

# Reason Papers

## *A Journal of Interdisciplinary Normative Studies*

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## Articles

### **Nietzsche: The Myth and Its Method**

Fred Seddon

As the number of Objectivist oriented academic philosophers continues to increase, the lenses under which the philosophy will be examined will undoubtedly grow more powerful. Likewise, Objectivist scholarship will become rigorously more intensive; forgoing the entertaining broadside for the well documented and exacting examination. As examples of this development, witness David Kelley's *The Evidence of the Senses* and Allan Gotthelf's and James Lennox's anthology *Philosophical Issues in Aristotle's Biology*, to name but two recent efforts. I wish I could include John Ridpath's article "Nietzsche and Individualism," printed in Vol. 7, ##1 and 2 of the now defunct *The Objectivist Forum*, as another instance of this trend, but alas, I cannot. The reasons for my reservations constitute the body of this essay. What follows is divided into three parts: (1) a recapitulation of Ridpath's exposition of Nietzsche's philosophy along with a running commentary suggesting alternative interpretations, (2) a short catalogue of Ridpath's errors of scholarship, and (3) a short list of reasons for devoting time to the study of Nietzsche's thought.

#### **Exposition**

Why did Ridpath choose to author an article on Nietzsche? It was, Ridpath tells us, in an effort to ascertain whether Nietzsche is on the side of individualism.

The purpose of this article is to examine Nietzsche's philosophy in order to ascertain which side Nietzsche is really on. Based on a study of the complete corpus of Nietzsche's works, this article will present Nietzsche's general philosophical outlook and then use this as the context for understanding his social views, and for judging whether or not he is a defender of individualism. (I, 9. All quotations from Ridpath will be given in part-page format, i.e. I,9 means part I, page 9.)

Before commencing the actual examination of the entire Nietzschean corpus, Ridpath asks "What is individualism?" We obviously cannot know whether Nietzsche is on the side of individualism until and unless we know what is meant by that term. After a short historical survey of the term, Ridpath exposes its deeper philosophical meaning.

Individualism has other, deeper, philosophical roots. The crux of individualism is free will. Acknowledging the presence of free will in each man knocks the metaphysical props out from under any claim that the individual is merely subordinate to, or is a fragment of, some higher collective entity. The acceptance of free will is the basis for seeing the individual as a sovereign, independent being. This, in turn, is the first step in the defense of rationality, egoism, and an individualist society. (I,10)

Ridpath concludes his preliminary exposition by claiming that the question of Nietzsche's individualism rests on two issues: Does he advocate individual rights and more importantly "does he advocate the philosophical fundamentals that can provide a grounding for individualism?" (I,10)

By "philosophical fundamentals" Ridpath means metaphysics (especially the metaphysics of man) and epistemology. And it is to these areas that he turns to next. But before he details Nietzsche's views on these matters, he finds it "fruitful" to start with a short description of Nietzsche's view of his own age, an age of nihilism in the face of the death of God. By "death of God" Nietzsche meant, not the actual death of an actual God, the God of Christianity, but rather the fact that "the Christian values and world-outlook that had formed the heart of European culture had lost the allegiance of men, and the culture, adrift without a framework, was threatened with impending collapse into despair, nihilism, madness, and doom." (I,10) To take the place of Christ and Christianity, Nietzsche proposed the figure of Zarathustra, the "anti-Christ and anti-nihilist, this victor over God and nothingness." (I,11) Zarathustra will teach mankind how to rise up off of their knees and consecrate the earth as the highest reverence, to realize the hero in one's soul, to reject altruism and the welfare state and mysticism in all of its forms. For those having difficulty in figuring out what is wrong with such a harbinger, Ridpath quickly reminds us that the espousal of values, even heroic and life affirming values, is not a primary. (I,11) They rest on a metaphysics and an epistemology. And the place to begin the search for Nietzsche's basic philosophy is his first major work: *The Birth of Tragedy out of the Spirit of Music* (hereafter BOT. Ridpath only directly quotes this work once and gives no abbreviation) which was published in 1872. Nor is this starting point an option, for Ridpath tells us that "one *must* turn" (I,11. Emphasis mine) to BOT in order to understand Nietzsche. Ridpath also tells us that not only will we find metaphysical and epistemological pronouncements in BOT but also Nietzsche's "basic philosophical system" despite the fact that other commentators as well as Nietzsche himself go to great lengths to deny that such a system exists. It may be implicit, but it is there.

Here we must halt our presentation to ask a question or two. The very title of the work, BOT, tells us that this book is about aesthetics. In fact, the opening line of the first section of BOT talks of "the science of aesthetics." Let us assume that every aesthetics rests on and derives from a metaphysics and an epistemology. The question is why begin with Nietzsche's aesthetics rather than ethics? Why BOT rather than *The Dawn* or *Human, All Too Human*? But we have already been told, a mere two paragraphs earlier, why we cannot begin with ethics, viz., that "[a]n espousal of values is not a primary. It presupposes an underlying philosophical base." (I,11) Certainly Objectivism agrees. But the same is true for aesthetics. Both aesthetics and value espousal presuppose an underlying philosophy of what there is and how we know it. To repeat, why choose to begin with Nietzsche's aesthetics rather than his ethics? Might it not be the case that if one proceeds from Nietzsche's life affirming catalogue of values one would unearth a different basic philosophy, one more consonant with individualism? The only reason Ridpath gives for not beginning with Nietzschean values is that they are not primaries; but since this pertains *mutatis mutandis* for aesthetics, Ridpath's starting point seems rather arbitrary.

I said a question or two - the second question pertains to Ridpath's claim that Nietzsche, his denials to the contrary notwithstanding, had a philosophical system. Ridpath's claim is based on the notion that "[p]hilosophy [i.e. metaphysics and epistemology], either explicitly or implicitly, is inescapable, and applies even to those, such as Nietzsche, who deny it." (I,11) Ridpath does not prove, or even attempt to prove this claim, a claim that which, according to Richard Taylor, "[n]othing could be sillier."<sup>1</sup> (Taylor *does* try to prove his claim). By "philosophical system" Ridpath means, in essence, a metaphysics and an epistemology. Take metaphysics. To test Ridpath's statement *vis-a-vis* metaphysics it is crucial to know exactly what Ridpath and Nietzsche mean by metaphysics. Metaphysics is the study of ultimate reality. It is the "study of existence as such or, in Aristotle's words, of 'being qua being'..." For Rand, existence can only be defined ostensively; it is something one could literally wave one's arm at.<sup>2</sup> Leaving aside the amount of agreement or disagreement between Aristotle and Rand on this point and focusing on her notion of existence, one can say with a certainty normally denied one engaged in Nietzsche exegesis, that this is definitely *not* what Nietzsche had in mind when he used the term "metaphysics." He invariably meant the two world variety that he attributed to Parmenides, Plato, Christianity and Kant to name but four. For Nietzsche, metaphysics is the study of the "real" world, i.e. the realm of Being, heaven, or the thing in itself. I suggest that one of the reasons for Nietzsche's aversion to systematic philosophy is this identification of metaphysics with the other worldly variety. When Rand sweeps her arm and calls that "existence," I think Nietzsche would agree, although he might simply call it the physical world.<sup>3</sup> You cannot sweep your arm at heaven.

If one keeps Nietzsche's meaning in mind, then Ridpath's assertion that metaphysics is inescapable translates into the claim that a "two world metaphysics" is inescapable - and that is simply wrong on Objectivist's grounds. If Rand is right, any two world view is a mistake and definitely escapable. Ridpath's case against Nietzsche is based on a simple equivocation. If one makes the issue very specific, i.e. whether a one world or two world view is correct, then both Nietzsche and Rand are in agreement. If, and this "if" is much more questionable, a one world metaphysics is a necessary condition for individualism, then Nietzsche passes this test with flying colors.

To return to exposition. After telling us that "everything he wrote later is based on the metaphysics and epistemology contained in the *Birth of Tragedy*," Ridpath proceeds to explicate the text. Curiously, this explication is done away from the text itself. Notes 17 to 54 covering I, 12 to II, 5 contain only one direct reference to BOT. Leaving aside the advisability of explicating a text one hardly consults, what are Ridpath's findings? Nietzsche is an eclectic. An unholy marriage of Hegel, Schopenhauer and Heraclitus (and Kant). (See I, 12, and cf. II, 4 where we are told that "Nietzsche is, in regard to philosophic fundamentals, an explicit and even militant Kantian.")<sup>4</sup> From Hegel, (who is not even mentioned in BOT), Nietzsche got Heraclitus. From Heraclitus, who makes only three more or less parenthetical appearances in BOT, "Nietzsche took," according to Ridpath, "the view that the universe is a random process, a flux, a becoming, out of which specific things emerge, temporarily, and then are reabsorbed." (I,12) Firstly, according to Kirk and Raven,<sup>5</sup> the flux doctrine is a misinterpretation of Heraclitus due to Plato (and Aristotle followed his master on this point) insofar as it overlooks Heraclitus' emphasis on the "logos" which governs all becoming. If one accepts Kirk and Raven's analysis, then

describing Heraclitus' becoming as "random" is simply wrong. Secondly, the two quotations used by Ridpath to support his findings on Heraclitus are not from BOT but, (via F.A. Lea's *The Tragic Philosopher*) from *Philosophy in the Tragic Age of the Greeks* (Hereafter PTA). N17 tells us that Nietzsche thought Heraclitus had "the highest powers of intuitive conception" and n18 tells us that Heraclitus taught, according to Nietzsche, that reality is "[t]he eternal and exclusive Becoming, the total instability of all reality, which continually works and never is..." This latter statement could well be true without it being the case that the process was "random." In fact, had Ridpath read more section 5 of PTA (from which nn 17 and 18 are indirectly taken) he could hardly have missed Heraclitus' characterization of becoming as "[l]awful order, unfailing certainties, ever-like orbits of lawfulness,..." Also, he would have noticed that, according to Nietzsche, Heraclitus "denied the duality of totally diverse worlds...[H]e no longer distinguished between a physical world from a metaphysical one, a realm of definite qualities from an undefinable 'indefinite'." In other words, for Heraclitus, there is only one world, this one, and it is both orderly and lawful. This is the Heraclitus that influenced Nietzsche.

Ridpath then concludes that for the Nietzsche "there is no 'being' behind the doing" and that "the doing is everything." (I,12) These last four words are from *On the Genealogy of Morals* (hereafter GM. Actually so are six of the seven words quoted first but Ridpath does not bother to indicate that fact with quotation marks). From those two quotations Ridpath would have us believe that for Nietzsche there is "change without entities that change, a change of nothing into nothing." (I,12) Whatever warrant there may be for the first clause, it is a staggering leap to the second. But in §13 of GM, the very section from which Ridpath's quotations are taken, Nietzsche tells us what he is after, the prey he is seeking to destroy, viz. the "subject," the "substratum," or the "Kantian 'thing-in-itself'." Nietzsche does not believe in a "thing" without effects; a "doer" whose identity cannot be gleaned from its "deeds." If Kaufmann is correct, Nietzsche is here following none of the four philosophers Ridpath mentions but rather Goethe.

We really try in vain to express the essence of a thing. We become aware of effects (*Wirkungen*), and a complete history of these effects would seem to comprehend the essence of the thing. We exert ourselves in vain to describe the character of a human being; but assemble his actions, his deeds, and a picture of his character will confront us.<sup>6</sup>

(Ridpath's total neglect of Goethe goes a long way toward explaining his anti-developmental interpretation of Nietzsche as well as how he can miss the metamorphosis of Dionysius that is so evident in a section like §49 of TOI entitled "Goethe" wherein we find the spirit of this German antipode of Kant baptized with the name "Dionysius." All of which more in due course).

So when Nietzsche says that "there is no being behind the doing" this does not imply that there are no entities for Nietzsche. Merely, and not merely "merely," that for Nietzsche, "entity" does not mean what it means for, say, Kant and Aristotle; an amalgam of two elements, substance and attribute, a knowable part identified by Aristotle with form and an unknowable part identified with matter (Kant's noumenal/phenomenal distinction is a variation on this theme to say nothing of Being and becoming in Plato or any of its

Christian variants). Objectivism rejects this view of entities also.<sup>7</sup> An entity, for Nietzsche, is the sum of its effects and behind these effects there is no mysterious and unknowable matter, substratum, thing-in-itself, ὑποκειμένον or what have you.

And finally a brief word about Schopenhauer, who is mentioned eight times in the original edition of BOT.<sup>8</sup> From Schopenhauer Nietzsche got Hegel and Heraclitus! "Schopenhauer also had, in essence, a Heraclitean-Hegelian view of reality" (I,12). Poor Schopenhauer, whose hatred for Hegel equaled Rand's hatred of Kant, and who spent a lifetime spewing his worst invective on Hegel only to be pictured by Ridpath as a transmission belt for "the ponderous and witless Hegel." One of Schopenhauer's reasons for despising Hegel is due to latter's attempt to destroy (or at least to aufheben) the distinction between phenomenon and the thing-in-itself, a distinction Schopenhauer considered Kant's greatest achievement. Since Schopenhauer is, according to Ridpath, a recapitulation of Hegel and Heraclitus, we may safely ignore him and press on.

If we grant to Ridpath that BOT contains a two-world metaphysics, however deviously derived, we next have to deal with the assertion that Nietzsche never altered that metaphysics. According to Ridpath, Nietzsche simply "took that metaphysics one step further" (I,13) by replacing the will of Schopenhauer (which, according to Ridpath was Schopenhauer's transformation of Hegel's Spirit which was Hegel's transformation of the Kantian thing-in-itself) with the will to power.

But how then do we explain that much commented on section of *The Twilight of the Idols* (hereafter TOI), which bears the title "how the 'True World' Finally Became a Fable" and subtitled "The History of an Error." The error Nietzsche is referring to is any and all two world metaphysics, whether Platonic, Christian or Kantian. And what is left when we hear the cockcrow of positivism (here taken to mean a one world, this world view) on the morning when this two world "ideal" can no longer even obligate? The apparent world perhaps? Nietzsche asks. No, he replies, not even that. The "true" and apparent worlds live or die together. At last. Man can love this earth, this world. There is no counterworld against which this world could be unfavorably compared.<sup>9</sup>

If this interpretation is accurate and TOI (cf. also BGE §§10-11; GS §54; esp. HAH § 9, 10 & 18) not only does not contain a two world view but actively denounces such a position, then we are left with the following alternatives: either Nietzsche did change his metaphysical view from BOT to TOI or he never held a two world view at all. On either alternative, Ridpath's reading of the "metaphysics" of Nietzsche is extremely problematic. That is, either Ridpath is in error in claiming that Nietzsche never changed his two world metaphysics from BOT until the end or Nietzsche never held such a view.

What of this former possibility? What especially of Ridpath's claim that the metaphysical vision in BOT is dualist? Since he directly quotes BOT only once, it may be more revealing to see what the dualist interpretation of Nietzsche in general does to Ridpath's ability to read BOT itself. Kaufmann used to "wonder how *The Birth of Tragedy* could ever have been so thoroughly misconstrued."<sup>10</sup> Approaching BOT with the two-world interpretation in hand, Ridpath was almost compelled to see Apollo and Dionysius as antagonists representing the phenomenal and noumenal (to use Kantian language) realms

respectively. "But [the Greek tragic] plays also pay homage to the truth that *underneath* the individual entity (the Apollinian element) lies the Heraclitean furnace (the Dionysian element), which ultimately defeats the hero." (I,13. Emphasis mine). I would like to suggest that the vertical orientation is wrong. Dionysius is not "under" Apollo or more fundamental. Rather than see Greek tragedy through a metaphoric of foundation and superstructure, of fundamental and non-fundamental, Nietzsche employs the image of warp and woof, and both Dionysius and Apollo are seen as integral to the tapestry of Greek tragedy as developed by Aeschyles and Sophocles. It is in his reflections on the chorus and the tragic hero that Nietzsche came to realize that it is "this duality itself as the origin and essence of Greek tragedy, as the expression of two interwoven artistic impulses, *the Apollinian and the Dionysian*." (BOT, §12) Sexual procreation is another image Nietzsche uses (e.g. in §1 of BOT) to give the reader a premonition of his theory concerning Attic tragedy which is "an *equally* Dionysian and Apollinian form of art." (Emphasis mine.) How could Ridpath apply his vertical orientation to sexual reproduction? Is woman the thing in itself and man the appearance or vice versa?

Nor is Ridpath's metaphor of foundation/founded adequate to explain the death of tragedy at the hands of Euripides/Socrates. Does Euripides destroy tragedy by undermining its foundation (=Dionysian element)? Since, according to Nietzsche, Euripides is a mask for Socratic rationalism, this would mean that Euripidean tragedy is also a two story (two world) structure with reason as the base supporting the Apollinian *principium individuationis*. But this is precisely what Nietzsche denies.

The Euripidean drama is a thing both cool and fiery, equally capable of freezing and burning. It is impossible for it to attain the Apollinian effect of epos, while, on the other hand, it has alienated itself as much as possible from Dionysian elements. Now, in order to be effective at all, it requires new stimulants, which can no longer lie with the sphere of the only two art-impulses, the Apollinian and the Dionysian. These stimulants are cool, paradoxical thoughts, replacing Apollinian contemplation - and fiery affects, replacing Dionysian ecstasies; ... thoughts and affects copied very realistically and in no sense dipped into the ether of art. (BOT, §12)

The real opposition is, as Nietzsche tells us explicitly, "[T]he Dionysian [NB. here the meaning of Dionysian includes the Apollinian - a presagement of development in the later Nietzsche] and the Socratic." (BOT, 12) He tells us in BOT and reiterates this claim in *Ecce Homo* (EH) where he writes of the two decisive innovations of BOT: (1) is the "understanding of the Dionysian element ... as *one* root of the whole of Greek art," and (2) Socratic rationalism as a sign of disintegration, as a "dangerous force that undermines life" (EH-BOT, 1. Emphasis mine.) Compare Rand's notion that rationalism keeps reason and gives up the world). That the Dionysian element is one of two equally important roots is eloquently stated in the last sentence of BOT where Nietzsche, speaking through the voice of an Aeschylean stranger says "[N]ow follow me to witness a tragedy, and sacrifice with me in the temple of *both* dieties!" (Emphasis mine). In the same section we find the following:

Thus these two art drives must unfold their powers in a *strict proportion*, according to the law of eternal justice. Where the Dionysian powers rise up as impetuously as we experience them now, Apollo, too, must already have descended among us, wrapped in a cloud; and the next generation will probably behold his most ample beautiful effects. (§25 Emphasis mine).

Approaching the text with a preconceived notion about Nietzsche's two world metaphysics prevents Ridpath from seeing what the real conflict, the real issue, is in BOT, viz., tragedy vs. rationalism. Since they cannot be fitted into the vertical metaphors, a metaphors that Ridpath seems unable to do without, he fails to notice, simply because he lacks the instrument, the horizontal images Nietzsche puts into play throughout BOT. Apollo/Dionysius<sup>11</sup> are twin roots of Attic tragedy; likewise Dionysius/Socrates form a pair of more or less equal participants in a struggle for the Greek ψῦχῆ and no member of either set can be understood as more fundamental, at least not in the base/superstructure sense of fundamental.

What is Nietzsche trying to accomplish in BOT? Let the author himself have the last word. It was, he tells us an "attempt to assassinate two millennia of antinature and desecration of man..." Thus spake Friedrich Nietzsche.

Ridpath begins part II of his article by exposing Nietzsche's view of man. He claims that for Nietzsche feelings, not reason, constitute the essence of man. Since the issue of feelings vs. reason will be examined at length in the Grammar Switch section of part II, I will say no more about Ridpath's version of Nietzsche's philosophical anthropology.

What of Ridpath's interpretation of Nietzsche's epistemology? After a short paragraph listing "certain positive things" Nietzsche has to say about reason and its efficacy (II,2-3), Ridpath proceeds to consider the dark side of Nietzsche's view of reason. But Ridpath's recognition of Nietzsche's positive appreciation of reason is only apparent, for a mere two pages later he tells us the "Nietzsche's 'praise' of reason is *totally* undercut by his view of what reason is." (II,4. Emphasis mine). And if we take this word "totally" with seriousness - if not with gravity - Ridpath's Nietzsche is a total irrationalist.

There is no truth, no correct awareness of the facts, Nietzsche tells us, because in a Heraclitean world of flux without entities 'there are no facts'. We are only deceiving ourselves when we think 'there would be a world left over once we subtracted the perspectival.' This is known as Nietzsche's doctrine of perspectivism, or his doctrine of illusion. The intellect, out of its own need for facts and structure, *subjectivity creates within itself* the world it requires. In this, it engages in what Nietzsche approvingly refers to as 'lying in the extra-moral sense' - creating the illusion of an external worlds of things, facts, identity, causality, laws, and the like - when actually all of this is fantasy, 'articles of faith.' ... The whole external world of facts, structure, necessity are inside the human mind... Nietzsche in fact prided himself in going one step further than Kant by holding that even the theory *that knowledge is subjective is itself a completely subjective* and arbitrary theory. (II,3. Emphasis mine).

The phrase "there are no facts" is from §481 of WTP and is Danto's translation of "*Tatsachen gibt es nicht*." A different picture of Nietzsche's meaning emerges when one reestablishes the context of this remark. Nietzsche seems to be on the attack and two of his prey are positivism and Kantianism. Listen to the first paragraph of §481 (=Schlechta 903). All translations of this section are Kaufmann's with slight modifications to conform more strictly to Nietzsche's German.

Against positivism, which halts at phenomena - "There are only *facts*" - I would say: No, facts is precisely what there is not, only *interpretations* (*Interpretationen*). We cannot establish any fact "in itself": perhaps it is folly to want to do such a thing.

I would point to the first two words as evidence for my claim that Nietzsche is writing against positivism here while the phrase "in itself" is a definite indication that some Kantian doctrine is under assault. Putting this in terminology agreeable to Objectivism seems a relatively simple matter. There are no *noumenal* facts, since there is no *noumenal* world. But what about Ridpath's charge of "subjectivity" against Nietzsche. Listen to paragraph two, which Nietzsche seems to have written in anticipation of such an accusation.

"Everything is subjective," you say; but even this is *interpretation* (*Auslegung*). The 'subject' is not something given, it is something added and invented and projected *behind* what there is. - Finally, is it necessary to posit an interpreter *behind* the interpretation? Even this is invention, hypothesis. (Last two emphasis mine).

Here Nietzsche has not only Kant's 'transcendental ego' in mind, but the whole of the subjective turn in philosophy since Descartes. (Descartes comes up for additional knocks three sections later in §484). As noted above when discussing Nietzsche's "metaphysics," he never tires of fighting against a "behind" the appearances approach to philosophy. The charge of "subjectivity" made against Nietzsche by his imaginary interlocutor (positivism and Kant and Ridpath) presupposes that such a view is the only alternative to an intrinsic view like Kant's. But isn't there a third possibility? A place between the Kantian "rock" and the subjective "hard place?"<sup>12</sup> Between the intrinsic and the subjective? Nietzsche will have nothing to do with a "subject" that has nothing to do with its actions, an "ego" behind the scenes. This is a variation of his view that the "thing is the sum of its effects" which we examined above (See text to n3).

As for Nietzsche's perspectivism - paragraph three.

In so far as the word 'knowledge' (*erkenntniss*) has any meaning, the world is knowable; but it is *interpretable* (*deutbar*) otherwise, it has no meaning *behind* it, but countless meanings. - "Perspectivism." (Last emphasis mine. The quotation marks around "perspectivism" are in the original German!).

With just this much of the context restored to §481 (there remains one last paragraph) we see a different Nietzsche emerging: a Nietzsche who rejects any form of Kantian

intrinsicism, a Nietzsche who rejects subjectivism, a Nietzsche who grants that knowledge of the world is possible. Where is the downside to this Nietzsche?<sup>13</sup>

But one might object that the Nietzsche I find in the texts is almost too good to be true. He sounds like a man who has read, if not *Atlas Shrugged*, at least the first edition of *We the living*.<sup>14</sup> Perhaps I overextend to Nietzsche the principle of charity. To this charge I can only plead guilty. With Nietzsche's text, the principle of charity is especially important since, given the poetic nature of his writings and his doctrine of masks (in which the surface meaning of the text can actually mask the real meaning, which may even be the opposite of what was said) we can never be sure that "something precious and vulnerable" may appear "rude and round as an old green wine cask with heavy hoops" to a superficial reader.<sup>15</sup>

Finally, before we turn to Ridpath's scholarship, let us look at his summary of Nietzsche's ethics. Ridpath seems to make two contradictory claims about the ethics of Nietzsche: (1) that he is "an amoralist" because he is "opposed to principles as such" and since ethics is a set of principles to guide one in the art of living well, Nietzsche cannot have an ethics (II,5); (2) that Nietzsche has an ethics, but it is elitist, not individualist. (II,8-9). Let us examine these charges in order, ignoring the fact that they cannot both be true.

Certainly Nietzsche thought himself to have a morality. In a draft of a letter to Paul Rée dated 1882 he wrote "...She told me herself that she had no morality - and I thought she had, like myself, a more severe morality than anybody..."<sup>16</sup> If Ridpath is correct in identifying morality with the adherence to principles, and if Nietzsche does indeed have a morality, we need to ask about the principles upon which he bases his moral conduct and theory. One such principle is "self-overcoming," a concept we find throughout his corpus.<sup>17</sup> A person who acts on whim or the range of the moment is amoral, whereas a person who acts on principle may be immoral (if the principles are life negating) but not amoral. The strength (or will to power) to overcome one's impulses is the mark of a moral man for Nietzsche. And the faculty that enables one to overcome one's impulses is reason. Reason is the highest faculty man possesses, not simply because we can form concepts, "but because these skills enable it to develop foresight and to give consideration to all the impulses, to organize their chaos, to integrate them into a harmony - and thus to give man power: power over himself and over nature...reason gives men greater power than sheer bodily strength. Foresight and patience, and above all 'great self-mastery'..."<sup>18</sup>

While this is certainly not conclusive, it does seem to cast doubt upon Nietzsche as an amoralist. As for those passages where Nietzsche calls himself an "immoralist," they are typically contexts in which he identifies morality with Altruism or Christianity. The gist of his message is "if this be morality, then I am an immoralist."<sup>19</sup>

As to the second charge, that Nietzsche's morality is not individualist but elitist - what can be said? It is certainly true that Nietzsche writes of masters and slaves, of overmen and last men, of creators and those who cannot create - but even these last can give birth to future creators.<sup>20</sup> This last notion must not be lost sight of despite Nietzsche's talk of "breeding" and "blood."<sup>21</sup>

But I would also suggest that the whole notion of an elite/mass dichotomy fails to comprehend a salient feature of Nietzsche's methodology and one of the many meanings hidden in the title of "Beyond Good and Evil," and that is the notion of nuanced as opposed to antithetic thinking.<sup>22</sup> To take but one example, consider §260 of BGE. Although he talks about two basic types of moralities, (and even prints "master morality" and "slave morality" in italics) he is quick to point out immediately after their introduction that most moralities are mixed - and hence most people are a rather promiscuous jumble of unintegrated moral bits and pieces.<sup>23</sup>

Finally, Nietzsche's alleged elitism is probably no more than a throwback to the Greeks<sup>24</sup> and especially Aristotle. As for Aristotle, recall his division of mankind into natural slaves and freemen. Also, Aristotle's notion of ἀρετή (virtue or excellence) as the habit (or settled character) of choosing the relative mean according to a rational principle is close to Nietzsche's use of the word instinct (in contexts where he negatively contrasts it with reason) and such a reading goes a long way in answering Ridpath's charges of irrationalism against him (11,4-5). Finally, Nietzsche, alone of the great philosophers, has praise for greatness of soul (μεγαλοφυχία).<sup>25</sup> Kaufmann even goes as far as to suggest that a work like EH owes much to Aristotle's *Nicomachean Ethics*.<sup>26</sup>

Summarizing Ridpath's interpretation of Nietzsche we find that he is a two world metaphysician, an irrationalist who advocates instinct and denigrates reason, and an amoralist (or immoralist) who preaches sacrifice of the masses to the ideal of the overman. (For more on Nietzsche's politics, see below).

To support this reading, Ridpath appends to his essay 87 notes as evidence of his scholarship. It is to this scholarship that we now turn.

### Scholarship

Within the context of my knowledge, there exists no agreed upon list [the members of my own will be defined *en passant*] of possible errors one can make in scholarly research - mine is surely rough and by no means exhaustive. My list includes the "Deadend," the "Misdirection," the "Edition switch," the "Grammar Switch" and "Context Dropping" (the last identified by Rand herself). Please note that in this section I will not attempt to impugn Ridpath's interpretations and conclusions, although I certainly disagree with most of what he has to say about Nietzsche. In fact, in personal conversation we agreed that our differences may be ones of emphasis. He thinks my reading more Apollinian while I find his more Dionysian (if I may misapply Nietzsche's own famous distinction from BOT). When I do make substantive points concerning Nietzsche's philosophy (itself a rather questionable bit of labeling, especially if one means by "philosophy" something more or less systematic), it will usually be by way of illustration, not interpretation. Let us now look at these scholarly lapses, beginning with the most venial.

THE DEAD END: By the dead end, I mean a note that goes nowhere, i.e. when one checks the text, it has nothing to do with Ridpath's comments or point. Fortunately, this occurs only once, at n37 and has to do with a famous Nietzschean motto, *amor fati*. Ridpath cites p.330 of WTP, but this page has nothing to do with *amor fati*, a phrase that occurs

but once in all of WTP, viz. in §1041 on p.536 of the Kaufmann edition. Since p.330 is cited again by Ridpath at n39, he might have misread his notes, or perhaps it is nothing by a typo.

**THE MISDIRECTION:** By misdirection I mean the citing of a secondary source that has itself quoted Nietzsche without giving the passage in the original text of Nietzsche. If one does this infrequently, little scholarly fuss should be made. But Ridpath does this 42 times out of 87 quotations! In fact, the very first quotation is a misdirection. Upon turning to n1, one reads "Quoted in *What Nietzsche Means*, G.A. Morgan,...p.116." Observe what this does. It directs (and hence misdirects) attention away from what Nietzsche said and causes the reader, or at least the curious reader, to ask whether Morgan has a particular ax to grind. Does he know Nietzsche and how well? Is he a philosopher? Did he do his own translations and, if not, whose did he use etc? An obvious solution, and one used by careful scholars, is to cite the primary as well as the secondary source. After all, it is Nietzsche that we are really interested in, not Morgan. Ridpath surely knows this practice since he does use it, once, at n25 where the secondary source happens to be an unpublished Ph.D. dissertation. In that case he references *Ecce Homo* (EH) as well as the secondary source.

A particularly dangerous form of misdirection occurs when the secondary source material is a collection of essays and Ridpath does not indicate who the author is. Ridpath takes 12 of his 42 misdirections from R.C. Solomon's *Nietzsche*, a collection of 21 essays by various authors. Since these dozen quotations are from five authors, we never know who is speaking and Ridpath never gives the individual author's names. What is so bad about this? Since there are various and contradictory interpretations of Nietzsche's thought, one can easily make Nietzsche say whatever one wants. For example, when Ridpath wants to make Nietzsche into a mini-Kantian, he quotes the essay by Hans Valhinger, a famous Kantian (in fact he founded the journal *Kant-Studien*)<sup>27</sup> with a definite ax to grind.<sup>28</sup> Using this method one could make Nietzsche into an existentialist by quoting Jaspers or Heidegger from the same volume. Prefer a phenomenological twist? Try the Scheler. Analyst more to your liking? Then there's Danto. Meanwhile, we have forgotten Nietzsche. And all because we lack the primary sources.

And even if one happens to have the Solomon collection, the problem of checking the original is compounded by the fact that different authors use different editions and translations of Nietzsche's work. For example, Danto, whom Ridpath cites four times, does his own translating of WTP and hence does not cite the Kaufmann English translations but rather the three volume Schlechta German edition. In the latter work, no dates or other possible ways of correlating the passages cited to the Kaufmann are provided. And even if one has the Schlechta, as I do, this is little help when a different author (Ivan Soll, author of "Reflections on Recurrence: A Reexamination of Nietzsche's Doctrine, *die Ewige Wiederkehr des Gleichen*," and listed as article 17 in the Solomon collection, comes to mind), uses another German edition. Most readers get bored with this hunting and checking and give up, relying on Ridpath's (and who knows how many others') scholarship. That this is a risky intellectual gamble is the thrust of this essay. [While we are on the subject of WTP, a brief explanation of this work is necessary. The WTP is not a work but rather a collection of notes that Nietzsche penned from about 1883 to 1888 -

they were not intended for publication and a careful scholar owes his readers an explanation of how he evaluates these notes *vis-à-vis* the works Nietzsche completed to his own satisfaction and to what extent he believes they can be quoted as representative of Nietzsche's mature thought. There are some notes (and here I have in mind ##158ff) which Nietzsche, and this according to Kaufmann,<sup>29</sup> used in his *Antichrist(A)*. These could be quoted as more representative of his considered opinion than, say, the cosmological exposition of the eternal recurrence,<sup>30</sup> which he never used in any of his published works. For a fuller story, see Kaufmann's introduction to his translation of WTP.]

Needful to say, Ridpath quotes from the WTP as if it was a completed text and gives the reader no warning that these are notes until n80. Thirteen of his 87 quotations are from WPT. This number may even be higher since the reader does not know how many of the secondary source quotations are also from WTP. A quick check of Morgan's book, *What Nietzsche Means*, indicated that eight of fifteen citations are from Nietzsche's notes, three of four from Danto, (Ridpath's cites from F.A. Lea's *The Tragic Philosopher* are the best of the lot with only two out of 10 from WTP - but he "remedies" this by quoting only one major work in the other eight cites, GS; the remaining seven cites are to notes, letters and minor works that Nietzsche never published) and so it goes. How much this colors Ridpath's interpretation is, of course, impossible to calculate. To really experience the point of this complaint, compare the Roark we get in *The Fountainhead* with the Roark from Rand's notes. As Peikoff warns, the latter Roark is only 'fiction'.<sup>31</sup>

A final species of misdirection needs to be mentioned. It occurs when we are referred to a secondary source for something that, according to Ridpath, Nietzsche wrote, only to find upon checking that the words are not Nietzsche's but the secondary source. n21 is a note to a purported sentence from Nietzsche, whereas the words between the quotation marks actually belong to Lea.

**THE EDITION SWITCH:** For some inexplicable reason, Ridpath refers to two different editions of EH. n14 refers to the Ludovici translation, while n25 and n57 refer to the Kaufmann. And he switches editions without informing the reader. n25 simply says "also EH, p.273." If the reader does not know of the Kaufmann he assumes Ridpath means the Ludovici. If so, he will conclude either that Ridpath has committed another dead end or that EH is a much longer work than it actually is. Furthermore, it should be mentioned that the Kaufmann translation is available in both hard and soft covers, which have different paginations. Ridpath's n25 and n57 are to the latter, a fact nowhere indicated in Ridpath's endnotes. If one has the hardcover edition and tries to check Ridpath, confusion results.

**THE GRAMMAR SWITCH:** By grammar switch I mean placing the words of the quoted author in quotation marks but changing, without benefit of brackets or similar alerting devices, the capitalization and the punctuation. These grammar switches are too numerous to count (there are six on p.9 of Vol. 7 #2 alone). Below follow two examples of quotations containing several grammar switches. Consider n26. Ridpath is discussing Nietzsche's metaphysics of "will" or "energy" and is trying to expose "will" as "some mystical force that underlies both consciousness and matter" and he quotes Nietzsche's WTP [remember these are the notes we talked about above] as follows:

And do you know what "the world" is to me? Shall I show it to you in my mirror? This world: a monster of energy, without beginning, without end; a firm, iron magnitude of force that does not grow bigger or smaller, that does not expend itself but only transforms itself...a becoming that knows no satiety, no disgust, no weariness: this, my Dionysian world of the eternally self-creating, eternally self-destroying, this mystery world.

This little passage contains three grammar switches: (1) the four dots after the "itself" should be a semi-colon followed by three dots since the sentence does not end here as Ridpath's punctuation implies; (2) the capital "A" at the beginning of the quotation should be lower case - this is not a new sentence; and (3) the period after "world" is not to be found in the original.

But this is mild and perhaps excusable since the meaning has not been greatly affected. But the next grammar switch *does* dramatically alter the meaning of Nietzsche's text. Ridpath is trying to develop the thesis that, according to Nietzsche, our feelings are tools of cognition, that they are "the voice of a 'higher truth'" and that Nietzsche would have us trust our feelings instead of our reason. Ridpath tells us that according to Nietzsche, we should "trust our feelings...[because (sic)] that means to obey one's grandfather and one's grandmother, and their grandparents" (II,2). Now this grammar switch is also a misdirection. n34 directs us to the Solomon collection, specifically to an article by Mitchell Ginsberg on "Nietzschean Psychiatry" and the words themselves are from §35 of a work by Nietzsche entitled *Morgenröte* which Kaufmann translates as *The Dawn* (D) while Hollingdale, in his translation of the same book, employs *Daybreak*. Anyway, Ginsberg is quoting §35 because, according to him, Nietzsche is warning us NOT to trust our feelings at the expense of our reason - the *exact opposite* of what Ridpath is claiming. Ridpath has managed, I contend, to misunderstand both Ginsberg and Nietzsche. This will become clear if we consider Ginsberg's context. Before Ginsberg quotes from D, he writes the following:

Nietzsche's belief that the person, viewed as a total organism, will evolve to health (freedom sic.) to the extent that he/she reverses the social training of self-sacrifice...starts from the notion that man has been crippled by what is now approvingly called "socialization." Morality, the key to society...crushes self-reliance... It is for this reason and others that Nietzsche realizes that one cannot *simply*...trust one's feelings...: 'To trust one's feelings - that means to obey one's grandfather and one's grandmother and their grandparent's more than the gods which are in us: our reason and our experience' (*Dawn* 35 sic.)<sup>32</sup>

Isn't Ginsberg's meaning clear? Could not Objectivists agree that "the social training of self-sacrifice" is something that one must reverse if health is to be achieved by the individual?

What about Nietzsche's own context? D is an aphoristic work in which many aphorisms stand alone whereas others may (or must) be read as connected. As an example of the disconnected variety one could instance §267 which is about the difference between a noble and common character and which is followed by an aphorism on the difficulty of

speaking in ancient Athens and writing in contemporary France without being formally repellant.

267

*Why so proud!* - A noble character is distinguished from a common one in *not possessing* a number of habits and points of view which the latter does possess: he chances not to have inherited or acquired them.

268

*The Scylla and Charybdis of the speaker.* - How difficult it was in Athens to speak in such a way as to win one's hearers *for* one's cause without repelling them *through the form* in which one spoke or drawing them away from one's cause with it! How difficult it still is in France to write in this way! [Hollingdale trans.]

But §35, the one that concerns us, can be read as more or less connected with several that precede it. (I say "more or less" because the connection here is not as strong as, say, that between §342 of *The Gay Science* and the opening paragraph of *This Spake Zarathustra* where Nietzsche literally repeats almost word for word in the latter what he wrote in the former). First I will consider §35 alone and then I will go on to examine the sections immediately preceding it.

§35 consists of a title and three sentences. I have translated it as follows:<sup>33</sup>

*Feelings and their Origin in Judgement.* 'Trust your feelings!' But feelings are not ultimates; primaries; behind feelings stand judgements and value assessments; which in the form of feelings (like and dislikes) are transmitted to us. The inspiration, which descends from the feelings, is a grandchild of judgements, and often false! - and in any case not one's own! To trust one's feelings - that means to give more obedience to one's grandfather and grandmother and their grandparents than to the gods which are in *us*: our reason and our experience.

It is only the last sentence that Ridpath quotes. Ridpath's full sentence reads "And Nietzsche urges us 'to trust our feelings...[because] that means to obey one's grandfather and one's grandmother, and their grandparents.'" (II,2) Notice the grammar switches. (1) 't' for 'T'; (2) '...' for '-'; (3) he places 'because' in brackets suggesting that he is supplying only continuity whereas he is, in fact, changing Nietzsche's meaning. Nietzsche's text suggests that what follows the '-' is an explication of what went before it whereas Ridpath's reading suggest that what went before the '-' is a conclusion and what comes after the 'because' is a reason for that conclusion; (4) the period after 'grandparents' is the most unkindest cut of all. It suggests that Nietzsche's thought is complete, whereas he goes on to recommend that we listen to our own reason and experience. With these types of grammar switches, Ridpath can make Nietzsche say anything. And that is the problem.

Note also that Ridpath commits the same four grammar switches on his secondary source for this quotation, Ginsburg, i.e. Ginsburg quoted Nietzsche correctly and Ridpath manages to destroy the intention of both his primary and secondary source.

Go back and read Nietzsche's original. Isn't his meaning clear? Misunderstanding Nietzsche is one thing; getting it exactly backwards is an accomplishment that requires real effort. Or no effort. Just inattention.

Before proceeding to our final category, I did promise to say a few words concerning the sections preceding §35. What makes Ridpath's interpretation of §35 even more inept is the fact that the section is preceded by (at least) two aphorisms that bear on the efficacy of feelings and hence whether we should trust them or our reason. §35 differentiates between moral feelings and moral concepts, the latter, according to Nietzsche are usually nothing more than rationalizations of actions performed on the basis of moral feelings, the latter being derived from ape-like imitation of the "inclinations for and aversions to certain actions" which children have observed in adults. In reading the entire aphorism, it is clear that Nietzsche is critical of this method of picking up a morality. The section in full reads as follows:

*Moral feelings and moral concepts.* - It is clear that moral feelings are transmitted in this way: children observe in adults inclinations for and aversions to certain actions and, as born apes, *imitate* these inclinations and aversions; in later life they find themselves full of these acquired and well-exercised affects and consider it only decent to try to account for and justify them. This 'accounting', however, has nothing to do with either the origin or the degree of intensity of the feeling: all one is doing is complying with the rule that, as a rational being, one has to have reasons for one's For and Against, and that they have to be adducible and acceptable reasons. To this extent the history of moral feelings is quite different from the history of moral concepts. The former are powerful *before* the action, the latter especially after the action in face of the need to pronounce upon it. (Hollingdale trans.)

But §33 (too long to quote in full) is even more explicit on the point that one "has to be suspicious of *all higher feelings*, so greatly are they nourished by delusion and nonsense." These higher feelings derive from a fear of the supernatural as well as contempt for the law of causality. The whole aphorism deserves to be studied along with Rand's essay on "Causality Versus Duty."<sup>34</sup> In this aphorism, Nietzsche lambasts what he calls the morality of custom (cf. obeying one's grandparents etc. from the last sentence of §35) because, under its spell, "man despises first the causes, secondly the consequences, thirdly reality, and weaves all his higher feelings...into an *imaginary world*: the so-called higher world." In fact, the title of the aphorism is "Contempt for causes, for consequences and for reality." Nietzsche is trying to tell us that if we replace the contempt with respect for those three we will hardly need either a morality of custom nor the supernatural realm which provides it with "support." All of this casts a shadow of doubt on whether Ridpath ever read either §33 or 34, especially if one remembers that he found the quotation from §35 in a secondary source, Ginsburg, and never provided pagination in the original.

Obviously, one could step back even further from §§33-35 and consider, say, the entire first book of D. §6 is perhaps the most interesting from the point of view of our concerns because it contrasts the morality of custom with those "moralists...who, following in the footsteps of Socrates, offer the *individual* a morality of self-control and temperance as a means to his own *advantage*, as his personal key to happiness..."<sup>35</sup> This and other sections should have provided Ridpath with the background against which to read and interpret §35, and in the light of them I venture to say that Ridpath's reading is a misreading.

We have arrived at the final category of scholarship errors: context dropping. The reader is no doubt familiar with the ideas as it occurs within the canon of Objectivist thought. There are two principal usages of this term: One deals with one's desires and is principally a psychological device of evasion. The other usage is epistemological, and it is this sense of context-dropping that I will be using.<sup>36</sup> You are guilty of context-dropping whenever, "you tear an idea from its context and treat it as though it were a self-sufficient, independent item..."<sup>37</sup> As an example of this practice, consider Ridpath's handling of what he believes is Nietzsche's politics. Ridpath tells us that, for Nietzsche, "the preservation of the 'noble' comes before any concern with the rest of mankind."<sup>38</sup> And in a paragraph designed to sum up Nietzsche's politics Ridpath writes, "In a chilling phrase that captures all of this, Nietzsche writes: 'The beginnings of everything great on earth [are sic] soaked in blood thoroughly and for a long time.'" (11, 10)

In order to see this as an example of context-dropping, consider that the line is quoted from §6 of the second essay (titled "'Guilt', 'Bad Conscience,' and the Like") of the *Genealogy of Morals* (GM) where the origins of "guilt" and "bad conscience" are being discussed. The section, as well as those preceding and succeeding have nothing to do with the preservation of the noble or their slaughtering of slaves. Hear the opening sentence: "It was in this sphere then, the sphere of legal obligation, that the moral conceptual world of 'guilt,' 'conscience,' 'duty,' 'sacredness of duty' had its origin: its beginnings were, like the (not "The" as Ridpath writes) beginnings of everything great on earth, soaked..." etc., as in Ridpath. Nietzsche here is making an historical point,<sup>39</sup> not recommending this as something politically desirable.

The notion that Nietzsche is in favor of some caste-based elitist tyranny is laughable, especially in one who recommends that we "examine Nietzsche's ideas, not his art; confront him in *toto*, not selectively;"<sup>40</sup> (11, 10) and then goes on to ignore entire sections of books devoted to a pillorying of all forms of state-worship in proto-Randian terms. The interested reader should consult §4 of "Schopenhauer as Educator" from *Untimely Meditations*; "A Glance at the State" from Vol. 1 of *Human-all-too-Human*; "On the New Idol" from *Thus Spake Zarathustra* and "What the Germans Lack" from *Twilight of the Idols*. After reading these, one might come to agree with Kaufmann, who writes, "It is for this reason that the State becomes the Devil of Nietzsche's ethics: it intimidates man into conformity and thus tempts and coerces him to betray his proper destiny."<sup>41</sup> Notice that Kaufmann writes about the State without qualification. And if one remembers all the nasty stuff Nietzsche had to say about religion and mysticism, one can appreciate that an appropriate subtitle for a study of Nietzsche might be "Faith and Force: the Destroyers of the Modern World."<sup>42</sup>

Nor is this the only instance of context-dropping in Ridpath's study. It is the rule rather than the exception. He has a penchant for taking three or four word phrases from Nietzsche's works and stringing them together with his own words to make a paragraph; such a practice, while not in itself context dropping, can easily lead to it. So as not to belabor the point, let us consider only one last example. n23, which is flanked by an "\*" tells us that "[t]he translation in the edition cited may differ slightly from that quoted herein." n23 reads "The general character (total nature) of the world is chaos to all eternity."<sup>43</sup> At this point, it will come as no surprise to the reader that this quotation is also a grammar switch. Again we must ask: What is Nietzsche's context? What is going on in the section from which this half sentence has been ripped? If Ridpath had merely continued the quotation he would have seen what was going on. "The total character of the world, however, is in all eternity chaos - in the sense not of a lack of necessity but of a lack of order, arrangement, form, beauty, wisdom, and whatever other names there are for our aesthetic anthropomorphisms." Nietzsche is warning us against crude-all-too-crude anthropomorphisms. The entire section (§189) is written as a series of warnings - a set of three "let us beware of"s. The first sentence of the first paragraph reads, "Let us beware of thinking that the world is a living being." The second paragraph, from which Ridpath "quotes," is, in the main, a warning against imposing aesthetic judgements on the universe. "None of our aesthetic and moral judgements apply to it." The third and last paragraph warns us against the belief that creation is going on in the world. "Let us beware of thinking that the world eternally creates new things." And then Nietzsche asks, "When will all these shadows of God cease to darken our minds? When will we complete our de-deification of nature?"

After quoting Nietzsche, Ridpath then asserts that "[f]or man, life in this sort of mind-numbing world has to be terrifying" (1,12). But given our restored context, we must ask if Ridpath would really prefer the deification of nature? Do aesthetic anthropomorphisms provide metaphysical comfort necessary for man to survive? It seems appropriate to quote from the aphorism immediately before the one we have been examining, in which Nietzsche says "[g]od is dead; but given the way of men, there may still be caves for thousands of years in which his shadow will be shown. - And we - we still have to vanquish his shadow, too."<sup>44</sup>

I would like to conclude this study with a few brief remarks concerning the value of Nietzsche for Objectivist philosophers. First, and here I am simply elaborating on Heidegger's point alluded to in n5, that in order to know and appreciate the philosophical relationship between Rand and Nietzsche (and here I am speaking ahistorically) one must have an intimate knowledge of their ideas. Second, there is a question of historical influence. How much did Rand read and understand of Nietzsche's corpus? Since this question has a large historiographic component, it would undoubtedly require the services of someone with an equal competence (and interest) in history, biography and philosophy. Third, although Ridpath explicitly downplays Nietzsche's style (and surely the plural "styles" is warranted here) he remains, with Plato and Rand, as one of the greatest writers in the history of philosophy. There are aspects of his writings that, on the sense of life level are, quite simply, Objectivist.<sup>45</sup>

I'll bring this short list to a close with a fourth reason for studying Nietzsche. Rand wanted to be known as "the greatest enemy of religion"<sup>46</sup> and this title she must surely wrest from the man who wrote *A: TOI*, (especially chapters five and seven); *TSZ*, when a religious type is used to speak religiously against all religion; "The Religious Life" section from *HAH*; the "What is Religious" section of *BGE*; almost all of *GM*; and finally, Book Two, section 1, "Critique of Religion" from *WTP*. I would lay these works on the bench before any honest judge and say, quoting Roark, "the defense rests."

## Endnotes

NB: All abbreviations are as in Ridpath's original article. All translations from the German are by Walter Kaufmann unless otherwise indicated.

1. Richard Taylor, *Metaphysics*, Englewood Cliffs, Prentice Hall, 1963, 1.
2. Ayn Rand, *An Introduction to Objectivist Epistemology*, New York, New American Library, 1979, 53. This monograph originally appeared in *The Objectivist* from July 1966-February 1967. The quoted material is from *Philosophy: Who Needs It*, New York, Bobbs-Merrill, 1982, 3.
3. Cf. Nietzsche's *Philosophy in the Tragic Age of the Greeks*, trans. M. Cowan, Chicago, Henry Regnery, 1962, 51. For additional reasons why Nietzsche eschewed a "systems" approach, see the chapter "Nietzsche's Method" in Walter Kaufmann's *Nietzsche: Philosopher, Psychologist, Antichrist*, New York, Meridian Books, 1956. Also cf. Danto's "When he uses the term 'metaphysics' he often has in mind only a philosophy that speaks of a reality which is higher and purer than the one we are seemingly acquainted with through the senses." (*Nietzsche as Philosopher*, 81)
4. This is a problem for those who see, say, Kant and Hegel as antipodes on crucial areas of metaphysics and epistemology. For example, if the existence of a noumenal world is distinctive of Kant, then Hegel was certainly seen by Ayn Rand as a member of the "major line of philosophers [who] rejected Kant's 'noumenal' world..." (*For the New Intellectual*, p.34). In this respect, if Nietzsche is a Kantian in his metaphysics, then he can't be an Hegelian. If the latter, then not the former. Ridpath can't have his Kant and eat his Hegel too. As for epistemology, see Kelley's pro-Hegelian n45 on p.39 of his *The Evidence of the Senses* where he refers to p.31 of the Baillie translation of Hegel's *Phenomenology of Mind* for the latter's criticism of Kant's view of mind as a distorting medium of knowledge which can nevertheless critique itself without distortion. Here Nietzsche is close to Hegel when he writes in §486 of WTP "...a critique of the faculty of knowledge is senseless; how should a tool be able to criticize itself when it can use only itself for the critique?" §473 is equally appropriate in its obvious anti-Kantian tone.
5. Kirk, G.S., and Raven, J.E., *The Pre-Socratic Philosophers*, Cambridge, Cambridge University Press, 1969, 187. Alexander Nehamas makes the same error on p.43 of his book on Nietzsche and cites BOT, 8 here Nietzsche pours his new wine into Schopenhauerian bottles. If BOT 7 represents a break with, at least, the language of Schopenhauer, BOT 8 marks a temporary return to the idioms of the great pessimist. Cf. Kaufmann's n2 to BOT 8. I obviously have weighted heavily Nietzsche's comments *against* Schopenhauer in both §6 of the "Attempt at a self-criticism" section of BOT and §§1,2 of the EH-BOT to which the reader is gently referred. In defence of Ridpath, most commentators on Nietzsche see little in the influence of Heraclitus except the "flux" doctrine. One may add the names of Kaufmann and Danto to Nehamas' - Jaspers is the exception among this quartet. Cf. pp.209 and 350 of the paperback edition of his *Nietzsche: An introduction to the Understanding of his Philosophical Activity*, Chicago, Regnery, 1969. Finally a word about Heidegger on Heraclitus. He hardly mentions the "flux" doctrine and calls

Nietzsche's use of it "pseudo-Heraclitean" on p.91 in vol. 2 of the four volume English translation of his two volume *Nietzsche*. In two essays on Heraclitus included in *Early Greek Thinking*, Heidegger does not mention the "flux" doctrine at all and prefers to concentrate on λόγος and ἀληθεσία as found in fragments B15 and B16 respectively. Needless to say they are both intimately connected with the "Being of beings." An *en passant* reference to Heraclitus may be found on p.109 of *What is Called Thinking*, but there Heidegger abuses those who think by making such a connection (a connection between Nietzsche and Heraclitus) they are saying anything of importance. The point being that, according to Heidegger, since we hardly know what either of these two thinkers thought, connecting them is more akin to concealing chatter (*Gerede*) than revealing speech.

6. For more on Nietzsche's doctrine that "A thing is the sum of its effects" (WP, 551) cf. Alexander Nehamas' chapter of the same name from his *Nietzsche: Life as Literature*. For the Goethe that follows in the text, debts to the first volume of Kaufmann's trilogy, *Discovering the Mind*. The quote from Goethe is on p.23 of Cf. Karl Löwith, *From Hegel to Nietzsche*, trans. D. Green, Garden City, Anchor, 1967, 177 who agrees with Kaufmann and even goes on to say that Goethe is for Nietzsche what Christ is for Christians. On Ridpath side, Löwith does see Nietzsche as a pessimist ala Schopenhauer. For an antipode of Nietzsche in Objectivist literature, the interested reader might compare James Taggart (*Atlas Shrugged*, 883/820) who wanted to be loved, not for anything he did or said or thought - not for his body or mind or words or works or actions but just for himself. Only, if Cheryl Taggart and Nietzsche are right, there is nothing left after all of the above have been subtracted.

7. For details on the rejection of the two element view of entities, see Leonard Peikoff's unpublished Ph.D. dissertation, *The Status of the Law of Contradiction in Classical Logical Ontologism*, 213ff. This does not mean, of course, that Objectivism embraces Nietzsche's view of entity.

8. Debts to W. Kaufmann's index for the count of the number of appearances that Heraclitus, Hegel and Schopenhauer make in BOT. It must be admitted of course, that the actual citing of any historical name proves little. Recall what Nietzsche says in EH- BOT 1 concerning the "hostile silence about Christianity throughout the book." That is, the book is profoundly anti-Christian without Christianity making an on-stage appearance. Cf. Toohey who also thought this a powerful technique when in reply to Dominique's accusation that he had done nothing against Roark, not even so much as to mention him in print said "That, my dear, is what I've done against Mr Roark." 299/281.

9. Also crucial for an understanding of Nietzsche's concept of metaphysics is the immediately preceding section, §6 of TOI, which tells us that any other kind of reality, besides this world, is "absolutely indemonstrable" and can only result in a "slander, detraction and suspicion against life" here on earth.

10. Walter Kaufmann, *Nietzsche*, Princeton University Press, 1950, 109.

11. A note of caution. "Dionysius" is used multivocally by Nietzsche. When used in contrast with Apollo, he stands for a particular ensemble of qualities that give rise to the

various Dionysian art forms, e.g. harmonic music, dithyrambic poetry and ecstatic dance. When used in contrast to Socrates, Nietzsche means that "equally Dionysian and Apollinian form of art - Attic tragedy." (BOT, 1) For more on this see Kaufmann's *Nietzsche*, 1st ed. p.109. Even more interesting albeit less convincing is Kaufmann's notion on p.108 that although Nietzsche does not extol either god, he favors Apollo if he favors any!

