

LAW AND THE LIBERAL SOCIETY: F. A. HAYEK'S CONSTITUTION OF LIBERTY

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The nature of political discourse has been significantly altered by the events of recent history, among which has been an accelerating shift of governmental regulation away from directing society by means of general rules to that of *ad hoc*, administrative commands and discretionary control. This has been accompanied by an apparent general lessening of respect for law and an increased interest in civil disobedience in the name of higher principles. These changes have led to a resurgence of interest in the concept of the rule of law as one of the primary protections which formally organized and highly complex societies can offer for personal freedom and an ordered society. Shifts in attitude toward law on the part of both government and citizens have encouraged political theorists to re-examine the classical liberal conception of the rule of law towards a better understanding of the inter-relationship between the nature, function, and extent of governmental rules on the one hand, and personal freedom and the sphere of activity wherein the individual may act solely as he pleases on the other.

This paper will focus on the work of F. A. Hayek, the leading modern exponent of the liberal conception of freedom and the rule of law. I intend in my analysis to lay bare the incongruities and weaknesses in Hayek's definition of freedom, and to show that a government under the rule of law, as he offers it, is no more a guarantee of personal freedom than is a government delegated broad discretionary powers — that one's freedom can be as much constrained under one system as under the other. I hope in the course of this paper to suggest the direction future theorists might take if they are to avoid certain pitfalls which prevent a more rigorous investigation of the relation-

ship between freedom and the activities of government.

HAYEK'S CONCEPT OF FREEDOM

Hayek defines "liberty" or "freedom" — the terms are used synonymously — in a manner consistent with nineteenth-century English liberal theory.^[1] "Individual or personal freedom", he writes, is "the state in which a man is not subject to coercion by the arbitrary will of another or others."^[2] I see no problem with definitions of liberty which take the negative form Hayek here proposes. One essential criterion for any useful definition of individual freedom which is not metaphorical — and which is central to the notion of negative liberty — is, I suggest, that one's freedom never require that other human beings *act* in certain ways but only that they *do not act* in certain ways; that is, that my freedom entail *prohibitions* on others rather than *positive commands*. This distinction is negated in all positive conceptions of liberty. All sensible, non-vulgar uses of the term, however, suggest some notion of being let alone, of *not* being "forced", "required", "commanded" by others to do (or not to do) something, provided that one "can", "is able to", "has the capacity to" do it. What is crucial, of course, is how we proceed to distinguish the types of force impinging on us so that relevant distinctions are made between "being forced" or "being coerced" not to do something, and "not being able" to do something. I believe that this is impossible without prior recourse to a theory of rights and that all attempts to define freedom result in hopeless conceptual muddles without such a theory.^[3] Hayek, however, attempts his definition of coercion without reference to rights. "Coercion", he continues, "occurs when one

man's actions are made to serve another man's will, not for his own but for the other's purpose".^[4] But, he adds, coercion can occur *only* when the possibility of alternate action is open to the coerced. "Coercion implies that I still choose but that my mind is made someone else's tool, because the alternatives before me have been so manipulated that the conduct that the coercer wants me to choose becomes for me the least painful one."^[5]

There is clearly an inadvertence here. Coercion, Hayek claims, does not occur when someone done violence is prevented from choosing at all. "If my hand is guided by physical force to trace my signature or my finger pressed against the trigger of a gun, I have not acted. Such violence, when it makes my body someone else's physical tool is, of course, as bad as coercion proper and must be prevented for the same reason."^[6] But it is *not* coercion, and — not being coercion — I cannot be said to be unfree. The farcical implication is that if I am trussed up without the ability to move, I am, in Hayek's use of the term, still free!

