools of Individualism?

In his classic essay "Individualism: True and False,"[3] F. A. Hayek, the 1974 Nobel laureate in economics, identifies what in his view are the proper methods to defend his ideal of the classical liberal or libertarian society. In the course of his analysis, Hayek distinguishes "true" from a "false" individualism. Hayek believes that the chief fallacy to avoid in social philosophy is "constructivist rationalism," a style of thought and set of procedures in essence Cartesian. Constructivists, following their French rationalist master Descartes, wish to jettison tradition, or, at least, paraphrasing Bacon, to "examine tradition strictly" before the bar of reason. The constructivist position, as Hayek portrays it, attempts to found a scheme for the proper ordering of society by logical deduction from axioms which its proponents allege to be self-evident. In particular, members of what Hayek regards as the false school of individualism would enthusiastically agree with the Declaration of Independence that "all men are endowed . . . with certain unalienable rights." The rights in question are viewed as absolute, based not upon history but rather on the clear dictates of reason. Hayek stigmatizes this approach as arid, dogmatic, and unhistorical. He does not regard the

position he attacks as a mere straw man, a mere ideal type to be held up as an *exemplum horribile* to deter those tempted to stray from the path of moderate traditionalism which he champions. To Hayek, the constructivists were, in historical fact, responsible for the false turn taken by individualism in France during the nineteenth century.

The kind of individualism and liberal society Hayek himself favors is neither French nor Continental-rationalist, but rather quintessentially English and traditionalist. Like Tennyson, Hayek sees "freedom slowly broaden(ing) down/From precedent to precedent." A staunch champion of the common-law tradition, he explicitly disclaims appeals to abstract theories of rights.[4] We will presently discuss the details of his views on rights; but before doing so, we should note a perhaps surprising fact.

Counter-Currents to Hayek: Natural Rights Theorists

Virtually all contemporary libertarian philosophers have, surprisingly, rejected Hayek's strictures against exaggerated rationalism. As will become evident from our survey, the main project of libertarian theorists today is precisely to justify a theory of rights, not by appeals to tradition, but by just the sort of rationalist deductive method Hayek condemns.[5]

In rejecting Hayek's counsel, the writers under consideration here find themselves fully in accord with the dominant trend of philosophical thinking among non-libertarians. In fact, John Hospers's recent *Literature of Liberty* article, "The Literature of Ethics in the Twentieth Century," suggests a direction contrary to Hayek's. Although a profusion of articles and books have appeared in recent years dealing with the subject of rights, almost all such treatments proceed in a manner which Hayek would criticize as overly deductivist.

Counter-Currents to Hayek: The Revival of Natural Law

In addition to the writers surveyed by Professor Hospers, a rationalist school of particular importance for libertarian philosophy has been revived in recent years. This is none other than the ethics of natural law, deriving from St. Thomas Aquinas, and, in its foundations, owing much to Aristotle's *Nicomachean Ethics*. Despite the fact that this type of moral philosophy had been advocated earlier in this century by writers such as Jacques Maritain, Heinrich Rommen, and Yves Simon (who could by no stretch of the imagination be considered libertarians) many of the current defenders of liberal and free-market individualism feel that it is precisely this system that offers the most secure foundations for their political

philosophy.[6] Professor Henry Veatch of Georgetown University has presented a concise survey of the renaissance of natural law thinking in his *Literature of Liberty* survey article, "Natural Law: Dead or Alive?" In addition, Professor Veatch has usefully employed the natural-law perspective to criticize influential schools of meta-ethics in *For An Ontology of Morals*. Since the publication of Veatch's article, what is probably the most comprehensive and philosophically sophisticated defense of natural law ever done has appeared in the Oxford philosopher and lawyer, John Finnis's *Natural Law and Natural Rights* (1980).

F. A. Hayek's Evolutionary Ethics

Whether Hayek would indict natural law ethics, which long antedated Descartes, as yet another overly rationalist and constructivist delusion is an interesting question, but unfortunately not one whose answer is readily apparent from his writings. What is clear, however, is that Hayek's own understanding of ethics is very much at variance with this school. (A criticism of Aquinas for undue rationalism in his view of natural law, written from a perspective different from Hayek's may be found in Eric Voegelin's *Anamnesis*).

Hayek, rather than attempting to deduce the precepts of ethics, bases himself squarely on social evolution. In a manner reminiscent of biological evolution via Darwinian natural selection, he argues that institutions arising through historical accident will, if useful to the survival and growth of the society in which they have arisen, naturally flourish. Those societies with the "best" institutions will supplant those less favored, and, in the course of time, a complex social organization will arise. The key to Hayek's vision of the entire process of social and cultural growth is the limits of individual knowledge: the institutions of society are much too complex to be directly designed by human beings, however skilled and intelligent. Instead, in a phrase coined by the Scottish Enlightenment thinker Adam Ferguson (1723–1816)—and made famous by Hayek—social institutions arise as the "results of human action but not of human design." In effect, natural social systems are born of a "spontaneous order."

What follows from Hayek's vision of a "spontaneous order" in social development? In order for society to evolve in a natural fashion, people must be able to know and predict with some accuracy the behavior of their fellow citizens. To achieve this knowledge, everyone must observe a stable set of rules. It is here that the chief function of morality lies: by observing the accepted rules of social interaction, one facilitates, most likely unknowingly, the progress of society. Strictly to be avoided is the calculation of consequences in

the style of "act-utilitarianism": to follow this deplorable system would be to abandon altogether the safety of general rules for the chimera of the particular, special case, and, in so doing, to destroy the social fabric. (Although Hayek's way of looking at morality in some ways resembles rule-utilitarianism, he specifically disclaims this position in the third volume of his *Law, Legislation, and Liberty.*) As will be evident, Hayek's system somewhat resembles cultural relativism: the conduct of an individual held desirable is that in accord with the relative, non-absolute rules under which his particular society will prosper. But we should not forget that Hayek would *not* condone the right of a particular person to reject social standards in the name of relativism. To do so would be to pit his own meager knowledge against the accumulated wisdom contained in the social tradition, which to Hayek is truly "a power which makes for righteousness."

Hamowy's and Gray's Criticism of Hayek

Hayek's approach to morality, like his doctrine of law, stresses the need for generality as a *sine qua non* of any stable normative rule. In a series of trenchant papers covering almost twenty years, Ronald Hamowy has severely weakened the persuasiveness of Hayek's criterion of generality.[7] Since almost any practice, no matter how morally repulsive or silly, can be stated in the form of a general law, it would seem that generality hardly suffices as a test for proper legal enactments, let alone the moral law. Hayek's additional attempt to define "coercion" (or violation of moral and legal rights) by lack of predictability is, in Hamowy's view, a failure. It amounts to a covert attempt to reintroduce Jean-Jacques Rousseau's "general will" in the guise of a conception of negative liberty, supposedly the polar opposite of the pattern of collectivist thought associated with Rousseau.

Hamowy's criticism has been extended by the Oxford political philosopher John Gray. Gray points out that measures condemned by Hayek, such as government interventions, wars, and many other practices, by common consent immoral, all have their own long-standing traditions. If Hayek, in his devotion to the achievements of "the unintended consequences of human action," refuses to desert his allegiance to the particularities of historical tradition for moral philosophy in its more usual sense, how can he consistently condemn such embarassing traditions? It may be true that, as Gray puts Hayek's chief thesis, "human reason is a gift of civilization and not a special faculty which might one day fully understand (or control) social development,"[8] but, however valuable the reiteration of this truth, it is in itself but a small part of an adequate ethics or politics.

Rothbard on the Nature of Rights

In contrast to Hayek, Professor Murray N. Rothbard, one of the most influential libertarian writers, rests his support for libertarianism on a natural law position. Particularly distinctive in Rothbard's approach are his views on the relation between moral and political philosophy, the justification for the right of self-ownership, and the scope of property rights.

Natural Law

Rothbard firmly believes that economics and political philosophy must be adequately grounded in ethics. In his 1960 essay "The Mantle of Science," for example, he argues that free will is a presupposition of sound social inquiry: to deny free will is to involve oneself in self-contradiction. But to accept free will is to raise a further question: what choices ought one to make? His reply places him in the camp of natural law. Rothbard has succinctly stated his conception of natural law in the following passage: "Natural law theory rests on the insight that we live in a world of more than one—in fact, a vast number—of entities, and that each entity has distinct and specific properties, a distinct 'nature,' which can be investigated by man's reason, by his sense perception and mental faculties . . . the nature of man is such that each individual person must, in order to act, choose his own ends and employ his own means in order to attain them . . . . Since men can think, feel, evaluate, and act only as individuals, it becomes vitally necessary for each man's survival and prosperity that he be free to learn, choose, develop his faculties, and act upon his knowledge. This is the necessary path of human nature; to interfere with and cripple this process by using violence goes profoundly against what is necessary by man's nature for his life and prosperity."[9]

Natural law is, of course, a controversial position in philosophy, and critics of it would no doubt query Rothbard's views along the following lines. Even if man cannot survive (or survive as a rational being) without the conditions Rothbard has enumerated, does this fact make the pursuit of these conditions man's purpose or end? Also, granting that man does have a purpose, how does it follow that he ought morally to pursue it? (Obviously, not every proposition of the form, "if the nature of X is to 0, then X morally ought to 0" is true—e.g., suppose someone were by nature a mass murderer).[10] Rothbard's most detailed defense of natural law is contained in the first part of his forthcoming book, *Ethics of Liberty*. A perusal of this work shows that objections of the type given above would by no means phase him. The broad outlines of his reply would probably

consist in branding as false the so-called "is-ought" dichotomy accepted by most moral philosophers since the time of David Hume. It does follow, he asserts, from the fact that man's nature is of the sort he has described that man morally ought to pursue his end; and he regards the specification of the end which he has given as self-evidently true.[11] Rather than pursue this argument in more detail, however, we shall proceed to an area which Rothbard had developed with great originality—what moral rights can be deduced from the view of natural law which he has advanced?

Freedom as a Condition of Morality

Before turning to this topic, though, let us consider an interesting argument Rothbard presents in support of his contention that freedom is a moral requirement of man's nature. He argues that "there is no sense to any concept of morality, regardless of the particular moral action one favors, if a man is not free to do the *immoral* as well as the moral thing. If a man is not free to choose, if he is compelled by force to do the moral thing, then, on the contrary, *he is being deprived of the opportunity of being moral.* He has not been permitted to weigh the alternatives, to arrive at his own conclusions, and to take his stand."[12] (For the conclusion of this to follow from man's nature, one, of course, needs the premise that man's nature is to be moral.)

This argument has won wide acceptance among libertarians but has been challenged by Robert Nozick, who argues that whether someone "is acting morally or not depends on *why* they are doing what they're doing . . . . It depends on what our reasons are for our behavior. The existence of the law doesn't stop us from behaving morally."[13] It is not clear to what extent, if any, Nozick's argument, which was not specifically directed against Rothbard, applies to him. Does Rothbard mean to consider a case where someone is physically prevented from acting a certain way, or is the case he envisions exactly the one with which Nozick takes issue? Once more, we cannot continue the argument here."[14]

The Self-Ownership Axiom

As mentioned above, Rothbard has developed in a creative way the implications of his natural law position. He begins from the right to self-ownership, which "asserts the absolute right of each man, by virtue of his (or her) being a human being, to 'own' his or her own body; that is, to control that body free of coercive interference. Since each individual must think, learn, value, and choose his or her ends and means in order to survive and flourish, the right to self-

ownership gives man the right to perform these vital activities without being hampered and restricted by coercive molestation."[15]

So far, the reasoning presented in defense of self-ownership is what one would expect from the natural law view discussed above. But Rothbard develops in an interesting way an analysis of the consequences of denying the self-ownership principle.[16] "There are only two alternatives: either (1) a certain class of people, A, have the right to own another class, B; or (2) everyone has the right to own his own equal quotal share of everyone else."[17] Rothbard next proceeds to challenge these two alternatives. The first "implies that while Class A deserves the rights of being human, Class B is in reality subhuman and therefore deserves no such rights. But since they *are* indeed human beings, the first alternative contradicts itself in denying natural human rights to one set of humans."[18] The second alternative, in his view, is if anything more absurd: it proclaims "that every man is entitled to own part of everyone else, yet is not entitled to own himself."

Rothbard's defense of self-ownership has not received the attention it deserves from the philosophical community. George Mavrodes, almost alone among non-libertarian professional philosophers, has taken notice of it. He has challenged whether Rothbard's alternatives are mutually exhaustive. Why do human beings have to be owned at all? As Rothbard points out in *Ethics of Liberty*, this argument rests on a misconception. Ownership, as he means it, has the sense of control rather than being a purely legal category. In the way Rothbard is using the term, human beings must be owned.[19]

Although we cannot enter here into a full analysis of Rothbard's argument, it is worth pointing out that his dismissal of the rejected alternatives depends upon the doctrine of natural law that we have attributed to him above. The first alternative has been rejected on the grounds that to deny one class human rights is to imply the absurd proposition that the class in question is subhuman. But *this* requires saying that to assert someone is human implies that he has human rights, exactly the fundamental thesis of Rothbard's natural law ethics. Similarly, one ground on which Rothbard attacks the communitarian ownership alternative is that "a world of zero self-ownership and one hundred percent other-ownership spells death for the human race." Since, according to Rothbard, the purpose of ethics is the promotion of man's needs, this consequence demands rejecting the assumption which implies it. But, as the mere quotation of this consequence suggests, one *might* simply reject a proposal which led to so drastic an effect even if one does not accept Rothbard's version of natural law. More generally, a strong point of Rothbard's schema is that the way he has set up the alternatives, as the question of ownership as opposed to his analysis of them, does *not* depend upon his own, or any other, doctrine about the foundations of ethics.

Property as the Basis of Rights

Rothbard's originality is again apparent in his development of the self-ownership axiom. Like virtually all libertarians, he wishes to defend the moral right of individuals to own property; he does so by arguing that possession of property is a necessary condition to having a right of self-ownership. So much, of course, is common ground between Rothbard and many others. But Rothbard extends the notion of property rights beyond virtually all other theorists: to him, property rights are the basis of all human rights (other than the right of self-ownership). He states his opinion starkly: "in fact, there *are no* human rights that are separable from property rights."[20] To deny this is to treat human beings as "ethereal abstractions"; to sustain any of his rights, man must have material resources. (It is no surprise that Rothbard accordingly rejects Robert Nozick's contention that people have "procedural rights," e.g., the right to be tried in a certain manner for crimes of which they have been accused).[21] A desirable consequence of this view of rights as resting upon claims to property is that it avoids charges that rights conflict and permits one to postulate them as absolute. For example, the classic case of someone falsely yelling "Fire!" in a crowded theater does not present a conflict between one person's right to free speech and the remaining patrons' supposed rights to order and tranquility. The person who yells "Fire!" is (unless the owner of the theater) on someone else's property and has *no* right to speak.[22]

Ethics and Political Philosophy

Thus, in Rothbard's system, a just legal order will consist of a specification of everyone's property rights and will include no rights lacking connection with property rights. This approach creates a difficulty for Rothbard's version of natural law: is someone morally required to adhere to the system of legal rights, even if his own life is at stake? At first sight, one would imagine that an answer would have to be a straightforward no. The purpose of ethics is the preservation of life, one's natural end. In a lifeboat situation, then, in which one can save one's own life only at the cost of violating someone else's rights, why does one have any moral obligation to do so? Rothbard accepts this line of thought so far as one's personal code of conduct is concerned: on his view, one does not have the moral obligation to sacrifice one's own life if doing so is required to respect someone else's rights.

Rothbard's creativity as a theorist is once more evident, however, in his denial that this view of moral obligation has any consequences for political theory. The function of political philosophy, as already indicated, is to specify the structure of property rights. This struc-

ture remains intact even in lifeboat situations: even if someone has no moral obligation in a given instance to respect another's rights, this fact does not cause the structure of rights to pass out of existence. This conception of the relation between political and moral philosophy has the consequence, which Rothbard accepts, that one may in some cases be justly punished for doing something one had no moral obligation no to do.[23]

Eric Mack's Ethical Egoism

Eric Mack of Tulane University has presented an approach to rights which bears some similarities to that of Rothbard. It too is founded on the idea that man has a natural purpose or end. At least in work which he has published so far, Mack has concentrated, much more than Rothbard, on the details of how claims to moral rights are derived rather than upon the detailed specification of these rights.[24] His approach rests upon a resolute acceptance of ethical egoism.

Egoism versus Rights?

To some, the preceding paragraph must appear grossly paradoxical. Isn't egoism the view that only one's own interests count morally? How can one have a system of rights, in which one has moral obligations to treat people in certain ways, while still accepting egoism? Mack does not attempt to solve this problem by adopting a tricky definition of obligation. On the contrary, his definition of obligation is unexceptionable. "I will only say that a person is obligated not to perform some action if and only if that action is unjustified, unjustified independently of the action's disutility for that person."[25] Even accepting such a strict sense of obligation, however, Mack does not think that egoism undercuts rights; instead, he attempts to base rights exactly on the view commonly held to be incompatible with them.

His version of the doctrine, called impersonal ethical egoism, maintains that "for any two persons A and B, (i) if A is judging himself, then A is to use this criterion: A ought to do action *a* if *a* is in A's overall self-interest; and (ii) if A is a spectator judging about somone else, B, then A is to use this criterion: B ought to do action *a* if a is in B's overall self-interest."[26] Mack argues strongly that in this sort of egoism, one *can* have moral obligations to others. In particular, using people as if they were a natural resource implies that they ought not to act in their self-interest, a proposition which this type of egoism rejects. One therefore has an obligation not to use people as natural resources. In like manner, Mack holds that one can derive

from impersonal ethical egoism an obligation not to coerce others. (There are exceptions to this obligation in lifeboat situations, where coercing someone is necessary to one's own self-interest.)[27]

An obvious problem at once presents itself. It is not evident that violating someone's rights in fact means that one has denied a tenet of ethical egoism. Suppose, for instance, that one hits someone over the head with a baseball bat simply because one feels like doing so. Surely this is an instance of using someone as a natural resource; but does the hitter necessarily assert that his victim ought not to act in his own interests? That is to say, is he committed to claiming that B is morally obligated to offer his head as a convenient target? No doubt it would be to the interest of the hitter if he did so; but why need an egoist hold that others ought morally to cooperate with him?

Mack himself recognizes that there are problems with this sort of justification for rights, although he states that "I still like and endorse this argument."[28] As he puts the difficulty: "Especially if the 'ought' in 'Jones ought to act in his own self-interest' is teleological, one has to be puzzled about just how the truth of this moral claim plays a role in generating deontic claims on Smith."[29]

There is a further difficulty with impersonal ethical egoism which Mack (at least Mack in his 1973 dissertation) probably would not accept. Suppose that killing or torturing a large number of people is necessary to save one's life and that one is not in this predicament through one's one fault. Mack seems required to accept the counterintuitive proposition that one is not only permitted to kill and torture but morally required to do so. Of course, there might in a given case be psychological considerations militating against so draconian a policy; if one would feel remorseful for the rest of one's life, it might not be in one's self-interest to kill the others. But, equally, there might be many cases in which it *was* in one's self-interest to do so; e.g., suppose someone tends not to dwell on past actions.

Man As An End-In-Himself

In his most recent work, Mack has advanced a significantly different version of egoism, one which it is not clear would be subject to the difficulty raised in the preceding paragraph. (Mack himself apparently does not regard his new approach as inconsistent with his earlier one.) Mack states that "we can make sense of talk about misusing persons only on the supposition that for each person there is a certain 'natural' or 'objective' end, that it is the 'natural' or 'objective' function of each person's activity to satisfy or move toward the satisfaction of this end."[30] Mack suggests that the natural end or objective of each person is his own wellbeing. "The specific claim is that for each person the utilizations of his activities which

constitute successes are those which conform to/contribute to his wellbeing."

Mack believes that by appealing to "eudaemonistic egoism" of this sort, he can better explain why people are obligated not to use other people as means who do not have ends of their own. Because "the function of each person's goal-directed activity is that person's living well,"[31] it is morally wrong to bring it about that someone is unable to act in pursuit of his own wellbeing. It is not evident in what way Mack avoids a variation of the difficulty presented earlier. Is someone who uses another as a resource *denying* that the other ought to pursue his own wellbeing? Perhaps, to reiterate, all that he is saying is that it is convenient for him to use the other person as a resource. Someone who accepts "eudaemonistic egoism" may well face fewer restrictions on the manner in which he can treat others than Mack imagines. But I may be misconstruing his position.[32]

Perhaps what he is saying is *not* that failing to treat others in accord with their natural end is inconsistant with claiming that they ought to act in pursuit of that end. Mack's position might be the following: the principle that treating people in a manner contrary to their natural end is wrong because it has axiomatic status. It isn't that it follows from something else: it just *is* wrong so to treat them. Doing so manifests lack of respect for their existence as separate persons. It isn't obvious, however, why *this* position should be termed an egoistic one. But to many this will hardly be considered a defect.

Contractual Rights

Whatever the soundness of Mack's view on the foundations of ethics, he has argued in an interesting and imaginative way that his view offers a way of justifying the rights which libertarians wish to advance. Among the most important of these, of course, are contractual rights, which Mack justifies as follows: "Imagine that B (intentionally) creates in A rational expectation that B will do X, and imagine that in some way A acts on this rational expectation . . . if B does not do X (and no equivalent of X is done) then what A ends up doing is not what it was A's purpose to do . . . . B can bring it about that what A does is not what it is A's purpose to do merely by failing to do X . . . . A's right to the fulfillment of the promise or contract is, ultimately, a right against being coerced."[33] Going further, Mack argues that not only contractual rights but property rights in general may be defended along the same lines. If one has acquired an unowned resource which plays a role in his life such that depriving him of it would alter his plans, one is morally unjustified in doing so.

Mack unfortunately has so far not presented at length a fully worked-out deduction of rights from the duty not to interfere with

others' pursuit of their natural ends. Because of the very promising nature of his program, it seems to me to be justifiable to offer some criticisms of his view of contractual rights, with the hope that his fuller treatment will elucidate these difficulties. First of all, not all promises create expectation in the person to whom one has made the promise that one will act in the way promised. Some people have poor reputations for reliability and their promises may even create an expectation that they will not be fulfilled. Are such persons obligated to do the opposite of what they promise? Further, some people are very suspicious and tend not to expect people to keep their promises, at least to the extent of not making their plans contingent upon promises to them being kept. Are promises to such people not binding?

Also, suppose John simply states to Joe that he will do something but does not promise. If John is reliable, might this not create a rational expectation in Joe that John would perform the indicated action? If it does, is John obligated to do it? It would seem counterintuitive, not to say unlibertarian to maintain that, although one hasn't promised, one can't change one's mind. One could not reply that in the absence of a promise, Joe would not make a plan on the assumption that John would act as he had said. This is just the point at issue. Additionally, it is not always the case that disappointing someone's expectations goes counter to his self-interest. Even if breaking a promise does disrupt his plans, maybe they were bad plans and *should* have been disrupted. Of course, Mack might claim that it is up to the individual to decide what is in his interest; but it is not clear why others should be bound by his determination. Finally, not all promises, even if they do lead others to certain expectations, result in a disruption of the promisee's activities. Suppose that John borrows a book from Joe, creating in Joe the expectation that John will return it in two weeks. If Joe has no plans to do anything with the book when he gets it back, his expectations will not induce him to form any plans of action at all. Is this promise therefore nonbinding?

Bad Samaritan Laws

If Mack's treatment of contractual rights is in some respects subject to challenge, the same does not appear to be true of his excellent analysis of "Bad Samaritan laws," i.e., laws requiring one to come to the aid of persons in distress with whom one has no special obligation-incurring relationship.[34] As one might anticipate, Mack argues that one has no such duty, since each person is required only not to interfere with others' pursuit of their wellbeing; he is not required to render others aid in their activities.