12. What has to be guarded against (and this is especially true in cases where one is taking three or four words out of context) is accusing a thinker of subjectivism where he is attacking the intrinsic; or accusing a thinker of intrinsicism where he is attacking the subjective. At this point in the evolution of Objectivist theory, subjectivism appears to be the more villainous of the pair since our age is one of rampant subjectivism. Cf. The *Ayn Rand Lexicon* where only three small anti-intrinsic excerpts are cited versus four+ pages against subjectivism.

13. For additional discussion of Nietzsche's perspectivism see Nehamas' "Untruth as a Condition of Life" chapter as well as Danto's "Perspectivism" chapter from his *Nietzsche as Philosopher*, especially pp.81-2. To quote just two sentences from each chapter to give the flavor of their commentaries, consider "What is seen is simply the world itself...from that perspective." (Nehamas, 50) "Depreciation of the body motivates depreciation of the senses, and the opposition between sense and reason has its origin in this distrust. Such theories of reason, not reason as such, are the target for Nietzsche's antirational attacks." (Danto, 81) These two quotations should not be taken to suggest overall agreement between these writers. In fact, one significant area of disagreement concerns the pragmatic theory of truth usually attributed to Nietzsche - Danto yes, Nehamas no. For more on Nietzsche defence of reason see the discussion of his ethics below.

14. I specify the 1936 edition because a careful reading of both editions suggests that the earlier is, in a sense approximating Ridpath's understanding as evinced in his article (and in that sense incorrect), more "Nietzschean" than the 1959 edition.

15. Cf. §40 of BGE, as well as Kaufmann's note 22 and the references contained therein to Jaspers on this very topic.

16. Walter Kaufmann, *The Portable Nietzsche*, New York, Viking, 1959, 102.

17. For an early work cf. D§6, for a middle work, TSZ, Second Part, "On Self-Overcoming," and for a late work, TOI, "On the 'Improvers' of Mankind" and from the notes see WTP, 382-388. All of these passages are commented on by Kaufmann in the chapter "Morality and Sublimation" from his *Nietzsche*, to which I am indebted and cannot improve.

18. Kaufmann, 199. Cf. TOI IX, 14. Ridpath's ignoring of the concept of self-overcoming probably goes a long way to explaining his misunderstanding of the overman. (He discusses the overman at 11, 6-9). For more on the relationship between self-overcoming and the overman, see Kaufmann's *Nietzsche*, ch. 11; Danto's *Nietzsche as Philosopher*, ch. 7 and Nehamas' *Nietzsche: Life as Literature*, pp.158-9, to name only three.

19. Cf. the following passages: HAH, 96; D, 9, 132; BGE, 32, 201, 221, 226, 228, 259, 260; TOI, Chapter 7, Chapter 9, §32; EH, IV 2-4, IV 6; WTP, 116, 132, 235, 304, 361, 457. Of these, EH, IV, 4 is the most straightforward in its explanation of the term "immoralist" where we read that the "term *immoralist* involves two negations. For one, I negate a type of man that has so far been considered supreme: the good, the benevolent, the beneficent. And then I negate a type of morality that has become prevalent and predominant as morality itself - the morality of decadence or, more concretely, *Christian* morality." For a different interpretation of this "immorality" issue, cf. Jaspers' *Nietzsche*, p.160ff.

20. Cf. §126 of BGE.

21. Ridpath attacks the "blood" idea before and after citing WTP p.495-6. Cf. Kaufmann's *Nietzsche* p.264-5 for a less crude reading.

22. NB. Despite appearances, the last clause does not commit a self-referential fallacy. A color example may help. One can eschew thinking in simple minded black and white terms without denying the existence of black and white. There is an upside and a downside to this approach. On the one hand, one can find good in the worst of men and bad in the best of men. That's the down side. The up side is, and I think this is the case with Nietzsche, a willingness to look beyond good and evil in the crudest sense to what may be overlooked by superficial and hasty evaluations. This approach was used by Nietzsche, especially in the essay on David Strauss, HAH, in TOI. It is, I would suggest, a much better interpretation of the phrase "How one philosophizes with a Hammer" since nuances are more effectively revealed with a tuning fork than with a sledge hammer. Nevertheless, I am not entirely convinced by Kaufmann's argument, and one of the reasons is the analysis Nietzsche gives of the phrase "beyond good and evil" when he writes it does not mean "beyond good and bad", i.e. the antithetic of the nobles. (GM, 1, 17).

23. Something Dominique found impossible to endure. Nietzsche's realization of this fact should not be construed as an endorsement.

24. Consider §9 of the *Dawn* where Nietzsche, after discussing and disparaging the moralities of those who simply follow custom and traditions, goes on to discuss "Those moralists, on the other hand, who follow in the footsteps of Socrates, offer the *individual* a morality of self-control and temperance as a means to his own *advantage*, as his personal key to happiness..."

25. See my "μεγαλοψυχία : A Suggestion" *The Personalist*, Winter, 1975.

26. See §2 of his introduction to EH.

27. Biographical information on Vaihinger is from the *Encyclopedia of Philosophy*, Vol. 8, 221f.

28. See nn.44 and 45.

29. WTP, p.97 n15.
30. Ibid. Especially notes 1063 and 1064.
31. See especially the punching episode in *The Early Ayn Rand*, p.376.
32. Ibid. The Ginsberg quotation is to be found on p.302 of the Solomon collection and the lines from Nietzsche are, of course, from §35 of the *Dawn*.
33. The research for this paper was done before I bought the Hollingdale translation. His translation and the original from Nietzsche is provided for comparison.

*Feelings and their origination in judgements.* - 'Trust your feeling!' - But feelings are nothing final or original; behind feelings there stand judgements and evaluations which we inherit in the form of feelings (inclinations, aversions). The inspiration born of a feeling is the grandchild of a judgement - and often a false judgement! - and in any event not a child of your own! To trust one's feelings - means to give more obedience to one's grandfather and grandmother and their grandparents than to the gods which are in *us*: our reason and our experience.

*Gefühle und deren Abkunft von Urteilen* - "Vertraue deinem Gefühle!" - Aber Gefühle sind nichts Letztes, Ursprüngliches, hinter den Gefühlen stehen Urteile und Wertschätzungen, welche in der Form von Gefühlen (Neigungen, Abneigungen) uns vererbt sind. Die Inspiration, die aus den Gefühle stammt, ist das Enkelkind eines Urteils - und oft eines falschen! - und jedenfalls nicht deines eigenen! Seinem Gefühle vertrauen - das heißt seinem Großvater und seiner Großmutter und deren Großeltern mehr gehorchen als den Göttern, die in *uns* sind: unserer Vernunft und unserer Erfahrung.

This is from *Werke in Drei Bänden*, edited by Karl Schlechta, vol. 1, 1037.

34. This essay was first published in *The Objectivist*, Vol. 9, #7, July 1970 and later reprinted in the collection *Philosophy: Who Needs It*.
35. The translation is by Hollingdale. The interested reader should also consult §10 for more on the antipodal relationship between custom and causality.
36. Debts to *The Ayn Rand Lexicon* of which see p.105 for complete quotations and additional references.
37. Ibid.
38. (II, 9) This quotation always reminds me of the discussion in which Keating tells Toohey that Roark is "a maniac on the subject of architecture. It seems to mean so damn much to him that he's lost all human perspective...He'd walk over corpses. Any and all of them. All of us. But he'd be an architect." p.254; pb.239.

39. Cf. esp. §§4 and 5 immediately preceding the section from which Ridpath's take his quotation. (A similar point is made by Roark in the first two paragraphs of his courtroom speech in *The Fountainhead*, pp.736/679).

48. Whether this is possible is, of course, another question. It may well be the case that critical analysis, like art, is a "selected recreation of reality" according to the critic's "metaphysical value judgements."

41. Walter Kaufmann, *Nietzsche: Philosopher, Psychologist, Antichrist*, New York, Meridian Books, 1956, p.135.

42. This is, of course, the title of a lecture by Rand originally given in 1960 at Yale University and reprinted by the Nathaniel Branden Institute (no copyright date) and most recently in *Philosophy: Who Needs It*, New York, Bobbs-Merrill, 1982, pp.70-92. (The contents page of the hardcover edition has the article beginning on p.71, a typo no doubt).

43. The reference is to p.168 of the Kaufmann translation of 1974 published by Vintage. Don't be fooled by Ridpath's capitalization and punctuation - this is another grammar switch. But for Ridpath that is almost a *sine qua non* of his scholarship etiquette. Rule #1 (A paraphrase of Nietzsche strange to say) in Ridpath's scholar manual reads "One offends an author badly if one doesn't distort his grammar."

44. GS, §108.

45. Cf. Rand's comments on Nietzsche's analysis of the "noble soul" in her Introduction to the 25th anniversary edition of *The Fountainhead*. Of all the philosophers she could have chosen, she picked Nietzsche and that choice is significant. Why not some line from the great souled man section of Aristotle's ethics? Or consider her "Notes for 'The Fountainhead'" published in *The Objectivist Forum*, Vol. 5, #6 where on p.1 she uses the expression "herd-instinct" to describe the antipode of independence; and a quote from Nietzsche to describe the meaning of Howard Roark who lived a "whole life lived on a certain principle."

46. *The Objectivist Forum*, Vol. 4, #4, 3.

## Reply to Critics: *Ayn Rand: The Russian Radical* - A Work in Progress<sup>1</sup>

by Chris Matthew Sciabarra

Nothing quite compares to the exhilaration that an author feels when his work is being noticed. With over two dozen published and electronic reviews, and hundreds of Internet messages debating the value of my book, *Ayn Rand: The Russian Radical* (Penn State Press, 1995), I now face the challenge of replying to some of my critics more formally, here, in the pages of *Reason Papers*. I want to thank Tibor Machan for giving me this opportunity. For the purposes of this brief article, however, I will focus only on the broad issues sparked by this debate - on the nature of scholarship, historiography, and social science method.<sup>2</sup> Those who would like to read more pointed discussions of specific critiques of my work should acquaint themselves with my website: <http://pages.nyu.edu/~sciabrcc>.

My study of Ayn Rand remains a work-in-progress, both in content and in method. My conclusions have been based on an incomplete historical record. Indeed, my historical research continues, and I hope to publish, at a future date, the fascinating results of my ever-deepening investigations into Rand's Russian roots. The provisional nature of the early research, however, does not invalidate my thesis; it merely demonstrates a principle enunciated well by David Gordon (1993), that it is extremely difficult to establish lines of influence in intellectual history. In most cases, he tells us, one cannot provide any more than a suggestive hypothesis; on that basis, "no historical interpretation is apodictically true..." (6-7).

My book is also a work-in-progress in the literal sense. It is part of a trilogy that began with *Marx, Hayek, and Utopia* (SUNY Press, 1995) and that will culminate in my forthcoming volume, *Total Freedom*. The trilogy is my attempt to provide a foundation for dialectical approaches to neoliberal social theory. My next book will be far more explicit in its emphasis on the totality of systemic connections between social problems (hence, "total") that beckon toward fundamentally libertarian solutions (hence, "freedom"). *Marx, Hayek, and Utopia* and *Ayn Rand: The Russian Radical* are prolegomena to that foundation. In my view, both Hayek and Rand exhibit - in diverse ways - a dialectical sensibility, a concern for the organic unity of, and internal relations among, many disparate factors within a specified context. These thinkers inspire neoliberal scholars toward a research programme that does not abstract and reify the political as something separate from the social, cultural, historical, economic, ethical, epistemic, or psychological. My aim is not simply to recycle a tool from the abandoned ideological backyard of Hegelians and Marxists.<sup>3</sup> It is to reclaim dialectics as a methodological-research orientation (MRO), fundamentally Aristotelian in its origins, in the name of reality, reason, and radicalism.

My goals here are somewhat less ambitious. By examining criticisms of *Russian Radical* across historical and methodological dimensions, this paper is, ultimately, an invitation to further dialogue.

### The Problem of Scholarship

Ah, dialogue! In an on-line exchange, I was characterized by one commentator as among the apostles of "Intellectual Slumming and Licentious Dialoging," perhaps because of my penchant to speak to different audiences on both the left and the right.<sup>4</sup> But in engaging my most critical interlocutors, I have discovered two tendencies among those who dismiss my work: they do not take Ayn Rand seriously, or they do not take me seriously.

For example, Shelton (1997) rejects my demand that we treat Rand's philosophy "seriously and...with respect." He suggests that we might treat Rand as seriously as we would treat *The Elders of Zion*, *Mein Kampf*, or the Unabomber Manifesto, but certainly not with "respect."<sup>5</sup> He seems incapable of grasping the notion that it is possible to treat with respect even those with whom you disagree. My aim in *Russian Radical* was primarily interpretive; it was not to defend or attack Rand's philosophic system. To that extent, I ask the reader not to rudely disregard Rand's thought as "pop" philosophy, but to give it the scholarly attention that it deserves. In an age where academics are still "deconstructing" whatever hidden meaning there might be left in the songs of Madonna, I did not think it too controversial to suggest that Ayn Rand be examined respectfully.<sup>6</sup>

However, my own approach has been summarily dismissed by "orthodox" Objectivists like John Ridpath (1996), who views the book as a "truly grotesque" example of "current academic standards, methods, and language" (19). Characterizing me as a "neo-Hegelian," Ridpath views *Russian Radical* as "preposterous in its thesis, destructive in its purpose, and tortuously numbing in its content" (20). He believes that the book is an example of the "academic deconstruction of Ayn Rand" and, hence, "undeserving of serious attention" (21).

These types of criticisms seem to question the very intellectual dialogue that is necessary for Rand's ideas to sustain any academic interest or legitimacy. Shelton is disappointed that my book did not attempt to make Rand "more culturally relevant," only "more academically recondite" (1997, 226). And even some friendly critics lament the "strained" comparisons in my book, such as those between Ayn Rand and contemporary feminism (Svensson 1996).<sup>7</sup> Ronald Merrill (1995) crystallizes the central issue for scholarship. He asks:

Is membership in the scholarly clique really worthwhile? ... if Sciabarra's book achieves the breakthrough he seeks, Rand will finally be given space in the display case on equal terms with Derrida, Heidegger, and MacKinnon. My. What a privilege.

The issue, in my view, is not simply "membership in the scholarly clique"; it is to drag both academia and Objectivism, kicking and screaming if necessary, into dialogue with one another. By approaching contemporary academics in a language that they might understand, and by forcing Objectivists to confront their intellectual adversaries within the established categories of academia, I believe that each group benefits thereby. Following Rand, who prided herself on being an "outsider" - much like the nonacademic Russian literary artists and social critics who came before her - too many of her successors

have abstained from the give-and-take of scholarly discourse. But as Andrew Collier reminds us:

No philosophy exists in a vacuum; there are always particular opposing philosophies which coexist in any historical period, and every philosophy engages, implicitly or explicitly, in controversy with its opponents. Philosophy may seek truth, but it seeks it in an adversarial as well as in an investigative manner. (1994, 70)

Making Rand relevant to the categorical distinctions that exist, I have adapted her message to what Hayek has called "given climate[s] of opinion" (1960, 1). And through this critical hermeneutic, further implications in Objectivism are revealed in a manner that no one - not Rand, nor her followers, nor her critics, nor I - could have possibly foreseen. The discourse itself is productive of these unintended theoretical consequences.

Now, this does not mean that I am a "deconstructionist," with all the pejorative connotations of that word, for I believe that it is possible to judge the validity of a text by reference to reality or to its explanatory power. My book is *reconstructive*, not *deconstructive*. It aims to reconstruct the Randian project so as to optimize the dialogue. Some might argue, however, that something has been lost - or worse, distorted - in the translation. But in my view, something has been gained. For in using such an established category as "dialectics" to describe Rand's MRO, I am simultaneously undermining its connection to those on the left who have long claimed a monopoly on contextualized, systemic, radical theorizing.

### **The Problem of History**

The philosopher Barry Smith explains that, in our attempts to grasp lines of intellectual influence, historians must deal with

the problem of how much credence one ought to award to self-interpretations when seeking an assessment of the nature and significance of a given thinker's achievements. For self-interpretations are very often flawed because their authors naturally give prominence to the detailed *differences* between their own ideas and the ideas of those around them; they pay attention, in other words, to what is original, quirky, or odd. That which they take for granted, and which they have imbibed from their surrounding culture, is thereby no less naturally and inevitably ignored. (1990, 264)

I could not agree more strongly with Smith's assessment. If we were to pay attention to Rand's "self-interpretations," we would be left with a limited view of her influences. She asserts that Aristotle made the biggest impact on her philosophically. From a literary standpoint, Hugo is mentioned as a chief source of inspiration, though Dostoyevsky, with all his dialectical savvy, is occasionally cited as having affected her literary methods. As for Nietzsche, Rand admits only a youthful fascination with his work, a fancy which she claims to have fast outgrown.

In my own book, however, and in the work of others, Nietzsche's influence on Rand has been given much greater attention. With Merrill (1991) arguing that Rand underwent a bona fide "Nietzschean phase," and with my own study highlighting the impact of Nietzsche on Silver Age Russia, we are gaining a much enriched understanding of Rand's debt to this provocative German philosopher. Indeed, the role of Nietzsche in Rand's Russia is of prime historical importance; his influence on the Russian Symbolists in particular - including Aleksandr Blok, whom Rand characterized as one of her favorite poets - has been the subject of much recent scholarship. Now, along comes Leonard Peikoff, who finally acknowledges that Rand's early *Journals*

reveal an influence of Nietzsche, in the form of droplets of subjectivism, and of the idea that the heroes among men are innately great, as against the inherently corrupt masses, who deserve only bitterness and domination from their superiors. (Peikoff in Rand 1997, ix)

Some of my most vocal critics have applauded my work in this area, but that is only because, as James Lennox writes, "Rand herself reports youthful familiarity with Nietzsche's writing" (1996a, 64). Lennox is not so generous in his assessment of my thesis that Lossky - and a whole generation of Russian literary artists, historians, and social theorists - had a crucially important effect on Rand's intellectual evolution.

Lennox (1996a) maintains that in my exploration of the alleged relationship between Rand and the Russian philosopher, N.O. Lossky, I upgrade "possibilities into established facts" (63). And because I expend "the greatest energy" on the Rand-Lossky relationship, Lennox asserts further that "more hinges" on this connection than I am willing to admit (1995c, 13). McGath (1995) and Hudelson (1996) claim, additionally, that my argument suffers because I was unable to document that Rand ever registered for more than a single philosophy course.

That I *discovered* the evidence which might heighten the reader's skepticism regarding the Rand-Lossky connection, ironically, seems to have eluded the attention of some critics.<sup>8</sup> That I ultimately *accepted* the reality of Rand's recollections of Lossky was, as Bissell correctly recognizes, merely the best explanation available, given the evidence at my disposal (1996, 87).

But as Lester Hunt suggests, my historical thesis does not require *any* "assumed connection" to Lossky *at all*, since one could find within virtually every school of Russian thought, every textbook, every teacher in the history and philosophy departments of Leningrad University, the same dialectical approach that Lossky employed. Because *Rand* mentioned Lossky in her interviews with Barbara Branden, I focused on him as symbolic of the very dialectical orientation that was endemic to the entire Russian intellectual tradition.

Yet, in keeping with Gordon's caveat that the establishment of intellectual influences in history often leads us to suggestive hypotheses, I have always maintained that my investigation entailed a degree of historical speculation. Lennox (1996c) argues that this very claim is "by itself ... nothing but an admission of failure," and that "mere speculation"

as such, undermines my central thesis (13). Oyerly concurs; he states that "to describe a book as a historical speculation is a contradiction in terms" (1996b, 11). I submit, however, that if we were to accept this dismissal of such speculative hypotheses, we would be compelled to dismiss most studies in intellectual history. Considering that not much documentation of Rand's Russian years is extant, are we to simply close off all inquiry into this crucial period of her development?

What is bothersome to many critics is that my historical thesis - that Rand's thought is as much defined by what she accepted, as by what she rejected, from her Russian past - seems to suggest a kind of cultural determinism. I argue that, even as Rand self-consciously rejected Russian mysticism, collectivism, and statism, she appears to have tacitly absorbed the dialectical methods of her Russian forebears, modes of inquiry that stressed the analytical integrity of the whole. But in a letter to Stanley Greben (October 15, 1950), Rand maintains:

A man's ideas are the *cause* which determines every aspect of his life and character...I am not a product of my "environmental history"...the best advice I can give you is never to regard yourself as a product of your environment. (1995b, 482- 3)

Surely Rand is overstating her case here. One need not be a cultural determinist to admit - as Rand did - that her early work was designed to get Russia out of her system. With her *We the Living* and *Anthem*, for instance, Rand suggested that she "wasn't taking...revenge on [her] background." Still -

It was my intention to wipe out that kind of world totally; I mean I wouldn't want to include Russia or have anything to do with it. My feeling toward Russia at that time was simply an intensified feeling that I've had from childhood and from before the revolutions. I felt that this was so mystical, so depraved, rotten a country that I wasn't surprised that they got a Communist ideology - and I felt that one has to get out and find the civilized world. (1995a, viii-ix)

Rand's recognition of the power of that background, of its ability to shape and alter the destiny of individuals, is most apparent in her letter to Jean Wick (October 27, 1934). Rand explains that in her novel, *We the Living*, the background, the context, *is* the story. Without this background,

there *is no* story. It is the background that creates the characters and their tragedy. It is the background that makes them do the things they do. If one does not understand the background - one cannot understand them. (1995b, 17)

Granted, Rand is speaking here as the novelist - the god - the creator of characters who act in ways that she wills. But it is interesting to note that the "background" of this story is Russia; Rand was supremely aware of how the "airtight" environment of Soviet oppression had destroyed genuinely *human* existence. So much in Rand's corpus relates to these early experiences - her grasp of the organic link between mysticism and statism, her virulent anti-Communism, her distrust of the masses. And this should not be too surprising. Rand reminds us that consciousness is consciousness of *something*, and *that*

something, for the first 21 years of her life, was the reality of Russia, a perfect laboratory within which to draw grand inductive generalizations about relations of power and exploitation as manifested on differential levels of social discourse.

While most of the critics find this scenario plausible, they part company with me when I apply this very notion to those aspects of Rand's Russian past which I regard as *positive*, and which I believe she may have absorbed tacitly. Have I "exaggerate[d] the importance of Rand's Russian background" in this regard, as Svensson claims (1996, 42-3)? How powerful is a person's intellectual atmosphere in shaping her body of work? Does an assertion of the role of culture in shaping human thought deny free will? Does my book embody a "misguided historiography," as Lennox asserts (1996a, 65)?

I can only say that there is no formula that an historian can use in assessing the power of culture and its impact on any individual's life and work. It is a matter open to empirical investigation and judicious speculation. But such study must be founded on certain basic premises: that no person is born outside of a context and that, in each circumstance, we need to investigate the dominant ideas and institutions which partially constitute that context.

The mature Rand argued, I think effectively, that culture is a complex phenomenon that affects people on a mostly tacit level. It is represented in predominating attitudes, in a general emotional atmosphere that becomes the "leitmotif" of a given age and society. People in that society tend to develop, as Rand would say, "the essentials of the same subconscious philosophy" from the earliest impressions of their childhood (Rand 1982, 251). Nathaniel Branden has emphasized further that, even if one does not overtly identify many of these accepted cultural practices, it is virtually impossible for every individual to call these into question *in toto*, "precisely because they are absorbed by a process that largely by-passes the conscious mind" (Branden 1994, 288). This is what culture does - it transmits to individuals implicit beliefs about nature, reality, human beings, masculinity and femininity, good and evil, which reflect the context of a given historical time and place. Extending Rand's insights, Branden argues further "that at least some of these beliefs tend to reside in every psyche in a given society, and without ever being the subject of explicit awareness" (288-9). There is a strong resiliency and tenacity in one's early beliefs, sense of life, psycho-epistemology and other tacit dimensions of consciousness.

The absorption of dominant cultural trends by a society's individuals should not be viewed as deterministic, as an assault on the concept of free will. Rather, it is an argument for *contextualism*. Given Rand's historical and cultural specificity, I think she did a remarkable job of calling into question virtually the entire substance of the Russian "world-view." And my book pays tribute to her by documenting just how deeply she rejected the premises of Russian culture and politics.

But nobody can question *everything* in their own culture. We are always a part of the culture we critique. In her cultural theory, Rand applies this principle to everyone but herself. If we are to accept what Rand says about the influence of culture on human beings, why must we exempt her from that very formulation?

I have engaged in an empirical investigation with a dose of judicious speculation. I have made observations about Russian culture, Rand's early life, and her system of thought. As an historian, it was incumbent upon me to relate these factors and to present the best explanation I could on the nature of the relationships between them, given the evidence that I had at my disposal. If Rand had been born in sixteenth-century England, or nineteenth-century Germany, or twentieth-century Ethiopia, I would have been just as fascinated by English or German or Ethiopian culture and history in my attempt to grapple with her intellectual legacy. Not because I am a cultural determinist, but because I fundamentally accept Rand's observations about the role of culture in shaping human life - including the life of Ayn Rand.

Hegel once wrote that "No one...can escape the substance of his time any more than he can jump out of his skin" (1985, 112). Of course, Hegel was implying that every individual was but a determined expression of Spirit, a manifestation of a particular moment in the march of the Absolute.<sup>9</sup> Yet, if viewed less metaphysically, Hegel's dictum might give poetic form to a Randian insight on the tenacity of culture. Rand's radicalism extends to her demand that human beings work ceaselessly to shift what Polanyi has called the "tacit coefficients" of cultural meaning toward greater articulation and, hence, toward greater command over the products of human interaction. But we are not omniscient; we can never gain a synoptic vantage point on culture or history. We are as much the creatures of our context as we are its creators.

My view that Rand absorbed a dialectical sensibility from the "intellectual air" of her Russian youth is, then, entirely consistent with Rand's own cultural theory. The dialectical techniques to which Rand was exposed were employed regularly by Russian thinkers across all disciplines, in literature, social criticism, philosophy, and history. They were a *given*, constituting a dominant paradigm that intellectuals took for granted in all of their literary and theoretical studies. When I refer to "dialectics," in this context, I do *not* mean Soviet "dialectical" materialism, a formulaic historicism that was thoroughly imbued with Marxist ideology. Rand rightly rejected this irrationality. But this is *not* what I mean by "dialectics" - as will soon become apparent.

That my book focuses on the Russian milieu within which Rand matured does not, in any way, diminish the impact of other influences on her life. Some critics are correct to note that *Russian Radical* does not pay enough attention to Rand's debt to Hugo, as Oyerly (1996a) has argued, or even to Rand's Hollywood years, as Shelton (1997) has argued. Indeed, recent discoveries in St. Petersburg indicate that Rand wrote several manuscripts on the American film industry while she studied at the State Institute for Cinema Arts. Her work, *Hollywood: American Movie-City*, was published by the Soviets without her knowledge or permission. She, herself, published a monograph in Leningrad and Moscow on the silent film star *Pola Negri*. I welcome further research into these areas of study. I acknowledge in my book that my own approach is one-sided in its emphasis on Rand's Russian-dialectical roots. Mine is not the only legitimate perspective on Objectivism. There is a need to shift our vantage points on Rand's development, to bring into focus the many facets of her thought.

### The Problem of Method

In rejecting my historical thesis, some critics claim that my methodological thesis is undermined as well. But this is entirely incorrect; for even if we disregard my entire historical case, the question remains: Is Rand a dialectical thinker? In my view, the evidence overwhelmingly supports the dialectical interpretation.

The central problem here is a question of definition: What is meant by "dialectics"? Many critics are justifiably concerned about this concept, because it has had a murky history. My next book aims partially to clarify the evolution, meaning, and application of the concept, but it is not possible to address all of the issues within the current limited scope.

David Kelley has argued that my use of "the concept of 'dialectic' is far too imprecise" as a means of "describing the essential elements of Rand's system, or her essential similarities with and differences from other thinkers..." (1996, 11). Caplan (1996) stresses, too, that my use of the "dialectical" genus is incredibly broad, and that it would be hard to come up with any individuals "who are *not* dialectical." Merrill (1995) concurs, since my alleged grouping of Rand, Aristotle, Hegel, Marx, and Lenin under the same rubric "practically establishes a 'prima facie' case that the concept is unconstitutionally vague." Armour (1995) and Brown (1996, 188) also find the use of the concept here, problematic, while Ross (1996, 11) and Bissell (1996, 83) suggest that a more concise genus-differentia definition of dialectic is needed.

Some of the confusion can be traced to different working definitions of "dialectics." Merrill, for instance, equates dialectics with anti-dualism. Lennox goes one step further - he rejects any connection between dialectics and such concepts as "organic unity" and "internal relations" (1996c, 13). For Lennox, I have muddied the waters "with the radical chic of dialectics" (1995, 9), embracing an *au courant* historicist conception that is Hegelian in its origins (1996c).

Lennox seems entirely oblivious to my explicit rejection of historicism. Such historicism is precisely what is *undialectical* in both Hegel and Marx. The analogies that I draw in *Russian Radical*, between Hegel, Marx, and Rand are strictly formal. Any substantive similarities herein emerge from these thinkers' formal commitment to the tracing of relations within a contextually-defined whole.

In my view, both Merrill and Lennox are incorrect to see dialectics as *essentially* the transcendence of dualities and apparent oppositions.

*Dialectics is a methodological-research orientation (MRO) whose distinguishing characteristic is an emphasis on contextuality - as applied to the systemic and dynamic relations within a totality (i.e., an organic unity).*

What are methodological-research orientations (MROs)? MROs are a classification system that helps us to categorize thinkers according to the implicit or explicit assumptions which they display in their work. By articulating the nature of a dialectical MRO, we can

utilize it as a guide to research questions in the exploration of philosophic, theoretical, and social problems.

Only dialectics can transcend the *a priori* assumptions of such false MRO alternatives as strict atomism and strict organicity, dualism and reductionist monism. But as Aristotle suggests, dialectics is *not* demonstration. It does not assert facts and is not "testable." (It can be validated, but this goes beyond our current scope.) It provides direction to our inquiry and urges us not to treat any issues in isolation, but as part of a wider systemic and dynamic context.

Kelley has objected that my conception of dialectics "cover[s] so many forms of inference and analysis that it no longer denotes any specific school of thought" (1996, 11). But since MROs are broad, they will manifest themselves across disciplinary lines.

In my view, Rand is an exemplary dialectician. In her literary methods, she sees her own novels as "organic wholes" with characters and plot integrated to a central theme expressed in each of its units. For Rand, "A STORY IS AN END IN ITSELF...It is written as a man is born - an organic whole, dictated only by its own laws, and its own necessity - an end in itself, not a means to an end" (1995b, 157). Rand grasps the dialectical necessity to write in "'tiers' or layers of depth" (1995b, 7-8). She notes that in her novels, meaning is contextualized on four interrelated levels of generality - the literal, the connotative, the symbolic, and the emotional (Branden and Branden 1962, 136-40).

Philosophically, Rand refuses to disconnect any branch of philosophy from any other branch or from the totality that they jointly constitute. Each branch is a microcosm of - and a differential vantage point on - the whole. In rejecting every conceivable false alternative, Rand traces the mutual implications and reciprocal interconnections between metaphysics, epistemology, aesthetics, ethics, and politics.

In regard to social theory, Rand highlights the internal relationships between and among many disparate factors, from politics and pedagogy to sex, economics, and psychology. Ultimately, she views all social problems - and all social solutions - as preconditions and effects of one another. Her critique is fundamentally transformative; like Marx before her, Rand recognizes the inextricable connections between the personal and the political, the theoretical and the practical.

Noting the essential correctness of my interpretation, Bissell argues that my exposition tends to stress dialectics as a revolt against dualism, but that Objectivism is just as much a foil to monism (1996, 83). I agree. But there are two issues that need to be addressed here: First, Rand is almost always engaged in explicit dichotomy-busting, seeing her resolution as a rejection of false alternatives. My exposition echoes this bias. Second, it must be recognized that no thinker in intellectual history falls into one MRO category or another. Any thinker we analyze will exhibit a predominant MRO tendency, even though each may internalize tensions between different MROs. As I explain in such chapters as "Reason and Emotion" and "History and Resolution," Rand herself occasionally slips into a kind of monism. But many of her successors are working diligently to erase these monistic vestiges from Objectivism.

What makes Rand so revolutionary is that she is one of the few thinkers in the neoliberal tradition to integrate a predominantly dialectical sensibility with a defense of the free society. This is her fundamental contribution to twentieth-century radical social thought.

On the socialist left, Michael Principe disagrees. While Principe (1996) has no problems with my understanding of dialectics, he doubts Rand's dialectical savvy because she paints an oddly "ideological" portrait of the individual (59). But Rand's notions of human nature are no more "ideological" than Marx's notions of human "species-identity." Principe virtually ignores my tri-level model of Rand's social critique, and the enriched, non-atomistic conception of human nature that it implies.

On the libertarian right, Lester Hunt fully grasps my conception of dialectics, but wonders about "the problem with the totality." Hunt suggests, for example, that in viewing things through the lens of internal relations, we may reach unwarranted conclusions about others, based on our differences in, say, aesthetic tastes. For if a person's thinking is an "organic whole," then a single "error" exhibited by that person might lead us to suspect overall problems. Hunt warns us that, in such cases, those with whom we disagree will not be tolerated. For Hunt, this emphasis on "totality" may be anathema to liberty (1996, 55).

In a sense, Hunt echoes the concerns of Karl Popper, for whom there was an identity between methodological totality and political totalitarianism. However, if we engage in context-dropping, jumping to conclusions about individuals based on our cursory knowledge of their aesthetic tastes, then this is *not* illustrative of a dialectical sensibility. Contextuality is essential to dialectics; an understanding of totality must always be contextualized by abstraction and extension of units, level of generality, and vantage point.<sup>10</sup>

"The Problem with the Totality" emerges out of the search for a synoptic perspective; it is an expression of what I call "strict organicity." Often, criticisms of "dialectic" are actually critiques of strict organicity. In Plato, Hegel, and Marx, the intermingling of strict organicist and dialectical tendencies was fatal - both in theory and in practice.

With critic Michael Principe (1996, 61), I can humbly affirm that my work is, indeed, centered on the nature of political radicalism. I believe that neoliberals can move toward an appreciation of a radical "sociology" that is not socialist, a "totality" that is not totalitarian. In the process of completing my trilogy, I have learned much from the critics of its second leg - *Ayn Rand: The Russian Radical*. And to the extent that this book has contributed to an open dialogue on these crucial issues, it has succeeded beyond my wildest expectations.

**Endnotes**

1. My thanks to Roger Bissell, Murray Franck, Ellen Moore, and Barry Rosenthal for their comments and suggestions along the way. The usual caveats apply.
2. Focusing on the forest does not mean that I am oblivious to some problems in my book that are more on the level of the trees - or the leaves on the trees. Ross (1996) for example, points to some small imprecisions in my presentation of Rand's thoughts on perception and measurement omission. While I take full responsibility for any imprecisions in the exposition, I do not believe that these constitute "glaring errors" or any inability on my part to grasp "the essential characteristics of Rand's account of conceptual thought" (10). In most cases, when viewed against the wider context, the imprecisions disappear. But in other instances, the imprecisions that Ross points to, lie in the Objectivist literature itself. In my role as a journalist of sorts, I report what I find in Rand's writings and lectures - both published and unpublished - and in the writings and lectures of her associates. Some of this material contains conflicting formulations on such topics as the definitions of "concept" and "reason," and the applications of Rand's intrinsic-objective-subjective trichotomy. In any event, I will address my own ambiguous formulations in an appendix to the second edition of *Russian Radical*, when the time comes. It should be noted however, that Ross poses important questions with regard to the definition of "dialectic" - and I address this issue in the body of the current article.
3. I owe the metaphor to Finnish TV journalist, Anna Kaca.
4. Brad Aisa, "David Kelley: Lightning Rod for Rabble," alt.philosophy.objectivism (07 March 1996).
5. Interestingly, Shelton (1997, 227) also discusses the 50th anniversary edition of *Anthem*, "[e]dited by *another* inner-circle member and still-active disciple, Leonard Peikoff..." (emphasis added). This would suggest that Shelton sees me, too, as an "inner-circle...disciple" of Rand, which would be news to me, Peikoff, and Ridpath (whose critique I discuss herein).
6. And I mean no disrespect to Madonna - I enjoyed "Evita," and like dancing to her music.
7. In this regard, I am co-editor, with Mimi Reisel Gladstein, of a forthcoming anthology entitled *Feminist Interpretations of Ayn Rand* (Penn State Press) that focuses on the parallels and distinctions between Rand and feminism.
8. Hunt (1995) and Bradford (1996) are notable exceptions; both recognize that my detective work on the Rand-Lossky relationship has been significant, even though they disagree in their evaluations of my conclusion.
9. Interestingly, in his study of the history of philosophy, Hegel recognizes the need to examine the original authors directly. By contrast, in political history, "historians are the *fountainheads*, which again have as sources the deeds and sayings of individuals; and the historians who are not original have over and above performed their work at *secondhand*

[emphasis added] (Hegel 1995, 110). I have always found this "Randian" phraseology in Hegel - or is it "Hegelian" phraseology in Rand? - to be most amusing.

10. On these issues, see especially Ollman (1993). Ollman was my doctoral thesis advisor. I believe that neoliberals can profit from his work on method, abstracting it from its Marxist content.

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## Land and Human Endowments<sup>1</sup>

Damon J. Gross

Robert Nozick has been taken to task yet again for his entitlement theory of justice. Stated very roughly, Nozick's entitlement theory of justice is the following. Supposing that we have an adequate principle of justice in acquisition and an adequate principle of justice in transfer, any distribution of goods that actually results from any number of repeated iterations of just acquisitions and just transfers will itself be just. Any claims that the state may make for the sake of distributive justice on any of the goods we have so acquired are unjustifiable. We are entitled to our holdings absolutely.<sup>2</sup> Barbara Fried has crafted an ingenious argument against this theory by using the notion of "surplus value," which is "that portion of market price that reflects scarcity rents, whether accruing to land or other natural resources, financial capital, market opportunities, or natural talents."<sup>3</sup> She argues that Nozick's justice in transfer "smuggles the problem of surplus value out of the 'justice in acquisition' portion of his argument, where it rightly belongs, without ever resolving it."<sup>4</sup> Fried does not analyze "the problem of surplus value" directly, but by comparing two examples: the first, a famous one of Nozick's about Wilt Chamberlain; and the second, an example of Fried's pertaining to the appreciation of land. She claims to find these two examples to be exactly analogous.

In the process of Fried's (indirect) analysis of "surplus value," she raises doubts that are apparently quite general about "the justice of market-based distribution,"<sup>5</sup> the view that "people have a right to the exchange value of their labor or property,"<sup>6</sup> and the view that "we can derive a buyer's right to keep what she gets in a market exchange from the seller's right to give it to her."<sup>7</sup> Indeed, it would seem that the point of discussing "the problem of surplus value" in terms of the comparison Fried uses is just to generalize such doubts as far as possible. Moreover, Fried argues from within the framework of a "Lockean labor theory of ownership."<sup>8</sup> Fried's analysis is both surprising and important because, both the views that she challenges, and the Lockean framework within which she argues, are apparently held by Nozick and others, as she notes.<sup>9</sup>

Fried's analysis of the problem of surplus value is also important because her idea that there is such a problem, and that it is one problem and not several diverse problems, has gained a great deal of currency in the literature.<sup>10</sup> The terms "surplus value" and "scarcity rent" are to be found frequently and even the term "economic rent" has come to be used synonymously with "scarcity rent." If there is a general problem with surplus value, and if that problem undercuts one's right to the exchange value of one's labor and one's property, then surely Nozick's entitlement theory of justice is irremediably mistaken. However, if "the problem of surplus value" is not a problem or is more than one problem, then it might turn out that something like Nozick's entitlement theory of justice could be salvaged, even if, in its present form, it does not deal properly with surplus value. I will therefore leave Nozick aside, except for his Chamberlain example, and refer to him only briefly later in my paper. I will concentrate my attention not on Fried's charge that Nozick mishandles surplus value but on her analysis of surplus value by means of her comparison between the examples of Chamberlain and land appreciation. Thus I will

concentrate not on Fried's argument against Nozick, but on the argument within the argument, so to speak.

Nozick's example is well enough known by now that it may be paraphrased very briefly. One million people pay Chamberlain 25 cents apiece to see him play basketball. Each of these one million people earned her 25 cents fairly and none was coerced or defrauded into paying her money to Chamberlain to see him play. Therefore, on Nozick's view, Chamberlain is justly entitled to keep the quarter of a million dollars he has thus acquired, and no third party, i.e. the public, has any claim on any portion of this income for the sake of distributive justice.<sup>11</sup>

Fried's example is as follows:

Imagine that in the 1950s WC had bought a parcel of vacant land in a sparsely populated county adjacent to New York City for \$5,000 in cash, which cash he had saved from his earnings as a day laborer. Over the ensuing twenty years, economic, demographic, and other social changes spurred large numbers of people who worked in New York City to emigrate to the suburbs, driving real estate prices up 500-fold or more. By the early 1970s, WC's land is worth \$250,000. What are WC's Lockean rights to the market value of the land?<sup>12</sup>

In a footnote Fried explains the reference to Locke:

In the discussion that follows, for simplicity's sake I ignore Locke's additional proviso that "enough, and as good" be left for others, focusing solely on what a labor theory of ownership implies about surplus value. I assume a stylized argument between a hypothetical Right Locke and Left Locke, both of whom start from the premise that labor is the moral foundation of ownership, but reach different conclusions about the scope of rights implied. Left Locke thinks labor is significant because it establishes moral desert. Why Right Locke thinks it is significant (desert, autonomy/personality, or something else) is ambiguous, as it is for the real Locke.<sup>13</sup>

Although Fried is noncommittal with regard to whether she favors Right Locke, Left Locke, or some entirely different view, what is important for what I will have to say is that she does commit herself to the view that her example of the appreciation of land is analogous to the value of Chamberlain's natural talent. She says:

How does all of this apply to Nozick's example of the hypothetical exchange between Chamberlain and a representative fan X? It applies exactly, once one makes the necessary translations from financial capital (WC's land) to human capital (Chamberlain's basketball talent).<sup>14</sup>

And again:

...the core Lockean question is structurally identical: whether, by virtue of having been born with great talent to which he added his labor, Chamberlain

becomes entitled to whatever the market will pay him for exploiting that talent.<sup>15</sup>

And yet again:

But at least in theory, we could tax him [Chamberlain] on the value of that income-earning potential at the moment of birth, with appropriate adjustments each year to reflect changes in its value. Such a tax, which economists and tax theorists call an endowments tax, would be exactly analogous to a tax levied annually on appreciation in the value of WC's land.<sup>16</sup>

Fried hastens to add that "there are many reasons why no sane person would seriously suggest levying such an endowments tax on human capital... Perhaps the most serious [such reason] is the libertarian concern that when we tax people on the full market value of their assets if put to their highest market use, we indirectly pressure them to put those assets to such use."<sup>17</sup> Despite her disclaimer that it would be a bad idea to tax natural talents, Fried maintains that from the point of view of a labor theory of ownership the moral justification for such a tax would be exactly on a par with that for a tax on the appreciation of land. Surplus value is surplus value. Scarcity rent is scarcity rent. In this view Fried takes her cue from "the Fabian Socialists and British New Liberals [who] generalized the Ricardian attacks on land rents to all factors of production, to conclude that *any* factor that was in short supply - land, labor or capital - could command a scarcity rent, a moral captured in their 'law of three rents.'<sup>18</sup> While the Fabian Socialists were surely right in contending that any factor that is in short supply can command a scarcity rent, it does not follow from this alone that the public has exactly the same justification for a claim on all forms of scarcity rents. There may be other differences between and among land, labor, and capital besides scarcity that are relevant to the legitimacy of any claim on any one of them that the public may entertain. Those differences, if such there be, must, of course, be identified and their relevance argued for. I will identify and argue for just such a difference between land and natural talents. My only point here is that the mere identification of a certain portion of income as "scarcity rent" does not go very far in telling us what claim the public may justifiably place on it.

What, then, is Fried's argument that natural talents are analogous to the appreciation of land? Fried structures her argument as a disagreement between her Right Locke and her Left Locke, presumably to give a Lockean labor theory of ownership, *in some form or another*, a fair run for its money. I will follow her lead. In the case of WC's land, Fried's Right Locke "would say that because WC bought the house with the fruits of his labor (\$5,000 in earnings), he owns it absolutely, as against any claims by the state."<sup>19</sup> Notice the shift in the example. Less than a page earlier, when Fried introduced WC's purchase it was "vacant land." I take this to mean "bare" land, that is, no buildings or other improvements on it. Now it has a house on it. Of course the difference makes no difference for Fried because, for her, scarcity is scarcity. However, that is just what is in question. I will therefore hold Fried to her first statement of her example. Doing so does not prejudice the case against Fried except for one point, which I shall note, and it greatly simplifies the exposition. But Fried's Right Locke is not the one who deserves most attention at this

point, because he does not recognize any claim by the public to any portion of the value of his land. Let us turn, then, to her Left Locke.

Fried's Left Locke would argue that WC is entitled only to his "actual cost, or sacrifice, in acquiring it (\$5,000), plus perhaps a fair return on that cost."<sup>20</sup> The reason is that "any appreciation above that amount is purely fortuitous so far as WC is concerned."<sup>21</sup> It is as though the state were a "silent partner"<sup>22</sup> in WC's concerns and "could justly exercise its right as a silent partner under the Left Locke view by taxing WC on the increase in value as it occurs."<sup>23</sup> Thus Fried's Left Locke would argue that WC is due an amount in proportion to his exertion, \$5,000 plus a fair return, established by the moral desert of his labor. The public is due all value above this because all value over and above this results from "the intersection of a naturally constrained supply of land in commuting distance from New York City, and increasing societal demand for such land."<sup>24</sup> Thus WC is entitled to an amount of value proportionate to his labor and society is entitled to any additional value, termed surplus, presumably arising from scarcity and demand, and held by WC due to luck. It is worth noting at this point that Fried thinks that her Left Locke is the "the Locke of the Ricardian socialists, Henry George, early (unreconstructed) Spencer and others."<sup>25</sup>

Now to the comparison with natural talents. Fried's Right Locke would say that Chamberlain is entitled to the full market value of his basketball talent without the state having any claim on it.<sup>26</sup> We need not dwell on the details. On the other hand, Fried's "Left Locke ... would say that Chamberlain's natural talent is the result of pure luck, which creates no moral desert on his part."<sup>27</sup> Of course Chamberlain may have worked hard developing and exercising his talent, but no harder than "the typical day laborer who earns 1/100th"<sup>28</sup> as much, so Fried's Left Locke would hold that Chamberlain is entitled only to the amount that the typical day laborer earns with the same amount of labor.<sup>29</sup>

The idea that Chamberlain is not entitled to the income he receives over some baseline set by what a typical day laborer can earn with the same amount of labor will bear a moment's reflection. Does Chamberlain's choosing to play basketball rather than dig ditches entitle him to anything? Apparently not. Does the fact that the public wants Chamberlain to spend his labor playing basketball more than it wants him to spend it digging ditches do anything for Chamberlain when he accedes to the public's wishes and plays basketball? No. What about the occupations of "ordinary" folks. Are any of them entitled to a premium for choosing occupations in which, because of their natural talents, the market value of what they produce is higher than the market value of what the typical day laborer produces with the same amount of labor? I do not see how, on the Left Locke view. What if Chamberlain worked as hard as the typical day laborer, but spent his time digging a hole and filling in the same hole, digging it out, filling it in, etc., endlessly, accomplishing nothing of any market value? Would Left Locke credit him with a paycheck? He would have to on a view that the quantity of labor, as such, independently of market value or anything else, determines entitlement to earnings.<sup>30</sup>

At any rate, Fried's Left Locke estimates the baseline to which Chamberlain is entitled at \$1,000. The remainder, \$249,000 out of the \$250,000 Chamberlain receives, Left Locke regards as "monopoly rents he can extract because of the combination of

peculiarly strong demand for spectacular basketball playing, and the natural scarcity of talent to supply it at this level.<sup>31</sup> This is taken to be exactly analogous to the value WC can receive for his land on account of the peculiarly strong demand for land within commuting distance from New York City and the natural scarcity of such land. Thus Fried has made her case, that, for Left Locke, Chamberlain is no more entitled to what the market will pay for his talent than WC is to what the market will pay for the land he holds.<sup>32</sup>

On Fried's analysis, whether one takes the Right Locke view or the Left Locke view, the appreciation of land and Wilt's remarkable earning power belong in the same category. Either society has a legitimate claim on neither or on both. It must be kept in mind that Fried is not defending either Right Locke or Left Locke<sup>33</sup>, but she is committed to the analogy between the appreciation of land and Chamberlain's earning potential, and that is exactly what I will investigate. I must first make three preliminary comments.

*Comment One.* Initially, from a perhaps superficial point of view, one wants to say that Wilt Chamberlain earns his \$250,000 by providing a service with his labor whereas WC does not so earn his \$250,000, even minus the \$5,000 he spent to buy the land (and a fair return on the \$5,000), by providing a service. For what service could WC possibly be providing merely by virtue of holding the land? The land was there eons before he came along and will still be there eons after he is gone. As to its appreciation, WC could have spent the twenty years he held the land lying in bed and the land would have appreciated just as much as it did. This is unlike the case of Chamberlain who at least must exercise his talent to get paid. To rest the case at this point, however, would not do, because it would be simply to ignore Fried, rather than to confront her argument.

*Comment Two.* Consider the appreciation of the land. Fried's Left Locke would say that the public has a legitimate claim on WC's \$250,000 minus the \$5,000 WC paid for it and a fair return on that \$5,000. Why not the entire \$250,000? The value of land is entirely appreciation. There is no cost of production whatsoever. Its entire value is "surplus value."<sup>34</sup> The only answer I can think of is that WC earned the \$5,000 he paid to the previous holder of the land. But if there is a reason to say that the public has a claim on the \$245,000 that the land has appreciated after WC bought it, then that reason would surely be as good a reason to say that the public has a claim on the \$5,000 that it appreciated before WC bought it, unless the mere transfer of the land somehow quits the claim that the public has on its appreciation. But to say that the transfer of land has this consequence would surely be to covertly vest in the principle of transfer a power that requires a principle of acquisition, the very thing Fried accuses Nozick of doing. If the public has a legitimate claim on the appreciation of land, then the public has that same claim on the entire value of land.

*Comment Three.* For any amount of "capital" I have, say \$1,000, there is a corresponding income stream that I can derive from it, say \$100 per year (assuming an interest rate of 10%). For any income stream that I have, say \$100 per year, there is a corresponding amount of "capital" that it is worth, \$1,000 in this case (again assuming an interest rate of 10%). \$1,000 is the "capitalization" of my income stream. The \$250,000 value of WC's land is a capitalization, but the \$250,000 that Chamberlain takes in is an income stream. To make a fair comparison, either one would have to compare the value of WC's land to

the capitalized value of Chamberlain's talent, presumably a much larger figure than his income in any one year, or one would have to compare Chamberlain's income with the income WC could receive from his land.

Fried could very well concede the points made in these last two comments and yet press her argument that the public has a claim on the surplus value of Chamberlain's talent that is exactly on a par with the public's claim to the (entire) value of land. What is key to her argument is that the returns on the appreciation of land and on the surplus value of Chamberlain's talent are both "scarcity rents." This may be true but there is a morally relevant difference between land and natural talents that goes considerably deeper than mere scarcity, even though the difference that I shall identify makes a difference only when land is to some degree scarce.

I will argue that as land becomes scarce, and therefore comes to have value, private property rights with respect to land come into conflict with what I shall call the principle of equal liberty.<sup>35</sup> I will then discuss the significance of this conflict. And I will finally argue that Chamberlain's talent does not conflict with the principle of equal liberty.

At the outset I hasten to acknowledge that there is a serious general problem with arguing about property rights from concerns about liberty. The problem is that any system of property rights (that I can think of) restricts someone's liberty in some way.<sup>36</sup> For example, private property rights in an object restrict the liberty of all but the owner to use the object without the owner's permission. On the other hand, common property rights with respect to an object restrict the liberty of any one of the common holders to prevent any of the others from using the object. Still further, joint property rights with respect to an object restrict the liberty of any of the joint holders from disposing of the object without the permission of all of the others. It might seem therefore that the choice among property systems is dependent on a prior choice among which particular liberties are to be preserved and which are to be restricted in any particular case. And indeed in many cases this may be true, as the swimming pool in my neighborhood is common property but the checking account held by a husband and wife may be joint property.

I too shall emphasize certain rights and not others. However, I hope that by arguing solely from the concern for equal liberty I will avoid the problem of merely trading off one set of restrictions for another. The notion that we should all have the greatest possible liberty consistent with the equal liberty of all others has a long and distinguished pedigree in the Anglo-American tradition. I need only a somewhat weaker principle of liberty, that is, the principle that whatever liberty one person has, it is to be limited by the equal liberty of all others. I hereby avoid whatever counter-examples to the stronger principle, the principle of greatest equal liberty, that one might generate from so-called victimless crimes. I make no attempt to defend the principle of equal liberty. I regard it as a principle that anyone who has any concern whatsoever about liberty will immediately concede, and anyone who has no concern whatsoever about liberty is not likely to be impressed by Fried's concern with surplus value either.

We must first get clear about what equal liberty, in the relevant sense is, and what it is not. To do so, let us consider the following three scenarios.

*Scenario 1:* On a sunny Sunday afternoon a friend and I take a walk in Hartman Nature Preserve, a public wilderness area near my home. We come upon a stand of apple trees that are loaded with ripe apples. There are more apples within our easy reach than the two of us put together could eat in a month of Sundays. Since there is no prohibition against picking apples in Hartman, I pick one and eat it. By eating this apple I deprive my friend of the liberty of eating that identical apple. However, I do not deprive her of equal liberty, because there are plenty of apples left for her to pick, and she and I are indifferent with regard to any differences that may exist among the many apples within our reach. My picking and eating the apple does not deprive my friend of equal liberty.

*Scenario 2:* The same as Scenario 1, except that almost all of the apples are out of the reach of either of us. I spot one that is within the reach of both of us, pick it, and take a bite out of it. My friend quickly sees that there are no more apples at all within the reach of either of us and entreats me, "No fair! You got the last one! Let me have a bite!" Suppose that I do not heed the entreaty of my friend and consume the entire apple. My action has deprived my friend of equal liberty. She could have done what I in fact did, enjoy the apple, had I not done it. To be sure, there are still plenty of apples to be picked if my friend is willing to risk skinning her knees climbing a tree, or spend her time going to get a ladder, but this is not equivalent to the liberty I enjoy. Her right to equal liberty has been compromised. Bear well in mind that my friend's right to equal liberty has been compromised by my picking and eating the apple that I did, *even though* there is still a superabundance of apples for her to pick.

*Scenario 3:* My friend (if she still is my friend) and I go to the Nature Preserve as in the previous scenarios. However, in this scenario she is considerably shorter than I am, and there is an abundance of apples within my easy reach and none within hers. I pick one and eat it. By picking and eating this apple have I deprived my friend of equal liberty? No. I have not deprived her of doing anything that she could have done had I not been on the scene. Indeed, my friend may be glad I am there, because my presence on the scene actually increases the number of options my friend has. For now, in addition to the options of skinning her knees or fetching a ladder, she has the option of asking me if I would please pick her an apple, or even the option of offering me some sort of compensation in return for my picking her an apple.<sup>37</sup> To drive the point home let us turn the tables. Let us suppose that my friend can, and sometimes does, write beautiful poetry. I can, and sometimes do, write poetry, but not beautiful poetry. Neither her ability to write beautiful poetry, nor her actually writing it, deprives me of equal liberty or of anything else. This should make clear, I hope, what equal liberty is and what it is not.<sup>38</sup>

Now for a general point about property. In any system of property that I can think of, to say that A owns X is to say that there is a particular bundle of rights that A has with respect to X and in some cases correlative duties that all other persons have to A with respect to X. In the case of private property one of the rights in the bundle that A has if he owns X is the *exclusive* right to use X. Correlative with this exclusive right of A to use X is the duty of everyone else *not* to use X without, at the very least, the permission of A. I need not trot out the rest of the analysis of private property rights, as it is readily available in the literature<sup>39</sup> and exclusive use is the only right among those in the bundle that I will

make any direct appeal to. The pertinent question now becomes: does the exclusive right of one person to use a particular parcel of land deprive other persons of equal liberty?

