

# REASON PAPERS

A Journal of Interdisciplinary Normative Studies

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—William Irwin and Brian Williams
- Adam Smith on Economic Happiness  
—Douglas J. Den Uyl and Douglas B. Rasmussen
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- James Stacey Taylor's *Practical Autonomy and Bioethics*  
—Thomas D. Harter

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## Editorial

The editorial to volume 26 of *Reason Papers* began with this: *Reason Papers* was founded in 1974 by Professor Tibor R. Machan, who edited the first twenty-five volumes. A review of the tables of contents of those volumes reveals many of today's best philosophers sowing the seeds of work for which they would later become famous, and showcases some great debates in moral and political philosophy. It was an honor for me to be asked by Professor Machan to contribute a review essay back in 1992, sharing journal space with many of the scholars I looked up to and had been using in my own research. After the completion of volume 25, Fall 2000, Professor Machan decided to focus his energies on other projects, and honored me once again by choosing to turn over the editorship of *Reason Papers* to me.

At this point, I too need to focus my energies on other projects, and so after this issue I will be stepping aside as Editor-in-Chief. Irfan Khawaja and Carrie-Ann Biondi, who have done such excellent work as managing editors, will be assuming full responsibility for the journal as the new editors-in-chief effective next issue. It has been a privilege and a pleasure to work with them and I look forward to serving them on the advisory board. I would like to thank Tibor Machan again for entrusting me with the journal over the last decade, and I'd like to thank all those who have served as referees for submissions, without whose judgement this would be a much less important venue. Thanks to Stephan Kinsella for invaluable assistance on the PDF end of things. Thanks of course to all the contributors whose work has made RP worth reading. And I'd like to thank the readers – I hope you continue to read it and learn from it, starting with the one in your hands.

Aeon J. Skoble  
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# An Ethical Defense of Global-Warming Skepticism

William Irwin  
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Brian Williams  
King's College, Wilkes-Barre, PA

Too many people have not done their homework on global warming. Most philosophers who have written on the subject have not scrutinized the science, but instead have appealed to the authority of the Intergovernmental Panel on Climate Change (IPCC).<sup>1</sup> Robin Attfield, for example, rather honestly admits, "Not being a climate scientist, I am taking for granted the overall findings of successive IPCC reports on global warming and of [sic] the scientific consensus they embody."<sup>2</sup> Authority, though, does not settle matters in science, especially when there is significant disagreement among authorities, as there is concerning the issue of global warming. While we will cite authorities in this article, our purpose is not to settle the issue of global warming, but rather to show that the issue is not settled. Contrary to popular belief, the science of global-warming skepticism is not akin to corporate-backed cigarette science. Like many other skeptics, the authors of this article (a philosopher and a scientist, respectively) have no vested interest or corporate backing.

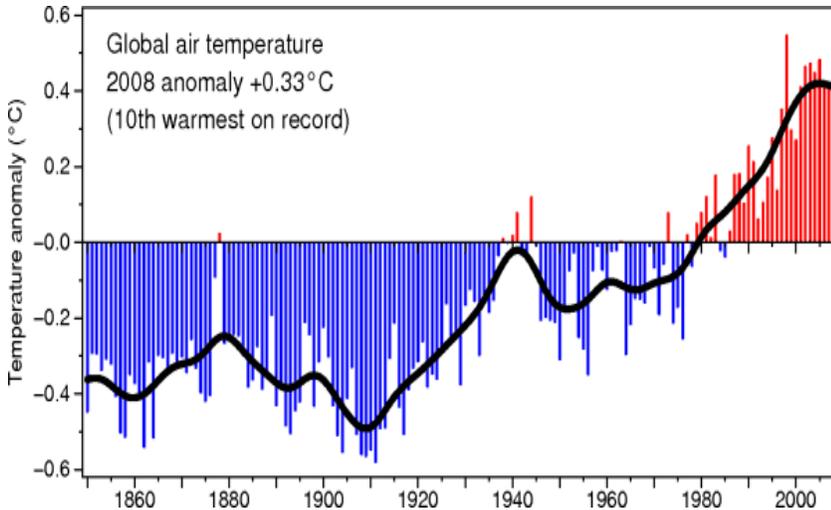
While the science of global warming is technical and specialized, the big-picture arguments can readily be grasped and evaluated by the layperson. If anthropogenic global warming (AGW) is occurring, the earth's climate should show temperature increases that are clearly linked to human CO<sub>2</sub> production and clearly distinguishable from natural causes. The warming trend shown in Figure 1 occurring from 1980 to the present is frequently presented as evidence that industrialization has warmed the planet.<sup>3</sup>

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<sup>1</sup> A notable exception is Jeffrey E. Foss, *Beyond Environmentalism: A Philosophy of Nature* (Hoboken, NJ: Wiley, 2009).

<sup>2</sup> Robin Attfield, "Mediated Responsibilities, Global Warming, and the Scope of Ethics," *Journal of Social Philosophy* 40 (2009), p. 230.

<sup>3</sup> Phil Jones, *CRU Information Sheet No. 1: Global Temperature Record*, March 2010, accessed online at: <http://www.cru.uea.ac.uk/cru/info/warming/>.



**Figure 1**

One problem with this claim, however, is that the slope and magnitude (about 0.4 to 0.5° C) of warming from 1980 to the present is virtually identical to the warming that occurred between 1910 and 1940, a period of warming that climatologists do not typically attribute to human activity, partly because it puts them at a loss to explain credibly the decline in temperature after 1940 when CO<sub>2</sub> concentrations were actually increasing.<sup>4</sup> If natural forces caused the 1910-1940 warming period, a rational and parsimonious explanation would be that natural forces also caused the most recent similar rise. As alluded to above, another related problem for AGW theory is that from 1940 to 1980 temperatures did not increase along with CO<sub>2</sub> concentrations in the way AGW theory would predict.<sup>5</sup>

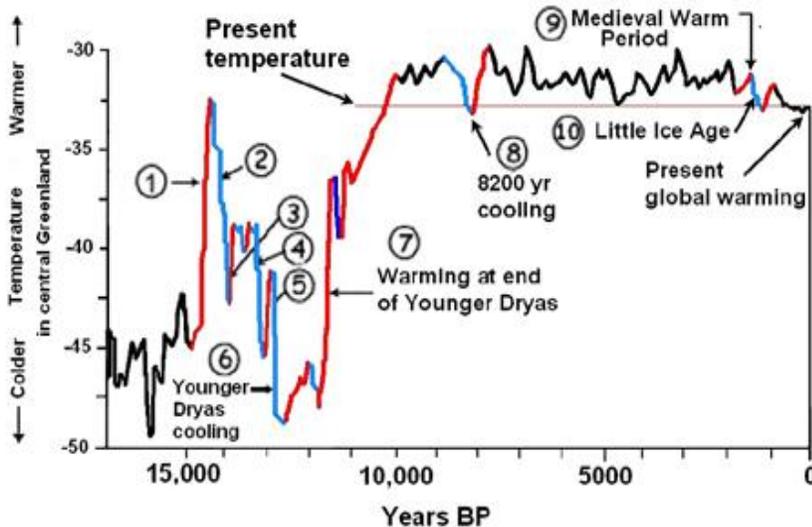
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<sup>4</sup> Some proponents of AGW theory appeal to aerosols to explain the decline, but since aerosols are largely unknown both as to distribution and properties, they can be adjusted and fudged to “explain” anything. See Stephen E. Schwartz, Robert J. Charlson, Ralph A. Kahn, John A. Ogren, and Henning Rodhe, “Why Hasn’t Earth Warmed as Much as Expected?” *Journal of Climate* 23 (2010), pp. 2453-64.

<sup>5</sup> Roy W. Spencer, *The Great Global Warming Blunder* (New York: Encounter Books, 2010), pp. 19-20.

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As we broaden our view of the data, our reasons for skepticism increase. Figure 2 affords a broader perspective and hopefully a deeper appreciation of nature's power and ability to have an impact on climate.<sup>6</sup>



**Figure 2**

Figure 2 shows the temperature changes in central Greenland over thousands of years and illustrates that Earth's climate must have changed dramatically in the past. It is, therefore, reasonable to assume that it will change just as dramatically in the future. Climate change is the norm and not the exception. Furthermore, the present global warming of 0.4 to 0.5° C since 1980, indicated on the top right portion of the chart, is insignificant compared to historical occurrences (+10.0° C). Soon et al., for example, have shown large natural warming and cooling across broad geographical and climatic zones during the Medieval Warm Period (800-1300 A.D.) and the Little Ice

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<sup>6</sup> Don J. Easterbrook, *Paleobotany and Paleoclimatology*, Western Institute for Study of the Environment Colloquium, October 30, 2008, accessed online at: <http://westinstenv.org/palbot/2008/10/30/global-cooling-is-here-evidence-for-predicting-global-cooling-for-the-next-three-decades/>.



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This is not a smokescreen. Climate science is in its infancy, and it deals with chaotic systems. Indeed, scientists' current understanding of climate is so incomplete that it is simply impossible to measure and quantify the massive number of climate-impacting variables so as to filter out each influence and confidently attribute small temperature changes (of 0.5° C) to any one cause such as anthropogenic carbon dioxide production. Furthermore, models are not objective instruments; rather, they depend crucially on human interpretations and choices. Soon et al., for example, have spelled out some of the fundamental issues related to climate models, stressing not only the uncertainties but also the unknowns or gaps in our current knowledge.<sup>9</sup> Indeed, it strains credulity to think that proponents of AGW theory have accurately projected the influence of all of these complex variables and as such have produced reliable computer modeling. Countless examples of refined or completely erroneous predictions by proponents of AGW theory over the last decade are testimony to the unreliability of those models.<sup>10</sup> In fact, the cause of the often-touted temperature rise between 1980 and the present (shown in Figure 1) has become contentious due to a lack of warming during the most recent ten years that does not fit with what models predicted.

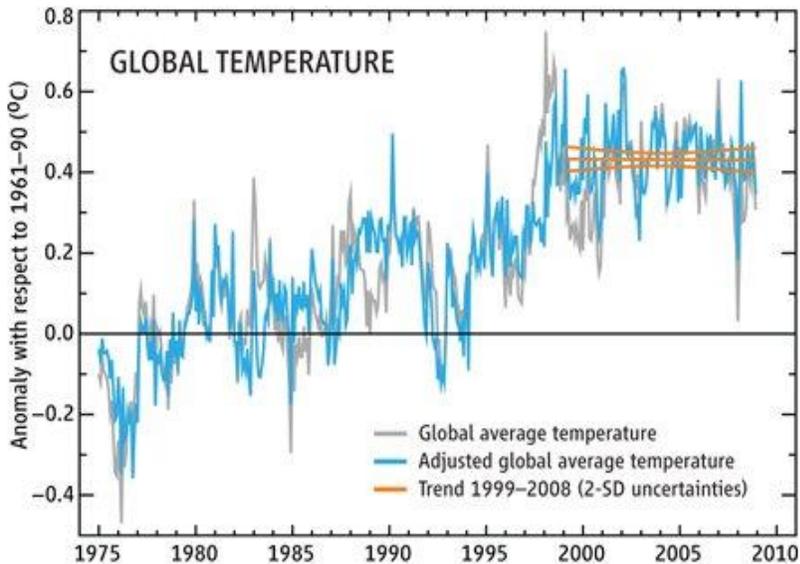
Figure 4 shows that a trend line for the global average temperatures from 1999 to 2008 is roughly horizontal despite a continued rise in atmospheric CO<sub>2</sub> concentrations.<sup>11</sup> This flat period was not predicted; it took proponents of AGW theory completely by surprise. Thus it is not good science for proponents of AGW theory to insist that human behavior has caused a few tenths of a degree temperature change when they failed to predict this recent flat period and as yet do not know its cause. Susan Solomon, a co-chair of the 2007 IPCC report, recently offered an unexpected

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<sup>9</sup> Willie Soon, Sallie Baliunas, Sherwood B. Idso, Kirill Y. Kondratyev, and Eric S. Posmentier, "Modeling Climatic Effects of Anthropogenic Carbon Dioxide Emissions: Unknowns and Uncertainties," *Climate Research* 18 (2001), pp. 259–75.

<sup>10</sup> See, e.g., David H. Douglass, John R. Christy, Benjamin D. Pearson, and S. Fred Singer, "A Comparison of Tropical Temperature Trends with Model Predictions," *International Journal of Climatology* 28 (2008), pp. 1693-1701.

<sup>11</sup> J. Knight, J. J. Kennedy, C. Folland, G. Harris, G. S. Jones, M. Palmer, D. Parker, A. Scaife, and P. Stott, "Do Global Temperature Trends Over the Last Decade Falsify Climate Predictions?" *Bulletin of the American Meteorological Society* 90 (2009), S56–S57.



**Figure 4**

explanation of this flat period in the journal *Science*.<sup>12</sup> Solomon argues that “[t]he decline in stratospheric water vapor after 2000 should be expected to have significantly contributed to the flattening of the global warming trend in the last decade.”<sup>13</sup> Solomon refers to the flat period as the “10, 10, 10 problem. A 10% drop in water vapor, 10 miles up has had an effect on global warming over the last 10 years.”<sup>14</sup> That Solomon refers to a phenomenon that minimizes or halts global warming as a “problem” is in itself quite telling and reminiscent of the “travesty” discussed by Kevin E. Trenberth: “The fact is that we can’t account for the lack of warming at the moment and it is a

<sup>12</sup> David Adam, “Water Vapour Caused One-Third of Global Warming in 1990s, Study Reveals,” January 26, 2010, accessed online at: <http://www.guardian.co.uk/environment/2010/jan/29/water-vapour-climate-change/print>; Susan Solomon, Karen H. Rosenlof, Robert W. Portmann, John S. Daniel, Sean M. Davis, Todd J. Sanford, and Gian-Kasper Plattner, “Contributions of Stratospheric Water Vapor to Decadal Changes in the Rate of Global Warming,” *Science* 327 (2010), p. 1219.

<sup>13</sup> Solomon et al., “Contributions of Stratospheric Water Vapor to Decadal Changes in the Rate of Global Warming,” p. 1219.

<sup>14</sup> *Ibid.*

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travesty that we can't. The CERES data published in the August BAMS 09 supplement on 2008 shows there should be even more warming: but the data are surely wrong. Our observing system is inadequate.”<sup>15</sup> Trenberth is head of the Climate Analysis Section at the National Center for Atmospheric Research, and he was a lead author of the 2001 and 2007 IPCC Scientific Assessment of Climate Change. The real travesty is that Trenberth has sought to defend AGW theory despite the fact that he clearly recognizes that AGW theory has been so off the mark in its prediction.

The unexpected thing about Solomon's explanation of the flat period is the role she attributes to water vapor. Carbon dioxide is a minor greenhouse gas and as such anthropogenic increases in atmospheric CO<sub>2</sub> should have a minimal impact on temperature. However, according to AGW theory, CO<sub>2</sub> is involved in a positive feedback loop with tropospheric water vapor. A positive feedback loop is something that amplifies the initial change (whereas a negative feedback diminishes the initial change). AGW theory requires CO<sub>2</sub> increases to cause a minor elevation in surface temperatures, resulting in a positive feedback loop by increasing tropospheric water vapor. This subsequent increase in water vapor, the main greenhouse gas, is hypothesized to cause the catastrophic global warming by absorbing additional heat. It is the theoretical increase in water vapor that is supposedly so damaging to the climate. But uncertainties surrounding water vapor, rainfall, and clouds<sup>16</sup> have led to wildly different and largely inaccurate computer model projections.

In her article Solomon says that “it was not clear if the water vapor decrease after 2000 reflects a natural shift, or if it was a consequence of a warming world. If the latter is true, then more warming could see greater decreases in water vapor, acting as a negative feedback to apply the brake on future temperature rise.”<sup>17</sup> Here Solomon is invoking the possibility of stratospheric water vapor acting as a negative feedback loop and countering the positive feedback loop from increasing tropospheric water vapor.

Since water vapor is the predominant greenhouse gas, Solomon's findings show quite clearly that representing water vapor remains an unsolved

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<sup>15</sup> Climategate Document Database—1255496484.txt, *Climategate*, accessed online at: <http://www.climategate.org/email.php?eid=1051&s=kwour%20observing%20system%20is%20inadequate>.

<sup>16</sup> For discussion of the role clouds may play, see Spencer, *The Great Global Warming Blunder*, pp. 71-103.

<sup>17</sup> Adam, “Water Vapour Caused One-Third of Global Warming in 1990s, Study Reveals”; Solomon et al., “Contributions of Stratospheric Water Vapor to Decadal Changes in the Rate of Global Warming,” p. 1219.

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problem. Until the relationships between water vapor and the physical processes involving rainfalls and clouds are better understood, it will be impossible to confirm the greenhouse effects of CO<sub>2</sub> with a reasonable degree of confidence.

Solomon, however, says “the new finding does not challenge the conclusion that human activity drives climate change,” leaving us to wonder what would challenge the conclusion in her mind.<sup>18</sup> Solomon also suggests that changes in sea surface temperatures may have caused the unforeseen fluctuation in water vapor and the resultant flat period. While that is possible, it is more likely that human greenhouse gas contribution has a minor impact on climate compared to other factors, such as Earth’s ocean cycles, which have caused climate change in the past without human help.

Correlations between global temperatures and ocean temperatures are to be expected since Earth’s surface is predominantly water and much of its heat is contained in the oceans. Don J. Easterbrook, Professor Emeritus of Geology at Western Washington University, says the following about the Pacific Decadal Oscillation (PDO):

The IPCC prediction of global temperatures, 1° F warmer by 2011 and 2° F by 2038, stand [sic] little chance of being correct. NASA’s imagery showing that the Pacific Decadal Oscillation (PDO) has shifted to its cool phase is right on schedule as predicted by past climate and PDO changes. The PDO typically lasts 25-30 years and assures North America of cool, wetter climates during its cool phases and warmer, drier climates during its warm phases. The establishment of the cool PDO, together with similar cooling of the North Atlantic Oscillation (NAO), virtually assures several decades of global cooling and the end of the past 30-year warm phase. It also means that the IPCC predictions of catastrophic global warming this century were highly inaccurate.<sup>19</sup>

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<sup>18</sup> Solomon et al., “Contributions of Stratospheric Water Vapor to Decadal Changes in the Rate of Global Warming,” p. 1219.

<sup>19</sup> Don J. Easterbrook, *Global Research*, CA Centre for Research on Globalization, November 2, 2008, accessed online at: <http://www.globalresearch.ca/index.php?context=va&aid=10783>.

Figure 5 shows the most recent oscillations of the PDO from warming to cooling along with a possible outcome to 2038 put forth by Easterbrook.<sup>20</sup>

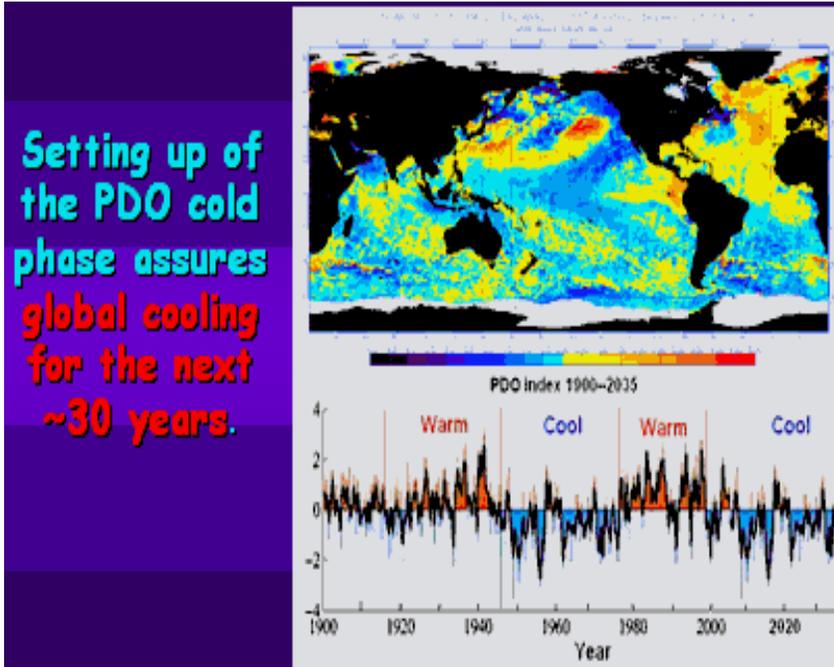


Figure 5

According to Easterbrook, these ocean cycles alternate from warming to cooling approximately every 25-30 years and date back long before major anthropogenic CO<sub>2</sub> production. As Figure 5 shows, we are possibly at the beginning of a cooling cycle that could last for several decades.<sup>21</sup> But it is unlikely that several decades of cooling will end claims of catastrophic warming. When presented with the possibility of an extended cooling period, many proponents of AGW theory assert that the cooling

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<sup>20</sup> Ibid.

<sup>21</sup> In fact, the PDO correlates well with the ups and downs of temperatures in the twentieth century. For a discussion of how the PDO and clouds may explain changes in climate, see Spencer, *The Great Global Warming Blunder*, pp. 109-23.

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would be much worse if it were not for the underlying warming.<sup>22</sup> We take issue with this response.

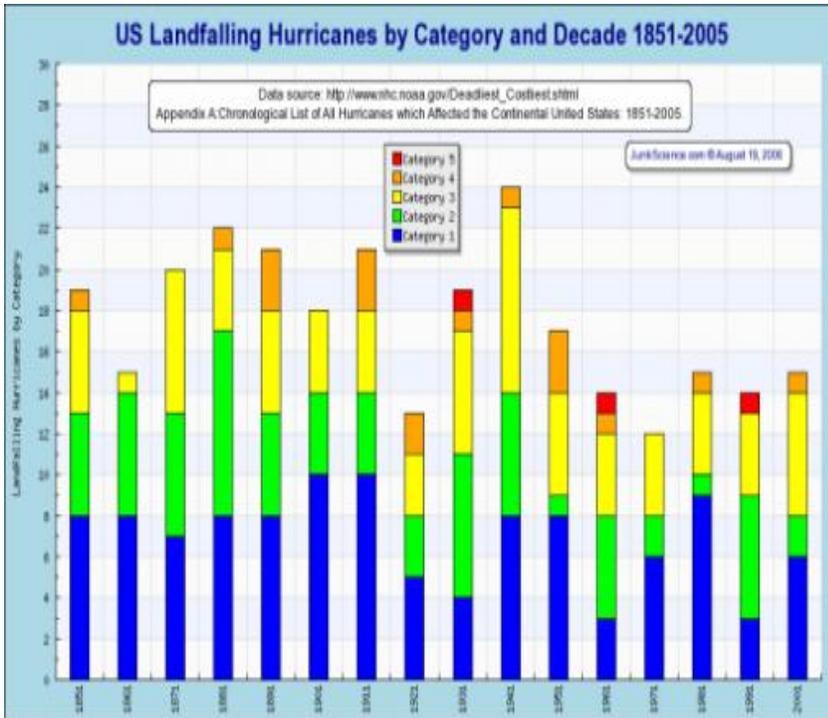
Everyone acknowledges that CO<sub>2</sub> is a greenhouse gas. Skeptics, however, believe that human contributions will likely not result in catastrophic warming, since combinations of other forces play a larger role in heating and cooling the planet. When proponents of AGW theory assert that the warming may be occurring beneath the cooling, this amounts to admitting the skeptic's position that there are other, more powerful factors that affect temperature and control the climate. It is inconsistent to say that anthropogenic infusions of CO<sub>2</sub> will control the climate and cause catastrophic warming one minute and the next minute to say that the influence of this same CO<sub>2</sub> is masked beneath larger factors.

Many leading proponents of AGW theory have predicted catastrophic warming, not imperceptible or inconsequential changes masked beneath larger trends. Among the more notable examples of catastrophe that come to mind are: intense hurricanes causing mass destruction, melting ice killing off polar bears, and rapidly rising oceans drowning cities. Figure 6 shows the frequency and intensity of land-falling hurricanes on the U.S. from 1851 to 2005.<sup>23</sup> There has in fact been no appreciable increase in either the frequency or intensity during this time period. Not shown on the chart are years 2006 to 2009 during which hurricane frequencies actually dropped. Globally, levels are now the lowest they have been in about thirty years.

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<sup>22</sup> Among others, Kyle Swanson says this in Michael Reilly's article, "Global Warming: On Hold?" *Discovery News*, March 2, 2009, accessed online at: <http://dsc.discovery.com/news/2009/03/02/global-warming-pause.html>.

<sup>23</sup> Anthony Watts, *Watts Up With That?* February 21, 2008, accessed online at: <http://wattsupwiththat.com/2008/02/21/noaa-hurricane-frequency-and-global-warming-not-the-cause-of-increased-destruction/>.



**Figure 6**

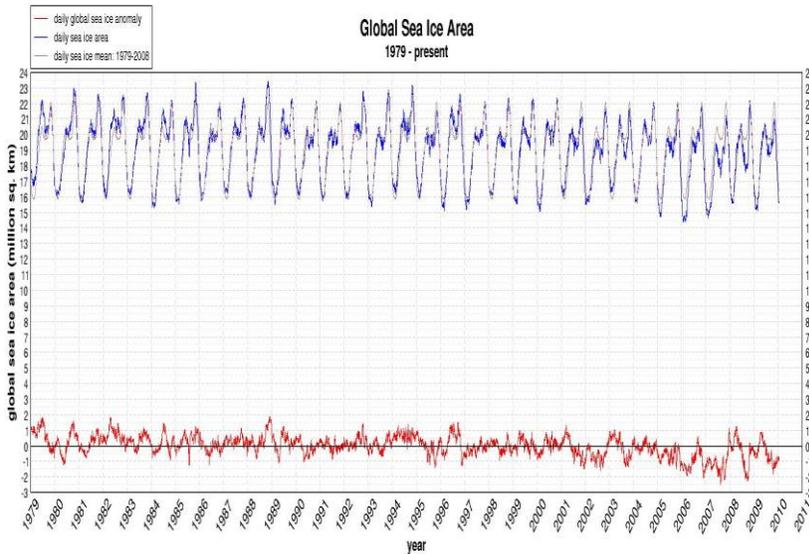
Sensational news has been made about melting sea ice in the Arctic (supposedly threatening polar bears<sup>24</sup>), while much less attention has been given to increasing sea ice in the Antarctic. Figure 7 shows the global sea ice area with seasonal variations from 1979 to 2008.<sup>25</sup> Contrary to what we have

<sup>24</sup> See counter-explanations in M. G. Dyck, W. Soon, R. K. Baydack, D. R. Legates, S. Baliunas, T. F. Ball, and L. O. Hancock, "Polar Bears of Western Hudson Bay and Climate Change: Are Warming Spring Air Temperatures the 'Ultimate' Survival Control Factor?" *Ecological Complexity* 4 (2007), pp. 73-84; and J. Scott Armstrong, Kesten C. Green, and Willie Soon, "Polar Bear Population Forecasts: A Public-Policy Forecasting Audit," *Interfaces* 38 (2008), pp. 382-405.

<sup>25</sup> Christopher Monckton, *SPPI Science and Public Policy Institute*, November 24, 2009, accessed online at: [http://scienceandpublicpolicy.org/monthly\\_report/sppi\\_monthly\\_co2\\_report\\_october.html](http://scienceandpublicpolicy.org/monthly_report/sppi_monthly_co2_report_october.html).

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been led to believe by proponents of AGW theory, Earth is not losing catastrophic quantities of ice. Note also that precise scientific records of sea ice date back to only 1979. But we know anecdotally from ships' logs and newspaper reports that much sea ice was lost in the late 1930s and early 1940s. To put this in perspective, consider that the Northwest Passage was navigated without an icebreaker between 1940 and 1942. The passage's opening in 2007 was not an unprecedented event, as some reported.<sup>26</sup>



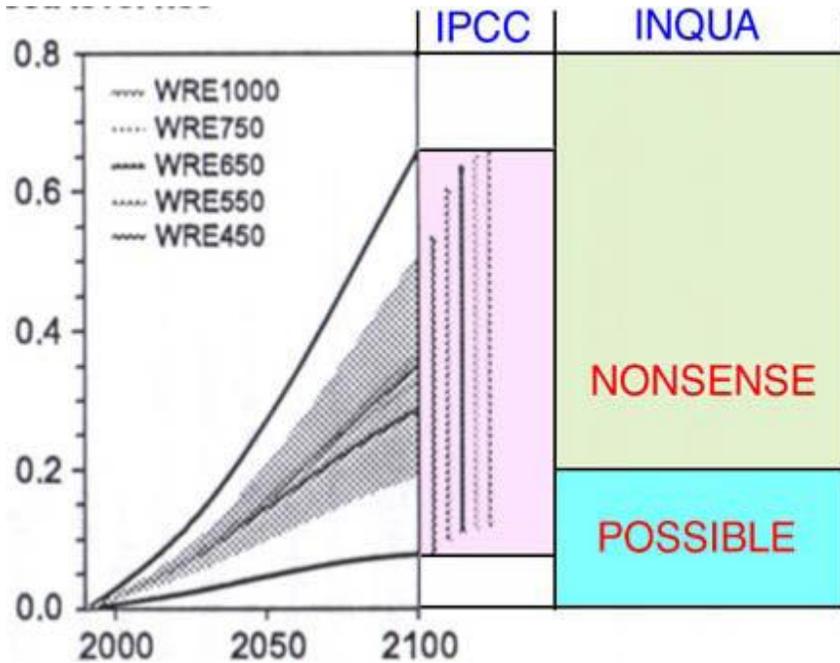
**Figure 7**

Another frequently publicized consequence of global warming is rising sea levels, creating fears that sea water will inundate the world's coastal populations.<sup>27</sup> Extensive sea-level studies have been performed in the

<sup>26</sup> Spencer, *The Great Global Warming Blunder*, pp. 19-20.

<sup>27</sup> See N. L. Bindoff, J. Willebrand, V. Artale, A. Cazenave, J. Gregory, S. Gulev, K. Hanawa, C. Le Quéré, S. Levitus, Y. Nojiri, C. K. Shum, L. D. Talley, and A. Unnikrishnan, "Observations: Oceanic Climate Change and Sea Level," in *Climate Change 2007: The Physical Science Basis, Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, ed. S. Solomon et al. (Cambridge: Cambridge University Press, 2007), pp. 387-432.

Maldives because of concerns that global warming will cause sea levels to rise and submerge the islands. Nils-Axel Mörner, the former head of the Paleogeophysics and Geodynamics department at Stockholm University and former president of INQUA (International Union for Quaternary Research), has been studying sea levels for thirty-five years and sees no cause for alarm.



**Projected Sea-Level Rise in the Maldives in Meters**

**Figure 8**

Figure 8 shows sea-level projections for the Maldives by the IPCC and INQUA.<sup>28</sup> In Figure 8 the left vertical axis represents projected sea-level rises in meters while the bottom horizontal axis is divided into three columns. The left column contains IPCC projection curves for sea-level increases at various CO<sub>2</sub> concentrations (WRE 1000 = CO<sub>2</sub> at 1,000 ppm, etc.) until year

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<sup>28</sup> Gregory Murphy, "Interview: Dr. Nils-Axel Mörner Claims That Sea Level Is Rising Is a Total Fraud," *Executive Intelligence Review* 34, no. 5 (June 22, 2007), pp. 34-37.

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2100. The second or central column simply shows a bracketing of the range of the IPCC projections, while the right column shows INQUA's response to the IPCC.

Responding to the sea-level predictions by the IPCC, Mörner says:

That is terrible! As a matter of fact, it is a falsification of the data set. Why? Because they know the answer. And there you come to the point: They "know" the answer; the rest of us, we are searching for the answer. Because we are field geologists; they are computer scientists. So all this talk that sea level is rising, this stems from the computer modeling, not from observations. The observations don't find it! I have been the expert reviewer for the IPCC, both in 2000 and last year. The first time I read it, I was exceptionally surprised. First of all, it had 22 authors, but none of them—none—were sea-level specialists. They were given this mission, because they promised to answer the right thing. Again, it was a computer issue. This is the typical thing: The meteorological community works with computers, simple computers. Geologists don't do that! We go out in the field and observe, and then we can try to make a model with computerization; but it's not the first thing.<sup>29</sup>

Mörner's comments about modeling are significant because they draw our attention to the main problem with the AGW argument. Proponents of AGW theory know that the small increases in CO<sub>2</sub> produced by human activity will not cause catastrophic warming, and, as mentioned, their theory relies on a massive positive feedback loop with water vapor. The expectation of a positive feedback loop was not unreasonable at first, since warm air can hold more water vapor than cold air can. However, solid evidence did not exist for a massive feedback loop, and negative (cancelling) feedback mechanisms such as changes in cloud cover were not properly included. This resulted in unrealistic modeling outcomes.

Studies have since suggested that water vapor is not closely linked to CO<sub>2</sub> levels.<sup>30</sup> Simply stated, the assumption that CO<sub>2</sub> would cause a massive positive feedback loop with water vapor, the backbone of global-warming theory, is in contradiction with the evidence. This explains the large systematic overestimation of warming by virtually all of the computer models used by proponents of AGW theory.

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<sup>29</sup> Ibid.

<sup>30</sup> Warren Meyer, *Climate Skeptic*, November 10, 2009, accessed online at: <http://www.climate-skeptic.com/phoenix>.

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We have presented just a few examples in which proponents of AGW theory have made inaccurate predictions. Many more exist. The credibility of a scientific theory depends on its predictive power. Thus AGW theory's record of prediction and the clear reasons for the record show that global-warming skepticism is justified.

So far we have considered the epistemological dimension of AGW theory. But this leads us to consider the ethical position of AGW theory proponents, some of whom fail to demonstrate the virtues of honesty and intellectual integrity. All rational inquiry, including the scientific method, is based on a moral and intellectual duty and obligation to investigate matters with an open mind and to form beliefs based on evidence. Unfortunately, there has been a culture of coercion and group-think among proponents of AGW theory, including some philosophers. James Garvey, for example, in *The Ethics of Climate Change* declares, "There is no room at all for uncertainty about the existence of the problem of climate change."<sup>31</sup> Similarly, sociologist Eileen Crist says, "There is no longer even a semblance of a debate about the reality of global warming, its causes, and the climate change it has effected and portends."<sup>32</sup> Rather than inviting debate and encouraging dissent, such declarations close off legitimate debate. Likewise, the mantra that the debate is over is meant to silence and disparage opposing voices. In addition, the scare tactics involved in the injunction to "act now" ignore the fact that questioning, skepticism, and open debate are necessary for scientific progress. As John Stuart Mill argues, silencing a minority opinion harms the majority even more than the minority, for the majority may be deprived of the truth if they are wrong. And if the majority is right, then they are deprived of the chance fully to know and understand their views through spirited debate.<sup>33</sup> In line with Mill's rationale, public scrutiny of theories has traditionally been welcomed by scientists interested in learning the strengths, weaknesses, and validity of their theories. This has not always been the case among proponents of AGW theory, however.

In November 2009 unidentified persons hacked the server at the University of East Anglia's Climate Research Unit (CRU) and presented to the world voluminous personal correspondence among many of the world's leading proponents of AGW theory. The hacked emails make clear that the

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<sup>31</sup> James Garvey, *The Ethics of Climate Change: Right and Wrong in a Warming World* (London: Continuum, 2008), p. 93.

<sup>32</sup> Eileen Crist, "Beyond the Climate Crisis: A Critique of Climate Change Discourse," *Telos* 141 (2007), p. 29.

<sup>33</sup> John Stuart Mill, *On Liberty* (London: Penguin Books, 1985), pp. 76-79.

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CRU has denied legitimate requests for the data on which its calculations have been made. In addition, some scientists at the CRU have conspired to subvert peer review and to ostracize journals, editors, and scientists who disagree with them.<sup>34</sup> This is no way for science to proceed in a free society, or in any society for that matter.

The motivation of some proponents of AGW theory seems to be akin to the “noble lie” of Plato’s *Republic*, which sought to set up the class divisions of the ideal society through the myth of the metals.<sup>35</sup> The rationale of the AGW noble lie seems to be that no harm and much good will come from perpetuating belief in AGW theory. It would seem that some politicians and scientists do not actually care whether global warming is scientific fact or not. They want it believed true because it serves their noble political purpose of pushing for environmental reform and the redistribution of wealth. Consider these representative quotations:

Al Gore: “Nobody is interested in solutions if they don’t think there’s a problem. Given that starting point, I believe it is appropriate to have an over-representation of factual presentations on how dangerous (global warming) is, as a predicate for opening up the audience to listen to what the solutions are . . . .”<sup>36</sup>

Tim Wirth, while U.S. Senator of Colorado: “Even if the theory of global warming is wrong, we will be doing the right thing—in terms of economic policy and environmental policy.”<sup>37</sup>

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<sup>34</sup> The Climategate investigations that cleared the CRU were a whitewash, as even many proponents of AGW theory agree. See, for example, Clive Crook, “Climategate and the Big Green Lie,” accessed online at: <http://www.theatlantic.com/politics/archive/2010/07/climategate-and-the-big-green-lie/59709>.

<sup>35</sup> See Plato, *Republic*, trans. G. M. A. Grube, rev. C. D. C. Reeve (Indianapolis, IN: Hackett, 1992), 414b. Frank Furedi also mentions the noble lie in “Turning Peer Review into Modern Day Holy Scripture,” accessed online at: <http://www.spiked-online.com/index.php/site/article/8227/>.

<sup>36</sup> Quoted in David Roberts, “An Interview with Accidental Movie Star Al Gore,” *Grist Magazine*, May 9, 2006, accessed online at: <http://www.grist.org/article/roberts2/>.

<sup>37</sup> Quoted in “Climate Götterdämmerung,” *National Review*, February 10, 2010, accessed online at: <http://article.nationalreview.com/424508/climate-gtterdmmmerung/the-editors>.

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Christine Stewart, while Minister of the Environment of Canada: “No matter if the science is all phony, there are collateral environmental benefits. . . . Climate change [provides] the greatest chance to bring about justice and equality in the world.”<sup>38</sup>

Stanford University climatologist Stephen Schneider: “We need to get some broad base support, to capture the public’s imagination. That, of course, entails getting loads of media coverage. So we have to offer up scary scenarios, make simplified dramatic statements, and make little mention of any doubts we might have. This ‘double ethical bind’ we frequently find ourselves in cannot be solved by any formula. Each of us has to decide what the right balance is between being effective and being honest. I hope that means being both.”<sup>39</sup>

For such politicians and scientists, this would be a “noble lie” in the sense that the end justifies the means. Even if it turns out that the science does not support the theory, we will be better off by acting on the theory. The general public cannot be trusted to survey the big-picture evidence and decide for themselves because skepticism is a highly appropriate response to such a survey. While some scientists have crossed the line in becoming political activists committed to the noble lie, others may just be unable to give up a theory in which they have become invested, much like a sheriff who continues to go after a suspect even when the exculpatory evidence exonerates the suspect. Yet other scientists are sincere, no doubt.

Proponents of AGW theory have indeed found the media eager to air their “over-representations” and “simplified dramatic statements.” Global warming has been a good story, and one that fits with the politics of most mainstream media outlets. Catastrophe is always more exciting for a reporter than no catastrophe; this is simply human nature. But a true professional would fight against this tendency and not participate in creating sensation for its own sake. Unfortunately, many media outlets have consistently reported even the most ridiculous anecdotal evidence for global warming, such that the average person blames every warm day in February on global warming. Incredibly, CBS, NBC, and ABC neglected to run a single story on the hacked

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<sup>38</sup> Quoted by Terence Corcoran, “Global Warming: The Real Agenda,” *Financial Post*, December 26, 1998, from the *Calgary Herald*, December 14, 1998.

<sup>39</sup> Quoted in Jonathan Schell, “Our Fragile Earth,” *Discover* (October 1989), p. 47.

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CRU emails for fourteen days.<sup>40</sup> It seems likely they would have ignored the story altogether had it not been for the Copenhagen meeting which they had to report on—and which reporting necessitated some mention of the hacked emails. Of course the hacked emails themselves make for a great story, and the contents of the emails have been taken out of context and misreported by some right-wing media outlets. Indeed, there is no shortage of ignorant and embarrassing advocates on either side of the debate. However, the failure of the mainstream media to run the story suggests, perhaps surprisingly, that they are more concerned with the political noble lie than the sensational story. This is not a conspiracy, of course, just widespread bias and close-mindedness.

While some proponents of AGW theory may engage in willful deceit, charitably we must assume that most non-scientists who support AGW theory simply allow themselves to focus only on reports that confirm their views. But such willfully limited perspective cannot be condoned. Philosopher James Garvey, for example, spends much of the first chapter of *The Ethics of Climate Change* telling the reader that there is complete agreement on the scientific facts of global warming and that the IPCC can be trusted as a final authority: “There is, though, nothing like a debate among scientists when it comes to either the fact of climate change or the human role in it.”<sup>41</sup> Garvey assures his readers that he is not inappropriately appealing to authority, all the while doing so. The U.N. is a political body, and it is no surprise that its IPCC turned out to be a political body as well, contrary to its mission statement. Despite what Garvey and others believe, the IPCC is not the final authority on AGW theory. There is not complete scientific agreement on AGW theory, and in fact there never has been. Leading climate scientists such as Richard Lindzen (of MIT) and Roy W. Spencer (formerly of NASA) have long voiced opposition and have usually met with retribution. As Lindzen says,

[s]cientists who dissent from the alarmism have seen their grant funds disappear, their work derided, and themselves libeled as industry stooges, scientific hacks or worse. Consequently, lies about climate change gain credence even when they fly in the face of the science that supposedly is their basis.<sup>42</sup>

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<sup>40</sup> “Day Fourteen and Counting,” Media Research Center, December 4, 2009, accessed online at: <http://www.mrc.org/press/releases/2009/20091204124643.aspx>.

<sup>41</sup> Garvey, *The Ethics of Climate Change*, p. 13.

<sup>42</sup> Richard Lindzen, “Climate of Fear,” *The Wall Street Journal*, April 12, 2006, accessed online at: <http://www.opinionjournal.com/extra/?id=110008220>.

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While at one time many people refused to believe that this kind of subversion of dissent was taking place, there can be little doubt of it since the CRU emails have become public.

The reasons for skewing the science of global warming appear to be not just political, but economic as well. Many proponents of AGW theory denounce skeptics as “in the pocket of big oil.” And indeed there have been some global-warming skeptics who have had such financial interests—but some proponents of AGW theory have their own economic motivations. The government-researcher “complex” has created a funding cycle that rewards (funds) sensational theories such as global warming and does not reward the less sensational skepticism, thereby creating a self-fulfilling feedback loop and a biased environment.<sup>43</sup> While this may not constitute “big science,” careers have nonetheless been staked on the truth of AGW theory, and pride and money will be lost if the theory is disproven.

The truth is sometimes inconvenient, but we have an ethical obligation objectively to assess evidence and proportion belief to evidence. In general it is true that if a conclusion is uncertain and the action it calls for is not certainly urgent, then it would be wrong to force others to act on it urgently. Skepticism is warranted in response to the evidence presented for AGW theory; we have an ethical duty to admit that we do not have sufficient knowledge concerning AGW theory. And consequently we have a duty not to impose extreme and urgent measures and hardships, based on what we do not know, on people who do not consent to them in an informed way. Analyzing the economics of carbon cuts, Bjorn Lomborg, even while accepting AGW theory, argues that cutting carbon emissions is an ineffective way of addressing the environmental situation. As he says, “The big problem with cutting carbon emissions Kyoto-style is that it costs a lot now and does very little, far into the future.”<sup>44</sup> Thus, with warranted skepticism concerning the reality of AGW theory, individuals and companies should be allowed to decide policy in good conscience for themselves until such time when clear evidence is offered by the scientific community. If in the future massive carbon cuts (beyond those Lomborg criticizes as ineffective) are shown to be necessary by proof of AGW theory, and if not making those cuts has imminent, dire consequences, then we ought to make such cuts. But given the

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<sup>43</sup> See Jeff Kueter, “Funding Flows for Climate Change Research and Related Activities,” in *The Marshall Institute Policy Outlook*, accessed online at: <http://www.marshall.org/pdf/materials/289.pdf>.

<sup>44</sup> Bjorn Lomborg, *Cool It: The Skeptical Environmentalist's Guide to Global Warming* (New York: Alfred A. Knopf, 2007), p. 52.

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current state of knowledge, urgently to rush into action in the name of science would be unethically to subvert science.

Some AGW proponents make dire predictions that might lead us to think that we should take aggressive action even if we think there is only a very small chance that AGW theory is a reality and will have dire consequences. We should certainly follow the precautionary principle to the extent that it tells us that it is “better to be safe than sorry.” Along those lines, then, we should continue research into geoengineering and alternative energy sources. Geoengineering has the advantage of solving a warming problem relatively cheaply, by seeding the atmosphere with compounds that would counteract warming.<sup>45</sup> If warming is shown not to be a problem or if geoengineering can solve the problem, then the massive amount of research and money spent on carbon cuts could be spent on truly pressing problems such as malnutrition, HIV/AIDS, other diseases, and other environmental issues such as “mass extinction of species, the devastation of the oceans by industrial fishing, continued old-growth deforestation, topsoil losses and desertification . . . and so on.”<sup>46</sup>

The only clear reasons to reject geoengineering research are ideological, not scientific. As Crist says,

[e]ven if they work exactly as hoped, geoengineering solutions are far more similar to anthropogenic climate change than they are a counterforce to it: their implementation constitutes an experiment with the biosphere underpinned by technological arrogance, unwillingness to question or limit consumer society, and a sense of entitlement to transmogrifying the planet that boggles the mind.<sup>47</sup>

Crist is not rejecting the science of geoengineering; rather, she is rejecting “the unredeemable socioeconomic reality in which we live.”<sup>48</sup> Like others

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<sup>45</sup> On the use of sulfur dioxide, see P. J. Crutzen, “Albedo Enhancement by Stratospheric Sulfur Injections: A Contribution to Resolve a Policy Dilemma?” *Climatic Change* 77 (2006), pp. 211–20. For a clearly eco-friendly possibility, see physicist John Latham’s suggestion that we could increase the reflectivity of low-lying clouds by creating more salt droplets from the ocean, in Stuart Blackman’s article “Every Silver Lining has a Cloud,” *Spiked*, November 14, 2006, accessed online at: <http://www.spiked-online.com/index.php/site/article/2097/>.

<sup>46</sup> Crist, “Beyond the Climate Crisis,” p. 36.

<sup>47</sup> *Ibid.*, p. 50.