Mack's analysis of a possible defense of Bad Samaritan laws is of the greatest interest. Some philosophers hold that refraining from

coming to a victim's aid does interfere with his pursuit of wellbeing, in that the refraining, or omission to act, may be regarded as (part of) the cause of the victim's mishap. The argument that an omission can be a cause rests upon the contention that if there had not been an omission, the victim would not be in his present predicament. Mack shows in convincing fashion the counterintuitive results of viewing omissions as causes of harm. It follows, on the omissions view, that I am the cause of someone's starving in India, even if I had no knowledge of the existence of the person who dies, if it is true that if I had given him food, he would not have died. The fact that I did not assassinate ex-President Carter was a partial cause of his running for reelection. The absurdities of this view should by now be apparent. The importance of Mack's argument for the justification of libertarian political theory is that one of the main tenets of socialist and welfarist positions holds that one does have a positive duty to aid people in distress, even if one has not brought about their difficulties by coercing them.[35]

Douglas Rasmussen In Defense of Natural Law

The two theorists we have so far considered, Rothbard and Mack, both support a version of natural law ethics. As indicated above, however, natural law ethics is subject to criticism. How can such attacks be met? In an important paper, Douglas B. Rasmussen has attempted to defend natural law against some common objections and to provide a detailed account of how an ethics of this type may be supported.[36]

What is Justification?

Rasmussen, before proceeding to his argument supporting his conception of ethics, makes some useful general remarks about justification. One might at first sight think that there *can't* be an argument for an ultimate principle. If it in fact is ultimate, then by definition it rests on no higher grounds. How then can one argue in its favor? If one could, one would have shown only that one had not yet arrived at one's *ultimate* principle. Rasmussen rejects this common view of justification "In fact, it is only a dogma that first principles qua first principles cannot be defended. Why should one accept a priori this methodological principle?"[37]

Rasmussen suggests the following procedure: "the criterion for judging whether X is or is not a first principle is a result of the statements the opponent of X makes, not some premise from which the proponent of X deductively reasons. Is X necessary for the possibility of Y or not? This is the criterion used."[38] Although this procedure is often termed a Kantian transcendental argument,

Rasmussen thinks that with more historical justice it might be regarded as Aristotelian. Aristotle justified the law of non-contradiction, not by a circular appeal to its truth, but by showing its truth is necessary even for the possibility of its being denied. It is not viciously circular "to show how the opponent of the principle must accept that very principle."[39]

Foundation of Ethics

Rasmussen next embarks on the ambitious task of demonstrating that there is a condition which everyone concerned with ethics must accept. Specifically, he endeavors to show that "the initial condition requires the acceptance of a human being acting and living in accord with his nature as the ultimate *moral* value." The vital core of Rasmussen's argument is the claim that choice-seeking behavior is the presupposion of ethics. One cannot reject choice: "even the decision not to make choices is itself a choice." But in order for someone to choose, he must be alive: life is the necessary condition of all choice. Going even further, the existence of choice depends on the fact that the results of choice can be of life or death significance to the chooser. "If an action could not result in the existence or non-existence of the entity that acted to achieve a goal, then there would be no difference in the results of achieving or failing to achieve a goal. If there were no difference in result with respect to an entity existing or not existing, then what other differences would there be? What could make results differ if there were not this basic difference? None."[40]

But it is not only life that is the presupposition of all valuing; it is specifically human, rational life. Simply to be alive without being a particular sort of entity is impossible. Thus, one must say that man's life as a human being is a necessary condition for all choice. It follows, according to Rasmussen, that if one chooses anything, one must choose or value man's life as a human being. Since this value is presupposed in all valuing, it is the required ultimate principle of choice. "Man's life qua man . . . becomes the ultimate moral value, the *summum bonum*"

Difficulties in Rasmussen's Argument

Rasmussen's ingenious parallel with Aristotle's defense of the principle of non-contradiction faces several difficulties. To begin with, while it is difficult to imagine someone giving up choice altogether,[41] it certainly does not seem difficult to picture someone rejecting ethics. Even if Rasmussen's argument were otherwise unobjectionable, why would his result have ethical significance? One can see the same difficulty at another point in the argument. If one

has to choose life as a necessary condition of any other choice,[42] then one isn't required to value it in the sense of granting it high ethical significance. Rasmussen appears to confuse "valuation" in the sense of preferring something to an alternative with valuation in the sense of holding something to be ethically important.

Further, it is not apparent why the existence of choice requires the existence of a being for whom choice is a matter of life or death. Why, for example, is the notion of God making a choice incoherent? Or, if such a resort to theology is rejected, suppose that Superman cannot be destroyed by anything on earth. Would he be unable to choose what flavor ice cream he wanted? Why not? Even if Rasmussen is wrong on this point, however, it doesn't seem essential to his argument.

Finally, even if Rasmussen is right that life, as the necessary condition of all values, must be valued by any one making a choice, why does this make life the highest principle of ethics? Similarly, Aristotle's argument that the law of non-contradiction is true does not show that it is the highest principle of thought. There can be other principles equally as basic. Rasmussen might reply that nothing else has been shown to be a necessary condition of choice, but this response would not be to the point. The difficulty is that the alleged fact that something is a necessary condition for choice, even granting that this makes it a value, is not by that fact necessarily a *high* value, much less the *summum bonum*. In spite of these difficulties, one may safely predict that we have not heard the last of natural law ethics.

Tibor Machan's Defense of Egoistic Ethics

One of the most prolific and, among libertarians, influential writers in the same tradition as Mack and Rasmussen is Tibor Machan. In his incisive article "On Egoism and Justice," he claims that "we need a nonstandard answer to the question concerning the nature of morality." Like the egoists we have so far considered, Machan believes that the "nonstandard answer" lies in placing at the forefront of one's reasoning the question "How ought I to evaluate the various alternative courses of action available to me *with respect to living well or badly?*" Machan maintains that a reply to this query must, in order to be counted as a version of morality, be universalizable in two respects: it must state requirements which everyone is capable of following and which are also understandable to all. One might object that even if these are necessary conditions for having a *morality,* Machan has not shown that to answer the question of how to live requires one to *have* a morality. But he might reply that this is just what he has shown. His views are presented in

detail in his 1975 study, *Human Rights and Human Liberties*. Also, some further details concerning his views on the relations between ethics and metaphysics may be found in his book, *The Pseudo-Science of B. F. Skinner.*

John Hospers on Paternalism

John Hospers is yet another philosophical defender of ethical egoism. Rather than present his discussion of this topic, however, which would involve us to a large extent in repeating arguments already presented, let us for a moment digress. In a forthcoming article in the *Journal of Libertarian Studies,* Hospers argues that, in sharp contrast to what most libertarians believe, paternalism is morally acceptable. But, one might at first sight think: Isn't imposing what is "good for someone," applied against his will, precisely the contrary of that vigorous assertion of natural rights which is the essence of libertarianism? Not at all, says Hospers, *if* one defines paternalism properly. In his opinion, that much maligned word implies a perfectly acceptable social policy if "paternalism" is defined, not as the imposition of some idea of the good which he does not hold on a person, but rather as aiding the person in question to achieve his own long-term goals. Many of one's choices, Hospers points out, may have catastrophic consequences. Why not then allow these choices to be impeded, so that sober second thought may result in their eventual withdrawal? Our consideration of the argument Hospers has presented is not, in reality, the digression one might at first think it to be. If Hospers is correct, rights are quite different (i.e., much less the safeguard of a sphere free from interference) from what they are conceived by most libertarians to be. Hospers's position has been challenged in another forthcoming article in the same journal.[43]

Robert Nozick on Rights and the Structure of Morality

Not all libertarian theorists have adopted a natural law approach to the foundations of rights. Robert Nozick, without question a philosopher of genius, has argued explicitly against the type of justification for ethics we have so far considered.[44] Some might think that Nozick himself offers no reasons for postulating the rights he does,[45] but as H. L. A. Hart has pointed out, this view is wrong.[46] (Unfortunately, Hart's view of the nature of Nozick's argument is also wrong.) Although it is true that *Anarchy, State, and Utopia* does not present a detailed account of the foundations of ethics, it does have a number of highly important remarks about various topics in rights theory.

Why Not Utilitarianism?

Philosophers who do not believe in moral rights are most commonly utilitarians. While refuting utilitarianism does not in itself show that one must accept rights, it is at least a step in that direction. Nozick has devised an ingenious argument against any ethical system that claims that "only experience matters," the prime case of such a system, of course, being utilitarianism. (In the context of his book, the argument is intended to advance the view that "even for animals, utilitarianism won't do as the whole story,"[47] but *a fortiori* the argument would apply to the inadequacy of utilitarianism for people). The argument asks us to imagine "an experience machine that would give you any experience you desired . . . . Should you plug into this machine for life, preprogramming your life's experiences?"[48] Nozick strongly suggests the answer is no. As he points out, we want to do things in addition to experiencing them. "In the case of certain experiences, it is only because we want to do the actions that we want the experiences of doing them or thinking we've done them."

Foundations of Ethics

If experiential ethics won't do, what will? In a brief section, "What are Constraints Based Upon?", Nozick raises the question, what characteristics does a person have that constrain others in their treatment of him? He suggests the most common answers, viz., being self-conscious, having free will, and being able to act in accordance with moral principles are not enough. "An intervening variable M is needed for which the listed traits are individually necessary, *perhaps* jointly sufficient (at least we should be able to see what needs to be added to obtain M), and which has a perspicuous and convincing connection to moral constraints on behavior toward someone with M."[49] He suggests that the relevant factor is the ability to have a long-term conception of life that guides one's choices. He next asks, "What is the moral importance of this additional ability to form a picture of one's whole life . . . ?"[50] He conjectures that "the answer is connected with that elusive and difficult notion: the meaning of life."

Constraints and Rights

Nozick endorses the "Kantian principle that individuals are ends and not merely means";[51] this principle forbids that they "be sacrificed or used for the achieving of other ends without their consent." To favor this is in his view to endorse what he terms a "side constraints" principle. Sometimes it is assumed that a moral principle must be stated as a goal, e.g., the maximization of happiness. To

claim that people have rights, i.e., that certain things may not morally be done to them, would involve the rejection of this assumption. Side constraints are limits on the means one may use to achieve one's goals. As Nozick points out, a side constraints view should not be confused with the principle that requires one to minimize rights violations. The latter principle might require one to violate some people's rights in order to achieve the lowest total amount of rights violation. The side constraints approach forbids *any* violation of rights.

Like Rothbard, Nozick separates political and moral philosophy. "Political philosophy is concerned only with *certain ways* that people may not use others; primarily physically aggressing against them."[52] This by no means exhausts the area of moral philosophy.

But even the restrictions that political philosophy imposes will be thought by many to be too stringent. "Why may not one violate persons for the greater social good?" Just as individuals sometimes bear some cost in return for greater good to themselves, perhaps individuals can be sacrificed for the social good. As Nozick points out in a brilliant passage in answer to this question. "But there is no social entity with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up."[53]

Do Animals Have Rights?

Although the language of side constraints is original to Nozick, almost all libertarians would accept the concept he advocates; a strong view of human rights is a virtual *sine qua non* of libertarianism. But at one point Nozick is sharply at variance with some libertarians: he believes that there are moral constraints governing one's treatment of animals. On the other side of this issue, Rothbard in his *Ethics of Liberty* claims that there are no moral duties whatsoever which one has to animals.[54] He has in particular noted that animals are unable to claim linguistically that they are being treated against their will.

Nozick's view is very much out of sympathy with this line of thought. He points out that it seems intuitively very implausible to suggest that whatever one does to animals is morally all right. For example, "if you felt like snapping your fingers, perhaps to the beat of some music, and you knew that by some stange casual connection your snapping your fingers would cause 10,000 contented, unowned cows to die after great pain and suffering, or even painlessly and instantaneously, would it be perfectly all right to snap your fin-

gers?"[55] Nozick does not suggest general principles governing one's treatment of animals but suggests proceeding on a case-by-case basis. "Such examples and questions might help someone to see what sort of line *he* wishes to draw."[56]

A Problem for Political Theory

If one does hold that there are some moral obligations which people have toward animals, this might create a problem for libertarian political theory. Can one legally forbid people from treating animals in certain ways, even granted that the ways in question are immoral? It might appear that one could not do so, since political philosophy is concerned with forbidding the use of aggression toward people. Mistreating animals is not an instance of aggression in this sense, and punishing people for such mistreatment might even seem to be itself an instance of aggression. Yet is seems likely that Nozick would be reluctant to say that, for example, it is legally permissible to torture animals. Nozick hasn't yet published anything resolving this problem; one may conjecture that he would probably modify the definition of political philosophy rather than exclude animals from legal consideration.

The Structure of Morality

The issue of duties toward animals shows that Nozick's view of morality is more complex than the simple absolute side-constraints view usually attributed to him. At one point in *Anarchy, State, and Utopia* he suggests a possible limit on absolute side constraints, only to choose not to pursue the matter in detail. "The question of whether these side constraints are absolute, or whether they may be violated in order to avoid catastrophic moral horror, is one I hope largely to avoid."[57]

In his paper "Moral Complications and Moral Structures," Nozick has gone into much more detail about the structure of a system of morality. Although in that paper he makes only the "weak claim" that some people's moral views may exhibit this structure, the context of the article suggests that Nozick takes this structure very seriously indeed and that it may well express part of his own view.

It will probably come as a surprise to readers of Nozick who have confined themselves to *Anarchy, State, and Utopia* that he rejects what he terms the deductive structure. In that system, briefly, acts with certain features are rejected as morally impermissible. One might think that this absolutist view would fit in with Nozick's side constraints view of rights. (The view in question is an absolutist one because an act falling under the forbidden description is morally

rejected, regardless of its other features.) Nozick argues against attributing the deductive structure to some people (including himself?) because "these people are unwilling to state or assent to any or very many exceptionless moral principles."[58] He points out that this view of exceptionless moral principles "fits in nicely" with recent work on *prima facie* rights and duties.

The "simple structure" Nozick sets forward along these lines is in reality not very simple at all (at least to readers less acute than Nozick). But its essence may be stated very briefly. "There are two open-ended lists of features."[59]One consists of wrong-making features of an act, the other of right-making features. If an act contains features which appear only on the wrong-making list, it is morally impermissible. If, on the other hand, it contains only right-making features, it is morally required or at least permissible. If, as will be the case with most acts, it contains features on both lists, further principles must be consulted to determine which features in the given instance outweigh or override other features. After setting forth the structure of such principles in considerable detail, Nozick discusses a more complex view, in which not only must the right-making and the wrong-making features of an action be considered, but also the act under consideration must be compared with the available alternative acts. The brief discussion here can only give a suggestion of the intricacy of Nozick's presentation. In a nutshell, he suggests that for an act to be morally permissible, not only must its right-making features outweigh its wrong-making features, but "there is no alternative action available with less moral cost, such that the additional moral cost of the contemplated action such that the additional moral cost of the contemplated action over the alternative outweighs its additional moral benefit."[60] Very crudely, to be morally permissible, there can't be available to the actor an alternative action with fewer bad features that has almost as many good features as the action one is considering.

Roger Pilon's Defense of Morality

As indicated above, Nozick, at least in *Anarchy, State, and Utopia*, does not attempt to deduce the moral rights he favors from a fully worked out moral theory. If, like Nozick, one rejects a Randian natural law ethics, is there any other basis available on which such a deduction could be made? In his important article "Ordering Rights Consistently," Roger Pilon has suggested that there *is* a way in which such a deduction can validly be carried out.

Following his teacher, Alan Gewirth, Pilon suggests that although much may be arbitrary and subjective so far as the theory of good is concerned, the same is not true in the area of rights. "In

virtue of this deontological grounding, the theory of rights has sought to obtain a more secure place in epistemology than the theory of good. The difficulties of value theory in this connection are notorious; for the conclusions that flow from our sentiments are seldom thought to be true or false . . . the moral rationalism of recent years has sought to extricate us from the vicissitudes to which Hume and his disciples in the Vienna Circle consigned the whole of ethics."[61]

How is this task to be accomplished? Pilon, following Gewirth, holds that certain claims are necessarily made by anyone who acts. "All actions are invariable at the generic level, i.e., all actions exhibit certain generic features by which they may be characterized, regardless of whatever more specific features they may have."[62] What are these generic features of actions? First, all action aims at some end or good, from the point of view of the agent. (No claim is being made that what the actor aims at is good in any objective sense.) Also, the actor must desire to have freedom of action: unless he is free to act, he will be unable to carry out what he proposes to do. Not only this, but from the agent's own point of view, he regards himself as having a right to perform the desired action. "Thus from the standpoint of the agent, actions are not only evaluative but normative as well."[63] (Again, the right is assumed to exist only from the standpoint of the agent.)

But the agent must now face the fact that everyone who acts must necessarily make similar claims. It is not in virtue of anything special about any given agent that he claims the right to act for what he considers a good end. Thus, his claim must be universalized: everyone has the same claim to perform actions that fulfill his ends. Gewirth's method, which Pilon accepts, is a "dialectically necessary one." Gewirth argues that, "individuals, in acting, implicitly though necessarily make claims about themselves, which they must admit or accept, on pain of self-contradiction, apply to all other agents as well."[64] From this structure, Gewirth proceeds to derive "rights against coercion and harm, reflecting, respectively, the generic features of action, voluntariness and purposiveness."[65] Pilon believes that this part of Gewirth's argument provides an effective basis for libertarian political theory. He wishes, however, to oppose some more recent developments of Gewirth's account which have an anti-libertarian bent.

Problems in Gewirth's Derivation

Before presenting Pilon's criticism of the later Gewirth, one must face the fact that Gewirth's derivation encounters some serious difficulties. For one thing, what happens when the claim to volun-

tariness and purposiveness by each agent is universalized? Gewirth takes the generalization to be "every agent has the right to perform freely actions aimed at his good." This, of course, has the implication that each agent ought to respect everyone else's right to free action. But isn't the correct universalization "Every agent may make a claim to have the right to act"? From the fact that an agent makes a certain claim, how can a generalization result in everyone's being morally entitled to have what he claims? No such assertion was made, it will be recalled, about the moral validity of the individual agent's claim. The generalization offered by Gerwirth has attempted to pull a rabbit out of a hat; unfortunately, unlike most magicians, he has neglected to place the rabbit in the hat to begin with.

Further, suppose someone interferes with someone else's freedom of action. In what way is he being inconsistent? He isn't *denying* that his victim has the right to freedom of action: he is simply violating it. One might reply that if he does violate the right, won't any claim that he nevertheless recognizes the existence of the right be absurd? In what sense can someone recognize a right if it does not affect his behavior? This reply neglects the fact that there are many ways a belief can influence behavior. For example, one might show that one believed one's victim did possess the right one had violated by feeling remorse afterwards or by making amends, etc.

Does Gewirth's Approach Entail "Rights" to Social Welfare?

Although serious problems thus beset Gewirth's program, it is nevertheless not without value to examine Pilon's criticism of Gewirth's claim that his approach justifies positive rights as well as negative ones—the right to a certain level of social welfare in addition to the right not to be interfered with. Pilon points out that from the principle of agency, the basis of Gewirth's system, no positive obligations can be deduced. The principle is intended to apply to all actions, even aimless contemplation. It does not require the performance of positive actions. Also, the alleged right to a certain level of well-being might, in readily imaginable circumstances, clash with the right of freedom of action. "Take the simplest example. If I have a general right to assistance then you have an obligation to assist me when I need it, even if you should not want to afford that assistance. But you also have the right to freedom."[66] If it is desirable to have a consistent set of rights, then social welfare rights should not be postulated. To Pilon, the best way to take Gewirth's principle is as establishing a right to equal freedom—the classical formula of Herbert Spencer.

Charles King's Hobbesian Approach to Rights

As no one can now doubt, there is considerable disagreement among libertarians about the nature of rights. How, if at all, may this disagreement be minimized? Charles King, until recently Professor of Philosophy at Pomona College, has suggested that one try to assume as little as possible about morality; and, if one must assume something, it should be an item it would be in everyone's interest to accept. To King, the basic problem of morality is "how we may justify to individuals any principle restricting their conduct toward each other."[67] This, as one might expect, is no easy task. King thinks that by an adequate restriction of what is demanded of people, however, the task can be accomplished. Everyone, King argues, (except for a few sociopaths) will find it in his interest to withdraw from a "state of nature" (which King conceives of in the manner of Hobbes). By observing some restraints in one's conduct in regard to the person or property of others, one secures in return a space in which one may oneself act unhinderd by others. But, it may be objected although it may be in everyone's interest if *everyone* observed these restraints in his conduct, is it to the interest of anyone in particular to do so? That is to say, would it not be better for each individual if everyone *else* respected rights but he himself violated them with impunity? How do considerations of the general advantage motivate individual behavior?

King has presented his reply to this difficulty in detail in his forthcoming book, *Rational Individualism: A Moral Theory.* In his view, one has here a standard "prisoner's dilemma": it would be to everyone's interest if no one found the antisocial line of conduct adumbrated above a dominant strategy. How may this goal be achieved? King proposes that, again in a way reminiscent of Hobbes, everyone ought to agree to establish a punitive agency which would insure that the hitherto dominant antisocial strategy was no longer in anyone's interest. By punishing violations of rights, the agency brings about a state of social peace which, as stated above, is in almost everyone's interest to secure.

King's view of punishment has some surprising consequences. Since the purpose of punishment is, as we have explained, to help establish a Hobbesian contract, it may be applied in any fashion the society chooses. Violators of rights in effect deny the validity of the contract; they may, in return, be treated as outlaws to whom anything may be done. Thus, it is not immoral, King argues, to execute those who commit trivial offenses such as parking violations (though he hastens to add that he is personally opposed to such measures). This view is, as King recognizes, strongly counterintuitive. He counterattacks by claiming that there are severe problems

for rival theories, such as that of proportional punishment, which attempt to set moral bounds for punishment more rigid than his own.

When one considers the quite drastic consequences faced by violators of rights (although such draconian measures seem consistent with King's version of morality), one may question whether it is in fact in almost everyone's interest to enter the social contract. Might not those who thought it likely that they would, in the future, commit at least some minor offenses believe that it would be better to brave the perils of the state of nature than consign themselves to the tender mercies of Leviathan? Also, how does it follow that violators of rights are, by their actions, taking themselves outside the bounds of the contract? Further, suppose someone scrupulously refrained from violating others' rights but refused to participate in setting up the punitive agency? Would he too be considered an outlaw who might be killed at will? Like traditional natural law, Hobbesian natural law also has its problems.

Hillel Steiner's Formal Constraints on Rights

In a series of important papers, Professor Hillel Steiner of the University of Manchester has defended a strikingly original doctrine of rights and the nature of a libertarian society. He argues that a set of rights must be "compossible." That is to say, it ought to be possible for everyone to exercise *his* rights. Otherwise, one has in effect both asserted and denied rights: if John has a right, but Joe has a right which may interfere with John's exercise of his right, in what sense does John have a right at all? A structure of compossible rights may be attained, Steiner believes, only if rights are defined as claims to property.

Steiner has thus attempted to show that, purely from a formal requirement about the nature of rights, one can derive substantive conclusions. He believes this sort of derivation can be carried much further. Following, R. M. Hare,, White's Professor of Philosophy at Oxford, Steiner holds that a moral principle must be universalizable. This, to Steiner, means that every moral agent has equal rights. If this is combined with the property-based approach to rights sketched above, one arrives at what Steiner terms "the equal right to the means of production." In this view, everyone has the right to an equal appropriation of property. Whether this is to take the form of a share with which he can do as he pleases or whether it means that everyone may veto anyone else's use of property is a matter Steiner has not yet decided. In a forthcoming paper, "The Rights of Future Generations," Steiner holds that only existing

moral agents have rights: future generations do not, and there is no right of inheritance. Steiner does not deny that many of his conclusions are counter-intuitive but prefers to develop the implications of his view of rights wherever they lead.