There is an equally serious problem buried in this formulation, however. The absence of coercion (freedom), according to Hayek, obtains when the possible alternative actions open to me are not such that, through the manipulation of such alternatives by someone else, the least painful choice for me is that which is the most beneficial to him. Or, more simply, I am free when no one else manipulates my environment in such a way that my action (or actions) benefits him. Unqualified, this definition is useless, since under it the overwhelming preponderance of human interactions could be shown to be coercive. The primary difficulty with this definition is that we must distinguish "coercive" manipulations from the conditions or terms on which others are prepared to render us specific services or benefits, all of which are deliberate acts by others aimed at our subsequent action (or actions) benefiting them. Hayek attempts this distinction in the following way: "So long as the services of a particular person are not crucial to my existence or the preservation of what I most value, the conditions he exacts for rendering these services cannot properly be called 'coercion'."^[7]

I find this formulation totally inadequate. How are we to determine what is "crucial to my existence" or what "preserves what I most value" in any but a purely subjective way? Hayek makes little effort to give precision to these terms and his examples are confused. Let us take a situation in which Hayek claims no coercion occurs. Suppose that the condition for my being invited to a dinner party were my wearing a dinner jacket. It is clear, Hayek claims, that in situations of this kind, no coercion takes place.^[8] I take this to mean that such situations never involve threats to things "crucial to my existence" or to "the preservation of what I most value". But Hayek has here mistakenly translated "ordinarily involves no threat" to "never involve threats" in order to salvage his criteria for the existence of coercion from absurdity. For it follows from his argument that if (a) my social standing were one of the things I most valued and, (b) my not attending this party would damage my social standing, then it is indeed possible that I could find myself coerced by my host's demand. For example, if (c) my dinner jacket were at the cleaners and, (d) it were impossible for me to rent a dinner jacket except at a price I would otherwise be unwilling to pay, then my prospective host's requirement that I wear a dinner jacket as the "price" of access to his home would threaten the preservation of what I most value, my social standing, and would be invasive of my freedom.^[9]

Hayek's argument suffers from a species of fallacy previously made by Isaiah Berlin. Berlin, in his *Two Concepts of Liberty*, contends that negative liberty resides in being left left to do what one "wants", "desires", "wishes", "chooses".^[10] As Berlin himself later recognized, there is an absurdity implicit in this formulation "for if to be free — negatively — is simply not to be prevented by other persons from doing whatever one wishes, then one of the ways of attaining such freedom is by extinguishing one's wishes".^[11] The same criticism applies equally to Hayek's criteria for coercion. For if freedom resides in the absence of certain types of threats to those things I feel are "crucial to my existence" or the "preservation of what I most value", then my freedom

can be enlarged by narrowing the set of things I find crucial to me or most value.

This fallacy lies at the root of yet another example of non-coercion which Hayek offers: "If I would very much like to be painted by a famous artist and if he refuses to paint me for less than a very high fee, it would clearly be absurd to say that I am coerced."^[12] On the other hand, Hayek's argument implies that if it preserves what I most value, to be painted by a famous artist, and if he refuses to paint me for less than a very high fee, it follows that I am coerced. What does "very much like" mean and how does it differ from "most value"? Since both terms are inherently subjective, they are of little utility for an objective theory of individual freedom. Indeed, if my being free depends on others not threatening the preservation of what I most value, then I need only change my values in the presence of a threat to transmute an otherwise coercive act into a non-coercive one. The reverse, of course, also holds true and by a change in values I can create situations in which I am coerced where otherwise there was only a thwarting of desire. In the above example, I can narrow my area of freedom by upgrading my "very much liking" to be painted by a famous artist to "most valuing" being painted by him. It then becomes the case, within the framework of Hayek's argument, that *if* my not being painted by this artist threatens the preservation of what I most value, then my environment has been manipulated in such a way that the "least painful choice" for me (paying the high fee) is that which benefits the "manipulator" (the artist) and I am being coerced.

Inadvertently, Hayek has here blundered from a strictly negative conception of freedom into a positive one. I am unfree (coerced) to the extent that I am deliberately denied those things which I find preserve what I most value; this argument is constructed in such a way that my freedom can require that others be forced to act in a particular way — in this instance that an artist paint me when he otherwise would have refused.