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opposed to geoengineering, Crist simply thinks “this strategy calls for countering one form of pollution with another.”<sup>49</sup> Geoengineering, however, is not necessarily pollution and will not necessarily have any adverse environmental consequences. It is thus time for proponents of AGW theory and global-warming skeptics to find common ground in the prospects for geoengineering.

Global-warming skeptics can find further common ground with proponents of AGW theory in the search for alternative energy sources. The United States and many other countries are terribly dependent on oil from nations which are not our friends, and a world of political trouble has been caused by this dependence. For this reason, and not because of AGW theory, the sooner we develop alternative energy sources the better. Certainly, we can all agree on that much.

In the meantime, perhaps we can also agree on the significant level of uncertainty concerning AGW theory. We have not disproved AGW theory in this article. Instead, we have shown that there are very good reasons to be skeptical of this theory. We are ready and willing to embrace AGW theory if the scientific evidence ultimately points in that direction. In fact, as of this writing, 2010 is shaping up to be a warm year that may depart from the recent flat period. If 2010 begins a new warming trend, that would certainly count against skepticism and cause us to reevaluate the merits of AGW theory. In the interest of preserving the credibility of science in public discourse, we ask only that proponents of AGW theory adopt a similar mindset.<sup>50</sup>

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<sup>48</sup> *Ibid.*, p. 55.

<sup>49</sup> *Ibid.*, p. 49.

<sup>50</sup> For helpful feedback we wish to thank Derrick Boucher, Alan Clune, William Drumin, Kyle Johnson, Richard Lindzen, Megan Lloyd, Marc Marchese, Massimo Pigliucci, Scott Sheridan, Barry Smith, Willie Soon, Ronald Supkowski, Stanley W. Trimble, and Birute Williams. None of the individuals named here should be taken as endorsing our argument. Any mistakes in our argument are our own.

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# Adam Smith on Economic Happiness

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## 1. Introduction

We must take seriously the idea that Adam Smith was the first “happiness” theorist in economics. Happiness theory, as put forth by economists such as Robert Frank and Daniel Kahneman,<sup>1</sup> holds that the material opulence produced by free markets bears no necessary connection to the happiness of people within those markets; indeed, the opposite is often suggested. As a recent issue of *The Economist* notes:

But a paradox emerges that requires explanation: affluent countries have not got much happier as they have grown richer. From America to Japan, figures for well-being have barely budged. . . . Some economists think the results cast doubt on the long-held verities of their discipline. The dismal science traditionally assumes that people know their own interests, and are best left to mind their own business. How much they work, and what they buy, is their own affair. A properly brought-up economist seeks to explain their decisions, not to quarrel with them. But the new happiness gurus are much less willing to defer to people's choices.<sup>2</sup>

The paradox that people might not be happier with more goods was famously noted by Adam Smith long ago. And though familiar to us all, it is perhaps helpful to remind ourselves quickly of some of the relevant passages.

In the famous “poor boy” section of his *Theory of Moral Sentiments*, Smith clearly tells us that gaining more goods does not make one any happier:

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<sup>1</sup> Daniel Kahneman, *Well Being: The Foundations of Hedonic Psychology* (New York: Russell Sage Foundation, 2003), chap. 1; Robert Frank, *Luxury Fever: Money and Happiness in an Era of Excess* (Princeton, NJ: Princeton University Press, 1999).

<sup>2</sup> “Happiness and How to Measure It,” *The Economist*, December 23, 2006, p. 13.

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“wealth and greatness are mere trinkets of frivolous utility, no more adapted for procuring ease of body or tranquility of mind than the tweezer-cases of the lover of toys.”<sup>3</sup> Actually, we all know this truth about the rich, according to Smith, so we do not “even imagine that they are really happier than other people.” We only imagine that “they possess more means of happiness.”<sup>4</sup> Even that hypothesis can be put in doubt. As Smith tells us:

In what constitutes the real happiness of human life, [the poor] are in no respect inferior to those who would seem so much above them. In ease of body and peace of mind, all the different ranks of life are nearly upon a level, and the beggar, who suns himself by the side of the highway, possesses that security which kings are fighting for.<sup>5</sup>

In addition to this, Smith famously suggests that the pursuit of wealth is grounded in a socially beneficial ethical “deception.”<sup>6</sup> As the foregoing passages may already suggest, we think we’ll be happier by having more things, but we are deceived in this belief. Yet it is this very deception that “keeps in continual motion the industry of mankind. It is this which first prompted them to cultivate the ground, to build houses, to found cities and commonwealths, and to invent and improve all the sciences and arts, which ennoble and embellish human life.”<sup>7</sup> Elsewhere we learn that we are not only deceived but corrupted as well. Smith continues the paradox with comments like the following:

This disposition to admire, and almost worship, the rich and the powerful, and to despise, or at least, to neglect persons of poor and mean condition, though necessary both to establish and to maintain the distinction of ranks and the order of society, is, at the same time, the great and most universal cause of the corruption of our moral sentiments. That wealth and greatness are often regarded with the

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<sup>3</sup> Adam Smith, *The Theory of Moral Sentiments*, ed. D. D. Raphael and A. L. MacFie (Indianapolis, IN: Liberty Fund, 1976), IV.1.8, p. 181.

<sup>4</sup> *Ibid.*, p. 182.

<sup>5</sup> *Ibid.*, IV.1.10, p. 185.

<sup>6</sup> *Ibid.*, p. 183.

<sup>7</sup> *Ibid.*

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respect and admiration which are due only to wisdom and virtue . . . has been the complaint of moralists in all ages.<sup>8</sup>

The corruption seems to accompany the deception, so it looks as if the choice is *either* ethical *or* wealth-producing conduct, but not both together. Thus, in addition to the fact that gaining more goods does not make one happier, there are ethical issues of deception and corruption to worry about as well. Deception about happiness even seems to be necessary for there to be material advancement at all. The fate of mankind, at least when it comes to socio-economic life, seems in the hands of Smith to be a fundamentally tragic one.<sup>9</sup>

These issues have led to a debate in the non-economic literature between philosophers and political theorists about the meaning and possibility of a happy commercial order. In this debate are such important contributors to the Smith literature as Charles Griswold and Samuel Fleischacker, with Griswold more or less adopting the tragic interpretation and Fleischacker arguing that Smith, in effect, did not really mean it.<sup>10</sup> Most recently, Dennis C. Rasmussen takes up the debate and offers a third alternative.<sup>11</sup> His account contributes a number of helpful and insightful suggestions on how to think about the question of what makes a commercial society “happy.” Though ultimately flawed, the Rasmussen article is nonetheless instructive in its failings. Moreover, its basic point is correct even though it turns out not to solve the problem at hand. We shall therefore use it as the basis for our reflections here. We shall show that Rasmussen’s argument is prone to both the fallacy of division and the genetic fallacy, and even if these problems are avoided the solution turns out either to be implausible or beside the point. We will end our discussion by indicating what really is the basis for a “happy” commercial order as seen by Adam Smith.

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<sup>8</sup> *Ibid.*, I.iii.3.1, pp. 61-62.

<sup>9</sup> We should note that if this reading of Smith is correct—and we are not saying it is—Smith has one advantage over our contemporary happiness economists: he is willing to live with the tragedy and not make numerous pretentious guesses as to how the market might be corrected to make people truly happy.

<sup>10</sup> The issue between Griswold and Fleischacker can be found in Samuel Fleischacker, *On Adam Smith’s Wealth of Nations: A Philosophical Companion* (Princeton, NJ: Princeton University Press, 2004), chap. 6.

<sup>11</sup> Dennis C. Rasmussen, “Does ‘Bettering Our Condition’ Really Make Us Better Off? Adam Smith on Progress and Happiness,” *American Political Science Review* 100, no. 3 (August 2006), pp. 309-18.

## 2. Dennis Rasmussen on Adam Smith: A Critique and Appraisal

Rasmussen begins by citing evidence for the view that happiness for Smith is tranquility. There is, indeed, plenty of evidence to be cited, for Smith does seem to adopt much of that Stoic conception of happiness in his writings. The problem is that in identifying happiness with tranquility and then moving to claims about society, one faces the problem of avoiding the fallacy of composition or division depending on the direction one is moving (from individual to society or the reverse). Rasmussen often seems to us to court both fallacies, but we need to appreciate the problem first. Tranquility is a state of happiness for individuals. Rasmussen's own citations of Smith confirm this. Yet what is clearly *not* the case for Smith is that the happy economy is a tranquil one, nor is it the case that tranquil individuals are good economic actors. There is, thus, no easy transition from the individual to the society, or vice versa.

Rasmussen tries to solve the problem of the implausibility of describing economies and economic actors as "tranquil" by offering us a *certain sort* of tranquility, namely, tranquility as the condition in which individuals feel secure in their property and secure in their freedom from attack by their neighbors. This is the tranquility of liberty and security that the political/legal order provides. Yet while Rasmussen is no doubt correct that there must be some connection between this sort of tranquility, on the one hand, and liberty and security, on the other, and that commercial societies provide both, it does not follow that the sort of tranquility provided by the liberty and security of a commercial order is the same as the tranquility of the happy individual. Nor does it follow that the tranquility of the happy individual can be used to characterize the happy economy.

These logical points do not belie that fact that Rasmussen makes an important contribution by claiming that liberty and security are central to any connection there might be between the happiness of people and economic matters. First, Rasmussen notes correctly that liberty and security are a form of social peace. Undoubtedly, then, a certain feeling of tranquility *does* obtain when a commercial order provides security and freedom. But such feelings might also be coupled with offsetting feelings of anxiety and stress that a commercial order might equally engender and which might even outweigh, to some extent, the tranquility one derives from security. Nonetheless, to be in something like a Hobbesian state of nature or in a dictatorship would surely be very lacking in tranquility, and the claim that commercial orders are most distant from these sorts of brutal social conditions certainly supports the idea that commercial orders are "tranquil."

Second, it is surely unobjectionable to hold that freedom and security are at least prerequisites of tranquility, even if we must finally conclude that they are not the essence of individual happiness and thus not tranquility itself. Indeed, Rasmussen sometimes speaks as such. He tells us, for example, that "I

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will argue that according to Smith the key prerequisites for avoiding misery—for attaining a reasonable degree of tranquility and enjoyment—are a sense of relative safety and freedom from direct dependence on another individual.”<sup>12</sup> Here not only is “tranquility” treated as a prerequisite to something else, but clearly avoiding misery can only be considered tranquility in a negative sense. Thus, as Rasmussen uses tranquility, it looks like we are dealing with conditions for happiness, rather than happiness itself, at least when thinking in terms of individuals.

Security and freedom (or the “tranquility” provided by the political/legal order) could, however, be at the core of a “happy” *economy*, even if deficient as an account of individual happiness. That sort of economy would indeed provide peace of mind to some degree to economic actors. However, we would commit the fallacy of division in supposing that the attributes of security and freedom (or any other attributes) as applied to the economy are sufficient to describe the happiness of individuals, even if they are true of the economy as a whole in which these same individuals take part. And it is important to emphasize, if it is not clear already, that even if security and freedom bring feelings of tranquility to individuals, it does not follow that the applicability of those attributes to the economy as a whole is the same, or applied in the same respect, as it is to individuals. For one thing, economies do not “feel,” and for another these attributes may be sufficient to conclude that an economy is “happy,” but not sufficient as a description of the happiness of individuals. Rasmussen often assumes that if security and freedom bring a sense of tranquility to individuals, we have univocally applied the term between an economy and individuals, but that simply does not follow.

In making out his case, Rasmussen is motivated in part to combat two other major alternative theories—those offered by Griswold and by Fleischacker. Rasmussen wants to counter Griswold’s claim that Smith distinguishes what is good for society from what is good for the individual. That is, Rasmussen wants to counter Griswold’s claim that the deceptions brought on by commerce are good for society even if they are not good for the individual’s happiness. Rasmussen’s response to this is to claim that Smith does not, in fact, distinguish the good of society from that of the individual, despite the many passages that suggest he does. The rebuttal is not particularly compelling. In the case of one passage Rasmussen cites to prove his point, there is the presupposition on his part that Smith uses “happiness” (or even “tranquility”) univocally throughout all contexts to which the term might be

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<sup>12</sup> *Ibid.*, p. 314. Rasmussen seems to be claiming that “avoiding misery” is equivalent to tranquility; avoiding misery is a prerequisite for happiness (and not the same as happiness); therefore, tranquility is a prerequisite.

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applied.<sup>13</sup> But as we have been suggesting, the univocal use of such terms is largely what is at issue and cannot be presupposed.<sup>14</sup> In the other case where Rasmussen claims that Smith specifically denies the distinction between individual and society, there seems to be a continued conflation of the negative conception of “avoiding a disturbance” with the positive idea of tranquility itself. Furthermore, the passage actually suggests what Rasmussen says Smith denies, namely, the passage speaks of “greater” and “lesser” parts of society, implying that the good of one may not be the good of the other.<sup>15</sup> Our own suspicion is that Smith does not use these terms univocally.

In the case of Fleischacker the matter is simpler. As Rasmussen correctly notes, for Fleischacker to claim that Smith did not take the deception passages seriously in the end because they were part of the early versions of *Theory of Moral Sentiments* is contradicted by Fleischacker’s own insistence that Smith’s final revisions of *Theory of Moral Sentiments* (in which the passages remained) were carefully considered.<sup>16</sup> Yet in a way Rasmussen misses the fact that he and Fleischacker are allies, for like Rasmussen (and unlike Griswold) Fleischacker wants to work with a single notion of happiness in order to reconcile what Smith says about the relationship between commerce and the happy individual. Moreover, it seems to us that Fleischacker’s own work identifies precisely the class of people for whom Rasmussen’s case is strongest, namely, the “greater part” of ordinary middle class individuals.<sup>17</sup> They are the group for whom “security and freedom” would most likely translate into “tranquility.” In this respect, no doubt, Fleischacker could easily accept Rasmussen’s claims about the centrality of security and freedom. What he and Fleischacker seem to be disputing about is

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<sup>13</sup> Rasmussen, “Does ‘Bettering Our Condition’ Really Make Us Better Off?” p. 313. See Smith, *Theory of Moral Sentiments*, IV.1.11, p. 185: “All constitutions of government . . . are valued only in proportion as they tend to promote the happiness of those who live under them. This is their sole use and end.”

<sup>14</sup> Moreover, there is a failure by Rasmussen (as well as all parties to this dispute) to appreciate fully the fundamental difference between the functions of the ethical and political/legal orders.

<sup>15</sup> Rasmussen, “Does ‘Bettering Our Condition’ Really Make Us Better Off?” p. 312. See Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, vol. 1, ed. R. H. Campbell and A. S. Skinner (Indianapolis, IN: Liberty Fund, 1976), I.viii.36, p. 96: “No society can be flourishing and happy, of which the far greater part of the members are poor and miserable.”

<sup>16</sup> Fleischacker, *On Adam Smith’s Wealth of Nations*, p. 108.

<sup>17</sup> And we see (from the passage cited in note 15) support for this view.

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only the role of “deception” in the process of describing the springs and effects of commerce. In the matter of deception, Rasmussen allies with Griswold in wanting to keep it, but does not want to keep the division between society and the individual.<sup>18</sup>

As a consequence, in order to retain deception but not draw a distinction between the individual and society, Rasmussen claims that people pursuing commercial goals are, in fact, deceived into promoting their own happiness.<sup>19</sup> They are deceived because they think more goods will make them happier, when in fact they are made happier because by pursuing commercial activities, they unintentionally encourage the growth of liberty and security, which are in turn earlier defined by Rasmussen as tranquility. This move by Rasmussen is ingenious but will not do. First of all, even if this account made sense in itself, it would not explain the *corruption* the deception occasions and about which Smith worries, because freedom and security are not forces of corruption. But the account is not particularly convincing in itself. Security and freedom are not necessarily improved with each marginal increase in wealth and goods. Most likely wealth increases because security and freedom are already in place and do not grow or diminish proportionately with rates of wealth. So even if we accept the idea that freedom and security are tranquility, it certainly does not follow that we become *more* tranquil (even in Rasmussen’s sense) the wealthier we become. If that indeed is Rasmussen’s argument, namely, that as wealth increases so do freedom and security (and thus our tranquility), then besides flying in the face of some empirical evidence<sup>20</sup> the claim seems intuitively askew. What would be more

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<sup>18</sup> It should be noted, however, that the centrality of security and freedom are not *inconsistent* with Griswold’s interpretation. Indeed, we suspect he would accept it. In Griswold’s case, however, security and freedom would be unlikely candidates for the essence of individual happiness.

<sup>19</sup> Rasmussen, “Does ‘Bettering Our Condition’ Really Make Us Better Off?” pp. 312 and 318.

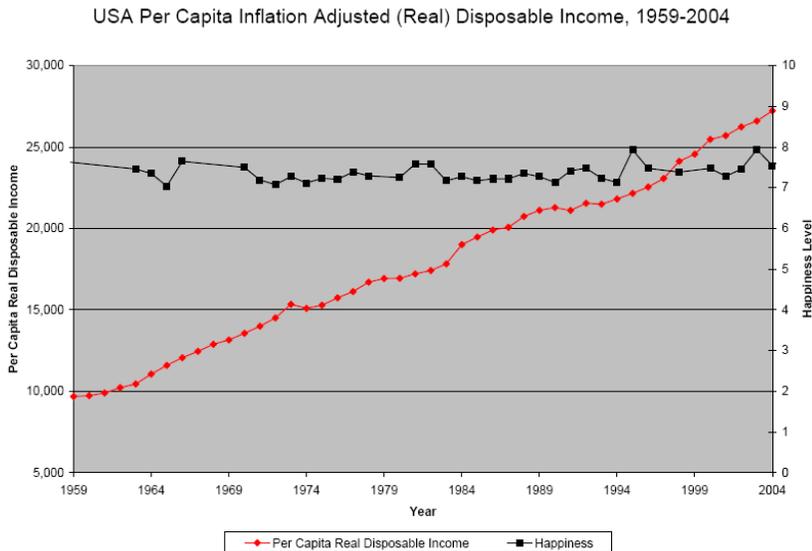
<sup>20</sup> Dwight Lee and Michael DeBow, in their “Happiness and Public Policy: A Partial Dissent (or, Why a Department of Homeland Happiness Would Be a Bad Idea),” *The Journal of Law & Politics* 22, no. 3 (Summer 2006), p. 287, cite the following chart:

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plausible is that after reaching a certain threshold there would be diminishing marginal returns with respect to the increase of wealth upon security and freedom. In other words, increases in wealth would have less and less effect upon freedom and security when understood with respect to the domestic economy. Perhaps more wealth can buttress security from *external* threats, but present-day erosions of property rights show that increased wealth does not necessarily do so internally.

Even if we did become freer and more secure as wealth increases, it would not follow that individuals would necessarily regard themselves as happier or experience more tranquility. Perhaps increases in wealth would make people more anxious about their goods, more litigious, and more paranoid about competitors in ways that completely offset the positive effects of freedom and security. Finally, Rasmussen does not consider the possibility that freedom and security might actually come into conflict as societies get wealthier. As a number of modern welfare states have demonstrated, the desire for the sort of “tranquility” that security offers may encourage encroachments upon individual liberty (i.e., “freedom”) in the form of high progressive taxes, the erosion of property rights, and a host of nanny-type restrictions on what people can freely do with their lives.

So where does this leave us with respect to Rasmussen’s argument? Basically, we support his central insight that for Smith freedom and security are provided by commercial societies and would be necessary for both the pursuit of “happiness” by individuals and a “happy” economy. This is an



important insight and one that has not been sufficiently emphasized by Griswold or Fleischacker. What Rasmussen has not shown is that the way we understand economic happiness must be in the same terms that we understand the happiness of individuals. Thus we are not much persuaded by his readings of the “poor boy” passages nor by his account of the concepts of “tranquility” or “happiness.” Indeed, we believe that Smith allows for terms such as “happiness” to have different meanings in different contexts, as evidenced by such statements as the following: “The concern which we take in the fortune and *happiness* of individuals does not, in common cases, arise from that which we take in the fortune and *happiness* of society.”<sup>21</sup> As it turns out, then, although we believe that freedom and security are necessary conditions for happiness for both individuals and economies, they are not in the end sufficient for either. (We discuss this point more fully in the next section.)

In order to indicate the complexity of the problem in Smith, it is worth taking a brief look at Rasmussen’s conclusion—one that we believe undermines much of his argument. After (correctly) noting that Smith believes that by alleviating uncertainty and violence, commercial societies help to bring happiness to individuals and economies, Rasmussen says: “people in this [commercial] kind of society are unlikely to be *completely* happy because they *do* tend to undermine their own tranquility by constantly striving to better their condition, but then again this is true of people in *every* society.”<sup>22</sup> But to admit this is to admit, as we have already suggested, that happiness or tranquility has at least different dimensions, if not possibly different meanings, in different contexts. To point out that people may be overly ambitious in any society only emphasizes the fact that it may be doubly worrisome in a commercial one where the opportunity to pursue wealth is that much greater. Certainly, from the famous passages in the *Wealth of Nations* on the corruption of those coming to the cities, we can infer that Smith worries about some effects of specifically commercial cultures upon the “tranquility” of individuals.<sup>23</sup> So unless Rasmussen wants to claim that happiness is actually impossible for human beings, we are still left with the question of what happiness is for Smith in the case of both individuals and economies. It is to the latter issue we now briefly turn.

### 3. Adam Smith on Happiness: An Aristotelian Reading

Up to this point we have indicated that we are open to the likelihood that Smith is a kind of Aristotelian when it comes to happiness. That is, he

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<sup>21</sup> Smith, *Theory of Moral Sentiments*, II.ii.3.10, p. 89 (emphasis added).

<sup>22</sup> Rasmussen, “Does ‘Bettering Our Condition’ Really Make Us Better Off?” p. 317.

<sup>23</sup> See Smith, *Wealth of Nations*, vol. 2, V.i.f.50, pp. 781-82.

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holds that happiness can be applicable to different dimensions of human life in different ways. Aristotle holds that the happiest life is that of the philosopher, but recognizing that most people could not live this life, he notes that a “second-best” life is the life of virtue. The life of virtue is also a happy life, just not of the highest order. The main point is that there might be more than one type of happy (or tranquil) life. Smith is not averse to this type of thinking, as we can see from his discussion of high and low prudence.<sup>24</sup> It thus may very well be that commercial life deceives people into thinking that they might achieve the happy life in some absolute or highest sense, but that the deception contributes to a “happy” economy. Although we are not inclined to the most pessimistic reading of this deception (namely, that commerce is completely anathema to any kind of individual happiness), it is fortunate that even with such a deception, human beings can still progress. For our purposes here, our claim is a good deal more optimistic and amounts to the following: with the right kind of economy, we might not only make some material progress, but also might achieve the highest sort of “happiness” as an economy and a secondary form of happiness as individuals. What, then, can serve as a description of the highest happiness for an economy and a worthy one for individuals, even if not a state of ultimate tranquility that might be attained by an otherworldly sage or one which removes completely the problem of the “poor boy”?

Smith actually makes quite clear the answer to this question:

It deserves to be remarked, perhaps, that it is in the progressive state, while the society is advancing to the further acquisition, rather than when it has acquired its full complement of riches, that the condition of the labouring poor, of the great body of the people, seems to be the happiest and the most comfortable. It is hard in the stationary, and miserable in the declining state. The progressive state is in reality the cheerful and the hearty state to all the different orders of society. The stationary is dull; the declining, melancholy.<sup>25</sup>

The first thing to note is that Smith seems to be speaking of commercial orders in all three states—progressive, stationary, and declining. Part of his point is to indicate why people might be happier in the America of his day than in Britain, even though the latter was much wealthier. Britain might be

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<sup>24</sup> Aristotle, *Nicomachean Ethics*, 2d. ed., trans. Terence Irwin (Indianapolis, IN: Hackett, 1999), X.7-8. See Smith, *Theory of Moral Sentiments*, VI.1, pp. 179-87. For a discussion of prudence in Smith, see Douglas J. Den Uyl, *The Virtue of Prudence* (New York: Peter Lang, 1991), chap. 5.

<sup>25</sup> Smith, *Wealth of Nations*, vol. 1, I.viii.43, p. 99.

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regarded as being in a kind of stationary state relative to America. If this is correct, it is also worth noting that both states possess freedom and security, since both are stable commercial orders. It is likely that Smith might even have envisioned the possibility of there being *declining* commercial orders, if the foregoing passage is any indication. Presumably such declining economic orders would have at least security, though it would perhaps be more controversial to attribute freedom to them as well.

If freedom and security can be found in happy and less happy states, then they cannot be the descriptors we need to capture the nature of happiness in an economy or even with respect to individuals. Consequently, when thinking about the *economic* happiness of individuals, they would need something more than freedom and security. Moreover, economic happiness would seem to be the kind that is most applicable to the “greater part” of ordinary people in ordinary life, even if it does not describe a form of happiness attainable by the wise contemplative individual, that is, the “sage” Smith speaks of in *Theory of Moral Sentiments*. This economic happiness would not be a form of tranquility. Indeed, tranquility, when functioning as an end, is part of the trap or deception when materialized through commerce. The desire for it, which is found in virtually all of us, is perhaps a confusion of the “ease” sometimes brought about by the possession of more goods with the true tranquility possible only to the Stoic sage. There may, in other words, be something in human nature that longs for tranquility but which confuses a temporary form of it with an enduring form. We do not realize we are confused, because the only form of tranquility visible to ordinary people is ease brought on by more goods.

But the key for our purposes is that even in this deception about goods, the possibility for happiness—albeit a secondary economic form of it—is nonetheless very much present. That is, the key to individual economic happiness is *essentially* consistent with the pursuit of goods and services in an economy. It is, in other words, within the nature of commercial activity itself that one can find economic happiness. This happiness could be found in individual cases in virtually any commercial society, but for the “greater part” what is needed is the right kind of economy, which is to say, a progressing economy.

We have spent a good deal of time elsewhere defending the idea that the moral and the political should be thought of as distinct, though not completely disconnected, realms—both for substantive reasons and because liberalism demands it.<sup>26</sup> This idea is essentially Smithean. The same terms

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<sup>26</sup> See Douglas B. Rasmussen and Douglas J. Den Uyl, *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* (University Park, PA: Pennsylvania State University Press, 2005).

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may not be able to carry the same meanings through all contexts, however tempted we may be to think that consistency demands it. Moreover, our aspirations for the political, economic, or social order may have to be understood differently from our aspirations for the individual. That may mean, in some cases, that we come to think in terms of what might apply to “most people” rather than an elite few or individuals considered separately. By the same token, we might hope that the uses of terms like “happiness” are not in direct conflict with one another either. Fortunately, a “happy” economy need not be one gained at the expense of individual happiness.

On these terms, then, the key to economic happiness, for both individuals and economies considered generally, is progress. For the individual that means working to build, create, succeed at, or otherwise pursue goals that are possible and the product of one’s efforts. This is the sort of thing that makes economic actors “happy,” and also why it is that mere wealth can corrupt it. In this respect, the happiness economists may have a grain of truth on their side. Wealth without achievement is a recipe for discontent. This is directly in accord with what Smith has to say about human nature:

Man was made for action, and to promote by the exertion of his faculties such changes in the external circumstances both of himself and others, as may seem most favourable to the happiness of all. He must not be satisfied with indolent benevolence, nor fancy himself the friend of mankind, because in his heart he wishes well to the prosperity of the world. That he may call forth the whole vigour of his soul, and strain every nerve, in order to produce those ends which it is the purpose of his being to advance, Nature has taught him, that neither himself nor mankind can be fully satisfied with his conduct, nor bestow upon it the full measure of applause, unless he has actually produced them.<sup>27</sup>

One would therefore expect a good deal of *dissatisfaction* in those states where individuals do not have significant roles in the management of the wealth they pursue and possess, such as in modern welfare states where so much wealth is both taxed and collectively managed. Indeed, our view would be that if the prescriptions of modern “happiness” economists were followed, we should expect more, not less, discontent. One reason, therefore, to support a free market economy is to keep the economy on a progressive, rather than a static or declining, path. Not only will the economy be “happier,” but so will the actors within it.

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<sup>27</sup> Smith, *Theory of Moral Sentiments*, II.iii.3.3, p. 106.

# Direct and Overall Liberty: Areas and Extent of Disagreement

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It is not claimed that such propositions should be taught dogmatically, as if they were theorems of geometry. Not only should their limitations be pointed out, when necessary, but the student should be encouraged to find or even to imagine conditions under which the maxims would fail. In doing this, the vice he should be taught to avoid is that of concluding that because he can imagine a state of things under which a maxim would fail, therefore it is worthless.

—Simon Newcomb<sup>1</sup>

## 1. Introduction

This article tries to clarify some of the limitations of the classical liberal/libertarian principle of liberty, and to assess those limitations in some rough way. Our larger impetus is to defend the position that the principle of liberty is not undone by its limitations, that, as such things go, it remains quite coherent and worthy—our voice is that of the Smith-Hayek liberal.

So-called positive liberty is about positive capabilities, that is, being able to do things. If you can't read, that might be deemed by some to be a lack of liberty. "Negative liberty" is about others not messing with your stuff. Even if you are illiterate, homeless, and starving, you are perfectly free provided that no one is messing with your stuff—or initiating coercion against you. The distinction between positive and negative can be dissolved, however, by playing with "your stuff." If you are deemed to have an ownership share in the

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<sup>1</sup> Simon Newcomb, "The Problem of Economic Education," *Quarterly Journal of Economics* 7, no. 4 (1893), p. 399.

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collection of resources of the polity, the social life at large, the collective consciousness, or a divine spirit, then positive and negative liberty might dissolve into a muddle. Subscribers of positive liberty can defend, say, tax-financed government schooling by saying: No one is messing with *your* stuff, the people are simply using their appointed officers, government officials, to manage *their* stuff. No one is forcing you to remain within the polity. You are free to leave.

The distinction, then, comes down to conceptions of who owns what, or the configuration of ownership. What really distinguishes the “negative-liberty” view is the content imputed to “your stuff”—specifically, it is ideas of self-ownership, private property, and voluntary agreement. This configuration of ownership denies the collectivist-political notions of ownership and social contract. This tradition is represented by David Hume, Adam Smith, and other classical liberals and libertarians. The thinker who most fully develops and articulates this scheme of ownership and voluntarism is Murray Rothbard.<sup>2</sup>

We embrace Rothbard’s conceptions of ownership claims and his definition of liberty.<sup>3</sup> But even within this “negative-liberty” philosophy there are many unresolved, perhaps unresolvable, issues. The liberal schemes of ownership and voluntarism entail many gray areas. Rothbard tends to downplay the problem of ambiguity, but other liberal thinkers dwell on it.<sup>4</sup>

The ambiguities surrounding liberal concepts of ownership and voluntarism have often been used by critics to dismiss them: individual liberty is “illusory,” etc. Liberals fight back by saying that all such concepts are rife with ambiguities, and that the liberal ones remain focal and intuitive—“obvious and simple,” as Adam Smith puts it.<sup>5</sup> Indeed, away from politics,

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<sup>2</sup> Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, NJ: Humanities Press, 1982).

<sup>3</sup> However, we are more willing than Rothbard to regard government ownership of government resources as being on a par with private ownership.

<sup>4</sup> Such thinkers include David Hume, *An Inquiry Concerning the Principles of Morals* (New York: Bobbs-Merrill, 1957), pp. 26-32; Wordsworth Donisthorpe, *Law in a Free State* (London: Macmillan, 1895), pp. 1-121; Friedrich Hayek, *Individualism and Economic Order* (Chicago, IL: University of Chicago Press, 1948), pp. 20-21 and 113; and David Friedman, *The Machinery of Freedom: Guide to a Radical Capitalism* (LaSalle, IL: Open Court, 1989), pp. 167-76. Daniel B. Klein, “Mere Libertarianism: Blending Hayek and Rothbard,” *Reason Papers* 27 (2004), pp. 7-43, discusses these matters; the general idea of that article is that Rothbard got the *definition* of liberty right, Hayek got the *claims* for liberty right, and Smith more or less got all of it right.

<sup>5</sup> Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. R. H. Campbell, A. S. Skinner, and W. B. Todd (Oxford: Oxford University Press, 1976), IV.i.16, p. 687.

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ordinary life in the United States shows that people seem to agree on what actions taken by a neighbor would constitute coercion, and the agreement conforms quite well to the liberal configuration of ownership.

The limitation that this article is concerned with, however, is something else altogether. The limitation concerns the scope and timeframe considered. Even when it is unambiguous that an action, considered in its direct aspect, is liberty-reducing, it might, when viewed in larger aspect, be considered liberty-augmenting. Taxing people to wage war and dropping bombs on others are liberty-reducing in their direct aspect, but if the war topples dictators like Saddam Hussein, it might be liberty-augmenting in its larger aspect. Thus, again, we have ambiguity about whether the action is liberty-augmenting. This ambiguity arises not from ambiguity in any local facet of the action, but in “summing” over the facets. If all the facets go in one direction, either all reductions or all augmentations; there is no ambiguity. But when some facets are reductions and some are augmentations, then it might be very difficult, even impossible, to assess the action in terms of overall liberty. The difficulty stems from two problems: first, weighing the set of pluses against the set of minuses; second, knowing what is in each set. Saddam Hussein’s regime was highly coercive, but do we know that toppling it augmented liberty overall?

In this article we are concerned with the possibility that the problems in summing may be pervasive and severe. If so, the liberal presumption of liberty might not be too meaningful. Frederick Douglass expounded liberty and called his antislavery newspaper *The North Star*. The cause of abolition was as unambiguous as one could imagine. But more generally, is liberty a North Star? Does it survive as a focal point for ideas, distinctions, causes, movements, identities, politics, and reform, when we recognize that it might often be hard to say whether a policy action, in its overall aspect, is liberty-augmenting?

In his book *The Libertarian Idea*, Jan Narveson draws attention to tensions between direct and overall liberty, cases of restriction in which “our liberty is *greater* on balance when we impose these restrictions than it would be in the unrestricted condition.” He notes that such an approach “requires some kind of quantification of liberty so that we can say that one situation involved ‘more’ liberty than another,” and adds that “[p]roducing a satisfactory theory about this matter is perhaps the greatest single theoretical challenge confronting the aspiring libertarian.”<sup>6</sup> We do not propose a method

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<sup>6</sup> Jan Narveson, *The Libertarian Idea* (Philadelphia, PA: Temple University Press, 1988), p. 50. Likewise, David Friedman, *The Machinery of Freedom*, pp. 172-75 and 211-12, and, less explicitly, Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 28-34, make remarks that can be interpreted in terms of a tension between direct and overall liberty.

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of aggregation, but we do presume that some meaningful sense of such aggregation (however loose) can be invoked.

We attempt to delineate the kinds of contexts in which the summing problems are most likely to arise, and to formulate categories that, together as a set, cover the problem areas. The hope is that the problem areas are not overwhelming, and that within those areas weighing the pluses and minuses is not always impossible or arbitrary. We suggest that the *other* areas of public policy, the areas *not* plagued by the two summing problems, are substantial enough that, as principles go, the liberty principle remains very meaningful and highly focal.

### 2. The Liberty Principle

It seems rather safe to say that repealing the minimum wage law would be liberty-augmenting. For the moment, leave aside the summing problems. In many cases, a naïve view of liberty ranking is quite satisfactory. Let  $R_1$  and  $R_2$  be two reform proposals. One of the  $R$ 's may be "preserve the status quo," that is, no reform at all. For example, let  $R_1$  be repealing the minimum wage, and  $R_2$  be preserving it as is.

**Liberty ordering:** The symbol  $>_L$  denotes a liberty ranking:

- $R_1 >_L R_2$  means that  $R_1$  rates higher in liberty than  $R_2$ .

Our formulations are anchored in the status quo, whatever it may be. Thus,  $R_1 >_L R_2$  means that the society has more liberty if  $R_1$  happens than if  $R_2$  happens.

"The society" can mean the polity, the civilization, all of present humanity, or all of present and future humanity. The referent "society" will depend on the discourse situation; the variations will enter into some of our discussion, but the basic analysis does not imply or hinge on one over the others. Presumably, the liberty ordering is transitive: If  $R_1 >_L R_2$ , and  $R_2 >_L R_3$ , then  $R_1 >_L R_3$ .

**Desirability ordering:** The symbol  $>_D$  denotes a desirability ranking:

- $R_1 >_D R_2$  means that  $R_1$  is more desirable than  $R_2$ .

Think of desirability as what you'd choose. The judgment emerges from your broad and deep sensibilities, presumably "loose, vague, and indeterminate," as Adam Smith describes sensibilities in aesthetics, beneficence, and distributive

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justice.<sup>7</sup> People have different senses of the desirable. When it comes time “to push one of the buttons,” they will act differently. But each of us has a sense of what kinds of buttons are more worth pushing, just as we have a sense of what movies are more worth watching a second time. Our sensibilities in such matters develop and achieve partial, working formulation in our participation in culture and discourse; we usually have friends with similar sensibilities. Think of the desirability ranking as the ranking that you and such friends would approve of.

The *liberty principle* tells us: In a choice between two reforms, favor the one that rates higher in liberty. That is, it suggests:

- If  $R_1 >_L R_2$ , then  $R_1 >_D R_2$ .

Now, a rule’s status as a “principle” for a person—call him Adam—does not depend on Adam’s 100 percent conformance to or concurrence with the rule. Adam can maintain perfectly well that the liberty principle is meaningful, coherent, and important even though he sometimes would contravene it. The reason one maintains an idea even though it works only “ninety-something percent” as a principle is that it is the best we can do in this messy world. Better to have ninety-something percent principles that help us than only principles purportedly 100 percent that either fiddle with definitions in opportunistic ways or imply madness. (We have encountered libertarians who have said that they would not kill an innocent person even if the survival of humanity depended on it.)

Again, we embrace Rothbard’s definition of liberty. We reject, however, some of Rothbard’s major claims for liberty. He tends to frame the liberty principle as an imperative, as 100 %, as a kind of axiom or trump for politics and ethics. From Rothbard one gets the message that moral and ethical truth always favors liberty over coercion. We disagree. We think that sometimes coercion is our friend. We reject the axiom view, and, instead, with Adam Smith, take a maxim view. Smith holds that there should be a presumption of liberty. So, too, does libertarian theorist Randy Barnett, who uses the expression “The Presumption of Liberty” as the subtitle of his book on restoring the Constitution. “A Presumption of Liberty,” writes Barnett, “would place the burden on the government to show why its interference with liberty is both necessary and proper.”<sup>8</sup> Similarly, David Friedman says that

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<sup>7</sup> See Adam Smith, *Theory of Moral Sentiments*, ed. D. D. Raphael and A. L. MacFie (Oxford: Clarendon Press/Liberty Fund Edition, 1976), pp. 175, 327, and 269-70.

<sup>8</sup> Randy E. Barnett, *Restoring the Constitution: The Presumption of Liberty* (Princeton, NJ: Princeton University Press, 2004), p. 260. Barnett acknowledges tensions between direct and overall liberty (pp. 74-75) and affirms that such tensions do not undo liberty as a meaningful principle.

libertarian principles “are convenient rules of thumb which correctly describe how one should act under most circumstances, but that in sufficiently unusual situations one must abandon the general rules and make decisions in terms of the ultimate objectives which the rules were intended to achieve.”<sup>9</sup>

However, the difference between maxim and axiom is not essential to the present discussion. The tension that concerns us here is not the tension between liberty and the desirable but that between direct and overall liberty.<sup>10</sup> This article is not about whether or how often the liberty principle should be contravened; rather, it is about one kind of ambiguity in ranking reforms in terms of liberty. It is about admitting a problem with  $>_L$ , and handling that problem as best we can by breaking it down in terms of a distinction between two more specific liberty orderings.

### 3. Direct and Overall Liberty

Recognition of ambiguity tells us that it may be difficult to rank reforms. Again, those ambiguities lie sometimes in particular facets of the reform, as with children’s rights issues. But there is also ambiguity in summing over facets of the reform. By a “facet” we mean a feature or effect within a certain context of action. In the case of raising the minimum wage from \$7.00 to \$9.00 per hour, the *direct* facets are the inherent coercive features of the reform and its concomitant enforcement. Indirect effects consider any other effects that come in the train of the reform. In the case of raising the minimum wage, it might be the case, for example, that if the government as currently composed failed to raise the minimum wage, voters would “punish” the sitting politicians, altering the composition of government and bringing new coercive incursions. An intervention such as raising the minimum wage, then, might be liberty-reducing in its direct features but, in relation to what would otherwise happen, liberty-augmenting in its indirect effects.

The indirect effects can range over other areas of policy and future time periods. Thus, there is both a scope aspect and a time aspect to the indirect effects. Collapsing the scope and time aspects into a single dimension, think of a spectrum of “directness,” ranging from the most direct features of the action (and concomitant enforcement) to overall effects of varying range. Figure 1 represents this “directness” range of features and effects. The left endpoint considers the facets more or less inherent in the reform itself. In this

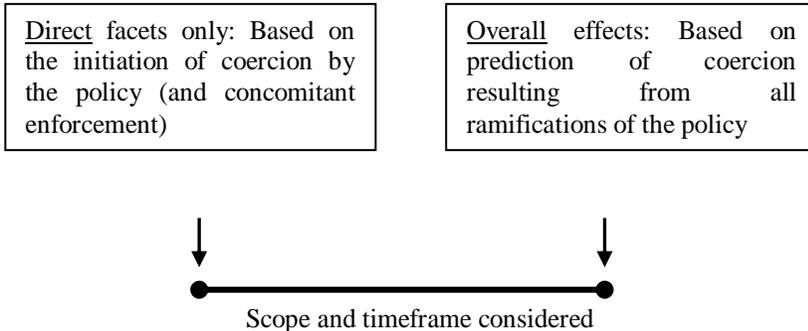
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<sup>9</sup> Friedman, *Machinery of Freedom*, p. 172.

<sup>10</sup> However, inasmuch as overall liberty aligns with the desirable, our exploration of the tension between direct and overall liberty will speak to the tension between *direct* liberty and the desirable.

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aspect raising the minimum wage is clearly a reduction of liberty. At the other end is the overall aspect of the reform. It would include everything that arguably might come in the train of the reform.



### The Range of a Reform's Aspect of Liberty

Figure 1

Considering indirect effects entails a big problem: indirect effects are usually uncertain, and the further we go in time the more uncertain they become. Our basis for ranking reforms in terms of liberty becomes vaguer and more dubious. That invites charges of meaninglessness. That's why we so often focus on the direct facets. Very often we are content to say that raising the minimum wage reduces liberty, period. Considerations about political repercussions are just irrelevant speculation.

The direct features are more concrete and definite. If a liberal movement depends on a broad concurrence on what is and what is not in line with liberty, that concurrence will more easily be achieved if the focus is kept on the direct features. Surely, though, any allegiance to liberty must ultimately be more concerned with the overall aspect. Ideally, liberals would like to consider the reform's overall aspect of liberty. That speaks for focusing on the overall aspect.

Furthermore, sometimes indirect effects are more than mere speculation. If liberals systematically ignore them, instead considering only the direct aspect, again critics will doubt the meaningfulness of liberty talk.

Two positions on the line—the endpoints—are focal. Using them, we can distinguish two different liberty orderings:

**Direct liberty ordering:** The symbol  $>_{DL}$  denotes a direct liberty ranking:

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- $R_1 >_{DL} R_2$  means that  $R_1$  rates higher in direct liberty than  $R_2$ .

**Overall liberty ordering:** The symbol  $>_{OL}$  denotes an overall liberty ranking:

- $R_2 >_{OL} R_1$  means that  $R_2$  rates higher in overall liberty than  $R_1$ .

What concerns us are cases in which  $R_1 >_{DL} R_2$  and  $R_2 >_{OL} R_1$ . In such a case, if we were to follow merely “the liberty principle,” which would we favor,  $R_1$  or  $R_2$ ? Clearly, both direct and overall liberty are important. Both must have a significant place in liberty talk. It won’t do to focus on one to the exclusion of the other.

The coherence of liberty depends critically on there being substantial realms of policy in which direct and overall liberty agree. We believe that it makes sense to assume that the normal tendency is for them to agree. If one is to get from St. Louis to Chicago, sometimes the thing to do is to head south, but mostly it is to head north. Reforms that augment direct liberty have those direct features in their favor.

Overall liberty is the union or sum of the indirect effects and the direct features. Policy reforms that directly augment liberty are usually enduring. That is, it is not only the immediate period that experiences, say, a minimum-wage reduction (or non-increase). The direct features form a part of overall liberty. Thus, disagreement between direct and indirect *facets* does not imply disagreement between direct and overall *liberty*. What poses a problem is disagreement between direct and overall liberty. That *some* of the effects of an action count as minuses for overall liberty does not, in itself, pose a problem. The problem exists only when direct features are positive and yet the minuses *outweigh* all the pluses (or, alternatively, when direct features are negative and yet the pluses outweigh all of the minuses).

Furthermore, even in indirect effects we find other general tendencies for direct and overall liberty to agree. Making a reform that augments direct liberty will tend to affirm liberty in general, and, generally speaking, will help move precedent and norms in the liberal direction. Flipping things around, we may also invoke the intervention dynamic, the idea that one intervention tends to create problems that call forth further interventions, in a dampening cycle resulting in a cluster of interventions. Thus, direct coercions tend to beget indirect coercions. That again suggests that direct and overall liberty tend to agree.

Nonetheless, there is no denying that society and politics are complex, and that disagreement between direct and overall liberty may be quite common. We attempt to delineate the areas in which disagreement is most plausible or likely, and to make the list *exhaustive*. This helps us get a sense of the size of the problem. If it is small, liberals can proceed with

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confidence that in most contexts liberty does not much suffer from such ambiguity, and they may take advantage of the greater concreteness of direct liberty.

The creation of an exhaustive list also helps to inform us of when we need especially to be alert to possible disagreement between direct and overall liberty. When we labor within a context inside the list, we might distinguish between direct and overall liberty and separate claims about each. When laboring outside the list, we can be confident that liberty is *not* so compromised, and use direct liberty with suitable impunity.

Before we move on to discussing areas of disagreement, the reader should realize that the question is one of disagreement between the direct-liberty ordering ( $>_{DL}$ ) and the overall-liberty ordering ( $>_{OL}$ ). The question is *not* about disagreement between the direct-liberty ordering ( $>_{DL}$ ) and the desirability ordering ( $>_D$ ). We have not asserted that the desirability ordering is tracked perfectly by the overall-liberty ordering. In fact, we would reject any axiomatic sort of identity between the desirability ordering and the overall-liberty ordering, though, indeed we think that the former is exceedingly well tracked by the latter. In what follows, the desirability ordering has no role except the one tucked within the liberty principle.

