

# Mere Libertarianism: Blending Hayek and Rothbard

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The continued progress of a social movement may depend on the movement's being recognized as a movement. Being able to provide a clear, versatile, and durable definition of the movement or philosophy, quite apart from its justifications, may help to get it space and sympathy in public discourse.<sup>1</sup>

Some of the most basic furniture of modern libertarianism comes from the great figures Friedrich Hayek and Murray Rothbard. Like their mentor Ludwig von Mises, Hayek and Rothbard favored sweeping reductions in the size and intrusiveness of government; both favored legal rules based principally on private property, consent, and contract. In view of the huge range of opinions about desirable reform, Hayek and Rothbard must be regarded as ideological siblings.

Yet Hayek and Rothbard each developed his own ideas about liberty and his own vision for a libertarian movement. In as much as there are incompatibilities between Hayek and Rothbard, those seeking resolution must choose between them, search for a viable blending, or look to other alternatives. A blending appears to be both viable and desirable. In fact, libertarian thought and policy analysis in the United States appears to be inclined toward a blending of Hayek and Rothbard.

At the center of any libertarianism are ideas about liberty. Differences between libertarianisms usually come down to differences between definitions of liberty or between claims made for liberty.

Here, in exploring these matters, I work closely with the writings of Hayek and Rothbard. I realize that many excellent libertarian philosophers have weighed in on these matters and already said many of the things I say here. I ask that they will excuse this errant economist for keeping the focus on Hayek and Rothbard.

## **Rothbard and Hayek on Liberty**

Rothbard (1982a) insisted that liberty consists in matters of private

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property, consent, and contract. Working within a Lockean logic of self-ownership, homesteading, and exchange (21-24), as well as appropriation of lost or stolen property (51-67), Rothbard said each human being owns property, including his own person, basketballs, television sets, acres of land and whatever else is acquired by “voluntary” means -- that is, by consent and contract with other property owners. The institutions and activities of legitimate society -- meaning, according to Rothbard, non-governmental, non-criminal society -- derive from consensual agreements between property owners. Non-consensual social rules that would restrict individuals in the voluntary use of their property are violations of liberty, or instances of coercion. Rothbard’s definition means that governmentally imposed price controls, occupational licensing, import restrictions, and drug-use prohibitions are all violations of liberty. This idea of liberty did not, of course, originate with Rothbard, but no other thinker has insisted more emphatically on this definition, explored and developed more thoroughly the specifics of the definition (as Rothbard did notably in *The Ethics of Liberty*), and pushed harder for a consistent application of the idea in the analysis of public issues.

Others have offered other concepts of liberty. In *The Constitution of Liberty* Hayek offers a series of passages and remarks that attempt to delineate his own idea of liberty. A brief examination of some of the passages ought to establish, as argued by many critics (Viner 1961, Hamowy 1961, 1978; Brittan 1988: 85-92; Kukathas 1989: 151-65), that Hayek’s hints about the meaning of liberty are deeply flawed.

In the book, Hayek never defines liberty in a Lockean fashion (coming closest at 140-41). Rather, he says, “Whether [someone] is free or not [depends on] whether somebody else has power so to manipulate the conditions as to make him act according to that person’s will rather than his own” (13). Liberty is the “independence of the arbitrary will of another” (12); it is the absence of “coercion by other men” (19, 421).<sup>2</sup> The state of liberty is “that condition of men in which coercion of some by others is reduced as much as possible in society” (11). Each hint introduces additional terms that call out for definition.

Leaving aside Hayek’s attempts to clarify the meaning of freedom using examples of private coercion (pp. 135-38), attempts that have been incisively criticized (Viner 1961: 231; Hamowy 1961: 32-33), consider Hayek’s attempts to clarify freedom in the context of state activity. Freedom means “that what we may do is not dependent on the approval of any person or authority and is limited only by the same abstract rules that apply equally to all” (155). There are at least two grave problems with Hayek’s “abstract” or “general” rules definition of freedom.

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<sup>2</sup> We are concerned with the coercion of non-criminals. Both Hayek (1960, 142) and Rothbard (1982a, 52, 84, 219) speak of the legitimate coercing of coercers.

A general rule may “apply equally to all” yet dictate to all, such as a rule prohibiting the wearing of straw hats or the installing of bathtubs, or which commands the performance of public service one day each month. Second, whether a rule is “general” can scarcely be decided without developing contextual distinctions between types of rules. Is the rule “one may install bathtubs only if one has obtained a state-granted plumber’s license” a general rule? The rule is presumably less general than the rule: “anyone may install bathtubs,” but more general than “one may install bathtubs only if one has obtained a state-granted plumber’s license and is not in arrears on one’s state income taxes.” How about a rule, “one may build additions on to one’s house only if one has received permits from the city planning commission”? Virtually any rule may be framed as “general” and “applying equally to all” if we are careful to sort out the layers and clauses of the rule. As numerous scholars have concluded, Hayek provides no real solution to this problem.

Hayek resorts to shifting about. Sometimes he abandons the effort to delineate freedom and coercion and shifts rather to speaking of features of rules that reduce the “harmful and objectionable character” or “evil nature” of coercion (142, 143). Is it any coercion, then, which despoils liberty, or only coercion of a very evil nature? He shifts also to saying that freedom demands that government use coercion only for “enforcing known rules intended to secure the best conditions under which the individual may give his activities a coherent, rational pattern” (144), thus nesting within his definition of freedom the entire issue of deciding which conditions are “best” (Gray 1989, 97).

Similar criticisms came immediately from Jacob Viner and Ronald Hamowy. Hayek (1961) responded to Hamowy by introducing yet another wrinkle in his notion of coercion, namely, that a coercive act puts the coerced “in a position which he regards as worse than that in which he would have been without that action” (71), which again raises as many problems as it solves. We may ask, for example, whether a law requiring every Los Angeles citizen to limit his auto emissions coerces John Doe who is made better off by everyone (including John Doe) limiting his emissions, yet not as well off as he would be if everyone except him were held to low emitting. Are we to say that government’s passing the law does not coerce John Doe but any enforcement efforts aimed particularly at him do (thus artificially separating the passing of the law from its concomitant enforcement measures)?

At the time of his criticism of Hayek, Hamowy was studying under him at Chicago, but was more influenced by Rothbard. Rothbard himself read the manuscript of *The Constitution of Liberty* and sent to Hayek a 29-page, single-spaced commentary two years prior to its publication (Rothbard 1958). Hayek, then, was in intimate contact with the Rothbardians and no doubt painfully aware of the definitional troubles. Reading *The Constitution of Liberty* today, one recognizes behind the vaporous passages an idea of liberty principally in line with Locke-cum-Rothbard. Hayek’s reply (1961) to Hamowy in a libertarian

periodical freely allows that conscription, even under “general rules,” is coercive and emphasizes that government coercion is “justified only by the general purpose of preventing worse coercion” (70, 72). Moreover, by 1973 in the first volume of *Law, Legislation and Liberty* Hayek adds the classic “no harm to others” condition to his formulation of liberty, remarking that the additional condition “answers a problem that has often worried students of these matters, namely that even rules which are perfectly general and abstract might still be serious and unnecessary restrictions of individual liberty” (p. 101), and cites Herbert Spencer (in note 11).

Hayek felt fundamentally aligned with Rothbardian libertarianism but did not accept that Locke-cum-Rothbard liberty provided a desirable prescription in every case. Hayek favored, or at least did not explicitly oppose, numerous government actions that clearly violated Rothbardian liberty. Hayek’s sensibilities about the desirable did not conform in every case to Rothbardian liberty. Confronting this impasse, he opted to reject Rothbardian liberty and find another liberty that *would* conform to his sensibilities of the desirable. The result is the jumble of platitudes and convolutions found in *The Constitution of Liberty* and elsewhere.

A tack that Hayek might have taken is to adopt the Rothbardian definition of liberty while maintaining that it does not provide a desirable prescription in every case. In other words, he could have adhered to Rothbard’s definition but not his ideal. He could have explained what liberty means, taken care to show its limitations (as he had done in a 1947 Mont-Pelerin address (Hayek 1948, ch. 6)), and said that in many cases he favors it for such-and-such reasons, in some cases rejects it for such-and-such reasons, and in some cases remains agnostic. Hayek could have taken such a tack and left most of *The Constitution of Liberty* unchanged.

That Hayek did not take this tack may have been for the best. Hayek acquired from Mises a strong suspicion of government beyond the night watchman, yet one may well speculate that he also found in Mises tendencies to avoid. Mises’s experience taught that getting down to brass tacks and speaking forthrightly could close off avenues of influence and respectability. Even if Hayek, using Rothbard’s definition of liberty, were to have assured his readers that he did not favor it in all relevant cases, most mid-twentieth century intellectuals would have been repelled simply by the definition. They would have accused Hayek of reverting to the language of Herbert Spencer and William Graham Sumner, even if he did not support their positions. To submit to such terminology would have been to accept that most economic regulation was coercive and to enter into a discussion of the worth of wholesale coercion. Avoiding such problems was exactly why the “New Freedom” terminology was invented during the decades of T.H. Green, Arnold Toynbee, L.T. Hobhouse, and J.A. Hobson, decades during which the terms “freedom,” “liberty,” “rights,” and “justice” took on new meanings. Collectivists and social democrats would have

forfeited such terminological invention had they accepted a Locke-cum-Rothbard definition of liberty.

Furthermore, had Hayek clearly set out a Rothbardian idea of liberty, the intellectuals would have asked: Just how far would you go in adhering to the maxim? Even though Hayek approved of state activity beyond night watchman functions, it was to an extent the smallness of which, had Hayek come clean, would have alarmed the intellectuals of his time. In the terminological sunlight of Rothbardian liberty, it would have been nearly impossible for Hayek to conceal his true positions, for he would have had to lie outright or remain damningly silent. Drenched in sunlight, Hayek would have been dismissed and ignored.