The same philosophical muddle is apparent in a number of other examples Hayek offers. Although at one point he writes that "it cannot

legitimately be called coercion if a producer or dealer refuses to supply me with what I want except at his price", in the following paragraph he offers a case of "true coercion" which involves just such an instance. "A monopolist", Hayek writes, "could exercise true coercion . . . if he were . . . the owner of a spring in an oasis. Let us say that other persons settled there on the presumption that water would always be available at a reasonable price and then found . . . that they had no choice but to do whatever the owner of the spring demanded of them if they were to survive: here would be a clear case of coercion."^[13] I assume that Hayek here means that any contract between the owner of the spring and the settlers for water by which the owner received any but a "reasonable price" would be coercive. But how are we to determine what a "reasonable price" is? It is possible that Hayek here means to suggest that a "reasonable price" is the "competitive price". But how is it possible to determine what the competitive price is in the absence of competition? Economics possesses no way of predicting the cardinal magnitude of any market price in the absence of a market. What, then, can we assume to be a "reasonable" price, or, more to the point, at what price does the contract alter its nature and become an instance of coercion? What if the owner of the spring demands nothing more than the friendship of the settlers? Is such a "price" coercive? By what principle can we decide when the agreement is a legitimate contractual one and when it is not?

There is yet a further difficulty. Is the owner of the spring acting coercively if he refuses to sell his water at *any* price? Suppose, for example, he looks upon his spring as sacred and to offer its holy water to non-believers a sacrilege. Here is a situation which would not fall under Hayek's definition of coercion since the owner forces *no* action on the settlers. Yet it would appear, within Hayek's own framework, that were these conditions to prevail an even greater violence would be done the settlers since the only "choice" now open to them is that of dying of thirst.

Let us now turn to Hayek's use of the term "coercion" in contexts where it is possible for

someone who might otherwise be coerced to *foresee* the results his actions will have. He writes: "Provided that I know beforehand that if I place myself in a particular position, I shall be coerced and provided that I can avoid putting myself in such a position, I need never be coerced [i.e. I need never have my freedom curtailed]." ^[14] It follows from this, for example, that if Mr. Jones warns me that he will harm me in some way if I purchase any goods from Mr. Smith and provided that the goods are available elsewhere or are such that I can do without them, then Mr. Jones' action is non-coercive! The threatened party is no *less* free than he was before the threat was made *if* he can avoid the threatener's action. The threat itself is non-coercive; additionally, if the threat prohibits my acting in a certain way when it is within my power not to so act, I am not being coerced by the prohibition. With respect to my freedom, avoidability of the prohibited action is sufficient, according to this criterion, to set up a situation theoretically identical to one in which a threat does not occur at all. Thus, if I know in advance that I will be attacked by a gang if I were to enter a certain neighborhood and if I can avoid that neighborhood, then I need never be coerced by the gang nor are they curtailing my freedom.

This rather awkward relationship between avoidability of violence and coercion, where the presence of the former entails the absence of the latter, stems from Hayek's attempt to create a necessary connection between general rules which prohibit specific actions (the rule of law) and freedom. Hayek goes on to say that "in so far as the rules providing for coercion are not aimed at me personally but are so framed as to apply equally to all people in similar circumstances, they are no different from any of the natural obstacles that affect my plans". ^[15] Hence, one could regard a gang-infested neighborhood in the same way as a plague-infested swamp, both avoidable obstacles, neither personally aimed at me and therefore not limiting my freedom.

J. W. N. Watkins has examined this position and rightly argues that Hayek has been overimpressed by the logical distinction between a positive command and a prohibition to the

point where he has denied the coercive status of any prohibition. It is true that a prohibition leaves an agent free to act in any of the large number of ways compatible with not acting in the prohibited way while a positive command leaves him unfree to act in any but the commanded way, but it does not follow that all prohibitions are less coercive than all commands. "We must not be dazzled by the largeness of the number of alternative courses left open by a prohibition", Watkins notes. "After all, the agent can select only one of them. To measure the degree of penalisation which a prohibition involves, what we have to weigh against the prohibited course is not the whole class of unprohibited alternatives but just the unprohibited alternative which he dislikes least. Now it may be that his best unprohibited alternative will be little or no worse than the prohibited course, in which case he will not be penalised by the prohibition. But it may also be that he regards the best unprohibited alternative as *much* worse than the prohibited course." ^[16]