### 4. Arguable Areas of Disagreement

We have thought long and hard about the contexts in which disagreement between direct and overall liberty might well be said to be relatively likely. We've organized the situations into eleven areas:

- (1) Thoreauvian coercion
- (2) Coercive hazard
- (3) Disarming or defusing private coercion
- (4) Controlling pollution
- (5) Restrictions to prevent rip-offs
- (6) Subsidizing against coercive taboos
- (7) Taxing to fund liberal enlightenment
- (8) Coercively tending the moral foundations of liberty
- (9) Logrolling for liberty
- (10) Stabilizing the second-best
- (11) Military actions, etc.

Here are remarks about the list and how we go through it:

- An “area” combines both a kind of context and a kind of action or policy within that context.
- We give examples merely to illustrate the area; we do not try to characterize it fully.

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- Some cases can be interpreted in terms of more than one area. We are primarily concerned that the areas cover the terrain of disagreement.
- The order of (1) through (11) is *not* by importance.
- For each area, the big questions are the following: Is disagreement likely? Are the disagreements important? Is the area extensive? Those same questions re-emerge for the set of areas as a whole. We are interested both in formulating those questions and in giving our rough answers to them. We offer summary judgments with little or no argumentation. Each judgment would be a huge conversation in itself. We do not regard our judgments to be worldly, much less definitive. We are just indicating the contentions to which the discussion might lead.
- Bear in mind that ranking two options is based on the future, not the past. Say that the two options are going to war and not going to war. If one says that going to war augments overall liberty, the augmentation is relative to the alternate future, not the societal conditions at the moment just prior to deciding to go to war.
- Our own personal bents and commitments bias us toward understating problems of disagreement, so reader beware.
- We sidestep the domestic *night watchman state*, that is, government efforts to protect property, enforce voluntary agreements, and punish, redress, and deter violations of burglary, murder, breach of contract, etc. Our concern with direct coercion is with direct *initiations* of coercion. We wish to avoid issues of coercing those who have initiated coercion and related civil liberties issues. Still, one could well argue that police efforts to prevent, deter, or redress burglary, etc. depend on taxation and other tools of direct coercion, and that these are redeemed by indirect augmentations in liberty. One could try to parse the night watchman state in terms of direct and overall liberty. For present purposes, we are content to regard the night watchman state as a non-issue among the major contending ideologies, particularly, classical liberalism/libertarianism, conservatism, and social democracy.

### *a. Thoreauvian coercion*

When in 1960 four college students in Greensboro, North Carolina, staged a sit-in at a Woolworth's lunch counter, were they conforming to the liberty principle? It is unclear whether the sitters were acting in defiance of the private owners, but, turning to a hypothetical of our own creation, suppose that the Woolworth's owner disallowed their protest, that is, suppose that the protesters were trespassing on private property. But their sit-in grew

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enormously and the practice spread widely—surely, much of it against owners’ objections—and helped overturn governments’ coercive Jim Crow laws.<sup>11</sup>

Henry David Thoreau writes, “If the injustice is part of the necessary friction of the machine of government, let it go . . . but if it is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law.”<sup>12</sup> The spirit of such contemplation would seem to apply to cases in which direct and overall liberty disagree. Thoreau might well say that sometimes you should weigh them and act against direct liberty.

The scope for such “Thoreauvian coercion” will depend on many things, but we mention one in particular: Is it coercion to disobey the rules the government sets for *its* property? The 1971 May Day traffic blockade in Washington D.C. resulted in over 14,000 arrests and sent a message to politicians that Americans wanted the war in Vietnam to come immediately to an end. If the government owns the streets and parks, and they order demonstrators to disperse, is it coercion on the part of the demonstrators not to disperse? Are they not treading on the government’s liberty-claims that would be implied by its ownership of those resources? Of course, some will deny such application of the liberal logic, perhaps because “the government” or its “ownership” are without clear definition or the same status we accord to private ownership. It might be argued that government properties should to some extent be regarded as commons. Such considerations would lead us into other gray areas of the grammar of liberty.

*Rough Assessment:* We think Thoreauvian coercion is a minor problem for liberty talk. First, it is about actions by private parties, while the main business of the liberty principle is governmental actions. The liberty maxim is a political maxim. Moreover, while we acknowledge that sometimes Thoreauvian coercion might be effective in advancing liberty overall, and worthwhile, we don’t think such cases are common. Very often it will backfire—crisis and insecurity are liberty’s worst enemies. Moreover, we think that civil disobedience very often works best in “public” places—that is, on government property. Its being government property gives us a basis for drawing a line upon which one might reasonably downgrade the coerciveness of defying the owner’s terms and conditions.

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<sup>11</sup> See the Wikipedia entry for “Greensboro Sit-ins,” accessed online at: [http://en.wikipedia.org/wiki/Greensboro\\_sit-ins](http://en.wikipedia.org/wiki/Greensboro_sit-ins).

<sup>12</sup> Henry David Thoreau, “Civil Disobedience,” in *Walden and Other Writings* by Henry David Thoreau, ed. Joseph Wood Krutch (New York: Bantam Books, 1982), p. 92.

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“Thoreauvian Coercion” implies coercive actions by private parties, as opposed to the official actions of government. All of the remaining areas speak principally of official governmental actions.

### ***b. Coercive hazard***

If taxpayers pay for other people’s gambling losses, people will gamble more. Given the taxpayers’ underwriting of losses, the more people gamble, the more the government takes from taxpayers. Although going to the casino and gambling is, in its direct aspect, purely voluntary, in its overall aspect it would now have a coercive consequence (or facet). Because the government has injected coercive collectivization into the matter, there is then an overall-liberty argument for restricting gambling.

Economists and actuaries use the term “moral hazard” to describe the encouragement that insurance gives to risk taking. We suggest the term “coercive hazard” to describe it when the bailout comes from taxpayers.

Coercive hazard is pervasive in the financial sectors. Federal deposit insurance and government loan guarantees are often explicit, and will encourage “gambling with taxpayers’ money.”<sup>13</sup> Sometimes, the guarantees and taxpayer underwriting are not official, but only expected—people figure that there is a good chance that if things go bad, the government will to some extent bail out people. Similarly, the National Flood Insurance Program, the Small Business Administration, and other federal agencies provide reduced insurance rates and financial assistance for flood damage and disaster relief. Given that “insurance,” there will be a liberty argument in favor of restricting the gambles that the “insured” can take with taxpayer money.

Coercive hazard marks just about any kind of government subsidization. In the case of agricultural subsidies, the arrangements also entail conditions on what the growers may do with their land and produce.<sup>14</sup> The welfare state, in general, creates coercive hazards. For example, it has been suggested that restrictions on direct-to-consumer advertising may be justified because pharmaceutical purchases are subsidized by the federal

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<sup>13</sup> Randall S. Kroszner, “Rethinking Bank Regulation: A Review of the Historical Evidence,” *Journal of Applied Corporate Finance* 11, no. 2 (1998), pp. 48-58.

<sup>14</sup> In some cases, it might make sense to think of such rules emanating not as coercion but as contractual conditions. Suppose participation in a farm subsidy program is a matter of choice; suppose the farmer may decline both the subsidies and the appertaining conditions. In that case, in direct aspects, the conditions on program participants are a matter of voluntary agreement; they are not reductions in direct liberty. However, probably in most cases the restrictions are not a matter of voluntary agreement, but apply generally.

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government.<sup>15</sup> If being within the polity entitles one to tax-financed resources, there is a liberty argument against letting outsiders in. Some say immigration should not be liberalized because immigrants consume welfare-state benefits. Similarly, governments once practiced forced sterilization.

The Drug Enforcement Agency writes on its website: “Legalization advocates fail to note the skyrocketing social and welfare costs . . . that would accompany outright legalization of drugs.”<sup>16</sup> People will become drug dependent and turn to the taxpayer for welfare and health care. Similarly, an argument for seat-belt laws and helmet laws is that the costs of treating accident victims have been socialized to a significant extent.

*Rough Assessment:* We think coercive hazard is one of the most important areas of possible disagreement between direct and overall liberty. We also find it one of the most difficult to assess.

Coercive hazard plays a role in certain areas of activities. That role may be significant in the banking and finance sectors where, either officially or *de facto*, taxpayers are on the hook. Those areas are large ones, but there are not many of them. In terms of the “areas” of public policy, few are significantly beset by coercive hazard.

In discussing immigration, David Friedman makes a broad point that liberalizing immigration would create *pluses* for overall liberty in allowing people to avail themselves of tax-funded benefits, since *it will reduce support for collectivist funding*.<sup>17</sup>

Here we have spoken as though the welfare state is a given. But in public discourse people might just as well evaluate the welfare state, and take immigration, etc., as given. In that light, coercive hazard makes for an argument against the welfare state and other forms of taxpayer underwriting. Friedman’s point is difficult to evaluate, but we believe that it has merit, and perhaps its influence will grow in the future. It applies to all cases of coercive hazard, because they all are predicated on taxpayer provision or underwriting. It must be admitted, however, that the connection between coercive hazard

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<sup>15</sup> Patricia M. Danzon and Eric L. Keuffel, “Regulation of the Pharmaceutical-Biotechnology Industry,” paper prepared for the NBER Conference on Regulation, September 2005; paper revised September 12, 2007, p. 76, accessed online at: [http://www.nber.org/books\\_in\\_progress/econ-reg/danzon-keuffel9-14-07.pdf](http://www.nber.org/books_in_progress/econ-reg/danzon-keuffel9-14-07.pdf).

<sup>16</sup> Drug Enforcement Agency, “Speaking Out Against Drug Legalization, Fact 5,” accessed online at: <http://www.justice.gov/dea/demand/speakout/05so.htm>.

<sup>17</sup> David Friedman, “Welfare and Immigration: The Flip Side of the Argument,” Ideas Blog, April 1, 2006.

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and scaling back taxpayer provision is much weaker than the connection between coercive hazard and taking from the taxpayer.

Immigrants will draw on government resources, but at the same time they will pay into the tax pool, and to that extent they are displacing the burden of others or financing much of their own benefits. The taxation part of the indirect effects on liberty is an empirical issue. A different facet of the issue concerns the possibility that immigrants support illiberal politics; that concern is different from the coercive-hazard point and is raised separately below.

In the case of drug liberalization and similar issues, we believe even more strongly that the pluses for overall liberty far outweigh the minuses. In general, when it comes to “the social safety net,” we are inclined to say that the role of coercive hazard is not nearly significant enough to tip the scales of overall liberty.

Finally, the connection between subsidization and taxation is inexact. Sometimes, in the bowels of government decision, the implication of a subsidy is not that taxpayers have more of their property taken from them, but that some other activity goes without corresponding government funding. To some extent, spending and taxing should be separated, and inasmuch as they are separate, then spending isn't a direct-liberty issue at all.

### *c. Disarming or defusing private coercion*

Very often the ownership of weaponry or potential weaponry poses no imminent danger to anyone's property. Laws that forbid the ownership or commerce of such wares are clearly coercive, in the direct sense. But such restrictions may be pluses for overall liberty, as they may disarm or defuse private coercion—as well as some forms of foreign “public” coercion, or terrorism and sabotage. The issue ranges from nuclear bombs to switch-blade knives. Gun control is typically justified chiefly by claims that it reduces crime.

Other forms of coercion might also be included here. For example, during an urban riot, imposing a curfew might “defuse” an explosive situation that would result in widespread looting and other forms of private coercion. Thomas Schelling famously explains the dynamics and hazards of such tipping points.<sup>18</sup> Henry Sidgwick states the conundrum as follows: “[I]t may be fairly said that the end of government is to promote liberty, so far as governmental coercion prevents worse coercion by private individuals.”<sup>19</sup>

*Rough Assessment:* Regarding weapons and arms, first, we think that the realm of such controls is again rather limited. Second, weapons are often

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<sup>18</sup> Thomas C. Schelling, *Micromotives and Macrobehavior* (New York: Norton, 1978).

<sup>19</sup> Henry Sidgwick, *The Elements of Politics* (New York: Macmillan and Co. 1897), p. 46.

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means of preventing private coercion—“more guns, less crime.”<sup>20</sup> Third, it should be recognized that weapons are also means of staying government coercion—that, arguably, was the prime impetus of the Second Amendment. If the government is the only player in society with any weapons to speak of, it will be less constrained in its belligerence and coerciveness. Polycentric weaponry is a form of check and balances. Furthermore, the government monopolization on weaponry lends itself to a social ethos of monocentric power and authority—of government as a kind of overlord. When it comes to means of mass destruction, we agree that direct and overall liberty often disagree, and that such means should be controlled. But we are uncertain about how far such controls should go. Maybe restrictions on machine guns and bazookas augment overall liberty, and are good. However, at the same time we wonder: If people were allowed to have machine guns and bazookas, would drug prohibition be as extreme as it is? Would nearly so many people be locked up? We think that the disagreements between direct and overall liberty in this area tend to be overestimated.

### ***d. Controlling pollution***

In some ways, a tailpipe spewing pollutants is like a shotgun spewing pellets. Restrictions on activities and technologies that have the potential to generate pollution probably ought to be deemed coercive, and the would-be pollution might also be deemed coercive. Thus again, direct coercion might augment overall liberty.

*Rough Assessment:* We here certainly concede the potential disagreement between direct and overall liberty, and regard pollution to be one of the most significant areas of disagreement. But again we see some ways by which its importance might be discounted. First, again the scope of such controls is rather limited—the main issues are air and water pollution and, apart from global-warming issues, the problem is primarily regional. Second, we are not afraid to reveal that we are uncertain that coercive measures, as opposed to tort remedies and the development of voluntary norms of neighborliness, are so critical to the long-term abatement of pollution. Getting government intelligently to improve matters is a free-rider problem,<sup>21</sup> and if we believe that that free-rider problem can tolerably be solved, maybe the ones involving pollution can likewise tolerably be solved. Third, the issues of whether pollution is coercive and at what point it becomes

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<sup>20</sup> John R. Lott, *More Guns, Less Crime: Understanding Crime and Gun Control Laws* (Chicago, IL: University of Chicago Press, 2000).

<sup>21</sup> Gordon Tullock, “Public Decisions as Public Goods,” *Journal of Political Economy* 79, no. 4 (1971), pp. 913-18.

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coercive are gray areas. Does the coercion entail incursions on private property (say, my lungs) or government property (say, the airshed)?

### ***e. Restrictions to prevent rip-offs***

Adam Smith writes, “[T]hose exertions of the natural liberty of the few individuals, which might endanger the security of the whole society, are, and ought to be, restrained by the laws of all governments.”<sup>22</sup> Smith states this in the context of his endorsing restrictions against banks issuing bank notes denominated in small amounts. His argument, it seems, is that if banks were allowed to issue notes in small denominations, each note would be so insignificant in amount that people would not bother to check their integrity, and “beggarly banks” would rip off people by issuing such notes, having them accepted at face value, and then disappearing into the night. That restriction on issuing notes of small denominations was, according to Smith’s argument, a kind of consumer-protection restriction. Smith endorses it as augmenting overall liberty—it protects people from being ripped off by scam artists.

Consumer protection, workplace safety, and labor restrictions are often justified in these terms. Sometimes, defenders add that the restrictions are especially necessary because the court system is broken.

*Rough Assessment:* Adam Smith got it wrong on small-denomination notes. There is a great deal of research on restrictive “consumer protection” laws.<sup>23</sup> We believe that, even with the court system as it is in the United States, there are strong, self-correcting mechanisms working against the perpetration of commercial actions that would constitute coercion. Moreover, we doubt that the “consumer-protection” restrictions much help to reduce any such coercion—they might even have the opposite effect, for example, by dampening competition among the privileged services and by prospering unlicensed, illicit practices. We believe that the direct coercion of such policies is by no means redeemed by any indirect pluses for overall liberty.

### ***f. Subsidizing against coercive taboos***

Sometimes the society in general has values that are pernicious to liberty. For example, in our view, some attitudes about stem-cell research, procreation technologies, abortion, sexual practices, and drug use lend themselves to coercive government actions. The attitudes give rise to extreme taboos—taboos that say that the activity is not only a vice, but the proper object of coercive bans and restrictions. In the ecology of cultural norms, the government is an incomparably large player (or set of players), and it is

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<sup>22</sup> Smith, *Wealth of Nations*, II.ii.94, p. 324.

<sup>23</sup> A brief treatment is offered by Daniel B. Klein, “Consumer Protection,” *The Concise Encyclopedia of Economics*, ed. D. R. Henderson, accessed online at: <http://www.econlib.org/library/Enc/ConsumerProtection.html>.

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possible that it can do things that will weaken such values. In particular, government may subsidize the tabooed activities, and taxation is coercive.

Allowing stem-cell research is in line with liberty, but much of the public is leery of such research. Government subsidization of stem-cell research could help to overcome cultural resistance. Maybe the shortest path to liberal policy on stem-cell research begins with some government subsidization, as a way of validating the activity, building constituencies in its favor, and getting people used to it.

*Rough assessment:* We think that this problem is rather minor. First, the types of issues that relate to the possibility seem to be limited to certain matters that some regard as sacred, in literally religious terms. The list is not very long, it seems to us.

Second, while we recognize that subsidizing the “sinful” activities may be effective in breaking down the restrictive attitudes, it is not clear that subsidization is particularly crucial. In fact, the taboos are usually partly the result of government restrictions, as with sex and drugs, and simply repealing or relaxing the restrictions may be a better way to weaken the taboos. If the impetus to subsidize a tabooed activity is to get on a path toward liberalization, then the overall-liberty benefit of subsidizing, as compared to not subsidizing, is likely to be small or even negative, because that impetus may be redirected toward a more natural alternative course of action: simply relaxing restrictions, which is to be the purported fruit of the subsidization in any case. Perhaps government subsidization of marijuana consumption would augment overall liberty, but probably not, because if there is an impetus to do that, it can likely instead be redirected toward liberalizing restrictions on marijuana. And even if such liberalization is not presently feasible, other actions to project a liberal attitude, such as committee reports and political messages, may be feasible. We believe that fiercely illiberal attitudes are very often substantially “stoked” by illiberal postures and policies of government. In such cases, if the government is inclined to move in the opposite direction, rather than subsidizing the activity that has become tabooed, the government can simply cool it. That means that the “not subsidizing” choice will entail promise in terms of overall liberty, because the promise of actions to “cool the stoking” continues to lie ahead.

Third, subsidization can put us on a path that leads ultimately to a future with less liberty than would be the case if we remained patient. This is because the subsidization will bring governmentalization—supervision, certifications, privileges, special interests, and other things—which may end up restricting matters more than they would have become, if only with some delay.

Fourth, if some subsidization and official recognition of tabooed activities is good for overall liberty, in that event it is especially likely that they simply are not that big a violation of liberty. If the federal government

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devotes a billion dollars to subsidizing a tabooed activity, that would work out to be a small incursion on the average taxpayer. And, again, the connection between subsidization and coercive taking is inexact.

### ***g. Taxing to fund liberal enlightenment***

The previous area concerned the subsidization of tabooed activities for the sake of cultural side effects. This one concerns the subsidization of cultural activities per se. The issue is one of initiating tax-funded efforts to teach, instill, and propagate liberal ideas and attitudes. Such efforts could take the form of schooling at any level, as well as seminars, conferences, exhibits, scholarship, and media products.

Here it is important to distinguish between arguing over “the curriculum” and initiating a new taking from the taxpayer. Arguing over the curriculum of an activity or institution that, in any case, is going to exist and with taxpayer support is not a liberty issue. It is only the initiation or elimination of takings that is at issue.

*Rough assessment:* During the eighteenth and nineteenth centuries, many liberals hoped that the right curriculum would serve to advance liberal enlightenment. The hope led many to favor the expansion of government schooling. In hindsight, quite arguably, the hope was misplaced. The basis for an institution’s financing tends to affect the values and philosophy of the institution. We recognize that occasionally the government pays the piper and calls for a liberal tune, but the tendency seems to be for the government to call for other tunes. Any governmentally instituted project in liberal edification is susceptible to redirection. Thus, we are doubtful that in these matters direct and overall liberty are likely to disagree. Liberal edification is probably best left to civil society and liberal means. Furthermore, this whole area concerns only certain cultural sectors, notably education. Finally, the point made previously about the inexact connection between spending and taxation applies.

### ***h. Coercively tending the moral foundations of liberty***

Somewhat related to the idea of funding liberal enlightenment is the idea that people have deeply sinful tendencies, and that higher values and the spirit of decency, fairness, and justice can easily be eroded and dissipated if people have too much freedom. The idea is that too much liberty will lead to licentiousness and dissoluteness, and an erosion of liberal politics. Conservatives, in particular, might invoke such ideas in supporting restrictions on sex, drugs, gambling, speech, and so on.<sup>24</sup> The idea might also be invoked for mandatory schooling and the subsidization and control, if not

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<sup>24</sup> For example, see Brent L. Bozell, “Freedom or Virtue?” *National Review*, September 1, 1962; reprinted in *Freedom and Virtue: The Conservative/Libertarian Debate*, ed. G. W. Carey (Wilmington, DE: ISI, 1998).

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government ownership and operation, of schools regardless of whether the curriculum is particularly freedom-oriented. The idea is that a culture that appreciates liberty is a fragile and vulnerable thing, that too much direct liberty will ultimately undercut the moral foundations that sustain overall liberty. Another matter that would seem to fit under the present heading is the concern that immigrants will eventually become citizens and voters and support illiberal politics.

*Rough Assessment:* Regarding the conservative concerns about vice, we just don't buy this argument, at least not in the context of modern, relatively liberal societies like the United States. The mechanisms by which allowing people to engage in "vice" leads them to cherish liberty *less than they otherwise would* never seem to be explained well. We doubt that they can be defended well. We are more inclined to believe that liberty, dignity, and individual responsibility are of a piece, and that restricting liberty in sex, drugs, and culture tends to reduce, not augment, overall liberty. Every incursion on liberty makes it less focal, and affirmations of liberty even in activities that many find distasteful are especially important in making it more focal. Such are the affirmations of liberalism as a kind of civic religion. That such a view is compatible with conservatism is argued by Frank Meyer.<sup>25</sup>

As for the concern about immigrants becoming citizens and voters who support illiberal politics, we acknowledge that the concern has some merit. We are unsure of its weightiness. Yet, we tend to reject the claim that the point has much weight as regards the issue of immigration policy. Without going into the difficult factors of the issue, we wish only to note one key point: the liberal perspective is not nativistic. Immigrants from Mexico might act as conduits by which relatively liberal ideas and sensibilities permeate Mexico. While one must acknowledge that *some* of the indirect effects of liberalizing immigration are minuses for overall liberty, we are inclined to think that those facets are clearly outweighed by other facets that are pluses for overall liberty. Whether the pluses would continue to outweigh the minuses if immigration were liberalized drastically, or if the borders were thrown open, might be another story.

### *i. Logrolling for liberty*

Politics makes for strange bundles. In politics, a liberal politician might find it effective to support a coercive reform to gain support for a more significant liberal reform. If the first reform is kept separate, it might be the case that, as compared to non-action, his supporting it reduces direct liberty but augments overall liberty. Of course, in such a case, if the two reforms are

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<sup>25</sup> Frank S. Meyer, *In Defense of Freedom and Related Essays*, ed. W. C. Dennis (Indianapolis, IN: Liberty Fund, 1996).

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treated as a single complex reform, then it augments both direct and overall liberty.

Logrolling is the idea that if I help you roll the logs off your field, you'll help me roll the logs off my field. Implicit logrolling occurs when several measures are strategically bundled into a single package, and we mutually support the package, even though we don't like parts of it.<sup>26</sup> If we disassemble the package and consider a part in isolation, we may encounter disagreement between direct and overall liberty.

The Civil Rights Act of 1964 had two primary features: the banning of voluntary discrimination and the extinguishing of forced discrimination. The first feature reduced direct liberty while the second augmented it. If, hypothetically, we imagined separate voting on the two features, it might be that the second could not be had without making a deal to support the first. In that case, supporting the first may be an instance of taking an action that reduces direct but augments overall liberty. In that sense, bundles with mixed items may well represent instances of disagreement between direct and overall liberty.

Party politics throws up broad, vague bundles. Fortunately, the liberal does not have to choose one or the other; instead, he may steer clear of politics. However, if one is to be a player in politics or the year-by-year political culture, he may need to play ball with such vulgarities. In a sense, he may have to logroll for liberty.

*Rough assessment:* The vortex of politics is the antithesis of individuation. It is the antithesis of clarity and accountability. Indeed, the agenda of liberalism is to degovernmentalize society as much as is practicable. The dilemma is that most any move to degovernmentalize society must gain political validation.

In highly political contexts, all manner of trade-offs may arise. We grant that pretending to follow the grammar of direct liberty is not an option. But no grammar is viable in politics. The failure of direct liberty in politics is as much a statement about politics as it is about direct liberty.

Liberalism is a political philosophy and sensibility, not a political party. Just a step removed from the vortex of power, or the daily news report, but sometimes even within it, one is ready to formulate issues so as to separate the parts of the bundle. Ordinary people are quite capable of intellectualizing issues to the extent of examining an issue apart from what else is in the bundle; college courses do so routinely. Once matters are unbundled and the possible vagaries of politics are removed, this hazard of

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<sup>26</sup> Gordon Tullock, *The Vote Motive* (London: Institute of Economic Affairs, 2006), p. 82.

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disagreement between direct and overall liberty recedes. Although court intellectuals and party hacks might be unable to unbundle the bundles, others have much less problem doing so.

The “buttons” we consider in applying the liberty principle are formulated to suit our purposes. Our purposes depend on who we are and what we are up to. Provided that our discussion is taking place outside the vortex of political power, we can quite likely formulate the “buttons” such that logrolling for liberty scarcely arises. Liberal politicians may occasionally find themselves in circumstances that call for logrolling for liberty, but those circumstances are not of primary concern in the forms of discourse that principally concern us here.

### *j. Stabilizing the second best*

[T]he political economist . . . says with good reason that it is both absurd and mischievous for government to undertake to supply the working-classes with employment. . . . [A]nd yet . . . [i]t may be right for a government to supply the employment, when the people are so ignorant as to demand it, and when, at the same time, they are so powerful as to plunge the country into anarchy if the demand is refused.

—Henry Thomas Buckle<sup>27</sup>

Logrolling for liberty considered political machinations within a stable environment. Here we turn to the unstable. Moves that reduce direct liberty might stave off regime changes that would reduce overall liberty.

Above we gave the example in which support for an increase in the minimum wage appeases voters and keeps them from voting in less liberal politicians. The example may not ring true, but the idea is familiar to liberal politicians—failing to appease public foolishness may lead to retaliation and backlash. If liberal politicians try to achieve the “first best,” they may fail to stabilize the second best, and end up with the third best. In the classical liberal book entitled *The Guide to Reform*, Johnny Munkhammar writes that “the first aim for any country must be to avoid counter-reforms that actually worsen the situation and are motivated by populist, symbolic or other short-sighted reasons.”<sup>28</sup>

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<sup>27</sup> Henry Thomas Buckle, *Introduction to the History of Civilization in England* (London: George Routledge & Sons, 1904), p. 807.

<sup>28</sup> Johnny Munkhammar, *The Guide to Reform: How Policymakers Can Pursue Real Change, Achieve Great Results, and Win Re-Elections* (Stockholm: Timbro Publishers, 2007), p. 113.

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We live in a stable liberal democratic polity, and the present discourse is situated accordingly. In such polities, using the term “instability” is overly dramatic. We mean simply the electoral tides that may bring new balances between the parties. At the level of the individual politician, it becomes an issue of his or her being better for liberty than the alternative.

Besides elections, another manifestation of “stabilizing the second best” occurs when one government agency is called upon to “fix” a problem, and the agency people—let us say relatively liberal people—know that if its interventionist “fix” is not deemed sufficient, then a less liberal group of policymakers, such as Congress, will intervene. The agency staffers might then reduce direct liberty, because if they didn’t the blows to overall liberty would be even worse.

In more troubled polities, “instability” might mean more than electoral tides or contests over bureaucratic control. Regime change might be violent and disastrous. This is especially possible in polities with deep ethnic or religious tensions. Building on the “tipping” insights of Thomas Schelling, Timur Kuran explains that small changes can bring sudden and sweeping political change.<sup>29</sup>

In his biography of Schelling, Robert Dodge suggests that Schelling’s thinking quite directly influenced political developments in Singapore. Ethnic and religious divisions threatened the stability of its political order: “The Singapore approach was to control the movement of population groups through public housing.”<sup>30</sup>

Sometimes it is suggested that the stability of even the most stable regimes was achieved by artful political maneuvers. For example, a theme of Robert Skidelsky’s biography of John Maynard Keynes is that Keynes adapted the liberal system in Britain so as to salvage what could be salvaged while appeasing and staving off more radical change.<sup>31</sup> For centuries up to perhaps World War II, apprehensions of radical upending have loomed in the background of British political thought. As for the United States, again, major shifts toward interventionism have been interpreted as having neutralized

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<sup>29</sup> Timur Kuran, *Private Truths, Public Lies: The Social Consequences of Preference Falsification* (Cambridge, MA: Harvard University Press, 1995).

<sup>30</sup> Robert Dodge, *The Strategist: The Life and Times of Thomas Schelling* (Hollis, NH: Hollis Publishing, 2006), p. 143.

<sup>31</sup> Robert Skidelsky, *John Maynard Keynes, 1883-1946: Economist, Philosopher, Statesman* (New York: Penguin Books, 2005).

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more ominous political hazards.<sup>32</sup> In moments of political instability, acting to reduce direct liberty might augment overall liberty.

*Rough Assessment:* Within a stable liberal-democratic polity, the relevance of “stabilizing the second best” parallels some of the remarks we made about logrolling for liberty and about immigration. The liberal conversation about policy and the political order largely abstracts from the strategic and adventitious factors about getting or keeping the relatively liberal politician in office. That abstraction is certainly defensible. On the other hand, we admit that liberalism’s more abstract teachings must connect sensibly with practical politics.

In more unstable polities, where norms and values are much further from liberal sensibilities, the need to compromise direct liberty to stabilize the second best is more relevant. One thing to keep in mind, however, is that volatile situations are volatile. The rulers of Singapore may have intelligently manipulated the situation, but very often the manipulations themselves trigger unintended consequences—Singapore may be the exception that proves the rule. Pushing people around or restricting their freedom often creates grievances and backlash. Maybe the best way to advance liberalism is to affirm the norm that governmental power is not to be used to push people around. Actions that attenuate that norm, then, hurt liberty directly and indirectly. The more that people expect that power will be used to manipulate, the more that each interest feels impelled to contend for power, if only to guard itself against being manipulated.

### ***k. Military actions, etc.***

Without the efforts of the Allied Powers to destroy the Nazi regime, it may have rolled through Europe and expanded its horrors. Much Allied action reduced direct liberty and augmented overall liberty. The principal interest of the Allies was their own liberty and well-being. It was a matter of national defense. But smashing the Nazi regime may also have been good for overall liberty in Germany.

The Korean War presumably augmented overall liberty in South Korea, and maybe overall liberty universally. But the combatants posed no real threat to liberty in the United States. If one takes a universalist view of overall liberty, as we are inclined to do, one country’s going to war may augment overall liberty even though there is no threat to liberty within that country—as some might argue about the U.S. invasion of Grenada or the Vietnamese toppling of Pol Pot in Cambodia.

Merely toppling a pernicious regime does not necessarily rid the place of perniciousness. That’s why some people believe in “moving in” and

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<sup>32</sup> N. Gordon Levin, *Woodrow Wilson and World Politics: America’s Response to War and Revolution* (New York: Oxford University Press, 1968).

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cultivating better institutions—sometimes called imperialism or nation-building. Another variant is civil war. Many would argue, including some libertarians such as John Majewski, that Lincoln’s war augmented overall liberty, even though it reduced direct liberty.<sup>33</sup>

A related form of threat is terrorism. With such policies as the Patriot Act, cyber security measures, detention of suspected terrorists, and the nationalization of airport security, as well as its extensive actions abroad, the U.S. government has initiated much direct coercion on the grounds of preventing worse coercion by terrorists and would-be terrorists.

*Rough Assessment:* These issues are huge and problematic. Obviously, the possibility for disagreement between direct and overall liberty looms large here. Like David Friedman, we believe that there is no way for liberals to deny this possibility, based on a few simple arguments or principles.<sup>34</sup>

Liberals can argue that military affairs and geopolitics fall within a fairly well defined and separable realm of activities. So far as domestic policy goes, these threats and foreign affairs need not upset the liberty principle much, other than the taxation they require.

Christopher Coyne and Steve Davies have offered a twenty-point overview of the common public bads of empire, nation-building, and the like.<sup>35</sup> In our judgment, the characteristic judgment of classical liberalism and modern libertarianism—a strong presumption against militarism—is probably the right one for overall liberty. But there’s no denying that in certain circumstances military action can be both a dreadful reduction in direct liberty and a huge augmentation in overall liberty.

### 5. Taking Stock

In carrying out the present inquiry, our primary goal has been to make the list exhaustive. Please let us know of any cases that do not fit into one of the areas. Are the areas of possible disagreement extensive? Which areas pose the most serious problems? Do they undermine the coherence of liberty?

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<sup>33</sup> John Majewski, *Modernizing a Slave Economy: The Economic Vision of the Confederate Nation* (Chapel Hill, NC: University of North Carolina Press, 2009).

<sup>34</sup> David Friedman, *Machinery of Freedom*, pp. 211-12.

<sup>35</sup> Christopher J. Coyne and Steve Davies, “Empire: Public Goods and Bads,” *Econ Journal Watch* 4, no. 1 (2007), pp. 11-15.

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Many will disagree with us, but we think that several of the listed areas are simply not very significant. We reject the contention of significant disagreement between direct and overall liberty in the areas of *restrictions to prevent rip-offs* and *coercively tending the moral foundations of liberty*. The area of *Thoreauvian coercion* does not speak to the issue of government policy. We are inclined to put those three areas aside, though we acknowledge that the reasons elaborated here for that attitude as regards immigration are especially glancing.

Several of the areas, in our opinion, pose at most only very minor problems. *Taxing to fund liberal enlightenment* is not a problem that arises much—unfortunately, perhaps. Furthermore, we doubt that disagreement between direct and overall liberty is strong or likely in that area. Likewise, *subsidizing against coercive taboos* seems limited in scope and disagreement seems unlikely and weak at best.

Two areas are largely about the art of politics: *logrolling for liberty* and *stabilizing the second best*. They will be significant to the liberal politico, and we admit that liberal philosophy should not be entirely divorced from the art of politics. The art of politics is so situational and adventitious, though, that if it destroys liberal philosophy, *it likewise destroys all political philosophy*. We think that political philosophy can and should substantially be separated from the art of politics.

*Disarming or defusing private coercion* has solid reasoning behind it, but the activities it touches are not extensive—mostly involving weaponry and means of destruction. Moreover, the disagreement between direct and overall liberty is controversial and hard to assess. We think that, in terms of overall liberty, policy in the United States currently errs on the side of being too restrictive.

That leaves the areas of *coercive hazard*, *controlling pollution*, and *military actions, etc.* In our view, these are the most significant areas of potential disagreement between direct and overall liberty.

In sum, we think that the total area and severity of disagreement between direct and overall liberty are troublesome, but not *that* troublesome. For the most part, direct and overall liberty agree. And several of the troublesome areas are pretty well defined and can be understood and treated as somewhat special—of course, this is what we see in policy and political discourse concerning coercive hazard, pollution, and military affairs. That leaves plenty of terrain where liberty can mean simply direct liberty, with a strong presumption that that also covers overall liberty.

### 6. Handling Limitations

Liberal ideas and arguments are strengthened by laying their limitations on the table. The liberty maxim does not crumble just because there are limitations. Simon Newcomb suggests fifteen maxims for

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economics, but he is keen to point out that they are not airtight: “The student should be encouraged to find or even to imagine conditions under which the maxims would fail. In doing this, the vice he should be taught to avoid is that of concluding that because he can imagine a state of things under which a maxim would fail, therefore it is worthless.”<sup>36</sup>

The possibility that direct and overall liberty disagree should not send classical liberals/libertarians to try to find ways around the problem. Instead, they should embrace the ambiguity as part of the movement. Accepting and dealing with limitations can help create a more complete, relevant, and inviting movement for liberty without jeopardizing the core principles of the movement.

The ambiguities that arise from disagreement between direct and overall liberty are not the only kind of limitation that the liberty principle faces. The broad terrain of all limitations entails also other kinds of ambiguity, undesirability, incompleteness, a failure to serve all values, and a lack of a philosophical foundation.<sup>37</sup> In our view, however, the liberty principle remains focal and worthy.

Consider the competition: “Equality of opportunity,” “equality,” “solidarity,” “social justice,” “public opinion,” “the public will,” “the public interest,” “social welfare.” They are remarkable for their vagueness. If liberty makes for a grammar with holes and gray areas, the others make for no grammar whatsoever. This is not to say that they are unworthy as ideas or terms, only that they do not well serve to provide core meaning and structure to political philosophies and movements. Any philosophy or movement that invokes them as defining ideas will be plagued with limitations.<sup>38</sup>

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<sup>36</sup> Newcomb, “The Problem of Economic Education,” p. 399.

<sup>37</sup> Klein, “Mere Libertarianism.”

<sup>38</sup> For valuable comments on earlier versions of this article, we thank Niclas Berggren and Tyler Cowen.

# Violence and Postmodernism: A Conceptual Analysis

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## 1. Introduction

The term “violence” is used by many postmodernists to refer to a wide array of phenomena. Deleuze, for example, describes as violence the relation between Plato’s Forms and the concrete, changing entities of our world.<sup>1</sup> Kristeva refers to the separation of the mother’s body and infant’s body at birth as violent.<sup>2</sup> Baudrillard takes “the supremacy of technical efficiency and positivity, total organization, integral circulation, and the equivalence of all exchanges” of the global media and information culture to be violence.<sup>3</sup> In a section of his *Of Grammatology*, entitled “The Violence of the Letter,” Derrida argues that there is “the violence of the arche-writing, the violence of the difference, of classification, and of the system of appellation.”<sup>4</sup> According to Derrida, the conditions that allow for the conceptualization of everything, including violence, are themselves violent. (See also Derrida’s *Writing and Difference*, where he writes that speech must have an element of violence to it in order to be meaningful.<sup>5</sup>) Judith Butler agrees with him and suggests that concealing the violence that she and Derrida find in

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<sup>1</sup> Gilles Deleuze, *Expressionism in Philosophy: Spinoza*, trans. M. Joughin (New York: Zone, 1990), pp. 169-70.

<sup>2</sup> Julia Kristeva, *Powers of Horror: An Essay on Abjection*, trans. L. S. Roudiez (New York: Columbia University Press, 1982), pp. 9-10.

<sup>3</sup> Jean Baudrillard, “The Violence of the Global,” trans. F. Debrix, *CTheory*, May 20, 2003, accessed online at: <http://www.ctheory.net/articles.aspx?id=385#bio2>.

<sup>4</sup> Jacques Derrida, *Of Grammatology*, trans. G. Chakravorty Spivak (Baltimore, MD: Johns Hopkins University Press, 1974), p. 110.

<sup>5</sup> Jacques Derrida, *Writing and Difference*, trans. A. Bass (Chicago, IL: University of Chicago Press, 1978), pp. 147-48.

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conceptualization is itself violence.<sup>6</sup> Monique Wittig writes that there was violence at the core of her effort to find a new form of writing because it aims at shocking the reader.<sup>7</sup> And Lyotard asserts that since his book *L'Économie Libidinale* does not lend itself to a dialogue between author and reader, it “perpetrates a kind of violence.”<sup>8</sup> Other examples abound.

I will argue here that such sweeping usages of the term “violence” are highly problematic. I suggest that they overstretch the meaning and connotations of the term and thereby distort it. Moreover, they dull the sensitivity to moral distinctions. Such usages also have a propaganda-like effect on some people’s thinking and weaken their ability to weigh carefully the advantages and disadvantages of the phenomena being referred to. Perhaps some phenomena that have not been traditionally considered violent should be described as such, but this should be the product of careful thought and argumentation rather than what sometimes seems to be offhanded assertion.

### 2. Characteristic Features of Violence

It is probably impossible to present an exhaustive and exclusive, clear-cut definition of violence.<sup>9</sup> Hence, I will present here merely some characteristics typical of phenomena usually referred to as violent. These qualities should not be understood as necessary or sufficient conditions of violence; not all need appear in any instance of violence. However, they are all typical of violence.

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<sup>6</sup> Judith Butler, “A Note on Performative Acts of Violence,” *Cardozo Law Review* 13, no. 1 (1991), p. 1304.

<sup>7</sup> Monique Wittig, “Some Remarks on *The Lesbian Body*,” tr. N. Shaktini, in *On Monique Wittig: Theoretical, Political, and Literary Essays*, ed. N. Shaktini (Urbana, IL: University of Illinois Press, 2005), p. 45.

<sup>8</sup> Jean-François Lyotard and Jean-Loup Thébaud, *Just Gaming*, trans. W. Godzich (Minneapolis, MN: University of Minnesota Press, 1985), p. 4.

<sup>9</sup> For some suggestions and discussions of such definitions, many of which conflict with each other, see, e.g., Eric R. Brady, *Coping with Violent Behavior* (Harlow, UK: Longman, 1993), p. 2; Elizabeth Stanko, “Violence,” in *The Sage Dictionary of Criminology*, ed. E. McLaughlin and J. Muncie (London: Sage, 2001), pp. 316-17; L. B. Curzon, “Violence,” in *Dictionary of Law*, 6th ed. (Harlow, UK: Pearson, 2002), pp. 444-45; Giuliano Pontara, “The Concept of Violence,” *Journal of Peace Research* 15, no. 1 (1978), pp. 20 and 27; Dean G. Kilpatrick, “What Is Violence Against Women? Defining and Measuring the Problem,” *Journal of Interpersonal Violence* 19, no. 11 (2004), pp. 1209-34.

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We see violence as a type of aggression. Not all aggressive behavior is violent (sarcastic comments, or passive-aggressive silence, or some kinds of gossip may be aggressive without being violent), but we would not usually typify behavior as violent if we do not think it is aggressive.

We also tend to take violence to be predominantly physical. When we overhear, for example, someone saying, “I do not want to go there; it is a violent place” or “John behaved violently again,” we usually visualize or assume physical rather than verbal behaviors. Of course, we do sometimes use the terms “verbal violence” or “psychological violence,” but the very need to precede “violence” with “verbal” or “psychological” suggests that we ordinarily take violence to be physical.

Violence is frequently thought of also as unruly, as conduct that oversteps permitted limits. Most of us will not describe an organized, official, and supervised judo competition as violent, although the parties to the match do push, pull, and throw each other to the ground. However, were we to be told that one of the competitors in such an organized judo match started to behave violently, we would assume that that competitor (perhaps overcome by frustration or rage) started to push and pull the other competitor in *contravention* of the rules. This feature of violence has to do with another of its characteristics: the legal and social norms are such that, for most of us, the use of violence is forbidden in most circumstances. Except for rare cases of self-defense in extreme situations, those of us who resort to violence break both the law and, in many circles, the social code. Max Weber famously says that the state keeps the monopoly of the use of legitimate violence to itself.<sup>10</sup> Thus, state and society prohibit the use of violence by almost all people, and even those specifically authorized by the state to employ violence, such as the police and military, are restricted in terms of permitted circumstances, objects, types, and degrees of violence that they may use.

We also typically take violence to be harmful. When we hear that violence has occurred, we often assume that some harm transpired or at least was likely to transpire. Thus, if we were to be informed that violence occurred at a certain pub last night, we would assume that some property was damaged or that some people were hurt. Were we to be told that violence occurred at that pub but that no damage occurred, it would be to our surprise; we would likely inquire by what lucky chance damage was averted or perhaps even doubt that what transpired was indeed violence. Some of the typical harms that violence generates are, of course, pain (hence, we frequently say that people *suffer* violence), disability, death, and much less seriously but very commonly, destruction of property.

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<sup>10</sup> Max Weber, *Politik als Beruf [Politics as a Vocation]* (München and Leipzig: Verlag von Duncker und Humboldt, 1926), p. 8.

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Violence also has strong connotations of coerciveness and restriction of autonomy. People do not like to experience violence inflicted on them, and those who do suffer violence typically undergo the experience against their will. Violence impinges on people's autonomy not only when it is actual, but also when it is potential, for it can be used as a threat or sanction that impels people to behave in ways they do not wish to act. The threat of violence has frequently been employed to enslave, humiliate, and oppress people. The link between violence and coerciveness is also apparent in the reluctance of some to describe fully consensual sadomasochistic sexual relations as violent; and some of those who do characterize such relations as violent often hold them not to be genuinely consensual.

Violence is also frequently taken to be an *intentional* infliction of harm. A person who is insufficiently cautious while carrying a ladder and thus unintentionally harms—even severely—another person is not usually described as having behaved violently.

We usually have a strong negative emotional reaction to violence; we often consider it a serious and highly condemnable evil. Even in the few cases in which we take violence to be unavoidable (for example, some instances of self-defense), we think that it should be employed to the most minimal and necessary extent. This relates to our inclination to see violence as morally wrong by default; the burden of proof is borne by those who claim that a certain exercise of violence is necessary and hence acceptable. Our fundamental negative reaction to violence can be sensed also in our assumption that something bad happened when we hear of an instance of violence. Likewise, the description of a person, a behavior, or a place as violent is highly pejorative. Usually, we will sooner excuse or forgive cases of manipulation, cheating, lying, embezzlement, stealing, or other types of corruption before forgiving violence. This attitude is reflected in many codes of law, where acts of violence are often punished more severely than many other behaviors. And it is commonly accepted that an act has to meet a certain threshold and have a sufficiently significant impact in order to be considered violent. There may be different views about what this threshold amounts to, but we do not usually call something “violent” if we do not regard it or its impact to be severe enough. Thus, for example, we may all agree that perhaps person A should not have lightly touched person B on the shoulder, but if it is a soft touch, we will not consider it violence.

Violence, then, is not just another one of those many unpleasant phenomena that we would be glad to see fade away. We frequently react to it more sharply, more fearfully, and as a more dramatic evil than many other wrongs. Not all phenomena that we find disagreeable, aggressive, or harmful constitute violence; phenomena may be wrong in any number of ways, warranting rejection, condemnation, or disagreement, without amounting to violence.