Conclusion

The wide divergence of ways of justifying rights found among writers who share a libertarian perspective might at first suggest a somewhat nihilistic moral which would bode ill for the prospects of a liberal society. If every philosopher has his own foundation for morality, and almost all the systems in question are mutually inconsistent, should one abandon the whole attempt at moral justification? This tempting conclusion is too facile: a number of areas have emerged from our survey in which further work may produce results which can command a consensus among libertarian philosophers. First, to what extent can a libertarian theory of rights be based upon a traditional natural law ethics? Specifically, can the attempts of those (within the tradition of novelist-philosopher Ayn Rand) to construct an egoistic ethics withstand Nozick's criticisms? Second, are there formal constraints on rights which, as Machan and Steiner have in different ways argued, result in substantive requirements of morality? What does the structure of morality look like? Finally, is moral philosophy of the type practiced by most of the theorists we have discussed simply a variety of Hayek's *bête noir*—constructivist rationalism? It seems very likely that the near future will bring a number of attempts to answer these questions. ◻

FOOTNOTES

Full citations for works listed in the Footnotes may be found in the following Bibliography.

1. It is possible to defend a free economy without appealing to rights. E.g., Ludwig von Mises, *Socialism*, pp. 42–44, not only makes no use of natural rights but even explicitly criticizes the concept. This approach will not be considered here.
2. Inclusion or exclusion from treatment here should not be taken to indicate how the author ranks anyone. Also, the discussion here is largely expository, although some criticism is included. A more critical consideration may be found in my forthcoming *Recent Libertarian Theories of Rights*, a study prepared for the Center for Libertarian Studies, New York.
3. F. A. Hayek, *Individualism and Economic Order*, Chap. 1.
4. F. A. Hayek, *The Constitution of Liberty*, Chap. 1.
5. Hayek's line of criticism is in many ways similar to Thomas Macaulay's attack on James Mill's *Essay on Government*. Macaulay's essay is conveniently reprinted in Geraint L. Williams, ed., *John Stuart Mill on Politics and Society*, pp. 361–400.
6. For a criticism of Yves Simon's natural-law justification of the state, see Murray Rothbard, *Power and Market*.

7. Ronald Hamowy, "Hayek's Concept of Freedom: A Critique," *New Individualist Review* 1 (April, 1961): 28–31; "Freedom and the Rule of Law in F. A. Hayek," *Il Politico* (1971):349–377; "Law and the Liberal Society in F. A. Hayek's Constitution of Liberty," *Journal of Libertarian Studies* 2(1978):287–298. Hayek has replied to the first of these in "Freedom and Coercion: Some Comments on a Critique by Mr. Ronald Hamowy," reprinted in *Studies in Philosophy, Politics and Economics, pp. 348–350.*
8. John N. Gray, "F. A. Hayek on Liberty and Tradition," *Journal of Libertarian Studies* 4(1980):126–127.
9. Murray N. Rothbard, *For A New Liberty,* pp. 25–26.
10. Criticisms of natural-law ethics include Bruce Goldberg, Natural Law Some Considerations," *Modern Age* (1966):pp. 269–277; and Eliseo Vivas, "Animadversions Upon the Doctrine of Natural Law," *Modern Age* (1966):pp. 149–160. Robert Nozick, "On the Randian Argument," *The Personalist* (Spring, 1971): pp. 282–304, attacks Randian claims to base ethics on requirements for man's life, claims which have some affinities with Rothbard's position.
11. If one accepts the proposition "Man ought to pursue his end" as true, then one wouldn't have to deny the is-ought dichotomy in order to adopt natural-law ethics. Further, holding this proposition does not commit one to accepting any other proposition of similar form, e.g., the one which the objection to Rothbard mentions.
12. Rothbard, *Power and Market,* p. 155.
13. Albert Zlabinger, "An Interview with Robert Nozick," *Libertarian Review* (Dec. 1977):17.
14. The former alternative is suggested by Rothbard's statement "When Smith is confined to a prison, is he being moral because he doesn't spend his time in saloons getting drunk?" *Power and Market,* p. 155. It nevertheless seems to me that Rothbard would also assert the second alternative and thus find himself at odds with Nozick.
15. Rothbard, *For a New Liberty,* pp.26–27.
16. Rothbard's defense of self-ownership has also been adopted by James Sadowsky, "Private Property and Collective Ownership," in Tibor R. Machan, ed., *The Libertarian Alternative.* As George Smith has pointed out to me, Rothbard's argument has been anticipated by, among others, Auberon Herbert.
17. Rothbard, *For a New Liberty,* p. 27.
18. Rothbard, *For A New Liberty,* p. 27.
19. This usage of "ownership" is quite common among the Austrian school of economics. See, for example, L. von Mises, *Socialism,* pp. 37 ff.
20. Rothbard, *For a New Liberty,* p. 45.
21. Rothbard, "Robert Nozick and the Immaculate Conception of the State," *Journal of Libertarian Studies,* Vol. 1, No. 1, pp. 45–58. For Nozick's defense of procedural rights, see *Anarchy, State and Utopia,* pp. 96–108.
22. If it is the owner who yells fire, he has committed fraud on his customers.
23. Perhaps it is strictly speaking inaccurate to say that Rothbard's way of looking at the separation between moral and political philosophy has *no* consequences for the latter discipline. Cases where someone had violated rights in a lifeboat situation might, consistently with his approach, be treated differently from straightforward rights violations in assessing punishment. But Rothbard has not developed this point.
24. Mack's paper "An Outline of a Theory of Rights" indicates that this characterization may soon be outdated. He advocates there a "program of providing a unified theory of moral rights by means of identifying coercion as the deontically wrong type of activity" (p. 23). Mack is writing a book on the foundations of rights in which he will probably elaborate this claim.
25. Eric Mack, *A Theory of Natural Rights,* p. 33.
26. Mack, *A Theory of Natural Rights,* p. iv.
27. Mack provides a comprehensive analysis of lifeboat situation in his dissertation, *A Theory of Natural Rights,* pp. 38 ff. Surprisingly, for an egoist, Mack does not believe that every case in which violating someone else's rights is necessary to one's own self-interest provides a moral justification for the violation. One may have gotten oneself into the predicament by one's own fault.
28. Mack, "An Outline of a Theory of Rights," p. 17.
29. Mack, "An Outline of a Theory of Rights," p. 17.
30. Mack, "An Outline of a Theory of Rights," p. 18.
31. Mack, "An Outline of a Theory of Rights," p. 19.
32. Mack's views that man's natural end is wellbeing and that he ought to pursue his natural end are challenged in Jeffrey Paul, "On the Foundations of Natural Rights," pp. 8–11.
33. Mack "An Outline of a Theory of Rights," pp. 21–22.
34. Mack's article appeared in *Philosophy and Public Affairs* (1980).
35. Almost all libertarian theorists would accept the view that omitting to act should not normally be taken as a cause of something taking place. An exception is Hillel Steiner, who in conversation has informed me that he rejects this distinction.
36. Douglas B. Rasmussen, "A Groundwork for Rights: Man's Natural End, pp. 65–76.
37. Rasmussen, "A Groundwork for Rights: Man's Natural End," p. 66.
38. Rasmussen, "A Groundwork for Rights: Man's Natural End," p. 67.
39. Rasmussen, "A Groundwork for Rights: Man's Natural End," p. 68.
40. Rasmussen, "A Groundwork for Rights: Man's Natural End," p. 71.
41. While it may not be possible to give up choice altogether (since if one decides to kill oneself or to turn oneself into a mindless vegetable, these decisions are still choices) it does seem possible to attenuate considerably the field of choice.
42. There certainly seem to be choices where this is not true, e.g., if one chooses to allow oneself to be killed.
43. See my "Comment on Hospers," *Journal of Libertarian Studies,* forthcoming, 1981.

44. See Nozick's paper "On the Randian Argument," *The Personalist* (Spring, 1971).
45. For a sample of such complaints, see Thomas Nagel, "Libertarianism without Foundations," *Yale Law Journal* (1975): 136 ff.
46. H. L. A. Hart, "Between Utility and Rights," pp. 77–98.
47. Nozick, *Anarchy, State, and Utopia*, p. 42.
48. Nozick, *Anarchy, State, and Utopia*, p. 49.
49. Nozick, *Anarchy, State, and Utopia*, p. 50.
50. Nozick, *Anarchy, State, and Utopia*, p. 31.
51. Nozick, *Anarchy, State, and Utopia*, p. 32.
52. Nozick, *Anarchy, State, and Utopia*, p. 32.
53. Nozick, *Anarchy, State, and Utopia*, p. 33.
54. A non-libertarian philosopher, Peter Geach, takes a sharply negative view of the moral importance of animals in *Providence and Evil* (Cambridge, 1977). But contrast this with Peter Singer's *Animal Liberation*.
55. Nozick, *Anarchy, State, and Utopia*, p. 34.
56. In a dazzling aside, Nozick suggests that if one is not bound by as severe constraints in dealing with animals as in dealing with people, then perhaps if there are beings in the universe superior to human beings, they might be justified in sacrificing us for *their* purposes. In the absence of knowledge of such beings, however, the elitist hierarchical view collapses into the absolute side constraints view. *Anarchy, State, and Utopia*, pp.45 ff.
57. Nozick, *Anarchy, State, and Utopia*, p. 30.
58. Nozick, "Moral Complications and Moral Structures," p. 5.
59. Nozick, *Anarchy, State, and Utopia*, p. 7.
60. Nozick, *Anarchy, State, and Utopia*, p. 99.
61. Roger Pilon, "Ordering Rights Consistently," p. 1175.
62. Roger Pilon, "A Theory of Rights: Toward Limited Government, p. 103.
63. Pilon, *A Theory of Rights: Toward Limited Government*, p. 105.
64. "Ordering Rights Consistently," p. 1175.
65. Pilon, "Ordering Rights Consistently", p. 1179.
66. Pilon, "Ordering Rights Consistently", p. 1185.
67. J. Charles King, "A Rationale for Punishment," *Journal of Libertarian Studies* 4(1980):152.

BIBLIOGRAPHY

Finnis, John. *Natural Law and Natural Rights.* Oxford: Clarendon Press, 1980.
Geach, Peter. *Providence and Evil.* Cambridge, 1977.
Goldberg, Bruce. "Natural Law: Some Considerations." *Modern Age* 10, No. 3(Spring 1966):269–277.
Gordon, David. "Comment on Hospers." *Journal of Libertarian Studies,* forthcoming 1981.
———. *Recent Libertarian Theories of Rights,* forthcoming.
Gray, John N. "F.A. Hayek on Liberty and Tradition." *Journal of Libertarian Studies* 4(1980):126–127.
Hamowy, Ronald. "Hayek's Concept of Freedom: A Critique." *New Individualist Review* 1(April 1961): 28–31.
———. "Freedom and the Rule of Law in F.A. Hayek." *Il Politico* (1971):349–377.
———. "Law and Liberal Society in F.A. Hayek's *Constitution of Liberty.*" *Journal of Libertarian Studies* 2(1978):287–298.
Hart, H.L.A. "Between Utility and Rights." In Alan Ryan, ed., *The Idea of Freedom,* New York: Oxford University Press, pp. 77–98.
Hayek, F.A. "Individualism: True and False," *Individualism and Economic Order.* Chicago: The University of Chicago Press, 1948.
———. "Freedom and Coercion: Some Comments on a Critique by Mr. Ronald Hamowy." Reprinted in *Studies in Philosophy, Politics and Economics,* London: Routledge & Kegan Paul, 1967:348–350.
———. *Law, Legislation and Liberty.* Vol. 1, *Rules and Order.* Chicago: The University of Chicago Press, 1973.
———. *Law, Legislation and Liberty.* Vol. 2, *The Mirage of Social Justice.* Chicago: The University of Chicago Press, 1976.
———. "The Errors of Constructivism." In *New Studies in Philosophy, Politics, Economics and the History of Ideas.* Chicago: The University of Chicago Press, 1978, pp. 3–22.

———. "Liberalism." In *New Studies in Philosophy, Politics, Economics and The History of Ideas.* Chicago: The University of Chicago Press, 1978, pp. 119–151.
———. *Law, Legislation and Liberty.* Vol. 3, *The Political Order of a Free People.* Chicago: The University of Chicago Press, 1979.
———. "Individualism: True and False." In *Individualism and Economic Order.* Chicago: The University of Chicago Press, 1948, 1–32.
Hospers, John. *An Introduction to Philosophical Analysis.* Second Ed. Englewood Cliffs, N.J.: Prentice Hall, Inc., 1967.
———. *Libertarianism: A Political Philosophy for Tomorrow.* Los Angeles: Nash Publishing Co., 1971.
———. *Human Conduct: Problems of Ethics.* Shorter Edition. New York: Harcourt, Brace Jovanovich, 1972.
———. "What Libertarianism Is." In Tibor Machan, ed. *The Libertarian Alternative,* 1974, pp. 3–20.
———. "Libertarianism and Legal Paternalism." *Journal of Libertarian Studies* 4(1981).
King, J. Charles. "A Rationale for Punishment." *Journal of Libertarian Studies* 4(Spring 1980):151–165.
———. *Rational Individualism: A Moral Theory.* Forthcoming.
Machan, Tibor. *The Pseudo-Science of B.F. Skinner.* New Rochelle, New York: Arlington House Publ., 1974.
———. *Human Rights and Human Liberties.* Chicago: Nelson Hall, 1975.
Mack, Eric. *A Theory of Natural Rights,* Ph.D. dissertation, University of Rochester, 1973.
———. "Egoism and Rights, *"The Personalist* (Winter 1973).
———. "Distribution Versus Justice," *Ethics* (January 1976).
———. "Natural and Contractual Rights," *Ethics* (January 1977).
———. "Egoism and Rights Revisited," *The Personalist* (Summer 1977).
———. "Liberty and Justice," in J. Arthur and W. Shaw, eds., *Justice and Economic Distribution.* Englewood Cliffs, New Jersey: Prentice-Hall, 1978.
———. "On Egoism and Justice," *The Occasional Review* (1978).
———. "An Outline of a Theory of Rights," unpublished ms.
———. "Bad Samaritanism and the Causation of Harm." *Philosophy and Public Affairs* 9(Spring 1980):230–259.
Mises, Ludwig von. *Socialism.* New Haven: Yale University Press, 1951.
Nagel, Thomas, "Libertarianism without Foundations." *Yale Law Journal* 85(1975):136ff.
Nozick, Robert. *Anarchy, State, and Utopia.* New York: Basic Books, 1974.
———. "Coercion," in S. Morgenbesser *et al.,* eds., *Philosophy, Science and Method.* New York: St. Martin's Press, 1969, pp. 440–472.
———. "Moral Complications and Moral Structures." *Natural Law Forum* 13(1968):1–50.
———. "On the Randian Argument," *The Personalist* 52(Spring 1971):282–304.
Paul, Jeffrey. "Nature, Law, and Human Rights," unpublished ms.
———. "On the Foundations of Natural Rights," unpublished ms.
Pilon, Roger. *A Theory of Rights: Toward Limited Governments,* Ph.D. dissertation, University of Chicago, 1979.
———. "Ordering Rights Consistently: On What We Do and Do Not Have Rights to." *Georgia Law Review,* Vol. 13, No. 4(Summer 1979):117–1196.
Rasmussen, Douglas B. and Den Uyl, Douglas. "Nozick on the Randian Argument," *The Personalist* (April 1978).
Rasmussen, Douglas B. "A Groundwork for Rights: Man's Natural End," *Journal of Libertarian Studies* 4(Winter 1980):65–76.
Rawls, John. *A Theory of Justice.* Cambridge, Mass: Harvard University Press, 1971.
Rothbard, Murray N. *Power and Market.* Menlo Park: Institute for Humane Studies, 1970.
———. *For a New Liberty.* New York: Macmillan, 1973.
———. "Robert Nozick and the Immaculate Conception of the State." *Journal of Libertarian Studies* (Winter 1977):45–58.
———. "The Mantle of Science." Reissued as *Individualism and the Philosophy of the Social Sciences,* Cato Paper No. 4, 1979.
Sadowsky, James, S. J. "Private Property and Collective Ownership," in Tibor R . Machan, Ed., *The Libertarian Alternative: Essays in Social and Political Philosophy.* Nelson-Hall Co.: Chicago, 1974.
Sanders, John T. *The Ethical Argument Against Government.* Washington, D.C.: The University Press of America, 1980.
Smith, George H. "Justice Entrepreneurship in a Free Market." *Journal of Libertarian Studies* 3(1979):405-420.
Steiner, Hillel. *The Rule of Law: An Argument Concerning Justice and Liberty in Civil Society.* Ph.D. dissertation. Dept. of Government, University of Manchester.
———. "The Structure of a Set of Compossible Rights." *Journal of Philosophy* 74(1979):767–775.
———. "The Rights of Future Generations." in. Peter Brown and Douglas MacLean, eds. *Energy Policy and Obligations to Future Generations.* Princeton: Princeton University Press, forthcoming.
Veatch, Henry B. *For an Ontology of Morals.* Evanston: Northwestern University Press, 1971.
———. "Natural Law: Dead or Alive?" *Literature of Liberty* 1(October/December 1978):7–31.
Vivas, Eliseo. "Animadversions upon the Doctrine of Natural Law," *Modern Age* 10, No. 2(Spring 1966):149–160.
Williams, Geraint L., ed. *John Stuart Mill on Politics and Society.* Fontana Books: Glasgow, 1976.
Zlabinger, Albert. "An Interview with Robert Nozick," *Libertarian Review* (December 1977):10–18.

I Social Science Methodology

The following set of summaries deal with the theoretical and practical meaning of social science methodology for our lives. This is a field of lively debate and shifting paradigms, involving ideological, moral, and political commitments as well as dispassionate, *wertfrei* analysis.

Can there in fact be a unified social science method subtle enough to study and describe the variety and individuality of human action? In different ways, this is a key question posed in the summaries of Bell's, Gusfield's, Krieger's, Geertz's, and Hekman's articles. Bell is dubious whether any social science methodology in vogue since World War II can reductively explain all human behavior. Geertz sees an exciting plethora of new approaches that create "blurred genres" and that reject older mechanistic models in a "hermeneutic" pursuit of the meaning social action has for individuals. Hekman would second Geertz's enthusiasm for a social science methodology seeking understanding of human social action in terms of the social actors themselves, and goes on to claim that Alfred Schutz's social phenomenology is an especially subtle method to employ for such a purpose.

Professor Leonard Krieger is less sanguine in his expectations and concentrates on showing how historicism has taken a paradoxical and unsuspected revenge among historians and social scientists. The mysterious ways in which social scientists inadvertently succumb to historism suggest the related point raised in the late Jacob Bronowski's article, "The Logic of the Mind," *The American Scholar* 35(Spring 1966):233–242.(Self–reference the manner in which any "system" necessarily and paradoxically includes reference to itself) is a feature of human language and mind. Most propositions and so-called fundamental axioms seem, in Bronowski's analysis, to be variants of what the Greeks called the Cretan paradox, that is the contradiction, through self-reference, implied by the statement of Epimenides the Cretan that all Cretans are liars. "This creates an endless regress, an infinite hall of mirrors of self-reflection."

Perhaps most disturbing among the following summaries are those of Gusfield and Newton. Exposing the crisis of confidence in the field of sociology, Professor Gusfield traces the ideological and political functions served by sociological theory. The danger continues to be at that sociological theory may be used to reflect the political ideologies of certain power groups. A similar analysis is given by Professor Peter Newton in his reassessment of the current meaning of C. Wright Mills's *The Sociological Imagination.* A narrow methodology in the social sciences (Mills's "abstracted empiricism") can easily serve the interests of government ideology and divert social scientist from a critical analysis of unjust social structure.

Such moral and political implications reinforce the crucial importance to achieve the tools of an adequate, humane, and unprejudiced methodology.

Social Science Paradigms

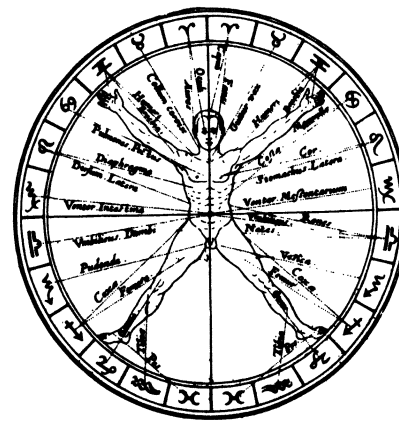
Daniel Bell
Columbia University

"The Social Sciences since the Second World War," Part Two. Mortimer Adler, Ed., *The Great Ideas Today, 1980*(Chicago: Encyclopedia Britannica, Inc., 1980), pp. 184–232.

With the social sciences turning to smaller and more manageable research problems, we need to reconsider whether unified social science is still possible. Four contemporary paradigms attempt to offer holistic explanations: (1) Sociobiology; (2) Macro-economics; (3) Neo-Marxism; and (4) Structuralism.

(1) In contrast to anthropology, which looks for variety in human behavior, sociobiology searches for unifying constants. In this quest for generalization, sociobiology asserts two claims: that we need biology to explain the species-specific behavior both of individuals and of groups. How, for example, can we explain cooperative behavior as an effort to keep kin-related individuals alive? Can we apply the constants found in other species in the same way to man? Or, does biology become less relevant to man once new principles of consciousness emerge? At the root of these questions lies a basic question: In what way does genetic inheritance limit the ranges of human behavior?

(2) Economics has multiplied its rival paradigms to provide more adequate explanations than those of the Keynesians or the Monetarists. Keynesians were baffled by simultaneous high inflation and high unemployment, while Monetarists failed in showing a fixed relationship between the money supply and interest rates. The recent "Rational Expectations" school teaches that government economic policy can affect production only when it surprises people's foresight. The Neo-Keynesians deny that distribution of income is determined by relative prices or that investment is determined by savings. They claim the reverse. Large firms, through market control, can raise prices and finance investment from internal funds. Inflation results from people trying to increase their relative share of income.



In the future, reconsiderations about "economic man" and the role of time may invalidate the older paradigms.

(3) Neo-Marxism has thrived, recently, in the light of Third World anti-imperialism, the counter-culture of the 1960s and the publication of previously unpublished texts. These recent Marxians have revised three tenets of the older Marxian social theory. Socialism as the inevitable fulfillment of the Enlightenment has been abandoned with the disbelief in inevitable progress. Also abandoned is the idea that a shrinking labor base will lead capitalism into crises. No longer do Neo-Marxians believe that the mode of production determines all other social relations. "Alienation" is now regarded as the central Marxian concept.

(4) Structuralism, a recent perspective applied to several disciplines, displays the following characteristics. Its epistemological goal is to find quantitative relationships, not qualitative ones, beneath the surface phenomena. It regards as inadequate both historical explanations and methodological individualistic explanations. It considers all cultural phenomena in terms of "signs." It understands the underlying structure of mind as rational. And last, its goal is to find invariant forms in different contexts, e.g. seeing "kinship" in terms of invariant relations of residence and rules of descent.

Whether any of these paradigms can be used to reductively explain all human behavior remains doubtful.

Sociology, Theory, & the Welfare State

Joseph Gusfield
University of California at San Diego

" 'Buddy, Can You Paradigm?' The Crisis of Theory in the Welfare State." *Pacific Sociological Review* 22(January 1979):3–22.

In his 1978 presidential address to the Pacific Sociological Association, Prof. Joseph Gusfield discusses two basic questions: sociology's contribution to the development of social policy in the United States as well as the crisis of confidence currently afflicting the field. That crisis, he feels, jeopardizes the foundations of our society's welfare state ideology, a paradigm promoted by sociologists in the first half of the twentieth century.