It is clearly erroneous to hold that prohibitions, taking the form of general rules, are non-coercive (or necessarily less coercive) because the consequences of violating such prohibitions are avoidable. These consequences are just as avoidable in the case of arbitrary, *ad hoc* commands, since one need only obey to avoid being penalized. But this relationship between general rules and freedom is, indeed, the most important characteristic of Hayek's theory of law. Individual freedom, for Hayek, is the logical consequence of a certain set of formal restrictions on the legal rules under which a society operates. He writes: "the conception of freedom under the law rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man's will and are therefore free". ^[17] The implication, of course, is that any abstract rule applied impartially is non-coercive. Further, the non-coercive nature of general rules seems to hold even when these rules occasionally take the form of specific directives rather than prohibitions. Though "taxation and the various compulsory services, especially the armed forces,

are not supposed to be avoidable, they are at least predictable and are enforced irrespective of how the individual would otherwise employ his energies: this deprives them largely of the evil nature of coercion".^[18] This intimate connection between the structure of rules and Hayek's concept of freedom forms the foundation of his theory of law.

THE RULE OF LAW

Hayek's goal in his political theory is to offer nothing less than a theoretical structure for a free society, a "constitution of liberty", in which the individual, secure within a broad, protected sphere, may act as he pleases, unharassed by the state. It is therefore essential that Hayek differentiate between acts of government which are consistent with such a society and those acts which are invasive or coercive. In order to do so he has recourse to the concept of the rule of law.

The rule of law is not itself the body of laws by which society is governed, but a higher order rule determining the formal structure of laws, consistency with which is the criterion for securing individual freedom in society. It requires that a particular law "in its ideal form be a 'once-and-for-all' command that is directed to unknown people and that is abstracted from all particular circumstances of time and place and refers only to such conditions as may occur anywhere and at any time".^[19] From such a system of laws emanates the whole body of rights individuals possess. Rights do not logically antecede government but are formed and given substance by the legal arrangements which stem from the rule of law. They are defined in terms of the positive law under which society operates and are no more than guarantees against action falling outside the rule of law. "Under a reign of freedom", writes Hayek, "the free sphere of the individual [that area protected by rights] includes all action not explicitly restricted by a general law."^[20]

Hayek stipulates several criteria which legal rules must meet to be consistent with the rule of law, that is, that they be consistent with individual freedom. All laws must be equally applicable to all members of the political com-

munity, they must be general in nature, and they must be certain. I will proceed to discuss each of these criteria with a view toward examining whether they, in fact, afford any protection to individual liberty and whether the results of possible government action consistent with these safeguards can so constrain individual conduct as to make useless these limitations on the form specific laws should take.

(i) Consistency with the rule of law, Hayek asserts, demands that all positive law be "equally applicable", that is, that no law distinguish among citizens in its application. In its strongest sense the "equal applicability" criterion requires that all governmental rules which command or prohibit actions to some, command or prohibit those actions to all. Toward this end, according to Hayek's understanding of the rule of law, government would be prohibited from making laws which explicitly apply only to specific persons or groups: "As a true law should not name particulars, so it should not single out any specific persons or group of persons."^[21] Hayek finds himself forced to modify any strict interpretation of this prohibition, however, since it is apparent that certain "legitimate" rules can have application only to specific sets of people. An example of this, I would suppose, is the prohibition of rape, which in common law at least can be committed only by a male. Hayek suggests two criteria which, if met, would place laws regulating the behavior of specific groups outside the range of arbitrary governmental action and make them consistent with the rule of law. These criteria are, first, that no proper names be employed in the law and, second, that the distinctions which the law makes are supported by majorities both within and outside the group which is the subject of legislation.^[22] Both criteria, I believe, present grave theoretical problems.

That no proper name be mentioned in a law does not protect against particular persons or groups being either harassed by laws which discriminate against them or granted privileges denied the rest of the population. A prohibition of this sort on the form laws may take is a specious guarantee of legal equality, since it is

always possible to contrive a set of descriptive terms which will apply exclusively to a person or group without recourse to proper names. One need only set up a description in such a way that the parameters delineating, and the characteristics possessed by, the person or group are neither over- nor under-inclusive; i.e. one need only create a one-member class. In this way legislation aimed at certain persons or groups avoids the apparently illegitimate device of singling them out by name. Further, groups, unlike specific individuals, are possessed of a set of *defining* characteristics which, when listed in the law, would serve the same function as the use of proper names.