### 3. The Use and Abuse of “Violence”

The features discussed above are typical of violent phenomena, but do not enable one to draw a sharp line between violent and non-violent phenomena. Difficulties in determining, in certain cases, whether a particular phenomenon is or is not violent relate to the number, type, and degree of the characteristics mentioned above. However, wherever that line between violent and non-violent phenomena does in fact lie, I do not think that one could plausibly describe as violent the phenomena referred to by that name in the postmodernist texts mentioned above.

Derrida’s suggestion is probably the strongest candidate. Perhaps he is right that without the mechanisms that enable us to conceive concepts and notions in general, including the notion of violence, we could not have conceived of what anything, including violence, is, and violence would have not existed (at least in some sense) for us. And perhaps because of this and other reasons there might be something harmful in these conditions of conceptualization (although it should be acknowledged that conceptualization also bestows many important benefits). Furthermore, perhaps the limitation inherent to conceptualization can be understood as restricting autonomy in some way. But even if these two characteristics of violence are true of conceptualization to some degree, the other characteristics are not applicable: conceptualization is not physical, unruly, intentional, or aggressive; we do not wish that conceptualization did not occur and we usually do not have a very strong negative emotional reaction to it nor see it as a very serious evil. The same is true for Butler’s addition that concealing the violence in the conditions of conceptualization is itself violent.

Likewise is the case with Kristeva’s example; it is surely true that the termination of the symbiosis between infant and mother in natal delivery is a very powerful experience. But although it is (also) physical and is an important and serious experience that elicits a strong emotional reaction, it does not manifest any of the other characteristics typical of violent acts. This is also the case regarding the technical efficiency and total organization of the global information and media culture, as discussed by Baudrillard; they may be problematic in all sorts of ways, but they are not in themselves violent. The same is true of the other examples of postmodern usages of violence mentioned above, such as the shock readers may experience upon encountering a new form of writing in Wittig, or the relation between concrete entities and Platonic Forms that Deleuze describes.

Of course, one could disagree and respond that, in one’s view, the degree of harm and restriction of autonomy in Derrida’s conditions of conceptualization *is* sufficient to regard them as violent. The same could be argued with respect to natal separation, the failure to enhance the author-reader dialogue, and all of the other examples. Or one could maintain that,

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although it is true that the phenomena in question would not ordinarily be described as violent, one can choose to expand stipulatively the notion “violence” to cover these phenomena. Such moves would be problematic, though, for they would render violent a plethora of other phenomena along with the specific phenomena in question. Any phenomenon to which the characteristics of violence apply as they do to natal separation, failure to foster the author-reader dialogue, or conceptualization would be deemed violent as well. Under these conditions, most phenomena should be described as violent and it is not clear what phenomena would not be described as such.

Seeing such a wide assortment of phenomena as violent would undermine the distinction between what amounts to violence and what does not. This would be problematic for a number of reasons. First, it would diminish the diversity of our moral world, melting away the specificity of violence and the distinctions between it and other phenomena. Of course, we could call all (or almost all) phenomena “violence” and then reintroduce all of the distinctions used to differentiate between violence and other notions, perhaps by other names. But the advantage is not clear of dissolving the differences between violence and other notions and then reintroducing them using new terms.

Second, referring to phenomena as violent suggests to many that these phenomena cannot legitimately be supported or even argued for and considered. Labeling many phenomena “violence” diminishes the likelihood of rational, responsible discussions of the advantages and disadvantages of these phenomena.

Third, referring to lightly negative phenomena (or even to positive phenomena) as violence may diffuse the wrongfulness that we do and should attach to violence.<sup>11</sup> If violence is indeed all those not-so-terrible phenomena like failing to enhance author-reader dialogue, or the technical efficiency of the media culture, or the conditions of conceptualization, then perhaps we need not oppose it with such vehemence. This is even more so when positive phenomena such as birth, or replacing old forms of writings with new ones, are referred to as violence. Inflationary use of strong terms devalues them. It may be that in the first stages of using a strong term to refer to milder phenomena, the former’s characteristics are attributed to the latter, but not vice versa. With the passage of time, however, the weakness of the connotations of the lighter phenomena also infiltrates the stronger term; the stream of connotations becomes a two-way flow, and the stronger term becomes diluted. But we do want people to treat violence as the evil it

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<sup>11</sup> Note that although Derrida, Butler, Deleuze, Baudrillard, and Lyotard use “violence” as a pejorative term (even if they apply it to lightly negative phenomena), Wittig and perhaps Kristeva do not even employ it as a pejorative term.

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frequently is. Even those who use the term “violence” to describe only lightly negative phenomena recognize its special seriousness; otherwise, they would have not chosen *it* to describe non-violent phenomena, but instead would have employed other terms. Yet, by presenting most phenomena as violent, they are stripping the notion of the special meaning it originally held, and for which they initially chose to use it rather than another notion.

Some authors may argue that, notwithstanding the above, their specific employment of “violence” to describe what appear to be lighter phenomena is, in fact, justified. Such arguments can, of course, be legitimate, but they should be explicit and detailed, presenting one’s characterization of violence and showing why a certain seemingly lighter phenomenon should be described as violence. Such discussions should also inquire into whether that expanded use would not, under pain of inconsistency, render as violent also many other, quite non-dramatic and harmless phenomena, including those which one would not wish to dub by that name.

Employing strong, dramatic terms for phenomena deserving only more moderate descriptions can be found in other spheres as well. Sometimes, mediocre students are referred to as “A-level” students, decently tasting food is referred to as exceptionally delicious, and mildly unpleasant experiences are referred to as horrible. But we do wish to retain the specific meaning of these notions lest we lose important cognitive and practical distinctions. We do want to be able to say that some students are indeed excellent, some experiences are horrible, and some wrongs are violent. Pamphleteers, propagandists, lawyers, politicians, and advertisers frequently employ stronger terms than necessary. This is an effective tactic: over-dramatization tends to attract attention and impress people, sometimes leading them to accept arguments with less resistance. This may have happened in some postmodernist discussions with uses of the term “violence” such as those mentioned above. I suggest, however, that as philosophers we should try our best to refrain from such practices.<sup>12</sup>

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<sup>12</sup> I am grateful to Oren Yaqobi, Saul Smilansky, and an anonymous referee for *Reason Papers* for helpful comments on earlier drafts of this article.

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# Providing for Aesthetic Experience

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## 1. Introduction

Aesthetic theories of art are those that tie art essentially to the aesthetic, typically by way of a necessary condition that makes reference to an aesthetically qualified kind (aesthetic experience, properties, objects, purposes, interest, value, and so on).<sup>1</sup> Such theories hold that a thing must meet the aesthetic condition in order to count as art. In this article, I will understand the aesthetic condition in terms of aesthetic experience, as other formulations can be paraphrased in such terms and objections to aesthetic theories stand out in starkest relief from them. By the phrase “aesthetic experience” I mean nominally the distinctively pleasurable, meaningful, and valuable type of experience associated closely, though not exclusively, with the appreciation of artworks. (For now this designation should suffice, although I will provide a more detailed account below.)

We often think of artworks as having the function, at least typically, of providing for aesthetic experience; they yield or are meant to yield experiences of this characteristic type. We speak of art causing, or eliciting, such experiences in an appropriately situated viewer, who has the wherewithal (attentiveness, understanding, responsiveness) to be so moved. As such, aesthetic theories reflect a common and intuitive view of what artworks are and how they function.

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<sup>1</sup> Examples include George Schlesinger, “Aesthetic Experience and the Definition of Art,” *British Journal of Aesthetics* 19 (1979), pp. 167-76; Monroe C. Beardsley, “An Aesthetic Definition of Art,” in *What Is Art?* ed. Hugh Curtler (New York: Haven, 1983), pp. 15-29; William Tolhurst, “Toward an Aesthetic Account of the Nature of Art,” *Journal of Aesthetics and Art Criticism* 42 (1984), pp. 261-69; P. N. Humble, “The Philosophical Challenge of Avant-garde Art,” *British Journal of Aesthetics* 24 (1984), pp. 119-28; Richard Lind, “The Aesthetic Essence of Art,” *Journal of Aesthetics and Art Criticism* 50 (1992), pp. 117-29; James Anderson, “Aesthetic Concepts of Art,” in *Theories of Art Today*, ed. Noël Carroll (Madison, WI: University of Wisconsin Press, 2000), pp. 65-92; and Nick Zangwill, “Aesthetic Functionalism,” in *Aesthetic Concepts: Essays After Sibley*, ed. Emily Brady and Jerrold Levinson (Oxford: Oxford University Press, 2001), pp. 123-48.

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Against this view that art can be defined, even in part, aesthetically, critics have levied several key objections (the anti-art objection, the circularity objection, the bad-art objection, the many-roles objection, and the denied-aesthetic objection). It is because of these objections that, despite recent attempts to revive it,<sup>2</sup> the aesthetic approach remains largely in disrepute. An aesthetic theory of art, to prove successful, must answer these objections. My purpose is to do just that, by first proposing an aesthetic criterion for art and then defending it from these objections.

### 2. Two Types of Aesthetic Theory

In considering aesthetic theories of art, there is a crucial distinction which not only critics but also advocates often fail to appreciate sufficiently. An aesthetic theory might require, on the one hand, that artworks *actually* provide for aesthetic experience, and on the other, that they merely be *intended* so to provide. Consider the following definitions of art (*sans definiendum*), proposed by George Schlesinger and Monroe Beardsley, respectively: “an artifact which under standard conditions *provides* its percipient with aesthetic experience”<sup>3</sup> (my emphasis); “something produced with the *intention* of giving it the capacity to satisfy aesthetic interest”<sup>4</sup> (my emphasis). We might refer to these different commitments as aesthetic *actualism* and aesthetic *intentionalism*, respectively.<sup>5</sup>

Both definitions are held by critics as examples of the *same* species of aesthetic (sometimes “functionalist”) theory, and criticized on that basis,<sup>6</sup> even though accounts like Schlesinger’s are radically different from those like

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<sup>2</sup> See, e.g., Richard Shusterman, “The End of Aesthetic Experience,” *Journal of Aesthetics and Art Criticism* 55 (1997), pp. 29-41; Anderson, “Aesthetic Concepts of Art”; Nick Zangwill, “Are There Counterexamples to Aesthetic Theories of Art?” *Journal of Aesthetics and Art Criticism* 60 (2002), pp. 111-18; and Gary Iseminger, *The Aesthetic Function of Art* (Ithaca, NY: Cornell University Press, 2004).

<sup>3</sup> Schlesinger, “Aesthetic Experience and the Definition of Art,” p. 175.

<sup>4</sup> Beardsley, “An Aesthetic Definition of Art,” p. 19.

<sup>5</sup> For discussion along somewhat different lines, see Anderson, “Aesthetic Concepts of Art.” Zangwill, in “Aesthetic Functionalism,” offers a more or less hybrid actualist-intentionalist view.

<sup>6</sup> See Stephen Davies, *Definitions of Art* (Ithaca, NY: Cornell University Press, 1991), p. 52; and Robert Stecker, “Definition of Art,” in *The Oxford Handbook of Aesthetics*, ed. Jerrold Levinson (Oxford: Oxford University Press, 2003), p. 142. See also Robert Stecker, *Artworks: Definition, Meaning, Value* (University Park, PA: Pennsylvania State University Press, 1997), pp. 35-43.

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Beardsley's. The difference is clear and crucial. An unintentionally effective work counts as art on Schlesinger's view but not on Beardsley's. Likewise, a really poor artwork may fail to provide for aesthetic experience despite intentions to the contrary, which would qualify it as art on Beardsley's view, but not on Schlesinger's. Critics of aesthetic theories often aim their objections—each counting far more persuasively against one than against the other type of theory—indiscriminately at both, thus equivocating on what aesthetic theories imply.

Before offering a specific aesthetic criterion to defend against the key objections to aesthetic theories generally, one added refinement is in order. Critics often overextend the intended scope of aesthetic conditions, whether actualist or intentionalist, beyond the pale of plausibility. Note that no artwork causes aesthetic experience for everybody or at all times; the greatest artwork leaves some critics cold (A. C. Bradley's infamously harsh critique of Shakespeare, for instance<sup>7</sup>). Note also that many works are intended to be appreciated, not by everybody, but only by the initiated few—often those with specialized knowledge (of works alluded to, art history, and so on). Consider the possible scope of the following articulations of the actualist (A) and intentionalist (I) conditions:

- (A):  $x$  is art  $\rightarrow x$  provides for aesthetic experience.
- (I):  $x$  is art  $\rightarrow x$  is intended to provide for aesthetic experience.

Critics of aesthetic theories often seem to believe that if *anyone* fails to find art pleasing, that fact alone falsifies (A), and that if anyone is not included in the class of the intended audience, that falsifies (I). Attributing such implications to aesthetic theories effectively turns them into straw men. We should interpret (A) as requiring only that  $x$  provide for *someone's* aesthetic experience, and likewise (I) as requiring only that  $x$  be intended to so provide for at least one person.

I shall defend a form of actualism, as articulated in (A), as a necessary condition for art. (A) seems innocuous on its face; however, critics of the aesthetic approach—and there are many—vehemently reject *any* aesthetic condition, whether (A)-like, (I)-like, or otherwise. Since the objections target (I) as well as (A) brands of aesthetic theory, I will also, in showing the viability of the aesthetic approach generally, discuss plausible ways an intentionalist might respond to these objections.

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<sup>7</sup> A. C. Bradley, *Shakespearean Tragedy* (Delhi: Atlantic, 2007), pp. 73 and 75.

### 3. The Proposed Criterion

The main thrust of the objections to most aesthetic theories is that they do not capture a necessary condition for art. But aesthetic theories have been criticized on other grounds as well. There is the concern that no aesthetic condition, even in conjunction with others (such as the artifactuality condition), can prove *sufficient* for art. Suppose we had a drug that produces aesthetic experience—call it *aesthetrix*.<sup>8</sup> One might suppose that the very possibility of such a pharmaceutical must undermine any aesthetic theory of art. As an artifact that produces aesthetic experience and was designed for that purpose, *aesthetrix* stands as a clear counterexample to both Schlesinger-style (A) accounts and Beardsley-style (I) accounts of art, for the drug is not art, and yet it seems to count as art on either form of aesthetic theory.

A plausible aesthetic criterion must avoid this quandary. Now no one thinks that merely providing for aesthetic experience is sufficient for art. Some non-artworks (such as nautilus shells and sunsets) provide for aesthetic experience, and where intentionalists typically cite the absence of intent so to provide to handle such cases, actualists usually invoke the artifactuality constraint: to count as artwork a thing must be human-made, or better, an artifact, in a suitably broad sense to include both objects and events. We might include such items as driftwood art (and readymades) in the artwork class by identifying the relevant artifact as the *presentation* of the object to the artworld. What the *aesthetrix* case shows is only that the aesthetic criterion needs to be constrained appropriately.

*Aesthetrix* seems to count against the Schlesinger version of (A) because, in the standard case, the subject of aesthetic experience will also perceive the drug (seeing the pill before swallowing, the liquid before injecting, and so on). Perceiving *aesthetrix* in this sense obviously has nothing to do with the aesthetically pleasurable effects of the dose. But in art it is precisely perceptual engagement with a work that grounds aesthetic experience of it. To rule out the *aesthetrix* case, we might add a Dewey-style constraint on how aesthetic experience is provided for: specifically, that it must be provided for by perceptually available properties of the work.<sup>9</sup> “Perceptually available” covers both works (like music) available *in* a sensory modality and works (like literature) available *through* a sensory modality (through vision, say, though the content is not visual). We can avoid the

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<sup>8</sup> See, e.g., Stecker, *Artworks*, p. 56. The *aesthetrix* case is related to, but distinct from, the case of a drug-like work of art, as in Jerrold Levinson, “Defining Art Historically,” *British Journal of Aesthetics* 19 (1979), p. 235; and Monroe C. Beardsley, “Redefining Art,” in *The Aesthetic Point of View: Selected Essays*, ed. M. J. Wreen and D. M. Callen (Ithaca, NY: Cornell University Press, 1982), pp. 301-2.

<sup>9</sup> John Dewey, *Art as Experience* (New York: Penguin, 2005), pp. 1-3.

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aesthetrix case, then, by specifying the connection between aesthetic experience and the way it is elicited: *An artwork is an artifact that provides for aesthetic experience via perceptually available properties.* This aesthetic criterion, incorporating (A) and similar to Schlesinger's style of actualism, is the one I propose to defend here.

No aesthetic theory would be complete without at least outlining a view of that kind of experience on which it lays so much stress. My account of aesthetic experience stands firmly in a significant tradition in aesthetics, a tradition including—though their views differ widely in crucial respects—the following concepts of aesthetic experience along with their associated proponents: the instructive delight in engaging emotionally cathartic representations (Aristotle); “equipoise” between formal and natural responses (Friedrich Schiller); the “fraternal union” of Apollo and Dionysus (Friedrich Nietzsche); a mingling of the perceptive and sensory pleasures (George Santayana); the special integration of various normal responses into “*an experience*” (John Dewey); the “synaesthesia” of intellectual and emotional responses (I. A. Richards); attentive, unified, and complete pleasurable experience (Beardsley). This tradition may be viewed as arising from Aristotle's rejection of Plato's view of the fundamental, principled, irreconcilable (but superable) antagonism between reason and emotion.

Plato's account strikingly evokes certain work in evolutionary neuropsychology according to which, when the intellect and emotions are engaged—and not severally or jointly quieted—mental life is typified by near constant conflict between the intellectual cortex and the appetitive/emotional diencephalon.<sup>10</sup> Such conflicts include, for example, wanting to do one thing but believing one ought to do something else. Part of what is so phenomenologically special and psychologically valuable about aesthetic experience, in my view, is that it exhibits not only the absence but also the contrary of ordinary mental life so typified: the coherent, mutually reinforcing engagement of both the intellect and the emotions, of both the cortex and the limbic system—*resolutive* experience, I call it.<sup>11</sup> Although Plato does not countenance this type of experience, the tradition in theorizing about aesthetic experience cited above, and extending from Aristotle to the present day, certainly does. For this tradition it is particularly edifying that some recent work in the relatively new field of neuroaesthetics dovetails with it rather remarkably. Of particular interest is the hypothesis that underlying all aesthetic experience is what is known as the peak shift effect, that is, roughly,

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<sup>10</sup> A. T. W. Simeons, *Man's Presumptuous Brain* (New York: E. P. Dutton, 1961), pp. 40-59.

<sup>11</sup> Jason Holt, “A Comprehensivist Theory of Art,” *British Journal of Aesthetics* 36 (1996), p. 427.

the tendency to respond more intensely (cortically and subcortically) to “exaggerated” versions of stimuli we normally discriminate.<sup>12</sup>

That said, I should mention some of the assumptions on which I will proceed, as well as certain trends endemic to critics of aesthetic theories. I assume, for instance, that the essentialist program (the attempt to formulate a set of severally necessary and jointly sufficient conditions for art) is a worthwhile project. If not, then at least my efforts will be serviceable, ultimately, as further confirmation of this common-enough suspicion. I also assume that actualism (like intentionalism, for that matter) lays claim to at least a *prima facie* plausibility, especially in light of the problems besetting its competitors. By and large, critics of actualism tend to be unduly skeptical of the aesthetic in any sense, overly impressed by the avant-garde (or what *was* the avant-garde), and more so by its apparent implications for aesthetic theory.

#### 4. The Anti-Art Objection

The objections to actualism that are my principal focus here purport to show that it is not necessary for art that a work provide for aesthetic experience. Following Stephen Davies, the suspicion underwriting the first objection is that at some stage in the history of art it became possible for art to slough off its original aesthetic function, presuming it had one, and still count as art.<sup>13</sup> In particular, it is alleged that we already have examples of such art among avant-garde, Dadaist work, so-called anti-art, the usual paradigm of which is Marcel Duchamp’s readymade *Fountain*, a urinal appropriated for exhibition in a gallery and pseudonymously signed “R. Mutt.” Allegedly, the entire point of such anti-art is that it flouts, and was intended to flout, aesthetic expectations and values. Most viewers find such work baffling to say the least, devoid of aesthetic merit, and this is usually taken to mean that the aesthetic condition, ironically for art’s sake, has been circumvented.

There are a number of moves the actualist can make in addressing such alleged counterexamples. First, we might simply dismiss the claim that

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<sup>12</sup> V. S. Ramachandran and William Hirstein, “The Science of Art: A Neurological Theory of Aesthetic Experience,” *Journal of Consciousness Studies* 6 (1999), p. 18. The notion that all art is caricature seems untenable. How could photorealistic painting count as caricature? The Ramachandran-Hirstein proposal can be interpreted much more charitably, however: A photorealistic painting, by definition, does not caricature the thing depicted, but it does provide what may be called a (fixed) caricature of ordinary (dynamic) experience. In the same way, abstract works that emphasize particular properties—color, texture, shape—caricature ordinary experience in that these properties are not normally emphasized, highlighted, isolated, or framed.

<sup>13</sup> Davies, *Definitions of Art*, p. 38. Davies refers to the target aesthetic theories as “functionalist.”

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such cases are genuine artworks. While this is a consistent move, the more such cases accrue—and they have accrued significantly—and the more they are so regarded as art by artworld cognoscenti, the less plausible the maneuver seems and the more ad hoc; hence aesthetic theorists, contra Davies, need not deny that such cases are genuine artworks (although a number certainly do deny it). A more contentious line is to say that such cases point at most to minor imperfections in an otherwise useful theory of art, successful in the vast majority of cases.<sup>14</sup>

Admitting such cases as artworks and accepting that they strictly fail to meet the aesthetic condition, the actualist might explain their inclusion in the class of “art” by citing resemblance relations to particular works that meet the condition or kinds of works (i.e., art forms) that usually do. Aside from the general problems associated with resemblance accounts (everything resembles everything else in some respect, and salient resemblances seem to require further explanation that such accounts eschew), the actualist would have to admit that the artwork class is heterogeneous through and through, for whether a work really meets the condition or merely resembles (in the right way) something that does, the piece may count as art. The essentialist project here has defeated itself.

A more plausible tack for the actualist is to accept such cases as artworks and hold that, despite appearances, they meet the actualist condition.<sup>15</sup> Although the urinal used by Duchamp for *Fountain* presumably was not intentionally created to provide for aesthetic experience, and even if Duchamp himself intended, in presenting the urinal to the artworld, to *frustrate* rather than foster aesthetic experience, this does not mean that *Fountain* in fact fails to provide for aesthetic experience. While standard opinion would have it that *Fountain* does not so provide, some people find it to be a delightfully ironic piece, not terribly profound, perhaps, but appreciable nonetheless. It seems that such works *can* indeed provide for aesthetic satisfaction, although admittedly they do so in non-standard ways (whether they ought to is another matter), and that it is in virtue of being ironic in the way it is and commenting on sculpture in the way that it does, that a work like *Fountain* can so provide.<sup>16</sup> Avant-garde and conceptual art can provide for aesthetic experience, even if its way of doing so is less tied to the sensible world than is the case with more traditional artworks. Such properties count as aesthetic in a derivative sense, since they underlie the

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<sup>14</sup> For further discussion, see Zangwill, “Are There Counterexamples to Aesthetic Theories of Art?”

<sup>15</sup> As is suggested by Stecker, *Artworks*, p. 39.

<sup>16</sup> *Ibid.*, pp. 35 and 62-63.

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aesthetic experience that such works provide, and are identified via such provision. If these properties are not aesthetic properties, it is not properties per se, but experience alone that puts the *aesthetic* in aesthetic theories of art.

To deny that one could appreciate such works aesthetically in any sense is either psychologically implausible or artistically prejudicial. The untransfigured urinal does not lend itself to such appreciation, and many people simply fail to appreciate *Fountain* post-transfiguration. But this is not terribly significant, as many artworks are not immediately accessible, certainly not to everyone, and this indicates only, as we already knew, that an audience often needs certain degrees and kinds of background knowledge, and perhaps also to be in a certain frame of mind, in order to derive aesthetic experience from seeing some work. What makes a work avant-garde is not that it fails to provide for aesthetic experience at all, but that it provides for aesthetic experience in an unusual way—an unorthodoxy to which many members of an audience will naturally be unaccustomed, and so by default relatively unreceptive.

One concern with this maneuver is that, if such a work as *Fountain* provides for aesthetic experience, it is not clear how anything could then fail to provide for aesthetic experience. Suppose we set aside for the moment the notion of “correct regard,” which is particularly difficult to elucidate in any case. Limiting ourselves to perceptible things, it seems that anything could potentially provide for aesthetic experience when viewed in certain conditions, whether standard, somewhat peculiar, or downright bizarre. But while anything *could* provide for aesthetic experience, most things, as a matter of fact, do not. (This is part of the motivation for suggesting that while the aesthetic condition should be retained, it should be retained in a weaker form, disburdened of some of the work to which many would put it.) Bringing back the notion of correct regard, suppose that *Fountain* does, or at least can, provide for aesthetic experience when viewed correctly. (Given variations in human psychology, I take it that regarding a work correctly will be insufficient for having an aesthetic experience of it.) Most things will not provide for aesthetic experience when viewed correctly. Presumably, *Fountain* does, or at least can, provide for aesthetic experience owing in part to the context (being in a gallery) or theoretical background that informs the viewing, differentiating *Fountain* from its indiscernible counterparts. This claim does not imply that it is the institutional or historical context that makes the work a work of art in the first place, although these may be necessary for such works. Either might make a work a salient candidate for aesthetic appreciation without making it art per se. (Usually, by that point the artist has appreciated the work aesthetically already.) If *Fountain* fails so to provide when viewed “correctly,” this does not rule out that it so provides *simpliciter*, which is all that the aesthetic view strictly requires. An aesthetic theorist need

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not be committed to the view that a work of art that provides for aesthetic experience *ought* so to provide. (This matter will be picked up again below.)

It is for the intentionalist that such cases seem particularly difficult, since on the one hand, the urinal Duchamp presented was probably *not* created with the intention to provide for aesthetic experience, and on the other, Duchamp's intentions in presenting it were avowedly, at least to all appearances, anti-aesthetic. It is for exactly this reason that intentionalists such as Beardsley deny that such candidates are genuine artworks, but the intentionalist has some maneuvering room here. For one thing, the urinal itself is not the work, the transfigured urinal is, the urinal-as-transfigured, -as-presented-to-the-artworld. Indeed, *Fountain* is really (arguably) the presentation, by Duchamp, of the urinal to the artworld, in which case the non-aesthetic intentions behind the urinal's manufacture are irrelevant. And what of Duchamp's "anti-aesthetic" intentions? The intentionalist might observe that Duchamp no doubt derived, and intended to derive, an ironic satisfaction from the *succès de scandale* of *Fountain*. It may be argued, then, that Duchamp tried to provide for *his own* aesthetic satisfaction, not only in his choice of materials, but also by using them for shock value, to outrage others by frustrating their hopes to find aesthetic experience in more standard ways.

In order to make this maneuver work, the intentionalist would have to show such ironic satisfaction to constitute, or to be compatible with, genuine aesthetic experience. While Duchamp's satisfaction probably could not count as disinterested, it might nonetheless count, in some sense, as serving his aesthetic interest. Suppose we interpret *Fountain* as the *situation* of Duchamp-presenting-a-urinal-to-the-artworld-as-an-artwork, in which he intended to satisfy his aesthetic interest (perversely, no doubt) *via* the ironic satisfaction of the anti-aesthetic act. On this reading, while the presentation itself was motivated by anti-aesthetic intentions, this is perfectly consistent with Duchamp himself finding the outcome aesthetically piquant (at a meta-level). This is at least somewhat plausible, and although we might never know enough about Duchamp's psychology to confirm such a hypothesis, it does suggest that the infamous readymade may not be the counterexample to intentionalism that it is often taken to be. But even if intentionalism ultimately falls to the anti-art objection (which now seems to require the elusive knowledge that Duchamp did not have such a meta-intention), its actualist cousin remains relatively unscathed.

### 5. The Circularity Objection

It seems that anti-art can quite plausibly be construed as meeting the actualist condition. The second objection, though, also owing to Stephen Davies, applies even if works like *Fountain* can be so understood. Such works are still important, in Davies's view, since they illustrate how art is

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conceptually prior to providing for aesthetic experience.<sup>17</sup> If a work like *Fountain* so provides, it does so in part, unlike its untransfigured counterpart, because it has been transfigured. The aesthetic here depends on art, not vice versa, so even if actualism is extensionally adequate (i.e., gets the cases right), it still gets things backwards, and so is ultimately circular.

Here is a reconstruction of Davies's argument:<sup>18</sup>

- (1) Actualism implies that something will count as art in part because it provides for aesthetic experience.
- (2) Something provides for aesthetic experience in virtue of its aesthetic properties.
- (3) A thing's aesthetic properties are those relevant to interpreting it as art.
- (4) That a work like *Fountain* is art is relevant to interpreting it, in contrast to its untransfigured counterpart, as art.
- (5) Thus, providing for aesthetic experience depends on arthood, not vice versa.
- (6) Therefore, aesthetic actualism is circular.

Davies seems to take this objection to apply both to actualism and intentionalism as distinguished here, but it is not particularly problematic for the latter. An intentionalist like Beardsley, whom Davies explicitly targets, could simply say (although this was not Beardsley's actual take on *Fountain*) that one ingredient of the urinal's transfiguration is the intention that it provide, in some sense, for aesthetic experience, and this intention is necessary for art even if being art in the first place is necessary for a work like *Fountain* *actually* to provide for aesthetic experience.

The standard actualist reply is to deny (2), at least as Davies construes it.<sup>19</sup> On such a reading, Davies thinks the actualist is committed to the view that *all* of a thing's aesthetic properties figure into its providing for aesthetic experience, and by extension its arthood. If we are forced to accept that being art at all is an aesthetic property, then the actualist can simply deny that all of a work's aesthetic properties figure into its arthood. That *Fountain* is about the artworld, is seemingly ironic, and provokes questions, say, about the history of sculpture—these are the properties that help *Fountain* provide for aesthetic experience and elevate the urinal to arthood. Being art is not. In

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<sup>17</sup> Davies, *Definitions of Art*, pp. 66-67.

<sup>18</sup> This is adapted from Anderson, "Aesthetic Concepts of Art," p. 75.

<sup>19</sup> Such a reply is suggested in Stecker, *Artworks*, pp. 62-63; and Anderson, "Aesthetic Concepts of Art," pp. 76-77.

fact, we may well doubt whether being art is an aesthetic property at all, except perhaps in the trivial way that knowing that something is art relieves one of the possible burden of having to determine as much.

Thus, while the standard rejection of (2) is presumably sufficient, we might also plausibly object to (3) and (4), which seem to presuppose (and thus commit the actualist, if not Davies himself, to) the controversial view that aesthetic properties, those relevant to interpreting something as art, attach strictly to artifacts (more strictly still, to art) and not, for instance, to beautiful things in nature: sunsets, nautilus shells, erosion patterns, and so on, except perhaps in a derivative sense. A more plausible view would be that aesthetic properties are those relevant to providing for aesthetic experience, or perhaps those that are relevant to interpreting something as if it *were* art. Naturally, we need not deny sunsets and nautilus shells original (i.e., non-derivative) aesthetic properties to exclude them from the class of artworks.

## 6. The Bad-Art Objection

A longstanding objection to actualism concerns its apparent collapse of the fact/value distinction. If part of what it takes to be art at all is that a work manages to provide for aesthetic experience, then in virtue of such success, any bona fide artwork will have at least some aesthetic value, however minimal. While this maps well onto the evaluative sense of art in certain approbative predications (as in “*That’s a work of art!*”), it appears to leave anything like a purely classificatory, descriptive sense of “art” nowhere. For this reason, actualism may seem to fail to provide the foundational sort of theory that we are really after—a theory of *art*. In its more recent guises, the objection runs something like this: Intuitively, there are some artworks devoid of aesthetic merit, which do not satisfy aesthetic interest. They are thoroughly bad pieces. On the actualist view, though, any work that counts as art is *not* devoid of aesthetic merit. Thus, actualism is false.<sup>20</sup>

It should be noted that despite certain allegations to the contrary (e.g., Davies’s critique of Beardsley<sup>21</sup>), intentionalist theories of art are immune to this objection. A work may have been created with the intention that it provide for aesthetic experience without that intention in any way being fulfilled. (Beardsley was quite explicit about this commitment, and it is a mystery why Davies criticizes him on this basis.) In such a case, the intention to produce the work is fulfilled but the intention to have it produce aesthetic experience is not. Bad art poses no problem here.

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<sup>20</sup> Davies, *Definitions of Art*, p. 76; and Stecker, *Artworks*, p. 39.

<sup>21</sup> Davies, *Definitions of Art*, pp. 62-77.

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The actualist can adopt several different strategies in responding to the bad-art objection. One is simply to bite the bullet and insist that “art” properly has only a value-laden sense. The motivation for such a move might be to preserve the straightforward account of aesthetic value so often prized by actualists. To account for the intuition that there are thoroughly bad works, the actualist might say a number of things, for instance, that such works count as art by dint of resemblance-relations borne by effective works, although here again we abandon essentialism. Alternatively, it might be urged that the merit of bad works, while real, is negligible, and so for practical purposes only, if not in truth, nil. Discounting the statistically negligible in this sense is not an arbitrary matter but, in fact, a principled one. Another point is that bad works—really, really *bad* works (the poetry of William McGonagall comes to mind)—might be seen as succeeding, on some level, in spite of themselves, because of their very badness, almost as if they’re so bad, they’re good—that is, aesthetically appreciable at a meta-level for their thoroughgoing first-order badness. Especially in such cases as McGonagall’s, it is somewhat intuitive that perfectly awful works satisfy the aesthetic interest in some sense, often in stark contrast with the artist’s intentions. McGonagall’s verse is very amusing, albeit unintentionally, and it certainly sells well. Still, it would be difficult to justify this view. Since I am not claiming that it is true, much less staking much on the claim, perhaps it is best left alone. We might observe, even so, that thoroughly bad works also serve to contrast with, and thus heighten our appreciation of, good art, and so do provide for a kind of appreciation, not only in themselves but also, indirectly, of other work.

One may doubt whether such lines of reply will succeed, although they might nonetheless merit further inquiry. Some artworks, it would seem, merely leave us cold, are not ironically appreciable, and need not necessarily figure into our appreciation of quality work. Even if they did, this is at best a Procrustean form of what most actualists intend. Still, the notion of being practically devoid of aesthetic merit if not in truth has a certain degree of plausibility, echoing to a certain extent the idea that bad works *merely* serve a function while good works serve it *well*. It seems that thoroughly bad works are akin to, say, thoroughly bad can openers, the successful use of which causes too much strain and bother, or the doorstop that must precariously be balanced to do its job and is easy to dislodge. While such things work, they do not work well. The sensible thing may be to revise one’s preferences (not bothering with the art, going without tuna, letting the door close) or procure items that work well to use instead (better art, a better can opener, a better doorstop). A threshold problem may be looming here, but this may indicate little more than that the working/working well distinction is a somewhat vague one, as is the bald/hirsute distinction or the red/orange distinction.

Another, perhaps more radical move is to abandon the unnecessary link between something’s providing for aesthetic experience and its being of

aesthetic value. No doubt aesthetic experience is of psychological value, and can be had in the absence of anything that merits such response. Consider, then, different positions on the metaphysical status of aesthetic value. If we are realists, and suppose such values to be mind-independent, a work may provide for aesthetic experience even if it ought not to as a matter of fact. If instead we suppose aesthetic norms to be embodied by something like David Hume's standard of taste,<sup>22</sup> in this case too a work may so provide in ways not sanctioned by the standard. From a relativist perspective, a bad work is one that, say, leaves *me* cold, though it may still count as art (objectively) because, as matter of fact, it works for someone else. The only real problem here would be if we had a democratic "standard" of value somewhere in between Hume's and the relativist's, in which case a work's effectiveness for anyone at any time would count as some measure of aesthetic value. But not only is such a view implausible on its face, it would seem readily handled by one of the responses suggested above (biting the bullet, the working/working well distinction, discounting the negligible, or some combination of these).

The intentionalist is still immune to the bad-art objection, and anyone inclined to press for a truly democratic standard of aesthetic value has to overcome a rather heavy burden of proof.

### **7. The Many-Roles Objection**

The next objection turns on the idea that art has a great variety of functions and these functions evolve over time. We might cite the fact that art had a much more religious function in the Middle Ages than it does in the more secularized artworld of today, that art tends to be more politically and socially conscious than it used to be, that certain art forms, like painting, which once had the function of representing the world, have come, in more or less recent times, to admit of other purposes, as is seen in such traditions as abstract expressionism. If art has such ever-evolving functions, it would seem that no single function, such as providing for aesthetic experience, is essential.<sup>23</sup> Any function one might point to as plausibly essential in point of fact or principle might come off as exceptionable. Indeed, if providing for aesthetic experience seems essential to art, this is because other comparably plausible functions, such as expressing emotion or presenting formally interesting stimuli, are being ignored.

It should be obvious that this objection targets both actualist and intentionalist species of aesthetic theory. In terms of the dynamic pluralist

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<sup>22</sup> David Hume, "Of the Standard of Taste," in *Aesthetics: A Critical Anthology*, ed. George Dickie, Richard Sclafani, and Ronald Roblin (New York: St. Martin's Press, 1989), pp. 242-53.

<sup>23</sup> Stecker, *Artworks*, p. 50.

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picture offered here, artists' intentions and purposes would seem no less varying, no less evolving, than the panoply of psychological and cultural roles played by artwork post-production. It should also be clear that this view is substantially correct in character if not in implication. It cannot be denied that artists' creative intentions and the further purposes for which they create, the techniques they employ and the styles they exhibit, the media they use and the manners of use, the character of their work and its repercussions, both psychological and cultural, are all subject to great variation and change over time.

The burden on the actualist is to account for these seemingly obvious facts in a way that staves off the apparent implication that art has no essential function. As it turns out, this is not a particularly onerous task. Providing for aesthetic experience is multiply realizable if anything is. In implementing the aesthetic, there are obviously going to be various ways of getting the job done, different inputs (conditions of creation) yielding different outputs (consequences of creation), even if at some abstract level the conditions and consequences are uniform. This is so even if we limit ourselves to a single aesthetic property (one purely formal property, say). While artworks may function in many ways which have nothing to do with their being art (e.g., being used as doorstops), the variety of functions they have *qua* art will be variations in the *proaesthetic* means to providing for aesthetic experience, or the *paraesthetic* effects of such provision, if there is indeed such variety. Suppose a poet expresses emotion in writing a poem that garners critical praise, while a painter exhibits a formally interesting canvas that fetches a staggering price from an appreciative collector. Variation in these scenarios is a matter not of not providing for aesthetic experience, but rather in the *proaesthetic* means (expressivist or formalist) and in the *paraesthetic* effects (cachet versus wealth) of such provision.

Of course, I am giving the objection the benefit of the doubt here. The point is not that there *is* such variety in, say, what I am calling the *proaesthetic* means, but rather that if there were such variety, as the objection suggests there is, this would not entail that the aesthetic condition fails. The only implication would be that there are various ways to get done the same basic job of providing for aesthetic experience.

### **8. The Denied-Aesthetic Objection**

The last objection I will deal with in any detail is that while actualism posits aesthetic experience as what is provided for by art, there is no such thing as aesthetic experience, nothing distinctively aesthetic about experiences so labeled. At the core of the objection is the notion that aesthetic experience is at best a heterogeneous kind, ultimately unreal. There are two prongs to this objection. First, it has been claimed that while a lot of art provides audiences with some experiences that involve some measure of

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emotional and cognitive—one might say intellectual—response, some nominally aesthetic experiences appear to be of a purely sensuous nature (as when one appreciates the mere texture of a sculpture, say).<sup>24</sup> Similarly, it has been claimed that alongside genuinely appreciative experiences, aesthetic experience may include mere detection of or attention to certain properties of a work (formal, expressive, aesthetic) without concomitant appreciation.<sup>25</sup>

Second, it has been claimed that with most aesthetic experiences, the intellectual and emotional responses involved vary too widely for there to be anything common and peculiar to the class.<sup>26</sup> I will defend the concept of aesthetic experience as a uniform, genuine kind from the somewhat plausible, but ultimately answerable, suggestion that aesthetic experience is too varied for this to be the case.

Skepticism about the aesthetic generally is elaborated, it seems, from persuasive critiques of such posits as an aesthetic mode of perception, the aesthetic attitude, and a distinct aesthetic faculty. Aesthetic experience need not, however, be cashed out in such tendentious ways. The irony here is that many of those who object to the aesthetic in any sense, on the grounds that it is a disjunctive kind (and so arguably, in a sense, not a *real* kind), are happy to give disjunctive but avowedly realist theories of art (where a kind—*artwork* in this case—is held to be real even though there are alleged to be no necessary and sufficient conditions for it). The problem, if it is a problem, applies equally to both or to neither.

It should be clear that this objection poses less of an immediate problem for intentionalism. After all, one can intend to create a work that provides for aesthetic experience even if, as a matter of fact, there is no such thing, just as one can intend to hunt unicorns, worship Odin, or discover the last digit in  $\pi$ . But there is a difficulty lurking in the wings. As intentionalism is consistent with anti-realism about aesthetic experience, it might turn out that in order to make art, or in order to do so rationally, artists must never be disabused of the “beautiful lie” (rather than noble lie) that such experiences exist.

Turning to actualism, in responding to the claim that some aesthetic experiences are purely sensuous, we might maintain either that such experiences are not in any strict sense aesthetic, or that they are not purely sensuous. We might echo Immanuel Kant and insist that these pleasures are

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<sup>24</sup> Davies, *Definitions of Art*, p. 59; and Stecker, *Artworks*, p. 37.

<sup>25</sup> Noël Carroll, “Art and the Domain of the Aesthetic,” *British Journal of Aesthetics* 40 (2000), p. 207.

<sup>26</sup> Davies, *Definitions of Art*, pp. 59-60; and Stecker, *Artworks*, p. 36.

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too base to take the stamp of genuine aesthetic experience.<sup>27</sup> Aesthetic experience is something we often value over and above the purely sensuous. For the sake of the aesthetic we often forgo the instant gratification of the sensuous. Another tack is to claim that it is not aesthetic but purely sensuous experience that is the fiction. As pleasurable, sensuous experience involves the emotions, and so seemingly must also involve subconscious cognition, as when figures and faces and shapes generally exhibit the golden ratio, which we are more or less hardwired to find attractive, irrespective of whether such knowledge is ever made explicit.

Even so, the term “aesthetic” is sometimes used—elastically—to underscore the delight we sometimes take in certain sensations for their own sake. Misuse of the term sometimes involves confusing the character of the object of experience with that of the experience itself. One can experience artwork, even pleurably, without the experience having to have an aesthetic character at all (think of nude studies). An experience *of* an aesthetic object, or even of its aesthetically relevant properties, need not be an aesthetic experience. Sensuous experience of artwork, or detecting and attending to features that would be relevant to its active appreciation, might in fact lead to, accompany, or be part of aesthetic experience, but it might just as well not, and so its potential involvement in aesthetic experience does not imply that there is anything aesthetic about such sensuous, attentive, or detective experience on its own.

As for the problem of variety, I will take an example that is oversimplified but nonetheless illustrative. Suppose a tragedy makes me sad and makes me think seriously about dire fate, while a comedy makes me happy and makes me think lightheartedly about lucky coincidence. What could these experiences possibly have in common? Again, we might follow Kant, according to whom, very roughly, aesthetic experience consists in free play between the faculties of the imagination and the understanding, regardless of the *content* of either of these faculties.<sup>28</sup> In terms of this discussion, while my tragedy-response and my comedy-response may have nothing in common intellectually or emotionally, this does not mean that the two have nothing peculiarly aesthetic in common. Not only do they both involve the intellect and the emotions but, more strikingly, their variety in content does not rule out the possibility that in both cases there is the same type of *relation* between intellect and emotion, one that overarches admittedly variable content. Above I characterized the relation, and the experience, in terms of the *resolution* of conflict between intellect and emotion, not the

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<sup>27</sup> Immanuel Kant, *Critique of Judgment*, trans. Werner S. Pluhar (Indianapolis, IN: Hackett, 1987), sec. 7, pp. 31-32.

<sup>28</sup> *Ibid.*, sec. 9, p. 62.

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quelling of either, but the coherent engagement of both. If mental life is characterized by such conflict typically, this would help explain the psychological value of art.<sup>29</sup>

What I am suggesting here is that at the appropriate level of abstraction, there is something common and peculiar to the class of aesthetic experiences. At the very least I have shown that this particular objection does not suffice to show that such a theory of aesthetic experience cannot be defended. Sensuous experience can be dismissed as non-aesthetic or as implicitly impure, whereas detecting or attending to aesthetic properties, though clearly *of* the aesthetic, are insufficient for aesthetic experience. Plus, judicious abstraction to common and peculiar relations between mental faculties takes care of the problem of variable content. Thus a univocal, robust notion of aesthetic experience can be preserved.

### 9. Conclusion

Critics and advocates alike might see what I have attempted here as taking the teeth out of aesthetic theories by delegating less work to the aesthetic condition than is standard, suggesting that we might have to abandon the erstwhile strong link between actualism and aesthetic (though not psychological) value. But abandoning this link would only be anathema to the aesthetic approach in general if the value of aesthetic experience were not significantly bound up with human psychology, and if human psychology were not sufficiently varied to allow for different permissible (if not all strictly correct) responses to art, or relatedly if one could infer something about the objective value of art from the simple fact that someone finds it valuable in a certain way (this simple fact nonetheless being necessary, according to the actualist, for art). Such a condition is in concert with the aesthetic approach in general, not only for preserving the link between art and the aesthetic, but also for suggesting (if not implying) the form a reasonable (if reductive) account of aesthetic value might take. In its most defensible form, actualism does less work than otherwise, but in avoiding the most virulent attacks on aesthetic theories, it does enough.

I have proposed an aesthetic criterion for art motivated by a defense of the (A) condition (actualism) from the key—and often thought devastating—objections levied against aesthetic theories. These objections, I argue, can successfully be parried without compromising the objectives of the aesthetic approach to defining art. At least none of the objections seems now to have scored a very palpable hit.

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<sup>29</sup> Holt, “A Comprehensivist Theory of Art,” p. 427.

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# Why Has Aesthetic Formalism Fallen on Hard Times?