Sociological theory has in the past served three functions in American society. First of all, its role has been *intellectual*, enabling us to turn what William James called "the buzzing, blooming confusion" of raw reality and sensation into an ordered and consistent pattern. Secondly, sociological theory has been *political* or ideological by reflecting current political ideals and, to a large extent molding the ways in which Americans conceptualize their society. Thirdly, it has served an *institutional* function by providing entrée into the field for aspiring professionals and by furnishing them with a quasi-official identity label (Weberian, Parsonian, Marxist, etc.). Such labels become important when grants, jobs, and publishing outlets are sought from those who hold similar views.

Another aspect of sociological theory's institutional impact has been the rapid expansion of the "troubled persons" or "human resources" industries, which range from alcohol treatment to educational guidance. These new "service" areas also reflect a new public approach to private woes which has become the hallmark of the modern welfare state. Sociological research largely laid the groundwork for these new concerns.

The practical contributions of academic theory have recently been undermined, however, as pragmatic users come to find sociological scholarship too hesitant to legitimize action and too demanding of technical knowledge. Even more fundamentally, disenchantment has grown with the basic paradigm of science as a model upon which to build the discipline. A split now divides those who still seek to discover the vital laws of human action and those for whom such a goal is either fruitless or even vicious.

Three intellectual movements of our day have rendered the tasks of theorizing less feasible than in the past. The emergence of *structuralist* and *linguistic* concerns have played the most significant role, along with the philosophical critiques of natural science. Chomsky, Levi-Strauss, Polanyi, Witgenstein, and Kuhn have made us sensitive to the presuppositions of a supposedly presuppositionless science. They have also laid the foundations for a view of human action which is less deterministic, more situational, and more freely creative than that provided by the paradigm of a generalizing social science.

The two other intellectual currents have also undermined sociology's institutional mission to American society. The renaissance of *Marxism* has weakened the influence of Parsonian functionalism with its basic acceptance of the American system. Nonetheless, the new Marxism itself suffers from the corrosion of current disputes over method, language, and philosophical assumptions.

Finally, *quantitative empirical research* once seemed destined to develop an effective human "technology" complete with maps and recipes for action. However, the more refined the techniques have become, the less they seem to say. The depictions of pathways and analyses of variance have demonstrated the interplay of variables, but they have frequently ended in the view that everything is relevant and that everything causes everything else.

These developments have brought about a tendency toward paralysis in contemporary sociology a real "failure of nerve." To overcome this state of affairs, Prof. Gusfield urges sociologists to face up to their limits and recognize their opportunities. Sociology can still perform a valuable service by undercutting the "enslavement through science" by which many of our institutions and their personnel accumulate power simply through the aura of "scientific" expertise.

Durkheim, Ideology, and Method

Jorge Larrain
University of Birmingham

"Durkheims's Concept of Ideology." *Sociological Review* 28(February 1980):129–139.

French sociologist Émile Durkheim (1858–1917) never provided a systematic analysis of the concept of ideology, but he uses the term and proposes a certain understanding of it. Durkheim's most revealing use of the word may be found in *The Rules of Sociological Method* and *The Elementary Forms of Religious Life*. In *The Rules*, Durkheim deals with ideology in the context of laying the foundations of sociology as a science of social facts.

Before any field of knowledge constitutes itself as a science, Durkheim declared, men have already developed certain ideas or preconceptions about it. At the time a new phenomenon becomes the subject of science, those preconceptions, like Baconian idols, tend to struggle for primacy with objectively observed facts. If the preconceptions happen to win the struggle, then, "instead of a science concerned with realities, we produce no more than an *ideological* analysis."

Obscurantist preconceptions which comprise an ideology are particularly active in sociology, because social things are a product of human activity and thus appear as the application of certain ideas. Comte's notion of sustained progress throughout history and Spencer's idea of cooperation represent two examples of influential preconceptions in sociology. In *The Rules*, Durkheim views the formation of ideological preconceptions as "the *natural bent* of the human mind." This tendency toward spontaneous illusion requires that sociologists must submit to rigorous discipline.

In *The Forms* (a later work), Durkheim's concept of ideology seems to have undergone considerable alteration. Treating religion as an ideology, a system of preconceptions concerning the nature of the world he characterizes religious preconceptions as "collective representations which express collective realities." On this view, religion cannot be a tissue of illusions. Instead, it becomes the members' collective expression of their society.

As such, religious notions play a vital role in social life, one which will be replaced by science only in its more speculative functions. The reaffirmation of collective sentiments remains the perennial function of religion. In contrast to his views in *The Rules*, Durkheim does not consider the origins of these preconcep-

tions as innate in human nature. Instead, they arise and are conditioned within society.

Is it possible to reconcile these apparently divergent theories? The disparity between them may not be so great as first imagined. While *The Rules*, explained ideology as a natural bent in the minds of individuals, *The Forms* seems to show ideology developing from a natural bent in the mind of society considered as an individual subject. This occasions a blurring of the distinction between the two conceptions.

Logically, the view in *The Forms* expands (and does not contradict) the theory found in *The Rules*. *The Rules* already recognized that preconceptions play a necessary intellectual role as a prelude to science. Now, Durkheim adds to the role the complementary social function of expressing collective sentiments. Science, therefore, cannot refuse ideology's right to exist, however, it might take over ideology's intellectual functions.

Polanyi, Hierarchy & Reductionism

A. Olding
Macquarie University (Australia)

"Polanyi's Notion of Hierarchy." *Religious Studies* 16(March 1980):97–102.

Michael Polanyi is associated with the view that, through "tacit knowledge" of lower levels of reality, we can come to know something of higher levels—even, possibly, of God, the highest level of all. In Prof. Olding's view, Polanyi's argument for such a hierarchy of being is confused and illicitly mixes ontological and methodological claims.

Against the reductionists Polanyi has argued that biology is not reducible to biochemistry. While reductionists assert that growth and heredity are determined by the sequence of DNA molecules, Polanyi holds that what allows DNA to do its work is not its chemistry but the order of bases along the DNA chain. Since the laws of physics and chemistry hold universally, they would be entirely unaffected by the particular linear sequence that characterizes the triplet code. Any order is possible physico-chemically; therefore physics and chemistry cannot specify *which* order will in fact succeed in functioning as a DNA code.

Prof. Olding finds this argument fallacious. The laws of nature allow for any linera sequence *only* when a set of initial conditions is not specified. Once these have been identified, the order of molecules is no longer arranged randomly.

The notion of hierarchy in Polanyi's conception of nature stems from his view that the DNA molecule functions both as a blueprint and as an engineer which somehow *constructs* the living organism. Polanyi has likened organisms to machines and has argued that, even dealing with ordinary machines such as clocks, we cannot give a reductive account of mechanical activity. This is because a machine "works under two distinct principles. The higher one is the principle of the machine's design, and this 'harnesses' the lower one, which consists in the physical-chemical processes on which the machine relies."

At most, this is a misleading metaphor. Polanyi himself admits that "this harness is not unbreakable; the structure of the machine, and thus its working, can break down. But this," he says, "will not affect the forces of inanimate nature on which the operation of the machine relied." If one thinks of the machine in this way, then its structure clearly does not harness its matter as a rider harnesses a horse. There is no question here of higher and lower "principles" and, therefore, no threat to the reductionist position.

To assert the existence of different levels of principles is to invite a criticism dubbed

the "two-worlds argument" by John Passmore. The argument states that once two ontological levels and two distinct kinds of being are distinguished, then there is no way that they can interact once two ontological levels and two distinct kinds of beings are distinguished, then there is no way that they can interact once again without contradiction. Polanyi, seemingly aware of this objection asserts that lower order principles are "open" to the higher or that higher powers may "emerge" from the lower. Such statements merely reduce to the notion that the matter of machines has both the character of X and non-X. Entitles and hierarchies, claims Olding, must exist on one ontological level.

Historicism: Individuality or Pattern?

Leonard Krieger
University of Chicago

"Historicism's Revenge." *Annals of Scholarship* 1(Spring 1980):15–30.

"We are all historicists now either expressly or figuratively."

Historicism is a "Philosophy of history that dissolves all reality into the stream of historic becoming." By this definition, "it is hard to think of anyone save Arnold Toynbee who is not a historicist." Most historians now agree that history has to adapt itself to the changing cultural attitudes of the age. The historicist view has dissolved the "older certainties which stabilized reality outside of history . . . and which used to anchor the historical point of view." Historicism, "which used to have such a bad press because of its relativistic implications and which gave historicism such an evil reputation because of its imperialistic implications" has taken a double revenge.

This "double revenge" consists in the two kinds of attempt by later historicists to overcome the earlier historicists' radical undermining of the "older certainties." These de facto later historicists (such as Marxists) have either affirmed temporal structures from outside history to give some stability to history or "they have obscurely constructed forms or relationships or institutions from within history itself to provide a stability which history can get from no other source." Paradoxically, both forms of historicism—the philosophical and the historiographical—have weakened "the coherence that gave some stability to history." They did sophilosophical and the historiographical—have weakened "the coherence that by denying the validity or the applicability of the constant values which other thinkers had drawn from outside history to give a firm foundation to the general meaning or connection that they discerned in the particulars of the historical process itself.

We find two kinds of responses to historicism: one group (e.g. Croce, Collingwood, Mannheim, and Meinecke) accepts its relativistic implications and looks outside of history for stability; a second group responds by refusing relativism and looks within history for general patterns and stable structures that run counter to historical relativism.

Some members of the *first* group seek the connections that bridge the "irreducible individuality of historical phenomena in the constancy of logic, sociology, or political theory." Other members of this first camp (Dilhey, Simmel, Troeltsch, and Max Weber) strove to overcome the "disenchantment" of historicism and "saw in history an embodiment of values whose overarching validity lay rooted in a transcendent realm outside of history. All the diverse members of this first camp—whether idealists, positivists, the Neo-Marxist Frankfurt school, or structuralists—view history as individualizing and heterogeneous; they depend upon stable realm *outside* of history for their source of coherent pattern in history.

Even Karl Popper, an outspoken enemy

of historicism in his *The Poverty of Historicism,"* belongs to this first camp of historicists. Popper, like all positivists, has assumed the applicability of the scientific method (in the form of "covering-law model") to history. Popper thereby affirms the "extra-historical legacy of historicism." Popper himself has muddied the waters of what historicism is by defining it in terms of necessary developmental laws.

The *second* kind of response to historicism takes seriously the dissolving effect of individualizing reality both inside and outside of history and seeks to construct the coherence of history from the very individualities history. Three subtypes of response occur among those who would construct the stable patterns of history out of its individual components.

(1) The first subtype revises movements standing outside of history so as to make them stand inside. One example of this approach is Herbert Marcuse, who "blended Marx and Freud by historicizing both; he used Freud to make Marxism an authentic historical structure, expressive of man's real potentiality."

(2) The second subtype sought to establish the autonomy of historical patterns and simply redefined historical facts to fit them. Some of the French *Annalistes* have sought to historicize patterns to make them internally authentic. One other example of this subtype is Michel Foucalt's attempt to show a pattern behind modern institutions (the asylum, the clinic, the prison) which were "organized for bourgeois control of cultural mavericks during the nineteenth century."

(3) A third sub-type of response "to the problem posed by historicism to the ground of patterns in history" is the application of the historical "critical approach."

Historicism has, on the one hand, stressed the unique, individualist, and particular aspects of history, but, on the other hand, has left a vacuum as to the coherent patterns and connection among these historical particulars. It has thus stressed the sense of variety, individuality, and multiplicity in history. But paradoxically its "vacuum" or lack of connecting principles has evoked the revenge of compelling "the western mind to find rest in some kind of coherent and rational pattern."

Social Science: Game, Drama, and Text

Clifford Geertz
Institute for Advanced Study, Princeton

"Blurred Genres: The Refiguration of Social Thought." *The American Scholar* 49(Spring 1980):165–179.

Contemporary social theory is undergoing a sea change and refiguration in its aims, methods, and favorite metaphors for studying and describing social phenomena. This more subjective approach prefers to know the *meaning* of social experience for the social actors rather than mere measurement and "causes" of "behavior". It also challenges the central assumptions of mainstream, older social science by denying the strict separation of theory and data and the claim to a detached, objective, and morally neutral stance. Rejecting positivist and mechanistic models of social theory (laws-and-instances) the new breed of social scientists seek explanations by connecting action to sense rather than behavior to its determinants.

This new interpretative (or "hermeneutic") explanation in the social sciences "trains its attention on what institutions, actions, images, customs . . . mean to those whose institutions, actions, customs and so on they are." It systematically unpacks the personal conceptual world of meaning in which prisoners, Calvinists, or paranoids live. To achieve this interpretation, it casts its social theory "in terms more familiar to gamesters and aestheticians than to plumbers or engineers. Society is "less and less represented as an

elaborate machine . . . than as a serious game, a sidewalk drama, or a behavioral text." These three new social science analogies or metaphors—game, drama, and text—can, in turn, benefit from dialogue with the humanities.

America's most celebrated sociologist today, Erving Goffman, applies the first analogy—game imagery—to a wide variety of social activities: "Etiquette, diplomacy, crime, finance, advertising, law, seduction. . . ." To conceive of social behavior as games (involving strategies, players, moves, signals, information, and outcomes) goes back to Wittgenstein's view of the forms of life as "language games," Huizina's ludic view of culture in *Homo Ludens*, and the new strategics of von Neumann's and Morgenstern's *Theory of Games and Economic Behavior*. "Life is just a bowl of strategies." For example, the activities of a psychiatric hospital resemble a game where the patient must dissemble his true self and where the staff holds most of the trump cards. The game analogy may not commend itself to humanists who prefer to think of people not as obeying rules and playing for advantage but as acting freely to realize their potential. Still, game analogies help social theory transcend its outmoded mechanistic analogies. Gregory Bateson's interpretation of schizophrenia as rule confusion or Geertz's interpretation of market processes as complicated information contests help us understand our social reality.

The drama analogy offers us the metaphor of life activities conceived of as social dramas. Two approaches appear in the social drama analogy: (1) the "ritual theory" stresses the affinities of theater and religion—"drama as communion, the temple as stage," and (2) the "symbolic action theory" stresses the affinities of theater and rhetoric—"drama as persuasion, the platform as stage." Social drama —whether as liturgy or ideology—has the virtue of showing the common patterns behind diverse social behaviors. But this virtue of uncovering formal similarities can divert attention from different content and make "vividly disparate matters look drably homogeneous."

Finally, the text analogy encourage us to "read" social action as discourse. To see social institutions as reading and translating texts stresses the multiple "contexts" in which social processes are embedded.

The shift among social scientists from physical process analogies to symbolic form ones has redirected attention from the manipulation of human behavior to the "anatomization" and understanding of thought. "The rising interest of sociologists, anthropologists, psychologists, political scientists, and even now and then a rogue economist in the analysis of symbol systems poses . . . the question of the relationship of such systems to what goes on in the world."

Alfred Schutz and Phenomenology

Susan Hekman
University of Texas at Arlington

"Phenomenology, Ordinary Language, and the Methodology of the Social Sciences." *The Western Political Quarterly* 33(September 1980).

In the wake of recent critiques of positivism as an inadequate philosophy, what perspective provides us with a coherent methodology for the social sciences?

Professor Hekman compares phenomenology and ordinary language analysis and judges phenomenology superior. Both phenomenology and ordinary language analysis agree in denying the positivist

dichotomy between subjective and objective meaning and "insist that the starting-point of social scientific analysis must be the understanding of social action in the terms of the social actors themselves." Both rival approaches thus take for the subject matter of the social sciences the shared "intersubjective" concepts of the individual social actors. Accordingly, both approaches satisfy the first of Professor Heck's four criteria of a coherent social science methodology: (1) it must define the "subject matter." However ordinary language analysis fails to satisfy the remaining three criteria for a sound social science methodology: (2) it must explain how the subject matter or concepts of social living are formed and constituted intersubjectively (that is, how the "facts" of social sciences become "facts"; (3) it must provide the social scientist with precisely defined conceptual tools and procedures to discuss the social "facts" and concepts; and (4) it must define the limits of social scientific activity.

Although both phenomenologists and ordinary language philosophers begin their analysis of social life with the actors' concepts, for ordinary language analysis this starting point and general "perspective" is also the conclusion of its analyses. Phenomenology, by contrast, probes deeper into its analyses of social scientific reality and satisfies all four criteria of a detailed and coherent "methodology." The relative merits of the two rival approaches are seen by comparing the social phenomenology of Alfred Schutz (1899–1959) as elaborated in his book, *The Phenomenology of The Social World*, with Peter Winch's and A.R. Louch's versions of ordinary language analysis. Schutz's analysis is shown to be superior in unraveling Max Weber's concept of socially "meaningful action" and "subjective meaning." Unlike ordinary language philosophers, Schutz examines and analyzes the very "constituting process" by which social actors create their subjective word views, meanings, and concepts. Schutz also surpasses ordinary language analysis by exploring "the process of social scientific theorizing, examining the nature of social scientific concepts and the relationship between the social world and the world of the social scientific theorist."

What is Schutz's solution to the difficulty of how the many subjectively constituted or "private" social word views of individual actors can become intersubjectively known and meaningful to other social actors and to the social scientist? Schutz developed Weber's notion of "ideal types" or explanations of intersubjective meaning that conform to these postulates: (1) The "ideal types" offer an explanation of the action which is understandable to the social actor; (2) the postulate of subjective interpretation specifies that the "ideal types" refer to the action as a result of "subjective meaning constitution;" and (3) the postulate of rationality requires that the "ideal types" conform to the logical rules of scientific method.

Schutz's social phenomenology offers a systematic approach to exploring the realm of social meaning and consciousness—an exploration which Wittgenstein's ordinary language analysis shuns.

Phenomenology offers a fruitful methodological tool for the social sciences concern with its subject matter of meaningful human action. It shows "that the individual's constitution of meaning takes place in an intersubjective context" and it provides the social scientist access to this "private" or "subjective" realm. By contrast, the "ordinary language philosophers' assumption that this realm is private and hence inaccessible . . . precludes their formulation of a comprehensive methodology for the social sciences."

Moral Honesty in Social Science

Peter M. Newton
University of California

"Who Among Us Still Hopes To Learn about the Nature of Man?" Review Essay of C. Wright Mills, *The Sociological Imagination.* Oxford University Press, 1959. *University Publishing (Winter 1981):*13–14.

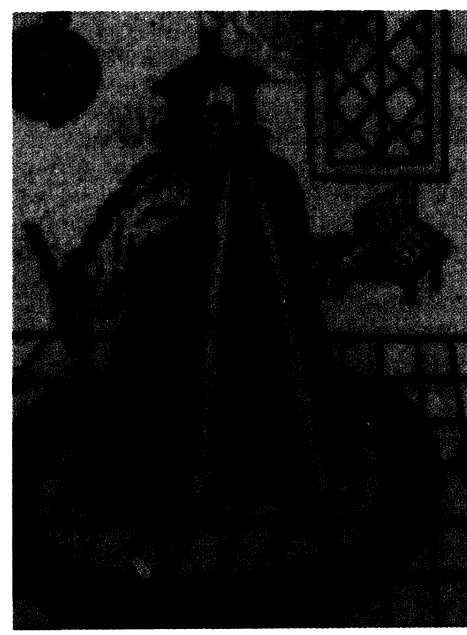
"Who among us still hopes to learn more about the nature of man from academic psychology, about the nature of society from sociology, about individual-and-society from social'psychology?"

Professor Newton, a psychologist, poses this question in his assessment of the ongoing social and political relevance of C. Wright Mill's *The Sociological Imagination* (1959). Some 20 years after its publication, Mills's book still disturbs us as a critique of the moral, intellectual, and political deformations of social science methodology. Mills exposed the political commitments lurking beneath the ritualistic methodology of "abstracted empiricism." Abandoning the intellectual breath of Marx, Durkheim, and Weber, all of whom radically sought to comprehend and critique overall social structure, the new social scientists—careerist academics—adopted an uncommitted, socially disengaged methodology of measurement and quantification which was morally myopic and politically evasive. These conventional academics' problem was to trivialize their researches with a value-free narrow empiricism that was deliberately evasive of the social and political power. "The academic technician clings fiercely to atomizing methods be cause he senses instinctively that his political anonymity and economic comfort depends upon them."

Mills also dissected the post World War II alliance of the abstracted empiricists in the social sciences with government power and funding. Conservative methodology of a "pluralism of causes" (rather than a general social analysis) fits well with a political quietism or politics of piecemeal reform (rather than social structural transformation). Government funding controls costly social science research and projects. "The social scientist learns to tailor his project (and his ideas) to be successful in the competition for dollars. It could be said that Washington determines not only the content of social science, but even its membership."

Mills's critique of the then new blinkered empiricism and methodology, which evaded the root problems of society and social science, is today all the more relevant:

"Lives are in disarray, society disintegrates, and all who can see, see that history is going to kill us . . . families huddle before television sets . . . Marriages dissolve, reform, endure in soporific quietude, die in anomie. The bureaucracies in which all of us work, if we are allowed to work, exploit and abuse staff as well as clients." LL



II Economic Analysis

Because of its significance for a sound and stable social system and economy, scholarship dealing with economic analysis has received repeated and detailed coverage in past issues of *Literature of Liberty.* The current set of summaries combines both abstract perspectives (on the issues of general equilibrium, business cycle theory, subjective cost theory, the possibility of economic calculation under "market socialism) with more concrete historical and ethical studies of such topics as the history of interest group maneuvering for workmen's compensation legislation, child labor and the Factory Acts, minimum wage legislation, neo-mercantilism, and the interplay of ethical ideology and economic science. Both perspectives are necessary for understanding comprehensively and in detail the workings of any economy.

The common perspective unifying the opening group of summaries is that of the Austrian school of economics and its characteristic method of analyzing economic reality in terms of methodological individualism and the science of praxeology or human purposive action. This approach can be observed most easily in the Wiseman and Vaughn treatments of subjective cost theory. Whereas orthodox neoclassical microeconomics treats costs as if they were objective and measurable prices (which interpretation would allow social engineers to intervene, assist ailing economies, and make effective public policy recommendations through "scientific" cost-benefit analyses), Austrian-oriented economists stress the subjective, psychological interpretation of costs as nonobjective forgone "opportunity costs." The Austrian praxelogical analysis of costs, profits, interest rate theory, money, and human action in general, is generally leery of any mathematicism on the principle that objective measurement distorts the more subjectivist, nonquantifiable reality of human valuing and purposive action. Not only do individuals possess their economic "values" in a subjectivist manner that defies intersubjective comparisons of utility, but each of their values may be in the process of changing. Human action and valuation, in short, occurs in a dynamic world of human process and "kaleidic" change, rather than a static world of unchanging physical laws. [Steven N.S. Cheung's *The Myth of Social Cost* (San Francisco: Cato Institute, 1980) gives an insightful treatment of costs from another perspective.]

The remaining more concrete summaries are of value for the light they shed on the workings of political economy. Of especial importance for current economic trends are Chris Tame's study of today's revival of neo-mercantilism. This study shows the perennial relevance of Adam Smith's dissection of vested interest legislation. E.G. West continues Smith's spirit by his unravelling of governmental resistance to economic science consensus in regard to the dangers of legislating a minimum wage.

Austrian vs. Neoclassical Economics: Equilibrium

Israel M. Kirzner
New York University

"General Equilibrium and Beyond: I, The 'Austrian' Perspective on the Crisis." *The Public Interest,* (Special issue 1980):11–122.

Neoclassical economic theory is currently in crisis. Despite essentially sound historical roots, its historical development has produced a misunderstanding of the workings of market capitalism. We need to reconstruct our economic understanding by studying neoclassical historical roots and by heeding the insights of the "Austrian" school of economics.