To speculate, we might imagine that Hayek's meta-conscious faced a trade-off between obscurantism and obscurity. Hayek's obscurantism, his muddled definition of liberty, however willful, enabled the philosophy of anti-statism to gain a hearing that was extensive and persuasive.

### **Limitations of Rothbardian Liberty**

The Locke-cum-Rothbard definition of liberty is the one that endures while others, all others, evaporate. Rothbard deserves a pre-eminent place in twentieth-century political thought as one who kept up the good definition of liberty.

Rothbardian liberty, however, suffers from numerous limitations. The limitations are not uncommon to political ideas and ideologies. Indeed, they are to some degree common to all. Nonetheless, serious students of a political ideology mind its limitations. Rothbard tended to neglect or even deny the several limitations. In finding proper concern for limitations, libertarians ought to shun Rothbard and instead follow Hayek. Hayek admirably agonized over the limitations of principles, maxims, and justifications, including his own.

In discussing the several limitations, we have in mind government policy (including jurisprudence) in a modern complex society -- what Adam Smith called "a great society." We may think of societies like the United States, western Europe and so on, where government officials and ordinary voters have in some cases listened to libertarian ideas, learned a better appreciation of liberty, and cooperated in reforms that reduced the size and intrusiveness of government. The policies most relevant to the discussion here are strictly domestic or internal.

#### Limitation 1:

##### The Locke-cum-Rothbard Definition of Liberty Is Often Ambiguous

When modern liberals, statist conservatives, and others criticize the libertarian idea of liberty, they point to cases in which the distinction between liberty and coercion is ambiguous. In many cases, property, ownership, consent, and contract are unclear or ill defined. Critics may even go so far as to suggest that

libertarian liberty is meaningless. For example the British political philosopher John Gray (1993b) points out ambiguities and forthwith scorns libertarian liberty as “virtually empty of content” and “only a mirage” (6).

But ambiguities do not, of course, necessarily undo a definition or distinction. That there is twilight does not destroy the distinction between night and day. Conditions might be ambiguous at 6:30 in the evening, but at 12 noon unambiguously it is day and at 12 midnight unambiguously night. All legal, political and ethical concepts involve ambiguities. Whether ambiguities render a concept not worthwhile depends on how extensive or severe they are, relative to like limitations of competing concepts. That libertarians, while conceding ambiguity, be prepared to show the limits of that limitation is crucial to their overcoming the pedestrian dismissal of libertarian thinking. Such preparedness is not to be gained by reading Rothbard.

That the ambiguities are countless is undeniable. The limits of ownership, rights of joint property, criteria for nuisance or invasion, definition of “threat” or “risk” to one’s property, relevance of intent, definition of “use” in homesteading, status of brand-names, trademarks, patents, copyrights, and stolen property, criteria for consent, implicit terms of contracts, status of promises, issues of children and the senile, liability of principals for the torts of agents, the theory of punishment, compensation of duress, standards of proof in court, etc., all involve serious gray areas and matters of interpretation—as the libertarian theorists David Hume (1751: 26-32), Wordsworth Donisthorpe (1895: 1-121) and David Friedman (1989: 167-76) have explained. Sensible judgments on such matters will depend on particulars of time and place -- the paths of technology, of precedent, of expectations, and so on. It is foolish to think that a definition of liberty could ever spell out definitive interpretations and clear demarcation lines.

Rothbard’s writings here and there acknowledge ambiguity in particular dimensions of the idea of liberty (for example, 1982a 72, 81, 86, 89, 97; 1982b, 83), but he tends to diminish the problem and he never admits it as a pervasive limitation or general problem for his idea of liberty. He tends to work with stark examples of noon and midnight, avoiding the twilight (1982a, 81, 189, 219, 261). Often Rothbard writes as though the contours of libertarian law are as clear as geometry:

[I]t would not be very difficult for Libertarian lawyers and jurists to arrive at a rational and objective code of libertarian legal principles and procedures based on the axiom of defense of person and property, and consequently of no coercion to be used against anyone who is not a proven and convicted invader of such person and property. This code would then be followed and applied to specific cases by privately-competitive and free-market courts and judges. (Rothbard [1965], 208)

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Regarding air pollution, Rothbard ([1970], 187-88) said the “crystal clear” remedy is “simply to enjoin anyone from injecting pollutants into the air, and thereby invading the rights of persons and property. Period.”

Hayek (1960) is much more sensible to the ambiguities of liberty (whether Locke-cum-Rothbard or his own vague variant). He says repeatedly that liberty and coercion vary in degrees (12, 138, 146). In his Mont-Pelerin address (1948), Hayek said “the formulas ‘private property’ and ‘freedom of contract’ “ often do not provide much guidance:

[T]heir meaning is ambiguous. Our problems begin when we ask what ought to be the contents of property rights, what contracts should be enforceable, and how contracts should be interpreted or, rather, what standard forms of contract should be read into the informal agreements of everyday transactions. (113; see also 20-21, 1960: 341)

### A Significant Twilight Area: Local Governance

In the Mont Pelerin address and again in *The Constitution of Liberty*, Hayek calls attention to the ambiguity to which libertarians most need to own up: the continuum that inheres between private, voluntary agreement and coercive local government. When the members of a condominium association elect fellow residents to a rule-making board, we call any rules that restrict the use of private property “contractual.” But when the residents of Imperial, Nebraska (population 2,007) elect fellow residents to a rule-making body, libertarians are wont to call any such rules “coercive.” One might argue, however, that the government of Imperial is a body selected by voluntary democratic means, and that the body has homesteaded all the public town property. It issues rules for the community, and individuals voluntarily choose either to abide by the rules or to exit the community. Although newcomers do not sign a contract upon moving in, it is not far fetched to speak of one’s entering into a commonly understood agreement about town governance, as though by the very act of moving in, one publicly announces: “I hereby agree to abide by whatever rules happen to emerge from the town government.” (And, by the way, having such a declaration in writing would not make a meaningful difference.) I find this “implicit contract” interpretation of town government to be somewhat compelling for small towns. In this sense, restrictions by town government -- such as tax rules, rent control, and prohibitions on the use of leaf-blowers or on smoking in restaurants -- are *less* coercive than the same by state or national government. Decentralized government, as in Switzerland, begins to merge with voluntary governance. In that case, if a larger authority or power were to prevent or overturn such local rules, that action might itself be coercion. When Tocqueville (1835) wrote that the New Englander “is attached to his township because it is independent and free” (71), he described town governance in early New England as to some extent voluntary.

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Where Rothbard (1982a) addresses the idea that government restrictions belong to a voluntarily accepted package or contract -- the “love it or leave it” argument -- he simply dismisses it out of hand, treating “the State” as a monolithic entity, “a coercive criminal organization that subsists by a regularized large-scale system of taxation-theft” (172; see also 191-92). Rothbard, it appears, nowhere acknowledges the significant gray area about local governance (see 119).

The attempt to distinguish voluntary association from coercion ought, as always, to begin with tracing the Lockean lineage of property claims. But such an approach may not deliver a good answer. In 1886 the government of the newly incorporated town of Imperial secured powers from the state of Nebraska. Residents who took no part in incorporation, or even opposed it, were subsequently required to pay taxes and to obey town restrictions on their private activities. Thus we may conclude that the government was not created by voluntary processes. But if no one living in Imperial this year 2004 is the descendent of any of the individuals coerced long ago, and if every resident today joined Imperial subsequent to the establishment of the local government, what difference does it make what happened long ago? In his discussion of stolen property, Rothbard (1982a) says that if we cannot clearly show whose ancestors were aggressors and whose victims, justice calls for all concerned to regard the current possessors as legitimate owners (57-58). History, as it were, eventually forgets. But current possession is often based on customs and institutions of government. As Hayek (1948) says, “jurisdictions and legislation evolve standard types of contracts for many purposes which not only tend to become exclusively practicable and intelligible but which determine the interpretation of, and are used to fill the lacunae in, all contracts which can actually be made” (115). Blending Hayek’s observations and Rothbard’s own principle, it seems somewhat sensible to say that the people of Imperial, or its local government, assume a legitimate ownership of public resources in Imperial, and that Imperial regulations are rules to which people effectively consent by entering and remaining in Imperial.

Although I would regard town-issued rent controls or bans on smoking in restaurants to be coercive for most American towns, and would applaud their being overturned on Constitutional grounds, there remains nonetheless grey areas on matters of local governance. When tracing Lockean lineage is impractical or insoluble, how are we to draw the lines? If the variable by which we distinguish between night and day is the extent of sunlight, what is the variable by which we distinguish between coercive local government and voluntary agreement? Is it the ability of residents to exercise meaningful voice, the number and homogeneity of the residents, the number of services included in the bundle, the form of the agreement, the integrity and accountability of officers, the degree of competition with other communities and one’s cost of exit?

Rothbard's Emphasis on the Endzone

With liberty defined, Rothbard (1982a) proceeds to maintain that liberty provides a “universal ethic” for human conduct (42, 43). Liberty serves as a moral axiom, the so-called nonaggression axiom: “no man or group of men may aggress against the person or property of anyone else” (1978, 23; see also 1956, 252). The rule is right and good in all cases in which it may be applied.

In discussing the status of Benthamite individualism in Britain during the 19<sup>th</sup> Century, A.V. Dicey (1914) wrote:

Open-mindedness, candour, and the careful sincerity which forbids all exaggeration, even of the truth, are admirable qualities, but they are not the virtues which obtain for a faith the adherence of mankind. It is the definiteness not vagueness of a creed, as it is the honest confidence of its preachers, which gains proselytes. As utilitarian doctrine became less definite, and as its exponents stated it with less boldness and with more qualification, the authority of Benthamism suffered a decline. (444)

Rothbard was a self-conscious proselytizer. “Every new idea,” he wrote, “begins with one or a few people, and diffuses outward toward a larger core of converts and adherents” (1982a, 265). His “strategy for liberty” called for a self-conscious libertarian movement led by an elite “cadre” or “vanguard” of libertarian theorists (1982a, 264-65); the unstated presumption was that at the pinnacle would be Rothbard himself (for as long as he lasted). Rothbard cultivated a circle of followers and acolytes who, as he often wrote when quoting them, “trenchantly” criticized the ideas of others but never challenged or attempted to best the master.