Hayek's second criterion, that legislation referring to specific groups is permissible only when supported by majorities both within and outside the group, fares no better as a guarantee of legal equality. If the purpose of legislation is to grant privileges to a certain minority, rather than to discriminate against them, the majority of those "within the group" would most likely concur in such legislation. Hayek contends that a statute aimed at a specific group which is favored by majorities both within and outside the group can be presumed to serve the ends of both.^[23] This strikes me as an unwarranted assumption. If the operational sense of "being favored by the majority outside the group" is understood to equate with "assented to by a majority outside the group", as it most often is in political discourse, there is persuasive empirical evidence that laws granting privileged status to select groups are commonly acquiesced in by larger majorities even when such laws run counter to their own ends. The history of law, particularly in the western democracies, is replete with legislation granting special economic privileges to certain minorities (tariffs, subsidies, restrictions on entry into professions and businesses, local monopolies, etc.) which are detrimental to the majority of the population. The dynamics of political life offer some insight into why such statutes can be enacted without serious opposition. The few who stand to gain by the legislation, stand to gain much and will lobby accordingly; those who stand to lose, the bulk of the population, individually stand to lose only a

little or are unaware that they stand to lose at all, and are politically unorganized for the purpose of preventing the legislation. Almost invariably the result is that legislation of this sort is enacted and accepted, "assented to", by those "outside the group".

What of the case where proposed legislation would discriminate *against* a group? In such instances Hayek's requirement of assent by majorities both within and outside the group appears to offer stronger protection against discriminatory legislation. However, the criterion continues to suffer from an unfortunate majoritarian bias which does not preclude significant curtailments on individual freedom of action. For example, it is possible that proscription of interracial marriages would have the sanction of majorities of the races affected. At this point we would do well to keep in mind that Hayek *defines* freedom in terms of the legal guarantees of the rule of law. If any governmental action is consistent with the rule of law, as the proscription of interracial marriages in the above example appears to be, it then becomes meaningless for anyone wishing to intermarry to speak of the denial of his freedom to intermarry under such a law. Yet, in spite of this, it clearly appears that such a law does deny the freedom to marry whom one chooses to members of either group who favor miscegenation. I can find no way, within the terms of Hayek's argument, to reconcile this conflict.

There is another sense in which the "equal applicability" criterion can be understood, as Hayek uses it: that is, that the *formal effect* of legislation will be equal throughout the population. Examination indicates, however, that this limitation hardly serves as a serious constraint on the content of positive law. Hayek's analysis neglects the fact that *most* laws have a harsher impact on certain people than they do on others. For example, if it were thought necessary for some reason to institute a trade embargo with a particular country the law, in a sense, would formally affect all in some equal way; no one would be permitted to engage in such trade. But the *real* effect of the law would be to benefit some — in this case merchants who deal with countries exporting and impor-

ting the same or similar products as are affected by the embargo — at the expense of others, i.e. those engaged in the now prohibited trade. The greater proportion of laws does not, in this sense, apply equally to all. Nor, of course, does the “equal applicability” criterion curtail the power of government to enforce uniformity in those areas where it deems it desirable and thus to benefit some at the expense of others. Censorship and the prohibition of political and religious dissent and of “immoral” conduct, are all consistent with equal application of the law. By prohibiting *certain* things from being done by anybody, a government is in a position to strike at any particular person or group by legislating against behavior which is peculiar to that group.

But Hayek does not contend that the law *must* always be, in some formal sense, the same for all. Not all laws which are consistent with the rule of law are in any meaningful way “equally applicable”. Thus, we are told that conscription is compatible with his theory of the rule of law even when it applies only to a particular segment of the population. Hayek offers no criteria for determining when such exceptions to the equal applicability requirement can be made nor what, if any, are the general principles for deciding whether the content of the exception is legitimate or otherwise. Are licensing laws — which are merely prohibitory laws which stipulate the requirements for exemption — to be regarded as consonant with the rule of law? If licensing is allowable under the rule of law and if we lack a theory imposing limits on such government action, we are in the end faced with the possibility of a society of status — the very thing Hayek seeks to prevent — emerging from principles totally consistent with his theory of law.