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## 1. Introduction

Nick Zangwill has done more than any person recently to resuscitate aesthetic formalism.<sup>1</sup> I say “resuscitate” because formalism has not been in favor for several decades. Zangwill writes that “Aesthetic Formalism has fallen on hard times. At best it receives unsympathetic discussion and swift rejection. At worse it is the object of abuse and derision.”<sup>2</sup> The reasons many today believe aesthetic formalism is not viable have been the subject of discussion since the pendulum swing away from New Criticism, via the work of William Wimsatt, Cleanth Brooks, Clement Greenberg, André Levinson, and Heinrich Wölfflin. Most of these reasons have been discussed thoroughly, and those that I will review here that have been discussed I will spend little time reconsidering. I believe, though, that there are a few more reasons why formalism has fallen on hard times, reasons that have not been much discussed, or at least not directly. They are the subject of this article.

While the history of aesthetics includes many formalists, some of a variety much less modest than the sort with whom Zangwill keeps company, I want to use as a baseline definition of formalism Zangwill’s own. His definition of a formal aesthetic property begins with “the intuitive idea that formal properties are those aesthetic properties that are directly perceivable or

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<sup>1</sup> Within the last few years, Nick Zangwill has revived interest in aesthetic formalism in a series of articles. One, Nick Zangwill, “Feasible Aesthetic Formalism,” *Nous* 33, no. 4 (1999), pp. 610-29, lays out his positive case for formalism, making use of the Kantian model of free and dependent beauty as a departure point. A second, Nick Zangwill, “In Defence of Moderate Aesthetic Formalism,” *Philosophical Quarterly* 50, no. 201 (October 2000), pp. 476-93, takes on a major position in opposition to his own, that of Kendall Walton as expressed in Kendall Walton, “Categories of Art,” *Philosophical Review* 79 (1970), pp. 334-67. And a third, Nick Zangwill, “Defusing Anti-Formalist Arguments,” *British Journal of Aesthetics* 40, no. 3 (July 2000), pp. 376-83, offers just what the title suggests.

<sup>2</sup> Zangwill, “Feasible Aesthetic Formalism,” p. 610.

that are determined by properties that are directly perceivable.”<sup>3</sup> He defines a formal property this way: “Formal properties are entirely determined by narrow nonaesthetic properties, whereas non-formal aesthetic properties are partly determined by broad nonaesthetic properties.”<sup>4</sup> And concerning narrow nonaesthetic properties, he states that “the word ‘narrow’ includes both sensory properties, non-relational physical properties, and also any dispositions to provoke responses that might be thought of to be partly constitutive of aesthetic properties.”<sup>5</sup> Zangwill defines himself as a modest formalist and, as the immediately preceding quotation suggests, he allows as appropriate to the constitution of an object’s aesthetic character more than a less modest formalist (like Clive Bell) would.

Since my aim in this article is to shed light on why aesthetic formalism has fallen on hard times, I am obliged to keep the discussion fluid enough to account for the breadth of formalism as an historical movement in aesthetics—or more specifically, three movements in the history of aesthetics: (1) formalism of the objective Platonic-Aristotelian variety; (2) formalism focused on securing freedom for artworks from social, religious, and moral criticism, as we find in the work of Roger Fry, Stuart Hampshire, and famously advocated by Oscar Wilde; and (3) formalism focused on delineation of what properly counts as an aesthetic property. This article is not a critique of Zangwill’s formalism. Indeed, he has made a variety of moves, consonant with being a *modest* formalist, to account for some apparently relational properties as relevant to an aesthetic appraisal of objects, and this results in rendering his view far less a candidate for rejection than earlier views. Let’s begin by reviewing some of the more popular reasons for the rejection of aesthetic formalism.

## **2. Reason One: Cognition-Inspiring Aspects of Twentieth-Century Modern Works of Art**

By and large, modern art does not lend itself to formalist critique; for many works, there is little of significant value to be found in them—like Readymades, Dada, and Pop Art—when viewed from such a perspective. So to the degree to which art theory should follow art, formalism, at least as a critical approach, gives way in the twentieth century to what for my purposes I call “contextualism.” “Contextualism” is the view that some non-formal properties, specifically, properties that provide an appropriate context (or

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<sup>3</sup> Ibid., p. 611.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

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contexts) within which an object or event may be considered, are relevant to the constitution of that object's or event's aesthetic features (and so to its aesthetic merits).<sup>6</sup>

There are certainly those who advocate viewing objects such as Marcel Duchamp's Readymades from a formalist perspective, finding the aesthetic value of such works to lie in their formal aesthetic properties and crediting Duchamp with seeing in the ordinary aesthetic qualities more aesthetic merit than an audience more concerned with the functionality of Duchamp's "finds" sees. Unfortunately, this perspective seems at odds with Duchamp's own artistic processes. Not to take anything away from his skill as a great painter, the challenge for which he has become famous is the elevation of ordinary objects to the status of works of art. If the objects he chose had hidden aesthetic depth, his challenge loses its heat. It becomes lukewarm and unworthy of the attention Duchamp (and others like Warhol and Rauschenberg) attracted. To consider a Readymade in line with Duchamp's artistic processes—but moreover to consider a Readymade in the context that affords it the greatest value, the greatest command of attention—is to view it not formally but rather as inspiration for cognition.

### 3. Reason Two: Representational Aspects of Works of Art

Formalist critical approaches are, at least *prima facie*, unable to account adequately for the value of artworks when that value is tied to the representational content or aspects of those works.<sup>7</sup> This is a species of a larger problem: formalism does not seem to have a place for properties of a relational nature. If we believe that a case for the aesthetic merits of an object (art or otherwise) includes reference to properties that speak to the representational relation between that object and some other, formalism does not have a place for this. The same can be said of historical relations.<sup>8</sup> If we

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<sup>6</sup> This is discussed in David Fenner, *Art in Context* (Athens, OH: Ohio University Press, 2008).

<sup>7</sup> Peter Kivy, "Science and Aesthetic Appreciation," *Midwest Studies in Philosophy* 16 (1991), pp. 180-95. On pp. 192 and 193, Kivy writes that "the beauty of a scientific theory, like the overall artistic success of a realistic painting, is a function also of its representational success, which is to say, its truth. . . . Once formalism is given up, the claim that, in theoretical sciences, the beautiful can never prevail over the true loses all appeal, if not all sense, for, of course, there never is a contest between beauty and truth in theoretical science, understood as the attempt to represent nature. It cannot represent nature beautifully, in the fullest sense, without representing it truthfully."

<sup>8</sup> I include with historical relations "genetic" aspects of a work, that is, aspects connected to the artist and the context of her creation of the work.

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believe that the historical context of a work is relevant to a case for the aesthetic merit of that work, and aesthetic merit is evidenced on the presence of aesthetic properties, then one might claim that the aesthetic properties “possessed” by the object in question transcend those “directly perceivable or that are determined by properties that are directly perceivable.”<sup>9</sup>

### **4. Reason Three: Expressive Aspects of Works of Art**

It is unclear that aesthetic formalism will adequately capture properties that are expressive in nature. Zangwill makes provision for this, but for other formalists, this problem is the same sort possessed by representational and historical considerations.

The point regarding the rejection of formalism on the grounds that it does not capture expressive properties might be broadened. Some artists in creating their works may well mean to express perspectives on particular social issues, religious issues, or issues having to do with ethnicity, race, and gender. It is likely that objects viewed with these perspectives in mind, when these perspectives were meant to be expressed by artists through their works, will result in richer or at least deeper experiences for audience members. On many occasions, though, in the absence of knowing an artist’s intentions (or sometimes in spite of knowing them), an audience member may inform her viewing act with a social-, religious-, ethnic-, or gender-oriented, etc. perspective, and the result may be a richer and/or deeper experience. My point is that if we limit expressive properties only to those actually (and consciously) expressed by the artist, then we may need another category here, one for audience perspectives focused on properties of artworks that are much like artist-intended expressions.

### **5. Reason Four: Aesthetic Properties and Critical Practice**

The number one concern of today’s aesthetic formalist is to advance an argument that would delineate in tight and enduring ways what counts as an aesthetic property and what does not. Zangwill writes:

I assume as a fundamental principle that aesthetic properties are determined by nonaesthetic properties. . . . Once we admit this thesis, there is then an issue about *which* nonaesthetic properties determine aesthetic properties. . . .

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<sup>9</sup> Zangwill addresses historical relations in “In Defence of Moderate Aesthetic Formalism,” and so this reason for rejecting aesthetic formalism may only apply to his predecessors and not to him.

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Which nonaesthetic properties are aesthetically ‘relevant’?  
This is where the issue of formalism should be located.<sup>10</sup>

I suggest that two motivations are behind this central concern: (1) the formalist simply wants to capture what it is we essentially mean to talk about when talking about the aesthetic character of an object, and (2) the formalist wants to do this in part so that conversations about the aesthetic merits of works of art are both meaningful and do not degenerate into individualistic relativism. The latter is predicated on the former. If I can say what counts as an aesthetic property, and can then use my observation “that such-and-such a work of art has such-and-such an aesthetic property” as evidence for my claim that this work is aesthetically good, then conversations about aesthetic merit can be productive. If I cannot even cite what counts as an aesthetic property of a particular work of art, then there is no conversation—at least no productive one—to be had. When I offer my take on a work of art, I mean to recommend my take as the right one. If my companion does not agree with me, I would like the opportunity to try to persuade my companion that I am right. To do this, I want to offer a case based on evidence, but if there is no way to say in an authoritative (or at least commonly agreed-upon) way what counts as evidence—that is, what counts as an actual aesthetic property of the object under consideration—then I do not get the opportunity I want. Aesthetic formalism offers me a clean way to establish what counts as the evidence that I can cite in making my case.

This characterization of how we use the citation of aesthetic properties was perhaps best articulated and defended by Monroe Beardsley:

The alternative that remains is to say that a distinguishing feature of A-qualities [aesthetic qualities] is their intimate connection with normative critical judgments—or, more explicitly (though still tentatively and roughly), that an A-quality of an object is an aesthetically valuable quality of that object. On this proposal, what guides our linguistic intuition in classifying a given quality as an A-quality is the implicit recognition that it could be cited in a reason supporting a judgment (affirmative or negative) of aesthetic value.<sup>11</sup>

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<sup>10</sup> Zangwill, “Feasible Aesthetic Formalism,” p. 610.

<sup>11</sup> Monroe C. Beardsley, “What Is an Aesthetic Quality?” *Theoria* 39 (1973), p. 61.

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Alan Goldman says that this connection with aesthetic value places aesthetic properties in line with their most popular linguistic use as a justification for a particular broad aesthetic-evaluative claim about an object or event. He writes:

Aesthetic properties are those which contribute to the aesthetic values of artworks (or, in some cases, to the aesthetic values of natural objects of scenes). . . . We might conclude that works of art are objects created and perceived for their aesthetic values, and that aesthetic properties are those which contribute to such values.<sup>12</sup>

In order to complete Beardsley's account, we next must look at what he believes to be of aesthetic value:

"X has greater aesthetic value than Y" means "X has the capacity to produce an aesthetic experience of greater magnitude (such an experience having more value) than that produced by Y." Since this definition defines "aesthetic value" in terms of consequences, an object's utility or instrumentality to a certain sort of experience, I shall call it an Instrumentalist definition of "aesthetic value."<sup>13</sup>

Beardsley explains "greater magnitude" this way:

First, an aesthetic experience is one in which attention is firmly fixed upon heterogeneous but interrelated components of a phenomenally objective field—visual or auditory patterns, or the characters and events in literature. . . . Second, it is an experience of some intensity. . . . But this discussion already anticipates the two other features of aesthetic experience, which may both be subsumed under *unity*. For, third, it is an experience that hangs together, or is coherent, to an unusually high degree. Fourth, it is an experience that is unusually complete in itself. . . . [B]ecause of the highly concentrated, or localized, attention

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<sup>12</sup> Alan H. Goldman, "Properties, Aesthetic," in *A Companion to Aesthetics*, ed. David Cooper (Oxford: Blackwell Publishers, 1995). See also Alan H. Goldman, "Aesthetic Qualities and Aesthetic Value," *Journal of Philosophy* 87 (1990), pp. 23-37.

<sup>13</sup> Beardsley, *Aesthetics*, p. 531.

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characteristic of aesthetic experience, it tends to mark itself out from the general stream of experience, and stand in memory as a single experience. . . . One aesthetic experience may differ from another in any or all of three connected but independent respects. . . . I propose to say that one aesthetic experience has a greater magnitude—that is, it is more of an aesthetic experience—than another; and that its magnitude is a function of at least these three variables.<sup>14</sup>

I mentioned above that the formalist may be motivated both by a concern for explicating aesthetic character and by using that explication as evidence for aesthetic value claims. It seems to me that Beardsley's articulation of what counts as an aesthetic property speaks directly to these matters. Beardsley's entrée to the topic is critical aesthetic practice, actual lived critical aesthetic practice. Although Frank Sibley taught us that this is a one-way dynamic,<sup>15</sup> Beardsley reminds us that when we make evaluative judgments about aesthetic objects, we evidence these judgments by citing aesthetic properties that the object possesses. Current accounts now involve the subject—Sibley, Beardsley, and probably most twentieth- and twenty-first-century aestheticians agree with this—but essentially the evidencing of our aesthetic evaluations is borne by the citation of the object's aesthetic properties. And these, of course, are evidenced by the object's possession of certain nonaesthetic (base) properties.

What is at issue concerns the size of the set of appropriate and relevant nonaesthetic properties. The formalist limits her set to those dependent directly and exclusively on the object's narrow nonaesthetic properties. But it strikes me that if we take seriously the Beardsleyan project of delineating what counts as an aesthetic property on the basis of its use in actual critical practice, we have to confront two things. First, we take into account the inductive, particularist nature inherent in the Beardsleyan approach. And, second, by following the approach, we recognize that typical critical aesthetic practice today—*New Yorker* criticism, as an example<sup>16</sup>—does not follow a formalist approach.

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<sup>14</sup> Ibid., pp. 527-29.

<sup>15</sup> Frank Sibley, "Aesthetic Concepts," *Philosophical Review* 68 (1959), pp. 421-50.

<sup>16</sup> That is, *New Yorker* criticism today. In the past, the *New Yorker* certainly had its share of formalist critics. My favorite example is Arlene Croce, the dance critic.

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When it comes to his focus on aesthetic experience and his discussion of its nature, it is easy to see Beardsley's Deweyan roots. Aesthetic experience is a sort of bedrock in Beardsley's aesthetics, and his discussion of it has a marked psychological tone. Determining the character of aesthetic experience according to its psychological character implies that the project must be particularist and inductivist (and the results contingent and open to future empirical influence). This same feature is present in Beardsley's delineation of aesthetic properties. They are based on actual critical practice, and as such, they cannot be, through a priori means, delineated in any way that will result in a closed set of all and only aesthetic properties.

This is further complicated, for the formalist, by taking stock of actual critical practice. The vast majority of critics writing today include in their aesthetic evaluations of objects and events ascription to the objects of aesthetic properties that go beyond those based on narrow nonaesthetic properties. This seems necessarily the case when we are talking about so many of the objects of twentieth-century art that are virtually unrecognizable as art without involving external considerations, including objects from Duchamp, Warhol, Rauschenberg, and many others. This may drive the aesthetic formalist to say that the art objects (relevant to this discussion) created by these artists do not have marked aesthetic characters, and that a distinction between art objects and aesthetic objects is now required (and so, to boot, Beardsley's subsumption of the former under the latter will not work anymore). Even granting this distinction to the formalist, the plain typical reality is that even when focused on what we intuitively see as aesthetic objects, and when focused on what we intuitively take to be the aesthetic aspects of these works, critics will include in the evidence for their evaluations citation of nonaesthetic properties as relevant that are not exclusively narrow. Only by having a preconceived view of aesthetic properties can we begin a priori to parse out the properties reported in aesthetic experiences into aesthetic ones and nonaesthetic ones. Beardsley's project, on the other hand, is particularist: aesthetic properties are those that "could be cited in a reason supporting a judgment . . . of aesthetic value."<sup>17</sup> What reasons may be offered, what properties cited, may well be expected to differ, subject to subject, experience to experience, object to object, critic to critic.

Zangwill says that "without 'a sense of form and color and a knowledge of three-dimensional space' we cannot appreciate a work of visual art," which he translates as "without an appreciation of the aesthetic properties determined by two-dimensional design and the representation of three-

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<sup>17</sup> Beardsley, "What Is an Aesthetic Quality?" p. 61.

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dimensional shapes, we cannot appreciate a work of visual art.” Just before this, though, he writes of this claim: “This, I maintain, is almost always true!”<sup>18</sup> I think the word “almost” there is crucial; it rightly allows for the possibility of differences in particular experiences. I agree with Zangwill’s general point about the centrality of turning first to formal aesthetic properties in recounting aesthetic experiences and in advancing aesthetic claims, but this seems a modest observation. What Zangwill wants to do, it seems to me, is to establish two things: (1) the indispensability, the necessity, of a formal aesthetic description of every aesthetic object (for which he does not want to invoke “tactical retreat”), and (2) the centrality of such a description to every aesthetic account, be it descriptive or evaluative of an experience. Let me repeat a quotation from above:

I assume as a fundamental principle that aesthetic properties are determined by nonaesthetic properties. . . . Once we admit this thesis, there is then an issue about *which* nonaesthetic properties determine aesthetic properties. . . . Which nonaesthetic properties are aesthetically ‘relevant’? This is where the issue of formalism should be located.<sup>19</sup>

If the aesthetic relevancy of nonaesthetic properties is the core issue, and if, following Beardsley and Goldman, we have aesthetic relevancy turn on the reasonableness of citing that nonaesthetic property as evidence for an aesthetic claim, then there is no way to circumscribe in any stable way exactly and precisely what nonaesthetic properties will aesthetically be relevant and which will not. Barring this, the two claims I mentioned directly above cannot be established. The best we can say is “it all depends on the subject’s description of her experience, or on what she chooses to use as reasons for her judgment.” This is not a particularly satisfying conclusion, but it seems inescapable.

In order for aesthetic evaluation to be normative, it must rely on the evidencing of claims, and this evidencing must go all the way down. But where “all the way down” ends up is not clear. The formalist believes it ends in narrow nonaesthetic properties, but if we use today’s typical critical practice to determine where we end up “all the way down,” the preponderance of evidence suggests that we do not have perfect reason to settle just on those narrow properties.

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<sup>18</sup> Zangwill, “Feasible Aesthetic Formalism,” p. 618.

<sup>19</sup> *Ibid.*, p. 610.

### 6. Reason Five: Aesthetic Character and the Problem of Taste

Sibley famously argues that reductions of evaluative aesthetic claims will never result in arrangements of objective properties.<sup>20</sup> He discusses the importance of engaging “taste” in ascribing to objects aesthetic properties. To judge aesthetic objects requires the involvement of a subjective context,<sup>21</sup> the engagement of a set of skills on the part of the audience member. So we can ask: If all aesthetic evaluative activity requires taste, and the exercise of taste is “subjectively additive” to the object or event under consideration, then isn’t aesthetic judgment in its very nature an anti-formalist matter? (By “subjectively additive,” I mean that the subject imports something substantive to the establishment of the presence of a particular aesthetic property, something that is not present without the subject’s contribution.) If aesthetic evaluation, understood after the subjective turn of the eighteenth century and after Sibley, essentially involves the subject bringing to her evaluation of an object her “taste,” a thing essentially external to the object, then does this not mean that any formalism is incoherent on the grounds that no aesthetic evaluation can be performed in the absence of the incursion of the external set of skills we call the subject’s taste? If this were the case, then formalism should have entirely passed away with the arrival of Sibley’s work. If formalism survives the notion that all aesthetic evaluation requires the inclusion of taste, then what taste must do is simply to actualize an objective potential; what it does not do, if formalism is coherent, is “additively” to include subjective contributions, aspects of the subject essentially external to what is given in the art object or event.

But there’s more to be said. David Hume’s attempt, some people believe, to balance the subjectivity and incorrigibility of taste with a realist account of aesthetic judgment fails.<sup>22</sup> It fails on the probability that two equally well-disposed aesthetic judges might ultimately disagree about the merits of a given object. This is usually chalked up to a difference in taste. Here we are not talking about “good” versus “bad” taste, nor are we talking about the subjective faculty that allows us to recognize or actualize the

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<sup>20</sup> Frank Sibley, “Aesthetic Concepts,” *Philosophical Review* 68 (1959), pp. 421-50.

<sup>21</sup> It is important to note that I use the terms “subjective” and “objective” to denote locations of states or properties, not to denote either the state of reality/existence of those states/properties or whether claims about their reality/existence are true or false. These are separate matters and must be understood as separate to make sense of my claims. “Subjective” does not mean “individually relative” or “a matter of personal taste.”

<sup>22</sup> David Hume, “Of the Standard of Taste,” in *Four Dissertations* (1757), accessed online at: <http://www.csulb.edu/~jvancamp/361r15.html>.

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presence of aesthetic properties as in the theories of Shaftesbury, Hutcheson, and in a slightly different way Sibley. We are instead talking about personal taste: some people like Mozart, some like John Lennon. Some people like David Lynch, some like David Lean. Some people like Kandinsky, some like Sargent. If it is an irreducible fact about human aesthetic sensibility that tastes vary, then this constitutes a very present and very real context through which we view aesthetic objects.

Goldman believes that aesthetic realism does not survive the inescapable fact of individual taste. He writes:

Another and far more obvious reason for the absence of principles with which to support aesthetic evaluation lies in irreconcilable differences in taste. It is an old cliché that what appeals to one person in art will not appeal to another. But if true, this in itself might block principles that would link nonevaluative to evaluative properties of works . . . .<sup>23</sup>

[T]he crucial point once more is that even fully developed and informed tastes can differ across ideal critics.<sup>24</sup>

Differences in taste even among ideal critics show that objective properties do not only count in one direction (Sibley thought they do). Even the same lines in the same work do not count only positively toward gracefulness; they may count negatively for other critics.<sup>25</sup>

[W]e must relativize aesthetic judgments to ideal (but still human) critics who share tastes.<sup>26</sup>

Sibley's taste is subjective but not additive, or at least it can be conceived in a way that the exercise of taste as a means of properly citing the aesthetic properties of an object does not involve the addition of something external, that the taste-function as Sibley describes it merely actualizes an objective potential. This is also consistent with what Beardsley and Hume

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<sup>23</sup> Alan H. Goldman, *Aesthetic Value* (Boulder, CO: Westview Press, 1995), p. 13.

<sup>24</sup> *Ibid.*, p. 42.

<sup>25</sup> *Ibid.*, p. 138.

<sup>26</sup> *Ibid.*, p. 176.

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say, but the sort of taste that Goldman talks about is indeed additive. It is additive in the sense that the subject contributes to the strength and to the relevancy of what nonaesthetic properties are focal in her description of the aesthetic properties of the object under consideration. Since the subject's taste ("taste" in the Goldmanian sense) changes the aesthetic evaluation of the object, it not only results, as Goldman says, in a rejection of aesthetic realism, it also results in a rejection of formalism.

Let me offer an example. I pepper my lectures in aesthetics with many examples from twentieth-century art. I talk about the New York School and about its importance to modern art, to American art, and to the development of art itself. One cannot talk about the New York School without talking about Jackson Pollock, especially his late, flat, purely abstract work. I do not hesitate to say how important this work is, but I never miss an opportunity to follow this up by talking about my aesthetic distaste (dis-taste) of Pollock's work from this period. I say that if I were at the Museum of Modern Art with a colleague, and that colleague were "pro-Pollock," she might well talk in aesthetically positive terms about the abstraction, the absence of focal points, the extreme balance we get in the drip paintings, the complexity, the order, the uniformity, and so forth. My reaction is to acknowledge all of these things and then say that these are exactly the properties one looked for in 1960s kitchen-counter laminates. The point of my silly example is to show that the aesthetic properties that my colleague cites as supportive of her case of the aesthetic merit of the work rest on nonaesthetic (base) properties that I will use in my negative case about the work. Where she sees a nonaesthetic property that grounds the correct identification of a positive aesthetic property, say order, I will see that same nonaesthetic property grounding the correct identification of a negative aesthetic property, say being boring. And perhaps more to the point, there are sure to be nonaesthetic properties that my colleague cites as important to her aesthetic case for the merits of the work, nonaesthetic properties that I find entirely irrelevant, and vice versa.

This is not a new point, and Goldman describes it more eloquently than I do. Scenarios like this clearly support the point that taste in the way that Goldman uses the word contributes an external context to the critical evaluation of (probably most) aesthetic objects, and an external context that bears directly on what counts as an aesthetic property and what does not, which nonaesthetic properties are relevant to the aesthetic character of an object, and which are not.

Please note that I have not left the formalist playing field. In my colleague's and my considerations of the Pollock piece, our assessments have only to do with the formal properties of, and formal relations within, the work. But as our divergent tastes bring certain nonaesthetic properties to the fore and push away others as irrelevant, we end up, while attending only to the

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formal properties of the work, with radically different descriptions of the object's aesthetic properties. Formalism, because of personal taste, cannot deliver a stable account of an object's aesthetic properties, and so it cannot deliver a stable account of the aesthetic character of objects and events.

The formalist who may say that the above example not only does not show what I mean it to show but actually shows the reverse—insofar as my colleague and I only discourse about the formal properties of the Pollock work, and so thereby support the formalist's assertion that the aesthetic character of the work lies principally, perhaps exclusively, in its formal properties—misses the point I mean to make. First, it is a choice that I confine the example to discussion of merely the object's formal qualities, a choice I make for the sake of showing that a strictly formalist analysis will not capture in stable and enduring terms the aesthetic character of the work in a nonrelativist way. Second, were I offering a true account of my take on the aesthetic character of the work, I would also certainly count as an aesthetic property the absence of representational qualities. My colleague will use the absence of representational qualities as a reason to praise the work (perhaps moving into art-historical contextual considerations next), and I will use the absence of such qualities to criticize the work (as lacking anything like an engaging focus). Third, any serious critic hearing us discourse will think us uninformed; to discuss a mature Pollock work is almost certainly to include its art-historical context and significance, and I would wager that most critics would hold that, in the case of Pollock, a firm distinction between the aesthetic properties of the work and the (nonaesthetic) artistic features of the work is a mistake. The significance and importance of the formal properties of a mature Pollock turn on their art-historical context. Flatness is important, but it can only be seen as important contextually.

### **7. Reason Six: The Importation of the Subject**

The last reason I want to offer in answering the question, “Why has formalism fallen on hard times?” has to do with the history of aesthetic theory. I believe that the context of the historical development of formalist theories leads us to where we are today, that it explains why formalists (in both aesthetic theory and art theory) are in short supply now. Aesthetic formalism begins with Aristotle, continues through Augustine and Thomas Aquinas, and on down to Shaftesbury. These formalists were objectivists and their theories offer formulas for the connection between the ascription of beauty and the presence of certain nonaesthetic base properties possessed by the object cited as beautiful. Formalism continues with Francis Hutcheson, Joseph Addison, and Immanuel Kant; these formalists adopted ontologies that were relational or mixed objective and subjective elements. Formalists of the twentieth century generally are not up front with their ontological commitments; they include Roger Fry, G. E. Moore, Clive Bell, Stuart

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Hampshire, Melvin Rader, Eduard Hanslick, and José Ortega y Gasset. The formalism that was meant, for pre-seventeenth-century theorists, to underwrite aesthetic realism ultimately does not survive the subjective turn of the eighteenth century. Certainly, it survives in the short term, but as the subjective turn of the eighteenth century is what leads to the subjectivism in Sibley's account of the necessity of the exercise of taste in aesthetic property ascription, and as Hume and Sibley together lead to positions like Goldman's about the "contextually additive" nature of the exercise of personal or individual taste in determining the relevancy and strength of nonaesthetic properties in aesthetic characterizations of objects and events, I think it is fair to say that once objectivism goes, so too does the metaphysical ground that formalism requires to survive and to undergird realist agendas.

Twentieth-century formalists do not engage in much ontological discussion. Certainly, part of this has to do with different motivations from those before the eighteenth century. Twentieth-century formalists—Aestheticists and New Critics—had other fish to fry; they needed to protect the aesthetic quality of their arts from domination by external considerations focused on morality, politics, and the like. However, I think that part of the reason that twentieth-century formalists begin to give up talking about their ontological bases is because to do so is to have to walk a tightrope: to be subjectivist—as Kant and Beardsley are—but at the same time to be absolutists about aesthetic evaluation (and realists about the presence of the aesthetic properties that undergird evaluative claims). It was the eighteenth century that set the stage for the abandonment of formalism we see today. Kant may have been the nineteenth- and twentieth-centuries' formalists' best friend, but I think that it was the subjective ontology that he employed that explains in large measure why formalists today are in short supply.

# Austro-Libertarian Publishing: A Survey and Critique

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## 1. Introduction

Suppose that we take it for granted that we favor a society based on private property rights and voluntary interaction with one another. How can we best attain such a goal? Specifically, how can we best attain an Austro-libertarian understanding of it? We Austro-libertarians all tend in a scholarly, not to say a nerdy, direction. Our comparative advantage thus lies not in picking up a gun and shooting people in order to achieve a free society, but rather in the direction of education.<sup>1</sup>

This immediately sets up a choice: Shall our efforts in this regard be aimed at public speaking or writing?<sup>2</sup> Some might say “both,” but given time limits, that sets up the question: What proportion of time should be devoted to each? At one time I would have come down firmly on the side of publishing rather than giving speeches, on the ground that the former is forever, while the latter is ephemeral. Words go out on the wind, and soon disappear. I reckoned

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<sup>1</sup> Not that this would do much good in any case. Until the “hearts and minds” of the populace are won, were one dictator to be assassinated, dozens more would contend for his position, and one of them would attain it. Without education, the masses of people, without a proper ideology, would support totalitarianism, not freedom. The pen is truly mightier than the sword since the former determines the *direction* in which the latter is pointed. Jeffrey Hummel states, “Ideas, not brute force, rule the world. If you change people’s minds, you change the direction in which they point their guns”; see Jeffrey Rogers Hummel, “A Practical Case for Denationalizing Defense: Part 2,” *The Pragmatist* 3 (June 3, 1986), p. 3. And Hummel refers to “the motivation of the people themselves. Ideas ultimately determine in which direction they wield their weapons or whether they wield them at all”; see Jeffrey Rogers Hummel, “The Will to Be Free: The Role of Ideology in National Defense,” *Independent Review* 5 (Spring 2001), pp. 527–28.

<sup>2</sup> Many of us have jobs that require a certain amount of public speaking (e.g., teaching) and/or writing (if employed, say, by a think tank). I am abstracting from these responsibilities and asking about additional time when we are free to do as we please in this regard.

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without modern technology, though, which can now preserve the spoken word as well as the written.<sup>3</sup>

At the margin I still favor writing over speaking.<sup>4</sup> If a public address is to be effective, it has to be spontaneous,<sup>5</sup> but, if so, then it cannot be the result of your considered opinion. Rather, you make it up as you go along.<sup>6</sup> In terms of getting to the depths of an issue, it is unusual for an extemporaneous speech to approach the written product, which can be composed at leisure, and then reworked repeatedly, until what is down on paper (or on the screen) is the very best of which you are capable. I feel so strongly about this that I have been raising my speaking fees in an attempt to make more time for writing.

Whether it is the written word or the spoken word, what is important is that the Austro-libertarian word gets created and then publicized. As is written on the men's rooms of the nation, "The job's not over until the paperwork is done." It seems entirely selfish to write an essay and then keep it to oneself, yet there are some people I know who make *brilliant* contributions and follow this practice. Publicizing is like tossing grenades and firing howitzers at the bad guys. It brings recruits to our banner, and discomfort to our intellectual and moral enemies. None of these effects can occur when such material is kept hidden.

I will offer a word about repetitiveness. You don't want to write the same book five times over and call it a career. Nor do you want endlessly to repeat yourself in articles. On the other hand, and there *is* another hand, if you write a lot, there is bound to be some overlap. I was once at a seminar sitting next to my old mentor from Columbia University, Gary Becker, and someone else made exactly the comment I wanted to make. I said something on the order of "Darn, I was going to say that." Gary encouraged me to pipe up, saying, "You can't have too much of the truth." What I got out of this very kind remark is that even though I would make much the same point, it would be subtly different from the one made by the person before me, if only in terms of inflection, emphasis, examples used to illustrate, etc. Sometimes, in

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<sup>3</sup> See, e.g., <http://www.mises.org/media.aspx>.

<sup>4</sup> On the other hand, writing is a lonely business, and good speeches bring the adulation of the crowds, which can be a heady thing, especially if the crowds are made up of knowledgeable, committed free-enterprisers. I admit that I do enjoy this, but regard it as a "guilty pleasure."

<sup>5</sup> If it is written out and merely read, then the time spent on reading it could have been spent writing something else.

<sup>6</sup> Well, if you speak from brief notes, as I do, you know the general direction in which you are headed. Still, extemporaneity and profound thoughts are at best uneasy companions.

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my classes, when I see on the faces of my students that my point has not really been understood, I first try to say it again, in as many different ways as I am capable of. But there are of course limits, as I am only one person, and thus limited in my mode of expression. On these occasions it is my practice to call upon one or two bright students who did understand me, and ask them to spit back the lesson. They do so, of course, in their own words, with their own “body English” attached. Even though they are just repeating what I had said, often the students who did not, and could not, learn the material from me, can take it in from these peers of theirs. Murray Rothbard has “stolen” many of my ideas. It cannot be denied that he published these decades before I even thought of them, but at least in some cases, I came up with the thoughts independently. Honestly. So, should I hang back and not write about them, merely because he had done so long before me, and in a manner far superior to that I could ever dream of?<sup>7</sup> Not a bit. As Friedrich Hayek says, “If old truths are to retain their hold on men’s minds, they must be restated in the language and concepts of successive generations.”<sup>8</sup> And in the view of Llewellyn Rockwell, “The hatred of markets must be countered by defenses of freedom in every generation. Our lives depend on it.”<sup>9</sup> I have written over

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<sup>7</sup> In my misspent youth, I used to keep track of how many pages (double spaced, typewritten, about 300 words per page) of writing I could write per day. On a decent day, I could do five. Every once in a while I could attain the giddy heights of ten or even, very rarely, fifteen. Once, I started early in the morning, and continued until the wee hours of the next night. At the end of this orgy of writing, I had twenty-three pages. Full of myself, I telephoned Murray and asked him how many pages he could do per day. He replied (and this is a direct quotation), “Mrech, mrech, who keeps track of such things?” I pressed him beyond all endurance, asking only for an estimate (he always showed great patience with me). Finally, he said, “Eight pages an hour.” Eight pages an hour! A professional typist could do better than that, but Murray was talking about creating *de novo*. I had long since despaired of comparing myself with him in terms of quality. I saw then that even in terms of quantity alone he and I were in different leagues. On the other hand, Murray was a party hound, and I’m a bit of a workaholic recluse. Once, on a beautiful Sunday afternoon when I was working in Auburn, Alabama, at the Mises Institute, I took a look outside and asked myself whether or not I wanted to head for the great outdoors and enjoy myself. I realized then that there was nothing I wanted to do more than keep tickling that keyboard, and went back to work. Maybe in this way I will one day beat Murray in terms of words published. Forget about quality. My motto is, “Do what you can with what limited ability you have been given.” See Walter Block, “Austrians in Academia: A Battle Plan,” August 17, 2005, accessed online at: <http://www.mises.org/story/1888>.

<sup>8</sup> Friedrich A. Hayek, *The Constitution of Liberty* (Chicago, IL: University of Chicago Press, 1960), p. 1.

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and over on such topics as the minimum wage, rent control, free trade, and blackmail, just to name a few. I tell you what: as soon as they rescind anti-libertarian legislation on any of these, I will cease and desist. Until and unless that occurs, I plan to continue with my writing.<sup>10</sup>

### 2. Where to Publish

For those wishing to have a successful academic career, there is only one real outlet to consider: refereed journals. They are the venues that really count for tenure, promotion, and raises. Non-refereed periodicals, magazines, letters to editors, and books don't count in this regard. If anything, they almost constitute a negative.

Which journals should one publish in? *Ceteris paribus*, the optimal choice is the most prestigious periodical that will accept your article.<sup>11</sup> Like it or not, and I for one do not like it at all, the better jobs, promotions, etc., go to those with publications in the more prestigious journals, as determined by the neoclassical mainstream. However, *ceteris* is not at all *paribus*.

In the Introductory Editorial of the first issue of the *Review of Austrian Economics*, Rothbard and I wrote about

some dilemmas now faced by Austrian-oriented researchers who attempt to publish in the mainline journals. Articles that simply assume a familiarity on the part of the profession with methodological norms and theoretical developments within the Austrian tradition are unlikely to be published; the profession, by and large, has no such familiarity. Articles that devote substantial space to stating and defending the methodological norms and retracing theoretical developments are also unlikely to be published; they are seen, and correctly so, as unoriginal. Articles whose backgrounds are extensive in absolute terms but brief in relation to the remainder of the article do not constitute a workable compromise; they are rejected on the basis of length. These constraints do not totally

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<sup>9</sup> Llewellyn H. Rockwell, Jr., "Why They Attack Capitalism," *The Free Market* 20, no. 10 (October 2002), accessed online at: [http://mises.org/freemarket\\_detail.aspx?control=418](http://mises.org/freemarket_detail.aspx?control=418).

<sup>10</sup> For more on the importance of publishing, see Walter Block, "Austrians in Academia: A Battle Plan."

<sup>11</sup> For rankings of journals, in terms of prestige for neoclassical economists, see <http://www.google.com/search?hl=en&q=economics+journal+rankings&btnG=Google+Search>.

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preclude the publication of Austrian-oriented articles in mainline journals, but they make such events much more difficult.<sup>12</sup>

If this is the case with the Austrian part of Austro-libertarianism, what of the libertarian element? How will libertarian articles fare in journals devoted to ethics, politics, or (property or human) rights, but from a mainstream (e.g., non-libertarian) perspective? In a word, not too well. Here, complete, full, and total familiarity with the likes of Robert Nozick, Ayn Rand, Gustave de Molinari, Rothbard, and Hans-Hermann Hoppe, can readily be assumed. And this achieves much, which is the problem, for it is almost always in the wrong direction; editors of such journals, in a word, are *biased* against libertarian perspectives.<sup>13</sup>

Although Milton Friedman was never the editor of a mainstream economics journal, his attitude toward Austro-libertarians is pretty representative of that breed. He characterized Ludwig Von Mises as an “extremist” and as “intolerant.” He held Rothbard in even lower esteem, seeing him as a “cult builder, and a dogmatist.”<sup>14</sup> Were Friedman an editor of a typical neoclassical refereed periodical, and were an Austro-libertarian to have submitted a typical manuscript to him for publication, I suspect he would have been biased against it, given this attitude. In like manner, standard journals are less receptive to publishing the research of Austro-libertarians than they would be to that of their neoclassical colleagues.

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<sup>12</sup> Murray N. Rothbard and Walter Block, “Introductory Editorial,” *Review of Austrian Economics* 1 (1987), pp. ix-xiii.

<sup>13</sup> For the argument that bias exists in economics publishing, see Daniel B. Klein and Eric Chiang, “The Social Science Citation Index: A Black Box—with an Ideological Bias?” *Econ Journal Watch* 1, no. 1 (April 2005), pp. 134-65, accessed online at: <http://econjwatch.org/articles/the-social-science-citation-index-a-black-box-with-an-ideological-bias>. Also see Gary North, “The Self-Serving System of Peer Review,” July 7, 2008, accessed online at: <http://www.lewrockwell.com/north/north636.html>.

<sup>14</sup> Friedman states, “[I]n the middle of a debate on the subject of distribution of income, in which you had people who you would hardly call socialist or egalitarian—people like Lionel Robbins, like George Stigler, like Frank Knight, like myself—Mises got up and said, ‘You’re all a bunch of socialists,’ and walked right out of the room. But Mises was a person of very strong views and rather intolerant about any differences of opinion”; see: [http://www.pbs.org/wgbh/commandingheights/shared/miniextlo/int\\_miltonfriedman.html](http://www.pbs.org/wgbh/commandingheights/shared/miniextlo/int_miltonfriedman.html). See also: <http://reason.com/9506/FRIEDMAN.jun.shtml>; <http://www.fff.org/comment/com0512b.asp>; [http://www.thbookservice.com/products/BookPage.asp?prod\\_cd=c6823](http://www.thbookservice.com/products/BookPage.asp?prod_cd=c6823); and <http://www.mskousen.com/Books/Articles/guess.html>. I owe these citations to Stephan Kinsella.

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What is one to do, then? Early on I adopted a combination strategy. For any article that could conceivably fit in either category, I would first try the standard journals. Then, after five or ten rejections from journals in this category, depending upon my impatience, I would try the movement, or free-enterprise-oriented periodicals. After I achieved tenure, and was not as concerned with placement, I more or less pleased myself in this regard. In my case, this consists of sending what I regard as my best work to Austro-libertarian journals, and my lesser efforts anywhere else.

I discuss below in Section 4 the movement or free-enterprise-oriented journals in some detail, giving my own personal experiences with them, but these have to be taken with a grain of salt. My experiences in this regard may not be typical, and for two reasons. One, I write more than most people, and two, my writing is not “nuanced,” as one referee from this sector of periodicals put it. What he meant by this is that I often take on the role of a pit bull, and am hypercritical, not to say hysterical. In his view, I am needlessly antagonistic.<sup>15</sup> I plead guilty of all such charges. My explanation for this is twofold. First, I pattern my writing, as best I can, after that of Rothbard, whose motto in this regard was, “Hatred is my muse.” Second, also from this source, Rothbard sees a “deep flaw in the . . . world-view . . . (of Mr. X since) . . . he doesn’t *hate* the state, he doesn’t resent it from the very depths of his being. . . . [H]e is able to apply to the State the same standards as to any private individual and organization; he lacks the state-hatred vital to any libertarian and which certainly should be in the bones of any self-proclaimed anarchist.”<sup>16</sup> Say what you will about me—and my intellectual enemies have said quite a bit—but none of them has ever perceived in me a lack of this characteristic; indeed, the very opposite is the case.

### 3. Publishing Hints

The closer I get to my dotage, the more and more important I think it is for Austro-libertarians of my generation to help promote the careers of graduate students and young assistant professors who will follow us. That is one of my primary motivations for writing the present article: to help pass on the baton. In this vein I should like to share my publishing experiences and how best to address pitfalls.

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<sup>15</sup> This referee, and all others, sees only my essay in final draft format, after I have toned it down as best as I am able. One of these days I am going to send out an earlier draft; then real antagonism would be on display.

<sup>16</sup> Murray N. Rothbard, “Eric Mack and the Anarchist Case for War,” *The Libertarian Forum* 18, nos. 5-6 (1984), pp. 3-7.

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### **a. Rejections**

Do not be put off by rejections. Do *not*.<sup>17</sup> It takes very little time to send an essay to yet another journal.<sup>18</sup> Have a form letter handy for this purpose. My motto in this regard is “Pearls before swine.” True, on several occasions something I wrote was clearly wrong; in these cases, I benefited from critical referee’s remarks, and dropped the project. However, as long as I still think I am right, rejection letters are like water off a duck’s back; I ignore them. Do keep a list, though, of journals that have refused to publish a given essay. It is a waste of time to send an essay more than once to a given journal (and you will earn the enmity of the editor), unless, of course, it has changed editorship.

There are all sorts of articles, written by future and present Nobel Prize winners, that have been rejected on numerous occasions, only to make the reputation of the writer in yet another journal. *Never give up!*

### **b. How to deal with editors**

Try to pick journals where there is a congruence between what you are writing and what they are publishing. It is just a waste of time to make a clearly inappropriate submission; it makes you look like an idiot, to boot. Insist on an acknowledgement of a submission within a month; if you do not get it, withdraw the essay and send it elsewhere. In my early years I would wait six months before making a follow-up inquiry, only to learn that the journal never received the essay (or, had no record of having done so, which amounts to much the same thing). Follow up six months after submission, but be prepared to wait a bit longer than that for an answer. After a year, you can get a bit snarky, well, at least whiny, with an editor. Based on hindsight, I would cut matters off after eighteen months, if, after several subsequent follow-up inquiries, a journal did not let you know whether an essay was accepted or not after that duration.

When you get a revise-and-resubmit letter from an editor, be obsequious. Be intent on doing exactly what is called for in the referees’ reports, that is, when it concerns anything but substance. I will never forget Rothbard’s advice on the format of the *Review of Austrian Economics*: compromise completely on form, nothing on content. That is, if the mainstream neoclassical journals had a table of contents in the front, include one as well. If they had a certain sized margin on their pages, or followed a

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<sup>17</sup> Many, many of my now published articles have been declined by editors between a half-dozen and a dozen instances. Several have been rejected many more times: one of them fourteen times, three of them fifteen times, and one each on sixteen, eighteen, twenty-two, twenty-six, and twenty-seven occasions, respectively. This latter manuscript took almost fifteen years between writing and publishing.

<sup>18</sup> I am lucky in this matter in one regard; I do very little empirical work, so virtually none of my writings becomes dated.

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particular editorial pattern regarding footnotes, editorials, etc., shamelessly emulate them. If they featured advertisements, do so also.

In like manner, if a referee wants you to include an extra footnote or to delete one, do so. If he requires as a condition of publication that you buttress a point or remove one, obey. Heck, if he wants an entire section taken out, do not protest. You can always write another article utilizing that excised material. The only thing you should not compromise on is the integrity of the essay itself. Do not clip its wings, substantively, for a publication. In that way lies the dilution of our message.<sup>19</sup>

I urge that you do three entirely separate things in response to a revise-and-resubmit request: write a letter to the editor indicating precisely what was done in response to the referee, send a rough copy indicating, in color with cross outs if need be, what changes were made, and then, finally, a clean copy.

It is important that we publish.<sup>20</sup> Publications are like mortar shells tossed at the enemy. The more there are of them, and the higher their quality, the more likely are we to promote the free society. And, it is *fun*. I only regret

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<sup>19</sup> See Jacob G. Hornberger, "A Methodology for Hope," 2005, accessed online at: <http://www.lewrockwell.com/hornberger/hornberger70.html>.