Rothbard oversold the simplicity and purity of liberty as an ethical rule. One way he did so was to shift discussion to how things would work in a purely libertarian society. In general he refused to reason within a context limited to alternatives that entail continued government activism. He insisted on introducing the most complete libertarian reform, even if such a proposal was radical in the discourse situation. To refrain from doing so, he said, “would mean that considerations of justice have been abandoned, and that the goal itself is no longer highest on the . . . libertarian's . . . political value-scale. In fact, it would mean that the libertarian advocated the *prolongation* of crime and injustice” (1982a, 261).

In insisting “with alacrity” on radical libertarian alternatives, the Rothbardians have expanded thought and discussion. And by exercising that tendency, they have won many adherents to a profound and incisive way of thinking. But conventional policy discussion keeps within the 30 yard lines, so the Rothbardians have generally been unable to sustain discourse with mainstream journalists, academics, and government officials -- whom Rothbard

(1982a) dubs “court intellectuals” and “statist apologists” (168-71). The radical tendency of Rothbardianism results in its own marginality, and its marginality attracts individuals who lack power and respectability. Rothbardian doctrine can, to some extent, explain, or provide an excuse for, the career failures of the Rothbardian intellectual. The circular relation between marginality and extremism has resulted in some foolish and unfortunate tenets. For example, Rothbard said that libertarian reform would burgeon in a dramatic transition; the state would face severe crisis resulting from its own internal collapse and from libertarian criticism and agitation. It would cede power, leaving the realm to the simple and obvious truths of libertarianism, interpreted in the moment, we are to presume, by the libertarian vanguard (1982a, 264-69). “[T]he inner contradictions of the existing system . . . will lead inevitably to its long-run collapse. . . . [Statism is] now in process of imminent breakdown . . . the libertarian triumph must eventually occur” (268, 269); “the dark night of tyranny is ending, and . . . a new dawn of liberty is now at hand” (Rothbard 1978, 313).<sup>3</sup> This absurd vision epitomizes the pathetic aspect of the Rothbardians, and is anathema to Hayek, who expected desirable reform to be gradual and sought to meet and join power and persuade toward cooperation in liberalization.

Rothbard’s refusal to converse between the 30 yard lines, his insistence on moving to the State’s 1 yard line, or even the State’s endzone, enabled him, to an extent, to avoid candid discussion of the limitations of the liberty prescription. Speculations on a society so distant from any we have known are bound to be open-ended and unspecific. Rothbardians make claims of libertarian felicity, but the theory behind the claim is so broad and so general that skeptics ignore it rather than contest it. The Rothbardians fail to achieve dialogue with those concerned about the limitations. And by insisting on radical alternatives, Rothbardians avoid the possibility that for a choice between two middle positions, the position with greater liberty might not be the better. Yet some liberty-increasing reforms might be worse than the status quo. Furthermore, by insisting on the endzone in which there is no government, Rothbard circumvented orthogonal issues involving government property; he was able to avoid ten thousand important questions of public administration for which the liberty prescription does not apply.

Libertarians can be Rothbardian in the definition of liberty but non-Rothbardian in their understanding of liberty as a prescription. For a pair of

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<sup>3</sup> Likewise, Hans-Hermann Hoppe (1990) writes of a “desperate need for ideological solutions to the emerging crises,” and says that “a positive solution is offered in the form of a systematic and comprehensive libertarian philosophy coupled with its economic counterpart, Austrian economics, and if this ideology is propagated by an activist movement, then the prospects of igniting the revolutionary potential to activism become overwhelmingly positive and promising. Anti-statist pressures will mount and bring about an irresistible tendency toward dismantling the power of the ruling class and the state as its instrument of exploitation” (90).

policy reforms on an issue, we might be able to rank them according to the extent to which they accord with liberty, generating a dyadic liberty ranking. Two ways of formulating a liberty ranking stand out.

The first is to limit consideration to the policy itself (including the government enforcement of the policy). A minimum wage of four dollars rates higher than a minimum wage of five dollars. Note that the law forbids employers from paying less—it does not coerce workers; they suffer as a result of employers being coerced. A regime that prohibits the use of cocaine rates higher in liberty than one that prohibits both cocaine and opiates. Liberty rankings are, I suppose, transitive: If policy reform  $R_1$  ranks higher in liberty than reform  $R_2$ , and  $R_2$  higher than  $R_3$ , then  $R_1$  ranks higher than  $R_3$ . (Using the symbol  $>_L$  to represent the first kind of liberty ranking, we may rewrite transitivity in liberty as follows: If  $R_1 >_L R_2$ , and  $R_2 >_L R_3$ , then  $R_1 >_L R_3$ .)

A second kind of liberty ranking would be the consideration of the long-term or overall liberty. The imposition of a curfew during an urban riot is, according to the first liberty standard, clearly more coercive than not imposing the curfew. But the curfew might succeed in preventing a lot of coercion by looters. So in an overall sense, one might deem the curfew to rate higher in liberty overall. Using the symbol  $>_{Lo}$  to represent ranking of overall liberty, we find that although no-curfew  $>_L$  curfew, perhaps curfew  $>_{Lo}$  no-curfew. The same might be said of legalizing bazookas.

The curfew and bazooka examples suggest that some government coercion might be more than compensated for by the consequent reductions in non-governmental coercion. But other case might suggest that some government coercion might be more than compensated for by the consequent reductions in other *government* coercion. For example, one might say that the Savings & Loan deregulation of the 1980s, which rated an increase in liberty in the first sense, led to greater taxation and perhaps subsequent regulations, and less liberty in the overall sense. (And on second thought, maybe legalizing bazookas would lead to less overall coercion, because, though it would increase non-governmental coercion, it would make it harder for the government to maintain the drug war!)

The main problem with the overall-liberty ranking is that we really don't know what a policy's consequences will be. The overall-liberty standard necessitates the incorporation of theories of—or at least predictions about—social processes, about which we might disagree or in which we simply not have any confidence, and therefore introduces much vagueness and indefiniteness into the associated liberty ranking,  $>_{Lo}$ . Thus, although both kinds of liberty rankings remain important, by and large I think that it is the first—which limits consideration to the single policy itself—that is most cogent and relevant to both Hayek's and Rothbard's ways of thinking. In particular, I do not think that the differences between Hayek and Rothbard can be boiled down to Rothbard thinking in terms of the first idea of liberty ranking and Hayek the second. We do not find in Hayek a case for sacrificing some liberty today to prevent greater

losses in liberty tomorrow. (In fact, the reverse was one of his main themes.)

Now, working with the idea of the liberty ranking in the first sense, we may define the *liberty maxim*:

*The liberty maxim says that for policy-reform choices between two alternatives that can be ranked in terms of liberty, choose the higher-liberty alternative.*

Again the maxim I shall work with uses  $>_L$ , not  $>_{L_0}$ . One could alternatively proceed with a maxim based on  $>_{L_0}$ , but that is not done here.

Working with this liberty maxim, the question is, should we always adhere to the liberty maxim?

Limitation 2:

The Liberty Maxim Is Not Desirable in All Cases in which It Applies

The term “maxim” indicates that the prescription is only a rule of thumb. In some cases it should not be followed. Consider the matter of easements for crossing lands. It would seem that in a purely Rothbardian society, someone could buy up a ring of land around Bill Gates’s Seattle mansion and demand exorbitant tolls every time he wants to buy a carton of milk (though Gates presumably would be permitted to go by helicopter or, as Walter Block (1998, 319) stresses, to build a bridge or tunnel). The example is silly but the point is real. Corridors supporting private toll roads, railroads, and gas and oil pipelines have historically been required to provide adequate crossing points. As classical-liberal economists Ronald Coase ([1960], 155) and Gordon Tullock (1993) have pointed out, without easements for crossing, people might find themselves cut off from nearby destinations, as though enormous toll-demanding moats crisscrossed the terrain. Rothbard (1982a) touches on the issue, saying “any rational landowner would have first purchased access rights from surrounding owners” (240). Elsewhere (1982b, 77-78) he reasons in a fashion that leads one to suspect that he would argue that Bill Gates’s prior practice of crossing surrounding (and privately owned) lands established for him a prescriptive right (or easement), all in accordance with the principle of liberty. That argument, it seems to me, stretches the definition of liberty and introduce new problems. At any rate, it leaves open the status of newly imposed easements for which there was no prior custom. It seems to me that crossing easements are a limitation on real property and, at least sometimes, a deviation from liberty. And, even when newly imposed, sometimes are desirable.

If the mayor of current-day Los Angeles had the power to set auto-emissions policy in the region, perhaps he should take active measures to limit emissions, such as measuring on-road emissions using a device called the “remote sensor” (Klein 2003). Gross polluters would be fined and persistent noncompliers would eventually have their cars impounded. Whether such policy

entails coercion is not entirely clear, because all this would be taking place on government property. But even if it were somewhat coercive I might favor it nonetheless.

If the governor had to resort to eminent domain powers to complete a good highway project, probably he should. If the governor today had the power to legalize entirely the manufacture and sale of bazookas, perhaps he should not. During the 1992 riots in Los Angeles, government officials finally imposed a curfew, which helped. Given the existence of federal insurance of individual bank deposits, I probably would have opposed the 1980s deregulation of the U.S. savings and loan industry, even though deregulation itself was an increase in liberty.