The nature of Hayek's equal applicability requirement is ultimately reducible to a requirement that all laws apply equally to those the law applies to. We are thus in a position to create any number of categories of people in order to apply “equal” laws to them. Those people in each group will be equal under the laws applying to them, despite the fact that other laws will treat other people in other groups differently.^[24] It is hardly an effective

safeguard of individual freedom to be assured only that laws will be consistent in their application toward those people each law legislates against.

(ii) The rule of law, Hayek maintains, requires that all laws must be general in nature; they must be such that “they do not refer to particulars but apply whenever certain abstractly defined conditions are satisfied”.^[25] What, in fact, would be prohibited by this criterion? In examining the efficacy of this principle of law we are confronted with much the same difficulty which was met in our analysis of proper names in the law. For, here too, inasmuch as a sufficiently specific general characterization fitting only one condition or a particular set of conditions can be provided, it remains possible to meet this requirement in law and yet structure legislation directed towards specific situations.

Indeed, it is the basic function of much law to aim at a certain level of specificity, as opposed to commanding or prohibiting at all times, in all places, and under all conditions. Hayek seems to recognize the legitimacy of specificity to general rules provided that the specifics be abstractly stipulated; “the law”, he writes, “will prohibit killing another person or killing except under certain conditions so defined that they may occur at any time or place”.^[26] This dilution of the generality criterion is essential if we are to have a legal system at all. Killing is not always murder and it is murder which the law wishes to prohibit. But Hayek offers no guidelines to indicate in what way legal terms such as murder (or theft, rape, etc.) are to be defined. Abstractness alone is clearly insufficient.

At what point, then, are laws *too* specific to be considered compatible with the rule of law? What Hayek is aiming at is a legal system which precludes the existence of administrative agencies possessed of discretionary power to make *ad hoc* decisions. The requirement that all laws be general, he contends, would limit the courts and any other judicial and quasi-judicial agencies of government from rendering such decisions. But if there is no limitation on the level of specificity of general rules other than that the specificity be abstractly formulated, then

there are an infinite number of genera under which general rules may be contrived. An administrative decision, in reality an *ad hoc* command or prohibition, need only be formulated in terms of an abstract rule of sufficient specificity to permit its compatibility with the rule of law.^[27]

(iii) We have yet to consider that requirement which Hayek contends is the most important aspect of the rule of law, that the law be certain. "There is probably no single factor which has contributed more to the prosperity of the West", he writes, "than the relative certainty of the law which has prevailed here."^[28] What Hayek here means by "certainty" is suggested in *The Road to Serfdom*, where he defines the rule of law in the following way: "Stripped of all its technicalities, [the rule of law] means that government in all its actions is bound by rules fixed and announced beforehand — rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one's individual affairs on the basis of this knowledge."^[29]

But how can the government be bound *in all its actions* by fixed rules, announced beforehand? In his commentary on Hayek's theory of law, Kenneth Davis has pointed out that this statement is either an absurdity or an inadvertence since the legislature, obviously, cannot be so bound.^[30] It is possible, however, to salvage Hayek's criterion if it is restructured in the following way: the legislature, if it is to act consistently with the rule of law, is limited to passing into law only fixed rules which then must be made known, and the other branches of government are constrained to act only under such rules. Thus reformulated, the "certainty of the law" resides in specific rules being framed in such a way that one can predict when and how the executive and the courts will use their coercive powers. This has as its corollary that the executive and the courts will not legislate with respect to the cases before it.

Although this requirement appears to offer somewhat stronger protection against arbitrary government than do Hayek's other criteria, it is, I think, predicated on a false assumption. Hayek seriously underestimates the discre-

tionary powers inherent in the functions of the executive and judicial branches of government. The area of discretionary power possessed by the executive and its servants and by the courts touches on the average person to a far greater degree than that area governed by rigid rules. We are all subject to a huge range of legal rules covering almost all aspects of human interaction. Whether and how these rules are invoked ultimately depends on the government's representative of first resort, the policeman. He must decide, at the least, whether a rule has or has not been broken and, often, whether invoking a criminal sanction is too severe a response to even a clear violation of a rule. This discretion is not a weakness of law but an integral part of it.