It is perhaps obvious that in some extreme cases the exclusive right of one person to use land can deprive others of equal liberty. Becker, for example, cites a particularly striking passage from Henry George:<sup>40</sup>

Place one hundred men on an island from which there is no escape, and whether you make one of these men the absolute owner of the other ninety-nine, or the absolute owner of the soil of the island, will make no difference either to him or to them.<sup>41</sup>

Becker cites this passage in the course of showing that one particular form of the labor theory of ownership cannot justify private property in land. In the context of Becker's analysis of that theory of ownership Becker talks as though the failure to justify private property in land were a defect of that particular version of the labor theory of ownership. However, Becker cannot have viewed the matter so narrowly because in the final chapter of his book, in a section on "exhaustibility," he writes:

It is unlikely that any sort of property right could be justified whose implementation entails (or makes highly probable) the exhaustion of a significant resource by a subset of the total population. Such exhaustion would very likely constitute a loss to those left out, or be subject to prohibitive penalties for the losses caused, or amount to an interference with their liberty, or produce a net disutility, or perhaps all four...

Goods such as space (in land, sea, or air) and matter can be exhausted simply by appropriation - that is, given the requisite system of property rights, a subset of the population can come to own all that is available.<sup>42</sup>

Thus Becker recognizes that when there is imminent danger of the exhaustion of land, then private property in land conflicts with equal liberty. What I will show, however, is that the conflict between exclusive rights to land and equal liberty is much more general than Becker imagines.

To the extent that land has any value at all, its exclusive use by one person conflicts with the equal liberty of all others. This I must show. Let us compare land with the apples in Hartman Preserve. To be sure, land in most forms is continuous whereas apples, until made into sauce, are discrete. Also land is generally not consumed when used whereas apples usually are used by being consumed (but I could use an apple without consuming it, say as a paper weight). The comparison is close enough in other respects, however, for my purposes. Both land and the apples in Hartman Preserve are there to all of us for the using (prior to the imposition of some specific property system). Moreover, whatever value the apples I have eaten in my three scenarios have would seem to be gratuitous on my part in the same sense that the value of land is gratuitous on the part of its holder.

When land has no market value whatsoever it is like the apples in Scenario 1. My exclusive use of any parcel of land cannot come into conflict with the equal, but

non-identical, liberty of anyone else. However, when even the first parcel of land in the whole world that comes to have value, does in fact come to have value, we are immediately thrust into Scenario 2. A parcel of land simply cannot come to have market value unless its use offers some relative advantage, or perceived relative advantage, over land that can be had for free. Land comes to have value by coming to be the low hanging fruit, so to speak. But in Scenario 2 my use of the low hanging fruit to the exclusion of my friend deprives her of equal liberty. So it is with land. As soon as any land has any value its exclusive use by one person conflicts with the equal liberty of other persons.

Consider WC's land. Imagine the land that WC now holds sometime in the distant past before it had any market value. It could have had no market value only because it provided no advantage over land that could also have been had for free. Supposing that someone at that time held the land WC now holds, he could not have been depriving anyone else of equal liberty by excluding others from using the land he held because other equally advantageous land could at that time have been had for free. But suppose that some time later, demographic changes began to give even the slightest advantage to being in the location where WC's land is. Notice that this does not require anything like exhaustion of all land. It could just be that WC's land is within half an hour's commute to New York City and the best land still available for free is at least thirty-five minutes' drive from New York City. At this point, the holder of WC's land is, by his exclusive holding of it, depriving those who do not hold such land of the equal liberty that any one of them could have had if the holder had not held it. The equal liberty of which the non-holders are deprived is the liberty of getting to New York City five minutes more quickly. To the extent that WC's land has any value at all, its value is a result of someone's deprivation of liberty. There is no need for land to be exhausted or in imminent danger of being exhausted for the value of land to be representative of deprivation of equal liberty.

Of course there is a very long and indefinite list of factors that might give land value, from its actual tangible characteristics and spatial relations, to the suspicion that the mineral deposit that was discovered a mile away might be rather widespread or the mere rumor that a new high school will be built nearby. How do we estimate how much the non-holder of WC's land is being deprived of by the holder's exclusive holding of it? We philosophers do not estimate. We do not need to. The market does that job for us. Through the exchanges that actually occur, the market value of land is the estimate of the participants themselves of what it is worth not to be deprived.

Despite what has been said so far about land, there are very strong, perhaps compelling, reasons that people should be allowed exclusive use of parcels of land. For example, it is unlikely that holders of land will put their land to the best use if they do not have the assurance that they can exclude others from stepping in and taking over what they have put their work into. Or to be really primitive, as soon as I and my closest neighbor have accumulated enough material things that we cannot carry all of them with us on our persons we need places to put our possessions where they will not get mixed up. There are many other reasons. I will not rehearse the entire litany here. The real Locke, who repeats the slogan "God gave the earth to all mankind in common" like a mantra, seemed particularly vexed by the difficulty of preserving any semblance of a labor theory of ownership without allowing exclusive rights to the land that one's labor is "mixed with."<sup>43</sup> Locke was

apparently thinking of agriculture, but the building trades have the same difficulty. Let us call this problem Locke's Dilemma: it seems that either one must give up equal rights to land and thereby give up equal liberty; or one must give up the benefits of exclusive ownership of land, and particularly the benefit of the assurance of one's right to the exclusive use of the fruits of one's labor.

One need not throw up one's hands in despair in the face of this dilemma and arbitrarily pick one horn or the other.<sup>44</sup> There have been four attempts to solve Locke's Dilemma that are relevant for our purposes. The first, of course, is Locke's own attempt, his famous proviso that one "leave enough, and as good" land for others. In a footnote Fried quite correctly points out that Locke's proviso is futile:

We leave "enough, and as good" for others only when what we take is not scarce. But when it is not scarce, it has no value. So Locke's theory, with a strict proviso, amounts to saying that we can appropriate land for ourselves out of the commons only when it would be of no value to do so because there is land in superabundance whenever we want it. Locke believes he can avoid that paradox by supposing an England with scarce land (making appropriation valuable) and a fictive America with land in superabundance (leaving "enough, and as good" for all others deprived of the opportunity to appropriate land in England). But those two conditions (scarcity in England and abundance in America) can coexist only because, due to its locational disadvantages, land in America is not an economic substitute for land in England.<sup>45</sup>

The second attempt, not second historically of course, is by Nozick. He replaces Locke's proviso with a weaker one, that the appropriation of any unowned object not worsen the situation of others.<sup>46</sup> The question with Nozick's weakened Lockean proviso is, of course, "worsen the situation of others compared to what?", as Nozick acknowledges.<sup>47</sup> On Nozick's view "the baseline for comparison is so low as compared to the productiveness of a society with private appropriation that the question of the Lockean proviso being violated arises only in the case of catastrophe (or a desert-island situation)."<sup>48</sup> It has been argued convincingly that Nozick's proviso does not preserve equal liberty but merely substitutes his favorite system of property with its inherent restrictions on liberty for less favored (by him) systems of property with their inherent restrictions on liberty.<sup>49</sup> In any case it is hard to imagine how one can solve Locke's dilemma by replacing his already futile proviso with an even weaker one.<sup>50</sup>

The third attempt is by the early (unreconstructed) Herbert Spencer.<sup>51</sup> Spencer argues against private property in land on the basis of the equal liberties principle.<sup>52</sup> He proposes that ownership of land be assumed by the state, and that the present holders of land be compensated for the buildings and other improvements, such as fences and driveways, that they have attached to the land, but not for the value of the land itself.<sup>53</sup> The land would then be leased out to the highest bidders, parcel by parcel.<sup>54</sup> He summarizes his argument in the following way:

Briefly reviewing the argument, we see that the right of each man to the use of the earth, limited only by the like rights of his fellow-men, is immediately

deducible from the law of equal freedom. We see that the maintenance of this right necessarily forbids private property in land.

And we find lastly, that the theory of the co-heirship of all men to the soil, is consistent with the highest civilization; and that, however difficult it may be to embody that theory in fact, Equity sternly commands it to be done.<sup>55</sup>

Whatever one may think about the practicality of Spencer's proposal, it is clearly an attempt to solve Locke's Dilemma.

The fourth such attempt was by Henry George. His proposal comes down to much the same thing as Spencer's from the point of view of equity, but without the nightmare of the state taking over ownership of land and leasing it out. He proposed simply that the rent of land be collected by the state in taxation, without the state interfering with the present tenure of land.<sup>56</sup> The only place in all of his writings where Henry George explicitly mentions Locke is (coincidentally?) in Chapter IV of the book George wrote about Herbert Spencer.<sup>57</sup> That George's land tax proposal was an attempt to solve Locke's Dilemma is abundantly clear from a reading of the entirety of this chapter. I will quote just a portion.

As to land that has no value, or, to use the economic phrase, bears no rent, whoever may choose to use it has not only an equitable title to all that his labor may produce from it, but society cannot justly call on him for any payment for the use of it. As to land that has value, or, to use the economic phrase in the economic meaning, bears rent, the principle of equal freedom requires only that this value, or economic rent, be turned over to the community. Hence the formal appropriation and renting out of land by the community is not necessary: it is only necessary that the holder of valuable land should pay to the community an equivalent of the ground value, or economic rent; and this can be assured by the simple means of collecting an assessment in the form of a tax on the value of land, irrespective of improvements in or on it. In this way all members of the community are placed on equal terms with regard to natural opportunities that offer greater advantages than those any member of the community is free to use, and are consequently sought by more than one of those having equal rights to use the land.<sup>58</sup>

(It must be kept in mind that, since George did not generalize the Ricardian attack on rent to the other factors of production, when George uses the term "economic rent" he is referring only to land rent). It seems clear that the great proposer of the land tax, Henry George, is morally motivated by a concern for equal liberty.<sup>59</sup>

The point of all this is not to defend Henry George.<sup>60</sup> The point is to show that what is at stake, both structurally and historically, regarding a land value tax is equal liberty.<sup>61</sup> The point is that the "problem of surplus value," in the case of land, goes as deep as the problem of preserving equal liberty within a system of property rights. The land value tax was proposed to preserve equal liberty without giving up the advantages of holding land privately.

To summarize:

- (1) WC's parcel of land is something that is possible for anyone to hold.
- (2) WC's parcel of land has value only insofar as it has some advantage over the most advantageous land still available for free.
- (3) The exclusive holding of WC's land deprives those who do not hold it of the equal liberty of whatever advantage any one of them could have enjoyed had it not already been held exclusively.

I have shown, I hope, that there is a conflict between full private property rights to land and equal liberty. If I have stretched the notion of equal liberty too far for some readers, then substitute for it, "the equal right of all for the opportunity for self-preservation, for someplace to live, for some place to work, for someplace to play." To make the point with a familiar formula, WC's good fortune necessarily "comes at the expense of those less fortunate."

We turn finally to Chamberlain's talent. By now it is probably obvious that I want to say that Chamberlain's having his talent is like my being able to reach the apples in Scenario 3 or like my friend's being able to write beautiful poetry.<sup>62</sup> I want to say that his actually playing basketball (for a price that is mutually agreeable among him and his fans) is like my sharing my apple with my friend or picking an apple for her (for a price that is mutually agreeable to my friend and me). I want to say that neither his having the talent nor his exercising it deprives anyone else of equal liberty or of anything else, just as neither my having the ability to reach the apples in Scenario 3 nor my exercising that ability deprives my friend of equal liberty or of anything else. I want to say that Chamberlain's good fortune in being talented does not come "at the expense of those less fortunate;" that his talent is not something that anyone else could have had had Chamberlain not come to exist, and that we may well be glad for his presence on the scene, because it gives the rest of us options that we would not have had had there not been a Chamberlain. Are there any reasons why I should *not* say these things? I can think of four possible reasons, that is, four ways to construe the Chamberlain example in such a way that it might appear that someone is deprived of something.

The first such reason is that Chamberlain deprives his fans collectively of a quarter of a million dollars. This is a bad reason. First, all of the exchanges are voluntary. One is not deprived of what one gives up voluntarily. Second, this reason does not distinguish the Chamberlain example from my Scenario 3 except that more money is involved. Third, this reason implicitly depends on the assumption that, in an exchange of money for a good, particularly when the good is intangible, the person who gets the money wins and the person who gets the good loses. This assumption is simply groundless. The fans may have gotten more than their money's worth (in the sense that each of them may have been willing to pay fifty cents to see the awesome display of power and grace that they actually saw).<sup>63</sup>

The second reason to believe that Chamberlain, with his talent, may be depriving someone of something is this. If there had been no Chamberlain, then someone else, or perhaps several someones, would have won the Most Valuable Player Award in the years that Chamberlain won it. Someone else would have set the rebounding record or the scoring record, or whatever record you care to name that Chamberlain set. Without having had to play against Chamberlain someone else might have gone down in history as one of the greats. At the very least, Chamberlain's absence would have left a spot in the line-up of some team, so someone has been deprived by Chamberlain of getting to play in the NBA.

To counter this reason one must point out that basketball, including all its honors, records, hoopla, and even the process by which its players are selected, is a game. When one voluntarily chooses to participate in a game then one is thereby committed to its outcome, as long as no one has broken the rules of the game. If I choose to play a game of chess against Gary Kasparov, then I cannot complain that I have been deprived of equal liberty, or of anything else, when I lose.

The third line of reasoning goes like this. Quite aside from basketball, Chamberlain and the rest of us are involved in competitive situations. Chamberlain and I may want to buy the same Rolls Royce, or the same yacht. Because of Chamberlain's wealth he can simply outbid me. As Becker puts the point, "in a competitive situation the loss of competitive equality, or any deterioration of one's competitive position, *is* necessarily the loss of a good."<sup>64</sup> So it does seem to be possible for Chamberlain to deprive me of something: competitive equality.

Even if one takes this concern for competitive equality seriously it does nothing to help Fried's position. Outside of basketball Chamberlain has a competitive advantage only because he has actually accumulated a fortune and/or has a track record of high actual earnings. Even if Chamberlain borrows the money with which to outbid me, the lending institution from which he borrows it will require either collateral or a record of actual past earnings commensurate with the loan amount. Fried, however, compares Chamberlain's talent itself with appreciated land. She argues that an endowments tax, not a tax on actual income or accumulated wealth, is analogous to a tax on the appreciation of land. Latent basketball talent alone does not give one a competitive advantage off the basketball court.

The fourth reason that it may be felt that having Chamberlain around might deprive the rest of us of something is this. It has been argued that when the gap between the (few) wealthy people, like Chamberlain, and the (many) relatively less wealthy people becomes too great, then society tends to become unstable. More often than not, when a society becomes unstable it is taken over by a repressive regime. Therefore allowing the Chamberlains of the world to keep their huge incomes without a redistributive tax risks depriving all of us, including Chamberlain, of any number of our cherished liberties.<sup>65</sup>

To the contrary, this reason is rather implausible unless taken to an extreme, and we have seen that the case for a land value tax arises as soon as land has value at all. Second, and more important, this reason is vulnerable to the same objection that I have made to the third reason. Even if taken seriously the appropriate response to it would be a steeply

graduated income tax or a tax on accumulated wealth, not an endowments tax. Talent alone does not tend to destabilize society.

There may be legitimate problems with wide disparities in wealth and power, no matter how these disparities have come about. They have no special connection with surplus value. These concerns do not indicate that there is a problem with surplus value but, if anything, that there is a problem with disparities in wealth and power. I have not said that there is no reason for the public to lay claim to some portion of wealth in general, but only that there is a case for a very special claim on land rent that does not apply to Chamberlain's talent. This I think I have shown.

What relevance does all of this have to Nozick's entitlement theory of justice? If what I have argued is correct then *either* there is one class of holdings, to which land belongs, for which the holder's entitlement is nothing like as absolute as Nozick believes, *or* an adequate principle of justice in acquisition must prohibit the acquisition of land or at least must prohibit the acquisition of exclusive rights to land. On the other hand, for all that has been said in this paper, there may be another class of holdings, to which natural talents belong, for which the holder's entitlement is more nearly absolute. Of course there are many more kinds of things, besides land and natural talents, that are held. Whether any or all of these belong with land or with natural talents, or in some third or fourth, etc., class(es) with respect to entitlement is a matter for further research.

To conclude, the problems we have found in our investigation of surplus value<sup>66</sup> are these. First, there is a general problem with full private property rights to land that goes as deep as the principle of equal liberty. Second there may be general problems with extreme disparities of wealth and power, but these problems have no special connection with surplus value. But we have not found a general problem with market-based distribution. Moreover, because the right to the exclusive use of land conflicts with the principle of equal liberty when land comes to have value, it would seem that land value is an especially apt candidate for a redistributive tax for the sake of distributive justice. Since neither the possession nor the use of natural talent conflicts with the principle of equal liberty the same case cannot be made for an endowments tax. Wilt Chamberlain's talent is not like the appreciation of WC's land. An endowments tax is not analogous to government collection of land rent.

**Endnotes**

1. I thank Professor Emeritus Robert V. Andelson of Auburn University and Professor Ronald G. Alexander of Wartburg College, who read earlier drafts of this paper, for their comments and encouragement.
2. Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, Inc., Publishers, 1974): 150-182.
3. Barbara Fried, "Wilt Chamberlain Revisited: Nozick's 'Justice in Transfer' and the Problem of Market-Based Distribution," *Philosophy and Public Affairs* 24, No. 3 (Summer 1995): 230.
4. *Ibid.*, p.229.
5. *Ibid.*, p.227.
6. *Ibid.*, p.226.
7. *Ibid.*, p.227.
8. *Ibid.*, p.228.
9. Fried cites "the writings over the past twenty years of Richard Epstein, Ellen Frankel Paul, Eric Mack, Tibor Machan, and Jan Narveson, among others." *Ibid.*, p.226.
10. See, for example, David P. Gauthier, *Morals by Agreement* (Oxford: Clarendon Press, 1985): 96-99, 272-275. Although John Rawls says nothing about land in *A Theory of Justice* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1971), his view on natural talents, p.315 and pp.101-102, suggests that he might take the same view of surplus value as does Fried. Also see John Christman, "Distributive Justice and the Complex Structure of Ownership," *Philosophy and Public Affairs* 23, No. 3 (Summer, 1994): 233-249. See also Scott Gordon, *Welfare, Justice, and Freedom* (New York: Columbia University Press, 1980): 98-99.
11. Nozick, p.161.
12. Fried, pp.235-236.
13. *Ibid.*, p.236.
14. *Ibid.*, p.240.
15. *Ibid.*, p.241.
16. *Ibid.*, pp.242-243.

17. Ibid., p.243. Robert V. Andelson has suggested to me that such a tax might actually discourage highest use, presumably because people would try to hide their natural endowments in order to minimize their tax liabilities.

18. Ibid., p.231.

19. Ibid., p.236.

20. Ibid.

21. Ibid., pp.236-237.

22. Ibid., p.237.

23. Ibid.

24. Ibid.

25. Ibid., p.236.

26. Ibid., p.241.

27. Ibid.

28. Ibid., p.242.

29. Left Locke is not the (standard?) labor-desert theory of, for example, Lawrence Becker, *Property Rights*, (London: Routledge & Kegan Paul, 1977): 50-51. On Becker's labor-desert theory the market value of what one contributes by one's labor, not the quantity of one's exertion, is the measure of the value for which one deserves to be paid.

30. Eric Mack also compares Chamberlain's earnings with what he calls "Universal Labor" in an interesting discussion in "Gauthier on Rights and Economic Rent," in *Economic Rights*, ed. Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul (Cambridge: Cambridge University Press, 1992): 181.

31. Fried, p.242.

32. Since Henry George did *not* generalize his attacks on land rent to the other factors of production, and *did* derive one's right to the produce of one's labor from one's right to one's person, *Progress and Poverty* (1879; New York: Robert Schalkenbach Foundation, 1966): 334-336, I find it unaccountable why Fried would attribute her Left Locke view to George.

33. One might well wonder whether Fried is being entirely candid when she says "it is not my purpose to defend either of these views in preference to the other," (Fried, p.242) because only her Left Locke view, and not her Right Locke view, questions one's right to the market value of one's holdings.

34. If there was a house on WC's land when he bought it then this comment may not apply.
35. C.B. Macpherson has argued that private property rights in land conflict with "human rights," but on somewhat different grounds. See C.B. Macpherson, "Human Rights as Property Rights," reprinted in C.B. Macpherson, *The Rise and Fall of Economic Justice and Other Essays* (Oxford: Oxford University Press, 1985): 78-80.
36. Cheyney C. Ryan, "Property Rights and Individual Liberty," in *Reading Nozick*, ed. Jeffrey Paul (Totowa, New Jersey: Rowman & Allanheld, 1981): 340.
37. There is a temptation here to say that, by increasing the number of options my friend has, my presence in this scenario increases my friend's liberty, but to say this would, I think, be to invite confusion, for liberty in the sense of not being deprived of what one could otherwise do is not a matter of maximizing the number of options open to someone or even the total number of options open to all persons.
38. In all three scenarios I limit my universe of discourse to myself and my friend, ignoring what effects my action may have on the liberty of some hypothetical person who might come along later. This greatly simplifies the exposition and does not do any harm as long as it is kept in mind that I have so limited my universe of discourse.
39. See, for example, Becker, pp.18-22, or Christman, p.227.
40. Becker, p.34.
41. George, p.347.
42. Becker, p.109.
43. John Locke, *Second Treatise of Government*, Chapter V, "Of Property."
44. If one gives up and picks the first horn then I think one quite naturally arrives at Fried's Right Locke. Whether one arrives so naturally at Fried's Left Locke from the second horn of the dilemma I cannot say, but if one does, then what I have to say in the next few paragraphs about Spencer and George should be of interest.
45. Fried, p.230.
46. Nozick, p.175.
47. *Ibid.*, p.177.
48. *Ibid.*, p.181.
49. Ryan, pp.337-340.
50. I may be being charitable to Nozick in interpreting his proviso as an attempt to solve Locke's Dilemma. He may not have seen Locke's Dilemma or he may have seen it but

not have been properly impressed by it. If I am being charitable in interpreting Nozick as trying to address Locke's Dilemma when he had no such intention, then I am being very UNcharitable in criticizing him for failing to solve Locke's Dilemma, and I apologize.

51. Herbert Spencer, *Social Statics* (1850; New York: Robert Schalkenbach Foundation, 1995): 103-113.

52. *Ibid.*, pp.103-108.

53. *Ibid.*, p.112. On this point I interpret Spencer as George did in Henry George, *A Perplexed Philosopher* (1892; New York: Robert Schalkenbach Foundation, 1965): 13-16, and not as George did thirteen years earlier in *Progress and Poverty*, pp.359-360.

54. Spencer, p.111.

55. *Ibid.* p. 113.

56. To be perfectly accurate, Henry George advocated the collection of all land rent except for a very small percentage which would be left to the land holder as a sort of collection fee. George, *Progress and Poverty*, p.405.

57. *Ibid.* p.113.

58. *Ibid.*, p.32.

59. J.R. Kearl has an intriguing argument according to which "the maximum rightful claim [by the state] is the rent accruing to previously common property." I take it that previously common property would include land but not Chamberlain's talent. J.R. Kearl, "Do Entitlements Imply That Taxation is Theft," *Philosophy and Public Affairs* 7, No. 1 (Fall 1977): 80.

60. For a comprehensive defense and updating of George's views see the entirety of Robert V. Andelson, ed., *Critics of Henry George* (London: Associated University Presses, Inc., 1979). It is also worth noting in passing that Nozick does make one fleeting reference to Henry George. Nozick says that "no workable or coherent value-added property scheme has yet been devised, and any such scheme presumably would fall to objections (similar to those) that fell the theory of Henry George." (Nozick, p.175). However, Nozick does not favor us with so much as a clue as to what the objections are that he believes "fell the theory of Henry George."

61. Robert V. Andelson makes a similar point about the structural connection among the views of Locke, Nozick, and George in Robert V. Andelson, "Neo-Georgism," in *Critics*, pp.387-391. In fact, in a footnote Andelson goes so far as to conjecture that "increasing familiarity with George will in time move Nozick to acknowledge their affinity." *Ibid.*, p.391.

62. For other comments about human endowments along the same vein as mine see Robert V. Andelson, "Vive La Difference? Rawls' 'Difference Principle' and the Fatal Premise

upon which it Rests," *The Personalist*, Vol. 56, No. 2 (Spring 1975): 212, or Robert V. Andelson, "Seligman and His Critique from Social Utility," in *Critics of Henry George*, p.280.

63. What I believe to be essentially the same point is made in a very elaborate fashion by Mack, p.183.

64. Becker, p.43.

65. This point is made by so many people that it does not need specific attribution.

66. It is by now obvious, but I will say it anyway, that I believe that the notion of surplus value does more to befog morally relevant considerations than to elucidate them.

### Symposium:

## **The Foundations of Bioethics, Second Edition, by H. Tristram Engelhardt, Jr.**

### **Introduction**

This symposium is devoted to an important book in the field of bioethics, the second edition of H. Tristram Engelhardt Jr.'s *The Foundations of Bioethics*. The book is noteworthy for a number of reasons. It may be the only text in the field of bioethics that constructs from a single moral viewpoint an internally consistent system subsuming all of bioethics. In addition, *The Foundations*, when it was first published in 1986, established Engelhardt as a major libertarian voice in bioethics; that is, he holds that the principle of respect for autonomy, or, as he renames it in the second edition, the principle of permission, is the first among the many principles of bioethics, and that ethics itself is "the enterprise of resolving moral controversies without a fundamental recourse to force."

Engelhardt's work has been criticized from many directions. Ethical absolutists argue that he has conceded too much to ethical relativism. Many who agree with the basic propositions of his position nevertheless believe that many of his ethical conclusions are wrong. A third group of critics include those who claim that Engelhardt elevates moral diversity to such a commanding position that any form of secular bioethics is impossible (see Tom Beauchamp's critique in this collection). This last group might be described as the eating-his-cake-and-having-it-too school of criticism; that is, Engelhardt wants to do away with all moral foundations for ethics, they claim, and yet still keep bioethics (a foundationless bioethics, they sometimes add, that it takes him over 400 pages to describe). This cake-eating characteristic may spill over into his personal life as well. Some time ago, I heard a story, apocryphal, no doubt, that illustrates this interesting trait.

Tris was in the habit of stopping into a local bar after his daily philosophic meditations and ordering three pints of beer. He would then slowly sip the glasses until all three were empty. One day, the bartender asked him, "Why don't you order the beers one at a time? That way each would be fresh and you could enjoy each one more." Tris responded that this habit was the outcome of a pact that he and his two best friends reached when they moved to far-away places several years before. They had agreed that every afternoon after work, each of them would order three beers, one for each of them, in order to maintain their bonds to one another. The bartender was touched by this explanation.

The practice continued for some time after that, until one day, Tris arrived at the bar and ordered only two pints of beer. The bartender was immediately struck by this change, and sadly placed two beers instead of the usual three in front of him. After a while, the bartender went over to the philosopher, who appeared deep in thought, and said, "I just want to let you know how terribly sorry I am that you've had such a terrible recent loss." Tris was at first taken aback by his comment, then broke out into a broad smile, chuckled, and replied,

"Oh no, you don't understand. Both of my friends are alive and well. I asked for only two beers because *I* have given up drinking!"

Some might say that being on and off the wagon at the same time is true of the *Foundations* as well.

The first three papers in this symposium, those by Rosemarie Tong, James Lennox, and Tom Beauchamp, were presented and discussed, with a reply by Engelhardt in the form of a fourth paper, in a session of the American Association for the Philosophic Study of Society in Atlanta, Georgia, on December 28, 1996. The fifth manuscript, that of Robert Sade, was first presented and discussed at a symposium, Ethics, Medicine, and Health Care: An Appraisal of the Thought of H. Tristram Engelhardt, Jr., at Youngstown State University, September 29-30, 1995.

In her paper, Tong searches for evidence of moral friendship between feminists bioethics and Engelhardt's bioethics. Lennox looks at Engelhardt's underlying epistemology, and finds that his understanding of health and disease is overly relativistic and subjectively based, failing to rely enough on objective biologic fact as the standard by which to measure health and disease. Beauchamp argues that Engelhardt gives away so much of morality to individual preference and taste that there is left no foundation at all for bioethics. Sade finds flaws both in Engelhardt's philosophical case for the primacy of the principle of permission and in his understanding of property and ownership. In the concluding manuscript, Engelhardt attempts to show the manner in which each of his critics has failed to fully appreciate his position. The extent to which he succeeds in defending the edifice he has constructed so carefully is left to the reader to decide.

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## A Feminist Interpretation of Engelhardt's Bioethics: More a Moral Friend Than a Moral Stranger

Rosemarie Tong, Davidson College

Is the theory that grounds H. Tristram Engelhardt's *The Foundations of Bioethics* and the practices it suggests compatible with the theory and practices found in feminist approaches to bioethics? Is *The Foundations of Bioethics* a work that teaches "that the subordination of women is morally wrong and that the moral experience of women is as worthy of respect as that of men?"<sup>1</sup> Or is it instead a work that cannot or will not teach that gender inequity is wrong - that cannot or will not address women's interests in freedom and well-being as forcefully and passionately as it addresses men's? Are there within *The Foundations of Bioethics* the conceptual and methodological tools to do what Alison M. Jaggar says any feminist approach to bioethics must do; namely, seek "(1) to articulate moral critiques of actions and practices that perpetuate women's subordination; (2) to prescribe morally justifiable ways of resisting such actions and practices; and (3) to envision morally desirable alternatives that will promote women's emancipation...?"<sup>2</sup> Or is *The Foundations of Bioethics* an essentially nonfeminist treatise? By reading Engelhardt's bioethics through the conceptual lenses of some representative works in feminist bioethics, I hope to show that although feminists and Engelhardt are not what he terms "moral friends," they are far from being what he terms "moral strangers." Rather, feminists and Engelhardt are what I term "moral acquaintances" who might have more moral assumptions in common than Engelhardt suspects.

### I. Engelhardt's Bioethics: The Theory

According to Engelhardt, we postmoderns live in a world in which our differences are so great that most of us are moral strangers to one another; we have few moral friends. A moral friend is someone with whom we share enough of a content-full morality to resolve a moral controversy "by sound moral argument or by an appeal to a jointly recognized moral authority."<sup>3</sup> In contrast, a moral stranger is someone with whom we do not share the same moral intuitions, the same interpretation of particular cases, the same view of what counts as a good and harm, or the same rank ordering of such principles as autonomy, beneficence, malevolence, and justice.<sup>4</sup> As a result the only way we and moral strangers can resolve our moral disagreements is by an act of will - a consensual agreement. We come together and decide to do *x* not because we are convinced through reason or faith that doing *x* is *the* right or good thing to do, but because we are persuaded that doing *x* voluntarily is better than being forced to do *y* or *z*.

According to Engelhardt two principles enable a group of moral friends and strangers to make mutually livable policies, rules, and laws. They are the principle of permission and the principle of beneficence. Of these two principles, the former is more fundamental and stable than the other. It is also entirely procedural. It states that:

Authority for actions involving others in a secular pluralist society is derived from their permission. As a consequence,

- (i) Without such permission or consent there is no authority.
- (ii) Actions against such authority are blameworthy in the sense of placing a violator outside the moral community in general, and making licit (but not obligatory) retaliatory, defensive, or punitive force.<sup>5</sup>

In contrast, the principle of beneficence is somewhat, though certainly not fully substantial; at most, it is quasi- substantial. It states that:

The goal of moral action is the achievement of goods and the avoidance of harms. In a secular pluralist society, however, no particular account or ordering of goods and harms can be established as canonical. As a result, within the bounds of respecting autonomy, no particular content-full moral vision can be established over competing senses (at least within a peaceable secular pluralist society). Still, a commitment to beneficence characterizes, the undertaking of morality, because without a commitment to beneficence the moral life has no content. As a consequence,

- (i) On the one hand, there is no general content-full principle of beneficence to which one can appeal.
- (ii) On the other hand, actions without regard to concerns of beneficence are blameworthy in the sense of placing violators outside the context of any particular content-full moral community. Such actions place individuals beyond claims to beneficence. In particular, malevolence is a rejection of the bonds of beneficence. Insofar as one rejects only particular rules of beneficence, grounded in a particular view of the good life, one loses only one's own claims to beneficence within that particular moral community; in either case, petitions for mercy (charity) can still have standing. Actions against beneficence constitute moral impropriety. They are against the content proper to moral life.<sup>6</sup>

Armed with these two principles, moral strangers can construct what they view as mutually beneficial and binding rules, principles, systems, and structures. Provided that they do not act malevolently (malevolence being a state of affairs that Engelhardt regrettably refuses to specify), and provided that they act *voluntarily*, moral strangers are permitted to use or not use medicine in any way they choose. Indeed, Engelhardt is prepared for there to be as many "medicines" as there are groups of moral strangers and, for that matter, moral friends. It is just that the medicine of moral strangers will be a product of human will, whereas the medicine of moral friends will be a product of reason or faith, or some reality that transcends the limits of human subjectivity and raw self interest.

### **Feminist Approaches to Bioethics: The Theory**

Feminists developing approaches to bioethics agree with Engelhardt's description of the postmodern world: it is a world characterized by enormous diversity, including moral

diversity. Rather than lamenting the fact that there is no one single concept of the good to which everyone subscribes, however, feminist bioethicists tend to affirm difference. Difference is, of course, not only an exciting and exhilarating state of affairs. It is also a disconcerting and disconnecting state of affairs. Feminists, including feminist bioethicists know this first hand. Contrary to common misconceptions, the feminist community is not a monolithic whole but a cluster of diverse feminist communities held together by a relatively thin concept of goodness, according to which "badness" is anything that creates or maintains women's systematic subordination to men. Feminists realize that because subordination is an underspecified concept, it stands to reason that feminists should split on whether pornography, for example, contributes to women's subordination or to women's emancipation. Is it a *dangerous* way for men to put women down, to reduce them to mere bodies to be used for male sexual satisfaction - a visual preparation for acts of sexual harassment, rape, and women-battery? Or is pornography instead *pleasurable* means for women to explore their own sexuality, to discover what they do and do not like about heterosexuality, lesbianism, and autoeroticism, and to test whether sex is more or less satisfying without love?

But even though women's diversity no longer surprises feminists, it remains a matter of grave political concern for feminists. In order to formulate policies that foster all women's general interest in freedom and well-being without forcing any particular woman or any particular group of women to accept as dogma the "true" feminist conception of freedom and/or well-being, feminists (including feminist ethicists and bioethicists) have developed a methodology peculiar to them. Although feminists sometimes debate the specific elements of feminist methodology among themselves, they all agree that, in one way or another, its essential aim is to determine whether (or to what degree) a practice, structure, system, or institution either creates or maintains a women's systematic subordination to men. In her representative explanation of feminist methodology, bioethicist Susan Sherwin says that:

...In pursuing feminist ethics, we must continually raise the questions, what does it mean for women? When, for example, feminists consider medical research, confidentiality, or the new reproductive technologies, they need to ask not only most of the standard moral questions but also the general questions of how the issue under consideration relates to the oppression of women and what the implications of a proposed policy would be for the political status of women. Unless such questions are explicitly asked, the role of practices in the oppression of women (or others) is unlikely to be apparent, and offensive practices may well be morally defended. According to feminist ethics, other moral questions and judgements come into play only if we can assure ourselves that the act or practice in question is not itself one of a set of interlocking practices that maintains oppressive structures.<sup>7</sup>

To be sure, it is easier to ask than to answer the so-called woman question. In the past, some feminists, including some feminist bioethicists erred when they accepted as true only *certain* answers to the woman question. For example, Shulamith Firestone asserted that the truly liberated woman is she who realizes that pregnancy is a barbaric experience best forgone. Until the artificial placenta replaces the womb, women will

remain chained to their oppressive reproductive roles.<sup>8</sup> In contrast, Gena Corea observed that reproductive technology is simply the latest means designed to oppress women, and that the truly liberated woman is she who gives birth as naturally as possible. Far from liberating women, the artificial placenta will render women obsolete: good for nothing except for their egg which IVF practitioners will "snatch" away from them.<sup>9</sup> The trouble with Firestone's and Corea's respective viewpoints is that they both assume that there is *one, best* way for all women to experience pregnancy - as a curse or, alternatively, as a blessing. But, as any particular woman will tell you *her* pregnancy was an experience unique to *herself*. Depending on her race, class, sexual preference, age, marital status, health status, ethnicity, and so on, a woman may experience pregnancy as nine, agonizing or nine, wonderful months, the worst or the best experience she ever had. Thus, feminists, including feminist bioethicists are increasingly eager to identify means that will enable *each* woman to do what she regards as the most liberating and most beneficial for herself without, however, making it difficult or impossible for other women to do the same. In other words, feminists, including feminist bioethicists are increasingly eager to admit that what constitutes one woman's oppression may constitute another woman's liberation. What feminists, including bioethicists are not prepared to concede, however, are the two bottom-line convictions that ground all schools of feminist thought and which Laura Purdy has articulated as follows:

- 1 ... women are, as a group, worse off than men because their interests routinely fail to be given equal consideration.
- 2 ... that state of affairs is unjust and should be remedied.<sup>10</sup>

## II. Applying Engelhardt's and Feminists' Theory

One way to better understand a bioethical theory is to apply it to some passionately-debated bioethical issues. I have selected for analysis two practices: (1) euthanasia and physician-assisted suicide and (2) female circumcision/genital mutilation. Whereas Engelhardt's moral strangers will be inclined to accept both of these practices in one form or another, most feminists are presently opposed to both of these practices, especially the second one. Nevertheless, I believe that were a group of non-feminists to enter into respectful conversation with a group of feminists, both of these groups might at least modify if not entirely change their respective positions on euthanasia and physician-assisted suicide and female circumcision/genital mutilation. I hold out hope for this meeting of minds because I am convinced, contrary to Engelhardt, that at least some groups of non-feminists and at least some groups of feminists are not as morally alien to each other as Engelhardt fears they are.

### A. Engelhardt on Euthanasia and Physician-Assisted Suicide

Engelhardt invites readers to imagine what would happen if a group of people consisting of Dr Kevorkian, Dr Quill, the president of the Hemlock society, a conservative Roman Catholic bishop, the president of the American Medical Association, Baby K's mother, and Helga Wanglie's husband were asked to reach a consensus on the morality of euthanasia and physician-assisted suicide. As Engelhardt sees it, such a group of moral strangers is more likely to engage in a fist fight than to express a consensus on these

practices. Since they do not share a common understanding "as to what suffering should be borne, when death should be accepted, or when suicide should be undertaken,"<sup>11</sup> they cannot agree whether euthanasia and physician-assisted suicide are "objectively" right or wrong. All they can do is to express their own subjective convictions about the "rightness" or "wrongness" of these two practices. The deeply committed Christians in the group will reason through a perspective in which suffering is purposeful, pain is redemptive, and death is the beginning of eternal life. Thus, they will probably claim that it is wrong to directly intend the death of an innocent individual, including one's self. In contrast to these believers, the agnostics and atheists in the group will reason through a perspective in which suffering and pain are ultimately meaningless and death is the end of it all. Thus, they will probably insist that even if life is not a choice, death is; and that it is up to the individual to decide how much pain and suffering he or she is willing to tolerate in order to continue living. Although some patients might value their quantity of life so much that they are willing to endure tremendous pain and suffering in order to continue living, others might prefer to quit the race of life as soon as the going gets tough, viewing those who trudge on as fools or masochists who care naught about the quality of their lives.

Given the fact that there is no way to prove whether the world view of committed Christians or the worldview of staunch atheists is the "true" one. Engelhardt argues that the secular State cannot justify a ban on euthanasia and assisted suicide. He reasons that outside of a particular moral vision - for example, the Christian vision - "...all else being equal, it becomes impossible to make out what would be wrong in directly intending to kill one's self or to aid another in suicide in order to avoid intractable pain and suffering,"<sup>12</sup> and if suicide is not wrong in the atheist's mind, then the Christian has no right to prevent him or her from bidding life adieu. Moreover, as Engelhardt sees it, the state is not entitled to frustrate the atheist's wishes unless it can be shown that the atheist is incompetent or that permitting him or her to "exit" life is malevolent (a very hard case to make in the case of some forms of advanced cancer, e.g.). Otherwise the atheist has just as much a moral right to die as the Christian has a moral right to live. To be sure, concedes Engelhardt, not every competent person ready to be euthanized or assisted in suicide will be like the staunch atheist, who, it is implied, would probably choose to go on living were he or she not dying of a terminal, incurable, very painful disease. Some competent persons who request euthanasia or assisted suicide will do so "on ill considered grounds"<sup>13</sup> - for example, on the false belief that physicians will not be able to control their pain - or "because of circumstances that can be remedied through the kindness and compassion of others"<sup>14</sup> - for example, by relatives and friends reassuring them that they are not intolerable burdens. Such individuals, Engelhardt notes, "should be the subject of peaceable persuasion aimed at preventing suicide."<sup>15</sup> But, implies Engelhardt, if peaceable persuasion fails with such individuals, then, as in the case of the committed atheist, the State ought not lay its coercive hands on them.

An enormously consistent theoretician, Engelhardt stresses that although it is wrong for the State to prevent competent patients from seeking and securing euthanasia or suicide services, it is equally wrong for the secular state to force unwilling healthcare practitioners to euthanize patients or to assist their suicides. Unless a healthcare practitioner has consented - through a contract, for example - to help end a patient's life, or unless it can be established that failing to end or help end a competent patient's life when he/she *wants*

to end it is malevolent, then the State may not force an unwilling healthcare practitioner to euthanize or assist in suicide a patient, even if *no* other healthcare practitioner is willing to do so. But, speculates Engelhardt, in a pluralistic society there is very little chance that, absent State coercion, a competent patient who wishes to be euthanized or assisted in suicide will be unable to find a healthcare practitioner willing to help him/her. On the contrary, Engelhardt confidently predicts that:

If states and other groups refrain from using secularly unjustifiable coercive power, there will be opportunities of various associations to support diverse moral visions peaceably. Such associations could sustain various parallel health care systems built around particular content-full moral visions. Many would understand the moral evil involved in abortion and euthanasia. Others might provide special insurance discounts for those agreeing to prenatal diagnosis and abortion, as well as euthanasia under defined circumstances. Yet others may simply wish to contract for cheaper health care, although they recognize that this will expose them to some increased risk of suffering and death. To allow individuals to agree to morally diverse visions of health care will require taking moral diversity seriously, as well as the secular moral authority that individuals have to collaborate freely with consenting others.<sup>16</sup>

#### B. *Feminists on Euthanasia and Physician-Assisted Suicide*

Given that many women as well as men *wish* to be euthanized or assisted in suicide, and given that almost all of the healthcare practitioners prepared to honor their wishes are *benevolently* motivated, it would seem that feminist bioethicists should support permissive euthanasia and physician-assisted suicide policies. And indeed, in an ideal world, inhabited by abstract persons - that is, persons conceived apart from the contexts that specify them as Jane or Jim, for example - most, if not all feminist bioethicists would probably follow in the footsteps of Engelhardtian moral strangers. But in this context-heavy, real world, inhabited by all manner and fashion of James and Jims - many feminist bioethicists fear that permissive euthanasia and physician-assisted suicide policies might continue rather than end women's subordination to men. For example, Susan M. Wolf has argued that there is reason to doubt that the kind of permission US women typically give to euthanasia or physician-assisted suicide is as genuine (consensual) as the kind of permission US men typically give to these practices. She notes that in the US women (1) are at greater risk than men for inadequate pain relief and for depression; (2) get more, but generally worse treatment than men for their illnesses; (3) have less adequate health insurance than men; and (4) have poorer family support systems than men. Wolf concludes that on account of these and other related facts, US women are probably more likely than men to view euthanasia and/or physician-assisted suicide as their best or only option when they fall prey to a serious, painful illness.<sup>17</sup>

Although Wolf concedes that none of the facts listed above render a woman technically incompetent (that is, incapable of demanding as a matter of right that she be permitted to die), she nonetheless insists that, considered together, they constitute a good reason not to legalize euthanasia and assisted suicide in the United States at this time. She claims that in a country such as ours "in which many millions are denied the resources to cope

with serious illness, woefully mishandled, and in which we have a long way to go to make proclaimed rights to refuse life-sustaining treatment and to working realities in clinical settings,"<sup>18</sup> it is "premature" to legalize these practices. Moreover, in a country such as ours, which views women but not men as sacrificial by nature and which tends to take better care of infirm men than infirm women, these practices are not only "premature" but also very likely "dangerous" insofar as women are concerned.<sup>19</sup> Apparently, Wolf fears that as the United States becomes increasingly intent on reducing healthcare costs, it will be sorely tempted to use euthanasia and physician-assisted suicide as cost-saving measures. After all, the sooner a seriously ill person dies, the less he or she will burden society. Why spend extra time and money developing better treatments for depression and pain, and why provide people - particularly women - with better healthcare insurance and healthcare - when not only this *extra* time and money but also the time and money currently spent on the dying could instead be spent on the living? Why not instead persuade the dying to volunteer for a swift exit from this world, and why not begin the search for volunteers within the female population? After all, given women's traditional ethic of care for others, it simply makes sense for society to approach women to do their "duty" even before it approaches men whose traditional ethic of justice and rights might cause them to view dying as no more their duty than anyone else's.<sup>20</sup>

Interestingly, I think that Engelhardtian moral strangers might be willing to consider at least a *temporary* ban on euthanasia and physician-assisted suicide were Wolf able to convince them either that gender inequality is so great that women's capacity to consent to dying is severely compromised, or that society's desire to control healthcare costs is so great that it is prepared to act malevolently - to harm at least some of its citizens. But Wolf herself admits that, as of now, there is no *clear empirical evidence* for her deeply-held conviction that permissive euthanasia and physician-assisted suicide policies will tend to work against women's interests in ways that they will not work against men's interests. Thus, in the absence of *clear empirical evidence* for her gender-related concerns about permissive euthanasia and physician-assisted suicide policies, I predict that Engelhardtian moral strangers would seek to reassure Wolf that even if the State legalizes these practices, she will remain free to band together with like-minded bioethicists and healthcare practitioners to do everything in their power to remedy problematic cultural stereotypes about women, to provide all patients with adequate palliative treatment and treatment for depression, to enable families to be more supportive of and responsible for their infirm members, to find ways to control healthcare costs that do not discriminate against any single group of people, especially an extremely vulnerable population like the very sick and dying, and to encourage each other to think long and hard before they agree to euthanize or assist in suicide a patient simply because he or she *says* "I *wants* to die."<sup>21</sup> However, I also predict that Engelhardtian moral strangers would remind Wolf that should her coalition's mission of moral persuasion fail, they must not interfere with the euthanizing or assisting in suicide of competent patients. Why, they might challenge Wolf, should her coalition aim to prevent a patient like Dr Quill's Diane from requesting and then receiving physician-assisted suicide? After all, Diane was a relatively-privileged, highly-intelligent, and much-loved wife and mother who had been provided with expert therapeutic and palliative care. If the feminist answer to this question is that Diane is some sort of exception to the general rule of female oppression, and that although permitting euthanasia and physician-assisted suicide will probably not contribute to the subordination

of women like her, it probably will contribute to the subordination of women unlike her - a much larger group of women - then, Engelhardtian moral strangers might justifiably ask feminists whether it is fair to ask Diane and women like her to sacrifice themselves for women unlike themselves. Indeed, they might justifiably ask feminists why it is worse for a woman *to choose to die* because she does not want to burden her family than it is for a woman *to choose not to die* for fear of contributing not to her own but to *other* women's continuing subordination to men?

### C. Engelhardt on Female Circumcision/Genital Mutilation

Although Engelhardt addresses the topic of female circumcision/genital mutilation in a cursory manner - indeed, in a single footnote -,<sup>22</sup> it is not difficult to determine his view on this practice. Engelhardt alludes to the fact that like female circumcision, male circumcision is a form of genital mutilation usually performed on a minor child - indeed, an infant - without that child's stated consent. Why, then, do most US citizens, for example, not condemn male as well as female circumcision as a form of child abuse? Without discussing the similarities and differences between the male and female forms of "genital mutilation," Engelhardt suggests that because male circumcision appears to violate neither the principle of beneficence nor the principle of permission, most US citizens regard male circumcision as a morally justifiable practice. Parents who circumcise their infant sons do so for benevolent reasons - they want their infant sons to be accepted as full-fledged members in their religious tradition, or they want their infant sons to be protected from certain health risks to which uncircumcised men are *supposedly* vulnerable.<sup>23</sup> Moreover, circumcised men rarely rue the day they were circumcised, castigating their parents for "marking" them for life. Generalizing from this example and others like it, Engelhardt concludes that the State may not intervene on behalf of a minor child unless:

- (i) The child asks for rescue, is competent, and the guardians actions or omissions injure the body or mind of the ward to a degree significantly contrary to the best interests of the ward, as determined by the standard of the rescuer, and the rescuer pays any costs imposed on the guardian; or
- (ii) The ward's actions or omissions are malicious, that is, malevolent; or
- (iii) The actions or omissions are contrary to agreements made with the ward before the ward became incompetent; or
- (iv) The actions of the guardian are such so are very likely to be interpreted as direct injuries by the ward and the ward is competent.<sup>24</sup>

With respect to female circumcision/genital mutilation, then, the question for Engelhardt is whether this practice violates any of the above conditions (i)-(iv); and given, as I shall later argue, that at least the more invasive versions of this practice probably violate one or more of these conditions, Engelhardt might very well warrant some State intervention in this practice.

#### D. *Feminists on Female Circumcision/Genital Mutilation*

Although a variety of feminists, including feminist bioethicists have written on the topic of female circumcision/genital mutilation, Susan Sherwin's analysis of this practice is particularly instructive for our purposes.<sup>25</sup> She sets her analysis of female circumcision/genital mutilation within the framework of a broader analysis of relativism, a moral world view to which she thinks many feminists are inclined and rightly so. After all, to the degree that feminist epistemology rejects universal truth as a desirable goal for human knowledge, and that feminist ontology rejects the totally self-sufficient individual as a desirable model for human personhood, a feminist approach to ethics/bioethics rejects absolute goodness as a desirable goal for human action. Feminist approaches to ethics/bioethics do not seek to identify *the* rock-bottom foundation of morality for all human beings, be they female or male, the oppressed or the oppressors. On the contrary, feminist approaches to ethics/bioethics seek to provide oppressed women - and also other oppressed groups - with moral action guides and thumb rules suited to their particular historical situation. These flexible norms aim to help oppressed women liberate *themselves* from those who would dominate them, for unless a person is free, she cannot be moral. Because liberation is not an overnight process or a miracle that can be worked at will, most feminist approaches to ethics/bioethics tend to be incremental. To the degree that a woman, usually with the help of other women, frees herself from the constraints that limit her ability to do the most moral thing anyone can do - namely, to help structure a world in which relationships of domination and subordination do not exist - to that same degree, she becomes a moral agent. The principles and imperatives of a feminist approach to ethics/bioethics are as different as the women to whom they speak. Each woman is like Joan of Arc. She must decide whether her "voices" are leading her out of the captive land or further into it. As Sherwin sees it, however, it is not enough for a feminist approach to ethics/bioethics to encourage women to assess the moral validity of the different voices that are speaking to them. On the contrary, a feminist approach to ethics/bioethics must provide women with a rationale for determining whether a "voice" is singing gibberish or articulating a meaningful message. Even if feminists tend to reject what is ordinarily labeled "moral absolutism," they are not prepared to embrace the kind of "moral relativism" that permits anything and everything including the oppression of women or other oppressed groups. Only if feminists can confidently say, "oppression is always wrong," can feminists justifiably fight against oppression. Thus, as Sherwin sees it, feminists cannot afford to be relativists in the traditional sense. They must devise a form of relativism that respects most, though not all the differences that exist among the peoples of the world - that avoids the perils of moral imperialism without forsaking the authority to proclaim that irrespective of context/culture, some actions are so egregiously wrong - so destructive to what anyone in any context/culture means by "person" (or the conceptual equivalent thereof) - that they must be condemned and, if necessary, forbidden by the State.

In an attempt to elucidate just how difficult it is for feminists to steer a course between the Scylla of absolutism on the one hand and the Charybdis of relativism on the other, Sherwin focuses on the widespread practice of female circumcision/genital mutilation in many African and Middle Eastern societies. She notes that among the justifications for female circumcision/genital mutilation are "custom, religion, family honor, cleanliness,

aesthetics, initiation, assurance of virginity, promotion of social and political cohesion, enhancement of fertility, improvement of male sexual pleasure, and prevention of female promiscuity."<sup>26</sup> Sherwin also alludes to a fact that Loretta Kopelman, another feminist bioethicist, has willingly admitted; namely, that "most women in cultures practicing female circumcision/genital mutilation, when interviewed by investigators from their culture, state that they do not believe that such practices deprive them of anything important."<sup>27</sup> On the contrary, they maintain that these practices make them sexually desirable to men and worthy candidates for marriage. Any loving mother, therefore, would want her daughter to be circumcised; and any self-interested daughter would want to be circumcised.

In arguing against female circumcision/genital mutilation, especially in its more invasive forms,<sup>28</sup> feminists have stressed that many of the justifications given for performing this ritual surgery are based on false information. For example, the belief that the Muslim religion requires female circumcision/genital mutilation is countered by the fact that the Koran does not explicitly enjoin this practice.<sup>29</sup> Similarly, the belief that the practice advances health and hygiene is incompatible with empirical evidence which links female circumcision/genital mutilation to mortality or morbidities such as shock, infertility, infections, incontinence, maternal-fetal complications, and protracted labor.<sup>30</sup> Feminists have also emphasized that not all the people in the societies that practice female circumcision/genital mutilation agree with this practice. For example, over a decade ago, then Kenyan President Daniel Moi condemned female circumcision/genital mutilation. Like many other people in his government, he had become convinced that this kind of ritual surgery harms women and children physically and psychologically and that since no developing country can afford to harm its own human resources, it was in everyone's best interests to stop the custom.<sup>31</sup> More recently, and even more to the point, young girls have fled their homes rather than submit to circumcision/mutilation - a fact that would prompt Engelhardtian moral strangers to support at least some legal limitations on the practice.

Suspecting that an increasing number of people within the societies that have traditionally subscribed to female circumcision/genital mutilation are beginning to question the practice, Sherwin reasons that feminists and, I would add, Engelhardtian moral strangers are justified to condemn female circumcision/genital mutilation if there is reason to think that it is the result of "coercion, exploitation, ignorance, or even indifference."<sup>32</sup> She also leaves the door open - whether intentionally or unintentionally, I do not know - for permitting, for example, those forms of female circumcision that most closely resemble male circumcision, provided that female circumcision is not used to reinforce the notion that women are subordinate to men - that their sexuality exists for male sexual pleasure only and that men have a right to control women's sexuality not only for *male* sexual pleasure but also for *male* reproductive purposes. No doubt, Engelhardtian moral strangers might challenge Sherwin at this point, arguing that if everyone in society consents to a way of life in which men's interests trump women's interests, then so be it, provided that the intent behind this way of life is not motivated by a desire to harm women - i.e. to treat women "malevolently" (whatever it is that Engelhardt means by this term for, as feminists see, the oppression of women *is* a malevolent state of affairs).

## Conclusion

Reflecting back on all the points I have made, feminists' emphasis on the importance of context seems to be one of the points that most separates Engelhardt from feminist bioethicists. Unlike Engelhardt, feminist bioethicists *begin* not with the principle of permission but with the principle of beneficence - that is, with the "thin" view that the subordination of women is harmful (malevolent). They then appeal to the principle of permission to determine whether a particular practice, for example, is contributing or will contribute to women's oppression or to women's liberation. Interestingly, it is precisely at this stage of moral deliberation that feminist bioethicists are most likely to go wrong if they refuse to recognize as *genuine* a woman's consent to a practice that they have prematurely and without adequate empirical investigation labelled "oppressive." In contrast, Engelhardt is most likely to go wrong when he tries too hard to defend the principle of permission from infection by a content-laden as opposed to content-empty principle of beneficence. In fighting this particular battle, Engelhardt comes close to accepting *any* choice, simply because it is a choice, as morally determinative - as if freedom was the *only* important thing in the moral life and he was not serious about the principle of beneficence, after all.