Even if I wanted to eradicate some intervention entirely, I might prefer to do so in a gradual manner, deviating from the liberty maxim. Concerns about social and political backlash, and future reverses, might lead one, even Rothbard, to favor half-measures and gradualism. The alternatives constituting a policy reform dyad are considered within a set of social conditions. Particulars might affect our judgment. As the English libertarian historian H.T. Buckle (1821-1862) wrote, “the political economist . . . says with good reason that it is both absurd and mischievous for government to undertake to supply the working-classes with employment. [And yet it] 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” (Buckle 1904: 807). Although conservatives grossly overstate the threats of liberty to basic social order, the point, in some cases, may have bite and lead us to deviate from the liberty maxim.

But even apart from the hazard of major disorder or future reversals, our sensibilities might in some cases favor gradualism:

[W]hen particular manufacturers . . . have been so far extended as to employ a great multitude . . . [h]umanity may . . . require that the freedom of trade should be restored only by slow gradations, and with a good deal of reserve and circumspection. Were those high duties and prohibitions taken away all at once, cheaper foreign goods of the same kind might be poured so fast into the home market, as to deprive all at once many thousands of our people of their ordinary employment and means of subsistence. (Adam Smith 1776, 469)<sup>4</sup>

Rothbard (1982a, 262) would reject any such grounds for delaying any degree of

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<sup>4</sup> Smith goes on, however, to expound on how such disorder “would in all probability . . . be much less than is commonly imagined,” leading one to doubt that he would in fact prefer gradualism in this case. He sounds more disposed towards gradualism at 606.

liberty.

Rothbard uses the term “axiom” quite literally -- the justice (or desirability) of liberty holds for all people “whatever their location in time or place.” “Rights must not be transgressed, period” (1982a, 42, 241). Rothbard had the most cogent idea of liberty. Simplistically invoking the idea of demonstrated preference, he proceeded to assert liberty as a “universal ethic.” “[W]e deduce that: *no act of government whatever can increase social utility*” (1956, 252). In that sense he molded his judgment of liberty’s desirability to fit his definition of liberty. Hayek had sensibilities that would tolerate and sometimes even favor deviations from the liberty maxim<sup>5</sup>; he molded liberty to fit his sensibilities about the desirable.<sup>6</sup> Each in his own way, Hayek and Rothbard maintained that the desirable always concords with liberty (or, for Hayek, maximal liberty). Seeking to fuse perfectly liberty and the desirable was understandable in Hayek’s and Rothbard’s respective circumstances, but today’s circumstances argue for libertarians to do otherwise.

Notice that a policy reform is “desirable” only in relation to a less desirable reform (which might be to not change the status quo at all). Again, we are dealing with policy-reform dyads. Desirability judgments are, presumably, transitive: If reform  $R_1$  is preferred to reform  $R_2$ , and  $R_2$  is preferred to  $R_3$ , then  $R_1$  is preferred to  $R_3$ . (Using the symbol  $>_D$  to represent desirability ranking, we may rewrite transitivity in desirability as follows: If  $R_1 >_D R_2$ , and  $R_2 >_D R_3$ , then  $R_1 >_D R_3$ .) When we speak of “sensibilities about the desirable” we refer to judgments between policy reforms as presented in dyads. Our sensibilities are exercised in making such judgments, and expressed in the general character or pattern of judgments in a range of such dyadic choices.

Because institutions such as Cato, Reason, the Foundation for Economic Education, and the Independent Institute have become established and fairly well known, libertarians do not need pat definitions and absolutes to define themselves. They can say, “I’m a Cato type, I tend to favor more liberty in just about every area of public policy.” A 95 percent support for its leading maxim defines a movement or ideology. Other ideologies are riddled with intellectual limitations. The neoconservatives, modern liberals, communitarians, and social democrats espouse maxims far less cogent and support those maxims far less consistently than Hayek supported the liberty maxim (especially since Hayek in his late years became more consistently pro-liberty). If other ideologies are allowed ambiguities, inconsistencies, and incompletenesses, it is only fair that libertarianism be cut the same slack.

It is libertarianism’s exceptional cogency and consistency that induces some people to think that it is foolishly consistent, a philosophy of small minds.

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<sup>5</sup> See Hayek 1960, 223, 225, 257, 259, 279, 285-6, 327, 355, 365, 375, 381.

<sup>6</sup> See Hayek 1948, 16-17; 1960, first lines of 11, 68, middle of 257, and end of 284; 1973, 61.

Being most in something arouses caricatures of being entire, and critics (such as Sen 1999: 65-67) dismiss the caricature. Libertarians can correct the impression by casually admitting that sometimes they reject the liberty maxim (that is, for some policy reforms  $R_1$  and  $R_2$ ,  $R_1 >_L R_2$ , but  $R_2 >_D R_1$ ). Such admission will show that libertarianism does not stake itself on brittle absolutes and will underscore that if other camps may define themselves in less-than-100 percent terms, so may libertarianism.

The “consistency” hobgoblin is removed by recognizing that libertarianism does not claim that the liberty maxim should always be adhered to. That the desirable does not always conform to the liberty maxim is not a logical inconsistency; the apparent “inconsistency” reflects merely that our sensibilities generate refined and complex patterns of judgments over many different cases. Our sensibilities and the induced patterns of judgments can be stated only in incomplete and provisional form, but in principle in a way that avoids logical inconsistency. The “inconsistency” issue becomes a question of simplicity versus complexity. Complex in its thinking the libertarian movement need not apologize for a measure of “inconsistency” and agnosticism.

It may perhaps be said that the approach described here was advanced long ago by Adam Smith. His idea of “natural liberty” or “Freedom” seems to have been in the tradition of Locke and tended toward a libertarian understanding (see 1776, 138, 606, 687 and especially 400). Although Smith’s message was that “the proper business of law [is] not to infringe, but to support [natural liberty]” (p. 324), he explicitly rejected the idea that the desirable always concords with liberty:

[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; of the most free, as well as the most despotical. The obligation of building party walls, in order to prevent the communication of fire, is a violation of natural liberty, exactly of the same kind with the regulations of the banking trade which are here proposed. (324)<sup>7</sup>

Suppose we agree on a desirability ranking  $R_1 >_D R_2$ . Where we situate the reforms  $R_1$  and  $R_2$  within a liberty/coercion matrix (that is, whether we maintain  $R_1 >_L R_2$  or the reverse) and how we draw the lines of demarcation of

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<sup>7</sup> On page 530, Smith speaks of two particular laws being “evident violations of natural liberty, and therefore unjust,” contradicting, it may seem, the quoted passage. However, perhaps Smith did not view the set of just government actions as conforming perfectly to the set of desirable actions. Perhaps he would say that sometimes the government ought to take a certain action, even though it is an unjust action.

that matrix (that is, how we define the relation  $>_L$ ) are matters that we decide jointly, in one encompassing decision. We can adjust the distinctions, terminology, and definitions to suit our interests as philosophers, theorists, or intellectual activists. To some extent we *do* adjust the lines of liberty to correspond with our sensibilities about the desirable, because doing so enhances the serviceability of the totality of our vocabulary, beliefs, and justifications. But to serve our largest and most enduring interests, such adjusting and smoothing must heed certain constraints. Both Hayek and Rothbard attempted to draw the lines so as to achieve a concordance between the desirable and liberty (or maximal liberty). That, it seems to me, pushed the adjusting and smoothing beyond bounds and into the realm of philosophical and terminological gerrymandering. At the farthest depths of our rhetoric, we should heed Smith.

One may grant, by the way, that the liberty maxim does not always conform to the desirable, yet still believe that the ideal or best society would be that of pure liberty or no government (whatever that might mean). We may judge the state's 11 yard line to be better than the state's 10 yard line, yet the state's endzone (total liberty) to be best of all.

### Limitation 3:

#### The Liberty Maxim Is an Incomplete Guide to Public Policy, For in Many Cases It Does Not Apply

Rothbard's "endzone" approach to policy discussion spared him from ever dwelling at a mid-field position and exploring important questions that are orthogonal to the liberty-versus-government gridiron. At a mid-field position there exist many government organizations, resources and types of property. Apart from trying to move forward on the gridiron, there remain countless orthogonal dyads asking: What rules ought to govern the use of government resources? Given that there is a Federal Reserve System, what type of policy should the Chairman and Board pursue? Given that we have government owned streets and roads, what should be the speed limit? Should there be random checks for drunk driving? What should be the penalty for running a red light? What vehicles should be allowed to pick up passengers at bus stops? Should people be allowed to panhandle or peddle goods on the sidewalk? Given that government owns the park in town, should people be allowed to camp out? Should Nazis be allowed to demonstrate? In government schools and universities, what should be the curricula, dress codes, racial or gender preferences, and disciplinary rules? Should US Postal Service workers be allowed to put up *Playboy* calendars in their lockers? In government buildings, should people be allowed to smoke? The liberty maxim is basically irrelevant to all such issues; it is mostly silent on dyadic issues of public administration and resource utilization. Needless to say, the questions posed here touch on only a few public policy issues, each of which is made up of many important practical problems.

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Rothbard (1982a) diminished such issues by pretending that they are beyond the pale of reasoned discourse. He insisted:

[U]ltimately, there *is* no entity called “government”; there are only people forming themselves into groups called “governments” and acting in a “governmental” manner. *All* property is therefore always “private”; the only and critical question is whether it should reside in the hands of criminals or of the proper and legitimate owners. (56)

Lacking legitimate ownership rights the lords of government resources correspondingly lack any ethical grounds for using the resources in one manner rather than another: “so long as the streets continue to be government-owned, the problem and the conflict remain insoluble” (118). Rothbard says that there is no ethical criterion at all in making governmental decisions “and such governmental decisions can only be purely arbitrary” (181; see also 118, 132). Not only is the ethical status of liberty that of an axiom, it is the only principle for political affairs with *any* ethical authority. Outside the realm of its application there is only moral chaos.

Yet libertarians routinely reject such a conclusion, and rightly so. Suppose that national government continued to collect taxes in amounts corresponding to current welfare expenditures, but instead of continuing to give such welfare to the government, year after year, gathered the funds into an enormous pile of federal reserve notes, doused it with gasoline and lit it on fire. Libertarians, including myself, would probably prefer the bonfire to the giving of welfare, but in justifying such a judgment libertarians cannot invoke the virtues of liberty, because the bonfire policy entails just as much coercion as the welfare policy.<sup>8</sup> The judgments of each of us go beyond the liberty dimension.