<sup>20</sup> An anonymous referee of *Reason Papers* writes about an earlier version of the present article with these words: "(The author should) make an explicit case as to why it is important to publish in these journals both for the movement and for individual career advancement. The basic idea is that Austro-libertarianism will NOT advance within the intellectual world unless (a) the best minds in the tradition work constantly on improving the argument for economic and political liberty, and (b) that working full time on this sort of 'science of liberty' research is consistent with the advancement of their careers. If we rely on the work to come from now full time work, but part time or after work research and writing, then we (Austro-libertarians) will always fall short. So I would like to see a more explicit argument made on why working on the science of liberty is more important than other walks of life for the Austro-libertarian. Also, given the system of tenure and promotion in academia, I would like the author to explain to the reader that what is usually expected are 6 articles in refereed journals in 6 years. With the rise of the number of Austro-libertarian periodicals that are refereed and published by recognized academic publishers, young scholars can actually begin to establish their careers working on science of liberty consistent projects. In economics, for example, a young scholar could publish an article in the RAE, QJAE, CATO, Independent Review, etc. and be well on the way. If they could publish a paper in general journals such as Economic Inquiry or Southern Economic Journal, and better yet the AER and JPE, along with articles in the Journal of Private Enterprise, then their academic life would be pretty much secured at most colleges and universities." I think these are very wise words, and have helped improve the quality of this article. I quote him, verbatim, rather than summarizing, because I want him to have the full credit for them.

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that so much of my dissolute youth was spent on things other than writing and publishing.

If I can publish widely, anyone can. I am far from being the brightest light bulb in the Austro-libertarian firmament. I have a second strike against me before I even start: I have a deep abiding hatred for the state and all of its supporters, which burns at a white-fever-intensity pitch. This is off-putting to many people, even those with whom I mostly agree. If I can publish a ton, then anyone can.

### 4. Journals and Their Mission Statements

I turn now to a discussion, first, of the movement journals, and then a briefer note on the fellow-traveling ones. Here is an alphabetical list of all of the journals I discuss:

- (1) *Advances in Austrian Economics*
- (2) *American Journal of Economics and Sociology*
- (3) *Cato Journal*
- (4) *Econ Journal Watch*
- (5) *Harvard Journal of Law and Public Policy*
- (6) *Human Rights Review*
- (7) *The Independent Review*
- (8) *Journal of American Physicians and Surgeons*
- (9) *Journal of Ayn Rand Studies*
- (10) *Journal of Markets and Morality*
- (11) *Journal of Private Enterprise*
- (12) *Journal of Public Finance and Public Choice*
- (13) *Libertarian Papers*
- (14) *New Perspectives on Political Economy*
- (15) *NYU Journal of Law & Liberty*
- (16) *Quarterly Journal of Austrian Economics*
- (17) *Reason Papers*
- (18) *Review of Austrian Economics*
- (19) *Revista Procesos de Mercado*
- (20) *Social Philosophy and Policy*

#### *a. Advances in Austrian Economics*

This is an annual journal, so it does not have as much space for articles as those that are published more frequently. Most of the volumes are organized around topics (the two most recent were “The Dynamics of Intervention: Regulation and Redistribution in the Mixed Economy,” and “Evolutionary Psychology and Economic Theory”).

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Here is a statement of the editors:

The editors of *Advances in Austrian Economics* wish to connect the Austrian tradition of economics with other research traditions in economics and related areas. To that end, we are publishing a series of special issues, each devoted to a separate theme. Recent volumes have been devoted to ‘Austrian Economics and Entrepreneurial Studies,’ ‘Evolutionary Psychology and Economic Theory,’ and ‘The Dynamics of Regulation.’ We invite both Austrian and non-Austrian contributions that establish fruitful links between the Austrian tradition and other perspectives on important theoretical and practical problems. We seek scholars who are interested in constructive exchange between Austrian economists and specialists in the theme area. All submissions are subject to double-blind refereeing.

Our editorial policy is based on the conviction that Austrian economics is not a doctrine or a method, but a rich tradition of research in the social sciences whose potential has by no means been exhausted. We reject that view that Austrian economics is ‘libertarian’ in any sense except the accidental one that many of the original adherents of the Austrian revival in America were (and remain) libertarians. It is our view that Austrian economics is a living tradition and an open inquiry.

If Austrian economics is an open tradition, then it should have the potential to engage other traditions in dialogue. It is our intention that *Advances in Austrian Economics* be a vehicle for such dialogue. It is probably true that only a minority of contributors to the recent volumes are Austrian economists. Some might be labeled ‘ambiguous Austrians.’ But all are seriously engaging Austrian issues and Austrian literature. We believe the volumes represent a serious dialogue between Austrian and non-Austrian scholars. It is our hope that *Advances in Austrian Economics* will encourage both the export of Austrian ideas to other traditions and the import of non-Austrian ideas into the Austrian tradition.<sup>21</sup>

As an addendum to the foregoing message, editor Roger Koppl wrote this to me:

I forgot to warn you about one minor issue. While *Advances* strictly adheres to a policy of double-blind reviewing, Elsevier lists it as a

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<sup>21</sup> Personal email correspondence to the author.

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book series. Thus, in my internal FDU communications I never call it a journal. I don't really care whether one considers it a journal or not, but I feel I must point out how it is listed at Elsevier.<sup>22</sup>

In my own view of this matter, *Advances in Austrian Economics* certainly qualifies for tenure, promotion, and brownie points, along with all other refereed journals. Certainly, I have listed my own publications in that periodical on my annual reports, and it never raised any red flags with anyone. Of course, I only speak here for the universities that have employed me. For all I know, matters might be different at the "top" universities regarding this journal.

### ***b. American Journal of Economics and Sociology***

The late Larry Moss was an old school mate of mine; we were both students at Columbia University together. He first introduced me to Murray Rothbard. Moss is a staunch Austro-libertarian. Of all of the movement or Austro-libertarian entries, *AJES* is by far the highest ranked in terms of prestige within the economics profession. It is ranked 142<sup>nd</sup> on the list posted on the website of the Department of Economics at the University of Leicester.<sup>23</sup> Now, I admit this might not sound like much; it seems that I am damning *AJES* with faint praise, indeed. However, one must realize that none of the other journals on this list is even ranked.

Here is a statement of the editor:

The *American Journal of Economics and Sociology* (*AJES*) is a quarterly with an annual supplement. It dates back to 1941, when a talented journalist named Will Lissner told his *New York Times* employer that he wanted to start a journal that would be multidisciplinary and keep the world informed of the latest developments in the social sciences. The war in Europe was underway (Hitler said it was about '*lebensraum*') and Lissner and others on the editorial staff wanted to end wars by transmitting knowledge and perhaps land reform ideas as well.

It is now nearly 65 years later. I am only the third editor. Frank Genovese served as the second editor and had the foresight to bring the *AJES* to Babson College which is also committed to a multidisciplinary approach in teaching.

Each of the editors set no ideological standards for articles included in the *AJES*. And we state clearly on the back cover

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<sup>22</sup> Personal email correspondence to the author.

<sup>23</sup> List accessed online at: <http://www.le.ac.uk/economics/research/rankings/jrank.xls>.

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version of the *AJES* that our journal ‘affords contributors the widest freedom consistent with scientific integrity as defined by the American professional learned societies in the fields that it covers.’ The editor’s job is to raise the quality of the journal but not at the expense of its eclectic nature.

Last year, the *AJES* was invited to join the JSTOR archiving service and this year (2006) the scanning of all of our back issues and special invited issues is underway by the JSTOR professionals. This is exciting for us because our reach is now global and we can almost promise our contributors perpetual life. The electronic distribution of the *AJES* is our fastest growing method for distributing the research that we publish. . . .

The Studies in Economic Reform and Social Justice series is expanding and it may be of interest to Austrian scholars. The *AJES* gets the monograph the same international circulation and perpetual life (that is, JSTOR)! Other publishers will get your monograph published; and at a mere \$120 a copy it may get read, but not by too many people. For some scholars that might indeed be a lucky break. For others who wish to be heard, the *AJES* gets the book out first as part of the *AJES* itself and then in a separate free standing hard copy version at a reasonable price. Those with excellent monographs who care about getting their books out of the warehouses of the world and onto the streets should take a careful look at the *AJES* monograph series.

I should say a word about Austrian economics. Austrian scholars have published in the *AJES* on a fairly regular basis. There is quite a long list of such and the journal’s success in this area speaks for itself. The articles that stand the best chance of getting accepted for publication are those that deal with economic ideas in such a way that they offer an explanation of something ‘out there’ in the real world. And so, a large sized paper on the time preference theory of interest that never gets to explain how the market rate of interest is actually formed, would have a hard time getting the positive attention of the editorial board.

Alternatively, articles about ‘explaining’ the variance of a dependent variable with one or more independent variables and calling the resulting statistical discussion ‘economics’ also have a difficult time getting accepted for publication in the *AJES*. High R-squares by themselves do not explain how the world works. A significant explanation is one that refers to a broader theory or body of theory and relate the ‘dancing data delights’ to something tangible, perhaps a mechanism that can be modeled, understood and

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represented by a great variety of methods from ‘thought experiments’ to processes that can be modeled by mathematical methods.

Between the world of naked empirics and methodological ballets of the imagination sits the *AJES*. It is after all just another social science journal, but an important one at that.<sup>24</sup>

### *c. Cato Journal*

Its editor, James Dorn, characterizes this journal as being in the “market-liberal” camp. Perhaps this is why my batting average is so low there; I am so far zero acceptances for twelve submissions. I consider myself more of a radical anarcho-capitalist of the Rothbard stripe, and this perspective is not exactly congruent with that of the *Cato Journal*. Nevertheless, I highly recommend publishing in this journal. Doing so will put an author in close proximity to some of the most powerful movers and shakers in the U.S., more so than perhaps any other journal on this list.

Here is a statement from Dorn:

Friedrich A. Hayek has called the *Cato Journal* ‘an indispensable source of information.’ Milton Friedman refers to the *CJ* as ‘exceptional in consistently publishing articles that combine scholarly excellence with policy relevance.’ Those have been the goals of this interdisciplinary journal of public policy analysis since its founding in 1981.

Published three times a year, the *Cato Journal* covers a wide range of topics, with a focus on economic policy, economic freedom and development. At least one issue each year is devoted to a specific topic. Recent issues featured: “Institutions and Development” (vol. 24, no. 3), “International Monetary Reform and Capital Freedom” (vol. 25, no. 1), “Creating a Competitive Education Industry” (vol. 25, no. 2), and “Remembering Peter Bauer” (vol. 25, no. 3).<sup>25</sup>

### *d. Econ Journal Watch*

Daniel Klein is now a professor of economics at George Mason University, having recently moved there from Santa Clara. *EJW* is a magnificent journal, keeping its beady eye closely focused on its target,

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<sup>24</sup> Personal email correspondence to the author. My friend Larry Moss passed away at an all-too-early age in March 2009; see <http://blog.mises.org/archives/009574.asp>.

<sup>25</sup> Personal email correspondence to the author.

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namely, all economics journals.<sup>26</sup> This is at once both its strength and its “weakness” as far as publications for young professors are concerned. This journal is *very* narrowly focused on commentary and analysis of economics journals. This allows it to do an excellent job in this restricted field, but will not provide much of a venue for most research.

Here is a statement by Klein:

For my part, I see *EJW* as a project in developing and expressing the character of the spontaneous-order economist, and in criticizing rival characters of economists.<sup>27</sup>

### *e. Harvard Journal of Law and Public Policy and NYU Journal of Law & Liberty*

I am considering both of these journals together, since what I have to say about the one I have to say about the other. Both, like virtually all law reviews, are student-run.<sup>28</sup> My experience with each has been that they exhibit great competence. Law review students are meticulous about citations, more so than in other social sciences, demanding that pretty much every sentence be footnoted. These two are no exceptions in this regard. Where they stand out from other law reviews, however, is that they are continuously open to free-market types of analyses. Other law reviews vary in this regard from year to year.

Here is a statement from Robert McNamara, the present Editor-in-Chief of the *NYU Journal of Law & Liberty*:

I’m happy to provide any commentary you’d like, but I wanted to first point out that (as is traditional for law journals), ours is a student-edited journal rather than a refereed journal. We are, of

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<sup>26</sup> For me, one of the best articles ever written on movement strategy appeared in its very first issue. See Klein and Chiang, “The Social Science Citation Index: A Black Box—with an Ideological Bias?” An alternative title for that publication could have been, in my opinion, “The Social Science Citation Index Has No Clothes.”

<sup>27</sup> Personal email correspondence to the author.

<sup>28</sup> Strictly speaking, law reviews as a rule are not double-blind refereed. Instead, articles are typically selected for publication by the student editors. I include coverage of law reviews in this article, however, since it is my experience that most universities will count publication in these venues toward promotion and tenure, particularly if the professor specializes in an area that touches upon law, such as law and economics, industrial organization, or even microeconomics.

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course, more than happy to be included with the other scholarly publications on your list if you see fit. . . .

To answer your actual request: The *NYU Journal of Law & Liberty* is dedicated to the critical examination of classical liberal ideas from a wide variety of viewpoints and disciplines, both within the legal academy and outside it. The *Journal* accomplishes this mission by publishing cutting-edge scholarship as well as historical materials of interest and an ongoing series of ‘Essays on Liberty,’ meditations on freedom from outside the academy. In addition to its quarterly publications, the *Journal* sponsors a variety of events in Manhattan, most notably New York University’s Friedrich A. Hayek Lecture in Law.<sup>29</sup>

### *f. Human Rights Review*

The editorship of this journal has recently passed to my friend and Loyola University, New Orleans, colleague Gary Herbert. Although himself a conservative-oriented philosopher, he is very open to libertarian perspectives. This journal is only peripherally interested in economics, and then, mainly as this field impinges on its main area of specialty, human rights.

Here is Herbert’s statement:

*Human Rights Review* is an interdisciplinary journal that publishes scholarly articles and essays on all aspects of the theoretical, practical and political debate over human rights. The journal does not intend to serve as an advocate of any one ideological point of view but simply to promote free and active debate of all areas and issues concerning human rights. *Human Rights Review* publishes essays on the issues of universality and globalization, issues related to cultural and theological diversity, minority rights, gender issues, economic development, and any of the other many human rights-related issues that concern, or ought to concern, the world today. The journal also publishes articles that examine moral, political, philosophical, and social interpretations of human rights, the application and interpretation of human rights legislation in the international community, human rights issues in health care, human rights and the threats of terrorism and genocide, and controversies concerning the compatibility of respect for national sovereignty with foreign intervention in domestic affairs of nations for the protection of human rights.

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<sup>29</sup> Personal email correspondence to the author.

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It is becoming increasingly clear that the interminable urgency that surrounds critical human rights issues today cannot be separated from the need for a more careful theoretical clarification of fundamental concepts that ground those issues. The mission and focus of *Human Rights Review* in this context remains what it has been, with a strengthened commitment to promoting critical reflection on the theoretical and/or philosophical issues underlying the worldwide human rights debate.<sup>30</sup>

### **g. *The Independent Review***

Editor Robert Higgs is one of the leading economic historians of the day. This journal is geared more to empirical studies of statist depredation than to my own interest of theoretical libertarian research. Perhaps that is why my batting average with *TIR* is so low: I have submitted no fewer than twenty-nine different essays to this journal, and have just recently received my first acceptance. One reason I have sent Higgs so many essays is that his turn-around time is exceedingly quick. Often, I get a rejection within a day or two of submitting an essay to him. This is a letter I sometimes send to editors who are that considerate: “Thanks for your quick rejection. No, I really mean that. Second to an acceptance, a quick rejection is most welcome. I’ve had editors hold on to my papers for as much as two years before rejecting them. So, again, thank you. Hopefully, the next paper I send you will be more congruent with your needs.”

Here is a statement by the editor:

Dear Walter, After ten years, the purpose and mission of *The Independent Review* remain as I announced them in the first issue, in 1996. I attach a copy. I believe that anyone who reviews the issues that we have published—forty of them in total, when the spring issue comes out in March, 2006—will agree that our practice has conformed to our promise. Best, Bob.

[The mission itself states:] Anyone launching a new quarterly journal in 1996 owes the world an explanation. Obviously, readers face no shortage of periodicals, and some of the existing ones are very good. Nonetheless, not every valuable niche has been filled; hence *The Independent Review* (*TIR*).

*TIR* will present articles, special features, and reviews that deal with political economy, broadly construed. Writing that would interest only economists or only philosophers or only

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<sup>30</sup> Personal email correspondence to the author.

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historians—indeed work that would interest only the practitioners of any academically defined scientific or humanistic specialty—will not appear in this journal. Rather, I intend to feature writing that crosses the boundaries of a variety of disciplines, including all the social sciences, philosophy, history, law, and related fields. Although it will serve scholars and comply with strict scholarly standards, *The Independent Review* will differ from such journals as *The American Economic Review* and *The American Political Science Review*. The main purpose here is not to develop a particular discipline but to advance the reader's understanding of the multifaceted reality to which the term "political economy" refers.

Highly formal and technically challenging work will not appear in *TIR*. Heavily mathematical forms of exposition have become *de rigueur* in economics and increasingly in political science. Other fields, such as philosophy, have their own ways of excluding strangers from the conversation. Good arguments can be made for these expositional conventions. But whatever the merits of esoteric forms of communication in the various disciplines, my aims as editor dictate that the common language of this journal, as a rule, must be English. I intend to reject the work of writers who cannot express their ideas clearly. Those who write with vigor, wit, and flair will be received with open arms.

Because *The Independent Review* will eschew arcane or ponderous writing, it should appeal to students as well as teachers, generalists as well as specialists, lay persons as well as professionals. Political economy embraces a great diversity of topics; *TIR*'s intended audience is equally diverse. Although political economy comprises fundamentally important issues, the analysis, interpretation, and evaluation of these issues need not be hard to swallow. When Paul Samuelson published his *Foundations of Economic Analysis* in 1947, he made his epigraph Willard Gibbs's declaration that "mathematics is a language." Fifty years later, we have good reason to insist that English is a language, too.

Fortunately, for many purposes verbal expression is sufficient, and sometimes it is superior, as it accommodates a degree of nuance unachievable by alternative modes of expression. But certain types of analysis require more than words. Authors who make appropriate use of mathematical or statistical analysis—as opposed to just showing off—will find these pages accessible to them. For empirical articles, I shall give preference to expositions that display data or relations in an arresting visual manner. Sometimes a numerical table is essential, and a well-constructed graph goes a long way.

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Finally, something must be said about ideology. Political economy deals with issues that are infused with ideological presuppositions and implications—liberty, tyranny, democracy, collectivism, taxation, regulation, public policies of all sorts. For many journals, a paper’s ideological correctness is a *sine qua non* for acceptance. Even professional journals espousing “positive” or “value-free” analysis commonly fall short of their aspirations, as ideological assumptions creep unannounced into their pages.<sup>31</sup>

### ***h. Journal of American Physicians and Surgeons***

The content of this journal, edited by Lawrence Huntoon, is narrowly focused as its name implies, on health issues. However, this is not as restrictive as might first appear, for the newly burgeoning field of health economics encompasses issues as disparate as socialized medicine, markets in body parts, drugs, tobacco legislation, etc. Rare in this field, too, is the fact that this journal will not only countenance a free-enterprise orientation, but positively welcomes such a perspective.

Here is the editor’s statement:

AAPS is a national association of physicians dedicated to preserving freedom in the one-on-one patient-physician relationship. AAPS members believe this patient-physician relationship must be protected from all forms of third-party intervention. Since its founding in 1943, AAPS has been the only national organization consistently supporting the principles of the free market in medical practice.<sup>[32]</sup>

*Journal of American Physicians and Surgeons* Mission Statement: *Journal of American Physicians and Surgeons*, the official peer-reviewed journal of the American Association of Physicians and Surgeons (AAPS), is committed to publishing scholarly articles related to the practice of medicine and to promoting open debate and scientific integrity.<sup>33</sup>

### ***i. Journal of Ayn Rand Studies***

Chris Matthew Sciabarra is one of the most helpful scholars I have ever met. Often, I have asked him arcane questions about Rand and Objectivism, to which he usually replies within hours, if not minutes. On the

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<sup>31</sup> Personal email correspondence to the author.

<sup>32</sup> See <http://www.aapsonline.org/membership.php>.

<sup>33</sup> Personal email correspondence to the author.

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rare occasions on which he does not have an immediate answer, he will pull out all of stops to get the information. *JARS* is narrowly focused on Ayn Rand and Objectivism, as its name implies. He does not require that an entire essay be focused on this subject, but it must play a large part. For example, in one of my publications, I compared Rand to Robert Nozick and Michael Levin.<sup>34</sup> In another, I compared Objectivism to Austrianism.<sup>35</sup> A mere mention of Rand in a footnote or two will not suffice for publication in this journal. On the other hand, it is a given that Rand was without exception the greatest popularizer of the free-enterprise philosophy in the modern era, despite the fact that she did not consider herself a libertarian. It must be a rare libertarian essay that does not overlap with her interests.

Here is a statement by the editor:

When the *Journal of Ayn Rand Studies* was founded in the Fall of 1999, we enunciated a credo to which we've adhered strictly:

The *Journal of Ayn Rand Studies* is a nonpartisan journal devoted to the study of Ayn Rand and her times. The journal is not aligned with any advocacy group, institute, or person. It welcomes papers from every discipline and from a variety of interpretive and critical perspectives. It aims to foster scholarly dialogue through a respectful exchange of ideas. The journal is published semi-annually, in the fall and the spring.

Readers can learn more about the founding of the journal in an article I wrote on the occasion of its fourth anniversary: <http://www.nyu.edu/projects/sciabarra/essays/fr57jars4years.pdf>.

Tables of contents and contributor biographies are available on the journal's

website: <http://www.aynrandstudies.com/jars/index.asp>.<sup>36</sup>

### **j. *Journal of Markets and Morality***

This journal is unique in that it places a particular emphasis on the connection between ethics and economics, on the one hand, and religion, on the other.

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<sup>34</sup> See Walter Block, "The Libertarian Minimal State? A Critique of the Views of Nozick, Levin, and Rand," *Journal of Ayn Rand Studies* 4, no. 1 (2002), pp. 141-60.

<sup>35</sup> See Walter Block, "Ayn Rand and Austrian Economics: Two Peas in a Pod," *The Journal of Ayn Rand Studies* 6, no. 2 (Spring 2005), pp. 259-69.

<sup>36</sup> Personal email correspondence to the author.

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Here is a statement by the editor, Stephan Grabill:

I think that the distinction you draw between ‘movement’ and ‘mainstream’ journals is helpful and largely accurate but that it is also important to recognize the existence of hybrids, which is where I would place the *Journal of Markets & Morality*.

In recent years competition among authors for publishing space in our pages has dramatically increased. Last year, 95 unsolicited submissions were received for 14 possible openings in that calendar year. The Acton Institute as publisher of the *Journal of Markets & Morality* is committed to free enterprise but the *Journal of Markets & Morality* is especially concerned with the moral, religious, sociological, and historical dimensions to economics and economic issues. Our goal is to bring practitioners representing morality (theologians, ethicists, and so forth) into continuing conversation on a broad range of topics with the practitioners of the market (economists, business ethicists, and others in that line of intellectual endeavor).

The free-market world is mostly coherent as a movement but deeply fractured with respect to intellectual sources, prudential judgments about policy, and the integration of religious belief. Many of the submissions we receive are from people who would not consider themselves Austrians or strict libertarians, and so, in that sense, the *Journal of Markets & Morality* is like a mainstream journal because its authors may or may not be persons ‘in the movement’ or have much to do with the intellectual sources of Austrian economics or libertarianism per se.

For further information concerning the philosophy of the *Journal of Markets & Morality*, see the attached, written by Jordan Ballor: <http://www.utpjournals.com/jour.ihtml?lp=jsp/Ballor.html>.<sup>37</sup>

### ***k. Journal of Private Enterprise***

This is the flagship journal of the Association of Private Enterprise Educators. Originally, this was an association composed of, and created by, economists who held endowed chairs in free enterprise. More recently, membership was opened to all of those of a free-market orientation. Under the previous editorship of Gerald Gunderson, and now Ed Stringham, the *Journal of Private Enterprise* has become one of the foremost vehicles for promoting this economic philosophy.

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<sup>37</sup> Personal email correspondence to the author.

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Here is a statement from the editor:

The *Journal of Private Enterprise* publishes scholarly papers from any field that are primarily concerned with the operation and organization of private enterprise and markets. Because most of our contributors and readers are college professors we have discovered—as is appropriate for a market—that a bulletin board on educational innovations is also helpful. We call the latter section of the *Journal*, educational notes.<sup>38</sup>

### ***l. Journal of Public Finance and Public Choice***

This journal is the most free-enterprise oriented in Italy, and will give any of the other European journals a run for their money in this regard. Its interests, as its title indicates, focus on public finance and public choice, but in actuality they have a somewhat wider focus than that. My own reading of the material appearing directly below is that this journal will be particularly welcoming of submissions.

Here is a statement from the editor of this journal:

The official mission of the *Journal of Public Finance and Public Choice* is the following: The *Journal of Public Finance and Public Choice (PFPC)/Economia delle Scelte Pubbliche* deals with the economics and politics of public intervention, following the approach initiated a century ago by European (Italian as well as Austrian and Swedish) public finance scientists and further developed by the American theory of public choice. The journal encourages the submission of manuscripts in the field of public finance and public choice, both theoretical and applied, including papers on the history of economic thought and on economic methodology. The mission, as well as the annual index of the journal since its start (in 1983) can be found in the site: [www.jpfdc.org](http://www.jpfdc.org).<sup>39</sup>

### ***m. Libertarian Papers***

This is the newest of all of the journals listed here, begun only in early 2009. However, already it has made quite a splash in the libertarian community, as would be expected, since its editor is world-class libertarian theoretician Stephan Kinsella.

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<sup>38</sup> Personal email correspondence to the author.

<sup>39</sup> Personal email correspondence to the author.

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Here is his statement:

A new libertarian journal—a new *type* of libertarian journal—is born today. *Libertarian Papers* is an exclusively online peer-reviewed journal. Its home is this elegant, fast, easy-to-use website. Please feel free to browse around.

Publishing online has allowed us to break free of many of the constraints faced by paper-based journals. Scholars working in the libertarian tradition will find dealing with us to be a refreshing change. For instance, we publish articles consecutively, online, as soon as they are peer-reviewed and a final copy is submitted. No waiting for the next issue or printing delays. We have also done away with arbitrary space limits. And we don't care what citation style you use, as long as it is consistent, professional, and enables the reader to find the work referenced. Neither our time nor the author's need be wasted converting from one citation style to another, or wondering whether "2nd. ed." goes here or there, or whether it should be "2d. ed." instead. In a digital age, old forms must give way to new forms.

And as our publications are online and open, you won't find our authors furtively posting a scanned copy of their paper articles on their own sites, while their article is trapped in musty paper on a dark shelf—but if they want to, they are free to do so, since to the extent possible everything here is published under a Creative Commons Attribution 3.0 License. Want to republish your piece in a book? No need to ask us for permission. We want to spread the ideas of liberty, not impose DRM on them.

And of course readers will love the ease of access. Subscription is by RSS feed, and free. Follow us on Twitter or Facebook, or other social media to come. And unlike other academic journals, we allow comments on our articles, via the blog posts announcing them. *Libertarian Papers* is completely free and open, because readers' being willing to devote time to studying the ideas of liberty is payment enough for us. It is the profit we seek. And we think having readers who love to use our site and read our articles is what authors want, too.

A few words of thanks are in order. The assistance and support of Jeff Tucker of the Mises Institute, web designer Aristotle Esguerra, and Lew Rockwell and the Ludwig von Mises Institute have been invaluable in getting the website set up and the first non-issue out. *Libertarian Papers* is also proud to have an outstanding Editorial Board, with world-class scholars working in the libertarian tradition. Their help and commitment was also indispensable in helping this project come to fruition. And various loyal and devoted

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friends in the libertarian cadre, such as Gil Guillory, Manuel Lora, and Anthony Gregory, helped in various ways behind the scenes. A hearty thanks to them all.<sup>40</sup>

### ***n. New Perspectives on Political Economy***

This journal comes to us from Eastern Europe, and it is very welcome, especially from that part of the world. Its editor, Josef Sima, is a leading Austro-libertarian.

Here is his statement:

*New Perspectives on Political Economy* is a peer-reviewed bilingual (English/Czech) interdisciplinary on-line journal, published in Prague, Czech Republic. It aims to resurrect the tradition of Austrian economics and liberty-oriented thinking that thrived in central Europe at the beginning of the 20th century, but sadly disappeared thereafter. By establishing this forum for scholars to engage in the critical debate over both theoretical and applied social issues from a wide spectrum of disciplines, it hopes to build a solid institutional basis for the advancement of the Austrian research program. *New Perspectives on Political Economy* will especially encourage discussions and publish articles on economic and legal theory, classical liberal and libertarian political philosophy, evolution of rules and order, self-governance, economic development, economic policy and regulations.

The journal is published in cooperation with Liberalni Institut and The Faculty of Economics and Public Administration, University of Economics, Prague. For more information, see <http://pcpe.libinst.cz/nppe/>.<sup>41</sup>

### ***o. Quarterly Journal of Austrian Economics***

This is another favorite journal of mine; I have published there on numerous occasions, and am wildly biased in its favor. Here is a statement of its editor, Joe Salerno, who is in my opinion one of the foremost Austrian economists now actively writing:

Starting with this issue, I have assumed the position of sole editor of the *Quarterly Journal of Austrian Economics*. Jeffrey M. Herbener

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<sup>40</sup> Accessed online at: <http://blog.mises.org/archives/009276.asp>.

<sup>41</sup> Personal email correspondence to the author.

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and Mark Thornton continue as Associate Editor and Book Review Editor, respectively.

As before the journal will publish articles dealing with a wide range of issues in the broad Austrian tradition that is exemplified in the works of Ludwig von Mises, F.A. Hayek, Murray Rothbard and Israel Kirzner. The primary purpose of the journal continues to be to advance the frontiers of Austrian economic theory. In pursuit of this aim we are especially interested in publishing articles elaborating, applying or criticizing Mengerian price theory, which constitutes the distinctive core of Austrian economics and whose development has been relatively neglected since Mises's restatement in *Human Action* and Rothbard's comprehensive elaboration in *Man, Economy, and State*. The journal also welcomes articles on monetary theory, the theory of monetary calculation, capital theory, and the theory of entrepreneurship, all of which also offer scope for further extension or refinement. Submissions on the method, doctrinal development and policy implications of Austrian economics are also welcome. Since the journal aspires to serve as a forum for vigorously and constructively debating unsettled issues in Austrian economics, we encourage submission of comments on and replies to published articles. All submissions will be refereed in a rigorously fair and timely manner.<sup>42</sup>

### *p. Reason Papers*

This journal, dedicated to libertarianism, has changed editorship from Tibor Machan to Aeon Skoble. My thinking must be closer to that of the latter editor, since I had no publications in *Reason Papers* under the former editor and five under the latter, all since 2005 (including this present one).

Here is its mission statement:

*Reason Papers* is a peer-reviewed, blind-reviewed journal appearing annually. It features book reviews and review essays along with full-length articles. Not strictly limited to philosophy, we publish work by economists, legal scholars, political scientists, and others, provided the content is normative in the philosophical sense. In addition to articles on moral, political, legal, and social/cultural philosophy, we also run essays on aesthetics.<sup>43</sup>

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<sup>42</sup> Joseph Salerno, "Editorial," *Quarterly Journal of Austrian Economics* 3, no. 1 (Spring 2000), p. 2.

<sup>43</sup> Accessed online at: <http://www.reasonpapers.com/>.

**q. *Review of Austrian Economics***

I first became acquainted with Peter Boettke, the editor of *RAE*, when he was a young graduate student. He was then, and is now even more so, a brilliant Austro-libertarian, a voracious reader, a prolific writer, and a movement builder par excellence. A leader of the Society for the Development of Austrian Economics, he is also very active in training new Austrian economists in the Ph.D. program at George Mason University, which I highly recommend.<sup>44</sup>

Here is a brief statement by the editor of *RAE*:

The *Review of Austrian Economics* has two broadly conceived objectives: (1) to promote the development and extension of Austrian economics and (2) to promote the analysis of contemporary issues in the mainstream of economics from an Austrian perspective.<sup>45</sup>

**r. *Revista Procesos de Mercado***

The editor of this journal, Jesus Huerta de Soto, is one of the leading European Austro-libertarians. He is the author of the monumental and magisterial *Money, Bank Credit, and Economic Cycles*.<sup>46</sup> Much of this journal is in Spanish, but some is in English, and other English pieces are translated into Spanish and then published in that language.

**s. *Social Philosophy and Policy***

Each issue is dedicated to a particular theme. Over-the-transom manuscripts are given short shrift if they are not compatible with the theme of any given issue. The key to publishing in this journal is matching your research to the topic under discussion. This can be done by looking, very carefully, at the upcoming themes.

Their mission statement is:

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<sup>44</sup> See Walter Block, "Advice to Students for Graduate School," March 5 2005, accessed online at: <http://www.mises.org/classroom/gradschool.pdf>.

<sup>45</sup> For an introductory editorial written by Boettke, when he assumed the editorship of this journal, see Peter J. Boettke, "Is There a Market Niche for Austrian Economics?" *Review of Austrian Economics* 11 (1998), pp. 1-4, accessed online at: [http://www.gmu.edu/rae/archives/VOL11\\_1-2\\_1999/boettke.pdf](http://www.gmu.edu/rae/archives/VOL11_1-2_1999/boettke.pdf).

<sup>46</sup> Jesus Huerta de Soto, *Money, Bank Credit, and Economic Cycles*, 2<sup>nd</sup> ed. (Auburn, AL: The Ludwig Von Mises Institute, 2009).

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*Social Philosophy & Policy* is an interdisciplinary journal with an emphasis on the philosophical underpinnings of enduring social policy debates. Each issue is dedicated to a particular theme chosen by the editors, with the advice of the editorial board, designed to appeal to both academic specialists and a broader scholarly audience.

While *Social Philosophy & Policy* is not primarily a journal of policy prescriptions, several contributions in each issue will typically connect theory with practice. The editors encourage and actively pursue diversity of viewpoints of contributors. Diversity is also encouraged by selecting authors from among different disciplines, especially philosophy, economics, political science, and the law.<sup>47</sup>

With this overview of each of these periodicals,<sup>48</sup> let me make several comments about these journals as a group. First, I rank them in terms of being focused purely on Austrianism, mostly on Austrianism, purely on libertarianism, mostly on libertarianism, or on both about equally; I also include an “unknown” category, since several of these are new journals. In this context, “Austrianism” can be read almost as a synonym for “economics,” in contrast to politics, ethics, etc. In some cases, “libertarian” can be read as a synonym for politics and ethics, as opposed to economics, since conservatism is also included in the mix.

**Pure Austrianism:** *Advances in Austrian Economics, Review of Austrian Economics, Econ Journal Watch.*

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<sup>47</sup> Accessed online at: <http://www.bgsu.edu/offices/sppc/journal.htm#forthcoming%20issues>. This site provides information on past and forthcoming issues of *Social Philosophy & Policy*, including descriptions and tables of contents.

<sup>48</sup> Given space limitations, I have listed and discussed twenty Austro-libertarian, refereed journals. Which additional ones would have been included, had I written a longer article? *American Review of Political Economy; Constitutional Political Economy; Dialogue; Ethics, Place & Environment; Global Virtue Ethics Review; Humanomics; International Journal of Social Economics; Journal des Economistes Et Des Etudes Humaines; Journal Etica e Politica/Ethics & Politics; Laissez-Faire; Journal of Business Ethics; Public Choice; Telos; The Journal of Social, Political, and Economic Studies; The Law & Economics Journal; Research in the History of Economic Thought and Methodology; Unisinos: Perspectiva Economica.*

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**Mostly Austrian:** *Journal of Public Finance and Public Choice, Quarterly Journal of Austrian Economics, Revista Procesos de Mercado, New Perspectives on Political Economy.*

**About equal:** *American Journal of Economics and Sociology, Journal of American Physicians and Surgeons, Journal of Private Enterprise, The Independent Review, Cato Journal.*

**Mostly libertarian:** *Journal of Ayn Rand Studies, Journal of Markets and Morality, Reason Papers.*

**Pure libertarian:** *Harvard Journal of Law and Public Policy, Human Rights Review, NYU Journal of Law & Liberty, Social Philosophy & Policy.*

Second, I regard these journals, taken all together, as the last best hope for the survival of civilization. I know this sounds somewhat (very much) overblown, but I regard private property rights and free markets as the *sine qua non* of a civil order. There are no other scholarly academic publications that embody these virtues as do those on this list.

Third, I want to make some very critical remarks about some of them, on an anonymous basis. Although these are my favorite journals in all of the world, they are far from perfect. Hopefully, these critical remarks will be accepted in the intended spirit: to improve an already magnificent product.

Several of these journals have adopted an affirmative action policy—not specifically against or in favor of blacks, females, the handicapped, males, Jews, or Asians, as in the usual case, but rather, against prolific writers. The specific format this policy takes is that no author may have more than two articles in the pipeline at any given time. From the time an essay is first submitted, until the time it appears in actual print, it can sometimes take two years. That implies that no single writer can submit more than one essay to this journal every twelve months, on average. The policy applies, too, to co-authors, who are thus in effect “guilty” by association: if author A has two essays pending, a third essay coauthored with B cannot be submitted until one of the prior two has either been rejected or published. B is in effect “punished” if his work is linked to A’s. The work of A is also excluded, not on the basis of quality, but due to there being too much of it.

Now, of course, as a libertarian, I support the right of all owners of private property to discriminate against whoever they desire, employing whatever criteria they wish. However, the editorship of a journal is not exactly a private property rights situation—at least, it is not clear that the editor is the full and entire owner of it. If anything, it is clear that he is not. Rather, he takes on sort of a caretaker role. His implicit (sometimes explicit) job

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description is to attract the best possible writers, and offer the best possible articles in each issue, whether of an Austrian or libertarian orientation, as the case may be.

Murray Rothbard was a prolific writer. How would matters work if such a policy were imposed upon him? Posit that Murray wrote one essay per month, that is, twelve per year. Under our assumptions, he would be allowed to submit only one of these per year. It seems difficult to reconcile such a policy with the mandate to produce the highest quality journal possible. I am implicitly but not unreasonably assuming that anything written by Rothbard, even the worst of his articles, would be “better” than even the best of anyone else’s. Of course, if the journal only had room for forty-eight articles per year, and published all twelve of Rothbard’s annually, then his work would comprise fully one-fourth of all of the offerings. Perhaps there is an aesthetic argument against such an eventuality, but if so, it goes counter to the far more important mandate to maximize quality. To take an extreme and very unlikely scenario, as far as I am concerned as a consumer, if a journal were filled half with Rothbard’s work and the other half with Mises’s, I would feel privileged to read such a publication. Given the number of scholarly periodicals that now welcome an Austro-libertarian perspective, it is unlikely in the extreme that any one or two individuals would dominate all of them in such a manner.

Here is a different criticism. These periodicals also differ along a spectrum of whether they favor challenging, and to be fully honest, trashing the mainstream opponents of Austro-libertarians, or, on the other side of things, emphasizing similarities between our views and theirs.<sup>49</sup> There was an occasion on which I wrote a strongly worded critique of Prof. X’s work. Prof. X is a mainstream economist, who, in my view, had unfairly lambasted some aspect of Austro-libertarianism, and I was determined to set the record straight.

The referee’s report required as a condition for acceptance that I go over the essay with a fine-tooth comb and either eliminate or reduce the severity of all criticisms in such a way so that “the mother of Prof. X” would find no fault with it. The referee took great pains to make it clear that he meant this quite literally, and the editor backed him up on this. I admit that sometimes I get a bit heated when responding to what I think is an unfair attack on Austro-libertarian economic philosophy. However, are we to stand by *nicely* when mainstreamers savage Austro-libertarians, and be limited to comments the *mothers* of the critics would not find offensive? Evidently, we are to do precisely this, at least in the perspective of this particular journal. I realize that the editor (and at least one referee) of this journal differ sharply from me as to whether the best strategy is to lambaste opponents of free-

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<sup>49</sup> My own strategy, or, if you will, taste, inclines wildly in the former direction. My motto is, “Blast away at the bad guys.”

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enterprise philosophy, or to try to reconcile with them by showing similarities between us and them. For sure, this editor is remaining true to the prime directive of maximizing quality by emphasizing commonalities rather than differences. I only object to the *degree* to which this is taken. Prof. X's mother, indeed.

I have one last criticism. One of the journals on this list accepted for publication an essay of mine in 2002. Publication was at that time promised for "2004 or 2005." At the time of this writing, early 2009, it still has not been published. This, undoubtedly, is a measure of success. In the early days of Austro-libertarian publishing,<sup>50</sup> the challenge was to attract enough material to fill an issue; nowadays, quite happily, the opposite hurdle operates: how to ration scarce space amongst numerous high-quality manuscripts.<sup>51</sup>

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<sup>50</sup> I was a co-editor of the *Review of Austrian Economics* (with Murray Rothbard), from volume 1, 1987, to volume 8, no. 1, 1994. In those days, our constant fear was that we would not have enough material to fill the volumes. We had endless debates over whether it was better to come out on time and have a thin issue, or later when we had attracted sufficient essays. There were some prominent Austrians, such as Israel Kirzner, who opposed the inauguration of *RAE* on grounds that there was not a sufficient number of scholars writing in this tradition to support it. Murray's argument in favor of starting the *RAE* was that it would increase interest in this field. Happily, events proved Rothbard correct, and this problem seems a very quaint one from my present perspective.

<sup>51</sup> I wish to thank the following people for help with earlier drafts of this article: William Barnett II, Philipp Bagus, Pete Canning, Pierre Desrochers, Richard Ebeling, Lanny Ebenstein, Nicolai Foss, Ludwig van den Hauwe, Stephan Kinsella, Doug Mackenzie, Thomas Rudolf, and Martin Stef. The usual caveats apply.

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## Discussion Notes

### Left-Libertarianism—An Oxymoron?

Tibor R. Machan  
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Let me state up front that I reject any division of libertarianism into left and right wings. To do so is nearly akin to dividing it into high and low, yellow and blue, or round and triangular versions. Yes, there are quite a few more or less enthusiastic supporters of the division; indeed, reading some of them suggests that they have a lot invested in this effort. However, I find what they are embarking upon, if not outright incoherent, then certainly confusing and a waste of good energy and time that could be devoted to more important elements of the task of advancing the cause of human liberty.<sup>1</sup>

Combining libertarianism with elements of the Right or the Left defeats the purpose of conceptual clarity about a certain broad political topic. Historically, neither the Right nor the Left has shown a sustained, uncompromising loyalty to individual human rights to life, liberty, and property, while classical liberalism and especially libertarianism is exactly about such unwavering loyalty, one that requires the proverbial eternal vigilance.

By its nature libertarianism is about political liberty for all individuals to do whatever is peaceful or non-aggressive, including acquiring and holding property or valued items either found in nature or obtained through free trade and inheritance.<sup>2</sup> Claiming that libertarianism can include more or less severe limits on the right to private property—imposed by public

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<sup>1</sup> My own involvement in this discussion is precipitated by some having classified those such as myself as “right-wing libertarians,” in virtue of, e.g., our defense of the business corporation as being compatible with libertarianism. I reject being so classified or construing the business corporation, as defended by Robert Hessen in his *In Defense of the Corporation* (Stanford, CA: Hoover Press, 1979), as anti-libertarian. For more, see <http://www.enotes.com/topic/Right-libertarianism>.

<sup>2</sup> One of my books, a collection of some of my columns, is pointedly titled *Neither Left nor Right* (Stanford, CA: Hoover Institution Press, 2004).

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policy and law—as Left-libertarianism does, simply renders the view indistinguishable from what social democrats and welfare statist propose. It reminds one of market socialism, arguably another oxymoron.<sup>3</sup>

Of course, the rejection of this notion as an oxymoron hasn't by any means been successful in countering various efforts to construct a coherent notion labeled "Left-libertarianism" from the current political philosophical dialogue. Books and articles can be found discussing the position, some of them published in prestigious publications.<sup>4</sup> Several well-known philosophers whose politics is self-identified as libertarian would very likely dispute my claim that the label "Left-libertarianism" is oxymoronic, perhaps out of respect for those who employ it in much of their works. Nonetheless, strictly speaking, what is meant by "Left" in the discipline of political theory and by "libertarian" are conceptually incompatible if one accepts, as I would argue we must, that libertarianism is a theory that includes as one of its central features adherence to the more or less Lockean account of the right to private property.

So upon close examination it emerges that Left-libertarianism belongs among efforts, like some others by some people on the Left and the Right, to appropriate a concept alien to its logical purpose. This includes such notions as positive rights, positive liberty, welfare rights, and social justice. Many invoke these notions, but quite arguably they are conceptual corruptions, however much one twists and turns to attempt to render them distinctly meaningful. (Of course, it is not possible to say this with finality, since, for example, tomorrow morning someone could well come up with a use of the idea that has merit.) These notions may not amount to an outright self-contradiction, such as "square circle," but on analysis they come close.

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<sup>3</sup> For a very good discussion of the position, see Barbara H. Fried, "Left Libertarianism: A Review Essay," *Philosophy & Public Affairs* 32, no. 1 (Winter, 2004), pp. 66-92.

<sup>4</sup> For example, see Peter Vallentyne and Hillel Steiner, eds. *The Origins of Left-Libertarianism: An Anthology of Historical Writings* (New York: Palgrave Macmillan, 2001); and Peter Vallentyne and Hillel Steiner, eds., *Left-Libertarianism and Its Critics: The Contemporary Debate* (New York: Palgrave Macmillan, 2001). See also Eric Mack, "Right-Wing Liberalism, Left-Wing Liberalism, and the Self-Ownership Proviso," in *Liberal Institutions, Economic Constitutional Rights, and the Role of Organizations*, ed. Karl-Heinz Ladeur (Baden-Baden: Nomos Verlagsgesellschaft, 1997), pp. 9-29; and Eric Mack, "What Is Left of Left-Libertarianism?" (unpublished manuscript).

Various websites on the Internet feature more or less serious discussions of the position, for example, Auburn University philosopher Roderick Long: <http://groups.yahoo.com/group/leftlibertarian/>.

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Thus while the Left aims to divorce people from their work, from their valued attributes, and from the products of their labor, libertarianism opposes this and sees one's property as the extension of oneself into the world outside of oneself—indeed, as an indispensable social condition for a self-directed life. Suppose that someone is very good looking, though not by his or her own efforts. According to Left-libertarianism, the benefits the individual comes by in virtue of these looks are to be treated as not belonging to the agent and thus perhaps to be taxed or simply confiscated by other people. On the Left-libertarian view, one can do all of this without doing violence to individual rights.