There is another point that differentiates Engelhardt from feminists, however. He divides the world into moral friends and moral strangers. I think that, unlike Engelhardt, most feminists believe that even if all women, for example, are not moral friends, they are not necessarily moral strangers. On the contrary, they are moral acquaintances who might discover through mutually respectful conversation that they have more than their mere womanhood in common. Thus, there is in feminist bioethics an emphasis on the moral possibilities that discussion can generate. Manifesting a hopeful attitude about the possibility of *creating* feminist consensus, philosopher Alison Jaggar has developed a method of discussion she terms "feminist practical dialogue." Rather than shying away from conversations with moral acquaintances, Jaggar insists that if a woman truly wishes to broaden and deepen her own moral perspective, she must talk with women who have led lives very different from the one she has led. For this reason, she claims that because feminist practical dialogue aims to bring together a *diverse* group of women, it, more than most other modes of dialogue, is able to yield the empirical richness that makes it such a useful methodology in a postmodern world.<sup>33</sup>

Jaggar does not believe that feminist practical dialogue has anything in common with gossiping or "coffee-clubbing." On the contrary. She thinks it is hard work that takes effort, skill, and the practice of such virtues as responsibility, self-discipline, sensitivity, respect, trust, and, above all, "care for each other as specific individuals."<sup>34</sup> In this connection, Jaggar indicates that, despite their differences, if women want to work together to overcome gender inequity - to end women's subordination to men - they must try to move from the state of moral acquaintances to that of moral friends. Thus, Jaggar approvingly refers to a much cited article in which Maria Lugones and Elizabeth Spelman write that neither self-interest nor duty but friendship is the only appropriate motive for Anglo and Hispanic women to come together to iron out their differences. Lugones writes that "A non-imperialist feminism requires that ... you [Anglo feminists] follow us into our world out of friendship."<sup>35</sup> Once there, the task for Anglo and Hispanic women is to find ways

of interacting that are respectful of each other's cultural differences, and yet courageous enough to articulate their gender oppressive implications.

Jaggar cautions that like any theory in practical application, feminist practical dialogue has its limitations. It sometimes fails to bring about the consensus it so urgently seeks. The goal of consensus may also open the dialogue process to abuse by those who would "screen" participants for agreement on a particular moral issue so that consensus is likely from the start. Furthermore, like the principles of permission and beneficence, the *ideals* upon which feminist practical discourse are based (equal respect and consideration for persons) spring from a culture which is, of course, limited. Women from non-western cultures may find feminist practical discourse alien if it violates their conventions of discourse regarding, for instance, self-disclosure, eye contact, forms of address and direct disagreement. Other women may be unable to participate in feminist practical discourse because the very means of discourse are unavailable to them. Their inability to engage in dialogue may result from not speaking the language of the discourse group, physical challenges, mental illness, a history of abuse that renders them unable to trust and communicate with others, or simple shyness.<sup>36</sup> Nevertheless, provided that those who participate in feminist discourse continually remind each other of its limitations, this method of conversation at least holds out the hope of true consensus - a coming together of minds, made all the more precious if, for it began as a serial assertion of diverse points of views.

Clearly, Engelhardt's bioethics and feminist approaches to bioethics are not entirely compatible. I do think that feminists think that friendship can *develop* even among women who are very different. I also think that Engelhardt's thin principles suffer from anorexia. Even a content-empty morality is not context-free. It occurs in a real as opposed to an ideal world - a world full of concrete people. Although most feminists prefer thin to thick principles, underspecified to over specified rules, they need more moral food than Engelhardt offers to those whom he regards as moral strangers - *nice* moral strangers, but moral strangers nonetheless. Nevertheless, I do believe that, on balance, Engelhardt and most feminist bioethicists are capable of moral acquaintantship, if not moral friendship. Respect and consideration for people requires an attentiveness to their differences, a readiness and willingness to give them the kind of moral space an individual needs to develop as a unique person. Certainly, we must permit each other this opportunity; but we must, I believe do more than this. We must care about each other. Beneficence requires us to do more than to respect each others' voluntary decisions. It requires me, for example, to read *The Foundations of Bioethics* with friendly eyes, on the look out for the kind of common moral fragments that he and I can use to create a foundation for some small consensus between us; for unless we *try* to do this, we will pave the road to a world in which people have fewer and fewer moral friends - so few, in fact, that they will ultimately find themselves entirely isolated - permitting just about everything, and wondering, I suppose, about why no one bothers to talk to anyone anymore about anything that really matters.

**Endnotes**

1. Alison M. Jaggar, "Feminist Ethics," in Lawrence Becker with Charlotte Becker, eds. *Encyclopedia of Ethics* (New York: Garland, 1992), p.361.
2. Jaggar, "Feminist Ethics: Projects, Problems, Prospects," in Claudia Card, ed., *Feminist Ethics* (Lawrence: University of Kansas Press, 1971), p.366.
3. H. Tristram Engelhardt, Jr., *The Foundations of Bioethics*, 2nd ed. (New York: Oxford University Press, 1996), p.7.
4. *Ibid.*, p.42.
5. *Ibid.*, p.122.
6. *Ibid.*, p.123.
7. Susan Sherwin, *No Longer Patient: Feminist Ethics & Health Care* (Philadelphia: Temple University Press, 1992), p.55.
8. Shulamith Firestone, *The Dialectics of Sex* (New York: Bantam Books, 1970), pp.198-199.
9. Gena Corea, "Egg Snatchers," in Rita Arditti, Renata Duell: Klein, and Shelley Minden, eds., *Test-Tube Women: What Future for Motherhood?* (London: Pandora Press, 1984), p.45.
10. Laura Purdy, *Reproducing Persons: Issues in Feminist Bioethics* (New York: Cornell University Press, 1996), p.5.
11. Engelhardt, *The Foundations of Bioethics*, p.341.
12. *Ibid.*, p.343.
13. *Ibid.*, p.352.
14. *Ibid.*, p.353.
15. *Ibid.*
16. *Ibid.*, pp.357-358.
17. Susan M. Wolf, "Gender, Feminism and Death: Physician-Assisted Suicide and Euthanasia," in Susan M. Wolf, ed., *Feminism & Bioethics: Beyond Reproduction* (New York: Oxford University Press, 1996), pp.290-291.
18. *Ibid.*, p.306.

19. *Ibid.*

20. Nel Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (Berkeley, CA: University of California Press, 1984), p.3.

21. Wolf, "Gender, Feminism and Death: Physician-Assisted Suicide and Euthanasia, p.293.

22. Engelhardt, *The Foundations of Bioethics*, p.367, note 74.

23. *Ibid.*, p.329.

24. *Ibid.*, p.328.

25. Sherwin, *No Longer Patient*, pp.59-66.

26. *Ibid.*, pp.66-75.

27. Loretta M. Kopelman, "Female Circumcision/Genital Mutilation and Ethical Relativism," *Second Opinion* (October, 1994), p.56.

28. According to Kopelman, female circumcision/genital mutilation take three forms. They are as follows, according to Kopelman:

"Type 1 circumcision involves pricking or removing the clitoral hood, or prepuce. This is the least mutilating type and should not preclude sexual orgasms in later life, unlike other forms. When this surgery is performed on infants and small children, however, it may be difficult to avoid removal of additional tissue, because infants' genitalia are small, and the tools commonly used are pins, scissors, razors, and knives. In the southern Arabian countries of Southern Yemen and Musqat-Oman, Type 1 circumcision is commonly practiced. In African countries, however, Type 1 circumcision is often not regarded as a genuine circumcision (Koso-Thomas 1987; Abdalla 1982). Only about three percent of the women in one east African survey had this type of circumcision (El Dareer 1982), and none in another (Ntiri 1992) where all the women surveyed had been circumcised.

Type 2, or intermediary, circumcision involves removal of the clitoris and most of all the labia minora (the two extremes of Type 2 are shown in the figure on pp.58-59). In Type 3 circumcision, of infibulation, the clitoris, labia minora, and parts of the labia majora are removed (see figure). The gaping wound to the vulva is stitched tightly closed, leaving a tiny opening so that the woman can pass urine and menstrual flow. (Type 3 is also known as Pharaonic circumcision, suggesting that it has been done since the time of the pharaohs [Abdalla 1982]). In some African countries most young girls between infancy and 10 years of age have Type 3 circumcision (Abdalla 1982; Ntiri 1993; Calder et al. 1993). Traditional practitioners often use sharepened or hot stones, razors, or knives, frequently without anesthesia or antibiotics (Rushwan 1990; Abdalla 1982; El Dareer 1982). In many communities thorns are used to stitch the wound closed, and a twig is inserted to keep an opening. The girl's legs may be bound for a month or more while the scar heals (Abdalla

1982; El Dareer 1982). See Kopelman, "Female Circumcision/Genital Mutilation and Ethical Relativism," pp.57- 58.

29. Kopelman, "Female Circumcision/Genital Mutilation and Ethical Relativism," p.62.

30. *Ibid.*, p.63.

31. Leonard J. Kouba and Judith Muasher, "Female Circumcision in Africa: An Overview," *African Studies Review* 28, No. 1 (March 1985), pp.105-109.

32. Sherwin, *No Longer Patient*, p.69.

33. Alison Jaggar, "Toward A Feminist Conception of Moral Reasoning," in James Sterba, ed., *Moral and Social Justice* (Lanham, Md.: Rowman and Littlefield, 1995), pp.131-132.

34. *Ibid.*

35. Maria Lugones and Elizabeth Spelman, "Have We Got a Theory for Your Feminist Theory, Cultural Imperialism, and the Demand for 'The Woman's Voice,'" in Janet Kourany, James P. Sterba, Rosemarie Tong, eds., *Feminist Philosophies* (Englewood Cliffs, NJ: Prentice Hall, 1992), p.383.

36. Jaggar, "Toward a Feminist Conception of Moral Reasoning," p.133.

## Concepts of Health and Disease: Comments on Chapter 5 of Engelhardt's *The Foundations of Bioethics, 2nd Edition*

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Tris Engelhardt's *The Foundations of Bioethics* stands out in its field for the amount of sustained attention it pays to the *epistemological* foundations of ethics. Among those working in the field of bioethics, no one has devoted more attention to those foundations, and in particular to the matrix of concepts associated with medical classification, diagnosis, explanation and treatment. This is the principal focus of chapter five of *Foundations*, and will be the principal of focus of these comments.

### 1. Examples in Epistemology

As Professor Engelhardt tells us in the first endnote to his discussion of 'The Language of Medicalization', he is speaking Kantian, though with an Hegelian accent. He assures us that:

...Kant's arguments are essentially correct (at least when given an Hegelian accent): we know reality only through our concepts. We never know reality uninterpreted by our understandings.<sup>1</sup>

And thus, the first sentence of the chapter announces that "Medicine medicalizes reality" a remark followed by claims that it "creates a world" and "conditions reality for us."<sup>2</sup> Certain of his examples suggest a relatively innocuous gloss on these assertions - it is true that once a felt pain or discomfort become diagnostic of a disease such as hepatitis or diabetes, that discomfort acquires new significance, and becomes a signal to sufferers to change their behavior, and a signal to others to alter their expectations of sufferers. It may also incline us as patients to allow certain people - health care professionals - to do things to us that would otherwise be considered criminal.

But the examples that make up the bulk of the first few pages of the discussion, and which continue to be central throughout, carry a less innocuous message. The message is this: What medical practitioners have been, and are, willing to consider sickness or disease, is strongly influenced by historically and culturally relative values. And at the very least, studying medical texts and case descriptions from the past teaches us that the way in which diseases are diagnosed, classified, explained and treated continuously changes over time, and changes more in respect to changes in our values than to changes in our empirical understanding.

What lessons does Professor Engelhardt expect us to draw from these historical and cross-cultural considerations? Some lessons, clearly, are of a practical variety. "Medicine's theories lead to actual interventions" he reminds us: "How one fashions such [medical] classifications will have implications for morbidity, mortality, and financial

costs."<sup>3</sup> And given that that is the case, philosophical reflection on the nature of these practices is important. There is, then, great practical significance to the fact that health care professionals, no less than their patients, are capable of letting their "values and expectations" influence their theories and classifications. And there is no question that they are *capable* of doing so, so that this chapter serves as a valuable reminder of the nefarious ways in which the label of 'sick' and 'diseased' can be applied, sometimes with the official sanction of medical and/or political authority, both as a means of stigmatizing, ostracizing, or even coercing, individuals - or alternately, as a means of excusing individuals from personal responsibility for the consequences of their behavior.

Such examples *cannot*, however, carry the *epistemological* burden Engelhardt imposes on them when he uses them to support claims that "[w]e see the world through our social, scientific and value expectations" or "[a]ll knowledge is historically and culturally conditioned..."<sup>4</sup> Such claims, backed up with references to Thomas Kuhn and Ludwig Fleck, need the additional support of philosophical presuppositions about the nature of reality, of perception, and of the relationship between perception and concept formation. There are a variety of empiricist, realist, and naturalist epistemological positions staked out on these questions, and *The Foundations of Bioethics* provides the reader with little in the way of argument that its idealist and constructivist position is to be preferred.

Certainly, examples of historical figures "importing their values or theoretical expectations"<sup>5</sup> into their investigations are of no epistemological significance. In the first place, the examples will have no value unless we can know them as they are. But if we can know them as they are, why assume less about practitioners of biology and medicine? In the second place, such historical and cross-cultural examples at best support claims about how people sometimes actually behave; they do *not* support epistemological claims that such behavior is inevitable given the nature of cognition. And finally, such examples nearly always backfire on anyone trying to support 'constructivist' epistemological conclusions with them. As an example, consider Gregor Mendel's inquiries in plant hybridization. He clearly designed his experiments on pea plants with theoretical expectations (i.e. with a hypothesis!), and they obliged. Unfortunately, when he went on, with the same expectations (in fact probably held, on the basis of his earlier experiments, with *greater* conviction) to experiment with the genus *Hieracium*, reality refused to cooperate. In the words of Robert Olby:

Mendel failed to find any agreement with *Pisum* [the genus of his peas] although he hybridized them [*Hieracium*] for five years (1866-1871). Indeed, he experienced great difficulties in producing any hybrids at all, and the majority he raised bred true much to his surprise.<sup>6</sup>

His theoretical expectations simply could not create a world in which he could confirm his *Pisum* results in *Hieracium*.

Apart from these concerns, to adopt such an epistemological stance threatens the very value of being reminded of the dangers of mis-diagnosis and mis-classification: if medical practitioners are *incapable* of objectivity in their research, diagnostic, or explanatory

activities, and patients at any rate would not know it if they were, there is not much point in worrying about it.

The epistemological framework of Engelhardt's constructivist conclusions consists in a false contrast between a realism couched in Platonic terms and his preferred Kantianism, flavored with overtones of Fleck and Kuhn. The realist is characterized as one who assumes some sort of direct, god-like grasp of the essences of things-in-themselves, a grasp that somehow bypasses sense perception and concept formation. Given the implausibility of *that* epistemological stance, and given the alternatives we are offered, the reader will likely find Engelhardt's use of examples seductive.

But there are more reasonable realist alternatives to the idealism and constructivism that Engelhardt prefers. Human beings, like other chordates, acquire information about the physical world by means of perceptual systems evolved for just that purpose. At some point our central nervous system added to its information detection and processing abilities the ability to form concepts for objects sufficiently similar to each other and sufficiently different from others, and to link those concepts propositionally. This ability can be exercised well or badly.<sup>7</sup> Scientific inquiry, done well, is the result of many hundreds of years of learning how it can be done badly, and how to avoid doing so. It has been amazingly successful. The more that medical knowledge emulates and builds on that success, the less likely is it to tolerate inappropriate intrusions into the processes of disease classification, diagnosis, and treatment of which Engelhardt vividly reminds us.<sup>8</sup>

## 2. Health, Disease and Value

Nevertheless, I am sensitive to the examples, and to the fact that medicine raises especially thorny problems of this kind. For not only do many 'extra-scientific' values play a role in the practice of diagnostic inquiry, classification, and treatment - the very act of deciding that a physical condition *deserves* the label 'disease' is an act of evaluation. Add to that the ways in which concerns about health and disease arouse powerful feelings of hope, fear, loss of power, and anger, and you have a nexus of human interactions where objectivity can be the first casualty. This is a central theme of chapter five of *The Foundations of Bioethics*, and it is on this theme I will now focus. The focus will, in fact, be restricted to the concepts of 'health' and 'disease', while recognizing that these terms are, in their actual use, part of a web of overlapping notions like sickness, illness, syndrome, lesion, or trauma.

It will be useful to begin my analysis of Professor Engelhardt's account of these concepts by borrowing a distinction from the biological sciences - the distinction between *Taxonomic Categories* and *Taxa*. Roughly, *taxonomic categories* are concepts that have as their units the various *levels of classification* to which groups of organisms may belong; *taxa* are concepts that have as their units those groups of organisms themselves. Taxa may be organized into a *hierarchy of generality*, e.g. the types of Hepatitis can be grouped together into the taxon 'Hepatitis', which in turn can be grouped into the category of 'Liver Infections'. Categories are, however, on another *level of abstraction*. Philosophically, categorical problems center on the question 'What are the features in virtue of which we say that a group of organisms is a species (as opposed to a deme or a genus)?'. Taxonomic

problems center on such questions as, 'What are the features in virtue of which we say that an organism belongs to the species *Panthera leo*?'.

The 'disease concept' problem is a *categorical* problem: it centers on the question 'In virtue of what are various organic conditions<sup>9</sup> properly thought of as diseases?', rather than on questions such as whether the presence of a certain virus and/or associated pathology and symptoms is properly classified as a new form of Hepatitis, or a mere variant of a known form.

But it is a special sort of categorical problem, because there has been a persistent debate over whether these categories are 'descriptive' and 'empirical' in nature, or rather 'normative' and 'evaluative'.

Chapter five of *The Foundations of Bioethics* argues effectively against a variety of attempts to do away with the normative component of these concepts. A convincing case is made that identifying a biological condition as a *disease* carries with it a negative evaluation of that condition - by comparison to some standard condition identified as healthy. Convincing reasons are also given for rejecting three distinct approaches to understanding that normative component: [i] rooting standards of health in divine purpose<sup>10</sup> [ii] treating such standards as merely statistical, and [iii] taking Darwinian fitness, the disposition of certain members of a population to leave more offspring than others, as the measure of health.

But while arguing against this third position, Professor Engelhardt erroneously concludes that to adopt a neo-Darwinian perspective is simultaneously to reject the idea that the evaluative component in medical concepts such as health and disease can be grounded in the biological sciences. I will return to this issue momentarily. Here I simply want to point out that a quick peek at Daniel Dennett's *Darwin's Dangerous Idea*, or the Wainwright et al. gem, *Mechanical Design in Organisms*, or the last chapter of George C. Williams' *Adaptation and Natural Selection* suggests otherwise.<sup>11</sup> All discuss organic design and make judgments of advantageous and disadvantageous design. By 'well-designed' these thoroughly neo-Darwinian authors do not mean, at least not immediately and directly, reproductively successful - they mean *successful functioning relative to specific environments*. Reproductive success, *ceteris paribus*, is - at any rate, in animals that do not consciously control their reproductive behavior - a *predictable* result of proper functioning in a specified environment. But for a variety of reasons - among them disease - the prediction can fail. One can investigate, independently of reproductive success, the range of biological adaptedness found within a population.<sup>12</sup>

What of Engelhardt's own, positive account of the Disease Category, then? First, he wants to have his readers distinguish four different dimensions to the concept, corresponding to what he believes are four 'interests' at play in 'medical reality': the Evaluative, Descriptive, Explanatory, and Social Labeling dimensions. And, while he takes these dimensions up individually in his discussion, he consistently adheres to his initial claim that within medicine there is a "complex interplay"<sup>13</sup> among all these interests in medical practice. I will return to this point later.

As a sociological claim about medical practice, this multi-dimensional analysis is instructive. Exactly a year ago, I was two weeks post-diagnosis as a patient suffering from *Hepatitis A*. As a *classification*, this label summarizes a great deal of symptomatic, anatomical and pathophysiological information. In addition, it provides an understanding of how certain parts of that information package are *explanatory* of others. Furthermore, as a *diagnostic* category it sends the clear evaluative message that what is happening to me involves not *mere* change, such as the increase in my heart rate when my running pace accelerates, but *life-threatening* change, possibly entailing suffering, pain, disability, disfigurement, and compromise or loss of function. And finally, I can well attest to the changes in people's expectations of me following diagnosis, while more than once I learned painfully to change my own expectations of myself. I will focus principally on Engelhardt's account of the evaluative and explanatory dimensions of the Disease category.

I mentioned earlier that Professor Engelhardt appears to reject the idea that "there are value ingredients in natural processes that can be disclosed as guidelines for appreciating what should count as biological norms..."<sup>14</sup>. Yet, as I suggested above, his arguments are not powerful enough to reject that idea outright. It is true, as he claims, that judgments about individual well-adaptedness must be relativized to specific environments and goals<sup>15</sup>; but that is not sufficient to rule out biological guidelines for formulating such norms. Nor does it force us to the conclusion he reaches on the next page: that "one will not be able to turn to biological conditions or the outcomes of evolution in order to discover what ought or ought not to be seen as a medical problem."<sup>16</sup>

And when we finally reach his own *positive* account of the evaluative component in medical concept formation, something *very like* biological norms play a prominent role. Indeed, one of the attractive features of his account is the recognition that since 'disease' is a *negative* evaluative concept, the decision to consider a biological condition a 'disease' depends on there being some *standard* condition which the disease organism is failing to achieve - such judgments, that is, require a *standard of evaluation*. To quote *Foundations*, the application of such concepts "reflect ideals of freedom from pain, of human ability and of bodily form and movement" or "ideals of anatomical, physiological, and psychological achievement and realization."<sup>17</sup> Problems stand out as medical, we are told, because they are disvalued, seen as pathological. "Health care," we are assured, "is directed to the realization of a wide range of *nonmoral values* regarding bodily and mental function, form, and freedom from distress."<sup>18</sup>

This latter claim is, admittedly, ambiguous. It might mean that the norms in virtue of which a bodily condition is evaluated as healthy or diseased are not moral norms, but involve ideals grounded in anatomy, physiology, bodily and mental function. If so, they would seem to be *biological*.

On the other hand, the word 'ideal', as used here, may well be intended to suggest the *importation* of certain standards into medicine, historically and/or culturally relative standards of a quasi-aesthetic kind, as a number of Engelhardt's remarks suggest. After all, an anatomical ideal need not be one based on the science of anatomy.

But if we are attempting to account for the evaluative character of the concept of disease, biological standards for such judgments are surely available, and preferable. Clinical research, for example, has determined a standard of proper, life-supporting, liver function against which the Hepatitis sufferer's liver is measured, and found wanting. In such cases clinical research has developed a variety of ways of *measuring the range of function that is thus healthy*. Such norms are decidedly *not* statistical - in a culture populated by people who are more or less alcoholic, the *statistical* norm for liver function would be far from the parameters defining healthy liver function.<sup>19</sup> Nor, clearly, are these norms related to reproductive success. But nor are they merely aesthetic preferences. They appear to be biomedically grounded standards of proper liver function.<sup>20</sup>

I am not sure why Engelhardt does not take this tack, but I have my suspicions. In Engelhardt's view, these ideals cannot *rest on* a biological basis; they must rather be *imposed on*, or if you prefer, *structure* or *condition*, what the biomedical researcher, the clinician, and the rest of us, experience. As he puts it:

One draws a line between innocent physiological findings and pathological findings because of particular human values in a particular circumstance, not because of the discovery of an essential difference that exists outside of particular expectations.<sup>21</sup>

Well - if those 'particular human values' and 'particular expectations' include the value of life, I suppose I can agree! In fact, this quote embodies the false epistemological dichotomy I mentioned previously. One need not be a Platonic essentialist to argue that determinations of pathology can be objective. Put simply: Apart from one's values and expectations, it is a matter of fact that if one's liver, heart or pancreas fails to function, and nothing is done about it, one dies; while if they are functioning within a certain measurable range, one will *not*, at least not on account of *them*. Of course, along any continuum, the line between minimally satisfactory function and sufficient loss of function to become harmful will be difficult to establish - but not for the reasons the above quote suggests.

The last comment quoted from *Foundations* comes at the conclusion of an argument that medical conditions fall on a continuum between those which are "likely to be disvalued in whatever culture one lives, and in terms of whatever goals are possessed by individuals or societies" and others which may be seen as diseases only under very narrow and special circumstances, or in certain cultures.<sup>22</sup> When, however, one looks at the examples used to denote extremes of the continuum - myocardial infarction is at one end, the inability to roll one's tongue is at the other - another continuum, no less evaluative, is also clearly present. At one extreme there is a life-threatening organ failure, at the other a trivial, genetically based trait of no significance to health. Again, it is sociologically true, and important to stress, that things can be labeled diseases for reasons that having nothing to do with this latter continuum, and everything to do with cultural traditions. That is a good reason to seek a more objective ground for the label.

### 3. Disease as an Explanatory Concept

In the next section of his discussion, to which I am about to turn, Engelhardt emphatically insists that "[d]escribing reality is always infected with both evaluative and explanatory expectations."<sup>23</sup> I find the use of the metaphor of "infection" puzzling here - does it make sense to say an activity is *always* infected? Does that imply there is no such thing as an epistemic state of health? If so, how is it that "medicine provides excellent examples of *missteps* in the psychology of discovery?"<sup>24</sup> What should count as a misstep, if we can not determine where our steps should go?

Approximately one year ago, I attempted to impose the explanatory expectation that I was suffering from a bad flu on an evolving cluster of symptoms, symptoms I experienced both subjectively as the sufferer and objectively as an observer. And at first, like Mendel, I got away with it, for at first the symptoms were quite generic - nausea and intermittent periods of chills and fever. I noted, as a mere curiosity, the facts that my usual enjoyment of a glass of wine with dinner had turned to loathing at the mere thought, and that there was a common feature - fat - in the foods that made me nauseous. But as time went on, I found I simply could not fit into my theoretical expectations such things as the overnight conversion, despite drinking huge quantities of water, of my urine to a dark orange hue; nor the yellowing of my skin and its incessant itching; nor the absence of symptoms I usually experience with flu. Upon seeing me, it took my very sharp personal physician 30 seconds to determine I had Hepatitis. Given that, he and I (after he explained the differences to me!) wished for it to be Hepatitis A. Thankfully, my bloodwork strongly suggested it was - but my *wishing* for that result had little to do with *getting* it, and I dare say the lab techs doing the blood work-up could not have cared less.

Neither my theoretical expectations, nor my firmly established network of evaluative concepts, could make it the case that I had a flu - as much as I would have preferred it to the truth.

Now it is entirely *possible*, I would maintain, to describe my biological condition at that time in a value neutral way. I could, that is, describe the entire process, as far as it is now understood, without ever describing the situation in the language of viral *invasion* or *threat to my life*. But to categorize the process as a *disease* is precisely to stress and underline that the condition so described is not merely disvalued by me, though it certainly is, but is a threat to my life - whereby I do not necessarily mean that it is likely to kill me, but *do* mean that it threatens to compromise a number of my important biological functions, and thereby my actions. It is simply a category mistake to think that because such a judgment is an evaluation it is therefore non-objective.

In discussing the *explanatory* dimensions of medical language, Engelhardt highlights the historical changes that our clinical understanding of various diseases have gone through. We are reminded that the 17th and 18th century understanding of tuberculosis, typhus or syphilis was entirely different from ours. And, it is predicted, "we are likely to experience similar changes in classification when we develop *better* etiological accounts for that cluster of diseases called cancer."<sup>25</sup>

These two claims are interesting on two counts. First, the fact that the example must change shows an implicit recognition on Engelhardt's part that our current understanding of TB is not only *different* from that in the 18th century - it is *better*. And this is underscored by the reason we are given for the prediction that our current conceptualization of 'cancer' will change. The classificatory change will follow not merely *different* etiological accounts, we are told, but *better* ones. This is surely right; but is it consistent with the historical and cultural relativism that is a constant theme of this chapter?

A similar story is recounted about the move of Jaundice from the category of a disease into the category of a symptom of (among other things) Hepatitis. This, we are told, "required a major recasting of medical reality."<sup>26</sup> Again, there is an innocuous way to take this claim. The discovery of acute infectious Hepatitis *did* require recasting of the classification of a certain range of diseases - indeed, since such distinctions as that between Hepatitis B and C are recent, we can say the recasting is still taking place.<sup>27</sup> What had once been thought of as evidence of a disease characterized by an overabundance of yellow bile, and thus causing all those symptoms I found so unpleasant, is now understood as another symptom, one underlying cause of which is a viral infection of the liver. This reorganization of our prior explanatory and classificatory expectations is a consequence of deeper, and better, biomedical understanding.

This brings me to my last concern about the strongly 'constructivist' account of medical concept formation that permeates this chapter. Chapter 5 of *Foundations* concludes with a section entitled 'The democratization of medical reality'. Throughout this chapter there is an overriding concern with the ways in which the language of medicine can both be infused with values and attitudes from the wider culture in which it operates, and, can shape the attitudes of people by means of its decisions about what should be considered a 'disease'. These are legitimate concerns. And advocating a more active, skeptical, and inquiring attitude, on the part of both users and practitioners of health care, toward medical practices such as diagnosis and treatment triage strikes me as good advice. But, despite the assurance that "[t]his [call for democratization of medical reality] is not a plea that staging systems for cancer be decided by referendum," talk of a "democratization of medical reality"<sup>28</sup> strongly suggests that the clinical and biological basis of medicine, no less than decisions about which cancer treatment fits best with one's personal values, is a matter for social negotiation. Democracies can be as coercive as any social order there is, and thus I have trouble integrating this suggesting with the feature of *The Foundations of Bioethics* I most admire - its strong and principled insistence on medical decision-making by cooperation and agreement, rather than by coercion and force.

**Endnotes**

1. Tristram Engelhardt, Jr., *The Foundations of Bioethics*, 2nd edition (New York: Oxford University Press, 1996), pp.227-28. Cited here after as *Foundations*.
2. Engelhardt, *Foundations*, p.189.
3. Engelhardt, *Foundations*, pp.194-5.
4. Engelhardt, *Foundations*, p.190.
5. Engelhardt, *Foundations*, p.208.
6. Quoted from my colleague Robert Olby's *Origins of Mendelism* 2nd Edition, (Chicago: University of Chicago Press, 1985), p.103. For a thorough critique of Kuhn's use of examples for similar purposes, cf. Stephen Toulmin, *Human Understanding*, Princeton: Princeton University Press, 1972, pp.96-130; and Philip Kitcher, *The Advancement of Science: Science without Legend, Objectivity without Illusions*, Oxford: Oxford University Press, 1993, ch.5.
7. For a defense of a realism of this sort, see David Kelley, *The Evidence of the Senses: A Realist Theory of Perception* (Baton Rouge: Louisiana State University Press, 1985).
8. Let me make it very clear that precisely because people may be inclined to classify diseases according to criteria that have little or nothing to do with biology and pathology, it is especially important that the case be made that these are the sources of appropriate criteria. For example, issues of the cost of a diagnosis or a treatment should have nothing to do with selecting criteria for the proper classification or diagnosis of disease.
9. I'm using 'condition' not to achieve vagueness but because certain diseases are more naturally considered states, others processes; and because disease classification is sometimes based more on probabilistic associations among symptoms, at other times more on an underlying causal basis, depending on the state of our knowledge. An organic 'condition' can either be a state or a process, and can either be a symptom of a presumptive cause or a cause of one or more symptoms.
10. As an aside, however, I take issue with his treatment of Aristotle as an ingredient in the Christian Creationist view of the natural world as a designed artifact. Aristotle's biological teleology is *antagonistic* to that dependent upon an intelligent creator, such as he found in Plato's *Timaeus* - it rests on the idea that well-adapted organisms reproduce by means of a generative capacity which directs biological development toward other, similarly well-adapted, organisms. Aristotelian biology certainly lacks any sense of the importance of constantly and gradually changing environments and thus of the phylogenetic history of the animals he studied, including their evolutionary origins. But it is the antithesis of a creationist teleology. For a full defense of these claims see James G. Lennox, 'Teleology', in Evelyn Fox Keller and Elisabeth A. Lloyd, eds., *Keywords in Evolutionary Biology*, (Cambridge MA: Harvard University Press, 1992), pp.324-333.

11. Daniel Dennett, *Darwin's Dangerous Idea: Evolution and the Meanings of Life*, (New York: Simon and Schuster, 1995); S.A. Wainwright, W.D. Biggs, J.D. Currey, J.M. Gosline, *Mechanical Design in Organisms*, (Princeton: Princeton University Press, 1976); George C. Williams, *Adaptation and Natural Selection: A Critique of Some Current Evolutionary Thought*, (Princeton: Princeton University Press, 1966).

12. A vivid way of recognizing this point is to reflect on studies, such as Rosemary and Peter Grant's study of the Galapagos Finches, in which environmental conditions put such stress on a population that reproduction ceases. This in no way impeded the Grants from distinguishing those better adapted to the stressful conditions from those worse adapted, and doing so in precisely those terms. (cf. *Evolutionary Dynamics of a Natural Population: The Large Cactus Finch of the Galápagos*, (Chicago: University of Chicago Press, 1989); or the popular account of their work in Jonathan Weiner, *The Beak of the Finch: A Story of Evolution in Our Time*, (New York: Vintage Books, 1995).

13. Engelhardt, *Foundations*, p.195.

14. Engelhardt, *Foundations*, p.198.

15. Engelhardt, *Foundations*, p.201.

16. Engelhardt, *Foundations*, p.202.

17. Engelhardt, *Foundations*, p.206.

18. Engelhardt, *Foundations*, p.207.

19. Note here that I am talking about *alcoholism*, not moderate consumption of alcohol.

20. For a defense of this concept of health, see James G. Lennox, 'Health as an Objective Value', *Journal of Medicine and Philosophy*, 20:5 (October 1995), pp.499-511, and the helpful commentary of Robert M. Sade 'A Theory of Health and Disease: The Objectivist-Subjectivist Dichotomy', pp.513-525.

21. Engelhardt, *Foundations*, p.205.

22. Engelhardt, *Foundations*, p.204.

23. Engelhardt, *Foundations*, p.208.

24. Ibid.

25. Engelhardt, *Foundations*, pp.210-211.

26. Engelhardt, *Foundations*, p.226.

27. A text I happened to have on my shelf from the early 1970s simply distinguishes acute from chronic Hepatitis.

28. Engelhardt, *Foundations*, pp.227-228.

## The Moral Foundations of Health Services Reform

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I write this criticism of H. Tristram Engelhardt's *The Foundations of Bioethics*<sup>1</sup> not from the perspective of a philosopher, but from that of a physician with a long-time interest in health policy issues as they relate to bioethics. I hold Engelhardt in high regard: among philosophers currently active in bioethics, he is one of the few who are deeply committed to freedom as the primary requirement of social life, and to liberty as its primary political manifestation. In this commentary, I will focus on his view of health services reform.<sup>2</sup>

Few would disagree that our health services system is troubled. High costs and their uncontrolled escalation in recent decades are undoubtedly the driving force behind reform of the system. But a variety of other problems, like unequal access and uneven quality of care, have often been a central concern in the design of reform measures. Profound differences in visions of an ideal health services system were highlighted in the intense national debate over health care reform early in the first Clinton administration. The failed attempt to produce a consensus justification on ethical grounds for the American Health Security Act has made it clear that a monolithic, bureaucratic health services system of the sort designed by the Clintons will not come about soon. The differing moral visions of participants in the political debate reflect fundamentally different world views.

In *Foundations*, Engelhardt describes the plurality of moral perspectives competing for control of policy-making, and attempts to construct a morality that can bind together a pluralistic society like ours, in the hope that the Enlightenment effort to find a common morality based on reason and liberty need not be totally abandoned. His project is among the most important in contemporary bioethics, in my view, because liberty, as the central moral feature of American society, has never been more threatened than it is today, and is most imminently endangered by the egalitarian movement in health system reform.

Engelhardt finds the communal ethic he is looking for, not in a thick, content-full moral system, but in a much thinner structure based on the principal of permission. This principle is essentially the same as the principle of respect for autonomy, but is renamed to emphasize that autonomy is not itself a value. Rather, after Nozick, he sees it as a side constraint. Moral authority is thereby not to be found in one value system or another; rather, it derives from the consent of those who are interacting with one another. The principle of permission leads to prohibition of the use of physical coercion, which serves as the sole standard to guide the creation of laws and policy in large societies. Thus, the morality of large societies is content-less.

Within large polities, however, are found numerous thick moral communities, which people join and leave voluntarily, and which have detailed moral guidelines, a commonly held content-full morality, to guide actions of community members.

The absence of general secular moral authority to prohibit voluntary interactions between persons also limits the scope of the morally permissible shape of health services reform, according to Engelhardt.<sup>3</sup> Because there is no agreed-upon view of justice, beneficence, and fairness, there can be no basic right health care.<sup>4</sup> Moreover, national health care plans, like that proposed by the Clinton administration in 1994, have no broad moral authority because they advance a particular one (of many equally valid) visions of justice and fairness.<sup>5</sup>

Several tiers of health services are inevitable: a public system that may (or may not) be created from the general funds available to a polity, designed to provide a decent minimal level of health services to all in need; multiple community programs in which individuals join together to provide voluntary funds to support a system of agreed-upon health services; and a private tier, in which people are free to buy additional health services for themselves, freely contracting with providers. Because there is, in principle, no objectively discoverable moral ranking of health care goods, such a ranking must be created at the level of political systems. Engelhardt cites the Oregon experiment in public ranking of health services priorities as a good example of how such a lexical ordering can be achieved through public discussion and vote. Inequalities in access to health services are inevitable, Engelhardt claims, because needs and resources are different for everyone, and people are free to act on their own behalf. He enunciates a principle that underlies the allocation of health care goods: "People are free to purchase the health care they can buy and to provide the health care others wish to give or to sell."<sup>6</sup>

I sympathize and agree with a great deal of Engelhardt's project. Particularly appealing is his emphasis on the principle of permission, what others have called autonomy or self-directedness, as the primary principle for the organization of large societies. But internal inconsistencies and contradictions place his vision of health services reform on very uncertain ground. I would like to cite two difficulties in particular: the prohibition against coercion, which is based on an unproved assumption; and his theory of property, which is inconsistent with his own principle of permission. I will also try to show how the principle of respect for self-directedness can be more solidly grounded in objective fact, and how this same grounding supports a theory of private property that is both different from Engelhardt's view and more consistent with commitment to liberty. Finally, I will indicate how this theoretical substructure leads to a vision of an ideal health services system similar but different from his in a few important ways.

### **The Principle of Permission**

Engelhardt claims that there are no decisive rational arguments to establish one understanding of the good as being morally superior to other competing views, and that moral authority in the secular sphere derives from the consent of willing participants, under the principle of permission. He further claims that all attempts to justify a shared, content-full moral understanding must fail either because they beg the question by presupposing the moral standard that is at stake, or because they generate an infinite regress.

Yet, Engelhardt's theory falls to the same arguments. He asserts that secular morality is not *grounded* in peaceableness; it is instead a *transcendental condition* that make secular

moral life possible.<sup>7</sup> Because no moral viewpoint is superior to any other, he claims, the only possible source of secular moral authority is the authority of consent. This authority requires only a decision to resolve moral disputes in a manner other than by force, that is, by peaceable negotiation. Peaceably negotiating a moral dispute requires respecting the freedom of the participants in the dispute, that is, requires their voluntary agreement to collaborate. A transcendental argument tries to show that some condition, call it C, cannot be rejected (that is, it has to be accepted as true) because rejecting C depends on something unavoidable, call it A, and A could not exist unless C were true (that is, C is a necessary condition for the existence of A). So, for a transcendental argument to work, two things have to be true: I) that A is unavoidable, and II) that C is in fact necessary for the possibility of A existing; that is, the universal negative proposition, no A is possible unless C is the case, must be true. Anyone who rejects C is caught in a contradiction: the rejection of C is inconsistent with the existence of action A, which is at the same time unavoidable. In Engelhardt's case, action A can be taken to be peaceable negotiation and necessary condition C is voluntary agreement to collaborate. Thus, he has argued I) that peaceable negotiation of moral disputes is an unavoidable condition of secular moral life, and II) that there is no way to negotiate peaceably without voluntary agreement to collaborate.<sup>8</sup>

Engelhardt asks us to accept the first statement (I) as an assumption, but this seems inadequate: he should be able to show why peaceableness is unavoidable. To what does the claim that peaceableness is unavoidable appeal? To the desirability of peace? But what makes peace desirable? It appears that he has begged the question at issue by assuming the unavoidability of peaceableness in order to avoid the dual problems of an infinite regress of appeals to underlying claims, or acceptance of an unarticulated underlying good, that is, peaceableness.

The second part of his transcendental argument also requires a reason, but none is provided; why is agreement to collaborate necessary for the possibility of peaceable negotiation? Peaceable negotiation may take place between jailed and jailer in an American prison or the Soviet gulag, or between a tribal warrior and his chief, but none of these necessarily occurs under a voluntary agreement to collaborate. What makes proposition II a necessity?

Beyond these difficulties, Engelhardt has the additional problem of countering rejection of his argument, even if both the first and second propositions are true. If they are true, then rejecting peaceable negotiation is contradictory. But in asserting that his argument therefore must be accepted, Engelhardt is claiming that living without contradiction is better than living with contradiction. Is not this a value judgment? Why is noncontradiction good? By demanding acceptance of his argument, Engelhardt is appealing to something he claims he (and everyone else) does not have: knowledge of the good, namely, that noncontradiction is better than contradiction. In making his case, Engelhardt contradicts himself by claiming both that no understanding of the good is better than any other, and that *his* understanding of the good - noncontradiction is better than contradiction - is better than the alternative. He cannot have it both ways. If holding contradictory positions is acceptable for him, it must be for us, too, so he cannot object when we reject his argument.

Ultimately, Engelhardt has to answer the question, what makes peaceableness right? Why not use force to settle disagreements? It may be true, as he says, that an aggressor cannot complain if force is used against him, but why should the stronger party be concerned about that possibility? In particular, why should the United States government, controlling the strongest force on earth, care about threats of retaliation?

While I agree that something like Engelhardt's respect for the principle of permission is a primary condition for social life, his use of the Kantian back door of transcendental argumentation is unconvincing. Insofar as his aim is to provide a moral justification for the prohibition of force in human communities, such an argument may not be necessary. He proposes that the Enlightenment project was doomed to fail, because no consensus has been reached on a rational, objective morality on which a liberal society can be grounded, nor can one be discovered. From the fact that no consensus has been reached, though, it does not follow that no such morality exists, or that the search for one must be abandoned. We have seen that the foundation for his own theory is insecure, and now I would like to suggest that his blanket rejection of the possibility of finding an objective morality in which to ground social life may be in error. A more solid grounding than his for a liberal social order may be found in a theory of natural rights that is by no means uncontroversial, but overcomes some of Engelhardt's objections to appeals to nature as a standard for bioethics. Interestingly, it leads to some conclusions about health services policy that are substantially similar to his.

### **Human nature and rights**

Appealing to human nature to provide a foundation for morality is not something Engelhardt would countenance. It is not clear, however, that ethics or morality is even possible without such an appeal. Moreover, it is not necessarily true that human nature is empty of value or incapable of providing a foundation for morality. Of course, this issue cannot be decided here. Yet, it is not a given fact that all versions of natural teleology are indefensible or that a respectable scientific account of teleology cannot be provided.<sup>9</sup> It is possible that the best way to begin thinking about morality is by considering a theory of the good. One of the most promising is a virtue ethics that takes human flourishing to be the human *telos*. Such a theory is a long, complicated matter that cannot be completely developed here. I will offer a brief outline, however.<sup>10</sup>

The ultimate moral good, on this account, is self-perfection, or human flourishing. Flourishing is: 1) objective; 2) inclusive; 3) individualized; 4) agent-relative; 5) social; and 6) self-directed. This view has classical origins, but recently has entered contemporary ethical discourse.

- 1) **Objective:** Flourishing requires living intelligently. Such a life does not use intelligence to achieve whatever one happens to desire, rather, to achieve right desires, those that will actually lead to fulfillment. Thus, flourishing is an objective value: goods like health, beauty, and pleasure and virtues like integrity, courage, and temperance are determined by human nature. They are manifested differently in different individuals: the good is not seen as generically the same for all people, so the universality sought by utilitarianism and deontologism are avoided.

- 2) **Inclusive:** Flourishing of individuals is an inclusive end: each of the goods and virtues that constitute it are valuable in themselves. There is no predetermined worth of each, so individuals must work out for themselves the weighting of these values. Thus, *phronesis*, or practical wisdom, is central to achieving and maintaining flourishing. For practical wisdom to succeed in weighting values appropriately, it must recognize that desires may move people toward benefit and away from harm, but may do the opposite. The creation of rational dispositions is therefore critical to human flourishing.
- 3) **Individualized:** No two people flourish in the same way, because their potentialities, talents, and concrete circumstances are different. While there are generic aspects of human nature, the individually distinctive features of flourishing do not permit *a priori* weighing of a good or virtue against other goods and virtues. Such weighting is the task of practical wisdom for each individual, taking into account the facts of his own concrete circumstances. Thus, pluralism is morally appropriate.
- 4) **Agent-relative:** An agent-neutral moral theory holds that values and their rankings have no essential relation to the person who makes the ranking or for whom the value exists. There is no moral reason to prefer actions that support one's own projects or family over actions that do not. The view of flourishing presented here rejects agent-neutrality, and claims, rather, that facts specific to individuals, their societies, and their cultures are ethically relevant, and may be more important than other more general facts. The good for a person, in other words, is agent-relative: practical wisdom enables the person to determine the proper course of action under particular and contingent circumstances that cannot be known in advance.
- 5) **Social:** People require others to fully mature as human beings. The primary relationships of human are selective, which is characteristic of friendships, groups, and communities. Individual flourishing may require extension beyond families or cultures of origin, however, so openness to other relationships are also important. These permit exploration of new and different people as well as new ways of living and thinking. Open-ended interactions with strangers often form the context within which selective relationships are created.
- 6) **Self-directed:** Practical wisdom requires individual effort at several levels: to initiate and sustain thought, to discover the goods and virtues of flourishing, and to achieve and implement them. Thus, the pluralism of human value-seeking must be essentially self-directed. Intelligence and self-directedness are not separable; they are two aspects of the same act. Self-directedness does not necessarily lead to flourishing, but flourishing is not possible without it.

Self-directedness is the unique feature of flourishing that must first be protected for everyone, to make possible their own individualized versions of flourishing. The basic problem of liberalism is how to provide for plurality of human well-being, while at the same time constructing a moral foundation for civil order. The only characteristic of human flourishing that can provide a solution to this problem is self-directedness, for two reasons: it is the only feature of human flourishing in which every person has a necessary

stake in every concrete situation, and it is the only feature whose protection is consistent with plurality of forms of flourishing.

There is, therefore, a need for another type of ethical principle, one that takes into account the social nature of human being and also recognizes the plurality of forms of flourishing. The difficulty is that human well-being can take diverse forms, but human action can interfere with self-directedness, a critical component of flourishing. The principle that is needed is one that does not promote a particular form of flourishing, but permits every person the possibility of seeking it. It is not normative, because it says nothing about how to live, but only provides a political context that allows the possibility of self-determination: it is metanormative. The principle is the idea of basic rights.

Rights provide protection for the possibility of self-perfection by protecting self-directedness. They are therefore essentially negative. They cannot assure self-perfection; they can only make it possible by protecting self-directedness. On this account, rights provide no guidance to ethical conduct; they establish a foundation for conduct by protecting a sphere of action in which each person can pursue self-perfection without threat of interference by others. These rights are those of equal liberty, principles of mutual noninterference. They reconcile our natural sociality with our need to pursue diverse forms of self-perfection.

Just as rights are not normative principles providing guidance toward self-perfection, they also are not normative interpersonal principles. They do not specify how we should interact with others; rather, they provide the context in which such interactions can take place. They are metanormative principles that secure the conditions that permit us to act jointly with others in a social environment.

The basic rights define personal spheres of action, within which one is free to act without interference from others. They include rights to life, liberty, and property. The obligations they impose are negative: to refrain from violating the rights of others. Because they are metanormative and provide no guidance to ethical behavior, they can impose no positive obligations toward others. Positive obligations do exist, but only insofar as they are created by voluntary agreements made within moral territories. In the health care field, this means that there can be no rights to health services other than those attaching to voluntary agreements or contracts. There can be no right to health because health is a personal responsibility and cannot, even in principle, be provided by others.<sup>11</sup> Legal systems that attempt to guarantee health services to some, many, or all at the expense of others, as was true of the Clintons' and most of the other health system reform proposals in 1993-1994, violate basic rights in imposing predetermined hierarchies of values on unconsenting others.

Engelhardt criticizes appeals to nature as a route to resolution of moral controversies on the ground that the character of reality is not morally normative, and individuals may fail to recognize the same objective moral truths.<sup>12</sup> The view presented here escapes this criticism. Thick morality is primarily focused on self-perfection, not, as in most of contemporary moral theory, on relations with others. It is pluralistic and expressed differently among different individuals. Disputes between people are not settled on

grounds of presumed universal norms; rather, they are settled within a metanormative framework of basic rights, which are used to create a legal system that respects those rights.

It should be apparent that although this account starts from a radically different philosophical position, it arrives at a view of governance of large societies similar to Engelhardt's. To use his terminology, there are two tiers of morality, one at the level of social cooperation, another at the level of individual persons. Our social levels look similar: a thin secular morality of freedom from coercion that supports a political system which protects territories in which individuals can act freely without interference. At the level of the individual, however, important differences appear. Engelhardt's grounding of secular morality in freedom-as-a-transcendental-condition leads him inescapably to a kind of moral relativism that disallows judgments of right and wrong, of good and evil in the actions of real people living actual lives. It ignores critical features of human nature, thus forfeiting the power to explain, predict and motivate individual and social behavior. For example, if any view of the good is as valid as any other, why, in the late twentieth century, do the most capitalistic and freest nations continue to thrive, after the most socialistic and coercive nations have collapsed or moved vigorously toward capitalism? Why has Lyndon Johnson's vision of a Great Society welfare state failed to reach most of its objectives?

### **Property and taxation**

Engelhardt is correct in saying that the Clintons' health services plan was without moral foundations. His own vision of proper reform, though, is fundamentally flawed because of one of the most egregious internal inconsistencies of his philosophical project - his theory of property and justification for taxation. He sees property as a Lockean mingling of labor with natural material, and envisions untransformed matter as belonging to no one person, rather as belonging to everyone. Taxes are thus either justified as rent on commonly owned matter, or, consequent to the Lockean proviso, justified as "payment due to others for the extent to which an individual claiming a particular property through labor diminishes the opportunities of others to claim similar property through labor."<sup>13</sup> These taxes are the source of general funds which must be distributed as a kind of negative income tax to all members of society. There is another source of general funds, those that are derived from land that was never ceded to individuals at the time of creation of the society, or state. Those who wish to use the state-owned land or its contents (minerals, oil, and the like) must lease it from the state. The funds collected as rental fees are a source of wealth through which a society or a state may, through a process of negotiation and agreement, fund any of a variety of projects in support of the general welfare, including a system to provide health services to the medically indigent. Thus, Engelhardt has laid the theoretical groundwork to justify Medicare, Medicaid, and state and municipal health services funding.

This theory leads to some surprising conclusions. For example, Engelhardt holds that every person in the universe must participate in ownership of raw materials, and thereby of general funds from taxation of property; as a practical matter, however, only those on this particular planet can partake of its benefits.<sup>14</sup> Therefore, distribution of the funds generated through taxes on original matter or lost opportunities must be international. By

this reasoning, one may logically conclude that taxes collected on oil under Texas soil must be given, in part, to every sultan in Kuwait and to every untouchable in India, as well as to everyone else on earth.

The surprising becomes bizarre, however, when Engelhardt concludes that the creation of new individuals reduces the entitlements of others, justifying a tax on reproduction to cover those costs. Furthermore, "when individuals are not able to pay such a tax, it would be permissible, in general secular terms, to prevent their engaging in further reproduction."<sup>15</sup> His theories of property and taxation are clearly inconsistent with the principle of permission, peaceableness, and the proscription of coercion. It seems the height of contradiction simultaneously to maintain that persons may not be used for purposes to which they have not consented, and to approve of coercively entering the bodies or bedrooms of unconsenting people, in order to prevent production of new persons. Engelhardt starts with liberty and ends with mandatory tubal ligation or abortion (take your choice) and squads of bedroom police.

This conception of property seems arbitrary, because it is not justified by (in fact, it contradicts) the principle of permission. Conceptualization of property need not be arbitrary, however; it can be grounded in the view of human nature sketched above, avoiding the inconsistencies and contradictions inherent in Engelhardt's account. On that account, ownership of property is found to be a fundamental natural right. In the limited space available, the notion of property as a natural right cannot be defended in detail. Briefly, however, the right to property may be best understood as the right to freedom of action in producing, possessing, and disposing of things that are of value to the lives of human beings.<sup>16</sup> Production of property is a complex process that is highly individualized, requires rational planning, and must be self-directed if it is to serve the end of human flourishing.

What nature offers is not merely a collection of physical resources, as Engelhardt suggests, following Locke, but is endlessly varied opportunities to transform the material world. There is no preexisting wealth - wealth is created by actions on material objects - so the Lockean proviso is irrelevant: every act of transforming material objects is unique, producing something that did not exist before. It would take another act to produce a similar kind of property, and others are free to perform such acts.<sup>17</sup>

Engelhardt justifies taxation as a rental fee or as payment for lost opportunities to use untransformed matter that belongs to no one person, rather, belongs to everyone. But from the observation that untransformed matter can belong to no one in particular, it does not necessarily follow that it must belong to everyone. An alternative is that it belongs to no one at all, and Engelhardt gives no reason to choose the first rather than the second alternative. Proposing universal joint ownership of untransformed material artificially imposes unchosen obligations among persons that inevitably lead to coercive expropriations that are incompatible with morality and freedom.

### **An ideal health services system**

A detailed description of an ideal health services system that might arise from my account of public and private morality is beyond the scope of this presentation.<sup>18</sup> Stated briefly,

the problems currently facing our health care system are primarily financial, and they arise from the presence of an anomalous market in health services - that is, from the absence of a free market - that was the consequence of seriously flawed public policy over the last 60 years.<sup>19</sup> The fundamental cause of the price inflation we have seen in recent years is the fact that *when people buy health services, they do not have the perception that they are spending their own money.*<sup>20</sup> What is needed is a free market in health services: a structure in which the connection between the money people spend and the health services they choose is reestablished, allowing them to regain control and take responsibility for their own health and health care. Many reforms are currently being considered that would move us in that direction: tax reform measures to put everyone - big business employees, small-business employees, the self-employed, and the unemployed - on a level playing field; policy changes to make health services insurance personally owned and portable from one job to another; medical savings accounts, to allow people to appreciate clearly that the money they are spending on health services is their own; and gradual privatization of Medicaid and Medicare. As it does in almost all other areas of economic life, a free market in health services will provide a combination of cost and quality that people actually choose, through a myriad of individual decisions every day.

Engelhardt is not likely to disagree with much of this political project, though he would add to it a component of public financing. His has been a strong but lonely voice in the bioethics community supporting individual freedom and responsibility, and for this, he deserves high praise. His life-long philosophical project is embodied in the new edition of *The Foundations of Bioethics*, an effort that is scholarly and persuasive. His work expresses views contrary to those of much of the contemporary bioethics community, yet is consistent with the particularly American emphasis on liberty as a social and political priority. For this reason, his book should be read and his arguments understood by anyone with a serious interest in bioethics and health policy.

**Acknowledgement:** I am indebted to Douglas B. Rasmussen for his critique and suggestions for some lines of argument used in this essay, and to George Khushf for his criticism.