It is fine for libertarians to focus on issues to which the liberty maxim applies, but they ought to be quick to admit that the maxim is an incomplete guide to desirable reform, that there are many important and legitimate policy issues to which it does not apply. Indeed, if libertarians were to open a discussion of privatizing government resources, the whole question of how best to privatize again goes largely unanswered by the liberty maxim. As Hayek (1973) put it, “no code of law can be without gaps” (117-18).

### The Three Practical Limitations Diagramed

The foregoing brings out difficulties in applying the liberty maxim to policy dyads:

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<sup>8</sup> Even though the welfare policy is more likely to lead to secondary measures that violate liberty, that does not invalidate other considerations that also lead libertarians to prefer the bonfire.

- Which policy in the dyad is the higher-liberty alternative? AMBIGUITY points out that answering this question will sometimes be difficult, highly tentative, or rather arbitrary.
- Is the higher-liberty alternative in fact desirable? UNDESIRABILITY points out that sometimes the answer is *no*.
- Does the liberty maxim even apply to the dyad in question? INCOMPLETENESS points out that sometimes it does not.

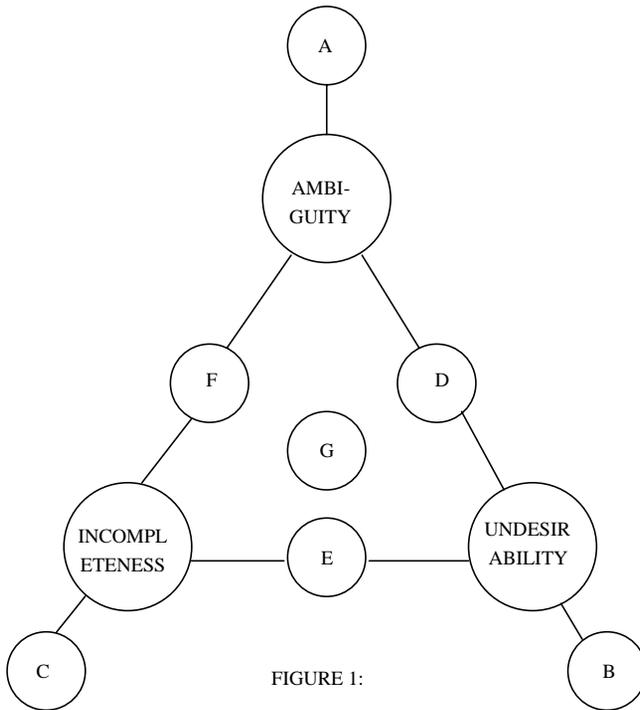


FIGURE 1:  
Conceptual Terrain of the Three Practical  
Limitations of the Liberty Maxim

In Figure 1 the three practical limitations are arranged in a triangle. Specific policy cases—a case being both a dyad and a desirability judgment—may be placed into the diagram based on the limitations they exemplify:

- Twilight cases of tort rules (regarding, say, threat, brand-names, stolen

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property, implicit terms, etc.) may be hard to interpret in terms of more-liberty and less-liberty, so such should be located beside AMBIGUITY at point A.

- If we were to favor the use of eminent domain to complete a highway, we might locate such a case beside UNDESIRABILITY at point B. Similarly, a state-wide ban on bazookas, if desirable, might be located at point B.
- Cases of rules for government, such as term limits or hours of operation for the post office, are cases to which the liberty maxim simply does not apply, so such cases are located beside INCOMPLETENESS at point C.

The diagram allows us to show that our interpretations of cases are themselves ambiguous and unresolved:

- At point D we locate cases that to some extent exemplify AMBIGUITY and to some extent UNDESIRABILITY. One might prefer to locate the bazooka ban here, reasoning that merely owning a bazooka poses a risk or threat to others to such an extent that such controls constitute the protection, rather than transgression, of property rights according to the liberty principle. The case of easements for crossings might be here: to some extent they are simply desirable violations of property rights, but, it might be said, to some extent easement rights are the liberty-rights of the crossers. Also here might be small town rules against, say, the open sale of pornography (should we favor such restrictions).
- At point E we locate cases that to some extent exemplify UNDESIRABILITY and to some extent INCOMPLETENESS. If we were to favor restrictions on immigration, the restriction would be a violation of the would-be immigrants' liberty; but to some extent one could interpret the restriction as saying, "no such foreigners may come onto federal government property," yielding a case where the liberty maxim does not apply (hence, incompleteness). Also here might be a curfew imposed during an urban riot or speed limits on government roads.
- At point F we locate cases that to some extent exemplify INCOMPLETENESS and to some extent AMBIGUITY. Where government property and private property intermingle, where the demarcation between them is ill-defined, such as in matters of private use of a governmentally owned river, it may be hard to decide whether the case falls entirely within the realm of government property (hence exemplifying incompleteness), or falls partly or all within the realm of private property and the liberty-rights are ambiguous. Suppose a private business wished to erect an enormous sign that would block the customarily enjoyed sunlight at a government park, or block the customarily enjoyed view of the mountains. We might say that the

customarily enjoyed access is a government resource to which the liberty maxim does not apply. Or that all aspects of the case should be translated into private property but find that the liberty maxim is in this case highly ambiguous.

- Point G at the center of the triangle is for cases that can be interpreted in terms of any of the three practical limitations. The bazooka ban, for example, can be said also to demonstrate INCOMPLETENESS, in as much as the ban is interpreted as saying that no one may bring a bazooka onto any government property (in which case you might not be able to get your bazooka home from the bazooka store). Desirable emission controls, desirable small-town regulations of nearly any kind, desirable rules governing just about any interface between government and private property, will all be open to interpretation.

A policy area especially difficult to locate is the chief process by which private property is transformed into government property—that is, the process of taxation. My sensibilities do not favor the complete and immediate abolition of all taxation, if for no other reason than that doing so would probably lead to political chaos, backlash, and ultimately maybe less liberty. In favoring to reduce taxes moderately rather than drastically, do we exemplify ambiguity, undesirability, or incompleteness?

#### Limitation 4:

#### Libertarianism Does Not Serve All Valid Human Values

Critics contend that libertarian policy fails to serve certain important human values. Libertarians respond in several ways. When critics claim, for example, that libertarian policy reduces economic security and peace of mind, libertarians tend to respond by arguing that it just isn't so, that the invisible hand, broadly interpreted to include noncommercial voluntary activities, in fact delivers such intangibles in ways more diverse and effective than people generally appreciate. Intellectual understanding of the fertility and suppleness of voluntary processes, or spontaneous order, or, to echo Bastiat and Hazlitt, learning to see the "unseen," is difficult for most and is not too advanced among the general public or the intellectuals. Invoking such learning libertarians sometimes maintain that libertarian policy is capable of reconciling and best advancing simultaneously all valid human values. Community, tolerance, individual dignity, material progress, intellectual complexity, intellectual simplicity, spiritual adventure, spiritual tranquility, hedonism, and temperance are all best advanced according to each person's own tastes and preferences.

When critics claim that libertarian reform will erode certain cultural traditions and ways of life, libertarians might respond that members of cultural groups are free to continue their traditions, as do the Amish. (Again, our concern is the *domestic* policy of a country like the U.S.) Were such individuals not to

continue the traditions, such choosing would indicate that they have higher priorities, other values, which would go less well served if government policy limited choice, commerce, or cultural competition. Within the traditional community, some members, especially older members, may indeed lose, maybe whole generations will suffer, but the damage here is akin to the losses that befell truckers and airlines when entry barriers were removed and consumers chose the better deals of competitors. The loss is a transitional one, a part of the dynamic process of betterment, and not an essential shortcoming of libertarian reform. In a sense the libertarians are simply expanding the spontaneous order argument to include particular cultures as loosely delineated voluntary groups that must compete for support.

There is a more serious challenge to libertarian reform. People want to belong not merely to a private club but to a *people*. They may wish to simplify and circumscribe day-to-day life, or, more importantly, they find an elemental joy in sharing experiences that encompass the whole of the people. In *The Theory of Moral Sentiments*, Adam Smith (1790) made repeated use of a certain metaphor to capture an individual's elemental joy at being in resonance with his fellows:

The person [suffering misfortune] longs for . . . the entire concord of the affections of the spectators with his own. To see the emotions of their hearts, in every respect, beat time to his own . . . constitutes his sole consolation. (22)

The great pleasure of conversation and society . . . arises from a certain correspondence of sentiments and opinions, from a certain harmony of minds, which like so many musical instruments coincide and keep time with one another. (337)

The joy, consolation and pathos of coordinating our own sentiments to those of others, of mutually recognizing that coordination and seeing in their eyes the reflection of our own sentiments, is plain enough in our reactions as spectators at a sporting event or as parties to a love affair. The principle applies also to the collective romance effected and mediated by the state. Consider the following Smith passage into which I have inserted the state:

[W]e join with [our companions] in the complacency and satisfaction with which they naturally regard whatever is the cause of their good fortune. We enter into the love and affection which they conceive for [the state], and begin to love it too. We should be sorry for their sakes if it was destroyed . . . When we see one man assisted, protected, relieved by [the state] our sympathy with the joy of the person who receives the benefit serves only to animate our fellow-feeling with his gratitude towards [that which] bestows it. (70)

Love for and allegiance to the state depends on sentiments, interpretations, and mythologies being in sync. In Sweden the Social Democrats promulgated the mythology of “The People’s Home,” in which everyone will take care of everyone and everyone will be grateful and connected to everyone. The interest in sharing in, or beating time to, a common experience, romance, and way of life is often ill served by libertarian reform.