One of the ways that Left-libertarianism has been rendered palatable has been to associate it with John Locke's oft-discussed and troublesome idea of "the Lockean Proviso," according to which Locke says that although the right to private property is a fundamental, natural right of human individuals, if the protection of this basic right were to result in a monopoly of vital goods, it would not be justified to regard it as inviolable. As I have argued elsewhere, however, the Lockean Proviso is little more than a restatement of Locke's concern that in certain dire circumstances or emergencies those rights are inapplicable.<sup>5</sup> Only "where peace is possible" can there be respect and protection for basic individual rights.<sup>6</sup> This makes sense once one realizes that such rights are what Douglas B. Rasmussen and Douglas J. Den Uyl call "metanormative" principles, that is, ones that provide a framework for peaceful conduct within societies rather than action-guiding principles such as those laid out in a system of ethics.<sup>7</sup> Since such rights serve as the foundation of a just society or legal system, where no such society or system is possible, no such rights could be applicable. The Lockean Proviso, then, is mainly a warning that we not expect justice to be possible everywhere (say, in a back

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<sup>5</sup> See Tibor R. Machan, "Self-Ownership and the Lockean Proviso," *Philosophy of the Social Sciences* 39, no. 1 (March 2009), pp. 93-98. I use "self-ownership" quite reluctantly, since I find it incoherent that one's self could own one's self. Who here is the owner and what is being owned? However, a generous look at the idea suggests perhaps no more than what Locke held, namely, that one has a natural right to *one's life* (not to one's self).

<sup>6</sup> Quoted in H. L. A. Hart, "Are There Any Natural Rights?" in A. I. Melden, ed., *Human Rights* (Belmont, CA: Wadsworth Publishing Company, 1970), p. 61, n. 2: "In conditions of extreme scarcity this distinction between competition and coercion will not be worth drawing: natural rights are only of importance 'where peace is possible' (Locke) . . . ."

<sup>7</sup> See Douglas B. Rasmussen and Douglas J. Den Uyl, *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* (University Park, PA: Pennsylvania State University Press, 2005).

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alley or in a region of the world where natural disasters are virtually constant).

A central feature of Left-libertarianism is, of course, its challenge to an unqualified right to private property. That's what makes it "Left," since those on the Left generally want to control other people's property; by denying that other people actually own their property, they achieve their goal. How do they propose to do this? They do this by rejecting, as already alluded to, the connection between oneself and one's attributes and works. So if one has the attribute of being very good looking or healthy and incurs benefits from it, these benefits are now supposed to be available for confiscation even while outright conscription of the individual is rejected. Then why protect one's right to one's life, if the living of that life is subject to intervention? This is akin to the point sometimes made that while someone may be imprisoned, this only limits his or her body, not spirit, which remains free. More generally, the effort to distinguish between inalienable and alienable property—between oneself and one's goods—is misguided. It is rights, not property itself, that is identified as inalienable in the libertarian (Lockean) position and this means not only that one's right to one's car or home or firm is not something anyone may violate, but also that it is no violation of one's rights if one trades or gives away what one has a right to, for example, one's house or hours of labor.

A related matter might be worth considering. One may wonder whether those on the Left, including so called Left-libertarians, would apply their divorce of oneself from one's works (or other valued attributes, say one's good looks or health) to their own writings. Why, for example, should an author have full discretion as to what goes into one of his or her works—a book, a paper, an essay, etc.? These are not strictly speaking a feature of oneself, just as some argue that one's home and car are not. So would these writers argue for limited censorship on the grounds that one has only a limited right to make use of one's property, including the space in one's written works? I would often like to have my writings featured in, say, *The New Republic* or *The New York Review of Books* or, especially, *Philosophy and Public Affairs*, but the publishers of these insist that they have an absolute right to determine who will appear in their publications' pages. Would not Leftists and Left-libertarians consider this wrong and argue that publishers have no such absolute right at all, in the spirit of their objection to absolute private property rights?

It appears clear that libertarianism is to be dealt with apart from dealing with the Left or the Right in political theory. The attempt to fuse the Left or the Right with libertarianism just produces confusion; to put it somewhat more formally, deploying the concepts Left and Right here fails to distinguish or differentiate anything of significance in the realm of political theory.

# Rejoinder to Hoppe on Indifference Once Again

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with

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## 1. Introduction

It is a pleasure and an exhilarating experience to find myself embroiled in a debate with my good friend, colleague, and, indeed, mentor,<sup>1</sup> Hans-Hermann Hoppe. I always knew he was a world-class scholar, and his latest missive,<sup>2</sup> the one to which I am now replying, yet once again greatly impresses this upon me. It focuses the mind to be the recipient of one of his keen and insightful analyses. I greatly appreciate, of course, the lack of any venom or name-calling<sup>3</sup> in his latest response to my previous publications in

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<sup>1</sup> I have learned more from him during our almost twenty-five year friendship than any other political economist whom I have known, with the exception of Murray N. Rothbard.

<sup>2</sup> See Hans-Hermann Hoppe, "Further Notes on Preference and Indifference: Rejoinder to Block," *Quarterly Journal of Austrian Economics* 12, no. 1 (2009), pp. 60-64, accessed online at: [http://mises.org/journals/qjae/pdf/qjae12\\_1\\_5.pdf](http://mises.org/journals/qjae/pdf/qjae12_1_5.pdf).

<sup>3</sup> Sadly, the history of thought is replete with violations of this sort of scholarly propriety; the ideal, of course, is considered, measured, and yes, friendly debate. Let me mention only two examples of the very opposite. The first is a comment by Israel Kirzner about Joseph Salerno, quoted by Robert P. Murphy, "Book Review of *The Driving Force of the Market: Essays in Austrian Economics*, by Israel M. Kirzner," December 4 2000, pp. 162-63, n. 2, accessed online at: <http://mises.org/story/561>: "The biting sarcasm employed in [Salerno's comparison] is but a relatively mild example of the rhetorical excesses appallingly to be found in the 'two-paradigm' literature against such writers as Hayek, Lachmann, and others charged with having diverged from the asserted 'Misesian paradigm.' I take this opportunity to strongly

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this thread.<sup>4</sup> Rather, with single-minded determination, he cuts to the essence of the issue. This sort of debate, I think, raises the level of public discourse. Hoppe is so crystal clear in his thinking that it must be a person of the meanest intelligence who would not gain, and significantly so, from a perusal of this article of his.

And yet, I remain unconvinced. I see his points and I think I understand them; still, I continue to have misgivings about them. Why is this? Why is it that reasonably intelligent economists, who revere logic, start out with much the same principles (praxeology), and are guided by much the same writers (Carl Menger, Eugen von Bohm-Bawerk, Ludwig Von Mises, Murray Rothbard), but cannot reconcile their views on such a relatively simple issue as indifference and preference in Austrian economics? I don't know, but I do know that this is hardly the only question where we might expect full agreement and yet do not find it.<sup>5</sup> Polylogism cannot be the

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protest the use of verbal terrorism in Austrian economics. Even if (which is far from being the case) the asserted criticisms of Hayek, Lachmann, and others were valid, there would be absolutely no justification for the manner in which these great economists have been treated in the literature under discussion. The near-demonization of Hayek and Lachmann for alleged deviations from an asserted Misesian orthodoxy is a most distressing phenomenon. If Austrian economists (and the *Review of Austrian Economics*) are to be able to work constructively in the rough and tumble of the intellectual market place, anything approaching rhetorical brawling must once and for all be rejected.”

The second is a comment by Harold Demsetz regarding Block: “Walter Block has absorbed 64 pages of *The Review of Austrian Economics* to attack a 19-page paper I wrote. This is his second outburst. (The first, to which my 1979 paper was partly a response, appeared in *The Journal of Libertarian Studies*.) Block should have put this matter behind him rather than stewing over it for the 16 years between his current reply and my 1979 paper. I learn nothing from reading his part of this debate, . . . so I write this reluctantly and refuse to join in any future similar exercise in futility”; see Harold Demsetz, “Block’s Erroneous Interpretations,” *Review of Austrian Economics* 10, no. 2 (1997), pp. 101-10.

<sup>4</sup> My publications in this thread consist of five articles: Walter Block, “On Robert Nozick’s ‘On Austrian Methodology,’” *Inquiry* 23, no. 4 (Fall 1980), pp. 397-444; Walter Block, “Austrian Theorizing, Recalling the Foundations: Reply to Caplan,” *Quarterly Journal of Austrian Economics* 2, no. 4 (Winter 1999), pp. 21-39; Walter Block, “Realism: Austrian vs. Neoclassical Economics, Reply to Caplan,” *Quarterly Journal of Austrian Economics* 6, no. 3 (Fall 2003), pp. 63-76; Walter Block, “Reply to Caplan on Austrian Economic Methodology,” *Corporate Ownership & Control* 4, no. 3 (November 2007), pp. 312-26; and Walter Block, “Rejoinder to Hoppe on Indifference,” *Quarterly Journal of Austrian Economics* 12, no. 1 (2009), pp. 52–59.

<sup>5</sup> Additional intellectual divisiveness amongst Austro-libertarians concerns, among other things, abortion, the logic of argumentation, voluntary slavery, fractional reserve

answer.<sup>6</sup> Perhaps these divisions amongst scholars who might be expected to agree are due to the fact that we are all imperfect human beings. Perhaps some young scholar(s) will one day come along and definitively solve all of these disputes in such a way that *all* parties to them will agree to the solution. Until that time, the most we can do, I think, is to do our best—to publish our ideas, imperfect as they are, in the hope that the process of public debate itself will shed some light on these vexing issues. Two heads are better than one, and all of the professionals who read this journal, plus the two of us (Hoppe and myself), are better than just the two of us alone. With these introductory remarks let me launch into my response to Hoppe’s latest.<sup>7</sup> I start with procedural critiques first and then move on to the substantive ones.

## 2. Proprieties of Intellectual Publication

Hoppe should respect the proprieties of scholarly journal discourse.<sup>8</sup> He offers no bibliography, no references, and no citations to the literature. As a result, I had to create my own. He offers several quotations and paraphrases, but no page numbers. It is thus more difficult for the critic such as me to track down these reports of Hoppe’s regarding the writings of others, certainly including my own in this case, in order to obtain the full context in which the material is embedded. For example, I know that I am responsible for the “two hoots” statement that he attributes to me,<sup>9</sup> but where did I say this? Maybe the context will remind me of what I was thinking when I wrote

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banking, immigration, anarcho-capitalism, is libertarianism of the Left or the Right, counterfeiting counterfeit money, is econometrics per se incompatible with Austrian economics or only when trying to “test” axiomatic statements, and the triangle in the Austrian theory of the business cycle.

<sup>6</sup> See Ludwig von Mises, *Human Action* (Auburn, AL: Ludwig von Mises Institute, 1998), pp. 75-89.

<sup>7</sup> See also Marek Hudik, “A Note on the Nozick Problem” (unpublished manuscript); the debate over this issue between Mateusz Machaj and Walter Block, in Mateusz Machaj, “A Praxeological Case for Homogeneity and Indifference,” *New Perspectives on Political Economy* 3, no. 2 (2007), pp. 231-38; and Walter E. Block, “Rejoinder to Machaj on Indifference,” *New Perspectives on Political Economy* 5, no. 1 (2009), pp. 65-71.

<sup>8</sup> Hoppe, “Further Notes on Preference and Indifference.”

<sup>9</sup> *Ibid.*

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it.<sup>10</sup> I had sufficient motive to take on this task, but what about others, who only read Hoppe and not this present reply? Very few of them will look up this material on the basis of what Hoppe offers. Hoppe makes me, and other such people, work harder than would otherwise be the case. This is unfair, and does not constitute good pedagogy.

As an aside, the editors of the *Quarterly Journal of Austrian Economics* have not adhered strictly to scholarly procedure either. The usual practice in debates is to follow one of two formats. One is to allow each opponent to appear alone in a given issue, not to publish thesis and antithesis in the same issue. In this way, neither debating partner “gets the last word” in any given issue of the journal. To allow Hoppe the last word on this issue is a bit unfair, since it gives priority of place to one side over the other. In addition, it reduces the dramatic tension, and hence readership interest in the publication overall. The other format allows either the first person to have published either on that topic, or, in that journal, to go last, if both sides appear in the same issue. So, who published first on this issue, between me and Hoppe? I beat him by quite a few years. Who published first on this topic in the *Quarterly Journal of Austrian Economics*? Again, the nod goes to me vis-à-vis him.<sup>11</sup>

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<sup>10</sup> I found it. Here is the entire statement in full context: “I do not give two hoots about whether or not we achieve a correct description of someone’s action. What I care about in this context, my sole concern, is that Nozick’s indifference challenge to the Austrians is refuted. My reply, cumbersome as it is, at least directly confronts Nozick; Hoppe’s more elegant ‘refutation’ does not. Take one last case. The mother can rescue only one of her sons from certain drowning, and selects Peter not Paul. According to Hoppe, she thereby ‘demonstrates that she prefers *a* (one) rescued child to none. On the other hand, if the correct (preferred) description is that she rescued Peter, then she was not indifferent as regards her sons.’ But this latter sentence implies, nay, states full out, that if she ‘prefers *a* (one) rescued child to none’ then she *is indifferent* between them. Will someone please tell me how this contributes to, or is even consistent with, a defense of Austrianism to Nozick’s attack?” In rereading these words, perhaps I should not have used the words “two hoots.” It was just my attempt to say, perhaps in an overly dramatic way, that “a correct description of someone’s action” was irrelevant to the point at issue, namely, that at least one of us was able to refute Nozick’s attack on Austrian theory; see Walter Block, “Rejoinder to Hoppe on Indifference,” *Quarterly Journal of Austrian Economics* 12, no. 1 (2009), p. 58.

<sup>11</sup> I first published on this topic in 1980 with Block, “On Robert Nozick’s ‘On Austrian Methodology’,” but Hoppe did not publish on this topic until 2005 with Hans-Hermann Hoppe, “Must Austrians Embrace Indifference?” *Quarterly Journal of Austrian Economics* 8, no. 4 (Winter 2005), pp. 87-91. I also published two articles in *QJAE* on the topic in 1999 (“Austrian Theorizing, Recalling the Foundations”) and 2003 (“Realism: Austrian vs. Neoclassical Economics”).

### 3. Dialogue

I am mostly indifferent<sup>12</sup> to Hoppe's utilization of the fictive dialogue format. Its benefit is that it allows the author "to get into the head of" his intellectual opponent, and this he does very well. For the most part, his expression of my own view is excellent. Indeed, I confess, he articulates my own thoughts on this matter as well as, and even better than I can or have. On the other hand, this format lends a false sense of even-handedness to the proceedings, which is not accompanied by anything like "equal time." Of course, not unexpectedly, he devotes 1,347 words to his own side of this dispute, and a mere 281 to mine. I object not to the fact that he utilizes more space for his own arguments than for mine; that is the nature of the beast. My difficulty is that the debate format gives the appearance of impartiality to the enterprise, which is lacking. Indeed, toward the end of this dialogue I am reduced to the role of the student asking questions of the professor.

### 4. Our Agreements

I have one proviso with regard to Hoppe's assumption of agreement with me. Yes, I accept in his sweater-dollars example that my bills are "perfectly substitutable"—that is, they are homogeneous and I am "indifferent to them"<sup>13</sup>—but my view is that these are thymological, not praxeological statements. Apart from that, I agree fully and enthusiastically with the views he attributes to me.

### 5. The "Second" Statement

Hoppe and I exchange a \$10 bill for a sweater. I purchase one of his sweaters for one of my \$10 bills.<sup>14</sup> Before the exchange, I regarded all of my ten dollar bills as of equal serviceability,<sup>15</sup> but what about "at the exact same moment when the exchange takes place"? Are my bills homogeneous in my own mind as a matter of praxeology? Hoppe has me "admit(ing) that I am running into difficulties here with my argument,"<sup>16</sup> but I claim I have done better than that with my side of the debate. I have two responses open to me in response to this sally of Hoppe's.

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<sup>12</sup> I use this word in its thymological, not praxeological, sense.

<sup>13</sup> Hoppe, "Further Notes on Preference and Indifference."

<sup>14</sup> Hoppe is not known for the high quality of his sweaters.

<sup>15</sup> This is a thymological statement on my part. It implies no human action taken by me; I am now just thinking, contemplating my cash stock.

<sup>16</sup> Hoppe, "Further Notes on Preference and Indifference."

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First, I maintain that it is impossible for two things to occur to any one person “at the exact same moment.”<sup>17</sup> At least insofar as human action is concerned, people can *do* only one thing at a time. Yes, they can walk and chew gum at the same time; it cannot be denied that their hearts can beat while they breathe or digest or cogitate, but we are here talking about volitional purposeful human action, and none of these constitute counterexamples.<sup>18</sup> Thus, it is difficult to give credence to Hoppe’s charge on this one ground alone.

But suppose, *arguendo*, that it is possible to make sense of his supposition.<sup>19</sup> Then, second, I respond that at that exact point in time, as I state elsewhere,<sup>20</sup> there are now not one but two types of ten dollar bills in my wallet. One variety consists solely of that \$10 bill I plucked out of my wallet to pay Hoppe the sweater vendor. A second variety consists of all of the other \$10 bills in my billfold, ones that I did not so much as touch in this transaction. The bills in this second category are still a homogeneous blob as far as I am concerned. I am indifferent between all of them in the thymological sense, since no human action takes place in this little vignette with regard to them. Praxeological considerations do not arise with regard to them, because I do not *act* upon them in my sweater purchase.

So, am I contradicting myself? Am I then simultaneously saying *both* that my “notes are homogeneous *and* that they are not homogeneous?”<sup>21</sup> No. I

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<sup>17</sup> We can offer no better support for this contention than that emanating from Hoppe himself: “[A]ctions can only be performed sequentially, always involving a choice, i.e., taking up that one course of action which at some given time promises the most highly valued results to the actor and excluding at the same time the pursuit of other, less highly valued goals”; see Hans-Hermann Hoppe, *Economic Science and the Austrian Method* (Auburn, AL: The Ludwig von Mises Institute, 1995), p. 62. Hoppe’s statements in “Further Notes on Preference and Indifference” thus contradict what he says in his *Economic Science and the Austrian Method*.

<sup>18</sup> It is true that it takes an act of the will both to walk and to chew gum. However, these are acts such that once set in motion by an act of the will, no further volition is required save to change these acts. For example, if I decide to start walking to my office via a certain path, no further act of the will is necessary unless I decide to make a change in my path or to stop walking. The same analysis applies, *mutatis mutandis*, to chewing gum.

<sup>19</sup> In case it is not clear, we are referring here to the “exact same moment when the exchange takes place” supposition.

<sup>20</sup> Block, “Rejoinder to Hoppe on Indifference.”

<sup>21</sup> Hoppe, “Further Notes on Preference and Indifference.”

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am, instead, saying that there are two types of \$10 bills, bill A and bills B. Bill A logically *cannot* be homogeneous with anything else since it is unique. It is the *one* \$10 bill I have chosen to settle my sweater debt with Hoppe. Bills B, in contrast, are homogeneous *with each other*<sup>22</sup> but not with bill A, an entirely different kettle of fish.

The same point holds with regard to the law of diminishing marginal utility. It operates on bills B, since they are all homogeneous with regard to each other. There is no contradiction, since bill A and bills B are different goods after, or during, the time I choose bill A to pay Hoppe, and ignore bills B for this purpose. There is no law of diminishing marginal utility that operates on both bill A and bills B, after I divided them into these two subsets, since they are not *now* equally serviceable, even though there were equally serviceable before I decided to grab bill A out of my wallet to pay my debt to Hoppe. If all of these bills, A as well as B, were equally serviceable after my decision, why did I choose bill A with which to pay my sweater debt, and not choose from bills B?

At this point we feel compelled to make a bit of a confession. The argument contained in the three immediately preceding paragraphs is unnecessary from the logical point of view; the first argument we made is the correct one. We do not at all accept Hoppe's supposition *arguendo*; in fact, this distracts from the first argument. It is but a weak way of saying the same thing—that whereas one might be indifferent among the \$10 bills from the thymological point of view, one cannot be indifferent among them from the praxeological point of view, as evinced by the very action of choosing to pay with the one bill to the exclusion of all of the others. However, from the psychological as opposed to the purely logical point of view, we think this *arguendo* material may well be helpful (which is why we have not deleted it). Given the difficulty of settling this matter between the present authors and Hoppe, all three of us who enthusiastically share basic Austrian methodological perspectives, it behooves us to try *all* possible ways of communicating, and this *arguendo* discussion certainly qualifies in that regard.

### 6. Under All Circumstances

Hoppe says that he is of course not saying that the second part of my analysis of our exchange is incorrect *under all circumstances*. If I had one bill that I regarded as distinct (heterogeneous) from all of my other bills, and he had a sweater that he regarded as distinct from all of his other sweaters, then it would be entirely correct for me to say that our exchange demonstrated my

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<sup>22</sup> Thymologically speaking; praxeology with regard to them does not arise, since they are not yet (or not now) involved in any human action; contemplation doesn't count.

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preference of his sweater to this one particular bill (as compared to all of my other bills). But by assumption, this is *not* the situation we are supposed to analyze. Rather, the question is whether or not my analysis is correct if, as per assumption, I have affirmed that I consider all of my bills as *non*-distinct, homogeneous, and equally serviceable in the pursuit of some given end.<sup>23</sup>

Not so fast. Yes, initially, at  $t_0$ , before I decided to buy a sweater, if I thought about it at all, I would have regarded *all* of the \$10 bills in my wallet as the same. That is a *thymological* claim. They have played no role, yet, in any of my human action.<sup>24</sup> But then, at  $t_1$ , when I decided to purchase a sweater from Hoppe, my \$10 bills *became* distinct. They were no longer “homogeneous and equally serviceable.” (Were they, I would have been reduced to inaction à la Buridan’s ass.) The distinction is the result of, and resides in, the very act in which I chose among them. That is, these bills broke up into two distinct parts, the bill I chose, on the one hand, call it A, and the remainder, call them B, on the other. Hoppe is assuming that even at  $t_1$  there are only fungible bills, not the bill A in contradistinction to the other bills B. I agreed with Hoppe on that point insofar as it applied to the period *before* I engaged in this human action with him, in his role as sweater salesman, but not from that point onward. Yes, but for the fact that my human action resulted in this bifurcation, Hoppe would entirely be correct in calling my position contradictory. But I do now, and have elsewhere,<sup>25</sup> maintained this division, so Hoppe’s critique cannot be sustained.

Hoppe posits a condition when he says, “If you had one note that you regarded as distinct,” implicitly inferring that this condition is not met.<sup>26</sup> Precisely this condition, though, absolutely *must* be the case if the transaction is to take place, that is, if there is to be an action in this case. That is true at least in my version of this analysis and, I claim, based on a correct perspective on it; otherwise, I would indeed be guilty of self-contradiction. How else could we explain that the sale actually took place? If this had occurred, as both Hoppe and I posit, then I (logically) *must* have paid Hoppe \$10 for his sweater.<sup>27</sup> If I paid him with a \$10 bill, it *must* have been a single, specific,

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<sup>23</sup> Hoppe, “Further Notes on Preference and Indifference.”

<sup>24</sup> I disregard the fact that they were all in my billfold; that is a separate issue from my purchase of the sweater.

<sup>25</sup> Block, “Rejoinder to Hoppe on Indifference.”

<sup>26</sup> Hoppe, “Further Notes on Preference and Indifference.”

<sup>27</sup> Cheating, fraud, and theft, are not part of this scenario. We are, after all, not discussing fractional reserve banking.

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\$10 bill. I *could not* have paid him with a Platonic \$10 bill, or with an undifferentiated “ideal” of a \$10 bill. No, an astute businessman, Hoppe would have rejected all such offers on my part. He would only accept a *real, particular, specific* \$10 bill, namely, *this* one, right here, the exact one I offered him, bill A. But why did I pick *this* real, particular, specific \$10 bill? There must have been *some* reason. Reasons don’t have to consist in deep metaphysics; they can, and frequently are, prosaic. Maybe it was at the outside of my sheaf of bills, the easiest one to access. Perhaps it was in the middle of my stack of \$10 bills, and I am partial to that position. All we know is that there was *some* reason, however mundane though it might have been, why I chose *that* bill, and not any other. It certainly was not an act of God or nature. And, yet, it was a purposive act, so it must have been my purposive act, that is, the purposive act of a human being: me.

### 7. Searle and Choice

I am in full accord with Hoppe’s claim that “not everything that happens is the result of a *choice*.” Certainly, he is correct in offering as an example the foot you use first when you start walking. I agree with him that “it merely *happen(s)* that it was one foot rather than the other.” This is of course the case with the exception of “walking” in a dance step, or doing a *kata* in karate, where it is of the utmost importance as to which foot you put forward first. I cannot imagine that he would disagree with me on this point.

But this walking, dancing, or *kata* does not at all “appl(y) to the case at hand.”<sup>28</sup> Rather, I maintain that all *actions*, as in *human action*, are necessarily the result of *choice*. The only things that are *not* based on choice are *behaviors*, that is, biological phenomena such as blinking, breathing through your nose or your mouth, heart beat, peristalsis, holding your breath, reflexes, etc. Then, of course, there are habits, which, especially if ingrained, are done without thinking, and thus do not rise to the level of human action either, for example, opening the door for a woman, chewing with your mouth closed, keeping your hands out of your pockets, etc. We do indeed have some, but nothing like full, control over these behaviors. Habits once learned can be unlearned or ignored, after all. And, there is a sort of continuum with regard to all of them, as they have almost imperceptible gradations from one to the other in terms of human action. Then, too, there is subjectivity, where the move from one part of this grey area to another might differ from person to person.

I would incline way over on the mere behavior, not the human action, side Hoppe’s “choice” of which foot to start walking with. None of

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<sup>28</sup> Hoppe, “Further Notes on Preference and Indifference.”

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these kinds of things is, ordinarily, a choice at all. Such cases constitute mere physical behaviors; often, they are done before you even realize you are doing them. For example, I often find out that I have scratched my nose *after* I have done so. This act formed no part of my purposeful human action. However, although the foot with which I begin to walk may not be a matter of current choice but rather of habit,<sup>29</sup> the decision to start walking is usually a matter of choice.

If a *sale* takes place without human action occurring, just as a sort of reflex, then in what sense is it a *sale* at all? Suppose I scratch my nose. I do this without deliberation; I am even unaware that I have done any such thing. However, I do so while sitting in a room where an auction is taking place, and the auctioneer takes my nose scratching as a sign that I have offered a bid on a painting. Did I really *purchase* it under these circumstances? No. There was no meeting of the minds between the parties supposedly engaged in this commercial interaction. There was no *agreement*, at least not on my part, that I had actually, voluntarily, taken part in a business transaction.<sup>30</sup> Now, maybe, I should not have been sitting in this room, ignorant of the rules of the auction, as I was. That is a different issue. The point, here, is that mere *behavior*, as opposed to purposeful *human action*, does not rise to the level of market participation.<sup>31</sup>

Hoppe's otherwise very insightful analysis does *not* apply to the case at issue. He depicts, instead, a commercial interaction where I purchase one of his sweaters. This is human action. It *must* be the result of a choice, on both of our parts, or it does not count as a human action, and it falls to the level of mere behavior.

Hoppe puts matters in this way: "It is incorrect to infer, as you do, from the mere *fact* that one particular note is being exchanged against one particular sweater that this must be the result of a *choice*."<sup>32</sup> I beg to disagree.

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<sup>29</sup> One might think of a habit as a past series of choices out of which the habit was formed; i.e., they do not, after all, arise full blown from the head of Zeus.

<sup>30</sup> A quite dissimilar case takes place in the movie "North by Northwest" when the hero engages in nonsensical bidding at an auction. His bidding was purposeful, however, so as to evade criminals; mine is totally inadvertent.

<sup>31</sup> It is true that I might be held legally responsible for my behavior in scratching my nose and therefore be forced to purchase the relevant item, but it would then be a forced transaction, not part of a market process. Economists are wont to consider only those engaging in voluntary transactions as participants in a market.

<sup>32</sup> Hoppe, "Further Notes on Preference and Indifference." He seems to think that choice must imply some rumination, but that is incorrect. James Buchanan wrote a book famously titled *Cost and Choice*, the point of which may be summed up as

If there was no *choice* involved, the exchange of money for sweater does not rise to the level of purchase and sale. It is mere behavior. Yes, I “gave up one note viewed as equally serviceable to several other notes in exchange of a sweater,” but, as I discussed above, the equal serviceability only occurred *before* the human action took place. Afterward, or, if you will, at the same time, there were *two* groups of goods, one consisting solely of bill A and the other of the collection of bills B. These groups were distinct from one another in that I *chose* one, the one consisting of bill A, but set aside the one consisting of bills B.

### 8. Rothbard’s Dictum

According to Rothbard’s dictum, “Indifference can never be demonstrated by action.<sup>[33]</sup> Quite the contrary. Every action necessarily signifies a *choice*, and every choice signifies a definite preference. . . . If a person is really indifferent between two alternatives, then he cannot and will not *choose* between them.”<sup>34</sup> My response to this is, “Darn tootin’.”

Hoppe’s interpretation of Rothbard’s dictum is very different from mine. In my view, indifference is part and parcel of thymology, not praxeology. For praxeology is, among other things, the science or logic of action and choice.<sup>35</sup> If indifference, on the one hand, and human action, on the

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follows: If there is no choice, then necessarily there is no cost; and if there is a choice, then necessarily there is a cost. Analogously, if there is no choice then necessarily there is no (purposeful) human action (and vice versa), and if there is a choice then necessarily there is a human action (and vice versa); See James Buchanan, *Cost and Choice* (Chicago, IL: University of Chicago Press, 1985). In fact, as Mises states, “Acting man *chooses* between various opportunities offered for choice. He prefers one alternative to others”; see Von Mises, *Human Action*, p. 94.

<sup>33</sup> One is tempted to add, “nor may action ever be demonstrated by indifference.”

<sup>34</sup> Murray N. Rothbard, “Toward a Reconstruction of Utility and Welfare Economics,” in *The Logic of Action*, ed. Murray N. Rothbard, vol. 1 (Cheltenham, UK: Edward Elgar, 1997), pp. 211-54.

<sup>35</sup> See Walter Block, “A Comment on ‘The Extraordinary Claim of Praxeology’ by Professor Gutierrez,” *Theory and Decision* 3 (June 1973), pp. 377-87; Hans-Hermann Hoppe, “On Praxeology and the Praxeological Foundation of Epistemology and Ethics,” in *The Meaning of Ludwig von Mises*, ed. J. Herbener (Boston, MA: Dordrecht, 1992); Jörg Guido Hülsmann, “Economic Science and Neoclassicism,” *Quarterly Journal of Austrian Economics* 2, no. 4 (1999), pp. 1-20; Ludwig von Mises, *Theory and History: An Interpretation of Social and Economic Evolution* (New Rochelle, NY: Arlington House, 1969); Mario Rizzo, “Praxeology and Econometrics: A Critique of Positivist Economics,” in *New Directions in Austrian Economics*, ed. Louis Spadaro (Kansas City: Sheed Andrews and McMeel, 1979), pp. 40-56; Murray N. Rothbard, “Praxeology as the Method of the Social Sciences,” in *The Logic of*

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other, are incompatible, as per the dictum, and given that praxeology is concerned with action and choice, then indifference and praxeology must pass each other like ships in the night. Never shall the twain meet.

What about Hoppe's claim that third party actions "verify" that I do not choose, in my purchase of the sweater, "because (I) regard (my) supply of means as homogeneous."<sup>36</sup> I demur. If I allow someone else, a third party, to choose on my behalf, I am *not* indifferent. After this other person picks out a \$10 bill from my wallet in order to pay Hoppe for the sweater, I must still acquiesce<sup>37</sup> in the trade of the sweater for *this* bill, not another one. It is as if I choose to purchase the sweater or not on the basis of the throw of dice. It is I who must still carry through and do what the dice "tell" me to do. To put this in other words, one could say that I chose X to pick the specific bill and I was not indifferent regarding the bills, but preferred to pay with the one chosen by X and not with any of the other bills.

Hoppe takes a very different slant on this. To him, indifference is an integral part of praxeology. To lead off this part of his discussion, Hoppe has me say this in our "fictive" dialogue: "So what, then, is the role of 'indifference' in economic analysis?"<sup>38</sup> I suppose I have now been demoted from active debater to the status of a student, seeking elucidation. This, in any case, is my last statement in the fictive dialogue, a request for further information.

And what is Hoppe's answer to "my" question? It is this:

Whenever we act, we employ means to achieve a valued end. This end is a state of affairs that the actor prefers to the actual (and impending) state of affairs. Both states of affairs, at the beginning of action and at its conclusion, are constellations of means (goods) at an actor's disposal, describing the circumstances or conditions under which he must act. On the one hand, *indifference* is part of the *description of such circumstances and conditions* (the start- and end-points of action). On the other hand, *preferences (choices)* explain

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*Action*, vol. 1, pp. 28-57; Murray N. Rothbard, "Praxeology: The Methodology of Austrian Economics," in *The Logic of Action*, vol. 1, pp. 58-77; George A. Selgin, "Praxeology and Understanding: An Analysis of the Controversy in Austrian Economics," *Review of Austrian Economics* (1988), pp. 19-58.

<sup>36</sup> Hoppe, "Further Notes on Preference and Indifference."

<sup>37</sup> It is much the same thing if I flip a coin, or throw some dice, in order to determine my choice. I still have to carry through and *choose* to abide by this plan of mine.

<sup>38</sup> Hoppe, "Further Notes on Preference and Indifference."

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the *change* in these circumstances that an actor wants to achieve through the disposal of means. Any complete analysis of action must involve both: a description of the start- and end-point of action as well as an explanation of the change occurring from one point to another due to preference-demonstrating action. Both concepts: preference *and* indifference are therefore necessary and complementary parts of every economic (praxeological) analysis.<sup>39</sup>

I am having great difficulty seeing how this analysis can be reconciled with Rothbard's dictum on indifference and Mises's analysis of human action and the role thymology plays in it. In Hoppe's vision, indifference takes a front and center position in praxeological analysis. It is part and parcel of both the beginning and end points of all human action. This is at variance with Hoppe elsewhere,<sup>40</sup> and bears shades of Bryan Caplan.<sup>41</sup> If indifference is so important to praxeology, how can we preclude the interjection of indifference curves into Austrian thought?<sup>42</sup>

Before the transaction I am thymologically<sup>43</sup> indifferent among the \$10 bills I possess and might well also be thymologically indifferent among the sweaters Hoppe possesses, any one of which he will exchange for \$10. Moreover, after the transaction I may thymologically be indifferent between the sweater I actually acquired in the transaction and others I already own. This can hold true at least until I actually have to make a choice as to which one to put on at a specific point in time. Nevertheless, in order for the transaction to occur, I must act to trade a specific \$10 bill that I chose,

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<sup>39</sup> Ibid.

<sup>40</sup> See Hans-Hermann Hoppe, "Must Austrians Embrace Indifference?" *Quarterly Journal of Austrian Economics* 8, no. 4 (Winter 2005), pp. 87-91.

<sup>41</sup> See Bryan Caplan, "The Austrian Search for Realistic Foundations," *Southern Economic Journal* 65, no. 4 (April 1999), pp. 823-38.

<sup>42</sup> See Hans Mayer, "The Cognitive Value of Functional Theories of Price," in *Classics of Austrian Economics*, ed. Israel M. Kirzner, vol. 2 (London: William Pickering, 1994), pp. 109-25; and Gene Callahan, "Choice and Preference," February 10, 2003, accessed online at: <http://mises.org/story/1163>.

<sup>43</sup> Hoppe charges that Block's use of the phrase "'vague, psychological' category" (in Block, "On Robert Nozick's 'On Austrian Methodology,'" pp. 424-25, and Block, "Austrian Theorizing, Recalling the Foundations," pp. 22-24) is off the mark; see Hoppe, "Must Austrians Embrace Indifference?" And so it is. I (Block) stand corrected by Hoppe. I should there have used the more precise term "thymology."

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regardless of why or how I chose it, for a specific sweater, regardless of why or how I chose it. Thus, indifference may exist before and/or after the act of exchange, but no indifference can exist *during* the act of exchange.

### 9. Conclusion

If I do not *choose*, how can I really engage in trade? I cannot. I can only exhibit *behavior* that physically resembles market decision-making. This is the essence of our side of the debate with Hoppe.<sup>44</sup>

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<sup>44</sup> The authors wish to thank David Gordon, Laura Davidson, and Stephan Kinsella for helpful comments. All errors remaining after their excellent advice are of course our responsibility alone. The first-mentioned author of the present article, Walter Block, wrote the entire first draft of it. He then asked the second-mentioned author of this article, William Barnett II, for feedback, criticisms, etc. Barnett did such a thorough job of this, adding a paragraph here, and another one there, and still a third, fourth, and fifth one, etc., everywhere else, that Block felt he could no longer limit himself merely to thanking Barnett for his constructive criticism, but, instead, insisted upon a co-authorship. Barnett did not think his contributions merited a co-authorship; hence the “with” in listing the authors.

# Review Essay: Edward Feser's *Locke* and Eric Mack's *John Locke*

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## 1. Introduction

There's an obvious sense in which libertarian and Objectivist thought get their bearings from the philosophical theorizing of John Locke. Both Murray Rothbard and Robert Nozick explicitly built their respective political philosophies on Locke's conception of self-ownership, property, and political legitimacy, and both conceived of their theories in different ways as the workings-out of Lockean arguments. Ayn Rand was less explicit about what she got from Locke in the way of philosophical insight, but was explicit about Locke's positive influence on political philosophy and political history: "It took centuries of intellectual, philosophical development to achieve political freedom," she wrote (in 1962, in the context of a discussion of Algeria's independence from France). "It was a long struggle, stretching from Aristotle to John Locke to the Founding Fathers."<sup>1</sup>

Given this, it's become natural in libertarian and Objectivist circles to appeal to Locke as a sort of all-purpose authority on or placeholder for the idea of freedom as such. Open almost any libertarian policy analysis or polemic, and you'll find at least one obligatory reference to Locke, "whose ideas about the protection of private property and other rights underlie the Declaration of Independence and the Constitution of the United States"<sup>2</sup>—and more specifically, whose ideas can be deployed in defense of the free-market side in contemporary arguments about jurisprudence and public policy.<sup>3</sup> The

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<sup>1</sup> Ayn Rand, "Theory and Practice: Blind Chaos," in Ayn Rand, *Capitalism: The Unknown Ideal*, Centennial Edition (New York: Signet, 1966), p. 150.

<sup>2</sup> James V. DeLong, *Property Matters: How Property Rights Are Under Assault—And Why You Should Care* (New York: Free Press, 1997), p. 24.

<sup>3</sup> The *locus classicus* is probably Richard Epstein's *Takings: Private Property and the Power of Eminent Domain* (Cambridge, MA: Harvard University Press, 1985), but a full list of scholarly work would include hundreds if not thousands of books and articles.

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name “Locke” has thereby come to give free-market views the sort of respectability one gets by having a pedigree connected to a great philosopher. However, anyone who appeals to Locke in this way has to deal with the fact that the preponderance of the scholarship on Locke is written not by libertarians or Objectivists but by authors unsympathetic to both, sometimes explicitly so. This mainstream (and usually left-leaning) Locke is often unrecognizable as a forerunner of either libertarian or Objectivist doctrine, and his doctrinal commitments raise questions about the authenticity of the connection between Locke’s theory and its contemporary free-market instantiations.

The books under review are two welcome exceptions to the left-leaning near-monopoly on Locke scholarship. Edward Feser’s *Locke* is a clear and well-written overview and critique of the whole of Locke’s philosophy by a well-regarded conservative philosopher with libertarian sympathies and interests in Scholasticism and the philosophy of mind.<sup>4</sup> Eric Mack’s *John Locke* is an equally clear and well-written discussion of Locke’s political philosophy by a prolific rights theorist with an interest in Objectivism.<sup>5</sup> Though Feser and Mack ultimately disagree with one another and cover somewhat different ground, their books have complementary strengths, and constitute a valuable first step toward the creation of a libertarian/Objectivist literature on Locke.

### 2. Feser’s *Locke*

According to Feser, Locke is the “quintessential modern philosopher” whose theorizing embodies the tensions and contradictions of modern life (p. 1). It’s an old and perhaps discredited reviewer’s trick to convey the contents of a book by quoting its first and last sentences, but in the present case, it’s hard to think of a better method. “Of all modern philosophers,” Feser writes on the book’s first page, “John Locke has had the profoundest influence on the world we live in, and most embodies its guiding principles.” And yet, we learn in the book’s last sentence, “It is no longer possible (if it ever was) to be a Lockean” (p. 172). It’s fair to say that the book is an attempt to explicate Locke while explaining the puzzle conveyed by those two sentences.

After setting out the essentials of Locke’s biography and the Scholastic and rationalist philosophical context in which he operated, Feser moves to a longish discussion of Locke’s metaphysics and epistemology, a somewhat shorter discussion of his political philosophy, a very brief account

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<sup>4</sup> Edward Feser, *Locke* (Oxford: OneWorld Publications, 2007).

<sup>5</sup> Eric Mack, *John Locke* (London and New York: Continuum Publishing, 2009).

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of his views on religious toleration, and a few concluding pages on what he calls “Locke’s Contestable Legacy.” Though in some ways sympathetic to Locke’s political philosophy, Feser’s book is in effect an Aristotelian-Scholastic polemic against the coherence of Locke’s philosophy as a whole. Interestingly, his essentially negative assessment resembles the one expressed in orthodox Objectivist writing. In metaphysics and epistemology, Rand once claimed, “Locke was disastrous. He departed from Aristotle and denied that we can perceive reality. In this respect, he opened the gate to a lot of trouble from modern philosophers.”<sup>6</sup> In *The Ominous Parallels*, Leonard Peikoff describes Locke’s philosophy as “an eclectic shambles” all but waiting to be “ripped apart.”<sup>7</sup> At face value, at least, Feser agrees with this assessment: his Locke, like the Objectivist one, is a philosophical failure whose incoherences can be traced to an ill-considered rejection of the best of the Aristotelian tradition. Accordingly, the first hundred pages or so of *Locke* is precisely a ripping apart of the “eclectic shambles” of Locke’s metaphysics and epistemology. The implicit message is that whatever is valuable in Locke would better have been defended from within an Aristotelian-Scholastic perspective than from Locke’s peculiarly modern rejection of it.

The bulk of Feser’s critique of Locke focuses on Locke’s *Essay Concerning Human Understanding* (1689). As Feser puts it, the *Essay* is “the most important and influential exposition in the history of philosophy of an empiricist epistemology,” and “has shaped the modern conception of the nature of scientific inquiry more than any other philosophical work” (pp. 31-32). And yet, it is “conceptually imprecise in a way that has a significant impact on the ultimate defensibility of the arguments and positions presented within its pages, with crucial distinctions that should be obvious often going unmade” (p. 31). Feser makes short work of every major tenet of Locke’s empiricism. Lockean empiricism requires a contrast between nativism and a *tabula rasa* conception of mind, with a rejection of the former in favor of the latter. But as Feser shows, the contrast Locke draws between nativism and the “blank slate” is remarkably unclear, and his arguments against innate ideas are ultimately quite weak (pp. 34-41). Empiricism tells us that “there is nothing in the mind which is not first in the senses,”<sup>8</sup> but Locke’s indirect realism about

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<sup>6</sup> *Ayn Rand Answers: The Best of Her Q&A*, Centennial Edition, ed. Robert Mayhew (New York: New American Library, 2005), p. 149.

<sup>7</sup> Leonard Peikoff, *The Ominous Parallels: The End of Freedom in America* (New York: New American Library, 1982), p. 113.

<sup>8</sup> Feser attributes the quotation to Aristotle (p. 39), but though the slogan accurately expresses Aristotle’s view, I don’t think there’s a quotable Aristotelian text that makes the claim.

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perception leads on Feser's account to a "corrosive skepticism" that denies the very possibility of perceptual knowledge (p. 56). Empiricists are supposed to be defenders of the truth-conducivity of natural science, but Locke's skepticism about real essences sits uneasily with his self-conception as an underlaborer clearing the ground for scientific inquiry (pp. 46-56). An empiricist theory of knowledge requires an account of concept-formation as a bridge between perceptual and propositional knowledge. But Locke's theory of ideas is vitiated both by the overbreadth of his conception of an "idea," and by his commitment to an imagistic sort of conceptualism about universals (pp. 41-46). Ultimately, Feser concludes, Locke's epistemology is an incoherent attempt to combine radical empiricism with ad hoc "elements of the Scholastic inheritance" (p. 87). And Locke's metaphysics doesn't fare much better.

Considering how much Locke got wrong, it's tempting to wonder why he was ever as influential as he's been. According to Feser (who follows Gilbert Ryle on the point), the answer is reductively extra-intellectual: "the ultimate import of the seemingly abstruse metaphysical and epistemological doctrines developed in Locke's *Essay* is practical and political" (p. 100).<sup>9</sup> More crudely put, Locke has had the influence he's had not because his views are true or well-argued, but because they seem to provide the support for a politics to which many people have understandably been attracted. In making this claim, Feser rejects "[t]he trend among contemporary Locke scholars,"

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<sup>9</sup> It's not clear *how* reductive Feser intends this claim to be, but on the whole I think he does a good job at finding the mean between historicist and ahistorical extremes. On the one hand, his view contrasts with historicists like Richard Ashcraft (and *a fortiori* psycho-biographic radicalizers of Ashcraft's views, like Jeffrey Friedman), who claim that Locke's political aspirations make the truth of his philosophical views, whether political or otherwise, irrelevant to an examination of the *Second Treatise*. As Friedman puts it in a discussion of Ashcraft's work: "Ashcraft has, through sheer accumulation of detail about the anxieties and rhetoric of Shaftesbury's Whigs, pretty well buried the notion of Locke as abstract political philosopher"; see Jeffrey Friedman, "Locke as Politician," *Critical Review* 2, nos. 2-3 (Spring/Summer 1988), p. 69, discussing Ashcraft's *Revolutionary Politics & Locke's Two Treatises of Government* (Princeton, NJ: Princeton University Press, 1986). As Feser reasonably points out, though, we need to distinguish an "accumulation of detail about . . . anxieties and rhetoric" from an argument for historicism (pp. 107-8); bad metaphors aside, the route from the former to the latter is hardly obvious. On the other hand, and from the reverse direction, Feser's view contrasts with Alvin Plantinga's confident assertion that in reading Locke's *Essay*, "*pace* Foucault, there is no reason to think we will uncover a hidden political agenda" in it; see Alvin Plantinga, *Warrant: The Current Debate* (Oxford: Oxford University Press, 1993), p. 11. On Feser's view, there are good reasons for thinking that we *will* uncover a hidden agenda, and equally good reasons for thinking that the agenda is overt (pp. 92-100).