## References

1. H. Tristram Engelhardt, Jr., *The Foundations of Bioethics*, (New York: Oxford University Press, 1996).
2. I will use the term 'health services' throughout this paper, rather than the more commonly used 'health care', to emphasize that services can be provided by individual or group providers, while care can only be given by individuals.
3. Engelhardt, *op.cit.*, p.398-403.
4. *Ibid.*, p.375-376.
5. *Ibid.*, p.377-378.
6. *Ibid.*, p.402-403.
7. *Ibid.*, p.69.
8. This form of rebuttal to transcendental argumentation is outlined in Douglas B. Rasmussen, "Political Legitimacy and Discourse Ethics," *International Philosophical Quarterly* 32 (March 1992), pp.20-21.
9. See Fred D. Miller, Jr., *Nature, Justice, and Rights in Aristotle's Politics* (Oxford: Clarendon Press, 1985), pp.336-346. Also, Allen Gotthelf and James Lennox, eds., *Philosophical Issues in Aristotle's Biology* (Cambridge: Cambridge University Press, 1987).
10. What follows is indebted to Douglas Rasmussen and Douglas Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (Lasalle, IL: Open Court Publishing Co., 1991), and also to their recent monograph responding to communitarian and other post-modern concerns, Douglas Rasmussen and Douglas Den Uyl, *Liberalism Defended: The Challenge of Post-Modernity* (Fairfax, VA: Edward Elgar, 1997).
11. For a discussion of rights to health and health care based on this view of human flourishing, see Robert M. Sade, "A Theory of Health and Disease: The Objectivist-Subjectivist Dichotomy" *J Med Philosophy* (1995): 20(5): pp.513-525.
12. Engelhardt, *op.cit.*, p.56.
13. *Ibid.*, p.158.
14. *Ibid.*, p.158-159.
15. *Ibid.*, p.159.
16. For a detailed exposition of the notion that property is created by acts of discovery and exploitation of opportunities, see Israel M. Kirzner, *Perception, Opportunity, and*

*Profit* (Chicago: University of Chicago Press, 1979), Chapter 12, pp.200-224 is especially pertinent to this discussion.

17. Israel M. Kirzner, "Discovery, Private Property and the Theory of Justice in Capitalist Society," in *The Meaning of Market Process: Essays in the Development of Modern Austrian Economics*, (New York: Routledge, 1992), pp.209-226.

18. Goodman and Musgrave have presented a description of a system compatible with this account: John C. Goodman, Gerald L. Musgrave, *Patient Power: Solving America's Health Care Crisis*, (Washington: CATO Institute, 1992).

19. *Ibid.*, Chapter 2, pp.19-36.

20. *Ibid.*, Chapter 4, pp.75-136.

## Engelhardt's Foundations

Tom L. Beauchamp

### Foundations without Foundations

Professor Engelhardt has written *The Foundations of Bioethics*, which he often refers to as the *Foundations*. The title and the short title are stunning, for the argument of the book is that there are no foundations of bioethics. Not only are there no foundations of bioethics, there is no bioethics either. Now to be sure, Engelhardt's language in expressing this point is a bit different than mine. He says there is no *content-full* morality that is secular in character, and hence no *secular* bioethics. I think our separate formulations come to the same, since the bioethics about which most of us are concerned is secular. Engelhardt's deepest thesis is that there are no substantive foundations of a secular bioethics, and, lacking such foundations, there are no foundations of any sort of bioethics other than historical roots in nonsecular communities.

This second edition is an expanded, improved, and more readable version of the first edition. Those who loved the first edition will probably love the second even more, but they will want to take note that Engelhardt acknowledges in the second edition that he sinned in the first. Engelhardt's exact words in confessing his sins are as follows: "Many of the conclusions to which I had found myself drawn [in the first edition] were (and still are) abhorrent" (p. viii). Moreover, many of the positions he wound up justifying in the first edition (direct abortion, commercial surrogacy, and the like), he now says are "great moral evils." It would give one pause to think about supporting a theory that lacks all moral foundations and that supports great moral evils; yet such seems to be the paradoxical thesis of this book.

Engelhardt's gloss on this problem is droll: Although he allegedly provides a secular perspective in this book, the only theory that can stop short of supporting great moral evils is a nonsecular perspective that grasps the evil character of these actions. This is one of many paradoxes in Engelhardt: His theory supports "great moral evils" (p. xi), but only the theory he did not write - and I think cannot and will not write - is capable of grasping their evil.

### A Political Rather than Moral Theory

Engelhardt provides little or nothing in the way of moral theory because the book is primarily an exercise in political theory. Justice is a political, not a moral notion. Forms of beneficence have a role only in the traditions of communities; beneficence has no independent normative force. Although Engelhardt denies that his account is "simply a political theory" (p. 11), it is hard to understand why he thinks there is anything of moral substance in his theory. After all, he flatly denies that he presents any substantive moral point of view (i.e. any content-full morality, another underanalyzed notion in the theory).

While Engelhardt's libertarian commitments will come as no surprise to anyone, since they dominated the first edition, themes of the triumph of post-modernism break

forth in the second edition with zeal and fanfare. It is not too much to say that this book is a libertarian, post-modernist tract: It presents the libertarian philosophy through unargued assumptions of the correctness of post-modernism. Since I accept neither libertarianism nor post-modernism, I find it difficult to accept the argument of the book. But it may be too much to say that there is an argument in this book. There is a libertarian vision, but it is hard to find argument in defense of the critical features in the vision. I now turn to some of those features.

### **The Principles of Bioethics**

Engelhardt devotes a substantial part of his second chapter to the views that Jim Childress and I defend about the principles of biomedical ethics. A problem often advanced against our account of principles is recast in Engelhardt, viz. that a scheme of multiple, *prima facie* principles fails to provide a general moral theory that systematically unifies the principles and situates them in a tidy and integrated package that can handle conflict among the principles. Engelhardt maintains that such a theory can never resolve controversies, because it promotes controversy by allowing for irresolvable conflicts among principles (p.57). Engelhardt's own theory allegedly surmounts this problem. There is only one principle, or at least in the ordering of principles only one principle is at the top. However, we need to ask at what price one embraces a theory centered almost solely on a single principle?

The first problem is Engelhardt's ambivalence about the principle of beneficence. On the one hand, he seems to hold that there is no valid principle of beneficence in secular morality. On the other hand, he seems to hold that there is a valid principle of beneficence, but it is not a content-full principle in secular morality, and it always takes second place to the principle of autonomy, which he rebaptizes in this edition (p. xi) as the principle of permission. This is one of the more confusing parts of the book, since he extracts more than a requirement of permission from this principle. For example, he later turns this principle into a correlative and fundamental right to be let alone (see p.288). Yet the right to be let alone is not correlative to the obligation to receive permission. I think the principle of permission is really a principle of respecting the autonomy rights of persons; and in this regard the first edition is more correct than the second.

I am not sure which of the two interpretations of the place of the principle of beneficence is correct, but I am sure that Engelhardt cannot coherently defend both positions, though he seems attracted to both. Suppose that he holds that no obligations of beneficence whatsoever span different communities. What is the argument for this claim? I cannot find one. Similarly, what is the argument against nonmaleficence as a principle? What is the argument that justice reduces to beneficence (pp.121f, 375ff)? Etc.

Even if Engelhardt had arguments for these claims, his position would so truncate morality that it would be but a deformed figure of itself. Consider a counterexample to Engelhardt's apparent thesis that there are no universal obligations of beneficence: A young toddler has wandered onto a busy street, having become separated from his mother. I can save his life simply by picking him up. It would be nice of me to do so, but I am not obligated to do so, in Engelhardt's theory. After all, there are no obligations, ever, in

secular society to prevent harm, apart from roles that we willingly accept and that fix obligations for us. A policeman would be obligated to lift the child from the street, but I would not, in Engelhardt's theory. By contrast, I believe that such moral obligations should be included in any system whose goal is to capture the demands of morality. If Engelhardt believes that we are not obligated by as much beneficence as my counterexample suggests, then we do indeed deeply disagree about the content of morality. I think we do.

Still, I am not convinced that this counterexample squarely confronts and refutes Engelhardt's actual views, because I am not sure what those views are. Engelhardt often seems to think there is some minimal beneficence in secular morality that will cover my counterexample. This seems to be the suppressed position running throughout chapter 3, where he formulates as "Principle II" in his system "The Principle of Beneficence" (see p.123). Engelhardt says this principle functions "to indicate the sources of particular areas of moral rights and obligations" - a statement that has a substantive, normative look to it. The problem, he indicates, is not with obligations of beneficence in general, but with how to generate specific obligations to rank and produce goods (p.108). From this perspective, beneficence is a valid normative principle; it is simply too general to be of practical significance. Only culturally developed mutual understandings of real bonds of beneficence can give its obligations any significance (p.112).

An interesting example of Engelhardt's ambivalence about beneficence emerges in his discussion of our obligations to animals. He argues that we must move beyond Kant's absurd views about animals as things: "One ought, in addition to recognizing duties to other persons regarding animals, recognize as well a duty directly to regard the pain and suffering of animals" (p.145). Engelhardt does not present this obligation as contingent upon the formulations of particular communities; he presents it as a general obligation of beneficence. But surely if we have this obligation to animals, we have it to each other. Engelhardt recognizes this fact only to insist that the specific ways in which animals and persons are morally protected will vary from community to community. I believe this is one of at least a dozen passages in the book in which Engelhardt wants it both ways: There is real content-full beneficence in secular morality, and there is no real content-full beneficence.

### **Weak Normative Content and the Formulation of Public Policy**

Another problem about principles - and in the end the one I think bothers Engelhardt the most - is that they are *weak* in normative content. They are so general that they can be specified in a variety of ways, even competing ways. For example, Engelhardt points to the relatively weak normative nature of principles of justice. Presumably he has devised a theory to minimize this problem by making all principles except the principle of permission exceedingly abstract and weak, while consigning to nonsecular domains what he calls content-full ethics.

Engelhardt's problem with weak normative content in principles is not a new problem. All of us who believe in principles in bioethics are aware that genuine principles lack specific, directive moral substance until they have been specified for particular purposes. Unspecified principles are necessarily general; as such, they are applicable to

(govern) a broad range of circumstances. As the territory governed by a principle is narrowed (the conditions becoming more specific - e.g. shifting from "all persons" to "all adult persons"), it becomes increasingly less likely that a norm can qualify as a principle. A principle, then, must by its very nature be highly abstract and of severely limited specificity. Any principle will leave a certain area of ambiguity about how it is applied, Engelhardt's principle of autonomy or permission not excluded.

Even the principle of respect for autonomy must be specified in public and private policies in order to be a living social reality. But how is this to be done in Engelhardt's theory? What will public policy be governing drug trafficking, medical confidentiality, the funding of health care for the indigent, the protection of subjects of biomedical research, etc.? I here use the term *public policy* to refer to a set of normative, enforceable guidelines that have been accepted by an official public body, such as an agency of government or a legislature, to govern a particular area of conduct. How is such public policy possible in Engelhardt's theory, especially for large communities, where it is most clearly needed?

I cannot see how public policy is to be fashioned in any complex pluralistic society in Engelhardt's framework. I can see how Engelhardt accounts for private policies; but his failure to give a plausible account of public policy makes his book seem out of touch with the modern world.

### **The Secular Pluralism/Postmodernism Theme**

For his part, Engelhardt believes that a "theoretically intractable secular moral pluralism" pervades the modern world, rendering it post-modern. Strongly present in the new Engelhardt edition, unlike the first, is the view that multiculturalism and secular pluralism have situated us in a post-modern world in which we must give up our robust past beliefs in the universality of moral precepts.

In contrast, I maintain that morality is universal in the sense that a body of ethical precepts constitutes morality wherever it is found. I call this morality in the *narrow* sense. There are no moralities in the narrow sense - just morality. However, there are moralities in a *broad* sense of "morality," because the norms of basic morality get specified in different ways in different communities. The problem is this: The basic precepts of morality in the narrow sense are so general and indeterminate that they can be implemented in many different ways that are consistent with the abstract content of the basic precepts. Valid exceptions to the rules can also be recognized in different cultures or groups. Across time, these basic precepts do get implemented in many different ways in cultures, groups, and often individual decisions, thereby creating morality in the broad sense. This is the most defensible interpretation of the notion of "secular pluralism."

Although cultural relativity and secular pluralism are incorrect as accounts of morality in the narrow sense, a relativity or pluralism of judgments and practices is an inevitable outcome of historical developments in cultures, moral disagreement and resolution, and the formulation of complex institutional and public policies - that is,

morality in the broad sense. Morality in the broad sense does recognize divergent moral positions, which may spring from cultural differences or from philosophical differences.

One would think that Engelhardt and I can agree on this account. However, there appears to be at least one major difference: Most of what I take to be universal in morality, Engelhardt takes either to be nonuniversal or to be nonnormative. Although Engelhardt accepts roughly my distinction between broad and narrow morality, his formulations set his views apart. He argues that his book does not present any concrete moral perspective; rather, it is a "purely procedural morality" (p.9) that stands as "an account of the common morality that can bind moral strangers" (p. x). By contrast, I believe he has written a book that does incorporate a concrete moral perspective and that his account of the common morality improperly confines morality to a purely procedural respect for autonomy and to an unduly truncated account of beneficence that twists real beneficence beyond recognition.

There is no argument in Engelhardt's book for the view that he has captured the common morality or for the view that his book does not carry a concrete moral perspective. His bottom line seems to be that moral authority derives only from the concurrence of individuals. What he fails to see is that this thesis itself involves a concrete moral perspective and that it is not the perspective of the common morality, in which many actions are either right or wrong whether or not they have the concurrence of the individuals living in society. A prime example is public taxation - a claim that is certain to make Engelhardt eager for his moment to rebut this paper.

## **The Foundations of Bioethics: Liberty and Life with Moral Diversity<sup>1</sup>**

H. Tristram Engelhardt, Jr.

For the attention that Rosemarie Tong, James Lennox, Tom Beauchamp, and Robert Sade have given to *The Foundations of Bioethics* I am very grateful. They have provided a careful and useful exploration of many of the ambiguities of that text. In taking account of their reflections, I will indicate how the text they have examined takes a position somewhat different from what they have assumed in the account they give. In that way, I will be able to respond to the issues they have raised as well as suggest how a different interpretation of *Foundations* can be sustained than the one they have offered. In that the arguments in *Foundations* (1986, 1996) are themselves somewhat lengthy, I will not recall them at length here. Instead, I will only rehearse the positions I have taken in *Foundations*. The result will be to indicate that, though in general I have sympathy with many of the concerns raised by Tong, Lennox, Beauchamp, and Sade in many respects when they are critical of *Foundations*, they are addressing issues other than those addressed by that work. What they take to be points for criticism of *Foundations* are rather issues raised regarding positions somewhat different from those advanced in *Foundations*. This allows me to be grateful for their reflections, while *Foundations* is not directly touched by their criticisms.

Let me turn first to the very interesting and careful reflections of Rosemarie Tong. From the perspective of her own concerns regarding feminist theory, she explores a number of themes quite similar to those that I addressed in *Foundations* from the perspective of my concerns regarding accounts of bioethics. Both Rosemarie Tong and I recognize the diversity of moralities, not merely moral theoretical accounts, which give rise to a diversity of feminisms, feminist theories, bioethical understandings, as well as bioethical accounts. We also both acknowledge that over against this diversity, both feminist theory and bioethical reflections in general must take account of the circumstances that we do not possess one common morality. There are not just different theoretical accounts of feminism and bioethics. There are divergent feminisms and disparate bioethical moral understandings.

In part, the difference in our responses to this state of affairs turns on a difference of terminology. The term "moral stranger," for example, is introduced in *The Foundations* not to indicate that persons are alien one to another such that they cannot understand the diversity of their positions nor the character of their conflicting moralities. Moral strangers are not equivalent to moral aliens. The term "moral strangers" is used to indicate that, when individuals do not share the same fundamental moral premises, rules of moral evidence, and rules of moral inference, or share a common recognition of persons in moral authority to give closure to a moral controversy, they will not be able to resolve their moral controversies by sound rational argument or authoritative closure. Instead, their debates will continue *ad indefinitum*, at least with respect to achieving a solution warranted by a closure justified in terms of a sound rational argument or moral authority. Their attempts to solve controversies in this context will either beg the question, involve an infinite regress, a circular argument, or the bold proclamation of a consensus that does not include those who disagree, but rather announces that their opinions and moral sentiments are

marginal and normatively insignificant, and therefore able to be dismissed. Matters will be in the confusion one in fact finds them when one turns to bioethical debates regarding abortion, euthanasia, or health care reform. The term "moral stranger" is used to underscore the existence as a matter of fact of real moral diversity, as well as to emphasize the unavailability of a theoretical perspective from which to set this moral diversity aside, at least in terms of the content-full moral differences that limit the character of this diversity.

As a fact of the matter, moral strangers are often affective friends. Indeed, individuals are often married to moral strangers. To be a moral stranger to another is not to experience or regard the other as a moral alien, but rather to recognize that one does not share moral resources sufficient to the task of bringing most of the moral controversies one shares with the other to closure by sound rational argument or by an appeal to a person who all will recognize to be in moral authority to resolve such disputes. Given her use of the term "moral acquaintances," I believe Rosemarie Tong and I are in agreement in this regard, though our terminology may seem to separate. With a better understanding of my terminology, it is not the case that I am of the opinion that, in this post-modern world, we have "few moral friends." At least, I know as a fact of the matter that I have a great number of moral friends. Indeed, as Rosemarie Tong correctly observes, and to use her terminology as I have recast it, we have many moral acquaintances. She and I would likely also be of the opinion that there are in addition persons who are truly moral enemies. We are likely even to be in significant agreement regarding how to characterize many of them: those who use malevolent and/or unconsented-to force against the morally innocent.

Yet in her otherwise very careful attention to *Foundations*, Rosemarie Tong does not take sufficient account of the circumstance that in *Foundations* I am not offering an account of my own content-full moral perspective, nor of the world as I hold it ought to be. Rather, under circumstances in which there is real moral diversity, *Foundations* shoulders the task of giving an account of the justifications for the use of coercive force, which coercive force is necessary for much of health care policy. *Foundations* shoulders the task of giving an account of the morality and moral authority moral strangers can share when they wish to resolve moral controversies in a morally authoritative fashion in the absence of understanding the requirements of God or possessing a common understanding of moral rationality. As a consequence, *Foundations* leads to the recognition that a secular bioethics will allow much that individuals from particular religious and secular moral perspectives will regard as significantly wrongheaded. As a result, I have at least as much, if not more, concern about euthanasia than that voiced by Rosemarie Tong. After all, I am an Orthodox Christian and I hold that euthanasia and abortion are seriously immoral acts. *Foundations* acknowledges, however, that the immorality of those acts cannot be understood in general secular terms.

In recognizing the irresolvability of many moral controversies through sound rational argument, *Foundations* leads by default to a libertarian account of the state and of secular health care policy, a secular moral understanding which must acquiesce in real moral diversity and much that some will know is very evil. This account will also recognize the difference between the morality of a secular pluralist society and the morality of particular moral communities. Here I would suspect as well that Rosemarie Tong and I are in agreement with regard to the role of that practical discourse which respectfully and

peaceably engages those with whom one has significant moral differences. Foundations explicitly acknowledges the role of peaceable conversion, while opposing coercive interference with the consensual acts of individuals and the functioning of consensual communities. Rosemarie Tong and I may be in disagreement with regard to the character of such conversions, but that circumstance does not bear against the point at issue: the offer of such discourse is always appropriate in the face of moral diversity. It is important to recognize that, despite such discourse, diversity will remain. In fact, it will often be better articulated as the result of that discourse. Discourse between moral strangers may lead not to conversion and consensus, but rather to a better appreciation of the moral differences and disagreements that separate. When the actions undertaken are with the consent of those involved, much must be tolerated which we may recognize to be morally inappropriate, indeed evil. Here, as well, Rosemarie Tong and I will find ourselves in significant agreement. The peaceable activities which Foundations argues a secular state must tolerate are not endorsed as good activities by that work or its author.

James Lennox and I may be in greater agreement than a superficial reading of his essay may suggest. First, endorsing a Kantian epistemology does not entail holding that one creates a world that conforms to one's theoretical hopes. Indeed, Kant held that we bring with us necessary conditions for the possibility of empirical knowledge, which conditions cannot be chosen and cannot be eschewed. With regard to Aristotle, Lennox and I are in full agreement. As I indicated in Foundations, Aristotle was drawn upon by Thomas Aquinas and then later by Thomists to give an account of natural law which, when fused with stoic and peculiarly Western Christian assumptions, led to a cluster of views that were influential in medicine. However, the positions produced are not Aristotle's.

More significantly, much of what Lennox says with regard to health, disease, and evolution, Foundations concedes with respect to an understanding of how one could address the species-typical character of humans from the perspective of zoology. Foundations takes as its task an account of clinical medicine, a social practice which is not immediately directed to knowing truly, but rather to acting effectively, while taking into account a complex cluster of non-epistemic concerns, including financial costs. The language of disease, illness, and health in clinical medicine functions as part of a practice in which warrants are sought either to authorize certain interventions or to forego interventions without violating established commitments for treatment.

To appreciate the use of disease and illness language as therapy warrants, one might consider how managed care invokes cost considerations to determine where a line should be drawn as to what does or does not merit treatment. For example, a complex of cost-benefit considerations are invoked when drawing a line between that level of diastolic blood pressure that will be understood to be normal, and that understood to be abnormal, to constitute hypertension, so as to warrant a therapeutic intervention of a particular sort. In determining where to draw the line between health and disease, one will not simply attend to the likely outcomes of hypertension, such as coronary artery disease, or stroke. One will attend as well to the costs of treating such hypertension, where the costs brought into consideration will not simply be financial costs, but the various morbidities associated with the available treatments. Since there will be various views about how properly to balance costs with lives saved, as well as the side effects of various treatments with the

benefits of various treatments, the creation of any particular line between normal and abnormal blood pressure will be just that. It will be a creation that will take into account balancings of harms and benefits. Moreover, in that such lines function within social institutions, the drawing of lines will implicitly or explicitly involve compromises among different views by different stakeholders. It is for this reason that Foundations in chapter 5, to which James Lennox has given such thoughtful attention, completes its arguments by exploring the various stagings of cancer created by such groups as American Joint Committee for Cancer Staging and End-Results Reporting.

The claims of Foundations regarding the social construction of clinical medical reality does not involve denying that medicine takes into account biological facts of the matter. Nor does it involve holding that the information to which medicine as a healing practice should direct its attention should exclude what we have come to understand with respect to human evolution. Nor does it involve denying that there can be better or worse explanations of disease. Instead, the claim is that medical classifications are not directed immediately to providing a true picture of the world, but rather to providing a clinically useful picture. Clinical classifications are robustly instrumental. So, too, is the articulation of explanatory accounts in clinical medicine. They are shaped by a set of non-epistemic concerns which recast clinical medical explanations in the service of cost effective treatment, while recognizing all along that there will be competing understandings of costs, benefits, and how to weigh them. In such circumstances, different accounts can be better or worse with regard to their aiding in the realization of the goals set for clinical medicine.

This is not to deny that "medical concepts such as health and disease can be grounded in the biological sciences" (Lennox, p.78). Rather, it is to observe that they are not simply grounded in the biological sciences. Lennox recognizes this when he acknowledges that "many 'extra-scientific' values play a role in the practice of diagnostic inquiry, classification, and treatment [and that] the very act of deciding that a physical condition deserves the label 'disease' is an act of evaluation" (p.77). It is rather in addition that an account of clinical medicine requires observing that what physicians learn from biology is embedded in a set of practices that direct physicians to engage in particular diagnostic and therapeutic interventions, while taking into account the likely costs and benefits of possible interventions, including financial costs and benefits. Even the decision whether one should attempt to know reality better by means of further diagnostic interventions is itself always properly embedded in considerations of the morbidity, mortality, financial and social costs of such acquisition of medical knowledge.

In some cases, these considerations will address the biological facts of the matter with only a very light hand. James Lennox speaks of his encounter with hepatitis and that he contacted the least vexatious of what he terms the three viruses that cause hepatitis. His very useful illustration brings one to observe that there are in fact a number of viruses etiologically involved in hepatitis. How many one wishes to worry about in a clinical context, that is, how one wishes to direct the expensive attention of physicians to etiology, will depend on which distinctions make what difference for whom, when, and with what costs. Even to call all of these diseases hepatitis will be a choice among different ways in which one might direct the clinical attention of physicians. Much of Lennox's concern

about the hepatitis he did not contract stems from the auto-immune reactions that such viruses can precipitate. The long-term problems are not simply those that come from the liver. As a consequence, are such diseases from these other viruses best spoken of as causing hepatitis, thus directing primary attention to that one organ? Or are they best placed under the rubric of auto-immune responses and immunological defects as one creates clinical classifications and the arrangements of medical textbooks? Foundations notes that the choices one makes in such circumstances are fashioned in terms of the clinical orientation or attention one wishes to convey to physicians in particular, and to health care systems in general. One highlights one explanation rather than another because of the clinical usefulness of a particular choice. Clinically different ways of regarding what is the "same disease" from a biological perspective will be better or worse, more or less useful, depending on the specialty, the health care system, and the therapeutic resources available. Choices will be better or worse depending not just on the facts of the matter but on how one orders the goals at stake.

A similar gloss can be given to James Lennox's reflections on alcoholism and liver function (Lennox, p.80). For example, it is known that not only is drinking pleasurable, but drinking is also negatively correlated with the development of coronary artery disease.<sup>2</sup> Since all of us will die, much of medical treatment involves choices among different likelihoods of dying from one disease rather than another. As a consequence, it would not be implausible for public health physicians to consider how one might balance risks of ethanol damage to the liver, with the risk of coronary artery disease. Public health norms with regard to drinking could then appropriately take into consideration balancings of harms to different organs, not only taking account of the impact on life expectancy, but also the costs for coronary bypass operations versus liver transplants, the pleasure of wine versus the morbidity of other drugs employed to lower cholesterol, etc. Though in some biological sense the standard of proper liver function is biologically grounded (Lennox, p.80), clinical standards for liver function and for public health recommendations with regard to alcohol use in a clinical context are not merely biologically grounded. They also reflect a range of cost-benefit considerations that surely include life expectancy, but not simply life expectancy (Lennox, p.80).

Because in clinical medicine findings of disease and health reflect background considerations of the proper warrants for making diagnostic determinations and engaging in therapeutic interventions, ideals of anatomical structure, as well as of physiological and mental function, are not only biological (Lennox, p.80). Nor will it be sufficient in the establishment of such diagnostic and therapeutic warrants to attend only to "biological conditions or the outcomes of evolution" (Lennox, p.79 Foundations 202). On the one hand, I have not denied that such attempts can be fruitful with regard to reconstructing important concerns on the part of zoologists who are interested in knowing truly rather than acting within a social practice such as clinical medicine effectively. On the other hand, I have denied that it is possible to give an account of clinical medicine and its use of disease classifications without acknowledging the socially constructed character of clinical medical reality. Accounts of what should count as disease, futile treatments, etc., reflect not merely the facts of the matter, but a complex set of considerations about how to engage explanations and affirm particular values in order effectively to avoid and/or treat particular ways of suffering.

My response here has not been directly to engage the considerations that James Lennox raises. Rather, I have resituated them in what I take to be the context for an appropriate understanding of clinical references to illness, disease, and health. Once these considerations are resituated, one can then also bring feminist and other approaches to reappraising the use of such language in clinical contexts, all without presupposing that one is claiming to refashion biological reality as James Lennox suggests in his gloss on Mendel's study of inherited characteristics. One is recognizing that the reality of clinical medicine is not only biological but social. Clinical medical reality as a social construct which is structured to direct behavior must in part be stipulated by convention. Here, again, the example of the creation of various nomenclatures for the staging of cancer is heuristic. It is here that concerns regarding the democratization of reality should be salient. Moreover, it is here as well that moral rights of privacy for individuals and communities must also be taken into account so that different communities can peaceably establish and act upon different diagnostic and therapeutic understandings reflecting their own moral commitments. In chapters 4 and 8, *Foundations* turns to this issue when addressing the possibility of numerous parallel medical systems guided by different moral understandings. Such moral understandings will not simply be reflected in what is judged to be appropriate or inappropriate behavior, but also in how one appropriately uses the medical language of disease, illness, futility, etc.

Though *Foundations* shares a great deal with the concerns of Rosemarie Tong, and though much of the concerns raised by James Lennox can be acknowledged while not setting aside the central arguments in chapter 5 of *Foundations*, Tom Beauchamp and I may indeed be in more significant disagreement. Indeed, his position sets me over against him on the side of Rosemarie Tong. Tong and I both take moral diversity seriously and acknowledge that all do not in fact share one common morality. To make plausible his account of bioethics, Beauchamp must presuppose the background existence of a common morality to which one can turn through a common set of middle-level principles and/or casuistic devices so that theoretical disagreement can be set aside in actual agreement regarding particular cases and particular policies. He also appears to hold that the exclusion of particular moral choices through an appeal to a procedural morality grounded in the authorization of persons commits one to a particular content-full morality.

But most astonishing in the paper of Tom Beauchamp is his adamant refusal to recognize the deep moral controversies that characterize the actual bioethical disputes framing the headlines in newspapers around the world. There are real and significant disputes not just regarding abortion, third-party assisted reproduction, and suicide, but regarding what should count as justice, fairness, and equality. Different notions of the good, as well as different notions of human flourishing, divide individuals and moral communities and frame the very character of contemporary bioethical disputes. Here it must be noted that Robert Sade seems not to appreciate the difficulty in establishing the authority of different social mediation among different understandings of human flourishing. Granted, that may not be that difficult, once he has embraced the view that living with contradiction may not be better than living without contradiction. Surely, it is the case that *Foundations* does not offer a moral or aesthetic ground for celebrating living without contradiction. However, once one has embraced a real contradiction, everything follows such that one can surely understand that it will not be possible to resolve

controversies by sound rational argument. To return to Beauchamp, the claim is not that there will not be circumstances in which most understandings of beneficence will lead to similar responses: saving the toddler in the middle of the street. The point is rather that all real understandings of beneficence are thick. Is it beneficent, for example, to provide euthanasia and abortion for teenagers who cannot themselves afford it? Answers to such questions can only be found within particular moral communities, and the particular answers will divide the communities.

Beauchamp is correct about the sparseness of the principle of permission, while Sade appears to miss what is at issue. If persons are separated by different views of beneficence and human flourishing, and if persons do not share the same understanding of God or culture, or of fundamental moral premises, rules of evidence and inference, they can only act with common moral authority if they draw that authority from their common permission. In the absence of common moral premises, rules of evidence or inference, when confronted with actual content-full moral issues, the debates cannot be settled unless the parties agree to a settlement. A conclusion cannot be reached by sound rational argument without begging the question, engaging in an infinite regress, or pursuing a circular argument.

Foundations in chapter 2 thus begins with a destructive argument that shows why one cannot come by rational argument to the substantive morality that Beauchamp wishes to presuppose. As this argument shows, different rankings of important moral concerns such as liberty, equality, security, and prosperity lead to quite different understandings of moral probity and human flourishing. Post-modernity is nothing more than the recognition that sound rational argument cannot bridge the gulf established by different foundational premises. However, one can agree to reach across differences and collaborate. This is the point about permission that Sade misunderstands. It is not that permission or peaceableness are valued. Rather, it is that authority can be drawn from permission, even when sound rational arguments fail. The argument is not that force cannot bring closure to a dispute. The argument is rather that, if one wishes authority for force and cannot derive it from a common understanding of either God or reason, one can still derive it from the permission of those who participate. The appeal to permission functions as the transcendental ground that grounds the moral world that can be shared by moral strangers. One must surely explore under what circumstances one is using others coercively, and this will lead one to a more careful exploration of some of the issues Sade addresses regarding coercion.

Sade does not appear to have read chapter 4 of Foundations with sufficient care, for he interprets my account of the Lockean proviso as being a basis for state taxation, though this is explicitly denied. His assumptions regarding payments due to sultans in Kuwait, rather than to all disadvantaged through infringements of the Lockean proviso, simply have no foundation. In any event, even if inclinations toward property have roots in human nature, human nature is likely polymorphic so that at some level negotiations regarding rights in real property will be unavoidable. So, too, will negotiations be unavoidable as different views of human flourishing collide. If one wishes to resolve such controversies by an appeal to justified force, and if all do not understand which force God anoints, and since we do not share common foundational moral premises regarding flourishing, etc.,

the only authority to which we can appeal is the agreement of those who decide to collaborate.

It is for this reason that bioethics in our contemporary world does best when it focuses on procedural expedience such as free and informed consent, contracts, advance directives, rights to be left alone, and the various appurtenances of moral life that depend on agreement. Beauchamp and I part company where I join company with Rosemarie Tong: Tong and I acknowledge the unavoidability of recognizing moral diversity. Though Sade and I join in recognizing the importance of a limited state, I do not think he can derive the justification for his desires from his thick notion of flourishing or his substantive interpretations of human nature. Sade's difficulty lies in part, perhaps, in his confusing social life with that of the moral community. It is surely not the case that Engelhardt "finds the communal ethic he is looking for, not in a thick, content-full moral system, but in a much thinner structure based on the principle of permission" (p.85). As Foundations makes plain, here Sade is closer to Beauchamp in presupposing that we can share a content-full morality. The irony of the matter is that Sade and Beauchamp do not agree about that morality. Such is the post-modern condition in which we find ourselves. Foundations does not suggest that we deny this diversity. Instead, it suggests a way in which we can reach across it and understanding a morality that can with moral authority even bind moral strangers.

## Endnotes

1. I am in debt to Mark J. Cherry for his suggestions regarding earlier drafts of this paper.
2. See, for example, Fuchs, C.S., *et al*, 1995, 'Alcohol consumption and mortality among women,' *NEJM* 332, pp.1245- 1250; Gaziano, J.M., *et al*, 1993, 'Moderate alcohol intake, increased levels of high density lipoprotein and its subfractions, and decreased risk of myocardial infarction,' *NEJM* 329, pp.1829-1834; and Smit, J.W., *et al*, 1995, 'Effects of alcohol fluvastatin on lipid metabolism and hepatic functioning,' *Annals of Internal Medicine* 122, pp.678-680.

## Discussion

### God

by Jan Narveson

The question before us tonight is whether God exists. Well, not quite: it is, more precisely, whether we ought to believe that there exists such a thing as God is said to be. Still more precisely, it is whether it is reasonable to believe that. Putting it this last way, I believe, suggests, what is surely true, that there are many different kinds of things that might be appealed to on this matter, so that we may do well to be sensitive to those differences.

I am sure that the vast majority of people who say that they believe some religion are essentially passing on the results of early inculcation. And a fair number of those people, very likely, continue to sustain their beliefs because it feels good. Whether we should consider it "reasonable" to believe things of the sort that religions teach for those reasons is an important question.

Nevertheless, one considerable area of considerations on this kind of question has, I think, a certain pride of place. Asking whether God exists is, at least apparently, asking a (very grand) question of fact - whether there is an entity of a certain general description. *Prima facie*, when we ask a question like that, what is relevant is evidence: are there features of the world around us, or perhaps ourselves, which somehow suggest, or imply, or are most plausibly explained by the hypothesis that there is, or that there is not, such a personage?

One possibility is that it would be irrational to believe that God exists. This would be so if, for example, the belief was just nonsensical - a "belief" only in words, with no coherent content at all. Or again, that it was internally inconsistent; or that it was flatly incompatible with clearly relevant facts. Alternatively, it might be that it is irrational not to believe in God - that God's existence is either self-evident, or required by known facts. Writers like Anselm and Descartes argued famously for the first of those two alternatives. And, finally, it may be that belief in God is neither of the foregoing, and that the belief may be placed along a spectrum ranging from just barely possible to extremely likely. The familiar 18th Century Deists belong in this category, and hold that the facts call for a judgment somewhere near the latter end of that spectrum.

I shall, in the main, not argue that belief in God is literally irrational, though I have my suspicions along that line, and at least some versions of the theological view do seem to me to succumb to that charge. Nevertheless, I will argue that religious belief is definitely not reasonable. The hypothesis that there is a God is epistemically reasonable only if it does actually explain the way things are. In the end, I think, anyone who thinks that it does so is probably guilty of some kind of confusion. I will propose that the cognitive status of religious belief puts it among the intellectual non-starters in the way of hypotheses. La Place famously asked, concerning religion, "What need have I for that hypothesis?" I shall go a little farther than that, and say that we really need to avoid such hypotheses. That religious beliefs may be comforting, or dramatically interesting - or even just kind of fun

- is not denied. But those are hardly reasons compelling belief on rational grounds. Rather, they explain why so many people hold them, despite extreme paucity of more strictly cognitive appeal.

Now, people will no doubt say that there are many "gods" - or, more precisely, that different people have quite different beliefs about a god or gods. This is true, in a sense, but again I think we can narrow the field of possibilities sufficiently so that we will all be talking about the same thing when we address this question. We all, I take it, suppose that the entity intended by the term 'god' is (1) essentially a mind or spirit, rather than some sort of material force as such, and that this mind is characterized by (2) the possession of infinite power; or at any rate, enough to be able to "create the world"; and (3) supreme "goodness," in specifically moral respects. Thus, the claim made at the outset of the Judeo-Christian Bible, that 'in the beginning, God created the heavens and earth', may be regarded as a sort of defining feature, a laying down of the terms of reference, for the belief we are considering. A being of infinite power would have to have done that - nothing could possibly exist that such a being did not want to have existing, one would suppose, and at the very least nothing could exist without, as it were, his permission.

A lot of people for a very long time have believed that there is such a mind or spirit, though at this point it is well to bear in mind that there really are a lot of religious-type beliefs that differ pretty drastically from this particular one. I will, for this reason, make a slightly extravagant assumption: falling in step with the Judeo-Christian-classical Greek-western rationalistic tradition, I suggest that if we are to suppose that there are any genuine arguments possible on behalf of a religious hypothesis, this imperialistic type Western one has a great deal going for it. Religions such as pantheism, say, or the colorful galaxies of goddiah figures abounding in some of the eastern religions, while a lot more fun than our boring Western tradition, do have the disadvantage, from the point of view of intellectual interest, that they really do seem rather arbitrary and fanciful. I mean, the very idea of having evidence, reason, for supposing that there really do exist all those chaps in the Hindu caste of divine characters really does strain the intellect.

Let us, then, turn to the matter of arguments for (or against) the existence of God. Now, many readers will have taken an "Intro Philosophy" course and had occasion to examine, with the help of some reasonably competent teacher, what are regarded as the standard arguments for the existence of God. Those who have not may find some of the next few paragraphs overly cryptic, and I apologize for that; but there simply is not time or space to go into everything at the depth the subject deserves here. So, I am going to settle for a very quick run-down on these classic arguments, and accompany most of them by a very quick dismissal which would be outrageous if it were not that the subject is so thoroughly discussed in philosophical literature.

### 1. "Ontological"

To begin with - logically and otherwise - we should mention the existence, and sometime popularity, of some perfectly fascinating arguments, at least from the logical point of view, known as "ontological" arguments. On this view, all we have to do is to understand the sheer idea of god to see that, obviously, there simply must be one (and, of course, only

one) of those things. (God is "a being greater than any that can be conceived; a being that cannot be conceived not to exist is greater than one that can be conceived not to exist," etc.) While there are a very few people working away in dusty attics trying to save something from this sort of argument, I stand with the overwhelming majority of my fellow philosophers in regarding that project as, essentially, misguided. Conceptual analysis can tell us at most what sort of gods there is if there are any; but it can not tell us that there is any such personage. Period.

## 2. "Cosmological"

According to these arguments, the "cosmos" is such that there simply could not be such a thing if there were not also a god around to create the thing. The argument lends itself to ready summary. First, it is claimed that the cosmos must be finite; second, it is asserted that no natural process can be uncaused - everything has to have a cause. So it is concluded that the cosmos has a cause. And what could this be, if not God?

Again, though, I have to say that along with an almost - but not quite - equally overwhelming majority of my fellow philosophers, my verdict on this is, again, a solid nix. The problem is an inherent one. On the one hand, some kind of extremely high-powered conceptual proof is offered for the thesis that there cannot be an "actual infinity," a real thing in the world that is, yet, endless in extent. (So, "the world is finite.") But then it is asserted that everything has to have a cause. The problem is that these two premises seem to be mutually incompatible. If everything has a cause, then the sum total of all caused events is infinite - no choice about that. If there literally cannot be endless sequences, because there can not be endless anythings, then what do we do with a supposedly infinite God? Either the argument shows that the existence of God is impossible, or it shows that it is possible for the cosmos to get along without one. And why ever should the claim that there has always, forever and ever going into the past, been a god be any more plausible than the view that there has always, forever and ever going into the past, been some kind of a cosmos?

William Craig spells out his version of the Ontological Argument in remarkably learned fashion; his contributions to the book, *Theism, Atheism, and Big Bang Cosmology*, are impressively studded with exotic symbols and listings of hypotheses from current physics and astronomy. And yet, after all this high-powered conceptual apparatus is brought in, out comes the same old argument we find in two sentences or so in Aquinas. The cosmos could not be infinite; yet everything has to have a cause; therefore the cosmos has a cause; and "this we call God," as they say.

The impressive, yawning gap between premise and conclusion seems to have escaped the author's notice, which suggests that he found it too obvious even to state. But, alas! Being the same old argument, it has the same old problem: God himself, clearly, has to be an actual infinite, if anything. But Craig's and Aquinas's first premise is that there cannot be any of those: actual infinities, they want to say, are impossible. Very well, then: if actual infinities are impossible, then it is impossible that there is a God. So you pretty well have to take your pick: either there cannot be a god; or there can be real infinities, in which case why cannot the physical universe be it? Craig offers an interesting argument

for the impossibility of infinities which I will be happy to discuss if anyone wants to - but it will not work - luckily for him, as I say.

An important subissue that arises here is my implicit assumption that God is a mind, a minded being. And minds simply do exist in time. The idea that God's somehow does not is sheer evasive double-talk, illustrative of the tendency of defenders of theism to change the subject to suit the needs of the rhetoric. God, some writers want to say, exists "out of time." How a being existing "out of time" can nevertheless manage to "do" anything is an interesting question. God is supposed to create things and to manifest love and other nice personal qualities. How do you do that if you do not exist in time? Try getting some TLC from the number 212,378, or the square root of two, and you get the idea.

This idea that somehow the cosmos has got to be due to the operation of some Mind is one that I am inclined to put down to metaphysical snobbery on the part of us humans. We have minds, of course, and that puts us, in certain respects, at a great advantage over mere physical objects or forces which, so far as we have any reason to believe, do not. Trouble is, they cannot discuss the subject with us! So if we tell them that we are better than they are - nyah, nyah! - they are not about to talk back. However, that is not much of a substitute for rational argument, as I suppose the reader would agree.

### 3. Arguments from "Design"

So we had better move on to where, in more nearly contemporary terms, the action is. These are the sort of arguments that flourished back in the 18th Century. Impressed by the progress of science and the powers of scientific method, the thinkers of that century and their successors down to the present proposed that various features of the world around us as we know it are such as to make it very likely that a creative intelligence is responsible for it. These "arguments from design," as they are called, seem to be of the right general type, broadly speaking, to rate a hearing from the thoughtful inquirer. Shortly, we will turn to them.

### Emotional Considerations

But before getting down to brass tacks with those arguments, we should mention a few sideshow considerations that have, I think, strongly influenced a lot of people. It may have been noted that I have entirely left out of the above any kind of emotional stuff, and in a way, I apologize for that. After all, most people who have a religion attach a lot of emotional significance to it. They want to suppose that there is a personal God who will, as it were, be around to sympathize with them when things get tough, and they want to be able to write oratorios in his praises and that sort of thing. I sympathize with these people, and I do not wish in the least to denigrate the deep impulses from which these tendencies flow. Unfortunately, however, if we are to try to elevate such things to the level of argument, then they come up against a general problem which appears to me to be fatal: namely, that an argument of the form, "Wouldn't it be neat if p!," simply does not entail 'p'. Wishful thinking is not argument - though it is, too often, a substitute for it.

I must say that I do not quite understand how anyone can imagine that the sheer fact that he very much wants a certain thing to be true is, of itself, enough to make it true. One

wonders how such a person's belief-forming mechanisms work, or whether they work at all. But anyway, let us just point out that if you would like to have a rationally justified belief that there is a God, you had better roll up your sleeves and find some genuine reason why we should suppose this - rather than just singing louder.

The same is true of such "arguments" as that an awful lot of people have supposed that there is a God, so there must be one, right? I mean, can all that number of people be wrong? But, alas - just stating that is enough to make one realize that the answer is pretty obviously Yes - as evidence, after all, by the fact that since there are umpty thousand different religions, each incompatible with all the rest, almost everybody must be wrong anyway. Besides that, there are a whole lot of people - usually ones who have thought about the subject a lot more than most believers - who have no religion at all. In short, all these various people do not agree with each other; so they cannot all be right, and must, indeed, mostly be wrong.

In any case, of course, we have to do a lot better than counting noses when our question is whether some purportedly objective fact obtains, independently of our belief in it. And that is the kind of fact that the existence of God would, obviously, have to be.

### **Explanations and Best Explanations**

So let us get back to the main kind of argument that, as I say, seems to deserve our most serious attention. That argument, the "argument from design," says that the Universe has such-and-such a "design;" therefore, it must have a designer. The Argument from Design is, actually, a somewhat primitive or, should we say, insufficiently clued-in version of a more general type of argument - the sort of argument that is typical of science. It is now called the "Inference to the Best Explanation." A set of phenomena is observed; the question is, what explains it. We provisionally accept the hypothesis that explains it "best," in view of everything we know, about this and other matters. A good hypothesis has to be intelligible, internally consistent, and consistent with everything we know as well - both the particular phenomena in question and whatever else we are reasonably confident of. Given that hypothesis, we would expect there to be the sort of phenomena we actually observe; in its absence, those phenomena do not make very good sense.

Before commenting in detail on the argument from design, we take note of an important ambiguity in the word 'design'. It can be used in two ways: to mean (a) something like "pattern," such as the layout of a checker-board; or it can mean (b) something brought about, or intended to be brought about, by somebody or other who has a scheme, a plan - in short, a design. The argument would be flatly question-begging if, looking out at the Universe around you, you were to say, "obviously it has design," but meaning 'design' in the second sense. If we are to have a genuine argument here, we are entitled only to the term in its first sense. In that sense, we observe, looking out at the universe, that it has a certain pattern or structure, and we then go on to suggest that it could hardly have had such a thing if there were not some terribly clever Person to design it like that (and of course, to build it, having designed it).

That is a respectable argument, in form; the only thing wrong with it is that, alas, its major premise is false. That is to say: it simply is not true that the only thing that could

give an entity some structure or other is some minded entity who wanted it to be that way. So far as available evidence is concerned, some lovely regular structures, such as crystals, say, just grow, due to wholly mindless natural processes. Nature is lots of ways, and one of them is crystal lattices, and another is the double helix, and still another is... but you get the point. If somebody is going to maintain, nevertheless, that some feature or other of the world around us is such that Somebody must have existed to make it that way, he is simply going to have to do a lot better than that.

It can also be pointed out that the observable starry sky does not have a "regular design" to appearance. The stars look to be just scattered around at random. So our phenomena are not adequately characterized when it is said that they have "design:" some do, some do not.

What is needed is an argument of the following general type. We have here a phenomenon to be explained. The phenomenon is the existence of the observable world around us. This we can all see if we have but eyes to see - no problem. We will ignore, for example, the "skeptics," who doubt that we have any reason to believe that anything "really" exists. Now, skeptics are lots of fun, and it is good intellectual exercise to try to respond to skepticism, if one has the leisure for it - but we definitely do not, just now. So we will have to forego this pleasure, and assume that the skeptic is well off the mark.

Not only do we reject the general claim that there is actually no world around us at all; we actually know a fair amount about the place by now - all of which is available for purposes of arguments such as these. Now: the religious person is offering the existence of God as an explanation of all this. His argument, then, is of the general type, "Inference to the Best Explanation." Obviously this is a rubric that brings up lots of important questions, notably, What makes an explanation a good explanation? And while we can hardly get to the bottom of the matter, we must say a little about this.

Well, for one thing, an explanation has to explain. That is: the proposal, the hypothesis, put forward as doing the explaining has to be such that, once you understand the ideas put forward in the proposed explanation, and you understand the phenomenon to be explained, you can see how, yes, the things mentioned in the hypothesis would lead to the phenomena being the way they are. But, preferably, you would be able to say a bit more. After all, tons of candidates might be able to meet this first requirement. Much better, then, would be to be able to say that, really, there is hardly any competition: the other proposals just do not cut it by comparison. Or at least any other hypotheses we can think of that might explain them are just too klunky to bother with. Good hypotheses have, we think, a certain elegance.

The next thing is that, needless to say, your explanation had better be consistent with the facts. If it implies that things would be different from the way they are, then that hypothesis is out the window, at least until somebody can show that maybe the recalcitrant facts can be accounted for by some side hypothesis. Meanwhile, though, what we want is that all the things we know are consistent with this hypothesis, and then, in addition, there are things that seem pretty much to scream out for just this one.

So what about the God hypothesis? Well, it does seem to have elegance, and if it has it at all, has it in spades. I mean, we are going to explain this whole shebang, as it were, all this stupefying welter of stuff in the universe as we know it, sat a single stroke, as being the result of some one gigantic mind at work. How elegant can you get? In fact, that is something of a delusion, as we will shortly see. But for the moment, I am willing to allow that on the face of it, the God hypothesis looks pretty elegant. So what else has it got going for it?

### **Theistic "Explanation" is a Fake**

Alas, this is where things begin to get tricky. In fact, I would have to say that that is literally the right word for it: the appearance that the God hypothesis explains the existence of the world around us, when you look it straight in the eye, suddenly turns into a phantasm. Here is why. If we are going to explain something or other by the suggestion that somebody made it that way, did something to bring it about in conformity with an antecedent plan, then we at least have to know (a) what the plan was, and (b) how he did it.

Now, there is ample reason for balking over the second requirement. How, we are entitled to ask, would an infinite being go about creating something out of nothing? The supporters of the God theory are not bothered by that question, because they think they can just say, "Well, who are we to know a thing like that? I mean, give us a break - God can do anything, right? By definition he can! So go away and do not bother me about that!" In fact, that response sweeps a lot of perfectly reasonable questions under the carpet. But let us allow the believer to get away with this, for the time being. For it is the other thing that should really bother us. Why would an infinitely intelligent being do this sort of thing anyway? What theists fail to appreciate in this regard is that if we are to suppose that we have a genuine explanation of the type we are all familiar with, we simply must have an answer to that, one involving understandable purposes as well as the equipment to achieve them. But alas, we do not. And that is not all. It is not just that we do not, but in fact we cannot.

Consider: what we are told is that things are the way they are because some very bright chap wanted them to be that way. But how do we know that? I mean, how do we know that this is the sort of thing an infinitely intelligent infinitely powerful being would do, as it were, in his spare time? Well, when you think about it, it shortly becomes obvious that we have not the foggiest, remotest shred of a notion on this point. In fact, this "explanation" turns out to be nothing of the sort: it is not an explanation at all; or rather, it is an account that needs at least as much explaining as what we are trying to account for with it. Which makes it a nonstarter as real explanations go. "Saying that the creativity of a Divine Mind "explains" the existence of the world is whistling in the dark."

It has been regarded by some, lately, as a serious question whether biology classroom teachers have to give "equal time," or any time at all, to the supposed hypothesis called "creationism." In fact, there is no problem. Why did us folks with two legs and one head and so on win out over those weird organisms they found over in Alberta? Answer; because God wanted them to! And how do we know he wanted them to? Where did the creationist get his hot line to God? That is to say: how do we know he is the sort of being who would

have wanted to make this sort of world instead of any other sort he could have had instead? The answer is: we do not! Instead, the creationist says, "Well, that is the kind he must have wanted, since that is what actually happened." A "hypothesis" like that is, of course, totally useless for the explanation of anything. No matter what happens, the creationist is all ready to say that God must have wanted it that way - no reason given, or even possible, as to why he would have, and consequently no way to predict what he will want next. An "explanation" that explains everything explains nothing. No conceivable guide to research can be supplied by entertaining such a "hypothesis." It is an explanation, a theory, only in name.

Explanations in terms of motives makes sense, and are useful, when we can have independent evidence that agents of the kind in question have the kind of motives in question. We can understand why Johnny shot the hostage: his life was threatened by the police, he thought this would pressure them into acceding to his demands, he was nervous... But we do not and cannot have God available at first hand to check out his motivational system. The premise that X is a superintelligent superpowerful being tells us nothing whatever, as yet, about what he might actually want to do with that fabulous equipment.

### **Negative Evidence?**

Actually, to be sure, the preceding is overstated in one respect. For there is one feature of the Deity that one might have supposed would supply some kind of clue regarding the sort of universes he might be expected to create: being a "perfect," a supremely "good" being, one might be forgiven for expecting the universe, and in particular this little inhabited corner of it, to be a really top-quality item - maybe an earthly paradise, for starters. But, alas, those of us who might have entertained any such expectations soon have them dashed. Consider a little problem that has been afflicting theological circles for a long time. If you look around certain corners of the universe it is not only utterly unclear why an intelligent being would have wanted to create any such thing - so very like a Rube Goldberg machine, when you think of it - but, much worse yet, there is a fair amount about it that, one might have thought, an intelligent being claiming to be such a good guy on top of it would be downright embarrassed to have created. Malaria, for example, or Tay-Sachs syndrome, stuff like that. But theological philosophers are all ready to regale us, with stories about how God is just out to try our souls with a bit of evil to worry about, and so on.

In the end, what they say is this classic line: that "The Lord works in mysterious ways his wonders to achieve." Right on! So mysterious that even when we have got stuff that looks exactly like the stuff he is not supposed to want us to produce, it somehow still "fits." What do you know? But again, the proposed reconciliation makes crucial use of mysterious premises. Incomprehensibly enough to us mortals, there is some point in all this apparently senseless suffering after all. Only we do not know what it is! Do not, and cannot... Therefore, believe!

So, in short, if you are looking for a genuine explanation of anything, theology just is not where it is at. Once you have got your explanatory being at hand, then you are in a

position to attribute this or that particular result to his operation. But if you do not have him yet, and are trying to infer his existence from the way things you, you are in over your (and everyone else's) head.

### **Morality**

To all of the above, I do want to add a quick footnote on a subject that I suspect is of great interest and, maybe, concern to a lot of people: namely, the relation between religion and morals. In fact, a lot of people think, I believe, that religion is somehow the "foundation" of morals. It is worth concluding this short excursion by pointing out that that, too, is an illusion, only a more serious one than the first one.

The basic reason why the hypothesis of a God cannot explain right and wrong is simple. As pointed out at the beginning, God is defined as a being who is, among other things, infinitely good. But this means that if we did not know what the term 'good' means already, independently of anything we might "get" from a theological story, then it would follow that we simply cannot discuss the subject: saying that "God is good" would mean absolutely nothing. On the other hand, if we do know that already - and, of course, we do - then it is impossible that we needed to have got it from God. It is the other way around. The hypothesis of a morally perfect being running the show is the hypothesis of somebody running the show the way we think it should be run. Well, how is that? You have to do your homework first before you can answer that; which means that you cannot know what God thinks about it until you have worked out the right idea yourself. In short, all of the genuine thinking about this has to be done outside of theology, since all it can do is build the results into its religious account.

The reason why it is right to do so-and-so cannot, in short, be that some infinitely wise being says we should do it. He would not be an infinitely wise being unless he had darn good reason for saying we should do so and so; and he cannot conceivably have better reason than that it is right. Yes, we know: but why is it right? What makes it so? Appealing to God for answers to that question is logically useless. When it comes to morals, God is a fifth wheel. Unfortunately, it is a wheel that has steered a great many people way down some very wrong tracks, so this is no fussy little abstract logical point.

### **Politics and Religion**

It is perhaps in point to add, too, that the structure of most religions, including this one, is ideal for turning ordinary, normally intelligent people into slaves, or dupes. Mankind is continually reminded of its shortcomings - "original sin," general wickedness, and general incompetence ("little children"), bolstering the need for a great Nanny in the sky to do our thinking for us, and tell us what to do. Obedience is the cardinal virtue, thinking things through on your own viewed with disdain or horror. The setup sounds uncomfortably like fascism: What story could be more useful to aspiring dictators, after all, than one according to which those rulers are merely the agents of God - who, of course, is always right, n'est pas? And if the dictators are clerics, we have a theocracy in reality, though all supposedly subordinate to the mysterious but awesome Big Dictator in the sky. Indeed, the natural political outlook of any religion, including Christianity, is theocracy - from which we have been saved only by the fortunate fact of schism, which has been

unsurprisingly rampant in the history of that religion. There is surely room to ask, though, whether theocracy and dictatorship are the happiest political models to be impressing upon a gullible populace.