In its power and permanence, government determines and enforces the setting for an encompassing collective romance, for example by imposing a common school system, and advances the events and dramas by providing the central agency. Even if they do not say it in such terms, critics oppose libertarian reform simply because it fails to serve the human value of an encompassing and enduring collective experience. Critics see that the government creates common, permanent institutions, such as the streets and roads, the postal service, and the school system, and that the business of politics creates an unfolding series of battles and dramas relevant to all. The ability of citizens to achieve mutual and encompassing coordination of their sentiments—whether the focal point is election-day results, the latest efforts in the Drug War, or emergency relief to hurricane victims—and the corresponding regard for the state as a romantic power—certainly are human values that libertarian policy fails to serve.

Libertarians might respond along the lines of spontaneous order: In as much as people value collective experience and romance, those services will be produced in a free society. Sports, movies, television and the media offer experiences that can, in principle, be shared by all. In this case, however, the spontaneous order resolution is doubtful. If 80 percent of the people greatly value having a cultural experience that is shared by all, while the remaining 20 percent do not want to have the experience, under a libertarian regime the 80 percent will have their values served only if they can somehow compensate the remaining 20 percent to participate. Free riding among the 80 percent and holding out among the 20 percent will upset such a solution.

But more importantly, even if the majority could, by voluntary means, induce the minority to participate, such a form of interaction may be unsatisfactory to the majority (and not merely because they have had to cough up compensation). What they value is not merely a shared experience, but the power of the majority, through its perceived agent, the government, to determine social events, experiences and culture. They value the use of state power to enforce the setting and create the focal points for an encompassing social romance—The People’s Romance (Klein 2004). The problem is not amenable to a negotiated solution. The “transaction costs,” as it were, are infinite. Either the government creates The People’s Romance, in which case the majority benefit and the minority lose, or libertarian policy prevails, with the reverse results. The desire for The People’s Romance clearly is ill served in a libertarian society, except perhaps in wartime.

The libertarian might again return to political economy, now

emphasizing all of the pathologies of public opinion, democratic politics, and the government sector, and plead that The People's Romance is just too costly. This argument, in substance and tone, pretty well sums up Hayek's project. He began as a mild Fabian and knew the appeal and power of collective romance (Shearmur 1996, 26-34). Around the age of 23-24 he rapidly came to understand that the romance entailed significant state activism, and that such activism was extremely costly, materially and spiritually. He devoted his efforts to enlightening others to such costs, mainly by explaining spontaneous order and the damages wrought by intervention. The human benefits derived from government-led mutual coordination of sentiment come at great damage to another kind of coordination, namely, the extensive arrangement of activities that on the whole would be pleasing to a wise and liberal omniscient observer.<sup>9</sup>

But even once the costs are properly understood the critic might still feel that The People's Romance, at least at some levels, is worth the costs. He might favor, as a citizen and as a humane observer, substantial amounts of government intervention and activism, even though he knows all that Hayek, Friedman, and the Cato staff of policy analysts could possibly teach him. Here we arrive at a deep conflict of values. The libertarian, in response, to preserve the claim that on the whole libertarian policy best advances all valid human values, might maintain that the value in question is not valid. It is "irrational," "false," or "immoral." Rothbard (1978) writes: "by stressing the virtue of tradition and irrational symbols, the conservatives could gull the public into continuing . . . to worship the nation-state" (11-12). But The People's Romance is a bona fide value for bona fide human beings, and might determine a preference even once its costs are well appreciated. To dismiss it as "irrational" is, it seems to me, to attempt to salvage an overstatement of the virtues of libertarianism by engaging in philosophical gerrymandering.

The point here stands even as we weaken the case. Even if it is the 20 percent who wish for The People's Romance, while 80 percent object, and even if those among the 20 percent *would* renounce support for statist romance once they studied carefully all the scholarly libertarian literature, there still is a bona fide human value that libertarian policy fails to serve. Opponents are instinctively aware of this failure of libertarian policy, even if they do not formulate it as such.<sup>10</sup> Libertarians gain trust and persuasiveness when they show

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<sup>9</sup> On the distinction and the relationship between the two coordinations, see Klein 1997, 1998a.

<sup>10</sup> The People's Romance is related to what Robert Nozick (1989) speaks of in a chapter entitled "The Zigzag of Politics." Whereas The People's Romance refers to just about any form of government coordinated experiences and sentiments, Nozick writes favorably of something more specific: Government action as a way of solemnly marking what society holds dear (pp. 287-89). It would seem that Nozick finds this symbolic value only in actions that affirm what society does in fact hold dear, whereas

awareness that libertarian policy forsakes some values. Such candor is displayed by Hayek in the Preface to *The Constitution of Liberty*: “I believe I have made honest use of what I know about the world in which we live. The reader will have to decide whether he wants to accept the values in the service of which I have used that knowledge.” Hayek writes that liberty “is the source and condition of most moral values” (6)—*most*, not *all*.

If libertarians do not value The People’s Romance, or other values ill served by libertarian reform,<sup>11</sup> that could be a consequence as well as a cause of their beliefs. The more committed we become to libertarian ideas, the more prone we are to reject values ill served by libertarian reforms. One’s philosophy and one’s sensibilities act on each other through time.

Limitation 5:

Libertarianism Lacks a Definitive, “Rational” Foundation

Rothbard viewed government decision making as activity in a moral vacuum because he saw no ethical axiom to provide a standard. Government decision making, in his view, is merely a historical unfolding of powerful interest groups, some pushing in one direction, some in another direction. But influence and persuasive abilities stem from the moral appeal of the arguments; there is a moral cohesion between persons, even those in government. Rothbard is wrong to imply that without an ethical axiom decision makers are morally rudderless. By the same token, no axiom is needed to affirm moral legitimacy in voluntary

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The People’s Romance, while including Nozick’s solemn-marking function, also includes activities that determine and instantiate what society is to hold dear.

<sup>11</sup> I confess to sometimes wondering about other inchoate values—other, that is, than the People’s Romance—that might give impetus to statist judgments on the part of well-informed intellectuals. A great discomfort may attend the presence of beauty, excellence, adventure, and greatness, a discomfort arising out of our own envy and feeling of inferiority. As would-be policymakers we ought to recognize such consequences. Such a thesis about repressive and collectivist impulses may be credited to H.L. Mencken. Ever underscoring the finitude of existence and the fragility of selfhood—and the ridiculousness of it all—Mencken regarded the values of stasis and unexceptionalism—what the Swedes call “The Law of Jante”—as valid and real. In candidly recognizing conflict between values, he, like Machiavelli, accorded a validity to the values of his opponents (see, for example, Mencken 1926: 151-52). That such values are ill served by libertarian reform is arguable. Spontaneous order theory suggests that libertarian reform would facilitate our finding our own ponds, refining our selfhood to afford ourselves a greater sense of individuality (a counter-agent to invidiousness), circumscribing stimuli, and respecting the circumscriptions sought by others. The values of stasis and unexceptionalism, furthermore, might be not only a cause of collectivist/statist impulses but a consequence of collectivist sentiments. The very interest in stasis and unexceptionalism might diminish insofar as libertarian policy reduces collectivist sentiments.

affairs. Libertarian scholarship and policy analysis is itself a human interest group that mobilizes its own moral powers and influence in struggles with others.

Rothbard (1982a) pretends to articulate a “foundation for a systematic theory of liberty and the rights of the individual” (199). But justification is never definitive or final. For any justification given, we may ask for *its* justification. The iteration of justification generates rich and varied webs of arguments about policies and values, the threads of which are inter-connecting and open-ended, the arrangements of which are complex, tentative and uncertain, trailing off in all directions, arriving at places sometimes unfathomed and sometimes familiar but newly visited. It is unhelpful to think of one’s own policy positions pressed by gravity to a block of ratiocination the way a house sits on a block of concrete. It is philosophically naive to seek a full account of the origins and determinants of our judgments about what is desirable, an articulation of our sensibilities about the desirable. We may profit by attempting to unearth the deeper roots of our judgment, but we recognize that any roots unearthed will have yet deeper roots. The deeper we go, the more platitudinous become the accounts of our reasoning. As Hayek (1960) said:

Probably all generalizations that we can formulate depend on still higher generalizations which we do not explicitly know but which nevertheless govern the working of our minds. Though we will always try to discover those more general principles on which our decisions rest, this is probably by its nature an unending process. (209).<sup>12</sup>

### **Recursivity and Vigilance**

Suppose you are preparing to take your regular jog when a friend calls with the tempting invitation to drink beer and watch baseball. In deciding between jogging and beer you recognize the enhanced health and strength gotten from jogging today. If your jogging relies on routine and discipline, one may also argue for jogging today on the grounds of *jogging tomorrow*. A gain in the likelihood of jogging tomorrow is one of the consequences of jogging today, and that gain translates again into health and strength. Jogging has a recursive relationship with itself (it’s a habit).

In a similar way, liberty today can be argued for on the grounds of liberty tomorrow, and liberty in policy area A on the grounds of liberty in B. Because rule-making and belief systems in society work by expectations, focal points, symbols, conventions, precedents, and habits, when judging a reform we must consider the precedent it would set, or fail to set. If we ban machine guns

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<sup>12</sup> Hayek (1973) quotes Roscoe Pound saying that “the trained intuition of the judge continuously leads him to right results for which he is puzzled to give unimpeachable legal reasons” (117).

today it may make it more likely tomorrow that those in power will ban rifles. Politics, law, and opinion involve slippery slopes, as Hayek often stressed. Vigilance today may be the price of preventing significant losses tomorrow. (On this point, great passages from Hume are provided in Hayek 1960, pp. 454-55.)