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who focus less on the specific arguments that Locke offers than on the way in which Locke's various claims fit together to form a systematic whole (p. 97). On this mainstream view, read charitably, "Locke was successful enough that it should be no surprise that his philosophy has been as influential as it has been" (p. 97). Feser rejects the mainstream interpretation on the grounds that it ignores Locke's misrepresentations of Scholastic philosophy, and minimizes the problematicity of Locke's views (pp. 97-99).

Though there's something to Feser's claims, he's offered an extremely uncharitable interpretation of Locke that says almost nothing about how Locke's views might, on a more charitable interpretation, be reconstructed in a defensible fashion. He thus dismisses the "contemporary trend in Locke scholarship" without discussing what it has to say in defense of itself or of Locke. He also has a tendency to use the terms "Aristotelian," "Scholastic," and "Aristotelian-Scholastic" in ways that exaggerate the doctrinal unity conveyed by these labels, and that skew their meaning in the direction of a very specific kind of Aristotelianism—namely, a certain brand of Thomism. But as Alasdair MacIntyre aptly puts it, a "systematic history of Aristotelianism would be an immense undertaking populated by a great variety of rival Aristotles,"<sup>10</sup> and the Aristotle that populates the best of contemporary scholarship holds views strongly at variance with Feser's Scholasticized Aristotelianism.<sup>11</sup>

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<sup>10</sup> Alasdair MacIntyre, "Rival Aristotles: Aristotle against Some Renaissance Aristotelians," in Alasdair MacIntyre, *Ethics and Politics: Selected Essays, Vol. 2* (Cambridge: Cambridge University Press, 2006), p. 3. See also MacIntyre's "Rival Aristotles: Aristotle against Some Modern Aristotelians," in MacIntyre, *Ethics and Politics*, pp. 22-40.

<sup>11</sup> Consider, for example, Feser's treatment of causality and explanation in the Aristotelian tradition. In an explication of what he takes to be a generically Aristotelian account of causality and explanation, Feser describes the four Aristotelian causes (formal, material, efficient, and final) and then suggests that on Aristotle's account, every explanandum is not only susceptible of but *requires* explanation by all four causes: "In general complete explanation of a thing entails the specification of its four causes" (p. 13; also see p. 55). Having made this claim, Feser then infers that every explanandum ("thing") must have a final (or teleological) explanation, which suggests in turn that an Aristotelian conception of explanation leads relatively quickly to a cosmic teleology in which everything exists for the sake of something else, until we come to a terminus that exists for itself. Valid as the latter inference may be, however, the quoted premise is not Aristotle's view, and given the point of Aristotle's theory, not authentically Aristotelian. Aristotle goes out of his way to *deny* that every explanandum is susceptible of (much less requires) a teleological explanation (see, e.g., *Generation of Animals* V.1); indeed, the canonical Aristotelian argument for teleology at *Physics* II.8 turns on a contrast between teleological and obviously non-teleological explananda (cf. Terence Irwin, *Aristotle's First Principles* [Clarendon:

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When Feser tells us, then, that “some of Locke’s objections to Scholastic views seem to rest on misunderstandings or uncharitable readings of those views” (p. 97), he raises issues to which he cannot and does not do justice in his book. For one thing, he makes no attempt to discuss the possibility that Locke was accurately attacking degenerate forms of Scholasticism prevalent in his milieu. For another, he makes no attempt to discuss possible affinities between Locke’s critique of Scholasticism (degenerate or otherwise) and contemporary Aristotelian rejections of Scholastic doctrine, or between Locke’s empiricism and contemporary Aristotle-inspired empiricisms.<sup>12</sup> In the absence of such discussions, his rejection of “the contemporary trend” is both overly narrow and premature—overly narrow for its failure to make contact with contemporary Aristotle studies, and premature for its failure to discuss the “contemporary trend” in Locke studies itself.

In this light, what I previously called Feser’s “face-value” agreement with Objectivism diminishes significantly. Rand and Feser agree that Locke’s metaphysics and epistemology suffer for his (i.e., Locke’s) rejection of “Aristotelianism.” They differ on the identity of Aristotelianism, and by implication what it means to reject it. If Feser is right to think that “Locke’s *Essay* simply cannot properly be understood without a basic grasp of the Scholastic concepts and methods he is attacking” (p. 9), it might well be that a “systematic history of Aristotelianism” is a precondition for writing a fully systematic account of Locke. Locke’s legacy is contested because Aristotle’s is.

As we’ve seen, on Feser’s view, the “ultimate import” of Locke’s metaphysics and epistemology “is practical and political” (p. 100). The attraction of Locke’s politics is his valorization of an individualism based on the need for independent judgment, and on the corollary need to put those

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Oxford University Press, 1990], pp. 522-23 n.18). For an example of the decidedly un-Scholastic Aristotle to have emerged from contemporary Aristotle scholarship, see the work of Allan Gotthelf, starting with his “Aristotle’s Conception of Final Causality,” in *Philosophical Issues in Aristotle’s Biology*, ed. Allan Gotthelf and James G. Lennox (Cambridge: Cambridge University Press, 1987), pp. 204-42.

<sup>12</sup> Feser makes much of Peter Geach’s well-known critique of abstraction (p. 39), but it seems to me that Geach’s main argument—that abstraction of a property requires the possession of the concept for that property—has conclusively been answered. See David Kelley, “A Theory of Abstraction,” *Cognition and Brain Theory* 7, nos. 3-4 (Winter 1984), pp. 329-57; and Allan Gotthelf, “Ayn Rand on Concepts: Another Approach to Abstraction, Essences, and Kinds,” accessed online at: <http://www.bristol.ac.uk/metaphysics/science/naicpapers/gotthelf.pdf>. Kelley and Gotthelf go out of their way to stress the differences between the Lockean and Objectivist theories of abstraction, but the similarities are obviously there.

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judgments into practice in the service of human survival and comfort (p. 34). Closely related to that core are Locke's basic doctrinal commitments in politics: an uncompromising defense of rights of self-ownership, self-defense, and private property (jointly prefiguring the right to abortion); a consent-driven conception of political legitimacy and defense of a limited state; an unsqueamish defense of the right of revolution (and of divorce); and a rejection of the claims of religious fanaticism, with a corresponding endorsement of toleration and voluntarism in matters of belief. Some version of this package has won the allegiance of millions if not billions of adherents from the Glorious Revolution to the Cedar Revolution, millions of whom have fought and died for it, but few of whom have ever worried about its justificatory foundation.

According to Feser, the justificatory foundation is straightforward: an appeal to God. On Feser's view, Locke's politics is essentially theological in nature: Locke's political philosophy rests squarely and explicitly on belief in a divine craftsman, who has crafted human beings according to His purposes. As it happens, Locke's God intends for each of us to be Lockean individualists: He wants us to own ourselves, to preserve ourselves and others within the context of a capitalist political economy, to respect the rights of others, to form limited governments, to foment revolution against tyrants, and to tolerate one another's non-coercive religious beliefs. But as Feser reads Locke, this appeal to God, though necessary for a successful justification of a rights-based politics, is in Locke's version defective in those respects in which it departs from the Scholastic natural-law tradition: "In short, in rejecting the epistemology and metaphysics of Scholasticism in particular and Aristotelianism in general, Locke rejected also the foundations of the medieval approach to natural law, and with it any possibility of using that approach to ground a doctrine of natural rights" (p. 110). Since, on Feser's view, Locke either fails to supply a foundation or supplies a defective one, it follows that his political philosophy is ultimately lacking in any justification. And since, Feser implies, the medieval approach to natural law is the right one, the contemporary Lockean faces a dilemma: either espouse Lockeanism without foundations, or reject Lockeanism for Scholasticism. Hence the book's suggestion that it is no longer possible to be a Lockean.

Much of the latter third of Feser's book consists of an eminently clear (though not uncontroversial) summary of the main elements of Locke's views on rights, property, consent, revolution, and toleration. Readers familiar with this material will admire the clarity and organization of Feser's presentation (even as they look askance at this or that interpretation), and readers unfamiliar with it will get the overview that they need. Likewise, much of the latter part of the book consists of Scholastically inspired critiques of Locke, or discussions of the (genuine) tensions between Locke's metaphysics and epistemology, on the one hand, and his political philosophy,

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on the other. Two of Feser's criticisms stand out for their subversive potential: (1) Locke's skepticism about our knowledge of real essences undermines what he has to say in defense of natural rights (pp. 117-21). (2) The defects in Locke's theory of personal identity undermine his justification of private property (pp. 121-23). These criticisms, and others like them, should force us to think more carefully about the relationship between Locke's *Essay* and his political works, and will undoubtedly keep Locke scholars busy for some time.

Feser ends the book, as previously remarked, with a provocative chapter on "Locke's Contestable Legacy." One bonus of the discussion is a very interesting (and in my view, correct) application of Locke's views to international politics in the post-9/11 world (pp. 167-68). Feser's main point, though, is that taken as a whole, Locke's philosophy offers us a package deal of incompatible elements, so that "[t]hose who seek to appropriate Locke's legacy today must decide which part of it they value most, for they cannot coherently have it all" (p. 172). Even if one thinks, as I do, that Feser occasionally lets his Scholastic polemics overshadow his examination of Locke's theorizing, he is right to push the reader to some such decision. Whether such a reader will be pushed from Lockeanism to Feser's Scholasticism is another matter, but there's no question that some pushing is in order, and that Feser's *Locke* does an excellent job at supplying it.

### 3. Mack's *John Locke*

Eric Mack's *John Locke* has a narrower focus than Feser's *Locke*, and despite some passing points of resemblance, gives us a markedly different assessment of the cogency of Locke's project. The book, Mack writes, "aims to present a systematic account of John Locke's political philosophy" (p. 3). He adds:

If my reading of Locke is correct, he stands as the historically most salient expositor of a *rights-oriented* classical liberalism because his case for liberty and its protection by a narrowly circumscribed government and for resistance against tyrannical government is propelled by contentions about rights. My working hypothesis in this work is that Locke provides an impressive, if not decisive, philosophical case for the key tenets above—except for his doctrine of consent. (p. 4)

Like Feser, Mack's is a non-historicist Locke, to be treated in effect as a colleague in a common practical and theoretical enterprise. Though anti-historicist, Mack (like Feser) is appropriately sensitive to the historical context in which Locke theorized, offering a nice thumbnail sketch of Locke's biography, his political milieu, and the views of his chief polemical

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adversaries, Thomas Hobbes (1588-1679) and Robert Filmer (1588-1653). Unlike Feser, however, Mack is principally interested in what Locke has to say about rights in abstraction from the metaphysical and epistemological topics Locke discusses in the *Essay*. Hence, Mack's attempted vindication of Locke's "philosophical case" is less a vindication of the overall coherence of Locke's views than a vindication of the cogency of his specifically ethico-political vision.

On the one hand, this narrowing of focus might seem puzzling, for we might well wonder how Mack can offer a verdict on Locke's "philosophical case" for rights while prescinding from an assessment of Locke's views (such as they are) on the theoretical foundation for rights in metaphysics and epistemology. To the extent that one worries about these deeper foundational issues, Mack's verdict will seem premature, and the claims of his book will seem pre-empted by Feser's critique of Locke's *Essay*. On the other hand, however, the relative narrowness of the scope of Mack's book is clearly a strength as well: it allows him to focus on the nuances and details of Locke's political views in ways that Feser's book does not. Given Mack's sympathy for Locke's project, his book offers a useful dialectical corrective to the slash-and-burn aspects of Feser's Thomistic juggernaut. What we see here in full focus is the proto-libertarian and proto-Objectivist Locke—the Locke whose views can be seen as prefiguring Nozick's libertarianism and Rand's Objectivism. This Locke's political views may well need a deeper foundation of some kind, but make perfectly good sense as stated; there's no need to get bogged down in the *Essay* to understand them.

As we've seen, Feser holds the view that Locke's political project is irrefragably theological: take God out of Locke's text, and you're left with nothing. As Mack makes clear (and as A. J. Simmons argued decades ago<sup>13</sup>), however, this can't be right. Indeed, it would probably be more accurate to say that Locke's insistence on putting God *in* the *Second Treatise* is what adds a fifth wheel to his argument. For Feser, the fundamental premise of the *Second Treatise* is the claim that we have rights because God owns us; we have rights because we are God's property. But as Feser is forced in the next breath to admit, this claim contradicts the very point of Locke's theory.<sup>14</sup> If God owns us, and ownership implies exclusion, then we do *not* own ourselves. If, as Locke claims, self-ownership is the basis of world ownership

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<sup>13</sup> A. J. Simmons, *The Lockean Theory of Rights* (Princeton, NJ: Princeton University Press, 1993), pp. 36-46.

<sup>14</sup> Feser, *Locke*, p. 111. I don't mean that Feser concedes the contradiction; I mean that he is forced to take notice of it. His initial attempt to resolve the contradiction merely appeals to the fact that "we" do not speak as though a contradiction obtains—but that begs the question.

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(i.e., of private property), and the protection of property is the basic function of a legitimate government, then the claim that God owns us subverts the whole of Locke's political philosophy. Feser makes an awkward attempt to bypass this problem by insisting that God "leases" us in ways that permit ownership, but the claim has no basis in Locke's text, and even if we were *ex hypothesi* to grant it, we have no access to the supposed "lease agreement" that gets us from the premise "we're leased by God" to the claims about property that Locke actually makes.<sup>15</sup> Arguably, the point of Locke's polemic against Filmer in the *First Treatise* and of his frequent references to the Old Testament story of Jephtha and the Ammonites in both *Treatises*, is that no such access is possible.<sup>16</sup>

By contrast, Mack suggests that we can distinguish two distinct (and incompatible) "programs" in Locke's writings,<sup>17</sup> what he calls the "Divine Voluntarism Program" (DVP) and the "Inborn Constitution Program" (ICP). According to the DVP, "God's commands—and not features of our nature—impose on us the law and obligations that precede the pronouncements of political authority" (pp. 29-30). Meanwhile, the ICP is based not on theological but on anthropological or moral-psychological premises about "the nature of man" and what follows from it. Whatever the exact relation between these two programs, and whatever Locke intended in presenting them

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<sup>15</sup> Feser, *Locke*, pp. 111-12.

<sup>16</sup> It's worth noting that neither Feser nor Mack pay much attention to Locke's use of Scripture, but this seems to me a notable omission, and one badly in need of remediation by scholars with libertarian interests. For more Bible-conscious approaches, see Kim Ian Parker, *The Biblical Politics of John Locke* (Waterloo, ON: Wilfrid Laurier University Press, 2004); and Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought* (Cambridge, MA: Harvard University Press, 2010).

<sup>17</sup> I register here some discomfort with both Feser's and Mack's substantial reliance on Locke's unpublished *Essays on the Laws of Nature* (1663-64) to explicate Locke's published political writing. As the editor of Locke's *Political Essays* suggests: "A caveat should be entered about this volume. Locke wrote these texts over a span of a half a century and generally without any intention to publish"; see Mark Goldie, "Introduction," *Locke: Political Essays*, ed. Mark Goldie (Cambridge: Cambridge University Press, 1997), p. xiii. And again, in the preface to the *Essays* themselves: "Locke never published his essays, though James Tyrrell urged him to do so" (Goldie, p. 80). Precisely because we lack evidence to suggest that Locke wanted to publish his *Essays*, we lack a reason to think that they represent his considered view, and so lack a reason for explicating his published works by way of them. At the very least, it seems to me that use of the *Essays* requires a more explicit justification than either Feser or Mack give.

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side by side, the fact remains that they are distinct, that they are discussable in autonomy of one another, and that it is the ICP that does the “heavy lifting” in Locke’s argument. On this view, the fundamental premise in Locke’s political philosophy is not a theological one but one about the requirements of human survival, rationality, industry, and happiness. The point is not that we have rights because we are God’s workmanship, but that we have rights because, given our nature, respect for rights is a necessary condition—perhaps the crucial necessary condition—of self-preservation.

Locke’s implicit argument (covered *passim* in the second and third chapters of Mack’s book) is something like this. Human beings are distinctive in their mode of survival: they survive by rational judgment. This mode of survival functions best when the capacity for judgment is left untrammelled by coercive interference. Rights mark the boundaries within which rationally judging agents function best, and are to be respected because we have an obligation to preserve ourselves, and in the absence of conflicts with self-preservation, to preserve the conditions of human survival generally. Since on Locke’s view, conflicts between self and other occur where the dangers to *self* are greatest (i.e., in the State of Nature), our reasons to preserve ourselves and our obligation to preserve others will mostly or typically (though not invariably) coincide. Whether or not one finds this view plausible as the truth about rights, the fact remains that in one form or another, it is the view that Locke actually appeals to throughout the *Second Treatise*. In focusing on it and developing it at some length in Chapters 2-3 of his book, Mack does justice to Locke’s arguments in ways that Feser in my view does not.

This doggedly secular approach to Locke serves Mack well in his illuminating and libertarian-friendly discussion of Locke’s theory of property (pp. 55-74). Nothing about our being God’s workmanship explains why we *need* a right to property—*ex hypothesi*, God created a lot of things that don’t need it—but on Mack’s interpretation, something about *human* nature *does* explain it, whether that nature is of divine workmanship or not: “Locke thinks we need to get beyond mere permissible use and appropriation [of physical objects in the world] because, at least for the most part, men need property in what they are using or what they have appropriated if that use or appropriation is reliably to serve their ends” (p. 57). And again: “The very actions that must be permissible if men are to preserve themselves by making use of the earth also generate rights to the holdings which result from those actions” (p. 59).

On Locke’s view, then, we have rights to action-types that are morally right by the standard of everyone’s (equal right to) self-preservation. This self-preservationist rationale for property rights gives them their content, scope, and structure, and also serves to limit them in certain ways: “Since the liberty to engage in self-preserving action is at the base of the case for private property rights, the structure of rights which arises from that base must not deny any individual the liberty to use or appropriate in ways that are necessary

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to his self-preservation” (p. 63). The teleological structure implicit in this claim gives a rationale to the famous provisos that govern appropriation in Locke’s theory, namely, that no one appropriate what would spoil in his possession, and that appropriations from nature leave “enough and as good” for others. Such provisos make “clear that these rights are not to be construed so as to deny that basal liberty of self-preservation” (p. 63). Mack has a great deal more to say about Locke on property, which I commend to the reader’s attention. Particularly commendable is his refusal simply to *assume* (as so many interpreters, including Feser, do<sup>18</sup>) that the provisos on appropriation cease to apply either after initial appropriation or after the adoption of money; his view here is provocative, complex, and well worth reading (pp. 61-72).<sup>19</sup> The main point, however, is that Mack’s sympathy for Locke’s project, and his rejection of the vacuities of Locke’s theology, gives him a unified and coherent interpretation of the best features of Locke’s theory, something the reader won’t find in Feser’s book.

Mack ends his discussion of Locke’s theory of property with a brief account of Locke’s later views on poverty, as expressed in his problematic “Essay on the Poor Law” (1697), which prescribes compulsory redistribution,

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<sup>18</sup> Feser, *Locke*, pp. 127-28.

<sup>19</sup> I should add that I wasn’t in the end *convinced* by Mack’s interpretation, which seems to me to underplay the role of both provisos in Locke’s theory, and thereby fails to indicate the gap between Locke’s relatively constrained conception of property rights and the less constrained one taken for granted by contemporary libertarians and Objectivists. At one point Mack asks, in what seems intended as a quasi-*reductio* for Locke: “If John loves the odor of putrefying venison, does his holding on to it until it rots violate the spoilage proviso?” (p. 155 n. 5). Given Locke’s view, the answer strikes me as an obvious “yes.” But the answer seems an obvious “yes” for ostensibly harder cases than that. Suppose that John loves the sound of white noise and appropriates 88.3 Mhz on the radio spectrum for the exclusive purpose of broadcasting nothing on it but white noise. Does his broadcasting violate the spoilage proviso? Again, on Locke’s view, I think it obviously does. In fact, Locke’s spoilage criterion, if applied to a monetary economy, seems to provide a perfectly Lockean rationale for “blight” as a rationale for eminent domain (though not as broad or vague a rationale as has actually operated in American law; cf. the footnote to the majority decision in the U.S. Supreme Court Case, *Berman vs. Parker* [1954]), and the “enough and as good” proviso offers one for antitrust law. Examples of the preceding sort suggest that there is a rationale for a sort of “left Lockeanism,” and that non-left Lockeanism have their work cut out for them in differentiating non-left Lockeanism from its left-wing counterpart. For a good example of the sort of work that’s required, see Eric Mack, “The Self-Ownership Proviso: A New and Improved Lockean Proviso,” in *Contemporary Political and Social Philosophy*, ed. Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul (Cambridge: Cambridge University Press, 1995), pp. 186-218.

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corporal punishment, compulsory schooling, imprisonment (of the idle), and forced labor as remedies for poverty (pp. 72-74). It's a difficult but crucial question what one is to make of this at times cold-blooded and even vicious essay.<sup>20</sup> Three interpretive options suggest themselves. One is that the "Essay's" prescriptions flatly contradict Locke's theory of rights. A second is that the "Essay" shows us that Locke's theory of rights is too indeterminate to rule out the "Essay's" prescriptions. A third possibility is that the "Essay" is meant to offer prescriptions to a non-ideal context that wouldn't apply in the ideal one which the normative theory addresses. Perhaps there are other possibilities. In any case, no option is entirely satisfactory, and I wasn't ultimately sure which option Mack would take, or why. But if we assume that Locke's views have significance for contemporary politics, some airing-out of the difficulties is in order. As the debates about welfare reform from the mid-1990s suggest, any attempt to apply Lockean ideas to contemporary issues in public policy is likely to face problems analogous to those Locke discusses in the "Essay." If Lockean theory is to have any relevance to such debates, we need to confront the possibility that the *prima facie* conflict between the *Second Treatise* and the "Essay" indicates a mismatch between Lockean theory and practice, not just for Locke but for us. This, I suspect, is one of the issues that divides "left-wing" from "right-wing" Lockeanes, and it's worth remembering that the disagreement arises from ambiguities within the Lockean texts themselves.

Since I'm now in complaining mode, I suppose I should make my other complaint with Mack's book, namely, his discussion of Locke on consent and political legitimacy (ch. 4), which I found somewhat confusing. The basic idea in Locke is that consent is what legitimizes government. To see this, we're to imagine ourselves in a State of Nature prior to government, and then to imagine the steps by which we would consent to be governed by a government limited in its functions to the protection of individual rights.

The initial steps of Mack's discussion of Locke's theory are clear enough (pp. 75-85): in the State of Nature, he explains, we lack an effective means of executing the law of nature by force; hence, we have reason to escape the "inconveniencies" of that state by forming a government that governs by the rule of a single monopolistic code of law. To do this, we somehow consensually transfer our right to execute the law of nature—essentially our right to use force—to what Locke calls "political society," which (respecting our rights all the while) forms a government that rules by majority rule. One complication, of course, is that consent comes in many

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<sup>20</sup> Unlike the *Essays on the Law of Nature* (see n. 17 above), the "Essay on the Poor Law" was, though in one sense unpublished, still a written memorandum written "by Locke in his capacity as Commissioner on the Board of Trade," and so can fairly be thought to represent Locke's considered views on the subject (the quotation comes from Goldie's editorial preface in *Locke: Political Essays*, p. 182).

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varieties, so that we need to know what counts as consent sufficient for the purpose at hand. Another complication is that where there is consent there is presumably the possibility of dissent, so that we need to know what happens when (or if) those in the State of Nature *don't* consent to be governed.

Mack makes heavy weather of what he regards as the mysteriousness of “political society,” but I wasn't able to make out the mystery (pp. 77 and 102). Given the radical character of the move from the State of Nature to a fully fledged government as Locke conceives it, it seems natural to imagine the move as taking place via a transitional phase. I'm not sure why “political society” can't play this role. Mack later suggests that Locke's view would be more “streamlined had he cut out the middleman” of political society (p. 104), but it would also have been less plausible. Individuals in a state of nature need somehow to “gather” and form a unity before they can set up a government. Mack imagines that individuals might “directly” contract with government (p. 104), but this misses the fact that Locke is explaining how governments arise *ab initio: ex hypothesi* on Locke's story there is no pre-existing government with which to contract.

As Mack notes, Locke's theory of consent is a juggling act involving two pairs of concepts (pp. 85-86): *full membership in* versus *subjection to* political society, and *express* versus *tacit* consent. Mack continues:

It is natural to think that express consent and only express consent makes an individual a member of society (and by implication subject to the law) while tacit consent and only tacit consent merely makes one subject to the law. However, Locke's actual position is more complicated and more confused than this. (p. 86)

Mack takes a few pages to set out what he regards as the complications and confusions in Locke's view (pp. 86-89), but I didn't see what was *that* confused about it. Locke's view, it seems to me, goes something like this: Both express and tacit consent are multiply realizable, and there may well be borderline cases between them. In all their various forms, however, *express* consent makes for *full* membership in the political community, with all of the privileges and responsibilities of full membership (including taxation). At the other extreme, tacit consent makes merely for an obligation to obey the law—the law being the public and authoritative specification of the *natural* law in a given geographic location, such that violations of it are to be regarded as a threat to political society itself. But tacit consent, being merely tacit, makes for mere subjection to law, so that tacit consenters are candidates neither for the privileges nor the responsibilities of full membership in the political community (including taxation). They are thereby left in the State of Nature, where they enjoy all of the natural rights of the State of Nature, lacking only the “right” to set up law-like executors of the laws of nature that might

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compete with the government, but free of the responsibility to support it.<sup>21</sup> I suspect that Mack's difficulty with this view arises from empirical assumptions about *how many* express consenters there will be; he seems to assume that there wouldn't be a sufficient number of express consenters to pay for the political community, given the larger number of free riders who would benefit from it without paying (pp. 88 and 103). That isn't obvious to me, and I don't think it was obvious to Locke, either.

Mack ends the book with a brief discussion of religious toleration, and a final chapter on "the reception and philosophical legacy of Locke's political philosophy." The first part of this latter chapter, on the historical reception of Locke's political thought, is exceptionally good (pp. 131-38). As Mack explains, throughout the 1960s and 1970s, a revisionist view of Locke prevailed in historiography, portraying "Locke as a largely peripheral figure" in the intellectual history of the Glorious and American Revolutions, and playing up non-Lockean (communitarian, civic republican) influences on both events (p. 132). "Contrary to this attempted scholarly marginalization of Locke," Mack writes, "my cautious judgment is that the correct view is a more nuanced version of the old standard view" that made Locke central to both events (p. 132). Mack ably synthesizes the historical scholarship in defense of this judgment, including most prominently the work of Mark Goldie, Richard Ashcraft, Michael Zuckert, and Hans Eicholz.

Much of the rest of the chapter puts Locke's views in dialogue with contemporary libertarian theory, with Nozick (and implicitly Rothbard) taking center stage (pp. 138-52). Though well worth reading, I think Mack's discussion might have been improved by pursuing parallels between Locke's views and Ayn Rand's, which strike me as more philosophically illuminating than those with Nozick. Like Locke (and unlike Nozick), Rand sees a crucial connection between rights, rational judgment, and *survival*. Like Locke (and again, unlike Nozick), Rand generates rights out of the need for survival via a need to protect the conditions of rational judgment, and takes private property to be an instantiation of this need. Like Locke (unlike Nozick), Rand thinks that we primarily have the right to do what it is *right* to do, but also thinks that rights so construed generate legal protections for irrational actions as well.<sup>22</sup> Like Locke (unlike Nozick), Rand asserts that we have strong property rights

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<sup>21</sup> The Palestinian philosopher Sari Nusseibeh seems to have endorsed *some* such view as a resolution to the Israel/Palestine conflict. See especially his comments on the annexation of the West Bank by Israel in "Sari Nusseibeh: A Palestinian State Has Become Impossible," accessed online at: <http://www.israeli-occupation.org/2010-01-20/sari-nusseibeh-a-palestinian-state-has-become-impossible/>.

<sup>22</sup> Compare Mack's discussion (p. 59) with Rand's account in her "Man's Rights," in Rand, *Capitalism*, p. 370.

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but also insists that these rights are circumscribed by teleological provisos that limit acquisition and use.<sup>23</sup> Like Locke (unlike Nozick), Rand has a rather hawkish understanding of the right of self-defense: both explicitly compare aggressors to predatory animals, and both suggest that their would-be victims have the right to “destroy” them.<sup>24</sup> Finally, like Locke (unlike Nozick), Rand insists that membership in the political community requires explicit consent while also regarding the (duly limited) state as a glorious source of human benefaction.<sup>25</sup> Given Mack’s long-standing interest in Objectivism, I’d have been interested in what he had to say about these parallels.

Criticisms to one side, however, *John Locke* is without question *the* book I would put in the hands of anyone looking for an overview of Locke’s political philosophy, especially someone looking for an overview that shows how and why Locke is indeed a proto-libertarian or proto-Objectivist rights theorist. Alas, no such book existed two decades ago when I first turned the pages of the *Second Treatise* and got hooked on Locke. It’s a pleasure to be able to say that the times have changed for the better, and to acknowledge Eric Mack’s contribution to the change in intellectual climate.

### 4. Conclusion

So are Objectivists and libertarians entitled to invoke Locke as the theoretical ancestor of their political philosophy? All things considered, the books under review suggest that the answer is “yes.” But if so, Locke’s *Second Treatise* is in effect the Isaiah of the Free Market Gospel: Locke stands to Objectivist and libertarian political theory, we might say, as the Old Testament stands to the New—with all the friction and complexity that such a relationship involves.<sup>26</sup>

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<sup>23</sup> Compare Mack’s discussion of Locke’s provisos on appropriation (pp. 61-72) with Rand’s discussions of the Homestead Act of 1862 (see her “The Property Status of Airwaves,” in Rand, *Capitalism*, pp. 132-33) and the (British) Copyright Act of 1911 (see her “Patents and Copyrights,” in Rand, *Capitalism*, p. 144).

<sup>24</sup> Compare Locke, *Second Treatise* paras. 16-19 with Ayn Rand, “The Objectivist Ethics,” in Ayn Rand, *The Virtue of Selfishness: A New Concept of Egoism* (New York: Signet, 1964), pp. 25-26 and 35-36.

<sup>25</sup> Compare Locke, *Second Treatise*, paras. 122 and 138 with Rand, “The Nature of Government” and “Government Financing in a Free Society,” in Rand, *The Virtue of Selfishness*, pp. 125-34 and 135-40, respectively.

<sup>26</sup> I credit Roderick Long with starting the trend that inspired the (admittedly ridiculous) analogy in the text. For its (equally ridiculous) ancestor, see Long’s comparison of Aristotle to John the Baptist and Ayn Rand to Jesus Christ in his *Reason and Value: Aristotle Versus Rand* (Poughkeepsie, NY: The Objectivist Center, 2000), p. 5.

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Though there is a gap of sorts between Locke's politics and laissez-faire capitalism, libertarians and Objectivists certainly have a better claim to the Lockean legacy than, say, Rawlsian egalitarians—despite the latter's attempts to appropriate it. "My aim," Rawls writes near the beginning of *A Theory of Justice*, "is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract found, say, in Locke, Rousseau, and Kant."<sup>27</sup> But as Feser and Mack make clear, there's no plausible construal of Rawls's Difference Principle that is consistent with Locke's theory of property, no construal of Rawlsian contractarianism compatible with Locke's theory of consent and political legitimacy, and no construal of the Rawlsian state compatible with Locke's insistence on limited government. Ironically, when Rawls tells us that he intends to carry Locke's theory "to a higher level of abstraction," he seems to have adopted the worst features of Locke's theory of abstraction: having stripped away every essential attribute of Locke's theory and found its supposed common denominators with Rousseau and Kant, he is left at last with a supposedly Lockean theory that says nothing distinctively Lockean.

That said, libertarians and Objectivists have to tread carefully in invoking Locke, taking the discontinuities between his claims and theirs at least as seriously as the continuities. As Feser suggests, there is no way to take Locke seriously until we acknowledge that Locke took religion seriously. If so, secular Lockeans will have to offer more than handwaving to disentangle Locke's politics from his theology. And as Mack suggests, unlike many contemporary libertarians, Locke is a teleologist about rights for whom the structure of rights arises from the requirements of self-preservation, and is constrained by it as well. If so, deontological Lockeans will have to rethink the axiom that libertarian rights are "side-constraints" on the pursuit of valuable goals. Finally, as both Feser and Mack make clear, one needn't be a historicist to worry about the yawning historical gap between Locke's milieu and our own: there are no easy inferences from what Locke says about events in his context to what a Lockean ought to say about events in ours. But perhaps it's salutary that Locke forces us to tread more carefully in political life. The need to think things through may well slow us down, but as a great philosopher once said, "that ill deserves the name of confinement which hedges us in only from bogs and precipices."<sup>28</sup>

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<sup>27</sup> John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), p. 10.

<sup>28</sup> Locke, *Second Treatise*, para. 57.

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Taylor, James Stacey. *Practical Autonomy and Bioethics*. New York: Routledge, 2009.

James Stacey Taylor's *Practical Autonomy and Bioethics* attempts to clarify and re-conceptualize what autonomy is, what it is not, and how the concept is used within the field of bioethics. Taylor begins by noting how, historically, the concept of autonomy has been subject to the Gertrude Stein Problem: "when it comes to autonomy, 'there is no there there'" (p. 1). That is, the concept of autonomy lacks a theoretical account broad enough to encapsulate all of the varieties of its use. Taylor claims that this problem is particularly troubling for participants in bioethical discussions because of the now prominent role of autonomy in bioethics literature and practice. Without a shared understanding of autonomy in bioethics, Taylor worries that discussions of bioethical issues centered on autonomy will either break apart because a common understanding of autonomy is only assumed, or, worse, result in participants in bioethics discussions talking past each other on account of not having any common ground. Taylor's primary aim is to work toward resolving the Gertrude Stein Problem by developing an account of autonomy that "is exceptionally well placed to serve as the canonical account of this concept as it is used in contemporary bioethics" (p. 17).

Taylor's initial step toward developing his account of autonomy is to clarify what it is about autonomy that he is trying to capture. In Chapter 1 Taylor describes four contours that shape the concept of autonomy. According to Taylor, autonomy: (1) is a property of persons able to direct themselves by reflecting and acting upon various motivations and choices in ways not open to other agents, such as small children or animals; (2) can be greater or lesser in degree for a particular decision, since a person's motivations and choices for acting vary in number and importance; (3) is not subject to the discretionary direction of others; and (4) can be compromised with respect to a particular decision, if the person is coerced into making that particular decision, the person is deceived or unknowingly manipulated into making that particular decision, or the person lacks either mental control or minimal rationality to make a particular decision (pp. 2-3).

With this basic form of autonomy in mind, Taylor then details three conditions that, together, function as the keystone of his theory of practical autonomy. First is the *threshold condition*, which concerns the threshold at which persons are necessarily autonomous with respect to a particular decision. Under this condition a person can be said to be autonomous: (i) if when person A makes a decision based on information that has not been manipulated by person B and person B does not intend to manipulate person

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A; (ii) if person A makes a decision based on information that has been manipulated by person B and person B intends to manipulate the choice of person A, person A is aware of the information being manipulated; or (iii) if person A makes a decision based on information that has been manipulated by person B and person B intends to manipulate the choice of person A, and person A is unaware of the manipulation, yet makes a decision different from that which he was being manipulated to make (pp. 6-7).

The second condition is the *degree condition*. Under this condition, the degree to which person A's decision is autonomous is the result of a decision-making procedure that she is able to endorse. According to Taylor, the more person A endorses the decision-making procedure by which she makes a decision, the greater her degree of autonomy with respect to that decision. Conversely, as person A's decision lacks consistency with her endorsed decision-making procedure, the less autonomous she is with respect to that decision. Taylor then notes four important sub-points of this condition: (1) the notion of "satisfaction" with a decision procedure refers to person A's belief that there is sufficient reason to continue using that procedure; (2) it is possible that a person may be satisfied with more than one decision procedure given the circumstances surrounding her decision; (3) stemming from sub-point (2), it does not matter whether or not one's decision-making procedure accords with those favored by others; and (4) the degree condition aims to distinguish autonomous from non-autonomous agents, because it requires agents to be reflexively self-aware (as those who are not self-aware lack the capacity to endorse a particular decision procedure) (pp. 8-9).

Taylor's third condition of autonomy is the *tracing condition*. This condition refers to the ability of a person autonomously to experiment with making a decision via a decision-making procedure that she has not reflexively endorsed. Taylor considers this important to address in developing an account of autonomy because of the possibility that persons may wish to satisfy their desires by trying a new decision-making procedure and because, given the degree condition, persons making decisions from a previously non-endorsed decision-making procedure suffer a *prima facie* diminution of autonomy. Under the tracing condition, if person A decides to use a different decision-making procedure from that which she endorses as her own, "then the maximal degree to which she is autonomous . . . will be determined by the degree to which she was autonomous with respect to the decision-making procedure that she used to make the choice to use an alternative decision-making procedure" (p. 11). That is, a person whose decision results from an alternative decision-making procedure will be more or less autonomous with respect to that decision, depending on how closely her alternative decision-making procedure accords with the decision-making procedure she would have typically used (and endorsed) in making the decision in question.

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These conditions show Taylor's account of autonomy as having four characteristics. His account is (1) decision-based and (2) historical in that persons are autonomous insofar as they must *decide* upon a particular choice or action in relation to a particular decision-making procedure, and not simply develop a particular attitude toward making a decision. This account of autonomy is also, as Taylor calls it, (3) radically externalist. That is, determining the degree to which a person's decision is autonomous requires referencing her interactions with others and their mental states regarding her actions. Lastly, this account of autonomy is (4) political in that determining the degree to which a person's decision is autonomous depends on the degree of influence others have with respect to that particular decision (pp. 13-17).

In Chapter 2, Taylor argues for why autonomy is not as multifaceted as it may first appear. By examining the taxonomies of Joel Feinberg, Gerald Dworkin, Manuel Vargas, and Nomy Arpaly, Taylor argues that many current understandings of autonomy either are not *bona fide* accounts of autonomy, fail defensibly to capture the contours of autonomy, or only capture one of the contours of autonomy and can thus be subsumed into another account (namely, Taylor's). Taylor challenges Feinberg's understanding of autonomy as four distinct concepts (the capacity to self-govern, actual self-government, an ideal character type, and the right of self-determination) by arguing that Feinberg fails to develop a concept of autonomy that is distinguishable from understanding autonomy merely as a condition one must meet to self-govern. Taylor then refutes both aspects of Dworkin's account of autonomy as negative and positive liberty. First, it is not clear that autonomy can properly be understood as non-interference; a person lacking a minimal level of rationality could be free from the interference of others but still, on Taylor's account, fail to be autonomous. Second, Taylor argues that considering autonomy to be equivalent to self-governing is not actually a conception of autonomy, since Dworkin provides no further analysis of what it means to "self-govern." Similar to Dworkin, Taylor challenges Vargas's taxonomy on the ground that he fails to show how the notions of agency and self-rule are characteristics of autonomy instead of just components of autonomy. Furthermore, Taylor claims that Vargas is wrong to use interchangeably the concepts of autonomy and freedom. Lastly, of Arpaly's eight accounts of autonomy, Taylor argues that only two (reasons-responsiveness and autonomy as authenticity) can properly be understood as conceptions of autonomy. Yet Taylor also criticizes these two accounts of autonomy on the following grounds. First, autonomy is a separate concept from authenticity. A person can act in an authentic way, believing that she is acting autonomously, but be manipulated by others in ways that preclude her from acting autonomously. Second, persons can also act autonomously even if they lack reflective reasoning in performing those actions. Athletes, for example, will often not think about the actions they perform while competing (which are typically

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considered automatic), yet it seems strange therefore to say that while they are competing they are not acting autonomously.

In Chapters 3 and 4, Taylor makes a detailed and compelling argument for why autonomy is conceptually different from, and thus should not be conflated with, identification with one's desires. In Chapter 3, he gives two primary reasons why autonomy and identification with one's desires are distinct concepts. First, it is possible that person A has been manipulated to desire something to a greater or lesser degree. On Taylor's account, person A would suffer diminished autonomy with respect to decisions that are based on her manipulated desires, even though she identifies with them (in the sense that they are still *her* desires). Second, autonomy and identification are properties that persons have with respect to different things. According to Taylor, identification is a property of one's first-order desires, whereas autonomy is a property of one's decisions. On Taylor's account, then, the question of whether or not persons are autonomous with respect to decisions they make based on their first-order desires is different from the question of whether or not they identify with those desires. In Chapter 4, Taylor develops and defends Harry Frankfurt's account of identification as an internalist concept, that is, that persons' identification with their (first-order) desires can be addressed solely in terms of their mental states. Taylor uses internalism to reinforce his argument that autonomy (as an externalist concept) and identification with one's desires are distinct from one another.

Chapters 5-7 describe the characteristics of Taylor's account of autonomy relative to normativity, choice, and constraint. In Chapter 5, he defends the notion that while his account of autonomy may appear to be content-neutral, since his account does not require persons to identify with their motivations for acting, it is minimally substantive in that persons must still value being reflexively self-aware in making a decision. He further argues here that autonomy's being minimally substantive does not prevent it from playing a central role in contemporary bioethics (which views autonomy as being value-neutral). The reason for this is because his account still recognizes persons as being able to make autonomous decisions regardless of how diverse or pluralistic their value commitments may be in making those decisions (p. 81). In Chapter 6, Taylor argues that while a lack of choices available to a person does not preclude that person from making an autonomous decision, in order for persons maximally to exercise their autonomy it is generally preferable for them to have a greater number of choices available to them than not. This argument is based on a point he argues for in Chapter 10 that the value of autonomy for persons is instrumental rather than intrinsic. In Chapter 7, however, Taylor further argues that while having a greater number of choices is preferable for persons maximally to exercise their autonomy, it is both compatible with and necessary for one's decisions to be subject to both internal constraints (e.g.,

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one's values) and external constraints (e.g., one's wealth, biological make-up, etc.). According to Taylor, preferences are developed as a result of various external and internal constraints, not in lieu of them. If a person were free from all constraints, she would fail to be autonomous since there would be no recognizable structure to her decision-making procedure—any decision she would make would be wholly arbitrary.

Chapters 8-10 examine both the role of autonomy as a foundational component of other important bioethical concepts—namely, privacy, confidentiality, and informed consent—and the value of autonomy for persons at-large and bioethics in particular. Via his account of autonomy, Taylor challenges and reconfigures conventional understandings of the relationships between autonomy and these other concepts, while detailing how autonomy has extrinsic, instrumental value as opposed to intrinsic value. In Chapter 8, Taylor argues that there is no necessary connection between autonomy and privacy. According to Taylor, their relationship is merely contingent such that violating a person's privacy will only compromise that person's autonomy if other conditions are also met, such as the privacy violator's intending to manipulate, and thus usurping control over, the person's beliefs about her privacy. However, Taylor also argues that while violating a person's privacy does not necessarily compromise her autonomy, maintaining respect for privacy in general and patient confidentiality in particular can indirectly be justified by appealing to the instrumental value of autonomy. Taylor's argument in Chapter 9 is similar to the one in chapter 8 in that he argues that autonomy is not the ethical foundation of informed consent, but that appealing to the instrumental value of autonomy indirectly justifies maintaining respect for informed consent. On Taylor's account, having information may help increase person A's ability to exercise her autonomy, but it is also possible that while person A is informed, the information has been manipulated in a way that compromises her autonomy. This would be the case, for example, if a physician were to inform a patient about various treatment options, while urging her to accept a particular treatment over others. In this case the patient would, on Taylor's account, suffer diminished autonomy in making her treatment choice. Lastly, Taylor argues in Chapter 10 that, particularly within contemporary bioethics, autonomy has instrumental value rather than intrinsic value. He further notes, though, that autonomy's not having intrinsic value "does not preclude a person from valuing autonomy for its own sake"; a person may prefer to make her own decisions even if she recognizes that her goals may be better achieved "were she to abdicate her self-direction to another" (p. 142). However, Taylor argues, even though a person may value autonomy for its own sake, she still makes a decision about how she values the value of autonomy; as such, her autonomous choice about how she values autonomy is instrumental in nature, even if the choice is to value autonomy for its own sake.

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Given Taylor's overall argument, the role of autonomy in contemporary bioethics becomes clearer. His argument justifies increasing treatment options, such as by allowing persons to purchase transplant organs, while preventing intentional forms of manipulation concerning options that patients are either not aware of or fail to endorse. Yet, it is still consistent with Taylor's view for there to be policy or treatment constraints that require patients to develop preferences and make treatment decisions that accord with a decision-making procedure they endorse.

*Practical Autonomy and Bioethics* is well researched, and is an overall rich account of autonomy. Taylor's examples and writing style also make his arguments easier to unpack and digest. Yet the book's title is somewhat deceptive, since Taylor's account of practical autonomy is highly conceptual and is not applied to bioethics in the way that some readers might expect. One should not expect to read this book in the hopes of Taylor's revealing all of the different ways we can think about autonomy with respect to a full range of issues in bioethics. Fortunately, Taylor is clear about the purpose of the book from the onset. Moreover, the fact that he is trying to reshape how autonomy theorists think about the concept while stripping away all of the unnecessary elements that have come to prevent a common understanding and then showing how his account applies to some issues in contemporary bioethics, is a project that we should expect to have a broad scope and involve a high degree of detail and complexity.

My concern about the title's being deceptive is seemingly superficial. However, there is a more substantial worry veiled behind this concern. As I read though *Practical Autonomy and Bioethics*, I often found myself wondering whether Taylor's account is as helpful toward understanding autonomy with respect to bioethics as he seemingly thinks it could be. On a theoretical level, Taylor's work is vital; it gives us a new way to think about a concept that is often justified on the basis of assumptions instead of arguments. Yet, would those most closely affected by discussions of autonomy in bioethics, namely, patients and health care professionals, really find Taylor's account *that* beneficial? Perhaps they would, since Taylor's account appears to give us a way to think about whether or not patients' decisions are sufficiently autonomous. It is not at all clear on Taylor's account, though, how to address normative questions that frequently arise in bioethics, such as to what degree health-care professionals or surrogates ought to respect a patient's treatment wishes that appear to have been chosen autonomously yet do not appear to be in the patient's best interests. This does not mean that Taylor's account cannot overcome this concern, but only that if Taylor is interested in applying his theory more fully to bioethics, he will need to detail further its normative value to bioethics.

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