The habit of referring moral and political beliefs to a mysterious but powerful deity is among the worst there can be from the point of view of human peace, good will, and freedom. Nobody can say with a straight face that God is in favor of this, or that, or the other action, political goal, or policy in particular. Such claims cannot be rationally settled, if that is what they are founded on. And since the beliefs engendered are very firmly held, often fanatically because of their religious aura, when others are encountered who disagree, there is nothing to do but fight it out. The other guys must be evil, on the side of the devil; our guys are in the right; and we "know" this - but there is, of course, no way to demonstrate it to the others, who must simply take it "on faith." Which they will not do, naturally. So - out come the arrows and the cannons.

Resort to religious rationales for real-world policies is a dodge, and a vicious one. The religious story mesmerizes people into unthinking belief, and then, in too many cases, into fanatical action. Any set of supposed "beliefs" put forward for actions that coerce one's fellows, needs to be scrutinized and, if it is impossible to verify it in the public court of discussion, set aside as simply unsuitable for its purpose. Anyone may have all the religious beliefs he likes, but politicizing those beliefs is taking them out of one's own backyard, or church, and proposing to cram them down the throats of others who do not share that particular vision. Obviously this cannot be acceptable to those others. Obviously peaceable, mutually helpful human relations cannot issue from any such basis. It has taken people many centuries to learn that lesson, and there are many left who have not learned it. Fancying that religious stories have some kind of respectable epistemic status can only impede progress in this very important respect. Religious freedom is the only acceptable political stance concerning religion; anything else means, simply, divisiveness, war.

### **Religion and Reason**

I will conclude by suggesting that the idea that you can actually have a reason, in the sober scientific or logical sense of that term, for believing in anything as far-out as the existence of God is, actually, a bit on the fantastic side. In the minds of the many people who believe such things, we have to say that religious hypotheses are myths - charming, sometimes profound as may be, and often emotionally compelling - but still, basically, myths. People believe them because it makes them comfortable, or perhaps because it makes them uncomfortable and they are neurotics who just do not feel right unless they are guilty about something; and so on... but whatever else, it is not because these stories have some genuine conceptual content that can do some honest intellectual work. They are just not in that ball park.

Now, I for my part am very grateful that Bach wrote the Mass in B Minor and that all those devout people built Chartres Cathedral, and so on. Religion gets a lot of points for things like that, even if it also has the embarrassment of being responsible for, or at least greatly abetting, many or perhaps most of the wars that have ever been fought in the

West in the Christian era. But to bring in such things is to change the subject from that of whether there is literally reason to accept some theistic hypothesis. So here I leave off.

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## **Answer to Professor Narveson's "God"**

by Fr. Robert A. Sirico

Until now, I have thought of Professor Jan Narveson as a political philosopher of a libertarian bent, a defender of the idea of human freedom against the statist mythology of our age. We learn from his newest contribution that the skepticism that led him to reject government control of society has also led him to reject religion, the very idea of God, and to cast aspersions on those who disagree.

As academics go, there is nothing unusual in Narveson's atheism. Ninety five in one hundred non-academics may be believers, but polls show that the more degrees people accumulate, the less likely they are to embrace the existence of a transcendent force, omniscient and omnipotent. That is another way of saying that intellectuals are doubtful that someone may exist who is more knowledgeable and even more powerful than they are. Ask the typical academic if there is a God who is smarter than he is, and he will say no; ask the same person if any member of his department is smarter than he is, and he will issue another "no," even more vehemently.

So there is no mystery as to why, as Narveson reports, the "overwhelming majority" of philosophers do not believe in God; after all, a large number do not believe in reality or consciousness or reason or logic or ethics or truth or much else besides the non-revocability of the tenure contract. Such is the nature of our postmodern era where there can be no resolution to fundamental questions, and where there can be no resolution to the question of what should be the questions. The late-night, freshmen-year bull sessions of the 50s and 60s - where delirious youths speculated about the death of God, the permissibility of everything, and the existence of higher forms of life on other planets, and then eventually moved on to real learning - have merely been prolonged to be the stuff of college curricula.

It is difficult to explain why some do and some do not have the gift of faith, and even much more difficult to explain how it is that some of history's most convinced atheists have come to belief late in life. What is truly mystifying is why some intellectuals can adopt a kind of quiet agnosticism or atheism, and, rather than study much less write about it, they specialize in a field they are truly qualified in; at the same time, others throw themselves completely into the battle of theistic ideas, without bothering to lift a finger to turn a page on theology, ecclesiastical history, the history of religions, or the place of faith in the development of civilization.

I remember enjoying Professor Narveson's *The Libertarian Idea* (Philadelphia, Temple University Press, 1988), which I recall as a political treatise. Having read "God," however, I have looked back to discover whether there were seeds of his present state of mind in this writing published ten years ago. Here we find on page 287 a mention of religions. Religions, he says, "come under the rubric of indoctrination rather than promotion of knowledge" - a point that is surprising since the Church founded the university and sustained it for a millennium until the secular university was invented a hundred or so years ago.

Undeterred, Narveson continues: religion's existence raises a problem for the libertarian: should society let religious people proselytize? His answer is that we should not use the "methods of the Moslems," which means forcing a person to choose "between accepting Allah or having his head cut off." But we probably should tolerate "the distribution of tracts" since they "can be easily thrown into the wastebaskets." And there we have the complete works of Narveson on the religious question until his most recent tract (which I sincerely hope will not be thrown in the wastebasket; it will serve as a perfect foil for the philosopher who takes the time to actually know something about the subject he is writing on).

Now Professor Narveson has undertaken a much more ambitious task, namely the refutation of some three thousand years of intellectual history, hundreds of libraries full of books, the greatest minds that have ever put pen to paper, and the basis of much of what we call civilization, all without a discussion of doctrinal complexities, footnotes, or even literature references. Quite simply, belief in God is unreasonable; those who disagree are merely "passing on the results of early inculcation" and are saying so "because it feels good" (though he does not intend to "denigrate the deep impulses" of religious people - on the contrary he wants to "sympathize" with people's desire for a "personal god" and other kinds of "emotional stuff"). Moreover, religion is contemptible because it turns "normally intelligent people into slaves, or dupes."

This is heady philosophizing indeed. Where to start? With one of Narveson's proofs for God's nonexistence. "What we are told is that things are the way they are because some very bright chap wanted them to be that way. But how do we know that? I mean, how do we know that this is the sort of thing an infinitely intelligent, infinitely powerful being would do, as it were, in his spare time? Well, when you think about it, it shortly becomes obvious that we have not the foggiest, remotest shred of a notion on this point."

As an aside, we must point out that he has conflated New Age speculations with history's two most dominant faiths, Judaism and Christianity, both of which rest on empirical, not speculative claims. They say that certain events happen which provide the evidence our philosopher is seeking: known prophesies were made and fulfilled in the former and, in the latter, God was incarnate. The central clauses of the Christian creed make empirically verifiable claims: Jesus was "born of the virgin Mary... He suffered, died, and was buried; on the third day, He rose again in fulfillment of the Scriptures." Indeed, St. Paul said "If Christ has not been raised, then empty is our preaching; empty, too, your faith." But when you are refuting God's existence, no need to let such details get in the way of a good polemic.

A closer look at Professor Narveson's argument shows that it would apply to any statement of fact. Try this one for size: Professor Narveson wrote an essay on God. How do we know that? How do we know that it was not someone else? Sure some person claiming to be Professor Narveson claims credit for it, but do we know he is who he says he is? Are we just going to take his word for it? That is a leap of faith, which is impermissible in science. Or are we just going to accept others' word for it? No reasonable person would accept something as truth because it is the consensus of others. Might he be someone else? Or let us just grant, for the sake of argument, that this man indeed is

Professor Narveson. How do we know that he indeed did write this as versus discover an unsigned essay on God and put his name on it and claim credit? Are we merely going to accept his authorship because he expects us to bend our will to his assertions because he claims to be an authority?

Of course, we could fill pages and pages with this type of nonsense. At some point, the reader is going to ask: are there any conditions under which you would believe that Professor Narveson wrote an essay on God? If we want it not to be, the answer is of course no. At that point, the reasonable reader should say, well, there is not much point to listen to this hyper-skeptical babble at all, unless I wanted to obtain an academic degree at a German university. All this is what it seems to be: a waste of time. The question I have for Professor Narveson is one that G.K. Chesterton asked of the atheists in his time: if there are no conditions under which you would grant the truth of God's existence - and if there are, you do not share them - why should anyone take your reasons for nonbelief seriously?

I suggest the reader take a careful look back at the Narveson essay, and every time you see the word God, replace it with something more mundane, like a chair or wall or a philosopher. Then the reader should ask himself: is not Narveson really making a case far more extreme than merely that belief in God is nonsense, and is not he really arguing for the non-existence of anything real and non-provability of any truth claim? Half way through his essay, our author seems to catch himself in the act of falling into nihilism, and senses the need to deny that he is a radical skeptic. Even so, he fails to provide any reason to believe there is no evidence for God but all the evidence we should ever need for everything but God. Instead, he chooses to "assume that the skeptic is well off the mark." He does this for good reason. Let us say, he set up a rule such as: "all things we can see and touch are real; all things we cannot see or touch are not." That type of rule would introduce its own problems, since it would mean that virtually everyone would be duty bound to doubt the existence of most everything we do not directly experience with our physical senses. Indeed, many philosophers have tragically taken this path; and this style of skepticism has proven to be a black hole that good minds fall into and never come out of.

The Christian literature on the logical (as versus empirical) proofs of God's existence are massive and complex. I find them persuasive; others find that they are too difficult to follow; still others refuse to follow any logic that leads to conclusions contrary to that which they hold as an article of faith (such as "God does not exist"). An excellent short discussion of this matter can be found in Pope John Paul II's *Crossing the Threshold of Hope* (New York: Knopf, 1994), especially the chapter entitled "'Proof': Is It Still Valid?" in which this trained philosopher defends the existence of extrasensory and transempirical truths against a backdrop of positivism and postmodernism. As reasonable as theism is, and I believe it is from experience, we also know from experience to believe is to also have faith. It may be the case that the proofs of God's existence have never convinced anyone, but it is also true that no proof of reality's existence can convince a person dead set against believing it.

As a final note, I must take exception to Professor Narveson's suggestion that theistic ethics lead to fascism and dictatorship. It does this, he says, because religions "tell us what to do" and exalt "obedience as the cardinal virtue." Yet, is it not the purpose of all ethical inquiry to discover "what to do," and once having done so, should not obedience to ethical truth be considered a virtue? It is hard to see how that must lead to fascism and dictatorship. After all, Professor Narveson himself has written a treatise on political ethics, the upshot of which is that people should not invade each other's space as a general principle. Nobody is calling him a dictator for saying so, nor should they. Indeed, it is the purpose of methodology in all disciplines - whether mathematics, geometry, or physics - to tell us "what to do" and to expect "obedience." This is what knowledge and intellectual understanding is all about. Here is only one more example of where Professor Narveson has sought to discredit religion and has ended up denying the ability of anyone to know or understand anything at all. I will spare the reader any speculations on whether he is merely "passing on the results of early inculcation" or saying so only "because it feels good."

## Narveson's Liberation Epistemology

by Mark Turiano

Religious topics are notoriously difficult to deal with philosophically. Cicero said that the nature of the gods is the darkest and most difficult question of all. Cicero does, however, go on to say that while the nature of the gods may be inscrutable the fact that they exist is not. This much, he says, is something about which most philosophers are in agreement, for such a belief is plausible and one to which we are naturally inclined. Professor Narveson disagrees. Whether or not we are naturally inclined to believe in a god or gods, he finds such a belief so implausible as to call it unreasonable, furthermore he claims that he is in agreement with the philosophical community in his assessment. If belief in God is demonstrably unreasonable, then it would seem to be something from which mankind ought to be freed. Professor Narveson's essay, simply titled "God," is an attempt to demonstrate the antecedent of this hypothetical statement, with the hope, if I am not mistaken, of proving the consequent.

Whether or not anyone has really shown that religious belief of any kind is folly, it is easy enough to imagine some reasons why some would like it to be so. This is especially true of monotheistic religions. Polytheism is open to a great deal of doctrinal plurality as its truth is located primarily in a particular community. Theism on the other hand is universalistic and makes correspondingly greater doctrinal demands. Polytheistic religion is civic religion and its demands on individuals are more concerned with practice than belief and are for the sake of maintaining and fostering the good of the community as such. Religion, as the name suggests, is supposed to bind a community together. This is why Cicero maintained that "when piety goes, religion and sanctity go with it. And when these are gone, there is anarchy and complete confusion in our way of life."<sup>1</sup>

If belief in the gods of a polytheistic religion is for the sake of maintaining a way of life, it would make sense that, while certain things might be required by way of practice, the demands that such a religion would make on individual belief would be minimal. Belief is oriented toward practice in such a way that it makes sense to a polytheist that other communities with other practices should have other beliefs. Of course, atheism or severely heterodox views which destroy the meaning of communal religious practice are intolerable.

Monotheistic religion, particularly Christianity with its jealous God and doctrine of the salvation of individual souls, is more exacting in the demands it places on the believer. Such a religion makes claims that are at once universally binding and pertain to the individual as such. Such truth transcends particular political communities. Christianity, following Judaism, claims that beyond the distinction between noble and base which, being based on communal norms, is essentially political, there is a distinction between the blessed and the cursed, which is more fundamental.

Theism is not just different from polytheism, it abolishes it. Because of the key position that Christianity has played in the civilizational process of the west, it is simply not possible for westerners to take polytheism seriously. Anyone who doubts this would

do well to take up Chesterton's challenge to think a heretical thought about Odin. Heresy presupposes orthodoxy. The gods of Olympus and Valhala have simply become incredible, in their stead is one, universal and transcendent God. The presumption of many atheists, and I think Professor Narveson can be included here, is that this belief in one, true God will, or should, go the way of the belief in Zeus and Hera.

At the same time most atheists will allow that theism is an advance on polytheism in at least one respect. Theism is universalistic, it is predicated on the claim that there is one truth binding on everyone. It is not, however, universal in the way that science is. Scientific beliefs, though fallible, are compelling to all, and, what is more important, they are supposed to be compelling on the grounds of reasons which are accessible to all. Religious beliefs are not so; some will refuse to believe, or believe differently. Furthermore the structure of most of the key religious beliefs is such that logically compelling reasons cannot be given to defend them exclusively. Arguments for particular religious beliefs are all explicitly predicated on the acceptance of other, unargued for, beliefs. The view of the modern atheist is that religion will be or should be overcome in favor of an understanding of the world for which there are compelling reasons accessible to all. If this is true, and if the folly of religion can thereby be replaced with the wisdom of science, it seems that there is hope that a great deal of strife and human suffering can be eliminated. What the prostelytizing atheist hopes to do is to free men from the shackles of religious belief, replacing such belief with rationally justified scientific beliefs, which, because they are compelling to all (or should and will be eventually), will eliminate the inconveniences of religion. Science is rational, it merely remains to make men so as well.

Professor Narveson hopes to liberate us from the unreasonable belief that there is a God. While he graciously concedes that such a belief may be comforting, interesting, or even fun, he insists that we really need to avoid this, as he calls it, "hypothesis." Professor Narveson advances these claims about religious belief being comforting, etc., presumably because he, quite understandably, feels the need to explain why so many people do, in fact, believe what he finds unreasonable.

Professor Narveson is sure that most theists are such because of early inculcation. The beliefs are then retained because they are comforting. Religious beliefs would then be much like patriotic feelings: we adopt them early as a result of inculcating the customs and prejudices of our native land, and most of us find comfort in the belief that these customs and prejudices are true or the best.

I do not find this explanation of the fact of widespread religious belief very persuasive. I happen to believe that there is a God, as well as the other things stated about Him in the Nicene creed, though I have to add that I do not find these beliefs particularly comforting, or fun, and I do not think of them as hypotheses. Granted, this may simply be the degree of my self deception. Yet, to say that I, or anyone else, believe in God because the belief is comforting or interesting seems to get things backward. I do not even see how I could find such beliefs comforting or interesting (leaving aside fun) unless I already thought they were true. My interest in God and the things men have said and believed about Him, is the consequence, not the cause, of my belief. God is interesting because he is real, and being human, I take an interest in reality.

I will grant that some fictional entities can be interesting, but that does not lead me to mistake them for realities. For instance, I find Tolkein's middle earth to be extremely interesting, yet I am never seduced by this interest into thinking that hobbits, wizards, elves and dragons are real. The same goes for Greek mythology: interesting, but, to my mind, incredible, and there is no confusion about the reality of the Olympians created by my interest in them.

Nor do I think that I, or most theists, believe in God because the belief is comforting, though of course it sometimes is. Again, when and to the extent that I find it comforting, I find it so because I think it is true. Besides, only some of the beliefs are comforting, and those are needed to overcome the uncomfortable, if not horrific, ones. It is indeed comforting to think that Christ has redeemed the world, but one can only believe that if one already believes that the world needs redemption; that humans are mired in sin in such a way and to such an extent that only by the death and resurrection of the Son of God could this situation ever be rectified. And furthermore, it is not even totally clear how this all worked. This belief I am sure is not a "hypothesis."

Professor Narveson's paper claims to be an attempt to free us from the unreasonable, if not downright irrational, belief in anything like the Christian God. He attempts to do this on the grounds that such a belief is simply not "epistemically" respectable. If he had merely claimed it was not respectable, we would have a very weak argument on our hands, one that amounted to saying it was not in good taste, or merely out of fashion, to have such a belief. He modifies this instead by claiming that it is not "epistemically" respectable. I am not sure this changes things much. As near as I can tell this is merely another way of saying that it is not scientifically up to snuff. If one were to tell this to Plato, or Aristotle, or Boethius, or Thomas Aquinas, or Isaac Newton, or even Albert Einstein, all of whom were scientists or epistemers, I think they would be quite surprised. Professor Narveson sides with Laplace against all these others in saying that he has no need for the god-hypothesis. Both the cosmos and science it seems can get along without any God. I mention these authorities not because it constitutes an argument against Professor Narveson's atheism but because it points out the extent to which his argument hinges on the *unfashionability* (i.e. lack of epistemic respectability) of arguments for theism. Several times Professor Narveson justifies the cursory treatment which he gives actual arguments for Theism on the grounds that he "stands with the overwhelming majority of his fellow philosophers."

The "cosmological" and "ontological" arguments are reviewed and dismissed in a few paragraphs. This is OK according to Professor Narveson because if the reader has any qualms he may merely consult the current philosophical literature to have the arguments refuted in as much detail as he desires. In other words, there are any number of fashionable, or, epistemically respectable, arguments available to assure the reader that the cosmos can get along fine without God.

Lest the reader think I am being unfair to Professor Narveson, I would call his attention to what I find the most interesting part of Professor Narveson's paper. This part deals with what he calls emotional or "sideshow" considerations. This is where he muses over the real sources of religious conviction: wishful thinking and an appeal to the sheer

number of believers. After saying that he believes that most religious people "want to suppose that there is a personal God." Narveson then reminds us that 'p' does not follow from "would not it be neat if 'p'," he then goes on to confess that he cannot understand how a person could be convinced by such an argument. Here I agree with him; I too cannot really fathom a person being convinced that something is true simply because he would like to be so. The conclusion I then draw is that this is not a good explanation of the source of religious conviction. Furthermore, to my mind, it makes as good, or better, sense to say that atheism is wishful thinking. True, one loses the personal God who looks after us, but one thereby gains the freedom to make man the measure of all things, one is thus freed from original sin, in short, one is free to make a good of man. If one joins with the (current) scientific community in viewing nature as simply everything that does happen or can be made to happen, rather than an order created by a mind which, as such, ought to be respected, then anything goes. True, man is still mortal, but that loses some of its sting once we cease to measure man by the standard of the immortal, eternal, and unchanging, in short, man's existence in time is no longer measured by something out of time. According to Professor Narveson talk about such a being as God existing "out of time" is nonsense, and evidence of the slippery sort of wish- fulfillment characteristic of theists.

As far as the appeal to the majority goes, Narveson, as we have seen, makes the same appeal when he claims the authority of the philosophical community against the arguments for theism. Now it is true that the opinions of experts are to be given preference when there is conflict such as this. But the only way that Narveson can get the "experts" or the philosophical community on his side is to restrict that community to those who are currently living or recently deceased - not a particularly impressive bunch. If we go back a few thousand years and expand the community, the theists win by a handy margin.

Narveson's most sustained attack on a particular argument is reserved for the design argument, the argument he seems to feel has the best chance at being compelling. This argument he unmask as a fake, its apparent strength resting on a series of confusions and equivocations. Narveson apparently regards this argument as the most formidable candidate for epistemic respectability because its structure most resembles the hypothetical-explanatory form of modern scientific theories. I have already said that, being a believer, I do not experience my belief as being acceptance of a hypothesis, so I would say that again Narveson begins on the wrong foot. However, even if we grant this I think his refutation of the argument leaves something to be desired. So without recommending the argument from design as compelling evidence for belief, I would like to defend it from Professor Narveson's attack. The argument from design, as Professor Narveson presents it runs as follows: All entities that have a structure get that structure from an intelligence, that is, are designed. The cosmos is an entity with a structure. Therefore, the cosmos gets its structure from an intelligence and that intelligence is God.

Narveson's attack is focused on the major premise. Apparently he thinks that design or structure means something like visible regularity, whereas what is actually meant in the forms of the argument I am familiar with is more like intelligibility. The point of the argument is that when we look at the cosmos we find that it is shot through with intelligibility, so much so that even what appears at first sight to be chaotic can be understood according to principles, i.e. it is intelligible.

The primary instances of beings that we understand, whose form and function we can grasp and relate to each other, are artifacts. When I make something, I know what it is for, how it works, the principles of its construction, and how the form serves or is related to the function. In other words I understand it through what Aristotelians call the four causes. Now when we are able to understand things in nature which we did not create, our understanding of them is similarly structured, we attempt to grasp the principles of its "construction," (the more basic elements that constitute it), its form and function, and to relate these things, though we can never do so as fully with natural objects as with artifacts. Because our understanding of natural things operates on analogy to our understanding of artifacts, we tend to assume that there is a mind responsible for natural objects as well. Where we discover intelligibility we attribute it to a design or intention. Now when we come to view the cosmos as an orderly whole the tendency is to do the same thing.

Professor Narveson has two responses to this. First, there are, he says, intelligible structures in nature that are not the result of intelligence, and he cites crystals and DNA here. But this misses the point; what is remarkable is not that there is a shape or pattern to crystals or DNA which is the result of some "wholly mindless natural processes" but that the structure and the processes are intelligible. It is the very fact that they are intelligible that leads us to the belief that they are "designed." Not that we are justified in saying much about this intelligence based on the analogy because natural objects and especially the cosmos exhibit an order that differs from that found in objects designed by human intelligence. It is just that we have no other way to explain such manifest intelligibility.

Secondly, Narveson claims that attempts to explain natural order with reference to an intelligence are examples of "metaphysical snobbery." Apparently Narveson thinks it is mere self-flattery that we thinking beings rate intelligent being above merely physical being. This means that all arguments based on a hierarchy of beings with God at the top are really just vain self-flattery. This smacks of the sort of moral relativism which would, I suspect, drive one to wish God out of existence.

But, it appears that Narveson is no relativist, and he draws out a variant of the Euthyphro problem to show that moral distinctions must somehow precede the will of the divine. It is at this point that Narveson's argument appears to pay off. Because religion is irrelevant to morality (a fifth wheel as Narveson calls it) it can be removed from consideration. This move is not only permissible, but salutary since religion has actually generated moral problems. Not only moral problems, but political ones too. Narveson actually makes the absurd claim that "the natural political outlook of any religion, including Christianity, is theocracy" and he apparently means by this something like fascism. Now speaking only of Christianity, the closest one can come to a (non-heretical) theocratic tendency, is the belief in the kingdom of God, which, since at least St. Augustine, has been clearly distinguished from an earthly political order, and is not something to be brought about by men.

Furthermore, there is good historical evidence to suggest that the spread of political liberty in the world is a consequence of (among other things) the spread of Christianity. Now, I am in full agreement that basing claims for rule on divine dispensation and attempts

to bring about the city of God by legislation are recipes for disaster, but what I do not see is how this is connected with belief in God, given recent historical developments it seems just as easily connected to the rejection of that belief. To blame the tyranny based on mistaken interpretations of the relation of the transcendent to the worldly order on the belief in a transcendent source of order is akin to condemning the belief in equality before the law for the absurdities of egalitarianism. Theocracy is not the natural political consequence of Christianity.

None of the arguments I have presented here is intended to be proof of God's existence, or even to make it more plausible. I have only tried to show two things: First, that Professor Narveson has not shown that belief in God is unreasonable, only that it is not currently fashionable among scientists and philosophy professors. And, second, that it is far from clear that belief in God is something humans would do well to be freed from. Professor Narveson makes evident here as elsewhere his concern for human liberty. I think that if you look at the historical record, Christianity emerges as not a foe but a friend of liberty. It would seem then that a champion of liberty should seek his battles elsewhere.

## Endnotes

1. Cicero, *De Natura Deorum* I, *The Nature of the Gods* translated by Horace C.P. McGregor (London: Penguin Books, 1972) p.70.

**Book Section**

Review Essay

**Pluralism about Truth**

by Kevin Kennedy, St. John's University.

Crispin Wright's *Truth and Objectivity*, Harvard University Press, 1992

In recent years, a focus of debate among some philosophers has been the correct characterization of true statements within some given discourse, or any discourse whatever. Do such statements, when they are taken to be true for the reasons that are considered sufficient with that given discourse, correspond to some independent external reality or merely achieve coherence with a broad range of other accepted statements? To state the issue in terms of this question, however, would strike some as inapt since the linguistic turn has been taken. What we should ask is what we mean by the predicate "true" or any predicate (like "warranted assertibility"), which is supposed to provide what is really meant by "true" and, hence, is a truth predicate.

This debate has a long history although it recently has come into focus as the "realist/anti-realist debate" through the work of Michael Dummett. The context of the debate has been narrowed because the questions of traditional metaphysics, where considered intelligible, are taken to be questions of semantical theory. The contributions of Plato, Aristotle, Aquinas, and Peirce do not figure greatly in the current discussion.<sup>1</sup> Nevertheless, in a recent short book based on his Waynflete lectures, Crispin Wright succeeds in making a number of very interesting and original suggestions despite the confinement of the discussion to about a dozen contemporaries.

After outlining the argument presented here, some criticisms will be made based on a more pluralistic approach to metaphysical issues. No attempt will be made to enter into the rather narrow debates which characterize most of the book.

**I**

In *Truth and Objectivity*, Crispin Wright develops a program for a new approach to the realist/anti-realist debate. Realism is described as a combination of modesty and presumption: modesty in that it holds that the world has properties independently of us and our modes of cognition; presumption in holding that we are sometimes capable of knowing the way the world really is. Traditionally, skepticism expresses reservations regarding the presumption, and idealism refrains from the modesty involved in realism. Anti-realism is a kind of idealism; it attacks either globally or for a particular discourse the notion that we can represent an independent reality.

According to Wright, three anti-realist paradigms have tended to dominate the debate which are either beside the point or unmotivated with regard to particular regions of that debate. That is, though the paradigm in question may frame the issue rather well for a

particular discourse, it fails to have the same degree of relevance to other, equally important and controversial discourses. The first of these three paradigms is that associated with Michael Dummett. He interprets the realist position as maintaining that statements which are determinately true or false can be so beyond our capacity to determine which they are; the source of their truth is "evidence-transcendent." The second paradigm is found in the writing of authors like Hartry Field and J.L. Mackie and claims to expose "metaphysical superstition." That is, the statements of some discourses, like mathematics for Field and ethics for Mackie, though semantically representational are always false: there are no numbers or moral properties. The third paradigm, known as "expressivism," holds that the grammatical similarity of the disputed statements to assertions is misleading, they are not assertoric at all.

The shortcomings of these paradigms for a more comprehensive prosecution of the realist/anti-realist debate are as follows:

1. The issue cannot be whether there are evidence-transcendent properties when the discourse in question is about the comic; even a realist about comedy would not claim that there are comic qualities out there which we can never know.
2. If some disputed class of statements are simply false, then why do they have the degree of interest they have; why bother talking about them. Further, if a subsidiary norm such as Field's "conservativeness" can be made out for mathematical statements, then why not inquire into the nature of truth in these terms?<sup>2</sup>
3. There seems to be very little hope for making out a thorough and consistent case for expressivism since various controversial discourses exhibit internal discipline and standards of appropriateness such that relevant propositions can be part of conditionals and negations.

Consequently, a new paradigm for the realist/anti-realist debate is proposed. It is based upon a "minimalist" account of truth purportedly common to all discourses and agreeable to both sides. Realism would then consist in a number of different interpretations of the truth predicate which go beyond the minimalist one. The work that needs to be done within this paradigm is to establish first that truth is not the exclusive property of realism (hence there is a minimal content to talk about truth which is non-controversial for both sides) and second, show what *is* at issue between realists and anti-realists when the statements in question are already agreed to be "truth-apt."

That truth aptitude is a property of statements follows from a correct interpretation of the Disquotational Schema: "P" is T if and only if P. This is the basic insight behind the deflationary account of truth which Wright traces from Frank Ramsey to Paul Horwich.<sup>3</sup> The deflationary theory holds that the significance of the disquotational schema is that it gives an all but complete account of truth, i.e. there is nothing more to truth that could be conceived as a substantial property and its predication at the metalinguistic level simply accomplishes what is accomplished by the proposition at the level of the object language. The purpose of a truth predicate for deflationism is to function merely as a

disquotational device for endorsing assertions which are either compendious ("Everything he said is true") or indirect ("Goldbach's Conjecture is true").

According to Wright, this interpretation of the disquotational schema is mistaken because it is inherently unstable and collapses into contradiction. If there is nothing more to truth than this endorsement, then the motivation for the endorsement must be the standards embodied within the discourse for such endorsements; which is to say that truth means warranted assertibility. However, warranted assertibility does not fair well as a truth predicate when we plug it into the disquotational schema. The result is that a divergence of extension opens up between "true" and "warranted assertibility." Why is this so? Simply because any meaningful proposition must be able to be embedded within a conditional, like the disquotational schema, and it must have a significant negation. What follows from these rather simple requirements is that from "P is T iff P" we can derive:

'~P' is T iff ~P

~P iff ~'P' is T

'~P' is T iff ~'P' is T<sup>4</sup>

So from the disquotational schema and the requirement that any significant statement has a significant negation, we can infer the following biconditional: "It is not the case that P' is true if and only if it is not the case that 'P' is true." If "true" means "warrantedly assertible" then this statement says that the denial of a statement is warrantedly assertible if and only if it is not the case that its affirmation is warrantedly assertible. So if we do not have enough information regarding a statement to warrant its assertion, we thereby *do* have warrant to deny it.

It is obvious that denying that we have warrant for a statement is not denying the statement is true, and thus it seems we must accept that the truth of statements may outstrip our warrant for them. Or, at least, "true" and "warrantedly assertible" though normatively coincident (to aim at one is to aim at the other) can be extensionally divergent in the case of statements for which our information is neutral. This is not a thesis which deflationism can accept since its whole point was to deny that there was any more to truth than the standards of assertoric warrant which govern a discourse.

However, if we interpret the disquotational schema differently than deflationism then the result does not lead to contradiction but instead indicates minimalism about truth. According to Wright, the disquotational schema embodies certain platitudes about truth:

- "that to assert is to present as true;
- "that any truth-apt content has a significant negation which is likewise truth-apt;
- "that to be true is to correspond to the facts;
- "that a statement may be justified without being true, and vice versa."<sup>5</sup>

Minimalism, then, is like deflationism in that it considers truth in its most basic form to be metaphysically neutral, indicating only compliance with very general principles. It rejects deflationism not only because it is inherently unstable but also because of its blanket claim that truth registers no substantial property of propositions or cannot designate anything beyond warranted assertibility. It is not that minimalism aspires to a metaphysically heavyweight account of truth in terms of correspondence; most of the rhetoric of correspondence is guaranteed by the platitudes anyway, according to Wright. Rather, minimalism conserves our ordinary talk about truth and inference in controversial areas like comedy, morals, and film criticism. Moreover, it leaves room for a pluralism of other truth predicates which mean more than minimal truth. These more than minimal truth predicates can then be the focal points for the realist/anti-realist debates about various discourses. With minimal truth as a neutral ground, the question can be whether a realist interpretation of the truth predicate is called for with regard to mathematics, primary and secondary qualities, etc. What the realist is after for each of these is, upon closer examination, unlikely to be the same from discourse to discourse. For example, saying "That is funny" is true need not mean the same thing as saying "Gravity exists" is true.

The minimalist account of truth which Wright advocates is spelled out in contrast to Putnam's "assertibility under ideal epistemic conditions"<sup>6</sup> as "superassertibility." A statement is superassertible when it is warranted and some warrant for it would survive arbitrarily extensive increments to or improvements of our information. This notion of truth is: anti-realistic, epistemically constrained, based upon an internal property of statements, a projection of the standards of any meaningful discourse and metaphysically neutral. The semantic anti-realism of Dummett incorporates the thesis that "P iff P may be known," i.e. truth should be conceived globally as superassertibility.

Wright's problem with Dummettian anti-realism and the way it frames the debate is that it is not always to the point. In discourses where we suspect that "true" and "superassertible" are, or can be, extensionally divergent, like those about the past or pure number theory, this debate would be pertinent. In other words, the anti-realist about mathematics and the past wants to say that there is nothing more to the truth of these statements than that they meet the standards of the discourse and appear to be able to continue to do so. The realist wishes to say that there is something beyond those standards which makes the statements true or false. "True" statements about the past refer to occurrences which may be beyond our standards of warranted assertion, like "Caesar had a headache on his 20th birthday." Thus, according to Dummett's conception of the realist/anti-realist debate, the realist must hold that there is something beyond warranted assertibility which constitutes our understanding of "true," in other words, what we mean by "true" must be evidence-transcendent. Wright seems to part company in two ways. First, he points out that our ordinary understanding of truth, in conjunction with the disquotational schema, forces us to acknowledge that there can be an extensional divergence between "warrantedly assertible" and "true." This is because the negation of the one is not equivalent to the negation of the other: "\_\_\_\_ is not warrantably assertible" will cover a different range of statements than "\_\_\_\_ is not true." Second, Wright points out that the moral realist or comic realist, can want to say that the properties of being moral or funny are not simply reflections of our standards of assertion without meaning that they are evidence-transcendent. Assertions regarding past moments which are unreachable or

numbers which may never be counted make evidence-transcendence a pertinent issue but moral or comic realism do not.

Besides these, there are debates where the relevant terms have coincident extensions. The classic example of this is the debate from Plato's *Euthyphro* where the question is, "Is the pious, pious because it is loved by the gods, or do the gods love it because it is pious?" In this debate, it is acceptable to both Socrates and Euthyphro that the same actions are referred to by the term "pious," the question concerns *why* this designation is true. The realist, Socrates, wishes to hold that the independent constitution of the object of reference explains the tracking response of the best judges, the gods, and the superassertibility of these designations. This consideration indicates a space for the realist/anti-realist debate supplementary to Dummett's where evidence-transcendence is not the issue but something beyond superassertibility is. That is, unlike Caesar's headache, there is no obvious reason why the piety of an action must be something beyond our evidence gathering capacities but we may mean more by piety than what accords with our standards. Piety is conceivably an intrinsic property.

Wright, consequently, prosecutes his inquiry by examining cases where availability of evidence is not in question and the extension of the truth predicate displays no divergence according to its interpretation. In the *Euthyphro* debate and in some forms of debate over moral and comic realism, the extension of "true" over statements asserting something is moral or funny does not vary when the interpretation of that predicate is varied between "warrantedly assertible" and "independently constituted." "True" extends over a different range of statements about the past when we vary its interpretation between "warrantedly assertible" and "what actually happened" (there are a great many of the latter). Therefore, the realist/anti-realist debate can be usefully joined in cases where evidence-transcendence is not the issue and the extension of the "true" ranges over the same statements within the discourse.

Besides the Dummettian debate and the *Euthyphro* debate, there is another based upon the so-called "correspondence" platitude. This platitude, as stated above, can be simply accepted by the minimalist truth theorist as following from our basic understanding of truth, according to Wright. However, when the anti-realist or minimalist helps themselves to such rhetoric as "corresponds to the facts" or "tells it like it is," as Wright says they have a right to do, they do not really capture what the realist is after. What the realist is after is better described in terms of convergence and representation. This can be stated as a platitude as well:

"If two devices each function to produce representations, then if conditions are suitable, and they function properly, they will produce divergent output if and only if presented with divergent input."

The point of this is that an intuitively realist perspective on some discourse depicts us as representational systems. As such, the representations we produce ought to converge unless some kind of failure takes place. We should be forced to this by our standards of evidence, evidence gathering abilities and the subject matter in question. If so, a discourse exhibits "cognitive command," i.e. it is a priori that differences of opinion arising within

it can be satisfactorily explained only in terms of disputants working on the basis of different information, unsuitable conditions, or "malfunction."<sup>8</sup>

So, though phrases roughly equivalent to "corresponds to the facts" are permitted for any truth-apt discourse what the realist is after, according to Wright, is a "beefed up" conception of correspondence which is concerned with representation and convergence, i.e. cognitive command. However, even this does not go all the way towards making out what the intuitive realist is after, since an anti-realist about arithmetic would claim cognitive command for that discourse. Nevertheless, it does seem a stage that a realist has to pass through, a necessary though not sufficient condition for what Wright calls "intuitive realism."

If this is correct, then we ought to be able to offer a criterion by which we can tell when differences of opinion involve cognitive shortcoming and when they do not. Thus, if an empirical identification statement ("That is an owl.") or an arithmetical statement (" $2+2=4$ ") is in dispute, these ought to be distinguishable from statements about something being moral or funny. What exactly is the nature of the cognitive shortcoming in the first two which is not present in the latter? Wright admits that this would be hard to make out, particularly when we have stated the cognitive command restraint in such a way as to eliminate vagueness as a source of dispute. Consequently, cognitive command as a serious point of demarcation risks trivialisation. He argues, though, that the burden of proof is on the realist. Using the commonsense rejection of realism about comic properties as a basis he asserts that minimalism about truth should be the default stance everywhere, and that the realist should have to earn any extra substance which they wish to associate with a particular discourse. This is somewhat unpersuasive given that commonsense is realist about the past, morals, secondary qualities, and even the referents of names like IBM and New York State. Further, in Wright's discussion of the theoreticity of observation he is forced to admit that even science, or any discourse relying on observation, may not be subject to cognitive command. All that aside, this leaves Wright in the position to examine the options available to the realist who would like to argue that it is cognitive shortcoming when there is a dispute about comedy or morals. They must either defend a semantic realism for the discourse in question or an intuitionist epistemology. Either the cognitive shortcoming consists in there being a comic or moral property which is beyond the evidence gathering capacities of the disputants or there has to have been a failure in the use of capacities which we do have which enable us to represent these properties. Wright is fond of the comedy example precisely because of the absurdity of the idea of evidence-transcendent comic properties. Thus the other avenue of approach is to examine the epistemology involved to discover the source of error, which can only be a failure in inference or in "observation" in the sense of intuition. (One thinks, in reading this discussion, how the current, over-used phrase in American moral and political discourse, "You just don't get it" is ripe for analysis).

The relation between inferential and intuitional justifications is then examined as well as the supervenience of one discourse upon another. The conclusion Wright comes to is that the realist is forced, if evidence-transcendence is unacceptable for the discourse in question, to defend the existence of *sui generis* states of affairs with corresponding faculties to observe them. This is to be avoided as a general rule:

"We ought not to associate a special faculty with a particular region of discourse, a faculty, that is, apt for the production of non-inferentially justified beliefs essentially involving its distinctive vocabulary, unless the best explanation of our practice of that discourse, and especially the phenomenon of non-collusive assent about opinions expressed therein, has to invoke the idea that such a faculty is at work."<sup>9</sup>

No explanation of how we are able to engage in a particular cognitive discourse is really an explanation if it provides no other details about a particular faculty which we are said to have than that it provides the basis for beliefs about its field, particularly if it can be replaced by an explanation which does not assume this faculty. This would, it seems, prove a tremendous challenge to anyone who wished to be a realist about some discourse and cognitive command was the necessary condition for that. That is, unless there are other conceptions of realism for which cognitive command is not a necessary condition.

The "best explanation test" invoked here is connected to the realist/anti-realist debate about morals.<sup>10</sup> Wright moves on to discuss this in some detail and says that what it is really about is something else he dubs "wide cosmological role." The best explanation test is meant to be something which certain states of affairs, e.g. moral ones, would pass because they explain why certain subjects have certain beliefs. This can be replaced by one which asks what else besides those beliefs the existence of such states of affairs would explain. Wright compares the Wetness of These Rocks to the Wrongness of That Act. The former helps explain not only my perception and belief regarding the rocks but also pre-cognitive-sensuous, interactive and brute effects like a pre-linguistic child's interest, why I slip and fall and the growth of lichen. The latter only seems to figure in explanations which must refer to our moral responses either immediately (why I was disgusted) or eventually (why the revolution took place). An investigation, then, of the width of the cosmological role of the states of affairs involved would be crucial to making out whether realism was appropriate for them. Notably, Wright points out that though this argues against moral realism it does not indicate simply that only causal states of affairs will pass the test. Among possible candidates are mathematical properties (the prime number of tiles explain why the contractor could not cover the rectangular surface without remainder, even though he had never heard of prime numbers) and secondary qualities (the red rag enraged the bull, the smell of cheese attracted the mouse).

The book concludes with an interpretation of Wittgenstein's rule-following considerations and a defense of minimalism about meaning. An interesting outcome of Wright's defense, against Boghossian's charge that it is inconsistent, is that the reason for it does not exercise cognitive command. The book also contains extensive appendices and discussion notes which follow up discussions in the recent literature as well as issues raised when the lectures were delivered.

## II

In spite of the rhetoric about pluralism found in this book, the actual program is more foundational and reductionist. Wright is willing to admit that there may be something to the pre-philosophical intuition behind realism but the realist has to pass through a series

of increasingly difficult tests in order to justify that intuition. We begin with a minimalism about truth, then pass through a series of different debates about the significance of the truth predicate, ending ultimately with the notion of a state of affairs having wide cosmological role and thus earning the prize of being worthy of the most realist interpretation.

Fundamental to Wright's approach are the assumptions that realism has to be earned and that it comes in degrees. The former is based on his questionable view that common-sense is predisposed to anti-realism; while it may be with regard to comic discourse it does not seem to be in most other domains. The latter implies that there is something like a single scale by which realisms can be measured but this is inherently anti-pluralist. Furthermore, Wright takes realism to be essentially connected to correspondence, representation and cognitive command. This implies that the explanation of disputes within some discourse must refer either to evidence-transcendent properties or an intuitional epistemology. Since evidence-transcendence seems absurd for discourses concerning comedy and morals, we are forced to accept an intuitional epistemology, which in turn appears unacceptable. (Particularly, since Wright sets it out as a general principle that reference to such intuitional faculties is to be avoided where possible). Nor does it help the realist to say that the disputed discourse supervenes upon another. If the discourse displays cognitive command then the properties it asserts must receive either an inferential or non-inferential justification. Either the properties in question can be intuited or the principles of inference by which we infer from, say, the non-comic or non-moral to the comic or moral, must be intuited. Thus, the realist is "forced marched" to assert either semantic realism or an intuitional epistemology, according to Wright.

However, this is only the case if we are forced into Wright's dilemma, namely that justification is based on either intuition or inference. Wright, it seems, ought to give us an account of intuition and the distinction between intuitional and inferential justification which can bear the philosophical weight he is putting on it. He does not give us this here and the relevant discussions are revealing. In a footnote regarding Grice and Strawson's response to Quine's criticism of the analytic/synthetic dogma, Wright states:

"Grice and Strawson make the beginnings of a case for supposing that ordinary talk of analyticity has, as a matter of sociological fact, sufficient discipline to qualify as minimally apt for truth; the Quinean riposte can then be that that falls a long way short of showing that it deserves anything amounting to an intuitive realism, and that the most formidable barrier to a further advance remains the provision of an epistemology, whether *sui generis* or somehow reductive, explaining how modal judgements generally possess Cognitive Command."<sup>11</sup>

The justification for employing the analytic/synthetic distinction is that it qualifies as minimally truth apt and that it works in practice. Consequently, in order to be employed it need not be interpreted realistically, need not possess Cognitive Command and need not provide for itself either an intuitional or inferential justification.

Further, in Wright's defense of meaning-minimalism against Boghossian's charge that it is incoherent<sup>12</sup> he concludes:

"There is a discomfort about this position, touched on earlier. The meaning-minimalist will have to hold that the question whether meaning-minimalism is to be accepted is a question apt only for a correct answer, and so not an answer exerting Cognitive Command. This means that the view must lack a certain kind of *cogency*: whatever arguments might support it, it will be possible to decline them without cognitive shortcoming."<sup>13</sup>

The arguments for meaning-minimalism, not canvassed here, do not exert Cognitive Command. Nor do they offer either an intuitional or inferential justification.

What does this show? Wright constructs his discussion of the realist/anti-realist debates so that the realist is forced into a dilemma of choosing between two unacceptable alternatives: either defend a faculty of intuition for *sui generis* states of affairs within disputed discourses or claim that the relevant properties are evidence-transcendent. The realist is forced to this position, however, on the assumption that realisms are basically one sort of thing having to do essentially with correspondence, representation, and ultimately, cognitive command. Why, though, do realists have to describe their position as being essentially about representation or cognitive command? Could they possibly be both realists and abjure the necessity of offering either intuitional or inferential justifications? This would require that there be justifications which cannot be neatly classified as either intuitional or inferential. Are there such justifications? Those involved in the debate between Quine on the one hand, and Strawson and Grice, on the other seem to be such. Are these not the kind of justifications which are being offered for meaning-minimalism?

However, can a realist offer this kind of argument for realism, the kind that Wright offers for meaning-minimalism and for the analytic/synthetic distinction? It is not being suggested here that this is certainly the case. However, if one could be a realist and employ what are essentially *dialectical* justifications for their position, then they could avoid Wright's dilemma. Such a realist could assert the independent existence of various states of affairs but not attempt either an intuitional or inferential justification for that claim. Plato is arguably such a realist. And Aristotle's criticism of that position stands in the way of such a move. On the other hand, what is Wright's justification for his position if not dialectical?

Consequently, although Wright's discussion is very careful and creative, it does not go far enough in the direction of pluralism for two reasons. First, it assumes that all realisms are graded along a fairly uniform scale of increasing degrees of universality and inescapable representability. However, if a true metaphysical pluralism were countenanced, "reality" would mean different things in different domains and would necessarily not be universal. Second, while Wright offers dialectical justifications for his own position, he demands foundational ones from the realist. However, it is questionable how foundational a true pluralist can be. So if a pluralistic realism is possible, and it is a possibility Wright is taking seriously, it is not clear that it should be made to meet the demands of foundationalism or reductionism.

The kind of pluralism that is being hinted at here is suggested in the work of philosophers like George Santayana, Stephen C. Pepper and Paul Weiss, although of these probably only Weiss would attempt to join a strong realism with the pluralism.<sup>14</sup> These remarks are merely meant to propose that given the possibilities explored for pluralism in Wright's study, it might be worth the effort to press further and contemplate a pluralism in which the "reality" predicate might be taken to have different interpretations in different domains. If the truth predicate is to be taken as meaning different things in different discourses, then it is certainly conceivable that "reality" correspondingly varies. If so, there would be no single scale against which the various realisms could be measured and the justifications for the system would have to be dialectical. Wright may have taken some crucial steps in the direction of exploring this possibility.

### Endnotes

1. For a more historical approach, see Frank J. Farrell, *Subjectivity, Realism, and Postmodernism: The Recovery of the World in Recent Philosophy*, (Cambridge, England: Cambridge University Press, 1994).
2. Hartry Field, *Realism, Mathematics and Modality*, (Oxford: Basil Blackwell, 1989).
3. Frank Ramsey, "Facts and Propositions," *Proceedings of the Aristotelian Society*, suppl. vol. 7, (1927); Paul Horwich, *Truth*, (Oxford: Basil Blackwell, 1990).
4. Wright, pp.12-24.
5. *Ibid.*, p.34.
6. Hilary Putnam, *Reason, Truth and History*, (Cambridge, England: Cambridge University Press, 1981).
7. Wright, p.91.
8. *Ibid.*, pp.92-3.
9. *Ibid.*, p.153.
10. See Gilbert Harman, *The Nature of Morality*, (New York: Oxford University Press, 1977); David Wiggins, *Needs, Values and Truth*, (Oxford: Basil Blackwell, 1987).
11. Wright, pp.154-55, note #5.
12. Paul Boghossian, "The Status of Content," *Philosophical Review*, 99 (1989), pp.157-183.
13. Wright, p.236.
14. George Santayana, *Realms of Being*, (New York: Cooper Square Press); Stephen C. Pepper, *World Hypotheses: A Study in Philosophical Evidence*, (Berkeley: University of California Press, 1948); Paul Weiss, *Modes of Being*, (Carbondale, IL: Southern Illinois University Press, 1958); *Being and Other Realities*, (Chicago & LaSalle, IL: Open Court Press, 1995).

## Strange New World

Gregory R. Johnson

### The Invisible College

Those who suspect that Kant's philosophy is, at its core, a mystical worldview, yet encounter skepticism from virtually the entire academic community, need to read Gottlieb Florschütz's monograph *Swedenborg and Kant: Emanuel Swedenborg's Mystical View of Humankind, and the Dual Nature of Humankind in Immanuel Kant*, tr. George F. Dole, Swedenborg Studies, No. 2 (West Chester, Pennsylvania: Swedenborg Foundation, 1993), paper, \$4.95.<sup>1</sup> Emmanuel Swedenborg (1688-1772) was a highly accomplished Swedish philosopher, scientist, and inventor who, in 1744, at the age of 56, embarked on a second career as a visionary and theologian, who claimed, among other things, that the Last Judgment had already happened and that his writings constitute the Second Coming of the Word. Swedenborg's most famous work is the *Arcana Coelestia*, published in eight large quarto volumes between 1749 and 1756, which consists of a symbolical interpretation of every single word and phrase in the books of Genesis and Exodus, interspersed with "Memorable Relations" detailing Swedenborg's spiritual journeys to heaven, hell, and the intermediate world of spirits, where he conversed with angels, demons, and the spirits of the inhabitants of other planets. After his death, Swedenborg's English followers founded a church based on his teachings known as the New Church or the Church of the New Jerusalem, and the New Church soon spread to the New World. There are three distinct sects of the New Church in America today, two of them headquartered in Bryn Athyn Pennsylvania, a Swedenborgian community just North of Philadelphia graced with a spectacular Gothic cathedral and a number of palatial mansions built by the Pitcairns, the family of Pennsylvania industrialists who founded the community. Swedenborg has influenced the homeopathic medicine movement, as well as such literary artists as Blake, Strindberg, Baudelaire, Dostoevsky, Yeats, Borges, and Milosz, and such philosophers as Schelling, Emerson, William James, C.S. Peirce, and Kant. To discover Swedenborg is to discover that the world is much larger, and much stranger, than one might have suspected.

To the modern disenchanted mind Swedenborg seems an unlikely influence on any philosopher, much less the sober Kant. But in 1762 and 1763, Kant undertook extensive researches on Swedenborg's most famous clairvoyant feats: the affairs of the Stockholm Fire, the Lost Receipt, and the Queen's Secret. The Stockholm Fire affair took place on July 19, 1759 in Gothenburg, which is 300 English miles from Stockholm. There Swedenborg astounded the town by clairvoyantly reporting that a fire had broken out in Stockholm in the Südermalm (the southern suburb). He then reported on the progress and the extinction of the fire, as well as the damage it caused, and the details of his reports were later confirmed by mounted couriers, who had been dispatched from Stockholm to Gothenburg to report on the fire. The affair of the Lost Receipt took place sometime in the Spring of 1761. Madame de Marteville, widow of Count Louis de Marteville, the Dutch Ambassador to Sweden, who died on April 25, 1760, had been served with a bill by a goldsmith for a silver service her husband had acquired before his death. The widow was certain that the bill had already been paid but could find no receipt, so she asked

Swedenborg to contact the spirit of her dead husband about the matter. Swedenborg reported that her husband's ghost had told him that the receipt would be found in a secret drawer in a cabinet in the Ambassador's room. The widow followed Swedenborg's instructions, discovered the secret drawer, and found the receipt inside it. Finally, the affair of the Queen's Secret refers to a series of events that culminated on November 15, 1761. The Queen in question was Louisa Ulrica (1720-82) Queen of Sweden, the sister of Frederic the Great of Prussia (1712-86) and the wife of Adolphus Frederick (1710-71), Duke of Holstein-Gottorp and King of Sweden from 1751-71. There are many versions of the affair of the Queen's Secret, some of them quite different, but most of them agree on the following facts. Sometime in November of 1761, Queen Louisa Ulrica asked Swedenborg to contact the spirit of her younger brother, Prince Augustus William, (b. 1722), Crown Prince of Prussia from 1744 to his death on June 12, 1758. After an indeterminate period of time, Swedenborg returned on November 15, 1761. In the company of her court, Swedenborg conveyed a message to the Queen from her dead brother. Swedenborg relayed the message in such a way that only the Queen could hear it, either by whispering it in her ear or by taking her aside from the assembled courtiers. The visible effect of the message was, however, apparent to all. The Queen was thunderstruck, turned pale, and nearly fainted. She claimed that only God and her brother could have known the secret Swedenborg had revealed to her.

Kant spent a great deal of time and trouble in researching these strange events. He wrote letters to a Danish friend and former student who had heard the details of the Queen's Secret; he then sent a letter directly to Swedenborg in the care of an English merchant with business in Stockholm; finally, Kant employed a second English merchant, a close friend with extensive business interests in Sweden, to interview Swedenborg himself, as well as witnesses to his clairvoyant feats in both Stockholm and Gothenburg. Kant summarizes his researches in his letter to Charlotte von Knobloch of August 10, 1763, where he states that he is quite convinced of the genuineness of Swedenborg's clairvoyant powers. He also mentions how he was awaiting the arrival of copies of Swedenborg's books with great anticipation. The tone of Kant's remarks about Swedenborg change drastically, however, in *Dreams of a Spirit-Seer, Explained by Dreams of Metaphysics*, Kant's 1766 book on Swedenborg, which is filled with mocking and derisive comments on the Swedish visionary. Yet the surviving student notes on Kant's lectures on metaphysics tell a very different story. Kant discussed Swedenborg's account of the Spirit World in his unit on rational psychology for thirty years, from 1763 to 1793, and here the tone of Kant's remarks are respectful, and even at times complimentary.<sup>2</sup>

Florschütz's monograph establishes Swedenborg's influence on Kant simply by a straightforward comparison between Kant's statements - especially in the notes on his lectures on metaphysics - and Swedenborg's parallel teachings. The parallels are impressive, particularly in matters discussed under the rubric of "rational psychology," and most particularly in discussions of the state of the soul after death. Florschütz explains away the negative tone of the *Dreams* book simply by claiming that Kant changed his mind for awhile. He does not explore the possibility suggested by the interesting fact that Kant's *public, published* comments on Swedenborg are negative, but his *private* comments are positive: namely, the possibility that in *Dreams* Kant is simply *dissembling* his interest in Swedenborg in order to avoid the censorship and persecution that could be expected from

an endorsement of Swedenborg's ideas. Florschütz also opens himself to the objection that Kant, in his lectures on metaphysics, does not necessarily speak for himself, but instead dialectically plays many positions off of one another, while keeping his own views in the background. Furthermore, Florschütz focuses only on issues of rational psychology and does not deal with the many parallels between Swedenborg's and Kant's accounts of the moral life. Finally, the reader will find Florschütz's argument hard to follow on the first reading. Overall, the monograph is more suggestive than conclusive, and serves merely as an introduction to Florschütz's dissertation. All criticisms aside, however, Florschütz's work is still the place to start for a serious examination of the relationship between Kant and Swedenborg.