The present interpretation of libertarianism is prepared to incorporate fully the significance of recursivity, feedback effects, and slippery slopes. Recursivity and the power of symbols are important, often dominating considerations, so they must be carefully considered in judging between reform alternatives. When we imagine ourselves to be the policymaker judging between reform X and reform Y, we do so on the assumption that the policymakers on all other issues will *not* be determined by us, but will be those as determined by real-world political arrangements. The framework for our discussion of judgments and sensibilities is that of imagining ourselves as having the one-time opportunity to converse with an intelligent, patient, and well-meaning policymaker. And even if we were actually the Governor of California or the Chairman of the Federal Trade Commission, the natural assumption is that we would not be involved in subsequent policy decisions in many other fields, and certainly not as autocrats. What we decide about this moment's issue will have important effects on the processes by which many other issues are formulated and decided. We must consider such effects when deciding on the issue of the moment. (Indeed, the jogging example suggests—and Lord Acton's adage agrees—that even when the future policy makers will be ourselves, we still must consider feedback effects.)

Our interpretation of libertarianism fully recognizes, therefore, the virtue of hardy principles and focal points in policy making and the evolution of social norms. To characterize the present interpretation as one which ignores or discounts the symbolic and systemic aspects of the evolution of law, morals, and beliefs, one which judges a case only on the narrow and immediate “utilitarian” or “pragmatic” consequences, would be a mistake.

As we incorporate recursivities and feedbacks, the case for liberty becomes even stronger (as argued in Klein 1998b). One might conclude that such considerations seal the case for the desirability of liberty in 100 percent of dyads, that we should even favor reforms to legalize bazookas, abolish all eminent domain practices, and abolish all air pollution controls (save those emerging from injunctions). But there is still no chagrin in sometimes opposing liberty or admitting agnosticism. Even when recursivities are figured in, libertarianism does not depend on 100 percent. Creating a powerful focal point in liberty and generating a strong presumption of liberty does not depend on 100 percent.

All participants in public discourse and political machinations are bound to promulgate symbols, myths, and principles. We ought to urge citizens to revere and consecrate those we especially favor. There is no intention here to excise from libertarian rhetoric all talk of “natural rights,” “natural law,”

“morality,” and other hallowed phrases. Even Adam Smith (1776, 687), in his most mature work, spoke of “the obvious and simple system of natural liberty” (though, as we have seen, he did not understand that to conform perfectly with the desirable). Rather, I encourage libertarians to be better aware of how they fashion rhetoric depending on the discourse situation, and to be more mindful of how their popular and broad-based justifications may be misunderstood or used to show that libertarians engage in over-generalization and rely on brittle and simplistic arguments.

By the way, recall that our liberty maxim is based on the liberty ranking  $>_L$ , which considers only the immediate policy itself (including enforcement machinery), and not the ramifications for liberty. The other liberty ranking,  $>_{L_o}$ , considers the *overall* consequences in terms of liberty. A liberty maxim based on  $>_{L_o}$  would incorporate recursive and feedback effects into the ranking. The liberty maxim based on  $>_L$  tells us to deregulate Savings and Loans (along the lines done in the 1980s, not full deregulation). If we reject that recommendation, then we have an example of undesirability. However, the overall affects of the deregulation might be less liberty (notably because of higher taxes for bail outs), so a liberty maxim based on  $>_{L_o}$  would not recommend deregulation, and hence no occurrence of undesirability. Again, the reason we focus on  $>_L$  rather than  $>_{L_o}$  is that with  $>_{L_o}$ , so often one just does not know how to rank two policy reforms, and even when he does his ranking so often will not agree with how others—even other libertarians—rank them. Was the 1980s S & L deregulation a reduction in liberty overall? Who knows?

### **The Name of the Party of Liberty**

In the Postscript to *The Constitution of Liberty*, Hayek addressed the question of the name of the party of liberty. He opted for “liberalism,” but with significant misgivings. Forty years later, “liberalism” makes even less sense. Whether Tocqueville, Acton, Spencer, and Gladstone represent the true soul of the original liberalism is open to challenge. But even if they represent that soul, the farther we get from their times, the more remote and scholastic becomes the case for a libertarian restoration of that term. It never was unambiguously libertarian, but even if it were, that character has been lost for so long, at least in the United States, that it would be foolish to toil in the hope of someday restoring it.

Hayek rejected “libertarian” because “it carries too much the flavor of a manufactured term and of a substitute” (1960, 408). Hayek probably associated “libertarian” especially with the rigid, rationalist package proffered by Rothbard and the like. But as the Rothbardian strictures are pared away, “libertarianism” becomes a big tent for those who really do want government to be significantly smaller and less restrictive. It means “generally anti-statist across the board.” Indeed, according to the 1928 *Oxford English Dictionary*, “libertarian” was used

to mean “One who approves of or advocates liberty.” The term was used in some such sense by many writers prior to Rothbard’s rigid characterization, including: J.R. Seeley, F.W. Maitland, R.K. Wilson, C.P. Scott, Benjamin Tucker, Charles Sprading, J.P. Warbasse, Albert Jay Nock, Harold Laski, H.L. Mencken, Cecil Palmer, Harry Elmer Barnes, Ludwig von Mises, Isabel Paterson, Frank Chodorov, Leonard Read, Dean Russell, Frank Meyer, Henry C. Simons, Frank Graham, Clarence Philbrook, Arthur Ekirch, Robert Nisbet, Michael Oakeshott, Isaiah Berlin, and Spencer MacCallum.

And subsequent to *The Constitution of Liberty*, Hayek, though continuing to use “liberal,” came to use “libertarian” rather frequently.

Journalists and intellectuals usually frame politics and public issues as a battle between two camps. Public discourse today conventionally pits “Left vs. Right,” “liberal vs. conservative,” etc. Public understanding would be advanced substantially if issues were instead framed as battles between positions corresponding to less and more government. A big-tent definition of libertarianism encourages mainstream voices to recognize as a meaningful category those for reducing government. This essay suggests how libertarianism might be fashioned and understood to enhance its bid for becoming the mainstream name of the position of reducing government and increasing liberty.

In the United States, the very aim of gaining public recognition of such a position depends on “libertarianism,” because no other term can possibly work. “Liberal” (whether “classical,” “market”, or “neo”), “conservative,” “individualist,” “voluntaryist,” “capitalist,” “anti-statist,” are all fatally flawed.<sup>13</sup>

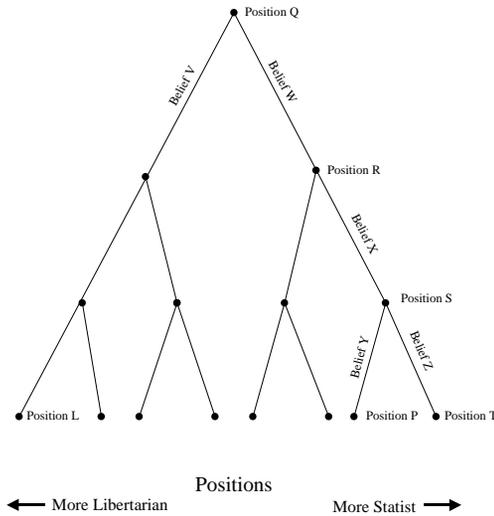
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<sup>13</sup> The term “conservative” is not viable for at least four reasons: (1) The term carries strong connotations about matters beyond public policy, such as personal morals and lifestyles, cultural attitudes, aesthetics, and religion. The party of liberty must have a name that is silent and aloof about the individual’s choices in all such matters. (2) In as much as “conservative” as a name for a policy platform or sensibility has any meaning, that meaning is multiple and conflicted. Many self-described conservatives favor liberty and small government, but many, now and for centuries past, have so favored statism that one cannot have much confidence that a “conservative” much favors liberty. (3) The term suggests that in matters of policy we should *conserve* the past. But America’s policy history, even prior to F.D.R., is so checkered—coverture, slavery, trampling of Indians’ life, liberty and property, Jim Crow, postal monopoly, protectionism, Prohibition, sexual and lifestyle proscriptions, anti-trust, conscription, etc.—that mere conservation is senseless. The real question emerges: Which policies should be conserved and which scrapped? The answer is much better indicated by the term “libertarianism.” (4) One connotation of the term “conservative” is opposition to radicalism. Yet the party of liberty ought to hold a healthy spirit of pragmatic radicalism. The party of liberty ought to accept the political constraints of the status quo and focus on moderate reform, but it does so with a long-range hope of moving significantly down field by a continual reform process stretching over generations. In spirit and intellect, the party of liberty is too radical to be called “conservative.”

(In many other countries, “liberalism” is still viable and better than “libertarianism”.) Without a good name actions are ineffectual. In the U.S., fortunately, leading libertarian institutions such as Cato, Reason, Foundation for Economic Education, and the Independent Institute now identify themselves as libertarian, generally using the term in a manner that adheres to Rothbard’s definition of liberty while relaxing his strictures for libertarianism. In the mainstream media in the U.S. the term libertarian is used increasingly to refer to a person who favors significant reductions in government.

### Challengers and Bargainers

Discourse may be modeled as a debate between two speakers before an audience. Each speaker strives to persuade but the channels are twofold: persuading the other speaker and persuading the listening audience. When the libertarian Speaker A debates anti-libertarian Speaker B, she faces trade-offs between appealing to B, who has made substantial intellectual and emotional commitments to his anti-libertarian ideas, and appealing to the Listener, who, especially if *young*, often has not made commitments. In appealing to Speaker B, Speaker A may try to unravel his thinking, getting him to back up the path which led him to his position. Speaker B advocates a highly statist Position T shown as the right-most node in Figure 2. The bargaining libertarian starts, for the sake of argument, at Position S and questions belief Z. She explains the weaknesses of belief Z (in comparison to belief Y) in hopes of backing Speaker B up to Position S. If success:



**Figure 2**  
 Bargainer begins by challenging Belief Z.  
 Challenger begins by challenging Belief W.

An alternative approach is to challenge from the outset the more basic belief W (by arguing for the superiority of belief V). When the opposing speaker is deeply committed to the beliefs along the right side of the figure, this fundamental challenge is unlikely to influence him at all. But the challenger might deeply influence the Listener, who candidly and freshly considers belief V versus belief W. Listener might be more open to seeing and accepting the worthiness of belief V.