In the development of mainstream economics, late nineteenth-century insights into demand-side factors were subordinated to concern with market equilibrium conditions. Consequently, the key elements of the role of the entrepreneur, the dynamics of the market process, and the nature of competition were overlooked, misunderstood, or miscast.

While not denying the usefulness of the concept of equilibrium as a tool of analysis, Austrian economists (Menger, Mises, Hayek, etc.) view the really important aspects of the market economy to be those concerning the nature and function of market processes. Whereas the Austrian tradition has adhered to these historical roots, the neoclassical static model of perfect competition diverted attention from market processes. By losing sight of these processes, neoclassical economists have tended to misunderstand the requirements for, and benefits of, dynamic competitive markets.

This historical forgetfulness and inattention actually represents ". . . a failure to recognize the role of knowledge in the face of radical uncertainty, and of learning processes in dynamically competitive markets," coupled with the ". . . failure to recognize the nature and significance of *entrepreneurial discovery* in an uncertain world."

In addition, neoclassical concern with normative questions of social well-being suffers from flawed "aggregate" approach that illegitimately extends the notions of choice and well-being from the level of the individual to the level of the collective. More importantly, neoclassical economics ignores the key role of the market process in organizing information both to facilitate individual decision-making and to promote individual *subjective* and (thus, incommensurable) welfare. In this dynamic setting, market prices are always disequilibrium prices that make aggregative measurements inappropriate at the same time that they affect and are affected by individual decision-making.

"Economic theory needs to be reconstructed so as to recognize at each stage the manner in which changes in external phenomena modify economic activity strictly *through the filter of the human mind.*"

Frank Fetter & the Austrian school

Gerald P. O'Driscoll
New York University

"Frank A. Fetter and 'Austrian' Business Cycle Theory." *History of Political Economy* 12(Winter 1980):542–557.

Frank Fetter (1863-1949) was a distinguished American economist at the turn of the century. A number of his contributions to economics (such as his pure time preference interest theory) were developed by members of the Austrian school of economics. In this essay, O'Driscoll argues that Fetter also independently discovered key elements of the Austrian school's theory of economic fluctuations. His contribution was, however, overlooked by the Austrians, despite their familiarity with his other work.

Irving Fisher's (1869–1947) name has long been associated with the effect of inflationary expectations on interest rates, expectations of high inflation leading to high interest rates. Fetter developed this analysis further than did Fisher, observing that inflation and deflation distort investment patterns. Investment that would never have taken place occurs during inflation. And investment is discouraged during deflation. Price fluctions are uneven and their unevenness interferes with resource allocation. Like the later Austrians, Fetter perseived a cycle as being constituted by fluctuations in real variables, such as investment and saving, though caused by monetary disturbance.

Fetter drew attention to the role of the fractional-reserve banking system in generating monetary disturbances and thus causing economic fluctuations. He opposed an "elastic currency." He also distinguished between the effects of an inflation of the commodity base money and the effects of an inflation of bank credit. In this, he likewise anticipated later Austrian developments

Though his analysis was recognized and praised by such diverse contemporaries as Irving Fisher and Frank Knight (1885–1972), it stands as another lost and largely forgotten contribution in monetary economics. Not only the revival of Austrian economics, but recent theoretical and empirically work generally have highlighted a number of the problems analyzed by Fetter. His work is thus as relevant today as when it was written.

Subjective vs. Objective Costs

Jack Wiseman
Director, Institute of Social and Economic Research, University of York.

"Costs and Decisions." University of York. Reprint Series: Economics, Numer 289. Reprinted for private circulation from *Contemporary Economic Analysis* (Vol. 2, Ed. by David A. Currie and Will Peters). Croom Helm, 1980, pp. 473-490.

Professor Wiseman is one of the surviving members of the London School of Economics "subjective costs" school, which, in turn, was influenced by the Austrian school). He comments on the implications of uncertainty and learning for the nature of economic decisions (the concept of "opportunity costs"). On this foundation, he then discusses "orthodox" economics and ways in which it can develop.

To obtain a satisfactory solution to the economic problem of the nature of costs, Professor Wiseman urges a "return to consistent development of the subjective cost

tradition." By contrast, the dominant "orthodoxy" treats opportunity costs as essentially "objective." This belief in objective costs leads to a misunderstanding about the nature of the resource-allocation process and to inflated claims by economists as to their competence as "social engineers." A better approach is to see opportunity-cost decisions as the subjective valuations of individuals. Methodological individualism is needed as the logic of individuals as they make subjective decisions in a world of change and uncertainty. Opportunity cost cannot have an "objective" existence; it is the rejected subjective plan of an individual —one that is never implemented at all. There is no reason why two individuals deciding on the same ("best") course of actions should have the same opportunity costs.

The dominant or orthodox Anglo-American paradigm of "objective" opportunity costs ignores the fact that the relevant foregone alternatives ("costs") are those perceived by the individual decision-taker and have no "objective" manifestation. This "objective" interpretation likewise sees resource allocation as some objectives and known-in-advance process, a rather simple process of maximizing measurable quantities. The crucial deficiency in the "objective" model is the absence of uncertainty. Everyone is assumed to have objective knowledge of future opportunity costs and future prices. But this, then is not a "decision" model. If all future prices (and so all future resource-allocations) are known with certainty, then there is no way in which present decisions can alter future prices or resource-use.

In short, the orthodox, objective model of costs does not explain the process by which resources are allocated between competing uses through time. It describes "equilibrium states," not adjustment processes. The orthodox approaches cannot adequately deal with uncertainty since they assume a world in which decision makers ("clockwork Bayesians") cannot experience surprise.

In the light of a more adequate interpretation of the decision process in terms of subjective opportunity costs, we see the need for a theory of learning in its entrepreneurial sense of identifying and acting upon new opportunities. Equilibrium or objective models are of little help in the real economic world of change, individual choice, and learning.

Prof. Wiseman believes that the Austrian school of economics (as in Israel Kirzner's *Competition and Entrepreneurship* and E.G. Dolan's *The Foundations of Modern Austrian Economies*) offers a more adequate theory of the market process. This school reveals the futility of policy prescriptions that pretend to predict and measure "objective" social welfare functions. Since evaluations are individuals' private or subjective evaluations, policy makers cannot perform cost-benefit analyses in any objective, measurable fashion.

The Significance of Subjective Costs

Karen I. Vaughn
George Mason University

"Does It Matter That Costs Are Subjective?" *Southern Economic Journal* (Summer 1980): 702–715.

Although it has been neglected, the subjectivist interpretation of costs is an indispensable framework. The subjectivist understanding of cost has a history dating back to the origins of neoclassical economics itself, but few economist today are even aware of how the subjectivist tradition differs from orthodox neoclassical cost theory.

The concept of opportunity cost, the subjective value of alternatives foregone, was implicit in the writings of the founder

of the Austrian school, Carl Menger (1840–1921); it was made explicit in the work of another Austrian, Friedrich von Wieser (1851–1926); it was further developed by Philip Wicksteed (1844–1927), and was explored in depth by economists at the London School of Economics during the 1930s and 1940s. Although opportunity cost is widely accepted by the economics profession, the subjectivist interpretation of costs is little discussed or appreciated today. To remedy this neglect, James Buchanan's 1969 book *Cost and Choice* traced the evolution of the subjective cost tradition from von Wieser onwards and demonstrated how "cost is an all-pervasive concept that reaches to the core of economic thinking. Economic decision making is an exercise in choosing among alternatives, and cost can only be understood to be a personal subjective evaluation of the consequences of choice." Cost for the evaluator is the "rejected opportunity" which the decision maker must overcome before he can choose. As Buchanan puts it, "Cost consists therefore of his own (the individual's) evaluation of the enjoyment or utility that he anticipates having to forego as a result of choice itself."

The implications of subjective costs for conventional neoclassical cost theory are many but are virtually all at odds with the more standard neoclassical microeconomics. One implication of significance is that cost "cannot be measured by someone other than the chooser since there is no way that subjective mental experience can be directly observed."

Professor Vaughn argues four points: (1) that the only interpretation one can give to the concept of opportunity cost as the value of the next best alternative is a subjective one; (2) that it is only in full, timeless, certain, general equilibrium that subjective cost can be represented by "objective" money outlays and measurements; (3) that the real world, however, is never in equilibrium; and (4) that the real world's divergence from static equilibrium is most significant when economic theory is used for public policy.

When economic theory is used to formulate policy for real economies, to ignore the fact that the costs we are trying to measure are subjectively calculated by human beings (who make choices in partial ignorance and uncertainty about the future) will be risky. The arguments advanced by those who claim that cost/benefit analyses are objective or "close enough" (on the assumption that costs are identical to measured money outlays) are unconvincing. When costs and benefits are mainly subjective and evaluations are made by third parties who do not directly suffer the consequences of their choices, it is likely that public policy advice will have perverse effects on social welfare.

Socialist Economic Calculation

Karen I. Vaughn
George Mason University

"Economic Calculation under Socialism: the Austrian Contribution." *Economic Inquiry* 18(October 1980):535–554.

The publication in 1920 of Austrian free-market economist Ludwig von Mises's (1881–1973) article, "Economic Calculation in the Socialist Commonwealth," launched a scholarly controversy between free-market and socialist economists during the period of 1920 to 1940. Known as the debate over "economic calculation under socialism," its ostensible subject was whether it was possible for a real economy to operate efficiently without free markets and without private ownership of capital and land. The core issues for economic theory, however, ran deeper and are still unresolved some 40 years later. Professor Vaughn gives a clear overview of the debates, issues, personalities, and scholarship.

Economic theories of socialism during the 1930s were based on Walrasian general equilibrium models in which the government central planning board was to function as the price determiner or auctioneer. Socialists assumed that "market socialism" would achieve all the efficiencies characterizing the abstract model of perfect competition, and at the same time, avoid the serious market imperfections alleged against real capitalist economies (monopolies, externalities, business cycles, and unjust income and wealth distributions).

The Austrians, chiefly Ludwig von Mises and Friedrich Hayek (cf. Hayek's 1935 *Collectivist Economic Planning),* argued that socialism (even socialism with some market mechanisms allowed to price consumer goods) would fail to achieve the efficiency of real market capitalism. Mises and Hayek reasoned that the Walrasian models of perfect competition, which socialists employed to construct their economic theory, left out of consideration those vital features of real markets that were required to generate efficient outcomes. Specifically, the socialists' Walrasian model ignored three crucial features: (1) the entrepreneurial nature of the market adjustment process, (2) the importance of decentralized information in setting market- clearing signals for efficient supply and demand, and (3) the role of incentives and disincentives under varying market and non-market institutional settings.

A crude synopsis of the economic calculation debate runs as follows: Mises wrote an article arguing that rational or efficient economic calculation was impossible under socialism. Mises's article prompted those who favored socialism to try to refute him. (These included Fred Taylor, H.D. Dickinson, Oskar Lange, Abba Lerner, E.M.F. Dubin, and Maurice Dobb). Those arguing for "market socialism" were forced by Mises's analysis to construct an economic model that would show how a centrally directed socialist economy could be rationally administered. Mises chief allies in his theoretical defense of capitalism were the Austrian Friedrich Hayek and Lionnel Robbins (who was influenced by the Austrian school of economics). Hayek wrote two sophisticated and penetrating critiques of socialist planning but they were, in the main ignored. Mises seemed easy to refute, and so for twenty years, socialists continued to refute their version of his arguments, therefore avoiding consideration of the far more difficult issues raised by Hayek.

Professor Vaughn's discussion falls into four parts: (1) the first part examines Mises's 1920 article to identify the sources of the controversy: (2) the second part outlines the major developments in the economic theory of socialism during the 1930s; (3) the third part presents Hayek's criticisms of socialist economic programs; and (4) the fourth part summarizes the theoretical problems raised during the debate. This last section allows us to appreciate the relevance of the Austrian analysis as a contribution to current problems in economic theory.

Hayek's critique of neoclassical socialist economics was its inappropriate application of static Walrasian equilibrium models to the formation of a new economic order. The static equilibrium model omits considerations of the *process* by which equilibrium is approached, the effects of *uncertainty* on the conclusions of the model, and consideration of what constitutes economic *information* and to whom it is available. Each one of these omissions are sufficient to guarantee that an economic order resulting from conscious centralized planning according to the equilibrium model will differ substantially from the one envisoned by the socialist planners.

Hayek's major source of criticism against applying the general equilibrium model to socialist economics was his perception of the role of information in making economic decisions. Hayek pointed out that the real problem of any economic model is to show how the information and knowledge necessary for rational decision making which exists in millions of separate individuals (consumers with their preferences) can be transmitted to appropriate decision makers to permit an orderly economy to emerge. The free market's mechanism handles the problem of transmitting market knowledge because it takes advantage of decentralization of

knowledge ("division of knowledge") and decentralized decision making. Hayek argued that the burden of proof was on the socialists to show that centralized planning could improve upon the free market's production and use of information. Hayek analyses is of central importance to the growing literature of the "economic of information," which asks "how individuals should and do behave when imperfectly informed."

The Welfare State: Business & Labor

Joseph L. Castrovinci
Chicago, Illinois

"Prelude to Welfare Capitalism: The Role of Business in the Enactment of Workmen's Compensation in Illinois, 1905–12." In *Compassion And Responsibility: Readings in the History of Social Welfare Policy in the United States* (Chicago: University of Chicago Press, 1980):265–289.

It was during the Progressive era at the turn of the 20th century that modern, comprehensive welfare programs began to appear at the state level. Professionals and labor leaders were joined by businessmen who began to see such state compensation as a solution to certain of their problems of liability.

A first step to welfare policies was the reform of the common law where questions of liability, in the face of a rising number of on-the-job accidents, resulted in forty states creating commissions to examine the work-related injury. The law reflected a pre-industrial society which made suits difficult, but verdicts favoring employees were increasing.

Business groups, including insurance companies, began to favor the stability offered by state compensation. They were joined by a large number of Progressive reformers ranging from scholars to ministers. A major figure was Ernst Freund, a law professor at the University of Chicago. Born in Germany, he disapproved of the common law concept and favored compensation plans derived from European models.

Business groups seem to have played the major role in passing the Illinois law of 1911 which closely resembled a plan advocated by the National Association of Manufacturers. Originally opposed to state compensation, labor leaders began to change as the legal injunction was more frequently used against them.

Instead of trying to rework the common law tradition, business, labor, and the reformers turned to state-sponsored compensation. The support of business was crucial in this case. Other more radical Progressive proposals failed because they were opposed by the business community as radical, whereas compensation was not so viewed.

Child Labor and Capitalism

Clark Nardinelli
University of Virginia, Charlottesville

"Child Labor and the Factory Acts." *Journal of Economic History* 40(December 1980):739–755.

The traditional view holds that a ruthless system of market laissez faire depended on and exploited child labor in early nineteenth-century Britain. Without state intervention, beginning with the Factory Act of 1833, the market forces of the industrial revolution allegedly held out little hope of improving the children's wretched condition. Supposedly, the Factory Acts diminished child labor, thereby improving the welfare of children. The economic and historical evidence, however, implies that the Factory Acts merely speeded up an earlier tendency of the market to reduce child labor. The chief causes of the decline in child labor were not laws but labor-saving technological improvements and rising family incomes.

The traditional view is distorted by the one-sided evidence of M.T. Sadler's *Report of the Select Committee on the Bill for the Regulation of Factories* (1832). But Sadler, the Leeds M.P., coached his witness to paint a lurid portrait of the textile industry which claimed that child labor was the major source of labor in the factory districts. The defense for the other side—the factory owners—was never carried out to balance the picture. During the 1840s and 1860s royal commissions and reformers aroused sympathy to extend legislation to regulate work hours, conditions, and educational opportunities for child miners, chimney sweeps, and virtually all industries. The traditional interpretation draws the unfounded conclusion that child labor decreased because of the legislative regulation rather than because of market innovations.

A close study of the statistical evidence for child employment debunks the belief that the Factory Acts prevented child labor in textile factories from increasing in importance. The apparently increasing proportion of child workers after 1838 actually resulted from the "half-time" system (employing more children but with fewer hours of work required) and from the decline in the implicit "tax" on child labor (the cost to the employers of the providing age certificates and the child education declined). For most of the nineteenth century improvements in labor-saving machinery (such as the self-acting spinning mule which eliminated the need for children to piece together broken threads). Increasing family income and wages further reduced the need for child labor, as did the shift to steam power. The Factory Acts, then did not cause the long-run decline in child labor. In the short-run, however, they may have reduced the proportion of children in the textile labor force.

It is not clear that the overall effects of factory legislation improved children's "welfare," a controversial and hard-to-measure notion. It is fallacious to assume that simply because legislation may have displaced some children from the factory work force, it thereby removed them from all labor occupations (such as more onerous nonindustrial jobs and the "family economy").

Children employed in nontextile industries did not undergo legislative regulations until the 1860s and 1870s. They thus provided an opportunity to observe what children's work was like in the absence of factory regulation. The census evidence shows that typically, children under 10 were not wage laborers in the unregulated industries. Nor were older children (up to the age of 14) significant percentage in the unregulated, nontextile factories. "Therefore the hypothesis that all British industry depended on children does not fit the facts."

Prof. Nardinelli concludes that child labor in textile factories was not growing relative to adult labor even before the Factory Acts. In fact, it was declining without government intervention. "The legisla-

tion did not slow the replacement of adult by children; it accelerated the replacement of children by women." The traditional history of child labor is distorted by concentrating on the early textile industries, a unique case. Originally, textile factories were located in rural areas to take advantage of water power. The rural location, the need for unskilled labor, and the immobility of adults under the Poor Laws led to a greater proportion of child labor only during this early stage of the textile industry. The later development of steam power allowed for urban location and factories to be located in the more populated cities and thereby diminished the need for nonadult labor.

Economics vs. Minimum Wage Politics

E.G. West
Carelton University (Ontario)

"The Unsinkable Minimum Wage." *Policy Review* 11(Winter 1980):83–95.

Rarely has Western history seen a period in which the price of labor was not regulated in one way or another. In mercantilist times, authorities imposed *maximum* wage regulations; today, we legislate a *minimum* wage, ostensibly to protect workers whose skills are least favored by the market. In his article, Prof. West reviews the formidable objections raised by contemporary economists against government imposition of a minimum wage. Unfortunately, he comments, in this debate with politicians, economists win all the arguments and lose all the votes. He urges economists to marshall their new empirical findings in such a way as to influence policymakers.

One of the classic arguments favoring minimum wage legislation, contends that such laws safeguard the rights of students, who comprise a significant percentage of the part-time labor force yet whose minimal skills obtain rock-bottom wages for them in the market place. In rebuttal, research has demonstrated that minimum wage laws make many students unemployable at the required salary levels. They are thus deprived of funds to continue their education—which in turn contributes to a more poorly trained work force.

F. Ray Marshall, Labor Secretary under President Carter, has answered this type of argument simply by asserting that, since the market had "failed" to provide jobs, the public sector should step in with such schemes as the Job Corps. More accurately, of course, the government has failed to let the market provide student jobs. Somewhat contradictorily, Secretary Marshall also argues that a minimum wage is actually needed to displace young people in order to induce them into publicly sponsored training projects. Most policymakers explicitly consider *formal* education under public auspices superior to on-the-job training, a dubious assumption in the light of the results. The minimum wage may well prevent a substantial amount of on-the-job training for students, as well as for school dropouts.

Minimum wage advocates also hold it up as an effective means of fighting poverty. However, the uncertainty of its real effects makes its usefulness in this area highly dubious. Proponents usually argue that income gains outweigh any employment displacement, so that, over all, income distribution improves. However, those proponents have presented no empirical evidence.

Elitism motivates much of the supposed egalitarianism of minimum wage supporters. Secretary Marshall, for example, argued in 1978 that it made sense to put 30,000 youths out of work by passing a higher minimum, so that the government might better induce them into school and into federal job programs. These socially engineered schemes impoverish the nation, families, and individuals far more than simple unemployment.

Vested interests in the minimum wage form a powerful lobby from labor unions to government functionaries whose jobs depend on the existence of such laws. As a result, political expediency and the crassest self-interest may continue to control this area of public policy. Nonetheless, West concludes, economists have the duty to persevere.

Adam Smith vs. Neo-Mercantilism

Chris R. Tame

"Against the New Mercantilism: the Relevance of Adam Smith." *Il Politico* (Italy) 43, No. 4(1978):766 -775.

Although his *Wealth of Nations (1776)* is one of the primary foundations of economics, Adam Smith's relevance to our time is not primarily as an "economist." Smith's contributions were many: *belles lettres,* a speculative history of astronomy, his pioneering work in social psychology, *The Theory of Moral Sentiment* (1754), and his sociological observations and philosophy of history in such works as his *Lectures on Jurisprudence.* Smith's "economics" is actually a "political economy," a comprehensive analysis "that took in the whole fabric of social life, its patterns of power, privilege and class in both their contemporary and historical setting."

Interpreted as a far-ranging political economy, Smith's economics presents a sociological and political critique of this era's mercantilist system. Smith's exposure of the flaws in the older mercantilism of his day is especially relevant to our new twentieth-century revival of this dangerous system. There are instructive parallels between the old and new mercantilism. Both are harmful policies of state economic regulation to control trade and labor associations and attain "full" employment", for the benefit of privilege interests who control legislation. Mercantilism in Smith's day and ours was a fatally conceived policy of economic protectionism, privilege,and exploitation.

What is the significance for us today of Smith's critique of mercantilism? Smith did not simply give an abstract economic analysis on how mercantilist obstacles hampered a competitive market system. He went deeper by radically exposing "the very driving motivation and political character of mercantilism ," the "wretched spirit of monopoly" and privilege chiefly practiced by merchants and manufacturers.

New scholarship (from both New Left historians and conservative "public choice" scholars) has dissected the true history of state intervention in the rise of the old and new mercantilism. Business interests build the corporate state by securing state intervention to preserve their protected niche from the risks of rival business competitors. Equally protectionist labor unions and class "new bureaucrats have joined in constructing modern neo-mercantilism and privilege. The implicit moral significant for our times of Smith's critiques of mercantilism is the "demystifying" of all the political and economic interests using protectionism. Smith's political economy allows us today to understand our contemporary social fabric as a whole.

In 1869 Smith's disciple, James E. Thorold Rogers, summed up the issue: "Smith's political economy was a war against privilege and monopoly as all honest political economy is whether it be privilege on the part of the landlords or masters, peasants or workmen."

Laissez Faire and Moral Revolution

Ellen Frankel Paul
University of Colorado and Hoover Institution of War, Revolution, and Peace

Moral Revolution and Economic Science: The Demise of Laissez-Faire in Nineteenth-Century British Political Economy. Westport, Connecticut and London, England: Greenwood Press, 1979

British political economy underwent a profound metamorphosis from the early to the later part of the nineteenth century. During the last quarter of that century economists abandoned the earlier policy of a nonactivist or limited state intervention in the economy. What undermined the economists' faith in Adam Smith's notion that an invisible hand would lead selfish men through a free market to maximize the social good? What caused laissez faire to fall mortally wounded while socialistic ideas were embraced?

The changes in pure economic theory (of value, wages, etc.) during the period did contribute to undermining laissez-faire, but they cannot explain the root cause. For example, the most devastating blow to the entire edifice of classical economics occurred with the introduction of the final (marginal) utility theory of value. This radically innovative value theory set economics on an entirely new foundation from Smith's and Ricardo's labor and cost-of-production theories. Marginal utility theory discredited such established fixtures of classical economics as the subsistence theory of wages, Malthus's population theory, the projection of a stationary state for the future, and the separate theories of distribution for land, labor, and capital.