Florschütz's monograph is only one of a series of increasingly substantial monographs in the "Swedenborg Studies" series published by the Swedenborg Foundation. These volumes are a treasure trove for those wishing to trace the influence of mystical and occult strands of thought in the modern world. The most important of these monographs include *Sampson Reed: Primary Source Materials for Emerson Studies*, ed. George F. Dole, preface by Sylvia Shaw, Swedenborg Studies, No. 1 (West Chester, Pennsylvania: Swedenborg Foundation, 1992), paper, \$6.95, which consists of four seminal essays of Sampson Reed (1800-1880), an enthusiastic follower of Swedenborg whose 1826 book *Observations on the Growth of the Mind* is one of the founding documents of American Transcendentalism and had an immense impact on Emerson in particular. Reed's works are now very difficult to come by, so this volume is an indispensable addition to the library of anyone interested in Transcendentalism in general and Emerson in particular. The most substantial volume in the series thus far is Henry Corbin, *Swedenborg and Esoteric Islam*, tr. Leonard Fox, Swedenborg Studies, No. 4 (West Chester, Pennsylvania: Swedenborg Foundation, 1995), paper, \$9.95, which contains two densely scholarly and richly suggestive essays in which Corbin (1903-1973), one of this century's most distinguished Islamists, systematically lays out the remarkable correspondences between Swedenborg's account of the Spirit World and his symbolic exegesis of the Bible and the works of Sufi and Isma'ili mystics. Not only is this volume an extremely valuable addition to the English-language literature in comparative religion and hermeneutics, it goes far beyond the realm of mere scholarship: it stimulates the imagination; it opens new worlds. The book is also quite beautifully designed. It deserves a clothbound printing so it can have a durable place in the growing library of Corbin translations. The most recent instalment in the Swedenborg Studies series is D.T. Suzuki, *Swedenborg: Buddha of the North*, tr. Andrew Bernstein, Afterword by David Loy, Swedenborg Studies, No. 5 (West Chester, Pennsylvania: Swedenborg Foundation, 1996), cloth, \$16.95, paper, \$11.95, which consists of a short book and a short essay on Swedenborg by Daisetz Teitaro Suzuki (1870-1966), the world-renowned scholar of Zen Buddhism, who was also a student of Swedenborg's writings and one of their principal translators into Japanese. Unlike the Corbin essays, however, the works translated here do not delve deeply into Swedenborg or Buddhism; nor do they offer anything more than sketchy and tantalizing comparisons; instead, they are fairly elementary accounts of Swedenborg and are primarily valuable as historical documents. The Afterword by David Loy, however, offers a much more substantial comparative treatment of Swedenborg and Buddhism, whetting one's appetite for an entire book on the subject. Like the Corbin volume, the Suzuki volume is strikingly designed; unlike the Corbin volume, it is available in both cloth and paperback. With

future volumes planned on Swedenborg and Schelling and on Swedenborg and the Kabbalah, the Swedenborg Foundation has inaugurated a noble venture in scholarly publishing.

The Swedenborg Foundation also publishes books aimed at a popular market. Chief among these is Helen Keller's *Light in My Darkness*, ed. Ray Silverman, foreword by Norman Vincent Peale (West Chester, Pennsylvania: Swedenborg Foundation, 1994), paper, \$9.95, a new edition of Keller's 1927 volume *My Religion*, edited by Ray Silverman, who has done much to unobtrusively tidy up Keller's rhapsodic but rambling prose, something that Keller's blindness prevented her from doing herself. Silverman has also augmented the volume with Keller's other writings on Swedenborg. *Light in My Darkness* is a moving work, valuable for the insights it gives into the mind of a remarkable human being; it is also a useful introduction to Swedenborg, not only because it sets out many of his basic teachings, but also because its intensely personal nature helps one to understand Swedenborg's appeal. Those curious readers who are daunted by Swedenborg's immense body of work and bogged down by the standard translations, which are mechanical and Latinate, should begin with an anthology of Swedenborg's *Conversations with Angels*, ed. Leonard Fox and Donald L. Rose, tr. David Gladish and Jonathan Rose (West Chester, Pennsylvania: Swedenborg Foundation, 1996), paper, \$12.95, which consists of crisp, readable new translations of some of Swedenborg's most interesting spiritual memorabilia, culled from his books *Conjugal Love*, *Apocalypse Revealed*, and *True Christian Religion*. Also useful is Robert H. Kirven's *Angels in Action: What Swedenborg Saw and Heard* (West Chester, Pennsylvania: Swedenborg Foundation, 1994), paper, \$8.95, a work which summarizes Swedenborg's visions of heaven, hell, and the world of spirits in a warm, personal, and accessible style. All of these works are characterized by a direct, sometimes achingly sincere, testimonial style which, unlike the more impersonal style of the scholarly volumes, can momentarily disarm even the most hostile skeptic and allow him to imagine what it is like to live in their strange new world.

## Endnotes

1. One should also consult Florschütz's doctoral dissertation, *Swedenborgs verborgene Wirkung auf Kant: Swedenborg und die okkulten Phänomene aus der Sicht von Kant und Schopenhauer* (University of Kiel, 1991), which has been serialized in an English translation by Kurt Nemitz and J. Durban Odhner as "Swedenborg's Hidden Influence on Kant," in seven issues of *The New Philosophy: The Journal of the Swedenborg Scientific Association*, vols. 96-99 (January-June, 1993 to January-June, 1996).

2. For a complete account of Kant's researches into Swedenborg's clairvoyant powers, see my Ph.D. dissertation: Gregory R. Johnson, *A Commentary on Kant's Dreams of a Spirit-Seer* (The Catholic University of America, 1997). For complete translations and detailed commentaries on the discussions of Swedenborg in Kant's lectures on metaphysics, see Gregory R. Johnson, "Kant on Swedenborg in the *Lectures on Metaphysics: The 1760s-1770s*," *Studia Swedenborgiana* 10, No. 1 (October 1996): 1-38 and "Kant on Swedenborg in the *Lectures on Metaphysics: The 1780s-1790s*," *Studia Swedenborgiana* 10, No. 2 (May 1997): 11-39.

## Reviews

Fred D. Miller, Jr., *Nature, Justice, and Rights in Aristotle's Politics* (New York: Oxford University Press, 1995), xvii + 424 pp., Cloth \$49.95, Paper \$24.95.

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Fred Miller's *Nature, Justice, and Rights in Aristotle's Politics* might well be the one book on Aristotle's *Politics* from the present era which will continue to be an important point of reference for teaching and scholarship well into the next century.<sup>1</sup> It is a very good and interesting book: not only thorough and convincing in its interpretation of many important aspects of the *Politics*, but also highly instructive and useful in the way it organizes Aristotle's theory into a coherent whole resting in well-defined principles. It gives us a handle on Aristotle's political theory which we simply did not have before. Moreover, it addresses itself not only to Aristotle specialists, but also quite accessibly and well to students and non-specialists with interests in political philosophy generally. In short, there is a great deal to admire and be grateful for in this book, and anyone with an interest in Aristotle's political thought or the history of political thought in general would profit from reading it.

The book begins with a stage-setting chapter which outlines "the central argument of the *Politics*" (vii; 335), and devoted the three chapters of Part I to a methodical elaboration of that argument. On Miller's largely compelling interpretation of this argument, its central claims are that:

human beings are by nature political, in that only they are naturally able and disposed to live together and co-operate in political communities; the polis exists by nature, in that it arises from natural potentials and serves natural ends; the polis is prior by nature to its individual members, in that they can realize their natural ends only if they belong to a polis...and co-operate in a specific way, viz., according to universal justice and for the common (i.e. mutual) advantage... [from this concept of universal justice there follow] principles of particular justice (i.e. distributive, corrective, and reciprocal) which may be used to guide the lawgiver in establishing, maintaining, assessing, and reforming particular constitutions... [most importantly a principle which] bases political rights on nature, i.e. merit... (335)

The five chapters of Part II elaborate the "constitutional applications" of the central features of the theory presented in Part I, beginning with an account of the various forms of constitutions and political rights, proceeding through accounts of the best, second-best, and deviant constitutions, and finishing with an attempt to piece together "the basic materials of a theory of property rights" (307). A concluding tenth chapter provides a contemporary appraisal of the foundations of Aristotle's political naturalism, and concludes that his "moderate individualism," grounded in the idea that humans are "political"

by nature, provides a more promising basis for a theory of rights than modern "extreme individualist" views, grounded in concepts of a state of nature.

This book accomplishes too much, and is too rich in carefully considered detail to do it justice in a few pages. What I will do in what follows is simply offer some minor corrective remarks regarding the chapters on justice and the forms of constitutions, which I find almost entirely persuasive, then consider in a somewhat more sustained manner the account of rights and the neo-Aristotelianism of the final chapter, which are more controversial. I will have nothing to say about Miller's exemplary chapter on human nature and the naturalness of the polis, because I cannot think of any way in which it might be improved except that it might have mentioned Jean Roberts's partially overlapping work in that topic.<sup>2</sup>

In Miller's chapter on the best constitution, the topic of political friendship is taken up in the context of arguing against a "moderate holistic" view of the common good or advantage and in favor of a "moderate individualist" account (208-9). Miller addresses this topic only as far as his defense of the "moderate individualist" reading requires, and one cannot fault him for that. He does not claim to be offering a comprehensive interpretation of every topic in the *Politics*, rather only an analysis of the work's central argument. Nonetheless, it is worth noting that this is one place where his treatment of a major topic in the *Politics*, namely civic unity and the place of friendship in achieving it, is broken off without any resolution of the apparent tensions in Aristotle's remarks and the real disagreements in the critical literature. His account of Aristotle's best constitution is excellent, but to this extent incomplete.

In this same chapter, there is an error and some unfinished business in Miller's handling of the "paradox of kingship." This "paradox" arises from Aristotle's apparently holding both that kingship is the best constitution and that the best polis is one in which every citizen exercises political virtue. Miller's solution to this paradox seems right on target, but he sets up the "paradox" as an argument with three premises which he says "entail" the conclusion that, "Kingship is not the best constitution" (235). Given his wording of the premises, they do not entail this conclusion, in fact, and he does not revisit the argument after the presentation of his solution to identify where it breaks down.

In the course of developing his solution to the "paradox of kingship," Miller takes up the topic of happiness and its relationship to virtue, a topic which is revisited at 351ff in the concluding chapter. Again, the topic is an important one, and not adequately addressed, though a full treatment of it would be well beyond the book's intended scope. The most significant oversight in this discussion is that it ignores Richard Kraut's interpretation, on which the happiest life, a life whose ultimate aim is contemplation alone, requires moral virtue because such virtue is essential to the possession and preservation of wisdom.<sup>3</sup> Miller accepts too easily the proposition that unless one accepts an "inclusive end" reading of Aristotle's account of the human good, on which the ultimate *aim* of the best life includes exercises of moral virtue, then moral virtue will not be a necessary part of the happiest life. Having assumed this, he defends an "inclusive end" interpretation in a way that relies on a spurious reading of *NE* 1177b27-8, 1178b5-8, and 1179a22- 32 (353).

Finally, I am sympathetic to Miller's handling of the topic of ostracism in this chapter (245-7), but will offer a modest refinement. Aristotle allows that ostracism "has a place in constitutions that aim at 'the common good'," but this seems "problematic from the standpoint of legal justice, because it does not require that a citizen be convicted of any offense" (246). Miller defends Aristotle's position on this as consistent with an ideal of justice as mutual advantage by holding that:

Ostracism may be justified in a suboptimal situation where some citizens possess so much wealth or so many friends that they threaten to make themselves tyrants... The other citizens justifiably regard this as a threat to their own political rights. (247)

One can agree with this and still be troubled by the lack of due process (i.e. by the absence of any determination that an offense has been committed), so it would be helpful if something more could be said on Aristotle's behalf. What might be said, I think, is that one could plausibly interpret ostracism as an exercise of "summary judgment" (citizen "jurors" are presumed generally familiar with the relevant facts, but there is no formal presentation of evidence) on the question of whether a prominent person possesses or exerts political influence that is excessive or out of proportion to his merit (the operative term in the relevant passage, *Pol.* 1284b7-20, is *hyperballonta*). Political influence that is disproportionate to merit is an *unjust* amount of political influence, if Miller is (as I believe) right about Aristotle's theory of justice. This would give ostracism the status of a procedure by which determinations of actual injustice are rendered, rather than simply a means to (preemptively) eliminate a threat to the rights of less powerful citizens.

Turning to his chapter on the second best constitution, which is also generally excellent, it seems to me that Miller does not provide us any account of the relationship between the mixed and middle constitutions. This is a significant omission, though one which he has the resources to easily remedy. Rather than endorsing Newman's view that "the essence of the mixed constitution" is that it is "a combination of social elements" (256), it would be more consistent with Miller's own analysis to say that the category "mixed" pertains to the institutional aspect of a constitution (*politeia* in the sense of institutions of government), while "middle" pertains to the social aspect of a constitution (*politeia* in the sense of the social order of the polis). Aristotle's point, then, in speaking of the second best constitution as both mixed and middle, is to discuss its institutional character and social character under separate headings. Or so I would argue.

A somewhat more consequential observation I would make about this chapter on the second best constitution is that its discussion of *consent* is not altogether satisfactory. Miller observes that it follows from Aristotle's principle of unanimity (roughly, the requirement that all citizens regard the constitution as an acceptable one) that "the constitution must have the consent of the governed" (273), but holds that:

Aristotle gives no indication of going even as far as Socrates [in the *Crito*] in treating the consent of the governed as a *justification* for political authority. Rather, his view is that the voluntary compliance of the subjects to political

rule is *evidence* that the political rule is justified. The justifiability of a constitution rests ultimately on whether it promotes the ends of its citizens.

The purposes of this chapter do not demand a review of the considerable evidence bearing on Plato's conception of the role of consent in just rule, but it is somewhat disconcerting to see the question of consent broached in this way and brushed aside. Miller suggests that consent is sufficient, but not necessary, for just rule in the *Crito*, but this seems rather doubtful. The contrast between slaves and free citizens, who obey willingly rather than in response to force, is already evident in that work, as well as in *Republic* VIII and IX, and in the *Statesman*. In these works Plato seems to believe that the proper and just way to rule is through persuasion and consent, rather than through force, though *entitlement* to rule does not rest on consent. In the *Laws* it is at least arguable that consent becomes part of the very title to rule; just rule *is* rule by the wise, over willing subjects, aiming at the common good, and regimes which fail to meet these requirements make pronouncements that are law in name only, and have no just claim to be obeyed.<sup>4</sup> The indications that Aristotle adopts such a view are admittedly sparse, but they are not as easily dismissed as Miller suggests.

To see one reason why this is so, let us grant Miller's claim that, "The justifiability of a constitution rests ultimately on whether it promotes the ends of its citizens." To promote those ends, a constitution must bring it about that its citizens exercise virtue, which requires that they aim voluntarily and as a matter of choice at the right ends. By Aristotle's lights, they cannot do this unless they have been raised and educated in such a way as to strengthen and develop their rationality. Being rational then, their pursuit of the right ends as a matter of choice will result in their adhering to the dictates of law, only if law accords with natural justice, or in other words embodies the right ends in a way made evident to (the rational judgment of) the citizens who are to follow it. Aristotle thus conceives of the function of law (and its enforcement too, though also quite independently of its enforcement) as fundamentally *instructive*. Legislation only succeeds in promoting "the ends of the citizens," as Miller says, if it gives them reasons and leaves them free to grasp and act on those reasons. To exercise virtue is not to be *made* to do the right thing. Thus, Miller is right in his basic point that Aristotle's view is only superficially similar to a modern conception of popular sovereignty, but it is not clear that he fully sees what the differences are, and it is clearly a mistake to say that according to Aristotle voluntary compliance with law is merely *evidence* that the law complied with is just. Voluntary compliance is *essential* to the law attaining its fundamental end of making citizens virtuous, or in other words of enabling them to fulfill their *telos* by helping them become rationally self-governing in their dealings with other people. If legislation does not take place in a way that encourages and permits voluntary compliance or consent, then it is inconsistent with the attainment of its citizens' ends, and is thus unjust.

Turning to the topic of rights, we may distinguish four components of Miller's view: (1) "Aristotle did ... have locutions for rights, including rights based on nature" (93), although "no single Greek word corresponds to the single modern term 'right'" (106); (2) Aristotle had "a theory of rights based on nature" (117); (3) "Aristotle's theory of distributive justice yields a theory of political rights which can be evaluated as natural or unnatural" (123); (4) his scattered discussions of property "provide the basic materials of

a theory of property rights" (307), which recognizes that private property is "necessary for happiness and the exercise of moral virtue" (328), but does not countenance "a general policy of redistribution of wealth" (331). These are highly controversial claims, and Miller does a far more effective and admirable job of defending them than most would have thought possible. His distinction between a natural right and a right based in nature, for instance, is not only very helpful to his cause, but one that rights theorists will do well to bear in mind in other contexts. I would like to think that he is right about all of (1) through (3), but I do not find the central arguments for (2) entirely convincing, and I think the claims about redistribution in (4) ignore important textual evidence.

Miller invests most of his efforts to establish (2), that Aristotle has a theory of rights based on nature, in a convincing defense of the claim that when Aristotle speaks of justice as the common good or advantage (*to koinêi sumpheron*) he means what is mutually advantageous. He says that this conception of justice:

*entails* a moral constraint upon legislation: the interests of some should *not* be compromised in order to promote those of other citizens. *Therefore*, his conception of justice implies a respect for the rights of each member of the political community, ... (137; the italics on "entails" and "therefore" are mine)

Or, again, that:

To the extent that it [the conception of justice as mutual advantage] regards the interests of individuals as a matter of basic concern, the individualistic view must support a strong theory of individual rights which prohibits the sacrifice of individual ends. (195)

Essentially the same argument is repeated at 210, and there are recapitulations of it with development of 213, 223, and 239, leaving no doubt that this is the heart of Miller's derivation of rights from Aristotle's conception of justice. There are two distinct inferences at work here, and neither would appear to be sound.

First, Miller has tried to infer what Aristotle would say about the choices that are appropriate in suboptimal circumstances from his characterization of an *ideal* of justice that is understood to be "unattainable in practice" (252). By this logic, one could infer from utilitarianism's ideal of a world in which everyone is as happy as each can possible be,<sup>5</sup> that in less than ideal circumstances utilitarianism would never countenance sacrificing any individual's happiness to the happiness of the greater number. This is, of course, exactly what one cannot infer. A "basic concern" with the "interests of individuals" might in unfavorable circumstances lead one to safeguard the interests of as many individuals as possible by sacrificing those of others. In order to sustain this step in the argument, one would therefore have to begin with the individualism of Aristotle's ideal, but rely primarily on evidence of what he thinks it will be just to do in suboptimal circumstances.

What is really called for is identifying some quite specific ways in which Aristotle thinks the interests of all citizens should be *protected*, or made immune to public interference, even in adverse circumstances, and then to examine whether these protections can be properly said to entail a protection of rights. Miller speaks of justice as mutual

advantage as reflecting "the concern of individualism that the happiness of *each* of the participants must be *protected* by political institutions" (210; emphasis added), but the priority this gives to *protection* (i.e. seeing that citizens are not made worse off) over *promotion* (i.e. making citizens better off) must be argued for, rather than assumed. On the whole Aristotle seems more concerned with the *promotion* of virtue and happiness than with the protection of interests, so the argument that is called for would have to work from a clearer picture of exactly what forms of protection Aristotle would give priority over the promotion of happiness, when circumstances do not allow everyone to be happy.

The second problem in this argument is that even if one grants that Aristotle's theory of justice entails that "the interests of some should not be compromised in order to promote those of other citizens" (137), it does not follow that his theory of justice implies respect for rights. It is one thing to regard those with political power as having duties to refrain from sacrificing the interests of any citizen even for the greater good of others, and something else again to regard citizens as having rights of security in those interests. What gives political life and substance to the idea of a right of *A* to *X*, as opposed merely to *B* having a duty to distribute *x* to *A* or respect or protect *A*'s possession of *x*, is *A*'s having, or being entitled as a matter of justice, to some means to authoritatively *assert* a claim to *x*. A reason for holding that the citizens of Magnesia in Plato's *Laws* have a right to fair trials (whether it is a sufficient reason, I will not try to judge), is that Plato envisions a system of appellate courts which will overturn bad decisions and penalize the judges of lower courts when legitimate complaints are brought. By contrast, although police in the USA have a duty to protect all persons within their jurisdiction from criminal harm, they enjoy a form of sovereign immunity which precludes liability for their failures to protect individuals from imminent harm. For instance, in order to improve the chances of conviction and thereby protect others in the future, an arrest may be delayed even in the face of imminent harm to a particular person. When such harm eventuates, the courts do not regard this as a breach of the person's rights, even though the police were obliged to protect that person as much as anyone else. Their view is evidently that it is just for police to have a duty to protect each individual, but not a requirement of justice that individuals have rights to that protection. It is similarly quite possible that Aristotle's accounts of justice would entail certain duties on the part of those who share in rule, without entailing any corresponding rights on the part of citizens insofar as they are ruled.

We have so little in the *Politics* of what Aristotle would presumably have wanted to say about legislation and the courts (note his remarks in the closing lines of the *NE* on what is to come in his work on legislation and constitutions), that we do not have much to go on judging what kinds of legal remedies he would want citizens in a best or second best city to have, and what he would take the point of those remedies to be. Apart from his remarks about corrective justice as it bears on property offenses, much of what he does say about law is not particularly helpful to Miller's cause. His remarks about the functions of law suggest that his dominant concerns are with the promotion of virtue, the resolution of conflict, and the promotion of unity, stability, and friendship.

Miller's chapter on property rights continues the development of this picture of Aristotle as giving the protection of interests priority over their promotion, and my main response to it is that its suggestion that "there is no indication that Aristotle advocates a

general policy of redistribution of wealth" (331) is mistaken. Miller devotes a great deal of attention in this chapter to the narrow question of whether the holding of property is to be communal or private, but little to the passages of *Pol.* II 6 and 7 where Aristotle reviews proposals for egalitarian private holding of property. The thrust of Aristotle's critique of these proposals is that while justice does not require *full* equalization of property holdings, it does require legislative action to ensure that everyone has property in moderation:

... where there is equality of property, the amount may be either too large or too small, and the possessor may be living either in luxury or penury. Clearly, then, the legislator ought not only to aim at the equalization of properties, but at moderation in their amount. Further, ... it is not the possessions but the desires of mankind which require to be equalized, and this is impossible unless a sufficient education is provided by the laws. (1266b24-32).<sup>6</sup>

He goes on to say that it is not even enough for this education to be equal, for "there is no use in having one and the same for all, if it is of a sort that predisposes men to avarice, or ambition, or both" (35-37). This is then followed by a discussion of the causes of crime which makes it clear that his concern with moderation in possessions applies with even greater force to excess than to deficiency, since "the greatest crimes are caused by excess and not by necessity" (1267a13-14). In describing the partitioning of property in the best city in Book VII, Aristotle says that the land is to be divided into public and private parts, "while of the private land, part should be near the border, and the other near the city, so that each citizen having two lots, they may all of them have land in two places; there is justice and fairness in such a division..." (1330a14-16; emphasis added). Miller cites this passage (at 326) in evidence of the claim that Aristotle has a conception of distributive justice applicable to distributions of property, and that seems right. So do not Aristotle's theoretical grounds for directly distributing property in accordance with a standard of moderation in the best city, also provide grounds for reforms of property law that would be redistributive in cities that are not as good? The point is to ensure that everyone has property holdings conducive to virtue, neither too much nor too little, and in some cities that will require redistribution.<sup>7</sup> The evidence thus suggests a more strongly egalitarian thrust in Aristotle's thinking about property than Miller acknowledges, though equality per se is neither required nor sufficient for attaining the polis's natural and just ends.

The final chapter, "Aristotle's *Politics* Reconsidered," examines the main presuppositions on which Aristotle's political theory rests, and closes with a favorable assessment of Aristotle's "contribution to the theory of rights" (373). The aim of this chapter is to preserve the outlines of a neo-Aristotelian theory of rights, while rejecting Aristotle's "principle of community," according to which "individuals ought to be subject to the authority of the community" (357), and his "principle of rulership," according to which "a community can have order only through the exercise of political rule" (366). The arguments here are less careful than in the preceding chapters, leaving one with the sense that whatever residue of challenge to liberalism that may remain after the work of chapters 1-9 is given short shrift in the final rush to conclude (quite plausibly) that Aristotle provides us with a better theory of liberal rights than liberalism's own state of nature theories do.

Miller recognizes that Aristotle regards the care and education of citizens as even more important to the polis's natural political agenda than correct laws regarding property, but he regards this central feature of Aristotle's political thought as untenable. His main argument relies on the idea that Aristotle's conception of the polis illicitly conflates the notions of state and society:

The end of the polis *qua* society is the virtuous and happy life, but it does not follow that the function of the polis *qua* state is to use coercive force against its citizens so as to make them virtuous and happy. Aristotle, in making such an inference, is confusing the two senses of 'polis' and is assigning to the polis *qua* state a function which properly belongs only to the polis *qua* society. (360)

He notes in connection with this that liberals "oppose the principle of community on the grounds that the state would violate the rights of individuals if it forced them to conform to an official code of morality" (361).

One very surprising feature of these remarks is the language of "coercive force" and "forced" conformity. Aristotle's concern, as Miller recognizes, is with promoting virtue, but (as I noted in connection with Miller's remarks about consent) he does not believe that anyone is made virtuous by force, except in the very marginal sense that a child's virtue is promoted by compulsory school attendance laws that are subject to enforcement when parents do not comply with them, or that an adult's virtue is safeguarded from ruin by laws that discourage ruinous acts. It would be more true and fair to Aristotle to say that he thinks that the polis *qua* state should take some responsibility for nurturing virtue and rationality in a way that provides a foundation for adult freedom, than to suggest he is unleashing all the coercive power of the state in the cause of forced compliance with morality.

Having said this, I would acknowledge Miller's observation that Aristotle's position requires some clear basis for the polis *qua* state to take on the burden of moral education, and argue that he has one. Aristotle does not believe that we become responsive to reason without proper care and instruction, and he believes it is in the nature of law to give us reasons to act justly, and to succeed in creating good order in society largely through our voluntary acceptance of its guidance. If this is so, then one has to ask whether it can be just on his view to leave to chance whether citizens turn out to be good and rational. Within the sphere of what would count for us as criminal justice, it does not seem that it could be. In its relationship with the criminal offender the polis *qua* state would often be in the position of putting force before any opportunity for persuasion, and there are good reasons for thinking Aristotle would regard this as unjust.

This brings out an important difference between Aristotle and liberals like John Locke, which Miller nowhere acknowledges, namely their very different views on the development of reason and human goodness. Locke's view is that the untutored reason of individuals in a state of nature would allow most of them to easily grasp the elements of natural moral law and adhere to that law. Most people are just naturally good and reasonable in a state of nature, that is to say. This leaves the state free to enforce a body of law in which natural morality is codified, without bearing any responsibility to lay the

foundations for voluntary compliance. God has seen to that already, as indeed he must if he is to be free of complicity in the crimes of man himself. Aristotle would regard all of this as not only false but dangerous, since it is only through law and the education that must precede it that we become rational and human. If Aristotle is more nearly right about this, as I think he is, then this represents a significant threat to liberal thought.

I also think that a satisfactory account of the important place of friendship and civic unity in Aristotle's political thought (a topic addressed only briefly in Miller's chapter on the best city) would identify *common* schooling, which brings children from different parts and strata of the city together in friendship, as an important aspect of his conception of public education. How strong an argument this yields for even state regulation of private education I will not presume to judge here, but it is worth noting that Miller dismisses Aristotle's case for public education without any mention of this aspect of his political and educational agenda.

In defense of his claim that moral education is "properly" the business of the private associations constituting the polis *qua* society, Miller cites the natural diversity of values, the repression involved in trying to eliminate that diversity (365), and the potential pitfalls of placing the power to control moral education in the hands of public officials (373). With regard to diversity, I would respond that it is essential to determine the intended scope of moral education: are we talking about inculcating a common morality of justice and self-restraint, or trying to make everyone a philosopher? The former is no threat to any forms of diversity we should value, though the latter might be. Miller's concerns about who holds the power to morally educate are too empirically complicated to try to sort through here, but there is a distinctly un-Aristotelian and anti-statist bias to them. He worries about "special-interest groups ... defin[ing] the agenda for coercive moral education" (373), but does not ask whether the vested interests of the local communities in control of public schools might be more favorable to the public interest than the motives that "private" organizations such as corporations would bring to education. He asks whether public providers may "underestimate the costs that are borne by the public," but does not ask whether the relative accessibility of information about the operations of public institutions in democratic societies vis-a-vis information about private organizations would allow the public to better judge those costs and how well the public interest is being served. The experience of seeing local school districts build public consensus around the frameworks for character education programs inclines me to be more sanguine about public control than Miller appears to be.

In sum, I am inclined to think that although it is true that Miller has only set out to reconstruct the central argument of the *Politics*, we are left in the end with a skewed picture of the thrust of Aristotle's political thought. We are left with an Aristotle who is more like a conservative classical liberal than I find credible. Be that as it may, *Nature, Justice, and Rights in Aristotle's Politics* is a very good and wonderfully instructive book, and no student of Aristotle's *Politics* can afford to ignore it. I commend it highly.

**Endnotes**

1. Other recent titles in English include Curtis Johnson *Aristotle's Theory of the State* (New York: St. Martin's Press, 1990); Carnes Lord, *Education and Culture in the Political Thought of Aristotle* (Ithaca: Cornell University Press, 1982); Robert Mayhew, *Aristotle's Criticism of Plato's Republic* (Savage, Md.: Rowman & Littlefield, 1997); Richard Mulgan, *Aristotle's Political Theory* (Oxford: Oxford University Press, 1977); Mary Nichols, *Citizens and Statesmen: A Study of Aristotle's Politics* (Savage, Md.: Rowman & Littlefield, 1992); Steven Salkever, *Finding the Mean: Theory and Practice in Aristotelian Political Philosophy* (Ithaca: Cornell University Press, 1992); Bernard Yack, *The Problems of a Political Animal: Community, Justice, and Conflict in Aristotelian Political Thought* (Berkeley: University of California Press, 1993); and my own *Aristotle on the Necessity of Public Education* (Savage, Md.: Rowman & Littlefield, forthcoming).
2. Jean Roberts, "Political Animals in the *Nicomachean Ethics*," *Phronesis* 34 (1989), 185-204.
3. Richard Kraut, *Aristotle on the Human Good* (Princeton: Princeton University Press, 1989).
4. Christopher Bobonich develops an important defense of the view that in the *Laws* just rule is characterized, in part, as rule through rational persuasion rather than force, in "Persuasion Compulsion and Freedom in Plato's *Laws*," *Classical Quarterly* 41 (1991), 365-388.
5. We are perhaps so accustomed to thinking about the most awkward implications of aiming at the "greatest happiness of the greatest number" in suboptimal circumstances, that we give little if any thought to the ideal which this formula embodies. The character of this ideal is not a mystery, however.
6. This passage and those that follow are from the revised Oxford translation of Jowett, as corrected by Barnes, in Jonathan Barnes (ed.), *The Complete Works of Aristotle* (Princeton: Princeton University Press, 1984).
7. Civic unity and friendship also require that inequality not be too great, since inequality is a barrier to friendship. Inequality in property will be salient in this regard to the extent that it is perceived as making its possessors unequal.

Mirowski, Philip. 1994. *Natural Images in Economic Thought: Markets Read in Tooth and Claw*, New York: Cambridge University Press. xiii - 618 pages.

Reviewed by John C. Moorhouse, *Department of Economics, Wake Forest University*

This lengthy, interdisciplinary volume contains twenty essays first presented at a conference at Notre Dame University in September 1991. The avowed purpose of the volume is twofold: to explore how images from the natural sciences, principally but not exclusively physics and biology, have influenced the development of economic theory and to determine, in specific historical contexts, what claim economics can make to being scientific.

There is validity in the editor's claim that one of the major contributions of the volume lies in the authors' use of the language of metaphor to communicate across four fundamental views of the relationship between the Natural and the Social. These views are identified by Philip Mirowski as: 1) The Natural and the Social are identical; 2) the Natural and the Social are disjunct but individually lawlike; 3) the Natural is objectively stable, whereas the Social is patterned on it but is not stable, and 4) the Natural and the Social are both unstable and hence jointly constructed as mutually supportive. That post-modernists subscribing to position (4), including Mirowski, are represented in the discussion is another contribution adduced by the editor to this collection of essays (p.11).

A subtext of the book is a debate about whether or not the appropriation of ideas and concepts (metaphors and analogies) from the natural sciences contribute to the development of economic theory. There is no question that economists have borrowed and applied ideas from the realm of the Natural. Particularly influential has been 19th century classical mechanics (Moorhouse, 1976 and Mirowski, 1989). In many cases, some reviewed in the book, the transfers are simply inappropriate, with the derivative economic analyses running the gamut from misleading to bizarre. While much of this "economics as social physics" and "economics as biology" has not withstood scientific scrutiny and has not survived, except in the intellectual history of economics, some of the authors are more sanguine than the editor about the interdisciplinary usefulness of fundamental concepts.

Twenty-one authors are represented in the volume. Eleven are economists, five are historians of science including one specializing in the social sciences; two are philosophers of science, and one each is a political philosopher, a historian whose research centers on "the cultural and political resonances of objectivity," and a banker turned student of post-modern literary criticism.

The book is divided into five parts. Part I is a two chapter introduction, including one defining metaphor and analogy. The latter is heavily influenced by D. McCloskey's views on the "rhetoric of economics." The four chapters of Part II discuss the use of metaphors from physics and the application of formal mathematics in economics. Mistitled "Uneasy Boundaries Between Man and Machine," Part III includes chapters on the circulatory system within the body as a metaphor for the circulation of money within an economy and the idea of evolution in economics. Of the three chapters, two have nothing to do with a mechanistic view of economics.

Part IV deals with the influence of ideas from biology on economic thought. The ideas run from the holistic image of the economy as an organism to that of evolution. The less written about an economy as a living biological entity the better. The two strongest chapters deal with evolution and Hayekian spontaneous order. Both are well-done critiques. Part V contains four essays including Mirowski's summary of his position; a history of the 19th century treatment of economics by the British Association for the Advancement of Science and the divorce of statistical analysis and formal mathematical modeling in economics, and a comparison of Aristotle's and Hayek's theories of social order.

The final chapter, by David C. Moore, is wholly out of place in the volume and has the distinct air of having been tacked on. Its subject is feminist accounting theory via post-modern literary criticism. The most charitable interpretation for its inclusion is that feminist accounting theory provides, in the editor's mind, an example and a critique of a constructed reality. Because there is no difference between fact and fiction (Is that a fact?), accountants should be understood as generating texts not reflections of a "natural" economic reality. There is, after all, no order independent of the observer. Further, the essay explains how accounting marginalizes women because it measures GNP in such a way as to exclude non-market goods and services. I thought that that old canard had died 50 years ago. (See *any* economics textbook covering GNP published in the 20th century). Accounting also denigrates women because it is based on "the controlling, hierarchical, systematizing style that is masculine" (p.596). On page 597, the reader learns that a careful etymological tracing of the verb 'to account' from the Latin through High German to modern English demonstrates that "accounting and castration are inextricably linked." It is hard to resist taking off on this piece and wasting more scarce journal space.

The uneven quality of the chapters and space constraints preclude reviewing each of them. Nonetheless it seems desirable to discuss several of the more serious essays. Sharon E. Kingsland begins Chapter 9, on the influence of Alfred J. Lotka's on economics, by observing that there is a strong affinity between economics and ecology. Both are concerned with the allocation of scarce resources among competing ends. Lotka employed systems of differential equations to model biological evolution and then attempted to construct analogous models to explain the dynamics of economic systems. Although the synthesis was never completed, Lotka's approach to the formal modeling of dynamical systems influenced Paul Samuelson and Herbert Simons, both future winners of the Nobel prize in economics. Of interest is that Samuelson is the consummate neo-classical economist, while Simon has remained a lifelong critic of neo-classical analysis.

Chapter 12, by Margaret Schabas, and Chapter 13, by Camille Limoges and Claude Menard, both deal with the influence of Darwin's theory of evolution on Alfred Marshall. The evidence is mixed. While Marshall wrote that "the true mecca of economics is biology," his theory of the representative firm, which allows him to characterize industry equilibrium, clearly rejects the notion that economic and biological competition are akin. Yet contrary to Marshall, product and species differentiation coupled with spatial and temporal differentiation are devices for reducing or avoiding competition in both economic and ecological systems. They are means of surviving. It is precisely this rich

differentiation that is sacrificed by Marshall in order to maintain the notion of a well-defined industry.

Because such differentiation does not fit neatly within static neo-classical models of equilibrium based on perfect information, it is criticized by economists as the basis of anti-consumer market power. Marshall avoided this implication, that differentiation leads to monopoly, not by turning to concepts of dynamic competition borrowed from biology, but by assuming that all firms are identical (the representative firm model) such that no one firm had any competitive advantage over any other. In Marshall, this represents the triumph of the equilibrium analysis of physics over the richer, if theoretically messy, dynamics of biology.

In Chapter 14, Neil B. Niman argues that, while the use of biological analogies is not without difficulties, they promise several benefits. First, they enrich the description of economic agents and events by permitting economists to move beyond the representative agent to a more complete taxonomy of decision-makers. Second, biological evolution can contribute to the development of a theory of economic dynamics. Niman contrasts the theory of evolution based on genetic mutation and natural selection with that of economics wherein genes are identified with ideas, rules, conventions, and contracts, and market competition is interpreted as the process of natural selection favoring that set of ideas leading to better product design and relatively (not perfectly) efficient production. The market process also favors superior competitive strategies involving advertizing, marketing, product service, and distribution. The latter represents economic behavior routinely condemned by neo-classical economics. From this perspective, adaptation operates at all margins and not just those of received theory. Much of this is familiar to students of Austrian Economics (Moorhouse, 1997). I would quibble with Niman's insistence that the unit of analysis should be the firm, but nevertheless find his essay insightful.

By contrast to Niman, Alexander Rosenberg finds little in the theory of evolution that is useful for economics. In essence, he argues that the insinuation of evolution into the domain of economics represents apologetics for neo-classical economics. In this, I think Rosenberg wrong. Economic evolution is about change: learning, shifting tastes and technology, discovering, decision-making in the face of imperfect information, and imitating success. Such elements of change are assumed away in neo-classical analysis so that economic behavior can be modeled as a constrained optimization problem, the solution of which defines equilibrium. One implication of this approach is that the maximizing behavior of neo-classical theory is reversible. In principle, re-establishing the initial economic conditions of the problem generates the original equilibrium. But learning-by-doing, for example, undermines the notion of reversible economic behavior. Furthermore, as Alchian argued in 1950, not only is maximizing behavior impossible in the face of imperfect information, it is unnecessary. Relative superiority is sufficient to survive the rigors of competition. Thus evolutionary theory is the antithesis of the equilibrium analysis at the heart of neo-classical economics.

Rosenberg is on sounder ground when he argues that the incorporation of evolution into economics would deny the latter the status of being a predictive science based on empirical analysis. The puzzle is that Rosenberg interprets this as a serious limitation.

Ludwig von Mises and F.A. Hayek long ago explained why economics is not a predictive science and that statistical analysis represents history not scientific prediction.

Chapters 16 and 19 both deal with Hayek's concept of social order. Geoffrey Hodgson, argues, in the former chapter, that Hayek's methodological individualism is a suspect basis for a theory of social order. Briefly, Hodgson makes a distinction between ontogenetic change (development of the individual with a given set of genes) and phylogenetic change (evolution of the genetic makeup across a population). He then associates methodological individualism with ontogenetic evolution and the cultural and institutional evolution of Hayek's social order with phylogenetic change. Thus, he asserts, a fundamental inconsistency mars Hayek's theory. Moreover, Hayek's methodological individualism, a form of reductionism, offers no logical stopping point according to Hodgson. Why should individuals be the unit of analysis? Why not further reduce the problem to the 'electro-chemistry' of the brain and further downward? The final alleged inconsistency is that Hayek's analysis is based on purposive individuals whose interaction leads to a social order bereft of an identifiable purpose.

For Hayek the ideas and beliefs held by individuals governing preferences, design, production, and distribution are the genes of the economic system. Because *individuals* are capable of learning, new information and a changing economic environment generate new ideas and beliefs that in turn lead to changes in patterns of consumption, production, and distribution. The individual initiates economic evolution manifest at the systems level. As Lumsden and Wilson observe (1981, p.206), "Culture is in fact the product of vast numbers of choices by individual members of society."

For Hayek, self-organizing and self-replicating social structures evolve through natural selection that tests rival rules, customs, and traditions. Along with self-interest, altruism, social distinction, habit, and conventions endure because they have survival value. They endure because they reduce transaction costs and facilitate the peaceful interaction of goal seeking individuals. The profit and loss system, embedded in a legal order respecting private property and contracts, is just one example of a market process that selects against inefficiency and error.

What emerges is a spontaneous social order - the result of human action not human design. This order has no overarching purpose other than to enlarge the opportunity of individuals to achieve their own goals. Hayek points to such fundamental institutions as the moral order, the legal system, language, money, and the market as examples of evolving structures that are not the product of human design (Hayek, 1973). Hayek's view of the social order, grounded as it is on the ongoing problem of coordinating the fragmented and often tacit information held by individuals, is one of social evolution based on adaptation and natural selection among competing rules, conventions, customs, and social institutions. It is the epistemological function of the market process that Hayek celebrates. In my judgment, Hodgson largely fails to identify any fundamental contradictions between Hayek's methodology and his theory of social order. Yet Hodgson's contribution is well-worth reading carefully.

Murphy's chapter, "The Kinds of Social Order," is a deconstruction project consistent with the theme of the book, namely, "that few metaphorical appeals to nature will bear critical scrutiny and that all analogies break down if pushed far enough" (p.536). Again Hayek's theory of social order is the subject of the essay. The point of departure of social order is the subject of the essay. The point of departure is the observation that, "It is both surprising and unfortunate that Hayek never refers to Aristotle's nature, custom, and stipulation trichotomy: surprising because Hayek was (for an economist) a formidable scholar, and unfortunate because Aristotle's theory of social order is far superior to Hayek's" (p.537). The superiority of Aristotle's theory stems from his treatment of nature, custom, and stipulation as a circle of "interdefinability" (p.542). In other words, all socio-economic institutions, such as the market, simultaneously exhibit elements of the natural, customary, and designed. Institutions are nested in a progressive hierarchy running from the natural to the stipulated (rationally designed). By contrast, Murphy opines, Hayek treats the three categories as mutually exclusive. If for no other reason, this makes the Aristotelian view more fertile. The other limitation of Hayek is that his analysis of exchange is treated as if it were strictly a market phenomenon. Murphy argues that there are many alternative institutional arrangements competing with the market.

The superiority of Aristotle's theory is illustrated by contrasting the analyses by a number of scholars of the division of labor with that of the Aristotelian tripart categories, wherein the division of labor is natural, customary, and stipulated. Without elaboration, in Murphy's hands the Aristotelian position becomes a grand tautology capable of explaining (describing?) any social phenomenon *ex post*. I wonder if the theory yields any implications capable of falsification. In addition, Murphy seems to deny the universality of economic theory. Economists purport to explain a broad array of social phenomena independent of persons, places, or time periods. Of course, customs, conventions, and institutional arrangements differ across societies and time, but that alone does not deny the universality of economic theory. As examples, the laws of demand and supply explain the failings of central planning and the changing bride price among certain tribes in southern Kenya. They are as applicable to explaining 18th century trade patterns as to explaining intertemporal prices in today's futures market. Moreover, economic theory holds out the promise of explaining the evolution of the very social institutions that Murphy maintains define the different socio-economic settings requiring multiple theories.

Finally, in Chapter 17, Mirowski sums up his view, along with that of other deconstructionists, that the natural sciences can be reduced to "norms, coalitions, and self-interested strategies" (p.452). According to Mirowski the boundary between the natural and the social is negotiable, depending on the identity and (political?) purpose of the analyst. Social scientists, particularly economists, seize upon the supposed unity of the natural sciences in an effort to impart the impression of unity in the social sphere. To affect this appropriation, economists employ a juridical model based on analogical reasoning.

Mirowski writes, "It seems to me that concrete examples of this game of metaphorical musical chairs in the history of Western science are legion; they grace so many narratives in the history of science that someone should produce a catalogue of them someday"

(p.453). He then goes on to offer several examples ranging from the Animal Trials of Falaise, France in 1386 to the Presidential Commission appointed to study the Space Shuttle Challenge disaster in 1986. The purpose of the latter was less to find an explanation for the crash than to provide a juridical restoration of a sense of order. "The purpose of this quasi-juridical body was not to bring scientific method to bear on the problem, but rather to reconfigure the threatened boundaries of the Social and the Natural by relegating the offending phenomenon to its correct category" (p.468).

This is not the place to mount a defense of Western science or the utility of applying fundamental concepts across widely different disciplines. Can economic theory be improved, generalized, and made more insightful by employing concepts developed in the natural sciences to analyze complex systems? For those of us who believe in order independent of the observer, the answer must be a qualified "Yes." Consider the following concepts shared by economics and ecology: scarcity, production, efficiency, specialization, competition, product and species populations, spatial and temporal distribution, and evolution. Must economics be hermetically sealed off from ecology in such a way to deny itself an appreciation of how these ideas aid in the understanding of complex systems? In paraphrasing Claude Menard, in Chapter 3, I. Bernard Cohen states, "... if a 'conceptual transfer' arising from analogy is 'to be fertile', the analogy must 'leave room for the decentralization of the original idea', so as 'to preserve an appreciation of the radical differences between the original concept and the object of comparison'" (p.68). I can add nothing to Menard's view.

Does the volume accomplish its twofold purpose? The uneven quality of the essays means that the first goal, exploring how images from the natural sciences have influenced the development of economic theory, is only partially accomplished and the latter goal, determining the scientific status of economics, not at all. This should not surprise readers acquainted with Mirowski's work. He does not approve of contemporary economics. Not only is the discipline's status as scientific problematic, Mirowski doubts that "any extant economics is a viable intellectual project" (p.10). As a post-modernist, he asserts the instability of the Natural and the Social, the contextual construction of economic reality, and the danger of employing Natural metaphors in economics. Those are the themes of the conference. Nevertheless, I recommend this volume to anyone interested in a lively debate about the intellectual cross-pollination between the natural and social sciences. Many of the essays are provocative.

Two final comments. First, the subtitle of the volume is "Markets in Tooth and Claw" and it is illustrated on the front cover by Henri Rousseau's *The Repast of the Lion*. If the editor is attempting to be ironic here, he succeeds because as a metaphor for economic competition, it is a poor one. For what is illustrated is predation a phenomenon more often found in the political arena than the marketplace. Like economic competition, ecological competition is non-confrontational, as between wildebeest and gazelle competing for grass on an African savannah.

Second, Mises and Hayek have addressed many of the fundamental issues covered in this volume and while Hayek's work is the subject of two papers, where he is seriously under-estimated if not misrepresented, Mises is mentioned only twice and then only to be

held up to ridicule (pp.409, 557). One of the authors identifies Mises as a neo-classical economist! The volume is diminished by its neglect of Austrian economics.

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*Evidence and Inquiry: Towards Reconstruction in Epistemology.* By Susan Haack. Oxford: Blackwell, 1993. x + 259 pages.

On the whole and despite some arid passages this is more fun to read than most books on epistemology. Professor Haack has humor and commonsense, both well displayed in her chastisements of Steven Stich and Richard Rorty in Chapter 9, "Vulgar Pragmatism: An Unedifying Prospect," and - more gently - in other obligatory putdowns of rival theorists; though her own position is so close to the views of Willard Quine that highlighting the differences sometimes involves her in veritably Scotist subtlety.

This is a book about the justification of belief, which seems to be what epistemology has boiled down to at this point in time. How are we to interpret "justified" in the generally accepted formulation "knowledge is justified true belief"? (As is well known, Edmund Gettier constructed some somewhat bizarre counterexamples, which theorists tend to whistle by: Haack calls them "boring.") The two main isms are Foundationalism: belief is justified by deriving it from unassailable basic beliefs; and Coherentism: justification lies in showing that the belief is supported by other beliefs in the grand system of coherent beliefs.

After showing why neither Foundationalist nor Coherentist theories of justification will do, Haack employs a Kant-type strategy: the two contenders are not mutually exclusive and exhaustive, there is a third way combining the valid insights of both while avoiding their drawbacks. This synthesis she calls, alas, Foundherentism. Like Foundationalism, it holds that experience plays a necessary role in justification, but it rejects the notion that there has to be a privileged class of basic beliefs justified independently of the support of other beliefs. Like Coherentism, it sees justification as largely a matter of mutual support, but unlike it, denies that beliefs can be justified only by other beliefs.

Haack's model of the justification of belief is neither that of foundations supporting a superstructure, nor the seamless web of Coherentism, but the crossword puzzle. The Across/Down clues are analogues of experiential input; reciprocal support by intersecting entries illustrates how corroboration does not have to be unidirectional.

Foundherentism presupposes that what is to be justified is a person in believing a proposition, not the proposition as such; and that justification, as well as belief, comes in degrees that may vary with time. Professor Haack's "first approximation" to a formula is: "A is more/less justified, at t, in believing that p, depending on how good his evidence is." Acknowledging that this is "close to trivial," she introduces notions of supportiveness, security, and comprehensiveness of evidence, and a distinction between two "aspects" S- (for 'state') and C- (for 'content') of beliefs, evidence, and reasons (I will return to this distinction presently), which she develops into the third and final formula "A is more justified in believing that p the more supportive his direct C-evidence with respect to p is, the more [less] independently secure his direct C-reasons for [against] believing that p are, and the more comprehensive his C-evidence with respect to p is." ([ ] in original.)

The S/C distinction is at the heart of Haack's defense of her position, because she feels the main battle she has to fight is against the Coherentist argument that since

justification is a logical matter, and only "sentences or propositions," not experiences, can stand in logical relations, experience cannot be relevant to justification. Her response is to draw a distinction:

[I]n the coherentist's premiss that there can be only causal, not logical, relations between a subject's experiences and his beliefs...the term 'belief' is ambiguous...: there can be causal relations between a belief-*state*, *someone's believing something*, and that person's experiences; there can be logical relations between a belief-*content*, *a proposition*, *what someone believes*, and other belief-contents, other propositions. This suggests that an adequate account of how the fact that a person's having certain experiences contributed causally to his believing something could make it more or less likely that what he believes is true, will need to exploit the distinction between belief-states and belief-contents.

The belief-state is the S-belief. (She also writes of S-evidence and S-reasons, without further explanation.) The belief-content is the C-belief (etc.). The S-belief has causes (and can be a cause); the C-belief has reasons (and can be a reason).

If I am in the state of believing that there is a dog in the room (S-belief, which is a physiological condition, not a proposition), what I believe (C-belief, which is not a physiological condition) is the proposition, "There is a dog in the room." If my belief state was caused by the presence of a dog in the room, that fact makes it more likely that my C-belief is true - hence, by definition, more justified - than if my belief state was caused only by hearing a yelp (which might have been coming from the TV). This is so because as a matter of fact, explainable on evolutionary grounds, C-beliefs that are the contents of S-beliefs with certain kinds of causal antecedents are more likely to be true than are those with other sorts of causes.

This seems unexceptionable. But if it is all that Haack is getting at with the S/C business, I do not see why it could not be stated more succinctly in the platitude that beliefs are more likely to be true if their causes are also reasons for them. Haack deems her elaborate procedure to be required because she agrees with the coherentists that causes are things or events in the 'physical world', while reasons are "sentences or propositions," and never the twain should meet. But this is false or unintelligible. Facts, not the sentences - still less the 'propositions', whatever those are - that describe them, are evidence and reasons, and the very same facts are causes and effects - to be sure, in different contexts of discourse. One might think it strange that Haack, who rightly claims a place in the true succession of Pragmatism, feels obliged to make concessions to Platonic metaphysics.

As mentioned already, Haack also distinguishes "A's S-evidence for p" from his C-evidence. The former is all of A's S-beliefs which, together with relevant "perceptual states" (if any), comprise the "vector of forces" (she seems to mean this literally, physiologically) supporting his S-belief that p; the latter consists of sentences or propositions that A believes, being the propositional content of the S-evidence. There may be states of the body besides these - mainly emotions - that influence beliefs but do not count

as evidence. (She writes also of S-reasons and C-reasons, but these I take to be synonyms for the preceding.)

Now, at least if one holds some version of materialist monism, as Haack does, one must concede that the S-beliefs and perceptual states really exist, though little more than that can be said about them yet, and that in some way they combine as "vectors of force" influencing other S-beliefs. One may, however, be suspicious of C-beliefs. We are told that S- and C- are two "senses of belief." What senses? A belief is a state of the body, all right; and its content or object is a proposition, if you like; but how can a proposition or sentence *be* a belief? Sentences and propositions - more exactly, 'that'- clauses - *express* or *designate* beliefs. To say, however, that they *are* beliefs makes no sense. (Houses are designated by street addresses, but it is not the case that a house *is* a street address). Even to say, as so many philosophers do, that sentences or propositions are essential parts or relations or 'aspects' of beliefs leads immediately to the paradox that dogs, cats, even the charming and politically correct bonobos are incapable of having beliefs, until, at least, they have gone to school in Reno and learned signing. And Professor Haack frequently expresses her aversion to paradox.

S-evidence and C-evidence are even harder to swallow. Evidence is things or events such as red shifts, DNA samples, bloody gloves. Evidence can (often) be laid on a table. Sentences and propositions describe evidence, but they are not themselves evidence (except of what somebody said). No more can a bodily state *be* evidence (save in special cases such as wife-battering). It is an *apprehension* of evidence; at any rate one would have supposed that Haack, who disdains phenomenalism and sense-data, would so hold.

These criticisms are not intended to cast any doubt on Haack's theses, that there are such things as beliefs, that some of them are true and others false, independently of what either the believer or the 'community' think, that persons are more justified in their beliefs the better their evidence for them is, that the criteria for good evidence are supportiveness, security, and comprehensiveness, and that experience is relevant to the justification of empirical belief. Making these points would be laboring the obvious, were it not for the dismal fact that so many trendy philosophers get their kicks by denying them. "Reconstruction in Epistemology," like graffiti removal, is a never-ending task.

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Ian Watt. *Myths of Modern Individualism: Faust, Don Quixote, Don Juan, Robinson Crusoe*. Cambridge: Cambridge University Press, 1996. 305pp., \$27.95.

Ian Watt is rightly regarded as one of the most distinguished members of the very distinguished post-World War II generation of literary historians and critics. His work on the development of the chief literary genre of the modern world, *The Rise of the Novel* (1957), has been particularly influential. One reads with regret the little note that stands at the beginning of the current work: "*Myths of Modern Individualism* ... was all but completed when Ian Watt's health deteriorated in 1994 after a serious operation." But although the final editorial work was performed by another person, Linda Bree, the book has no air of discontinuity. It is throughout a graceful and elegant study of its subject - four great "myths of individualism," four great representations of individuals standing in opposition to their environment.

Watt does not call these representations "myths" because he wants to show that they are false (as well as fictional), but because he wants to emphasize their status as generally recognized symbols of some of society's "most basic values" (xi- xii). Here is an irony. Few real characters are more widely known than Faust, Don Quixote, Don Juan, and Robinson Crusoe - despite the fact that relatively few people have ever actually read Defoe's *Crusoe* or Cervantes' *Quixote* or Marlowe's *Doctor Faustus* or Goethe's *Faust* or Tirso de Molina's *El Burlador de Sevilla*, his play about Don Juan. "If," says Watt, "we should ever see a stick and a ball advancing together side by side down a road, we would immediately recognize them as Don Quixote and Sancho Panza" (73).