Notable libertarian challengers are Etienne de la Boetie, Thomas Paine, Frederic Bastiat, William Lloyd Garrison, Lysander Spooner, Ludwig von Mises, Ayn Rand, Thomas Szasz, Murray Rothbard, and Robert Higgs. Notable libertarian bargainers are Smith, Hayek, Aaron Wildavsky, Richard Epstein, and Tyler Cowen. Both types are useful. It is not an issue of one or the other.<sup>14</sup> Each has great virtue; libertarians want to persuade both Listener and Speaker B, both the young and the currently powerful. And each has drawbacks and hazards. Challengers tend to be expelled and ignored by the mainstream, losing exposure and losing the intellectual checks and disciplines exerted by critics and opponents in dialogue. Bargainers tend to lose sight of the more fundamental issues and to go native—that is, mainstream or official or academic.<sup>15</sup>

Rothbard and the Rothbardians have sometimes insisted on challenging as a matter of philosophical soundness. Rothbard (1982a) maintained that government must be regarded always as “the enemy of mankind, that it is [impossible and undesirable] to *use* the State in engineering a planned and measured pace toward liberty” (262). Rothbard seemed to think that a wholesale challenge to government can gain popular support and extirpate interventions root and branch. The vision is characteristic of the challenger. The challenger view of things turns on the distinction between voluntary and coercive action becoming a focal point for human discourse and institutional change. If the distinction between liberty and government is sharpened, the challenger can push for a libertarian moment in which people get on the right thing *en masse*. The challengers’ overstatement of the sharpness fits their attitude about the state and the reform process.

But I am inclined to think that the only manner in which libertarian reforms can ever be effected in countries like the United States (or New Zealand) of today is piecemeal pruning of individual branches. The achieving of such reforms calls for an attitude very different from Rothbard’s. Government will not be reduced but by government reducing itself, and the government will not

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<sup>14</sup> My challenger-bargainer distinction is a variation on Steele’s (1990, 11).

<sup>15</sup> I do not mean to imply that libertarian bargainers who go native come to espouse anti-libertarian positions. Going native is more a matter of withdrawing ideologically than of adopting a new ideology.

reduce itself until anti-government individuals become the government. Government has at least one necessary and important function: the undoing of other governmental functions.

When Hayek (1944) noted that a *petite fonctionnaire* wields more power over people than does a multi-millionaire (104), he was thinking of the real damage that even minor government decisions can cause. A little bit of persuasion of the *fonctionnaire* could mean a lot to society. Even more could be achieved by a libertarian with a career in government. The contributions to the effecting of policy reforms of all the intellectuals who teach citizens to see the unseen can be realized ultimately only in political decisions. The entire arc from teaching *Economics in One Lesson* to the successes of actual reformers must offer a belonging and esteem for doing what libertarians know to be good. “[T]he greatest and noblest of all characters,” wrote Smith (1790), is “that of the reformer and legislator of a great state” (232).

Challengers inspire bold and independent thinking; they found movements and teach adherents what they are and how they stand apart. Bargainers inspire them to be persuasive and effective in meeting and joining and cooperating with power, to stand *with others* as colleagues in power but as something somewhat different from them. Some occasions call for challenging and some for bargaining. Members of the libertarian movement tend to practice their comparative advantage. Yet the relationship between challengers and bargainers is often marked by envy and dislike.

Libertarian challengers are more likely to speak plainly of liberty as Locke-cum-Rothbard liberty. Again, the very idea is a fundamental challenge to persons of power (including mainstream intellectuals and academics). It is not surprising that the twentieth-century libertarian who wrote out and promoted, with alacrity, the cogent definition of liberty was someone with the temerity to spit into the wind, someone with simplistic and categorical tendencies in judgment, someone who could make a virtue out of being regarded as an untouchable by the intellectual mainstream.<sup>16</sup>

In the writings of libertarian bargainers the cogent idea of liberty is scarce. It is not surprising that when the century’s greatest libertarian bargainer sat down to write out a treatise on liberty, he presented a definition (actually, multiple definitions) within which the Locke-cum-Rothbard core was visible only to those who knew to look for it. Indeed, there is reason to believe that Hayek was always more radical than he let on. In 1976 he wrote an endorsement of Walter Block’s highly Rothbardian book *Defending the Undefendable*, saying that it “made me feel that I was once more exposed to the shock therapy by which, more than fifty years ago, the late Ludwig von Mises converted me to a

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<sup>16</sup> Incidentally, Rothbard also assumed the challenger persona and tactics in his struggle for leadership of the direction and character of Austrian economics. See especially Rothbard 1992.

*consistent* free market position” (italics added, p. 14 of Block 1976.) In watering down their ideas, bargainers sometimes damage the meaning or understanding of the movement’s core vocabulary, and therefore the intellectual power of that vocabulary.

Every libertarian intellectual sometimes leans toward challenging and sometimes toward bargaining. The public’s understanding of *liberty* and *libertarianism* would be enhanced if libertarians agreed on their meaning and used those terms more often. In bargaining, the libertarian may explain the Locke-cum-Rothbard sense of liberty, yet reassure and sustain dialogue by casually admitting limitations of the liberty maxim. In challenging, the libertarian may temporarily suspend the limitations to strike sharply at more fundamental beliefs. The handling of such tensions, situation by situation, and deciding whether to use the term “libertarian” call for finesse. As challengers or bargainers, libertarians can meet discourse situations with greater agility and versatility by upholding the cogent idea of liberty while minding its limitations.

Each type, challenger or bargainer, has much to offer the other. Bargainers often show more intellectual flexibility (Hayek 1973, 87 remarks on deadening effect of “the mechanical use of verbal formulae”). Also, bargainers often have more standing in the establishment and therefore more access to the intimate knowledge of current policies and issues. Hence, bargainers can exert intellectual discipline on the challengers. Also, bargainers often enjoy more mainstream stature and power, and can help challengers get an audience or position or mainstream respectability.

Meanwhile, challengers can serve as the conscience of bargainers, reawakening them to the more fundamental beliefs that led them into their selfhood, and showing how broadly the more basic ideas still hold up. Challengers re-activate the bargainer’s authenticity and reconnect them to nobler pursuits, such as inspiring and edifying the young.

The delicate relationship between bargainers and challengers calls for mutual trust. A bargainer, who to some extent operates in stealth mode, might help a challenger to get a mainstream hearing, but only if she can trust him not to become unduly glossy or blow her cover. The challenger must likewise trust the bargainer not to abandon him, or turn on him, and hang him out to dry before the audience of her mainstream peers. An escalation of distrust can prompt each to defect on the other. Anticipating the problem, they may shun team efforts altogether.

A mindfulness to that which underlies the worthiness of the efforts of both and to the gains in team productivity achieved by the division of labor may encourage the mutual contact and moral support which yet further advance their several efforts.

### **In Brief**

My own story of becoming a libertarian is probably rather typical. At 16 I was completely uninterested in politics. None of it made any sense and I preferred to spend my time listening to records and hating my teachers. A friend much more intellectual than myself introduced me to libertarianism and free-market economics. Within a year, I became keenly libertarian in the Rothbardian manner. Since that time I have reconsidered Rothbardianism and become more aligned with Smith and Hayek. But Hayek too has failings that Rothbard's temerity and conceptual clarity overcome. I accumulate counsels and repeat them to myself like a modern day Polonius:

- View libertarianism as being concerned only with legal and policy issues, not as a system of moral or ethical principles for human conduct in general.
- See “being a libertarian” to mean *merely* the following: tending to favor policy reforms toward more liberty, more individual responsibility, and less government.
- Strive to formulate political questions in terms of policy brass tacks.
- Formulate policy issues chiefly as a choice between alternative reforms to current arrangements, rather than as policy for some ideal society.
- Accept that policy-issue formulation must suit the discourse situation. Maybe Reform A is better than Reform B, which is better than the status quo. In some discourse situations it is best to bargain: focus on Reform B's superiority to the status quo. In some, challenge: focus on Reform A's encompassing superiority. Libertarianism is about moving the ball in the right direction, and different field situations call for different plays, sometimes the full-back push for a first down, sometimes throwing the bomb.
- Define liberty pretty much as Rothbard does.
- Mind the liberty maxim's three practical limitations—ambiguity, undesirability, and incompleteness—and be ready to make evident your awareness of those limitations.
- Be ready to admit that some valid human values are ill served by libertarian reform.
- Argue for your judgments, but do not attempt to provide an algorithm for judgment or a full account of your sensibilities.
- View government officials as amenable to intellectual and moral instruction and the government as the agent that validates and institutes libertarian reform.

Word for word, Hayek and Rothbard cannot be reconciled. Hayek had different sensibilities about policy reform, sensibilities that are larger, better considered, and more diplomatic. Hayek's fairness to diverse social and political values, especially ones recognizing the importance of customs and traditions,

sometimes led him to conclusions at odds with a Rothbardian line. Hayek knew that in propounding classical liberalism in the twentieth century the dialectics of discourse and expulsion from discourse could, over the years, paint him into a corner of crankiness and brittleness. Hayek was a bargainer. He paid keen attention to the several limitations of the liberty maxim.

Yet, as significant as the several limitations are, today they need not lead us, as they led Hayek (in letter, if not in spirit), to jettison that idea of liberty. I conclude, for reasons beyond the scope of this essay, that Hayekian challenges (as well as other challenges) do not invalidate several of Rothbard's most important precepts: that liberty as he understood it, despite its holes and ragged edges, is the core of any sound notion of liberty; that the distinction between liberty and coercion is a central theoretical fulcrum of policy sciences; that the contest between liberty and government coercion is the centerpiece of political philosophy; and that in the American context people who seek to advance liberty should build and sustain a *libertarian* (not "liberal," not "conservative") movement.

The respective strengths of Hayek and Rothbard can be blended into an overall interpretation of libertarianism. Perhaps the blend is one to the music of which, in the right circumstances, Hayek and Rothbard would both beat time, as an understanding of their common cause.

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