But despite this revolution in pure economic theory, the later economists, Jevons, Marshall, and Sidgwick merely continued an earlier movement away from laissez faire. Jevons merely continued Bentham's view of utilitarianism: man was fundamentally a pleasure maximizer and the greatest happiness for the greatest number was the moral principle upon which social policy ought to be tested. The author argues that it was John Stuart Mill, the great heir of Jeremy Bentham, who was the principal architect to undermine laissez faire. Bentham certainly set the groundwork for this moral revolution, but he retained enough individualism to remain somewhat wedded to the limited government position of Adam Smith. It was left to Bentham's successor, Mill, to distill the collectivist implications of the principle of utility. Adam Smith's natural law or natural rights moral underpinning provided a buttress that led logically to his non-interventionist policy recommendations. But the principle of utility provides no such necessary connection with laissez faire. Thus, John Stuart Mill's frequent flirtations with the ideas of the Continental socialists and his virtual concession of the high moral ground to them becomes explicable.

Other factors besides utilitarianism, of course, contributed to the downfall of laissez faire. Nassau Senior and J.S. Mill provided additional amunition with their "art-science" distinction, the effect of which was to bifurcate economics. No longer would the positive science of economics have anything prescriptive to say to policy makers. This naturally undermined the whole intent of Adam Smith's *Wealth of Nations,* which was precisely to instruct legislators in how to maximize production by leaving the economy free. ◻

III Human Rights and Ethics

The following summaries supplement the perspectives on normative ethical and political theory sketched within this issue of *Literature of Liberty* in David Gordon's bibliographical essay, "Contemporary Currents in Libertarian Political Philosophy." The four opening summaries help clarify some recent directions taken in the theory of human rights and their moral justification. Then follow a variety of ethical issues dealing with such themes as privacy, the rights of animals and of nature, the variable notion of "nature," the developing concept of mind, and the possibility of an objective morality.

That we currently find little consensus on how we can justify rights or on what is right or wrong in our treatment of nature, animals, or our fellow humans should excite little wonder. Our age is, in fact, undergoing a profound proliferation of values and world views. On a worldwide basis and with a novel, unprecedented confidence, individuals and social groups are asserting their right to determine their own minds, lives, and values. "Every man and every woman is his and her own philosopher"—this sometimes seems to be the implicit motto of the spirit of our age. One expression of this cultural and social pluralism has been given voice by philosophers from within the American Philosophical Association. The dissenting "Committee for Pluralism in Philosophy" has protested the lack of diversity within the professional philosophical association and has called for adequate recognition given to such non-analytic philosophizing (including such schools as phenomenology, existentialism, and American "pragmatism"). [See Janet Hook, "'Analytic' vs. 'Pluralist' Debate Splits Philosophical Association," *The Chronical of Higher Education* (January 12, 1981): and Edward B. Fiske, "Analysts Win Battle in War of Philosophy," *The New York Times* (January 6, 1981):15,17.]

Other non-academic examples of the individualist cultural trend asserting the right of pluralism and diversity could easily be cited from the headlines of our daily newspapers. Seen in this worldwide context, then, the current lack of consensus on rights theory may be a vital sign of health and openness. If anything, a greater variety of approaches promises to improve our understanding of freedom, rights, and the social system most suitable for healthy individuals.

Recent Scholarship on Rights

Rex Martin and James Nickel
University of Kansas; Wichita State University

"Recent Work on the Concept of Rights." *American Philosophical Quarterly* 17(July 1980):165–180.

The authors summarize recent work on the concept of rights and claim that three major issues appear: the normative elements which make up rights, the functions that rights serve, and the justification of rights. Nickels and Martin concentrate on the first two.

Some writers assert that all duties are necessarily correlated with rights; others maintain that all rights are necessarily correlated with duties. The first claim collapses because some duties are not owed to particular people (e.g. the duty to be charitable) and thus right cannot be correlated with such duties. The second claim fails because some moral or legal rights are immunities which are correlated with disabilities rather than with duties. For example, the First Amendment defines rights so that any law that Congress passes in areas denied by the Amendment will be declared null and void. Congress is legally disabled from passing such laws. This is not a case where an obligation has been created giving people an area of free choice.

If rights are not explicable in terms of second party duties, what explains them? Some have argued that the notions of claims would explain rights. But since claims as rights involve claims to and claims against someone, this view is committed to the notion that all rights entail duties (a valid claim against someone involves a duty on the part of that person). But in that case the "rights as claims" view cannot account for rights which aren't correlated with duties. Another suggestion is that rights are essentially "entitlements," but this suggestion fails since "entitlements" is a very vague term which closely resembles "rights."

Instead of trying to reduce rights to one normative element, perhaps rights should be seen as a constellation of normative (Hohfeldian) elements. On this view there is a defining core of Hohfeldian elements (which differs depending on whether it is a liberty-right, claim-right, immunity-right, etc.) and associated elements of the right which contribute to satisfying the core. What, then, gives unity to rights as a class? Here theorists rely on the notion that rights have a certain function in relation to other normative concepts. One possible function is that rights protect person's autonomy or give them an area of free choice. Another possibility is that rights protect certain important interests. Nickels and Martin think rights perform both functions (frequently the same right does both) and that it is implausible to weigh one function as more important than the other. The authors think the idea that rights function as trumps over collective goals is promising as a way of marking off rights from other concepts, since all rights appear to have more weight than other moral considerations and the notion of a "trump" nicely captures this.

Martin and Nickel also discuss the idea of whether rights are prima-facie rights (rights that are nonabsolute and which lack a specification as to their weight). Some philosophers have objected to this notion because rights do not disappear when they are justifiably overriden. But to say that rights are prima facie merely says something about their weight, not about their scope nor under what conditions they can be exercised.

Finally, the authors discuss some features that human rights (those justified by some moral code or rule) have been traditionally thought to possess. "Universality": only a few rights are universal in the sense that they apply to all persons and all situations. However, some rights are only universal in the sense that they exist whenever a certain type of institution exists. "Unconditionality": rights are unconditional only in the sense that the rights do not depend on a person belonging to a certain social class, or being

recognized by the state. Finally, the only sense in which some rights can be viewed as "inalienable" is the weak sense that no person can voluntarily waive or relinquish them.

Nickel and Martin conclude that progress has been made in understanding what a right is, and that this progress will be helpful to philosophers who are concerned with justifying rights.

Two Concepts of Rights

Philip Montague
Western Washington University

"Two Concepts of Rights." *Philosophy and Public Affairs* 9(Summer 1980):372–384.

Montague discusses what is implied by the idea that the possession of rights by some individual generates obligations for others. The author points out the faulty logic involved in arguing that obligations imply rights which in turn are the grounds of the obligations.

One cannot justify the judgment that A is obligated not to do something to B by stating that B has a right against such treatment, since the two statements are logically equivalent. If obligations logically imply rights, then rights cannot serve to ground or justify obligations without begging the question. If rights are to ground obligations then it must be some nonlogical connection between them that does the job.

Montague suggests this nonlogical link is that certain freedoms are so valuable that others are obligated not to interfere with their exercise. This suggests that rights which in some full blown sense are exercisable (rights to free speech, free exercise of religion, etc.) will be justified this way. On the other hand, those rights which are merely logical correlatives of obligations are those which are not exercisable. There is no justification of the right needed in the second case, since they are merely obligations looked at from another point of view. Such rights are rights against being treated in a certain way (rights not to be lied to, assaulted, etc.). Some rights (e.g., the right to life) involve both types of rights: exercisable freedoms and correlatives of obligations not to be treated in a certain way. In which case, of course, the justificatory procedure is much more complicated.

Establishing Human Rights

Tibor R. Machan
Visiting Assoc. Prof., University of California, Santa Barbara; Visiting Assoc. Prof., SUNY Fredonia Resident Scholar, Reason Foundation

"A Reconsideration of Natural Rights Theory." *American Philosophical Quarterly* 18(forthcoming,1981).

Professor Machan revives his efforts to show that a program sketched by Martin P. Golding (*Monist*, Oct. 1968), stipulating which conditions must be fulfilled to establish the existence of human rights, can best be fulfilled within the framework of natural rights theory. Golding says that we must (1) have the idea of *humanity at large*–or *human nature*–as well as (2) the capacity to distinguish between individual human beings and others, and, finally, (3) a conception of the good life for human

beings, in order to show that there are human rights.

The first requirement must overcome numerous current objections to the existence of natures or essences. These objections rest on a belief that for natures to exist they would have to be absolutely, timelessly fixed. Since that cannot be established without traversing infinity, the idea of natures is rejected (e.g., there can be no human nature). But "the nature of X" means only that within the most rational frame of reference, given the impossibility of contradictions in reality, some conception of the basic characteristics of X is fully justified. So viewed, human nature could exist.

The second requirement calls upon us to show that we can identify individuals, distinguish them from others and from other kinds, and that can be shown by reference to the creative mental powers of human beings, powers that enable them to differentiate and integrate the evidence they obtain from the world. It is here, also, that we learn that human nature consists of what Ayn Rand calls "volitional consciousness," the chosen rational capacity of a biological entity we call "man". Various problems about borderline cases have, of course, to be handled, and issues raised by Kuhn and Feyerabend and others who remain skeptical about the possibility of correctly identifying reality need to be addressed.

Golding's third requirement asks: given that human beings are beings of volitional consciousness, what is the good human life? It is the full realization of human life in the case of the individual that one is. And "human" here means "rational by choice," so that the good life for human beings is one that is a *morally* good life, necessarily of persons' own making (since they must choose to exercise the faculty and capacity that will make for their excellence). Of course, the function of such a choice is to make for an excellent life for the individual person who makes it, partly because it is not possible to choose for others in a way that can be morally efficatious for them, partly because such a choice would prevent others from carrying their own weight, morally speaking.

This last ushers in natural rights, the *social* conditions that human nature requires. In society, it is important that the standards by which persons can be friends or foes can be codified and enforced. These standards pertain to the sphere of persona, independent authority over one's life that any adult should procure as a morally responsible being. The rights to life, liberty, and property are standards that serve to spell out the sphere of such authority. Golding's program would thus appear to be fulfilled.

Misunderstanding Human Rights

Tibor R. Machan

Visiting Assoc. Prof. University of California, Santa Barbara; Visiting Assoc. Prof. SUNY Fredonia; Resident Scholar, Reason Foundation

"The Corruption of Human Rights." *Policy Review* (forthcoming, 1981)

If we are to believe the United Nations Charter Universal Declaration of Human Rights, individuals have rights to vacations, to be employed by someone, to be given health care, and to numerous other benefits apart from their rights to life, liberty, and property. And these days the American legal system has firmly embraced some of these ideas. One "public service" ad speaks of the right not to be lonely!

How did the original concept of natural (human individual) rights—gained from Locke (but hinted at by early Greek thinkers, Aquinas and Ockham)—which meant not having one's moral independence

thwarted by members of one's community, reach such a confused conception in our time?

The difference between that original notion and the current one is clear: The right to life, liberty, and property mean that others have no justification to use or govern a person and his property unless permission is given. It affirms the moral independence of human individuals concerning their own lives and creations. The current view of rights includes references to valued services and items to be produced by some people *for* others on command of governments. The former principle liberates individuals, the latter places them into servitude (of course always for allegedly noble reasons, e.g., others' needs).

One main reason for the change is that the foundations of human individual rights have been abandoned in modern philosophy. The very idea that human beings are something definite in being human has been abandoned: human nature is said to be nothing but a prejudice, with no foundation in fact and logic. So when *human* rights are discussed, there is no clear referent as to the scope of the concept "human" so as to provide criteria for distinguishing human from, say, special rights (e.g., those created by contract or institutional affiliation). Instead, now some process loosely referred to as ordinary language analysis (or consulting one's moral intuitions) serves to guide the identification of human rights. This comes down to listening to what people want very badly, even call theirs by right (or to what they strongly feel should be theirs by right), and concluding that therefore those things are human rights.

Another reason is that human beings are widely thought of as passive participants in nature's and history's flow of events. Thus the better conditions of some are seen as accidents and it is felt that fairness requires that these conditions be spread around equally. By reference to this criterion of fairness, it is felt that everyone has a right to some roughly equal share of goods, irregardless of who creates these goods.

The result in public policy is a massive interventionist state which embarks upon "adjudicating" demands of rights and a confused foreign "human rights" policy. All this in the face of the error of rejecting the idea of human nature and accepting the belief that human beings are passive and not responsible for their conduct. The error of rejecting human nature stems from the false belief that the nature of something must be forever fixed. If this were so, no nature could be identified, since we could never make sure that no change will occur in the future. The error of human passion stems from an invalid reductionism which holds that everything in nature must reduce in character to Newtonian matter-in-motion, human beings included.

By correcting these two errors, we can make progress in recovering and improving the very good idea of natural human individual rights.

Is Privacy an Absolute Right?

H.J. McCloskey
LaTrobe University

"Privacy and the Right to Privacy." *Philosophy* 55(January 1980):17–38.

Is the cherished right of privacy justly prized and, if so, why and when? Prof. McCloskey is concerned with the nature of privacy and with its legitimate domain. He also asks whether there is actually a "right" to the state of privacy, and, if there is, whether it ranks as an absolute right or a conditional one.

McCloskey believes that a clear concept of privacy requires a stipulative definition. Yet even without this, we can achieve greater clarity by distinguishing privacy from notions which have often been confused with it. He thus scrutinizes ten attempts at defining the term: "Privacy means being left alone;" "Privacy relates to the inviolate individuality of each person," etc. In each of these positions, McCloskey identifies substantial elements, as well as imprecisions and illogicalities. None of them succeeds in explaining privacy as an entity unto itself, and the author himself declines the task of providing a comprehensive definition of the term. He does assert, however, that any such definition must be essentially negative, since "privacy" denotes "the absence of something."

Turning his attention to the grounds for the *right* to privacy, the author examines the gamut of justifications which have been offered on its behalf: on the basis of utility, as a basic psychological need, as essential for freedom, as required by respect for persons, etc. He concludes that privacy is morally obligatory *only* when it helps secure other more basic rights (life, liberty, justice, etc.).

Privacy is thus a derivative right, originating in a concern for other values and rights. As a conditional right, it must be overridden when it conflicts those more essential goods. Privacy, for example, must not interfere with the free access to information, which is a fundamental right in a free society. McCloskey feels that legal support for the right to privacy must be pursued with the greatest caution, so as not to harm primary social values.

Animal Rights

Anthony J. Povilitis
Senior Wildlife Ecologist for VTN Wyoming

"On Assigning Rights to Animals and Nature." *Environmental Ethics* 2(Spring 1980):67–71.

Richard A. Watson has argued that most animals do not have intrinsic or primary rights such as the rights to existence and to freedom from unnecessary suffering. To have such rights, Watson claims, a living entity must be a "moral agent," that is, it must possess self-consciousness, a free will, and whatever else is required to fulfill reciprocal duties in a self-conscious manner. Povilitis dissents and suggests (1) that Watson's "reciprocity framework is overly anthroprocentric in holding preeminent only those evolutionary features that appear to be unique" to the human species; that Watson's framework is based on an incorrect assumption that the Golden Rule refers to mutual rather than individual duties; and (3) that Watson arbitrarily identifies moral rights with primary rights.

Moreover, since "intrinsic" rights are virtually assigned rights, the assigning of

rights to an entity corresponds to its perceived value. Thus Watson chooses "Cartesian values" in assigning rights by his very act of emphasizing differences between man and nonhuman animals. Conversely, the ecological and evolutionary relatedness of living things forms the basis for Povilitis's considering rights within the "naturalist tradition."

The central life-and-death question is not "Do nonhuman animals and nature have rights?" but rather "On what basis should rights be assigned to animals and nature?" Povilitis favors a "naturalist" tradition which asserts that "life itself represents a value comparable to or greater than that assigned to the allegedly unique properties of the human mind." Naturalists value nature "not only as a provider of goods and services but also as a place of creativity that cannot be duplicated by man, who is merely one of its derivatives."

Nature and the Tao

Hajime Nakamura

"The Idea of Nature, East and West." *The Great Ideas Today: 1980*, ed. Mortimer Adler. Chicago: Encyclopedia Britannica, 1980. pp. 234–305.

The Eastern concept of nature has interesting parallels with its Western counterpart. Wedding these two notions could help us avoid exploiting nature and achieve greater contentment with our material lot.

As to the parallels, both Eastern and German traditions exhibit a love of natural beauty in a manner that Hebrew or Greek poetry does not emphasize. Whereas pessimism in Western thinking means a weariness with existence in this world, pessimism in Japanese thinking means a weariness with social restrictions, from which we may be delivered by living closer to natural beauty.

In ancient times, both the Eastern Vedic poets and the Western Greeks conceived of the universe as an ordered whole, which furnished a standard of morality that even gods must obey. If a ruler transgressed this moral order, calamities would result and revolution could be justified. The thought of revolution was called *Ko-ming* which means, literally, "to cut off (or take away) the mandate of heaven from some particular ruler."

In modern times, the Confucian philosophy emphasized the importance of the form of government, in addition to the character of the rulers. Huang Tsung-hsi (1610–95) wrote: "I say we must first have laws which govern well and later we shall have men that govern well." In Japan, the teachers of Mental Culture (*Shingaku*) taught that virtue consists in living in conformity to our nature, when that nature is in accord with a broader, natural order, called Mind. Like Grotius in the West, Master Jiun drew a sharp distinction between universal, inviolable natu-

ral law and nonuniversal mutable civil law. But instead of seeing God as the author of nature, Jiun held that nature and law are nothing but perfect Mind or "Buddha" himself. Even so, the final source of knowledge about natural law is neither tradition nor books, but an aware observation of nature.

In art, Eastern culture has always given a priority to nature, whereas Western culture allowed human or divine subject matter to predominate until the eighteenth century. In the gardens of Zen temples, rocks and streams are symbolized and used to point directly at the Tao or Way of nature. In this Taoist conception, man and nature are allied, connected, and inseparable. Man must be understood in vital interconnection with nature.

Japanese and Indian thought emphasize the idea of the natural world, seen as the power of change, becoming ultimate or absolute reality. Experiencing the world in this way is called enlightenment. After Japan opened to the world in 1868, most Japanese Buddhists broke away from the disciplines, which have been replaced by the notion of service to the community, however. In doing this service, the individual is freeing himself and becoming true to his own nature.

Self-Knowledge: Nietzsche, Heidegger & Buber

Walter Kaufman
Princeton University

Discovering the Mind: Nietzsche, Heidegger, and Buber. Volume II of a Trilogy. New York: McGraw-Hill, 1980.

How has the discovery of the mind been advanced or impeded by Nietzsche, Heidegger, and Buber? Professor Kaufman, who died September 4, 1980, gives his analysis in the second volume of his last work.

Nietzsche (1844–1900) liberated psychology from moral prejudice and thereby prepared the ground for Freud's major breakthroughs. Nietzsche's contributions can be summarized by five theses: (1) The thesis that "consciousness is a surface" is a major insight which highlighted the role of the *un*-conscious in our psychic life which had been widely underestimated. (2) Nietzsche's theory of "the will to power" is primarily a psychological thesis rather than a metaphysical theory. It means that most psychological phenomena are strategies that we adopt to maximize the feeling of power or control. This drive is more basic than either self-preservation or pleasure since people will risk their life to increase their feeling of efficacy or will become ascetics to enhance their feeling of worth. (3) Nietzsche developed a *psychology* of world-views; for example, he analyzed the resentment that underlay Christian metaphysics. (4) Nietzsche pioneered psychohistory with his portraits of St. Paul, Luther, and Wagner, for example. (5) Nietzsche also developed a subtle "philosophy of masks," by which multiple meanings can be more adequately conveyed by a kind of "role-playing."

In sharp contrast to Nietzsche, Martin Heidegger (1889–1970) is seen as impeding the discovery of the mind's constitution. Attempting to reconcile Nietzsche with Kant, Heidegger searched for the necessary modes of human existence. His stark contrast between authentic and inauthentic existence was a dogmatic, nonhistorical oversimplification of man's nature." His thinking was "deeply authoritarian," as when he simply assumed that "Being" has only one meaning. Heidegger's interpretations of other thinkers ignored their context, and he merely secularized Christian preaching about guilt, dread, and death. His thought belongs to the romantic revival in Germany and not to the pre-Socratics, as he believed.

Martin Buber (1878–1965) advanced the discovery of the mind insofar as his theory of translation required that writers be interpreted in their own terms, according to their own distinctive voices and styles of thinking. Buber also revealed how the discovery of another individual requires opening our heart to their distinctive voice and uniqueness, rather than subsuming the individual under general terms or laws. Unfortunately, his own interpretation of authenticity was too one-sided, because genuine, intimate encounters between people need not be either brief or destroyed by *thinking* about the other person. Also, there are more ways of avoiding genuine encounter than by turning the other individual into an "it" or an "object."

The Prospects of Objective Morality

Joseph Margolis
Temple University

"The Prospects of an Objective Morality." *Social Research* 46(Winter 1979):745–765.

All attempts to justify an objective morality have failed. Cognitivism (the view that we are endowed with some moral faculty for discovering what is right, good, and obligatory) also fails. Cognitivists have failed to explain how this moral "organ" has the ability to notice moral blindness. Cognitivists have also failed to explain the relation between this allegedly universal organ and the inherent historical nature of human existence, the divergence of moral sensibilities, and the unpredictable, contingent nature of moral problems.

With cognitivism and meta-ethics rejected, comes a skepticism concerning rational rules for determining the solution for moral disputes. Any formal rules, for example, that justice requires that like cases be treated alike or that moral judgments be universalizable, are either vacuous or false. Similarly, Kant's categorical imperative cannot work since not all immoral actions are inconsistent.

Another alternative is to admit that we are prudentially interested agents and derive certain rational minimal standards which all rational agents want. Assuming people are basically egoistically motivated to promote their own survival and satisfaction, the question then becomes: what is the fairest way to serve those interests? But this approach is not as neutral as it seems: it tilts moral philosophy in favor of radical individualism. The question of *which* interests should be promoted and at the expense of what and whom, has no value-free, nonideological answer. Some accomodation of the known historical condition under which communities exist must affect our moral reflections; but to concede this means to concede that morality consists of a battle among partisans. Partisan bias also applies to any philosophers (such as one influenced by Hegel or Marx) who attempts to derive some moral precepts from a historically favored society.

We may conclude that two general and *objective constraints* on moral policies and philosophies are (1) certain minimal prudential interests assigned fairly to individuals and (2) the prevailing ideological currents of the historical communities affected. Yet there is no way to derive any *objectively valid judgments or commitments* from the constrainst. At any given time there are an array of moral convictions, and reflection tests these convictions against the constraints listed above. The indefensible views are discarded leaving the rest to bargain for effective power.

But how then does one account both for the openness of moral disputes and the sense of objective constraints? By a theory that human beings are both human animals and human persons. The fact that we have a common biological nature (human animals) generates some objective minimal prudential concerns, but the fact that we are culturally emergent beings (persons) who learn a language and act and produce in a particular culture, means that our outlooks differ depending on where we are located. The nature of persons, then, being culturally emergent, is determined by history—hence Margolis's relativism in moral matters.

Measuring Ethical Ideologies

Donelson R. Forsyth
Virginia Commonwealth University

"A Taxonomy of Ethical Ideologies." *Journal of Personality and Social Psychology* 39(1980):175–184.

Prof. Forsyth developed a survey instrument, the Ethics Position Questionnaire, designed to assess an individual's perspective on ethical issues. The questionnaire contains two scales tapping the degree of "idealism" and the extent to which universal moral rules are rejected in favor of "relativism." On the basis of scores on these scales, a person can be characterized as using one of four ethical ideologies.