The deeper irony is that most of Watt's mythic characters began as anything but exponents of society's "most basic values," at least its official ones. Faustus and Don Juan started out as rebels against the moral and religious code, and Quixote started as a feckless reactionary who, as Watt says, "confound[ed] his fictional world with the real one" (52). These myths stem from the late sixteenth and early seventeenth century, a time when radical eccentricity was not greeted with applause at summer revivals of *Man of La Mancha*.

Crusoe came along much later, at the beginning of the eighteenth century, and his myth was closer, from the start, to its society's "values." It was popular entertainment for citizens of a commercial and increasingly capitalistic country, people who could appreciate a story about sturdy individuality. Yet there is a values gap even here. The type of sturdiness that allows for survival in an island wilderness is not precisely what people wanted to see in their London business associates.

Watt's mythic protagonists were not originally cast as demigods. Watt calls attention, indeed, to the "punitive" element in the first forms of these myths. Don Juan and Doctor Faustus are punished for their rebellion against God; Quixote's eccentricity is perpetually self-punishing; Crusoe regards his solitary exile as punishment for his bad conduct. In this way, the characters provide an oppositional representation of values; they show what would be foolish or wrong to do. Nevertheless, it might be interesting to try it, and the characters certainly try with great intensity. It was this intensity of individual experience that planted them deep in the popular imagination.

They lurked there, ready for rediscovery and reinterpretation by writers of the Romantic period, who removed, deemphasized, or complexly refigured the stories' "punitive" elements. New interpretations "transformed" the myths and gave them "a significance beyond anything their original authors could have conceived" (192). The process of reinterpretation continued in the twentieth century. The attitude toward individualism, in works like Goethe's *Faust* and Mann's *Doctor Faustus*, might be favorable or unfavorable; more often, it was both. But individualism became something broader and deeper than the fascinating individuality of certain characters. It became an intellectual and moral issue that demanded serious examination in its own right.

Many books have been written about these subjects, but one could hardly find a more trustworthy guide to their literary history than Watt. He develops all the crucial information about the origins of his four myths, he surveys the literary, religious, political, and social influences exerted on their first or classic expressions, and he assesses the literary value, not merely the historical importance, of these expressions. He does the same for succeeding literary versions of the myths.

His fairness is exemplary, and more than exemplary; he bends over backwards to be fair. Mann's *Faustus* he lauds as "an undoubted masterpiece" (245), although this *has* been doubted. After admitting that he does not particularly like Goethe, he compensates by claiming that "we must nevertheless face the fact that Goethe's *Faust* is, among other things, probably the single most significant achievement among the works of modern individualism" (204). Well, it is, as he says, "the best known single work of German literature," and it does present individualism "in both its favorable and unfavorable aspects" (204), and all of that is indeed significant. But other kinds of significance might be emphasized, too. One of them is *Faust's* astonishing lack of dramatic and intellectual coherence. Watt reports concrete evidence of this, but he is too generous to draw the conclusion.

I am quibbling. One of the jobs that Watt does best is to remind us of certain things that literary historians often fail to mention, either because these things seem obvious or because they are not obvious at all to people who are preoccupied with more specialized or theoretical concerns. To cite one instance: Watt restores the freshness of *Robinson Crusoe* by observing that here "economic pursuits are described in such a way that we find ourselves fascinated by the ordinary occupations of daily life"; and this is not a sensation that most of the world's great myths provide: "[T]he Golden Fleece and the Rheingold, for example, are concerned not at all with the ordinary economic processes by which people manage to subsist, but with such fortunate seizures of wealth as will make it unnecessary ever to have to work again" (166).

Watt's philosophical or ideological analysis is not, to be sure, as good as his literary analysis. His discussion of individualism as a system of beliefs is underdeveloped, even somewhat skewed. This is partly the effect of his interest in the original protagonists of the four myths, who themselves

make no overt pitch for any individualist idea; they do not support individualism ideologically or politically; they merely assume it for themselves. (276)

The myths began in an age of the world in which individualism had not yet become the focus of any coherent ideology or system of human action. The soil from which Doctor Faustus, Don Juan, and Don Quixote were taken bore no prophetic savor of the moral, political, and economic benefits that would accompany the individualism of later centuries. Such heroes of individuality - even Don Quixote - would naturally appear "as individualists of a very negative and essentially egotistic kind." Here the word "egotistic" suggests that "none of them shows much real sense of being part of society" (276).

The idea of individualists as deeply and productively involved in social relations, or of an organically individualist *society*, had to wait for political and economic revolutions that placed individual rights, the division of labor, scientific and technological innovation, entrepreneurship, and the free market at the visible center of a liberal social order. Robinson Crusoe was invented during the first age of revolution, but as Watt shows, the positive individualism of even Crusoe's story can be over-read. A great deal of progress has been made since Crusoe left his island. Unfortunately, Watt hints at none of this progress when, on the last page of his analysis, he writes of an "insoluble conflict":

[H]ow can we resolve the eternal and many-sided struggle between the claims of the self and those of its social group? (276)

Modern answers to that question would fill a library, but Watt responds in only a conservative, narrowly literary way:

A dispassionate student of our four myths, after taking a hard look at our quartet, might well feel constrained to vote for the claims of society. (276)

Watt seems tempted to identify freedom of individual choice with certain possible, though hardly inevitable, results of this freedom, results that may include, and in literature often have included, such bad things as "hedonism" and "narcissism." At times, he appears sympathetic to the idea that "a sense of history, an absolute ethic of right and wrong, [and an] awareness of the rights and feelings of others" are all "anti-individualist" alternatives to the "perversions of modern individualism" (271). Individualism can, indeed, be perverted. But in passages like the one just cited, Watt seems unaware that the enabling forces of individualism as a modern cultural practice and ideology are a respect for rights and, consequently, a sense of right and wrong, together with enough sense of history to know what happens to rights and right whenever truly "anti-individualist" forces prevail.

The ideological analysis of *Myths of Modern Individualism* is disappointingly thin, but this is far from the most disappointing thing that could happen to a book. One of the worst features of recent works of literary criticism is their suffocatingly thick layer of ideological discussion. It would not be so suffocating if it added significantly to one's understanding of either ideology or literature, but this is seldom the case. Watt, however, makes no pretense of elaborating a complicated new treatment of ideology, so one can hardly feel betrayed when he fails to deliver on the nonexistent promise. He does attempt to trace the origin and development of a fascinating tendency in modern literature; and he does that, admirably.

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King James VI and I: political writings, Johann P. Sommerville, ed. (Cambridge University Press, 1994, Cambridge, ISBN 0 521 44729 1)

Review by Thomas J. Radcliffe

What is this creature, a king? It is difficult for the modern reader to believe the answer to this question, as provided by one of the last true kings in English history.

James VI of Scotland and James I of England was the son of the unfortunate Mary Queen of Scots. Mother abdicated in favor of son when he was one year old, in 1567. He was educated by Protestant reformers who tried to inculcate him with the notion that kings were answerable to the people they ruled. It did not work. In 1603 James VI succeeded Elizabeth I to the English throne, where he ruled until his death in 1625. His son, Charles I, tried to carry on in the tradition of royal absolutism that King James had favored, and was ultimately tried and executed by Parliamentary forces after the first Civil War. Reading James' work, one cannot help feel that the son received the punishment that the father deserved.

"King James VI and I: political writings" is part of the series Cambridge Texts in the History of Political Thought. It covers James' most important political works from "Basilicon Doron" in 1598 to "His Maiesties Declaration, Touching his proceedings in the late Assemblie and Conuention of Parliament" published after the dissolution of the House in 1622. From start to finish James touches on a wealth of topics, from conservation of natural resources to law reform to the role of church in the state and - ad nauseam - to the divine right, power and absolute authority of kings. The book is well put together and clearly and thoroughly annotated, with a concise introduction by the editor. Readers unfamiliar with the European political and religious landscape of Jacobean times would do well to read an historical survey before plunging in, but those who do so will be well rewarded by the bizarre view presented through the king's own eyes.

The book includes a number of theoretical treatises. "Basilicon Doron," which is a collection of advice to James' then son and heir Henry, lays down rules for how a king should deal with God, his rather stupid and ape-like subjects, and various other things. In "The Trew Law of Free Monarchies," James purports to justify royal absolutism on the basis of regal violence and Christian mythology. "Triplici Nodo" is James' response to the views of the Pope and Cardinal Bellarmine (he who persecuted Gallileo) on the role of the church in the state, and "A Mediation Vpon the 27. 28. 29. Verses of the XXVII Chapter of Saint Matthew" is an attempt to - ever so piously - show how the King is a Christ-figure who suffers for his people.

In a more practical vein there are a number of speeches before Parliament. One from 1604 is on the Act of Union between England and Scotland (which was not finally achieved until a hundred years later). One from 1605 was given four days after the discovery of the Gunpowder Plot, which one cannot help wishing had succeeded. The most interesting of James' speeches to Parliament was given in 1609 on diverse subjects, some of them awfully familiar to the modern ear. Also included is a speech to the Star Chamber from 1616, which again gives one the feeling that some issues are not going to ever be resolved, in this case the question of the role of the judiciary in making rather than interpreting law.

The final work is as much theory as practice, in that it is a justification for James' dissolution of a fractious Parliament, which can be seen as a significant escalation of the hostilities between Crown and Parliament that would eventually lead to civil war, the Protectorate and finally a restored but much reduced English monarchy.

An examination of James' theoretical stance on the absolute power of kings reveals a truly utopian vision. Kings, according to James, have absolute power over their subjects for two reasons. The first is that God ordained it thus, as can be seen from generalizing to all kings the creation of Saul as King of Israel as described in 1 Samuel 7-10. The second is that by their command of armed force kings, such as William the Conqueror, make law. From this:

...it followes of necessitie, that the kings were the authors and makers of the Lawes, and not the Lawes of the kings.

And the natural conclusion is clearly stated: "...the King is aboue the law..."

What makes this a utopian vision is James' belief that a good king will despite his absolute power "...not only delight to rule his subjects by the lawe, but euen will conforme himselfe in his owne actions thervnto..." Now, utopia is a political condition in which a state of substantial social, political and/or economic disequilibrium is maintained indefinitely. This describes James' notion of a "free monarchie" precisely (the "free" refers to the monarch, not the subject, of course). For reasons entirely mysterious, this creature who has the power of life and death over all his subjects, who has in his power to act without consequence, should still rule wisely and conscientiously. In the real world, where neither kings nor anyone else is exempt from the consequences of their actions, there are sound, practical, moral reasons for doing this. In James' world of divinely ordained kings there are not. Trying to practice Jacobean utopianism in the real world cost Charles I his crown and his life.

Despite James' contention that kings have absolute power (and his windy prefaces to many speeches that do nothing but remind his listeners of this contention) his practical politics often reveal that there are some problems that not even absolute power can solve. His pleas to Parliament to write down the Common Law in plain English find many echoes still today. His demands that the judiciary stop making law could have come from many modern political commentators. His arguments for conservation of natural resources are no less naive than the arguments of many environmentalists today, in that they fail to account for the possibility of advances in technology. And his justification of his spending practices as necessary to maintaining the pomp and dignity of the king completes the Jacobean caricature of modern woes.

For all that James ruled relatively well, as kings go, one cannot help agreeing with Kipling, that:

Whatsoever, for any cause,  
 Seeketh to take or give  
 Power above or beyond the Laws,  
 Suffer it not to live!

So let it be with kings.

*The Cambridge Companion to Spinoza*, Don Garrett ed., (Cambridge University Press, 1995)

*The Cambridge Companion to Spinoza* is a collection of essays by prominent scholars about the major facets of the philosopher's works. It contains description and analysis of the major features of Spinoza's philosophy, as well as details about his life and the intellectual and religious climate in which he lived and worked. With certain exceptions, as I note below, the essays are well written, informative and will, as the jacket claims, be of interest both to nonspecialists and to more advanced readers.

In "Spinoza's Life and Works," W.N.A. Klever paints a picture of the setting, the (intellectual, religious, etc.) context in which Spinoza lived and out of which his works arose.

In chapter two, Jonathan Bennett takes up Spinoza's metaphysics: substance monism, the attributes, modes, parallelism, necessitarianism, etc. Bennett is not a sympathetic reader of Spinoza, and he too often misrepresents Spinoza by reading him from a contemporary perspective. He says, for example, that "Spinoza's argument for monism has satisfied nobody," (64) and that a "much better route to monism" is to say that there is "only one *extended* substance," and that "any thinking that gets done must be done by extended substances" (65). However, to say that there is only one extended substance is to give priority to extension over thought, which Spinoza was clearly not prepared to do. Bennett claims to be saving Spinoza from absurdity with his reading, however, the threat is only there if we assume from the beginning a materialism in the way that Bennett does.

With regard to necessitarianism, Bennett finds Spinoza's view "tremendously implausible" (75). About Spinoza's argument for parallelism, Bennett says that if we consider Spinoza to be a *merely competent* philosopher, we must think that he must be able to provide better reasons to accept the thesis than the ones presented. "If he cannot, I give up" (79), Bennett declares in frustration. Bennett goes on to claim that Spinoza's argument that there is no causal interaction between the attributes is absurd and that "something must be done to render all this consistent" (82). It would have been nice to have seen a more sympathetic reader handle this very important topic, one who is willing to read Spinoza on Spinozistic terms, rather than reading him with such contemporary prejudice. Bennett seems far more interested in trying to tell us what is wrong with Spinoza's work than in trying to explain it clearly or to tell us why it is of value.

In "Spinoza's Theory of Knowledge," Margaret Wilson shows us how "Spinoza's theory of knowledge is firmly anchored in his monistic and necessitarian metaphysics" (90). After giving details of the metaphysics, she discussed Spinoza's "panpsychism," the claim that "there is an idea (or mind) for all bodies, so that all individual things are animate, though in different degrees" (101). Wilson details Spinoza's conception of the different kinds of knowledge (opinion, reason, intuition), adequate and inadequate ideas, truth and falsity. She goes on to discuss Spinoza's claim that it is possible to have "an adequate knowledge of the eternal and infinite essence of God," or Nature. This is contrary to Descartes' view, which rests "on a conception of the mind as a creature separate from God," such that "all truth depends on God's unconstrained will, so that even things that

seen incomprehensible and contradictory to us are not beyond the divine power to bring about" (121). According to Spinoza, since we are finite modes of the one substance, we are able to achieve the highest kind of knowledge, "which proceeds from an adequate idea of the formal essence of certain attributes of God to an adequate knowledge of the essence of things" (116). Thus, "Spinoza's rejection of hyperbolic doubt is not a mere ad hoc epistemological convenience, but has roots deep in his general anti-Cartesian metaphysics" (120).

Wilson goes on to talk about Spinoza's rejection of the Cartesian distinction between will and intellect. According to Descartes' theory of belief, the intellect gathers information and creates a judgment, and the will assents to or denies the judgment. According to Spinoza, on the other hand, "Volitions are nothing distinct from ideas: ideas as such necessarily involve affirmation or negation" (124). Spinoza's view marks progress over the "mistaken tendency to think of judgment as involving arbitrary acts of will directed at inert ideas, [which] is bound up with a failure to distinguish correctly the nature of thought from that of extended things" (124).

Alan Gabbey's "Spinoza's Natural Science of Methodology" begins by setting Spinoza's thought within the intellectual climate of the time. A large portion of Gabbey's essay covers Spinoza's early *Descartes' 'Principle of Philosophy'* and Spinoza's physics in contrast to Cartesian physics. In the former text already we find Spinoza's "ideal of a unified body of interrelated demonstrative truths" concerning God or nature. "Spinoza's real *terminus a quo* is the Whole, rather than any of its constituent parts." (157) Gabbey tells us. Thus, in contrast to atomism which attempts to explain the whole through its parts, Spinoza attempts to understand the parts through the ultimate nature of the whole.

Gabbey goes on to argue that the conventional view that Spinoza eschews all teleology is mistaken. Last, Gabbey distinguishes between a Baconian conception of science and Spinozism: "we often assume uncritically the Baconian distinction between observation and experiment, between Nature left free for human inspection and nature subjected to human inquisition," (180) which distinction assumes a separation between humans and nature. Spinoza would of course reject such a distinction and separation. "Whether led by reason or by desire alone, no human being does anything except in accordance with the laws and rules of nature" (*Political Treatise*, ii), Spinoza claims.

Michael Della Rocca's "Spinoza's Metaphysical Psychology" unhappily begins with the claim that "The general metaphysics, the application of this to psychology, and the psychology taken on its own all fall prey to grave gaps and incoherencies" (193). Della Rocca details Spinoza's attempt to derive psychology from metaphysics, given his belief that humans are modes of the one substance. The link between the metaphysics and the psychology is Spinoza's account of self-preservation. *Ethics* 3p6 says: "Each thing, insofar as it is in itself, strives to persevere in its being." This striving to persevere is extended to the idea that all things strive to increase their power of acting and to prevent any decrease in their power of acting. Della Rocca finds some "obvious" counterexamples to *Ethics* 3p6, and believes that Spinoza's claims about the power of acting not only do not follow from 3p6, but are simply false.

The psychology concerns what Spinoza claims "affects:" desire, joy and sadness. Desire is effectively equivalent to striving, and joy and sadness are the affects associated with an increase and a decrease in power of acting, respectively. Della Rocca goes on to discuss prudential desires, or future-directed striving; and altruism, both of which Spinoza declares to be impossible. Della Rocca ends by arguing that Bennett does not successfully show that Spinoza rejects teleology, and that he is merely rejecting divine teleology and not teleological explanation *per se*.

Throughout Della Rocca finds threats to Spinoza's "naturalism," his desire not to treat human beings differently from the rest of nature. One wonders, however, if Della Rocca himself is conceiving of the naturalism in a properly Spinozistic fashion, when he says things like: "a man, for Spinoza, consists of a mind and a body" (219). This is a very misleading thing to say, given the identity of the attributes in Spinoza. The mind and body are not two different things; they are rather the same thing. Della Rocca, like Bennett, seems to conceive this identity thesis in a distinctively contemporary way. This is evidenced by Della Rocca's bizarrely introducing Davidson to help explain Spinoza. He even claims: "there are many important similarities between Davidson and Spinoza in the philosophy of mind" (263, footnote 70). The introduction of someone like Davidson here clearly shows a contemporary prejudice here about the relation of the attributes, thought and extension, one which Spinoza himself would not have held.

In his "Spinoza's Ethical Theory," Don Garrett explains how Spinoza's ethical theory derives from his theory of nature and his understanding of human psychology. The latter involves: the substance/mode relationship; necessitarianism; the identity between thought and extension; the conatus doctrine (the idea that such thing strives to persevere in its existence); the affects; and Spinoza's discussion of character. Garrett next details Spinoza's definitions of ethical terms: Bondage; perfection; good and evil; virtue.

Though human beings are often enslaved to their passions, there are cognitive means to achieving a certain freedom from them. Further, according to Spinoza, there is an intimate relationship between virtue and understanding. "Knowledge of God is the Mind's greatest good; its greatest virtue is to know God," (*Ethics* 4p28) Spinoza tells us.

Garrett goes on to explain that, "ethical propositions of the *Ethics* themselves do not command, exhort, or entreat the reader." Further, "ethical propositions can report straightforward natural truths, and the subject matter is not radically distinct from the study of nature" (286). This is of course due to Spinoza's conception of individuals as modes of the one substance.

Interestingly, Spinoza's ethics has elements of both consequentialism and virtue ethics. Spinoza's highest virtue is the "achievement of adequate understanding," which understanding "brings a participation in the eternal that is *itself* a kind of perseverance in one's being." Thus, "the highest virtue is not merely a *means* toward self-preservation; it is *itself* a *kind* of self-preservation. That is, the very consequence at which Spinoza's consequentialism aims is also...a state of character" (297).

The title of Edwin Curley's essay, "Kissinger, Spinoza and Genghis Khan," refers to Henry Kissinger's comment that he is no Machiavellian, that he is rather influenced by Spinoza. Curley finds this ironic, since "Spinoza is arguably the most Machiavellian of the great modern political philosophers" (315). Curley spends some time here distinguishing Spinoza and Hobbes, noting that, "unlike Hobbes...Spinoza had a marked preference for democracy" (317). Further, Spinoza criticizes political philosophers for "conceiving men not as they are but as they wish them to be" (329), and Curley argues that Spinoza must have Hobbes in his sights here as well, since "Hobbes does...found the legitimacy of the sovereign on men's willingness to surrender all their natural rights to him, and the sovereign's power on their willingness to stand by that promise come what may" (330). For Spinoza, this is flawed psychology, since there are strict limits to the power that the sovereign has over the thoughts and feelings of his subjects.

The essay centers around Spinoza's belief in the coextensiveness of right and power. Curley says, "the doctrine that right is coextensive with power should not be thought of as a doctrine which *identifies* right with power..." Rather, "he is saying that there is no transcendental standard of justice by which...actions can be judged" (322). The comparison with Machiavelli, however, does not concern this particular issue. Rather, "the most important point of similarity between Spinoza and Machiavelli...lies in the preference they both have for a form of republican government in which the people act as a check on their leaders" (322). Since, for Spinoza, the power that the leaders have "depends on the willing obedience of their subjects," the leaders "must beware of trying for too much control over their subjects' minds and tongues, lest they alienate their subjects," (332) and thus lose the right to rule, which is coextensive with the power (over the sympathies of the people) that they have.

In "Spinoza's Theology," Alan Donagan points out that "Spinoza believed that Descartes had shown that the physical universe is an unbounded extended plenum, in which bounded or finite things exist as modifications," and that "Spinoza saw Descartes's scheme as the foundation of a new theology as well as of a new physics" (348). After considering the way Spinoza derives his metaphysics from "Descartes's scheme," Donagan discusses Spinoza's one substance arguments, and reminds us that "to happen according to the laws of Nature and to happen according to the knowledge and will of God are one and the same," (354), which ultimately means that "Spinoza's God cannot rationally be worshipped" (356).

Donagan goes on to discuss Spinoza's view of: Scripture and revelation; miracles; and prophets. He concludes by discussing Spinoza's necessitarianism, and the understanding that "everything that human beings do or undergo...are done or undergone according to the laws of imminent causation that constitute God's or Nature's essence," and that "since God's essence is perfect, it is absurd to wish that anything that happens should happen otherwise" (375). This understanding, then, translates into the "intellectual love of God," which is "an action, not a passion: the action of a rational being...who adequately cognizes that, since God is the substance of which he is a finite mode, his own existence would be unthinkable unless God were exactly as he is" (377).

Richard Popkin sets the background for Spinoza's interpretation of Scripture in chapter nine, "Spinoza and Bible Scholarship." The Amsterdam Jewish community was atypical. Many of the community had settled in Amsterdam, having fled countries where they had been forced to be "secret Jews," under the oppression of the Inquisition. Many in the community did not know Hebrew, and, Popkin reports, many had difficulty understanding "what they were supposed to do, and what they were supposed to believe" (384). Spinoza himself was amongst the first generation of Jews born in Amsterdam, and he did know Hebrew.

Popkin tells us that Spinoza's radical Biblical interpretation does have its roots. For example, the challenge that Spinoza raises about the authorship of the Pentateuch can be found already in Hobbes and Isaac La Peyrère.

However, Popkin states (though this "was not completely original" either) "Spinoza began a quite different way of examining and evaluating Scriptural texts than his predecessors employed. The literalism and the contextualism led to a completely secular reading of the Bible" (396). Given Spinoza's metaphysics, and his acceptance of a strong version of the principle of sufficient reason, he "excluded any supernatural or divine element in the Biblical text" (399). This means, for example, that it is impossible for the prophets to have known anything "different from what can be known by ordinary persons through reason and experience" (397). What is really original with Spinoza, Popkin says, is the way Spinoza separates the divine law, the word of God and the historical Scriptures. He thus "totally secularized the Bible as a historical document" (403), and was "baldly willing to claim that the historical scriptures are some men's messages to man" (404).

In "Spinoza's Reception and Influence," Pierre- François Moreau traces the use and misuse of Spinoza since the time of his writing. He touches upon such figures as: Leibniz, Pierre Bayle, Diderot, Hegel, Victor Cousin, Schopenhauer, Nietzsche, Marx, George Eliot, Freud, and Borgès, who were all, in one way or another, influenced by Spinoza.

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*Foundations of Liberalism* by Margaret Moore (Oxford: Clarendon Press, 1993) 222pp.

Reviewed by Eyal Mozes

*Foundations of Liberalism*, by Margaret Moore, is a critique of "liberal" theories of justice, and a defense of communitarianism. The book consists of six chapters, other than the introduction; the first five each critique one or two "liberal" writers; the last chapter, titled "an alternative foundation for political and ethical principles," presents Moore's positive case for communitarianism.

I placed the word "liberal" in quotes in the above paragraph, because Moore has a very narrow idea of what liberalism is. Moore never mentions any libertarian writers (other than two very brief mentions of Nozick); she never mentions any neo-Aristotelians such as David Norton or Henry Veatch; most notable (to me at least) in its absence is any mention of Ayn Rand, or of any of the neo-Aristotelian, classical-liberal writers influenced by her, such as Tibor Machan, Douglas Rasmussen or Douglas Den Uyl. If Moore had written her book in the 1970s, we might have assumed that she simply never heard of the many views she ignores. For a book on this subject completed in 1992, this no longer seems plausible, unless she did an extremely sloppy research job; rather, one suspects that Moore is trying to choose opponents who are easy to demolish, trying to bolster communitarianism by pretending that the particular brand of "liberalism" she critiques is its only competition.

### **Moore's critique of David Gauthier**

The first part of the book, ludicrously mistitled "Individualist Liberal Theories," contains three chapters: ch. 2 on Alan Gewirth's *Reason and Morality*; ch. 3 on John Rawls's *A Theory of Justice*; and ch. 4 on David Gauthier's *Morals by Agreement*. Moore's central theme in these chapters is that theories of justice based on the Kantian requirement for an impartial perspective suffer from two related problems: "the integrity problem" - how the impartial perspective can be related to the perspective of the individual - and "the motivation problem" (also known as the "why be moral?" problem) - what reason an individual has for acting according to the dictates of the impartial perspective. Both Gewirth and Rawls, with their reliance on a strictly impersonal perspective as a basis for justice, and their total separation of morality from the self-interest of any actual person, are easy pickings for Moore, and her critiques of them are entirely predictable.

Gauthier seems at first glance to present a harder challenge, since he claims to base his theory on individual self-interest. But Gauthier becomes an easy target as well, because of his abstract conception of self-interest, based on his Hobbesian model of human beings as "mutually unconcerned utility-maximizers." As Moore points out, the existence of relations of love and friendship limits the relevance of Gauthier's theory to actual human beings; "Gauthier's method of proceeding opens up a gap between people in the real world, who frequently act on the basis of concern for other (particular) people, and the essentially external relations between people embodied in Gauthier's principles of justice."<sup>1</sup>

Moore also points out that even if Gauthier's model of human nature is accepted, there are serious technical problems in his arguments, for example, in his argument that it is rational to comply with agreements one has made. Gauthier differentiates between "straightforward maximizers," who decide in each case whether complying with an agreement they have made would maximize their utility; and "constrained maximizers," who act to maximize their utility subject to the constraint of always complying with their agreements. Gauthier argues that people can often ascertain the dispositions of others, so constrained maximizers will often be able to identify straightforward maximizers and avoid dealing with them; and, assuming that the population contains some threshold percentage of constrained maximizers, the risk of being taken advantage of by judging others incorrectly are low enough, so that a constrained maximizer will have better opportunities overall than a straightforward maximizer to benefit by dealing with others; therefore, being a constrained maximizer is in one's self-interest. The problem Moore points out is that Gauthier has no explanation, given his model of rationality, as to how the threshold number of constrained maximizers would arise in the first place, given that before such a threshold number has appeared, it is in any individual's self-interest to be a straightforward maximizer. She identifies this step in Gauthier's argument as an implicit communitarian appeal; "those who make up the threshold number [of constrained maximizers] must have arrived there, become moral, not through self-interested calculation but through the adoption of the collective standpoint. They must have ceased to think in terms of self-interest and identified themselves with the interests of the whole, of the collective body."<sup>2</sup>

But the problem Moore identifies are not problems with individualism, or with liberalism, or with the idea of morality based on self-interest; rather, they are problems with Gauthier's peculiar method of justifying these ideas, based on his Hobbesian conception of what self-interest consists of. To support her claim that there is a problem with morality based on self-interest, Moore would have to confront Aristotelian accounts of self-interest as self-actualization, and classical liberal accounts of its implications for interpersonal ethics, such as the account in Den Uyl and Rasmussen's *Liberty and Nature*. Regarding the reasons for complying with one's agreements, or more generally for avoiding predatory behaviour, Moore would have to confront Ayn Rand's account of the virtue of honesty, and her argument that there are no conflicts of interest among rational men. Regarding the relevance of concern for other particular people, she would have to confront Aristotelian and Randian accounts of the profoundly selfish nature of love and friendship. Moore writes: "the failure of Gauthier's resolution of the motivation problem is itself important, because it represents another failed attempt to derive morality from self-interest and so suggests that the true explanation and justification of moral motivation would concentrate not on its individual self-interested rationality but on the adoption of the collective standpoint;"<sup>3</sup> one gets the impression that she was using Gauthier as a convenient whipping-boy, as the easiest path towards appearing to have justified the above statement.

### **Moore on Raz and Kymlicka**

The second part of Moore's book, titled "Revisionist Liberal Theories," consists of two chapters. The first chapter (ch. 5 in the book) discusses Rawls' later papers, responding

to communitarian critics of *A Theory of Justice*. Moore easily disposes of Rawls' responses, demonstrating that to the extent that his theory is coherent, it becomes indistinguishable from communitarianism in its arguments and in the policies it supports.

Moore's ch. 6 titled "Perfectionist Arguments for Liberalism," discusses Will Kymlicka's *Liberalism, Community and Culture*, and Joseph Raz's *The Morality of Freedom*. Both of these writers are different from Moore's previous targets, in that they try to base liberalism on a theory of the good life. Both Raz and Kymlicka argue that liberalism can be justified on the basis of a theory of the good life, a theory offering an objective list of substantive values, with individual autonomy among them.

Moore's basic argument against Raz and Kymlicka is: "The ideal of personal autonomy is a formal conception, concerned with the *way* in which the person conducts her [sic] life and acquires her values, goals, and commitments, while other values on the objective list theory of well-being are substantive values, concerned with the *content* of the person's goals, ideals and values, [therefore] there is always the possibility that the two may come apart, that the person may freely choose to adopt ways of life that are contrary to the ideal."<sup>4</sup> She therefore questions whether a theory of the good life can justify giving priority to autonomy, allowing the individual political freedom to act on his values even when the political or community authorities judge them to be objectively bad.

Kymlicka's central argument, why autonomy should be given priority, is that objective values can only be values for a person if he recognizes them as such;" [even if I make a mistake, no one] can come along and improve my life by leading it for me, in accordance with the correct account of value. On the contrary, no life goes better by being led from the outside according to values the person does not endorse. My life only gets better if I am leading it from the inside, according to my beliefs about value."<sup>5</sup> This is the beginning of a valid and very important argument; but in Kymlicka's version, it is incomplete. Moore's response is that those who seek to suppress someone's way of life, which they regard as wrong, are not typically concerned with improving the life of those they are suppressing, but with improving the community by eliminating corrupting influences, or improving the lives of future generations; and that Kymlicka's argument does not address this motive for coercion. Kymlicka gives the example of religious coercion, stating that a person coerced into a religion will go through the external motions of praying but will not really adopt the faith, and so his life would not be improved even if the faith were objectively good; Moore counters, citing Brian Barry, that religious coercion is clearly effective in inducing religious faith in future generations, as evidenced by the many devout Christians or Muslims today whose ancestors were coerced into adopting the religion.

Again, it looks like Moore has chosen convenient opponents. The idea of the good life as the basis of ethics is closely associated with Aristotle, so it seems especially strange that Moore has not cited in this chapter any neo-Aristotelian writers (neither Raz's nor Kymlicka's book even lists Aristotle in the index). If we assume that Moore would not cite, e.g. Douglass Rasmussen or Tibor Machan, because of an aversion to citing any genuine, classical liberal, individualist writers, she might at least have cited David Norton. Neo-Aristotelians have more solid defenses of why autonomy is necessary for the good life, and more complete and plausible versions of the "argument from internal value,"

which would have been harder for Moore to dismiss. Most important, the Aristotelian framework demonstrates the fallacy in Moore's distinction between autonomy, "concerned with the *way* in which the person conducts her life," and "substantive values, concerned with the *content*;" on an Aristotelian, virtue ethics, *all* major values constituting a good life are concerned with the way a person acts and conducts his life, and there is nothing unique about autonomy in this regard.

Here is also where the lack of any mention of Ayn Rand is most jarring. Rand provided the strongest case for ethics concerned with the good life leading to a politics in which liberty is the most important value. On Rand's argument (to summarize it very sketchily), reason is man's basic tool of survival, and so use of one's reason is the most important condition for the individual's survival. Since rational thinking can only be performed by an individual, this makes independence a primary virtue. At the social level, therefore, the ability to use one's mind independently, and live by one's independent conclusions, is the most important value. The point is *not* that liberty is the most important value for an individual; the point is that liberty is the central *social* condition for the ability to conduct one's life by reason, and is therefore the most important value, the most important condition for survival, *specifically at the social level*. (On this particular point, however, I do not suspect Moore of ignoring an argument that she cannot answer. This argument about the connection of reason to liberty is unique to Rand, and has not been developed or emphasized by any of the academic writers influenced by Rand; so it is quite plausible that Moore was genuinely unaware of this argument, even with a reasonable research job. This indicates the importance of Rand's argument on this point, and that Randian-influenced classical liberals should pay more attention to it).

## Conclusion

The third part of Moore's book consists of her final chapter, defending communitarianism. There is little of interest in this chapter, repeating standard communitarian arguments, as supposedly the only alternative to the "liberals" she had disposed of in the previous chapters.

Overall, the main lesson we can learn from Moore's book is that classical liberalism, on an Aristotelian or Randian basis, is the only effective response to communitarianism. If communitarians are allowed to pretend that "liberals" like the ones Moore discusses are their only competition, they will have no difficulty in emerging victorious.

## Endnotes

1. Moore, p.105.
2. p.92.
3. p.92.
4. p.147.
5. Kymlicka, p.12.

James T. Cushing, *Quantum Mechanics: Historical Contingency and the Copenhagen Hegemony*. (The University of Chicago Press, 1994).

Reviewed by Laurence I. Gould

Ever since I was an undergraduate learning quantum physics (QP), the thought was unpalatable that such a theory had to be interpreted via the Copenhagen school. This was because Copenhagen's interpretation of the quantum physical processes displayed a certain lack of causality and determinism. As a result, although I could apply the formalism of QP I could never integrate the Copenhagen (or "standard") interpretation into my world view.

My first glimpse of an alternative was David Bohm's early work, written for the layperson, "Causality and Chance in Modern Physics." Since that time there has been much written by Bohm and others regarding his ("causal;" sometimes also referred to as the "ontological") interpretation of QP. But the book by James T. Cushing is the most comprehensive that I have seen in explaining the philosophical and methodological differences between Bohm's interpretation and the standard interpretation of QP. It also goes far in explaining why Bohm's views have generally gotten such a cool reception over the more than forty years since he proposed them (in papers published in the *Physical Review* of 1952).

Part of the reason, as Cushing explains, is the temporal order in which the interpretations appeared (the standard interpretation came first). And another part of the reason, as he says, is that arguments against competing interpretations could be refuted. An example of the latter is Louis de Broglie's "pilot-wave" (ca., 1927) interpretation which considered Schroedinger's famous dynamical wave equation, along with its "wave function," as being able to account for the manner in which a moving particle is guided (or piloted, so to speak) between being emitted (from some source) and being observed (by interacting with some apparatus or with an observer). The source of the piloting was called the "quantum potential." It, in turn, appeared in another dynamical equation, called the Hamilton-Jacobi (H-J) equation, which resulted from the substitution of (a certain form of) the wave function into the Schroedinger wave equation. The H-J equation was familiar from classical (non-quantum) physics but now contained the additional quantum potential.

But why should one want to adopt a different interpretation if the standard one gives such excellent agreement with the experimental evidence? What if you are told, as part of the answer, that so does an alternative interpretation?! For the Bohm interpretation, in particular, that is just the case. Well, then the question arises - What are the arguments that could lead someone to prefer one interpretation above the other? *That* is just the issue that Cushing's book addresses. (And it is more than just an issue of what world view one happens to like). His concern is inquiring into causes for "the acceptance and rejection of observationally equivalent, alternative, and, indeed, *incompatible* descriptions or theories of our *actual* world" (p.xii).

His inquiry in the decision-making process shows the importance, not only of physics, but also of the history (as explained above, for example) and the philosophy of science.

He is careful to distinguish the "formalism" from the "interpretation" of a given theory. By "formalism" he means "a set of equations and a set of calculational rules for making predictions that can be compared with experiment" (p.9). (From this viewpoint the standard interpretation and the Bohm interpretation are really two *different* theories of QP).

He gives numerous examples of experiments described by the formalism of QP but from the frame of reference of the two different interpretations - the standard one and the one by Bohm. One striking case, described in Chapter 5, is when neutrons (emitted from the same source) go along two different well-separated paths in space and then come together in a smaller region of space ("receiver" for short). This produces an "interference pattern" (so called because of the way in which the neutron wave functions combine) whose signature is the characteristic way in which those particles are distributed with respect to the receiver. The standard interpretation, as Cushing indicates, cannot account for the details of what happens to the neutrons between the source and the receiver. But in the Bohm interpretation the pilot-wave theory of de Broglie (also described by Madelung around the same time) is rejuvenated and bolstered through stronger arguments. Here one can track (computationally, not by actual measurement, and *without* violating the famous Heisenberg Uncertainty Principle!) each particle at every instant between the source and the receiver. This is done by computing the quantum potential plus the particle's initial conditions and then using the H-J equation (or Newton's Second Law of Motion) to find the particle's position at each instant. (The term "causal" interpretation is, therefore, well placed. But there is an addition a later version of the theory that also has a stochastic element to it). Thus one can compute each particle's trajectory between source and receiver. The standard interpretation, on the contrary, can say nothing about the trajectory. In fact if, as is consistent with some of the Copenhagen advocates, one takes the radical empiricist position of some positivists then the concept of trajectory simply has no meaning.

Cushing points up the influence of philosophy in one's doing of physics through his analyses of specific cases. For example, in his comments on the Einstein-Podolsky-Rosen paper (p.25), Cushing displays this connection by critiquing both Einstein's interpretation and Bohr's interpretation. About the one he says: "So strong a commitment to separability [roughly, the independence of one event on another that is well spatially separated from it] by Einstein was ... *not* [his stress] necessary for doing science as we have traditionally known it." About the other he says: "Bohr's slip from epistemology (based on observability) to ontology (as a necessary discontinuity and as the impossibility of 'classical' trajectories throughout an interaction) was ... not only logically unjustified but also not demanded, either by experiment or by the formalism of quantum mechanics."

In the Bohm interpretation the quantum-potential approach gives rise to the causal and deterministic aspect (of the particle trajectories). But it also gives rise to what is called "nonlocality" - viz. the *instantaneous* affect of all other particles (including those of the laboratory apparatus) on one of the particles: e.g. one that is in motion, say, from the source to the receiver. Having cited the uncritical rejection of Bohm's work by many other physicists, Cushing reasonably supposes that physicists who learn that Bohm's theory is nonlocal will "reject it since it is *merely* as empirically adequate as Copenhagen and it

came later" (p.157) even though it yields trajectories where Copenhagen does not. Of course one can argue against nonlocality by considering that such instantaneous effects might violate special relativity; but the issue is more complicated (as Cushing points out in his discussions about Bell's theorem) since there are also questions of whether the violation results in the ability to send *information* faster than light can travel (which would be untenable for most physicists).

Cushing devotes careful consideration to the very important question of the "measurement problem" in QP. Briefly, the Copenhagen interpretation has it that the wave function with all its components will first move continuously but then "collapse" all of its components save one - the one associated with the value of the observable (e.g. the "spin" of the particle) obtained through the measurement. He then explains why there is no such measurement problem in the Bohm interpretation. The reason comes from the ontological status given to the thing measured. All waves are still present but not where the particle is measured. As a result, those other components do not effectively overlap with (and thus cannot affect) the measurement result. So in the Bohm interpretation there is no "collapse."

In going through the book I was sorry to see none of the famous pictures showing the quantum potential and also the trajectories of the particles. These would have given the reader some immediate enforcement of the much-argued importance of particle paths in the Bohm interpretation. It is also somewhat misleading to say (as he does at the top of p.236) that a certain equation "is just the Hamilton-Jacobi form of Newton's second law of motion" because the H-J equation involves energy quantities such as the potential energy (or the quantum potential energy). It is really the vector spatial derivative (or "gradient") of the potential energy that is directly proportional to the force found in Newton's second law of motion (as he in fact indicates in the appendix cited). Finally, there are some typos I have found on pages 40, 49, 62, 63, and 69. However, these are minor detractions compared to the book's strong positive aspects.

The book can be read with profit by philosophers or historians of science who would like to know about the issues and see how scientific methodology is played out in an ongoing controversy concerning the foundations of QP. They can supplement the main body of the text by perusing the helpful, copious, and detailed end notes and (if their appetite for more is piqued) they can follow up on some of the equally copious references accumulated at the back. Readers with some background in QP can derive a further benefit through additional explanations which involve a working out of the physics related to the foundational issues presented; these being essentially confined to appendices at the conclusion of each chapter.

The reader unfamiliar with problems in the foundations of QP should be aware that although Bohm's theory has recently been rejuvenated it does have its competitors. Here is a fair sampling of them (along with some of their proponents, past or present): Besides the Copenhagen interpretation (N. Bohr, W. Heisenberg, R. Peierls, H. Stapp), there is what can be called the Statistical interpretation (John Taylor, L.E. Ballentine), the Consciousness interpretation (J. von Neumann, E. Wigner), and the Many Universes interpretation (H. Everett, David Deutsch). May you be sensitive to your philosophical presuppositions!

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*God of Abraham*, by Lenn Goodman (Oxford University Press, 1996) 364pp.

Reviewed by Eyal Mozes

*God of Abraham*, by Lenn Goodman, is a presentation and defense of monotheism. The author specifically defends Jewish traditions and thinking, but much of the book's content seems to apply to Christianity as well. While Goodman devotes two chapters (chs. 2 and 8) to discussing metaphysical issues regarding the existence of God and creation, the focus of the book is on ethics.

The book is extremely heavy, difficult reading. Goodman's writing style is very dense, and he seems to care more about displaying his erudition than about making his points or arguments clear. He alternates between extensive quoting of medieval Jewish philosophers such as Sa'adiah Ga'on and Maimonides, as well as of modern philosophers; and dense, often rambling discussions of his personal interpretations of the meaning of Jewish stories or doctrines. For large parts of the book, I was unable to determine just what Goodman's point is, or how it is connected to the rest of the book.

Goodman's basic theme is the equation of God with the entire realm of values. To value is to worship god; to deny god is to deny values and to deny importance, or an exalted status, to anything; to hold consistent values is to be a monotheist; to hold contradictory values is to be a polytheist. This equation is never argued for, but taken for granted, serving as the basis of all of Goodman's arguments throughout his book.

### **The binding of Isaac and its meaning**

Much of Goodman's method in this book consists of quoting biblical stories or commandments, and then offering far-fetched interpretations of them to fit his theme. Typical of this method is Goodman's treatment of the story of the binding of Isaac - the one biblical story which, to Goodman, symbolizes the central meaning of monotheism, and which provides the book's title.

According to the story, in Genesis, ch. 22, God ordered Abraham to sacrifice his son Isaac; Abraham obeyed, bound Isaac and prepared him for sacrifice, but then, at the last moment, an angel called to him, ordered him to stop, and said: "now I know that thou fearest God, seeing thou hast not withheld thy son, thy only son from me."<sup>1</sup> Abraham then saw a ram which miraculously appeared in the place; he unbound Isaac, sacrificed the ram instead, and was then blessed by God.

The meaning of this story seems straightforward; Abraham has proven his loyalty to God by his willingness, on God's command, to sacrifice a value of crucial importance to him, his beloved son; and he is blessed by God for this willingness. This is the meaning commonly ascribed to the story. Goodman, however, has another interpretation.

According to Goodman, Abraham is blessed for *not* killing Isaac, for the moral insight he shows in understanding that the evil of sacrificing his son is not a proper part of worshipping god. Goodman's interpretation of the phrase "thou hast not withheld thy son"

are: "since you made no exception of your son to the command of goodness, and did not accept the ghastly but ready notion that the gravest enormity would be the greatest gift, for that reason you are blessed."<sup>2</sup> This is a very far-fetched interpretation, clearly inconsistent with the actual text (the words of praise to Abraham for having "not withheld thy son, thine only son from me" are said *before* Abraham's action in unbinding Isaac, deciding not to sacrifice him); and, given that the story has been read and taught to Jews for many centuries as having a diametrically opposite meaning, Goodman's claim that his interpretation represents the meaning of Jewish monotheism seems truly bizarre. This incongruity, however, evidently does not bother Goodman, and he never says anything to address it.

Goodman sees the essence of monotheism in the coherence of values. Pagans see the divine in anything exciting or extraordinary, whether good or evil; monotheists believe in a God who is entirely good, who takes no part of any evil. This is symbolized by the fact that pagans accept acts of violence, such as animal sacrifice, as part of the ritual of worship, whereas monotheism rejects all such rituals (the fact that animal sacrifice is well-documented throughout the old testament as an important part of Jewish rituals of worship is explained as a necessary transition period out of paganism).

### **Goodman on the existence of God**

In discussing the question of the existence of God, Goodman focuses more on modern philosophy rather than on the bible. In defending faith in god, Goodman relies on Humean scepticism as proving that accepting the existence of the physical world is just as much an act of faith. Goodman discusses logical positivism at length, and takes it for granted that demolishing the logical positivist programme, demonstrating that none of our knowledge conforms to the logical positivist standard of verification, is enough to establish the legitimacy of faith, putting belief in god on a par with scientific knowledge. Goodman here seems like a perfect example of Ayn Rand's insight that scepticism and dogmatism are two forms of the same fallacy, and are mutually reinforcing.

Goodman's main positive argument for God is a combination of the standard ontological, cosmological and design arguments. Goodman acknowledges that the ontological argument is not a good argument for refuting doubts about God's existence; but he still regards it as an important argument, in that viewing God as "a necessary being" is essential to monotheism, and that explaining existence requires a "necessary, absolute being."

Goodman's central argument for God's existence seems to be that the intelligibility of nature by the human mind, and "the world's order and beauty," are evidence of its origin with divine intelligence and goodness. In the context of Goodman's book, it is clear that his motivation for asserting the existence of God is ethical. Goodman needs to establish the existence of God because, on his view, God's non-existence is the same as ethical nihilism.

### Goodman's theory of monotheistic ethics

As mentioned above, Goodman's basic premise in his view of ethics is the equation of God with the realm of value. The "ethics of monotheism," on Goodman's view, is the ethics of consistent, coherent values.

Goodman takes this equation completely for granted, never considering the possibility of values or ethics apart from God. Also, while Goodman often pays lip-service to the rationality of values, he takes for granted throughout his discussion that the only basis for moral knowledge is intuition, which makes known to us what is the good, or, equivalently, what is the will of God.

The political implications of Goodman's view seem clearest in chapters 6 and 7, devoted to the relation of ritual to morals and law, and to Goodman's "philosophy of Ritual," and then to applying this general discussion to the biblical laws of diet and sex (ch. 7, discussing these biblical laws, is the one chapter of the book which is irrelevant to Christianity or to monotheism in general, applying exclusively to Judaism). Goodman defines ritual as "a symbolic action that has values among the objects of its intention and that expresses attitudes toward those values through the modalities of its performance."<sup>3</sup> Based on this definition, Goodman argues that there is no valid distinction between religious commandments with a rational basis and commandments that are merely ritualistic.

On the relation of ritual to law, Goodman's view is that all law necessarily has a ritual element; all laws express some symbolic attitude towards society's values. "Penal laws may seek deterrance or reform, but they also, always, intend a message, express a norm, is uniquely coded symbols... Whether or not a punishment effectively deters some future crime, it expresses a societal attitude about specific values. Punishments do not restore a balance or repay a debt. But ritually they undo a wrong, demarcate and underscore a convention."<sup>4</sup> Since the details of any law cannot be completely deduced from its purpose, these details represent a ritual; "since laws always address values, the manner in which slack is taken up speaks of those values, creating a ritual. Rituals specify much more detail than is predictable from a minimal, functionalist account of the behaviours they invest."<sup>5</sup> From this, Goodman concludes that there is nothing wrong with laws enforcing any rituals; and so, given his equation of values and the good with God, it is not surprising that Goodman regards it as appropriate to enforce observance of at least some religious commandments by law. For example, Goodman writes: "A society that tolerates polygamy (as America has begun to do) has sacrificed real interests, violated real boundaries, and will, if the Torah contains any truth at all, pay a real price."<sup>6</sup> In his discussion of the Jewish laws of sex and diet, while never addressing this question explicitly, it seems clear that Goodman sees nothing wrong with political enforcement of these laws. Thus, Goodman's view of monotheism, combined with his philosophy of ritual, seems to lead directly to a justification of legal enforcement of religion.

If there is one overall lesson that we can take from Goodman's book, it is in illustrating the consequences, in philosophy and in politics, of religion's monopoly on the realm of value and morality and on all spiritual, inspiring concepts. As Ayn Rand pointed out: "Just

as religion has preempted the field of ethics, turning morality against man, so it has usurped the highest moral concepts of our language, placing them outside this earth and beyond man's reach. ... "Worship" [is taken to mean] the emotional experience of loyalty and dedication to something higher than man. "Reverence" means the emotion of a sacred respect, to be experience on one's knees. "Sacred" means superior to and not-to-be-touched-by any concerns of man or of this earth. Etc. ... Apart from the man-degrading aspects introduced by religion, that emotional realm is left unidentified, without concepts, words or recognition. It is this highest level of man's emotions that has to be redeemed from the murk of mysticism and redirected at its proper object: man."<sup>7</sup> Almost 30 years later, Goodman's book reminds us that Rand's insight is still as relevant and important as ever. Views like Goodman's which necessitate an authoritarian basis for ethics and make full political freedom impossible, continue to seem appealing and plausible to some people, to the extent that no secular, rational treatment of values, and of concepts such as reverence and the sacred, are available.

### Endnotes

1. Genesis 22:12.
2. Goodman, p.22.
3. p.211.
4. pp.204-205.
5. p.205.
6. p.214.
7. Ayn Rand, Introduction to *The Fountainhead* 25th anniversary edition, 1968.

Edward Keynes, *Liberty, Property and Privacy: Toward a Jurisprudence of Substantive Due Process*. University Park, PA: Pennsylvania State University Press, 1996, pp.xvi, 238.

Reviewed by Howard A. Hood, Reference Librarian, Vanderbilt University Law Library.

One of the most fundamental conflicts in the constitutional republic of the United States is that between individual rights and democratic politics. Constitutional restrictions on government power are needed to protect individual rights, but if these rights stand in the way of actions demanded by the majority, then the very principle of constitutional government may be threatened.

This tension clearly emerges in the debate over substantive due process. The Fifth Amendment of the United States Constitution states: "nor shall any person...be deprived of life, liberty, or property, without due process of law." This was originally a restriction solely on the national government; the Fourteenth Amendment, adopted in 1868, applied this same restriction to the state governments. There are two schools of thought about what these amendments mean. The procedural school argues that the amendments merely require that certain procedures be followed, and do not bar governments from taking life, liberty, or property. The other school contends that the amendments are absolute prohibitions against government action and not merely procedural safeguards. The latter position is called "substantive due process."

On one hand, courts may rely on the doctrine of substantive due process to recognize new rights which protect individual freedom. The United States Supreme Court did so, for example, when it recognized the right of women to have abortions in the 1973 decision, *Roe v. Wade*. However, such court decisions, not based on public opinion or legislative investigations, may provoke criticism of the courts and undermine the moral authority of constitutionalism and the rule of law.

Important developments in American political and legal life have hinged on substantive due process. In the late 19th and early 20th centuries, the US Supreme Court struck down a number of state laws regulating the economy. The due process and contract clauses were used to justify these decisions.

During the 1930s the Court struck down key measures of Roosevelt's New Deal. Roosevelt responded with his "Court Packing Plan." Congress rejected this proposal, but the Court got the message: it invalidated no more New Deal laws. In more recent times, substantive due process, no longer applied to economic regulations, has been used to strike down laws prohibiting birth control and abortion as violations of privacy or family autonomy.

The issues raised by the debate over substantive due process - individual rights, constitutionalism, the rule of law, constitutional interpretation, the purpose of government, among others - are profound. If the body of literature discussing these questions has not been profound, at least it has been prodigious. The articles and books on various

ramifications of the subject keep coming. One of the most recent is *Liberty, Property, and Privacy*, by Edward Keynes.

Keynes is a political science professor at Pennsylvania State University. He has been writing on the interaction of politics and court decisions for many years, so this is not his first treatment of these problems. He believes substantive due process is a valid constitutional doctrine, but contends that it does not transform the Supreme Court into "a roving commission with authority to set aside legislative policies of which it disapproves." According to Keynes, "the justices cannot determine the wisdom of public policy, but they can inquire into the factual premises of legislation. Does the record support the legislature's ostensible purpose? What are the policy's foreseeable legal consequences? Does the policy serve a valid public purpose?"

The topic of substantive due process is important, but unfortunately Prof. Keynes does not have the intellectual equipment to make a contribution to the debate. This is shown very clearly by his uncritical reliance throughout his book on concepts which have no specific meaning and which cannot provide guidance to judges in deciding cases. These non-objective concepts include "public interest," "well-ordered society," "valid public purpose," and "arbitrary, capricious, or unreasonable government interference with life, liberty, and property interests." Allowing judges to strike down legislation by applying such wild-card concepts is simply a grant of arbitrary power inconsistent both with the rule of law and with democratic principles. Prof. Keynes is unable to bring rationality to the doctrine of substantive due process because his own ideas are naive, vague, and contradictory.

The era of the Constitutional Convention and the early decades of the new republic were marked by a national debate over the proper role of government in our society. The Federalists or Hamiltonians favored a strong national government; the Antifederalists or Jeffersonians feared government and wanted to limit its power. The Framers of the Constitution argued that most governmental power was to be exercised by the new states and that the national government would be limited to the specific powers delegated to it. During the debates over whether the Constitution should be adopted, some political figures (the Jeffersonians) called for a list of individual rights which the new government would be barred from violating. Defenders of the Constitution as originally written (Federalists or Hamiltonians) argued that a list of rights was unnecessary. The new government had not been given the power, for example, to stifle the press or endorse a religious denomination. The Framers added that if specific rights were stated to be inviolate, then the new government could claim to do anything that was not expressly forbidden. Supporters of a list of rights won the debate and the new document was amended almost immediately.

The evolution of federal power in the 200 years following the Constitutional Convention has shown that the views of the Jeffersonians were more accurate than those of the Hamiltonians. The Framers were wrong in thinking that the limited government they had created would not threaten individual rights. Inconsistencies within the document and vague concepts such as interstate commerce and "necessary and proper" powers allowed lawmakers and jurists to stretch federal authority far beyond anything envisioned by the Enlightenment statesmen. Over the years, judicial interpretations of Constitutional powers

reversed the original concept of the national government. Instead of a government of narrowly defined powers now we have a government of vast authority limited primarily by the very Bill of Rights which the Framers scorned. Every American should be grateful for the foresight of Jefferson and his allies who bequeathed us small islands of freedom protecting, for example, speech, religion, and press, from an encroaching sea of governmental coercion.

The attempt by judges to create new constitutional rights based on the Due Process clause or other provisions in the charter is an understandable but unwise effort to restrain burgeoning government power. Although the judges may create some rights we think are valid, such as the right to have abortions, they may just as easily invent other rights which allow criminals to go free, which prohibit capital punishment, or which require racial discrimination. Rather than encouraging the courts to bypass the process for amending the Constitution, and thereby undermining the moral authority of the courts, we should work toward amendments which make the Constitutional text a more explicit and more complete guardian of individual rights. Seen in this light, Prof. Keynes' support for substantive due process is not only unsuccessful, it is also misplaced.