Persons scoring high on idealism and high on relativism are termed "situationists." They reject moral rules and use an individualistic analysis of each act in each situation. Those scoring high on idealism and low on relativism are labelled "absolutists." They assume that the best possible outcome will be achieved by following universal moral laws. Those scoring low on idealism and high on relativism are termed "subjectivists." They base appraisals on personal values and perspectives rather than universal moral principles. Finally, persons scoring low on idealism and low on relativism are labelled "exceptionists." They maintain that moral absolutes should guide judgments but are pragmatically open to exceptions to those standards. This taxonomy is discussed in terms of the philosophical concepts of ethical skepticism, ethical egoism, deontology, and utilitarianism.

In a sample of college students, the scales for idealism and relativism were demonstrated to be virtually orthogonal. The test—retest reliability of the scales was acceptable. With increasing age, individuals were found to be both less idealistic and less relativistic. Neither scale correlated with Rest's measure of principled moral reasoning on the Defining Issues Test, but the relativism scale was found to be negatively correlated with scores on Hogan's Survey of Ethical Attitudes.

On questions relating to a number of contemporary moral issues (e.g., abortion, euthanasia), "male absolutists" tended to take more extreme positions, particularly when compared to male situationists. Females in the four categories showed fewer differences. In judging the morality

of an actor in a written scenario culminating in either positive outcomes, negative outcomes, or mixed outcomes, "absolutists" only occasionally allowed positive outcomes to sway them from negatively evaluating a liar or a thief. In contrast, "subjectivists" only rarely used information about moral norms to influence their consequences—based moral judgments. "Situationists" were also influenced by the quality of an actions consequences. "Exceptionists" tended to be the most forgiving of the four groups but not when an action ran counter to a moral standard. While the four groups were found to differ in moral judgments, their moral behavior was not found to differ in a cheating situation.

Individualism and "Locus of Control"

Lita Furby
The Wright Institute

"Individualistic Bias in Studies of Locus of Control." In A.R. Buss, ed. *Psychology in Social Context.* New York: Irvington Press, 1979.

The assumption in most of the research on Rotter's concept of locus of control is that it is better for a person to have an internal orientation, perceiving the outcome of events as contingent on her own personal action, than for that person to have an external orientation, whereby she perceives the outcome of events to result from chance, fate, or the actions of powerful others. Research indicates that an internal locus of control is related to a person's perseverence, creativity, achievement, self-esteem, and other adaptive personality characteristics. Furby criticizes this research for focusing too heavily on the *perceived* correlation between one's actions and outcomes.

The individualistic bias to which the author objects is seen when the perception of the locus of control of events as external is assumed to be inconsistent with "reality." Only in instances where there is an actual potential for personal control is an internal orientation true and useful. Thus situation-specific expectancies of locus of control are more appropriate than are the generalized expectancies discussed by Rotter. However, in any specific situation, it may be exceedingly difficult to ascertain the actual potential for control.

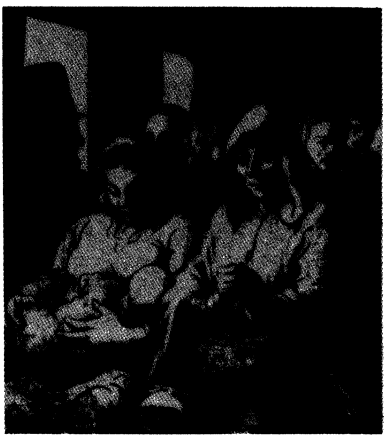
Using the techniques of the sociology of psychological knowledge, Furby suggests that the individualistic bias in locus of control research is a function of the social and political attitudes of those involved in the research. Internal ideology is said to embody the Protestant Ethic and be related to the capitalist spirit. The author observes that "any social and economic structure entailing gross inequalities in both political power and material well-being is likely to foster an internal control ideology." Those out of power are thereby encouraged to perceive their "failure" as a result of their own doing rather than to blame the system. Psychologists accept an internal control ideology because (1) they have been socialized to accept the general societal values, (2) they have greater than average wealth and social power, and (3) they, in fact, have greater than average actual personal control compared to the general population.

The author concludes that for psychologists to endeavor to increase an internal orientation as a general strategy is wrong. There are circumstances where an external locus of control is not only appropriate but may lead to more effective behavior. What is needed is to expand the conditions under which individuals will experience actual control.

Should We License Parents?

Hugh Lafollette
East Tennessee State University

"Licensing Parents." *Philosophy and Public Affairs* 9(Winter 1980):182–197.



The capriciousness of being born to parents who are unchosen and often incompetent is a puzzling fact of human life. Why should some children enjoy the care of a mature loving couple, while others suffer abuse and deprivation at the hands of an unsuitable father, mother, or both? Such questions have prompted writers from Plato to Aldous Huxley to conceive systems designed to alleviate the failures of the "natural" rearing of children. In this article, Prof. Lafollette suggests that parenthood should take its place among those professions customarily licensed in advanced societies.

Two criteria have traditionally served as a basis for licensing practitioners of certain skills. First of all, the skill in question must involve the risk of *harm* to others. Medicine, law, pharmacy, psychiatry, and even driving are obvious cases in which activities poorly executed may seriously harm persons other than the practitioners. In an effort to minimize potential harm to the public, test procedures establishing "competence" (the second criterion) have been instituted by government.

As it has evolved, licensing constitutes *prior permission* to perform professional activities. While tests are not foolproof, licensing procedures have been established in critical fields whenever moderately reliable tests have been developed.

Prof. Lafollette argues that parenthood constitutes an almost archtypical example of a profession requiring a license. First of all, parenting may cause real harm. Statistics of physical abuse by parents and psychological disorders among children bear out this assertion. Obviously, a parent must be competent if he is to avoid harming his offspring. He requires even greater skill if he is to do his "job" well. Unfortunately, many parents do not even possess minimum competence. Prior testing would serve to eliminate the unqualified.

To the objection that licensing of parents would involve massive government intrusion into personal lives, Prof. Lafallete replies that those granted licenses would face only minor intervention. Those denied one would experience a major intrusion. Nonetheless, the proposed interference could not equal that already practiced by public and private adoption agencies. As a result of rigorous adoption procedures, it has been demonstrated that adopted children are five times less likely to be abused than children reared by their biological parents.

Some may also object that it would prove impossible to prevent unlicensed couples from producing offspring. Lafollette suggests several solutions to deal with such an eventuality. For example, a system of tax incentives for licensed parents coupled with protective scrutiny of the unlicensed might adequately insure children against abuse.

Most philosophical objections to this proposal are, in the author's view, rooted in the dubious notion of parent's natural sovreignty over their children's lives—an idea advanced by some parents as a justification for mistreatment of children. This abhorrent view, Lafollette feels, must give way to a more child-centered perspective which emphasize children's right to respect as persons from their elders. Licenses to raise children would represent a significant step toward this view. Licensing would increase the likelihood that more children will receive adequate guidance toward maturity.

IV The Heritage of Freedom

This set of summaries also supplements David Gordon's essay, "Contemporary Currents in Libertarian Political Philosophy," by adding a historical and philosophical background or "heritage" from which rights theorists can draw.

An undercurrent running through the "heritage of freedom" is the marked tendency towards diversity and individualism. With sentiments that echo John Stuart Mill's *On Liberty* (1859) and his praise of the spirit of individual freedom, William Barrett writes in his recent book, *The Illusion of Technique* (1979), of the indispensable civilizing function of freedom.

> Any ascertainable advance in the human condition that we can observe has been the product of individual invention and creation—the labor of free individuals working on their own or freely together in groups. The method—which is no method, really—may seem hit-and-miss, but there does not seem to be any other way for the human species in its struggle for survival. Nature has the inexpugnable tendency to produce individuals who are not all cut from the same die like the objects turned out by a mechanical assembly line. This profligate disregard of uniformity sometimes has its social embarrassments, and is always annoying to the behavioral scientist. But it has the overwhelming value to the rest of mankind that among the unusual and different individuals born some have inventive and creative gifts that work for the benefit of the race. We can establish conditions that may assist such gifts when they appear, but we cannot program them into being. The creativity of freedom is precisely what cannot be programmed beforehand. It may seem an irregular, uncertain, and circuitous path toward the improvement of the human lot, but there is no other that we can trust.

A similar evolutionary perspective on the role of diversity, individuality, and nature's "profligate disregard of uniformity" is sounded likewise by Nobel-winning microbiologist René Dubos's study, *A God Within*, and a growing library of anthropological, biochemical, cultural, and historical volumes on the theme of the functional diversity of individual organisms and beings within nature and the universe. The following summaries tell a similar tale in the variety and uniqueness of approaches offered to the mystery of human freedom.

How Conservatives Differ from Liberals

N.T. Feather
The Flinders University of South Australia

"Value Correlates of Conservatism." *Journal of Personality and Social Psychology* 37, no.9(1979):1617-1630.

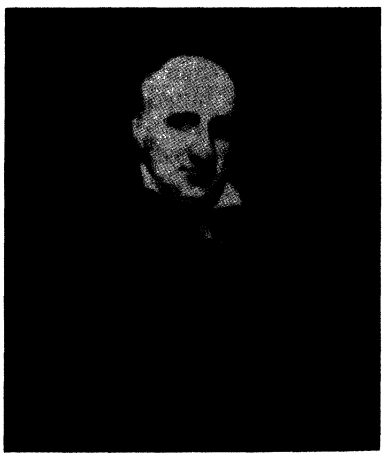
A study involving two samples of Australian families assessed the differences in values held by conservatives and liberals. Respondents were given the Conservatism Scale developed by Wilson and Patterson. Those scoring high on the scale are likely to be pro-establishment, support the status quo, favor militarism, be intolerant of minority groups, favor strict rules of conduct including restrictive sexual behavior, oppose a pleasure-seeking orientation, oppose scientific progress, accept fatalistic superstitions, and have fundamentalist religious beliefs. Wilson believes that conservative attitudes serve a defensive function, reducing conflict and averting anxiety associated with an awareness of freedom of choice.

The participants were also given the Rokeach Value Survey. The Survey consists of 18 "terminal" values (concerned with end states and goals) and 18 "instrumental" values (concerned with means), each set to be ranked in order of personal importance.

High scores on conservatism were found to be associated with the following *terminal values*: salvation, family security, and national security. Low scores were associated with the endorsement of the terminal values of an exciting life, freedom, equality, pleasure, mature love, true friendship, and a world of beauty.

With respect to *instrumental values,* high scores on conservatism were associated with the endorsement of being obedient, clean, polite, honest, forgiving, self-controlled, and responsible, whereas low conservatism scores were associated with the values of being broad-minded, imaginative, independent, intellectual, logical, and cheerful. Also, conservatism was found more frequently among the older members of the samples and was higher for females than for males. In general the results from the two samples were quite similar.

English Radicalism: Rights vs. War & Taxes.



William Godwin

John Brewer
Yale University

"English Radicalism in the Age of George III." In J.G.A. Pocock, ed., *Three British Revolutions: 1641, 1688, 1776.* Princeton: Princeton University Press, 1980, chapt. 10.

English Radicalism following George III's accession in 1760 was built on the twin foundations of changing the political system at home and supporting the North Americans' demand for freedom. Combining the study of ideology, political language and social context, Brewer's analysis traces English radicalism's roots to classical and Renaissance political

thought as well as the Anglo-American radical Whig political ideas of the late seventeenth and early eighteenth centuries. At that time, the leading concepts of civic humanist-republican ideology were challenged. The mixed constitution of king, aristocracy, and commons which constrained power was threatened by the expanding financial power of the executive. Brewer notes that the power of "big government" assaulted liberty on many fronts. The flourishing of government deficit spending, through central banking (Bank of England) to finance a quarter century of war (1689–1714), permitted the large increase in government bureaucracy expenditure for both tax-collection and military activities. Taxes increased and tax collectors became familiar to Englishmen. "Mythic paper forms" of money likewise increased. The government reduced political participation through the 1716 Septennial Act which doubled the length of parliaments and cut the frequency of elections by more than half. Radicals responded by demanding annual elections for parliament.

To the Radicals, the social order of a commonwealth must be composed of men independent of the government. They accepted the political language of a dichotomy between Country ideology (those independent of the government) and Court ideology (government supporters). Country ideology gained its constituency from those men deriving their income independently of the government (generally from real property): whether the gentry from whom members of the commons were chosen or the freeholders whose property gave them the right to vote. The independent freeholder was viewed as the backbone of society; his virtue was contrasted with the corruption of an antagonistic constituency: those who benefitted from the government's central bank, its national debt, and its taxing system to support the standing army. The government's financiers, dealers in government bonds, collectors of government taxes, or contractors to supply the government's army were viewed as implicated in the web of political corruption, and not independent.

Brewer explains why town-based later eighteenth-century English radicalism was founded on the Country ideology. This radicalism expressed the growth of the commercial and industrial middle class. The middle class was especially vulnerable to the abrupt fluctuations of the English monetary system. The government's decision to engage in war was the dominant variable in the availability of money. This political-economic analysis thus enables readers of eighteenth-century English and American papers to understand why they were filled with day-by-day reports of diplomatic activities wherever these affairs might effect England's war status. The middle class thus opposed public credit which during times of war competed savagely against private borrowers.

Government taxation was also a great burden on owners of moveable property. War exerted a major impact on taxation, including the postponed taxation inherent in the national debt. Brewer estimates that by the 1760s about 20% of England's commodity output was siphoned off into taxes. This was twice the comparable French assessment. Opposition to taxation was opposition to taxes *per se,* as well as to the financing of the standing army and the bureaucracy. In addition, the middle class opposed the powers and means of law enforcement wielded by tax officials. Powers of entry, search and seizure were bitterly resented. The customs and excise officers ransacked the warehouses, stores, etc. of the middle class. Brewer believes the middle class had more personal, belligerent contact with revenue officials than any other social group. Especially hated was the use of summary procedures by which accused tax avoiders were denied trial by jury—a total violation of fundamental rights of Englishmen.

The innovations in revenue offenses reflected the novel growth of statute law as against common law. Increased power of the legislature reduced and demeaned the sovereignty of common law. Common-law traditions and rights were threatened by the growth of statues. In this legal struggle, the middle class sided with the inalienable rights in the common law

against the unlimited and sovereign powers claimed by parliament. One of the leading expressions of middle class radicalism, the Society of Supporters of the Bill of Rights (1769), drew heavily upon adherence from common-law lawyers as it did upon merchants, doctors, clergymen, and writers.

With the Americans, the English middle class opposed the growth of statute-based judicial discretion, summary jurisdiction for attacks on tax collectors, ex officio information and writs of assistance, vice-admiralty courts, and judicial equity in the court of King's Bench. These devices enabled tax officials to attack the rights of the citizen which had been defended by the common law, with its strict construction of the law and trial by jury. The American crisis was the English crisis writ large. English radicals recognized the right of resistance which the Americans exercised through common law and natural arguments.

Liberalism: The Seedbed of American Culture

Joseph J. Ellis
Mount Holyoke College

"Culture and Capitalism in Pre-Revolutionary America." *American Quarterly* (1980):169–186.

American colonists of the mid-eighteenth century prophesized euphorically about the imminent cultural greatness of their New World. America was to be a New Athens, the ideal environment for the flowering of arts and sciences. In 1726 Bishop Berkeley expressed this conviction in "verses on the Prospects of Planting Arts and Learning in America."

This optimism could not have been based on past or current achievements; thus its greatness lay ahead. Colonial Americans were well aware that they lived on a legacy of civilization inherited from England. "Pre-Revolutionary America was a provincial society whose leading members aped the manners of the English aristocracy."

Why did such optimism about their cultural destiny dominate the American colonists outlook?

Professor Ellis points out the explosive rates of social and economic growth in eighteenth-century America: the population increased 3% a year and the wealth of the colonies rose steadily. By the eve of the Revolution Americans had a higher standard of living than any European country.

Most commentators on the arts presumed high culture was permanently linked to social and economic development; thus the direction and pace of that development is significant in understanding the assertion of America's predestined greatness. "History was like a westward moving caravan, a wagon train in which

political, military, and cultural greatness were linked together and freedom provided the fuel." Trade and commerce were the engines of progress.

Beyond the demographic and economic evidence, new and more liberal attitudes towards authority and personal freedom were crystallizing. The essence of the liberal idea was that if all artificial restraints and regulations imposed on human activity were removed, the result would not be chaos but progress and harmony. Moreover, this liberal vision anticipated that religious and political health, along with the economic and cultural productivity of such a society would increase dramatically.

These liberal currents on both sodes of the Atlantic were derived from such Whig literature as Hume's *Essays,* Trenchard's and Gordon's *Cato's Letters* (1720s), and Shaftesbury's *Characteristics.* These Whig liberals "linked artistic creativity and economic productivity by making them both natural consequences of liberal political condition." Liberty was the precondition of a healthy culture.

These emerging liberal ideas and attitudes which we now recognize as essential for the triumph of capitalism were originally believed to be "all-purpose agents," capable of liberating religion, politics, trade, and the arts from past constrictions. Literate Americans like Franklin, Stiles, and Trumbell were familiar with the English Whig writings and transmitted "the spirit of freedom" to the American colonists, thereby creating liberal expectations in culture and polity. Artistic creativity and economic productivity, culture and capitalism, were expected to flourish together in the free and stimulating conditions of the American marketplace. Needless to say, comments Ellis, the members of the revolutionary generation were in for a huge disappointment as to any cultural "Golden Age."

Key articles which explore the ferment and creativity of "liberal" or modern attitudes in early America are: Joyce Appleby, "Liberalism and the American Revolution." *New England Quarterly* 49(1976):3–26; and Michael Zuckerman, "The Fabrication of Identity in Early America." *William and Mary Quarterly* 34(1973):183–212.

Republican Liberty & Military Policy

Lawrence Delbert Cress
Texas A & M University

"Republican Liberty and National Security: American Military Policy as an Ideological Problem, 1783 to 1789." *William and Mary Quarterly* 38(January 1981):73–96.

In 1775, American colonists had gone to war, committed to the classical republican notion that only a locally organized militia composed of citizen-soldiers could defend the country and still avoid the aggressive and tyrannical tendencies of a centralized military. Apart from any military prowess they might possess, militiamen were looked upon as an embodiment of public virtue, the armed expression of the citizen's willingness to serve the republic and thus the common good.

However, as the Revolutionary War advanced, the ideal of the militia steadily eroded and the principal responsiblity for national defense passed to any army modeled after the centralized professional forces of Great Britain. Self-interest replaced public virtue as the primary military motivation, as pensions and bounties were used to help keep a skilled disciplined army in the field.

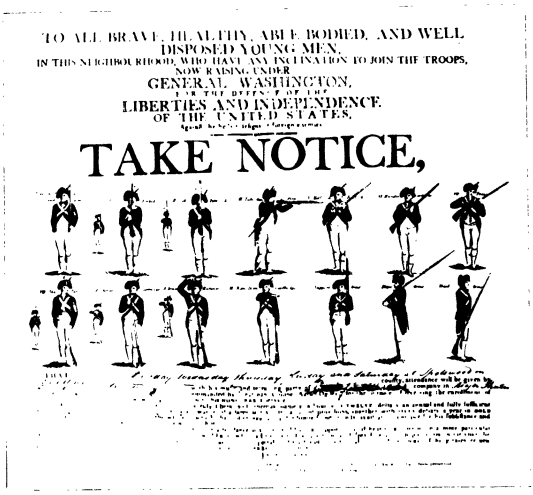
After the victory at Yorktown, Americans debated whether to endorse re-

publican virtue or a strong military defense. Two popular writers of the day personified this split. In her three-volume history of the American Revolution, Mercy Otis Warren expressed a deeply rooted fear of standing armies, whereas David Ramsay argued in his history of the Revolution that the colonies' wartime difficulties resulted from too much republicanism which fostered momentary gallantry rather than disciplined perseverence. Reviewing the Congressional debates over military policy during the 1780s and 1790s, Prof. Cress chronicles the often torturous attempts to devise plans which would reconcile republican with military values.

The Pickering plan, influenced by ideas shared by Mercy Otis Warren, proposed a decentralized militia and entrusted the states with the responsibilities of officering, training, and administration. Under the plan, the inspector general, paid and appointed by the continental government, would act only to insure that the states fulfilled their constitutional obligations. By contrast, the Putnam plan reiterated David Ramsay's appeal for a highly centralized militia structure. Regimental officers would be appointed by state governors but commissioned by Congress; the Confederation government would have the final word concerning the character and composition of the officer corps. Military regiments would be numbered without regard to states and organized in divisions commanded by congressionally appointed major generals who were independent of state control.

These plans along with a compromise proposal offered by von Steuben failed to win solid support in Congress. However, another scheme proposed by Secretary of War Henry Knox seemed to strike the balance the country was searching for. Since republican deliberative government seemed less responsive to military threat than monarchy, Knox urged peacetime preparedness and proposed a standing militia whose ranks would consist primarily of an advanced corps of young men 18 to 20 years of age. Knox saw this service as an important "apprenticeship" in republican virtue for the youth of the nation. In emergencies, a reserve corps of men 21 through 59 years of age would be subject to call. Yearly "Camps of Discipline" for the advanced corps would "mold the minds of the young men to a due obedience of the laws" as well "instruct them in the art of war." Under Knox's plan, the continental war office would supply arms and uniforms while actual mobilization would be directed and supervised by state officials.

Because of its balance, the Knox proposal received widespread popular and Congressional support. In January, 1790, Washington recommended the plan—revised to reflect the national government's explanded constitutional powers—to Congress as the centerpiece of the new government's military establishment. Throughout the early national period, the Knox plan provided a basis of attempts to create a dependable military litary framework. This history reflects the importance of the nation's ideological origins on the initial evolution of its public policy.



Thomas Burke: Whig Radical

John S. Watterson
University of South Dakota

"Thomas Burke, Paradoxical Patriot." *The Historian* 41(August 1979):664–81.

Thomas Burke's erratic political philosophy has made him a puzzling figure in Revolutionary history, even though his influence as a delegate in Congress securely grounded the concept of balancing powers —a concept unique and essential to the newly created bicameral legislature.

Burke migrated to the colonies from Ireland in the 1760s, taught himself law, and became a debt collector for Scottish merchants. He was elected to the second provincial convention where he lept to influence in the emerging revolutionary movement. Soon after, Burke was elected a delegate to the Congress in Philadelphia, where he dramatically acted out his intense commitment to republican ideology.

The hallmark of Burke's Whiggism in his early congressional career was opposition to national authority. He was very skeptical of the undelegated, unrestricted powers exercised by Congress. "The more experience I can acquire," he wrote, "the stronger is my Conviction that unlimited power can not be safely Trusted to any man or set of men on Earth."

Burke supported a bicameral system, believing such a government would forestall potential tyranny and more faithfully mirror the popular will.

Had Burke retired from Congress in May of 1777, his career could be viewed as one who assisted in the "restructuring of power." Yet his unpredictable outbursts and the vehemence of his opposition showed signs of instability which led to a major crisis in Burke's life, and eventually to a turning point in his career.

In April of 1778, Burke walked out on a committee session and thereby left Congress one vote short of a quorum. Burke's temperamental withdrawal rankled Congress, but exposed a glaring weakness of the Congressional system. Burke was not so much astounded that his departure immobilized the Congressional act, as he was appalled at the violation of his right "to judge the reasonableness or unreasonableness of any act of power, and even to resist it if unreasonable."

Burke held fast to the justice of his stance but the protracted ill feelings of his colleagues forced a turning point in his career. No longer did he allow himself to be as isolated among peers.

Burke departed ideologically from states' rights republicanism to embrace a pragmatic nationalism. This radical change carried over into his personal life, where Burke subordinated abstract ideals to practical financial considerations.

After leaving Congress in 1781, Burke was made governor of North Carolina in a troubled period of civil warfare between the Tories and the Whigs. By 1783, through a series of misfortunes, he once again lost his faith in popular government. Only his Whig distrust of power and tyranny remained a consistent element in his political credo. If the term radical can be used to describe Burke, it applies to the erratic alterations of his views rather than to any specific position. Nevertheless, we should not ignore the impact of Burke's influence in the creation of checks and balances.

Liberal Republicans during Reconstruction

Wilbert A. Ahern

"Laissez Faire vs. Equal Rights: Liberal Republicans and Limits to Reconstruction." *Phylon* 40(May/June 1979):52–65.

The stalwart Republicans of 1872 articulated and encouraged the thesis that the Liberal Republicans had abandoned the plight of the black Freedmen in postbellum American society. Though the Liberal Republicans did advocate the withdrawal of government intrusion in the affairs of Reconstruction, their reasoning was not based on promulgating racism. Paradoxically, the Liberals believed the very limitation of the powerful reach of the federal government would in fact encourage a growing willingness in the post Civil War South to accept the principle of equal rights for all men. Amnesty and friendship, rather than coercion, would best protect the new black citizens and restore peace to the nation.

The Liberal Republicans became so disillusioned with the Republican acceptance of federal involvement in the South that they defied tradition and broke with the party, supporting Horace Greeley to represent their ideology in the 1872 presidential election. The thirteenth, fourteenth, and fifteenth amendments were complete as the foundation for the new society. The Liberals could not recognize any extension of the Constitution beyond "the ballot," without seriously threatening equal rights.

However, the black citizens lacked economic independence and held an extremely vulnerable and exploitable economic and social position in the South. They needed continued government involvement on a scale the Liberals were not willing to recognize in the nineteenth century. Liberals were content with their position in society and insisted on maintaining the limited role of government to which they attributed their success. They could neither understand nor accept the demands of the oppressed and attributed the severe social disharmony to lack of education or training.

In conclusion, it was elitist, gradualist reform orientation rather than emergent racism that explains the Liberal Republican movement of 1872. Ignoring history, the Liberals depended upon the Southern leaders wisdom and desire for votes to protect and educate the black constituency. Therefore, they failed to secure protection for the new citizens despite their commitment to equal rights, but not because of a growing racism.

Adam Smith & The Liberal Tradition

C.B. Macpherson
University of Toronto

Review article of *Adam Smith's Politics: An Essay in Historiographic Revision.* By Donald Winch. New York: Cambridge University Press, 1978. In *History of Political Economy* 11(Fall 1979):450–454.

Professor Winch wishes to dismiss as anachronistic the traditional liberal capitalist perspective on Adam Smith's "politics." Winch argues that the received view reads nineteenth-century meanings into Smith's eighteenth-century concepts. For Winch, placing Smith in his eighteenth-century context is to view him not as a "stage in the development of liberal capitalist ideology" (or

utilitarianism or liberal individualist political theory) but as a thinker who thought within the language and concepts of his own age. Professor Macpherson, author of *The Political Theory of Possessive Individualism,* counterargues that "Winch has not shown that reading Adam Smith as a liberal capitaist or bourgeois ideologist is incompatible with a recognition of Smith's genius as an eighteenth-century thinker." Smith is properly interpreted "as a crucial turning point in the bourgeois individualist tradition which runs from Hobbes and Locke to Bentham and Mill and was both appreciated and excoriated by Marx."

Yes, we ought to interpret Smith, the thinker, in his own terms as Winch urges. But this is not incompatible with seeing Smith as "the turning point from Hobbes and Locke, with their natural rights, to Bentham and James Mill with their crass materialism, and to John Stuart Mill with his humanistic stance which recaptured some of Smith's concern for the whole human being." Thus we can compatibly read Smith both as within the evolving capitalist tradition and as an eighteenth-century scientific humanist.

While Smith had no intention of working out a Marxian theory of exploitation, he made the important contribution of identifying a new class of profit-takers. His political economy's advance over his predecessors was to insist that profit differed from the wages of superintendence, rent, interest, or the merchant's gain from buying cheap and selling dear. Macpherson claims that Smith saw profits within the labor theory of value and "was the first to see that this new use of labour as a commodity had created a new tripartite class division (receivers of rent, profit, and wages)."

Smith, while not uncritically advocating capitalism, saw it as the wave of the future and prized it for leading to "personal freedom (security of person and property)." Macpherson shares with Winch the view that the tradition of liberal bourgeois ideology did undergo a profound change, but he places that break between Bentham and J.S. Mill. He suggests that "Mill, in breaking from Bentham by asserting that quality of life was more important than maximizing GNP, had brought bourgeois liberalism back full circle" to Adam Smith's more complete humanism which saw more in the human spirit than *homo economicus.*

Human Individuality and Autonomy

William Barrett
New York University

"The Shape of the Future: American Version." In *The Illusion of Technique: A Search for Meaning in a Technological Civilization.* Garden City: Anchor Press/Doubleday. 1979, chapter 15.

The best argument for freedom is to consider the horror of our lives without it. In a perverse way, determinist behavioral scientists such as B.F. Skinner have helped us see what kind of society results from denying free will and implementing determinism: a bland, planned, authoritarian and socially engineered "utopia." Skinner's *Walden II* and *Beyond Freedom and Dignity* reveal the emerging authoritarian political and metaphysical ideology behind the modern "technology of behavior" that would eradicate the "free and autonomous individual."

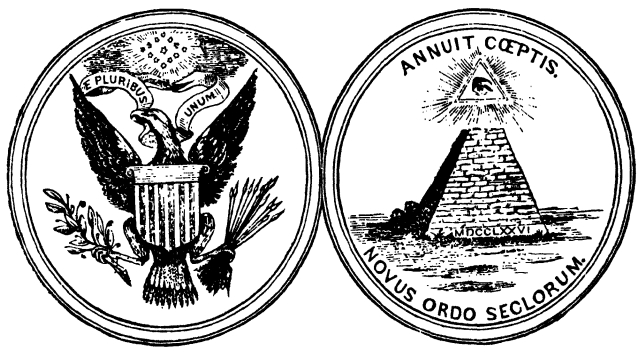
Skinner's simplistic and planned reformation of human psychology achieved through the ploys of conditioning and manipulative technique is blind to the hidden depths of the human soul and its need to autonomously condition itself in

order to achieve free and responsible individuality. We humans have the capacity to provide our "own carrot and stick, whereas the donkey has to accept what his master offers." Our capacity for self-initiated change and self-conditioning invalidates Skinner's determinist image of man as a passive victim of conditioned habits. "And one of the most powerful levels we can have for changing ourselves is this very idea of the autonomy of the individual person." Our self-improving human consciousness, our sense of rebellion, and our striving to realize our higher possibilities are palpable facts of experience which invalidate the behaviorists' fatal determinism.

A study of the dull and jejune lives led by the inmates in the Skinnerian utopia, *Walden II,* reveals how soul-deadening are the consequences of applying technology to control human behavior. Gone is danger, excitement, competitiveness, creativity, suffering, and passion. In place of these humanizing experiences, we find a controlled safe, and bland environment, a "big summer hotel." Hidden from view are the elite and parasitic class of behavioral psychologists who would banish worry, struggle, and novelty from the individual's psyche.

A benchmark to use in measuring America's cultural degeneration into an authoritarian mentality—its hostility to diversity and human individuality—is to compare Harvard's Skinner with the earlier Harvard psychologist, William James (1842–1910). James's admonition can serve as a warning to the modern behavioral scientists who would impoverish the richness of human individuality:

> Man's chief difference from the brutes lies in the exuberant excess of his subjective propensities—his preeminence over them simply and solely in the number and in the fantastic and unnecessary character of his wants, physical, moral, aesthetic, and intellectual . . . . Prune down his extravagance, sober him, and you undo him. ◻



INDEX

Authors

Research Fields

Economics

History

Philosophy

Political Economy

Political Philosophy

Political Science

Psychology

Sociology

The Monist

An International Quarterly Journal of General Philosophical Inquiry

Founded 1888 by **Edward C. Hegeler**

Editor, Eugene FREEMAN

Editorial Board: William P. Alston, Monroe C. Beardsley, Lewis White Beck, William A. Earle, Dagfinn Føllesdal William Frankena, Maurice Mandelbaum, R. Barcan Marcus, Richard Martin, Mary Mothersill, Joseph Owens, Richard Rorty, J. B. Schneewind, Wilfrid Sellars, John E. Smith, Richard Wasserstrom.

Managing Editor: Sherwood J. B. SUGDEN

EACH ISSUE IS LIMITED TO ARTICLES ON A SINGLE GENERAL TOPIC. Communicate in advance with the Editor for special instructions. Two nonreturnable copies (one copy outside the U.S. and Canada) should be submitted NINE MONTHS PRIOR to the announced publication date. Papers should be prepared for anonymous submission to readers, and should be from 10 to 20 double-spaced typewritten pages in length, including notes.

SCHEDULED PUBLICATION DATES:

Vol. 64, No. 4	Oct.,	1981	Heidegger and the History of Philosophy
Vol. 65, No. 1	Jan.,	1982	Contemporary Continental Analytic Philosophy
Vol. 65, No. 2	Apr.,	1982	The Relevance of Charles Peirce: Part II (By Invitation Only)
Vol. 65, No. 3	July,	1982	The Philosophy of Wilfrid Sellars
Vol. 65, No. 4	Oct.,	1982	Metaphysics and Logic
Vol. 66, No. 1	Jan.,	1983	Right Reason in Western Ethics
Vol. 66, No. 2	Apr.,	1983	Integrity in Art and Morals
Vol. 66, No. 3	July,	1983	Categories

Editorial Office: Box 1908, Los Gatos, California 95030

Business Office: Box 600, La Salle, Illinois 61301

SUBSCRIPTION RATES: United States: Annual (4 issues): Institutions, $18.00; Individuals, $12.00. Single copies: $4.50. Foreign postage: Add 25 cents to single copy rate or $1.00 to subscription.

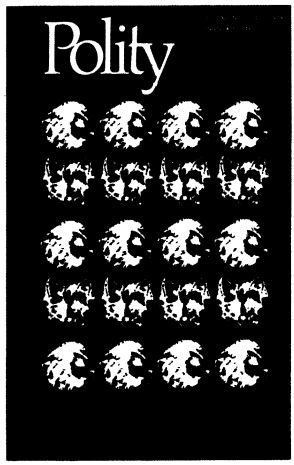
Teaching Philosophy

Volume 3, Number 4

Contents

Subscriptions (4 issues): $14 individuals; $24 others. Add $2 for postage outside USA. Send orders to the Philosophy Documentation Center, Bowling Green, OH 43403.

Edited by Arnold Wilson, University College, University of Cincinnati, Cincinnati, Ohio 45221.



Polity is a professional political science journal published quarterly by The Northeastern Political Science Association. Polity is open to a wide range of domestic and international topics. Included are Articles, Book Review Essays, and Research Notes offered in a carefully designed format that features an artistic cover with every issue. Throughout its ten years of existence, Polity has actively tried to provide lively, literate, and provocative reading.

Recent contributors have included Samuel H. Beer, Hans Speier, William C. Havard, Henry Kariel, Philip Abbott, Terence Ball.

A sampling of subjects from recent and forthcoming issues:

Critical theory and legitimacy
Cross-national patterns of university government
The nationalization of welfare
Gramsci's prison notebooks
Ethnic politics in Detroit
Titoist integration of Yugoslavia
The Supreme Court's shopping center decisions
Political value judgments of children
and other subjects of general interest to political scientists.

Subscription Rates

Individuals: $12.00 (including membership in the Northeastern Political Science Association for residents of the region).

Foreign $12.50
Institutions: $15.00. Foreign $15.50
Student: U.S.A. $5.00, Foreign $5.50

Mail (subscription order) to: POLITY, Thompson Hall, University of Massachusetts, Amherst, Massachusetts 01003

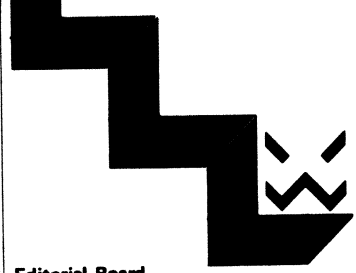
Name _____

Address _____

_____

Payment enclosed, sum of: _____

Public choice



Aims and Scope
Public Choice, the journal of the Public Choice Society, deals with the intersection between economics and political science. It started when economists and political scientists became interested in the application of essentially economic methods to problems normally dealt with by political scientists. It has retained strong traces of economic methodology, but new and fruitful techniques have been developed which are not recognizable by economists. In general, Public Choice can be viewed as a field of interest to both economists and political scientists who are interested in theoretical rigor, statistical testing, and applications to real world problems.

The subscription price for 1980 (Vol. 35, 5 issues) is, for institutions, Dfl. 62,-- (approx. US $ 31.80) plus Dfl. 19,-- (approx. US $ 10.00) for postage and handling. For members of the Public Choice Society, the subscription price is Dfl. 35,15 (US $ 18.50) all included, and for students, Dfl. 18,10 (US $ 9.50) all included.

Contents of Vol. 35/2 (1980)
ARTICLES. G.D. Keim et al., On the evaluation of corporate contributions. J.T. Bennett and M.H. Johnson, Corporate contributions: some additional considerations. F.K. Levy and G.M. Shatto, The evaluation of corporate contributions: a reply. R.D. McKelvey and P.C. Ordeshook, Vote trading: an experimental study. R.J. Cebula and D.R. Murphy, The Electoral College and voter participation rates: an explanatory note. H. Fischler, Monopolies, market interdependencies and the logic of collective action: some critical comments on Mancur Olson's group theory. J.M. Enelow, On the size of vote trades. M.R. Sertel and A. van der Bellen, Routes and paths of comparison and choice. E. Packel, Impossibility results in the axiomatic theory of intertemporal choice. E.W. Packel and J. Deegan, Jr., An axiomated family of power indices for simple n-person games. R. Gardner, The strategic inconsistency of Pareto liberalism. REVIEWS. V.L. Smith (ed.), Research in Experimental Economics, reviewed by G. Tullock. M.J. Horwitz The Transformation of American Law, 1780-1860, reviewed by P.J. Hill.

Contents of Vol. 35/3 (1980)
ARTICLES. F.J. Cummings and W.E. Ruhter, Some tests of the factor-supplier pressure-group hypothesis. E.D. Craig and A.J. Heins, The effect of tax elasticity on government spending. R.G. Holcombe, Contractarian model of the decline in classical liberalism. J.C. Hunt and P.H. Rubin, The economics of the women's movement. R.B. McKenzie and H.H. Macaulay, A bureaucratic theory of regulation. D.H. Rubinfeld and R. Thomas, On the economics of voter turnout in local school elections. M. Toma and E. Froedge Toma, Bureaucratic responses to tax limitation amendments. H.W. Ursprung, Voting behaviour in a system of concordant democracy. NOTES. A.G. Cuzán, Authority, scope and force: an analysis of five Central-American countries. T. Havrilesky, The discordance-inequality tradeoff. REVIEW. J. Green and J.-J. Laffont, Incentives in Public Decision-Making, reviewed by E.H. Clarke. Editor's Note.

ALLES KOMT TERECHT 4 M.N

Martinus Nijhoff Publishers

P.O. Box 566, The Hague, The Netherlands

INTERPRETATION

A JOURNAL OF POLITICAL PHILOSOPHY

G Building, Room 101 Queens College Flushing, New York 11367

Volume 8, Issue 1

INTERPRETATION appears three times a year. Annual subscription rate: $10 for individuals, $12 for libraries.

Order from: **INTERPRETATION**, G 101, Queens College, Flushing, N.Y. 11367

The Fraser Institute

Other titles on current economic issues published by the Fraser Institute

TAX FACTS: The Canadian Consumer Tax Index and You

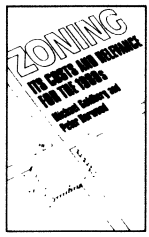
This book is an important new Fraser Institute study showing how the consumer tax burden in Canada has risen dramatically in recent years. By **Sally Pipes**, a Fraser Institute staff economist, and **Michael Walker**, the Institute's Director, **Tax Facts** is a highly readable analysis of the extent of direct and hidden taxation in Canada. An up-to-date sequel to the Institute's earlier bestseller, **How Much Tax Do You Really Pay?**, this book contains a glossary of terms and a bibliography.

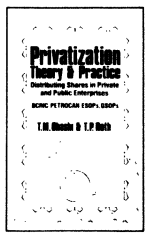
140 pages 9 charts 29 tables $3.95 paperback ISBN 0-88975-027-0

ZONING: Its Costs and Relevance for the 1980s

This provocative book raises a number of questions about zoning, specifically about recent variants of land-use controls. It forthrightly challenges underlying assumptions and principles at the root of the zoning philosophy and is required reading for all those concerned with the future of cities. Authors include: **Michael A. Goldberg**, visiting scholar (1979/80), Harvard University and Professor, Urban Land Economics Division, Faculty of Commerce and Business Administration, University of British Columbia, and **Peter J. Horwood**, a Vancouver Planning Consultant.

168 pages 3 Maps 6 Photos $4.95 paperback ISBN 0-88975-032-7





PRIVATIZATION: Theory and Practice

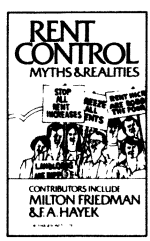
In March 1979, the Government of British Columbia launched a unique, new experiment in economic policy by divesting itself of the ownership of the British Columbia Resources Investment Corporation and giving the shares to the citizens of British Columbia. This book by **T.M. Ohashi**, Senior Vice-President and Director of Research, Pemberton Securities Ltd., and **T.P. Roth**, a U.S. economist, analyzes this experiment. It also provides a complete analysis of the effects of Generalized Stock Ownership Plans, a theoretical overview of privatization and the public interest, and an analysis of the prospects for privatizing the Alberta Heritage Savings Trust Fund.

175 pages (approx.) $12.95 paperback ISBN 0-88975-036-X

RENT CONTROL: Myths and Realities

Drawing on experiences in six countries over the last 50 years, a group of economists, including Nobel Prize winners **Friedrich Hayek** and **Milton Friedman**, discuss the myth and the reality of rent control. They present definitive evidence that in the final analysis, "there is no case for control." A surprising feature of this book is that a group of economists of a variety of ideological persuasions comes to a unanimous conclusion about the effects of rent control. This book is a sequel to our earlier bestseller, **Rent Control—A Popular Paradox**.

250 pages (approx.) $5.95 paperback ISBN 0-88975-033-5

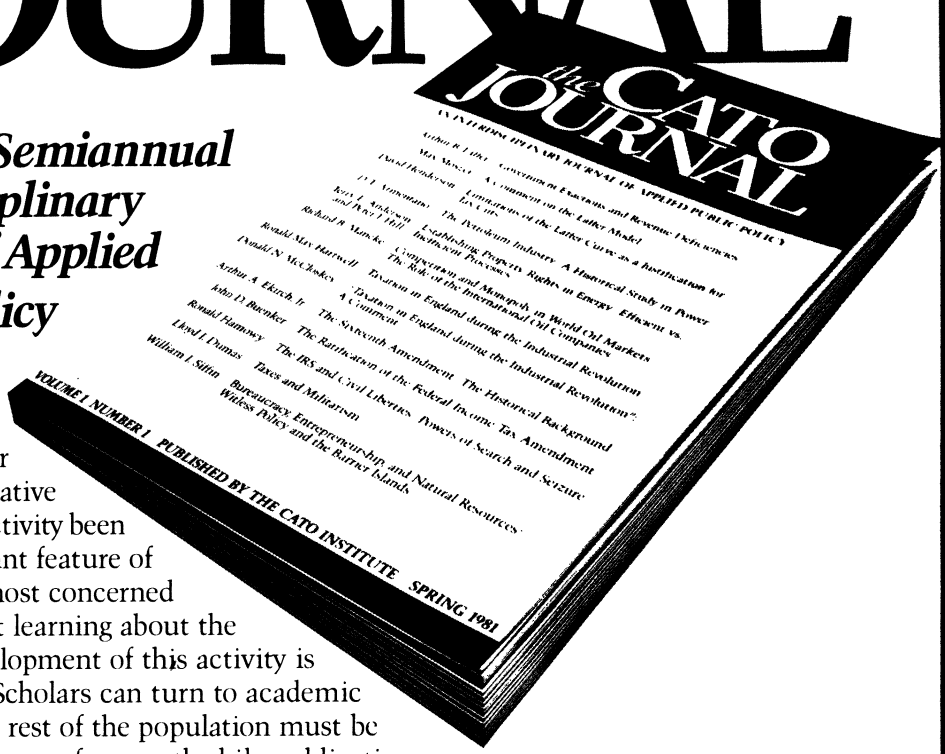


Macmillan of Canada

IS THE EXCLUSIVE NATIONAL DISTRIBUTOR FOR ALL FRASER INSTITUTE TITLES

PUBLISHED BY THE FRASER INSTITUTE, 626 BUTE STREET, VANCOUVER, BRITISH COLUMBIA, CANADA V6E 3M1. AVAILABLE AT BOOKSTORES OR BY MAIL FROM THE INSTITUTE.

the CATO JOURNAL



The New Semiannual Interdisciplinary Journal of Applied Public Policy

Although at no time in our history has legislative and regulatory activity been such an important feature of American life, most concerned laymen find that learning about the origins and development of this activity is a difficult task. Scholars can turn to academic journals, but the rest of the population must be content with the very few worthwhile publications dealing with public policy issues.

To fill this communications gap, the *Cato Journal* publishes papers on applied public policy that both intelligent laymen and scholars can read with great profit. Policy applications affect the entire population, and thus scholars cannot be content to communicate only with one another. Twice yearly the *Journal* will offer in-depth analyses of public policy by some of America's most respected scholars. Contributors include Arthur Laffer, Richard Mancke, Hendrik Houthakker, Arthur Ekirch, Murray Rothbard, William Siffin, Ronald Max Hartwell, Richard McKenzie, Lloyd Dumas, and John Baden.

Charter subscriptions are $10.00 for one year, $18.00 for two years, and $22.50 for three years. (The two- and three-year prices are special introductory offers that cannot be repeated.) Visa and MasterCard accepted.

Please enclose payment with your order.
If using a credit card, include your number, signature, and expiration date. Return to
Publication Dept. LOL,
747 Front Street
San Francisco, CA 94111

CATO INSTITUTE

European Journal of Political Research

Official Journal of the European Consortium for Political Research

Unlike other journals the *European Journal of Political Research* does not exist merely as another scholarly publication. Its principal objective is still to foster communication and collaboration about ongoing research across national and linguistic boundaries within Europe. Now its programme for the 1980s includes even more stimulating articles, more book reviews, and more news on current political research - essential reading for all those interested in political science.

Editors:
Mogens Pedersen, *University of Odense, Denmark and*
Derek Urwin, *University of Bergen, Norway*

Some Recently Published Articles:

Eurocommunism Four Years On *(Georges Lavau).*
Community Characteristics and Voting Patterns in Urban Greece *(Andreas Athinaios and Vincent McHale).*
Broader Powers for the European Parliament? The Attitudes of Candidates *(Ronald Inglehart, Jacques-René Rabier, Ian Gordon and Carsten Lehman Sørensen).*
Direct Elections to the European Parliament: A Supranational Perspective *(Juliet Lodge and Valentine Herman).*
Independence Movements and National Minorities: Some Parallels in the European Experience *(John Coakley).*
A New Political System Model:Semi-Presidential Government *(Maurice Duverger).*

Free sample copies are available on request

All back volumes are available

Subscription Information:
1980:Volume 8 (in 4 issues)
For libraries and institutes
US $ 67.25/Dfl. 131.00 including postage
For individuals
US $ 32.25/Dfl. 63.00 including postage

1981: Volume 9 (in 4 issues)
For libraries and institutes
US $ 73.25/Dfl. 143.00 including postage
For individuals
US $ 34.75/Dfl. 68.00 including postage

Elsevier
P.O. Box 211,
1000 AE Amsterdam,
The Netherlands,

52 Vanderbilt Ave.
New York, N.Y. 10017