To be certain that if I act in a particular way a specific legal sanction will follow, I must know that the act was a violation of a specific rule and I must be able to predict:

- (a) that I will be caught;
- (b) that the policeman will act to enforce the specific rule;
- (c) that there is sufficient evidence to present before a court that I had violated the rule;
- (d) that the prosecutor will prosecute;
- (e) that the judge or jury will convict;
- (f) that I will be given a predictable punishment;
- (g) that I will not be pardoned.

Foreknowledge of all these outcomes is impossible. The legal arrangements under which men live can never provide certainty that all offenders will be caught and these same arrangements more often than not provide discretionary powers with respect to arrest, prosecution, and sentencing. At one time the authorities will use their coercive powers in one way, at another time, in another. I can never be certain that if I violate a rule I will be punished, much less exactly how I will be punished.

I suspect, however, that Hayek's main interest, when he identifies individual freedom with the criterion that the law be certain, is not so much certainty that a legal sanction will follow upon commission of a prohibited act, but more the following: when a legal sanction is invoked, *if* it is invoked, it will always be

preceded by an act which one could have predicted was prohibited. Hayek's theorem formulated in this negative manner is much stronger. For, although elements of all legal systems — especially those which Hayek holds must consistently reflect the rule of law — permit discretion in *not* invoking criminal sanctions when legal rules are broken, those systems he most admires allow far less discretion in invoking criminal sanctions when one could not have predicted that an act fell under the rubric of a prohibitory law. Even here, however, there are areas (areas with which Hayek finds no fault) which involve some degree of unpredictability.

For example in criminal law where, because of the nature of the crime, the statute is necessarily vague — generally those concerning a lower order of offenses involving personal conduct — there is a whole range of acts the illegality of which ultimately depends on a decision of a policeman. Among these are loitering, disturbing the peace, vagrancy, disorderly conduct, illegal assembly, failure to disperse, offending public morals, creating a nuisance, "public" drunkenness, inciting to riot, interfering with the duties of a police officer; some traffic offenses such as reckless driving and driving too fast for conditions; and aspects of all health, sanitation, and fire codes. Predictability in these areas, whether a specific act either is or is not illegal, is either minimal or nonexistent *until* a decision has been made by a servant of the law.

With respect to tort law, whether a civil action will lie in one's act rests on whether the act is wrongful and the determination of whether an act is wrongful depends on the attitude of the prospective plaintiff. Although it is true that not any act can be held wrongful, those acts which can be so held can also be held not to be, dependent on the discretion of the person affected. If there is predictability here it is certainly not over the form the law takes, as Hayek would have it, but because of factors extraneous to Hayek's argument.

Finally, there is yet another way in which the predictability of the law is limited. The body of law owes much to the decisions of judges acting as legislators. In any instance where the

language of a law is somewhat vague or imprecise and a particular act is charged as being in violation of the law, courts have the option of extending the sense of the law by construing it as covering the act before the bench. Even when the language of a statute is precise and detailed, there will occur cases falling within the necessarily imprecise border areas of a law's applicability, where special situations of fact arise. Where these conditions prevail, the defendant can be denied warning that his act was in violation of any law, since judge-made law, whether criminal or civil, is always retrospective law to the case at hand. There is no way of circumventing this uncertainty.

It is, I think, clear that all legal systems, of necessity, permit — at times even encourage — a fair amount of discretion to both the executive and judicial branches. The structure of legal arrangements cannot but allow a certain measure of unpredictability to the course the law will take. But what if we were to take Hayek's "certainty" safeguard as an absolute requirement to which all laws must conform. Assume a body of written laws, precisely worded and unambiguous, certain of enforcement and allowing a minimum of judicial discretion concerning either its application or the penalties imposed for its transgression. As Bruno Leoni has pointed out, even in such a case, although we are always certain as far as the literal content of each rule is concerned at any given moment, we can never be certain that the rules under which we are operating today will be the same rules under which we shall have to operate tomorrow.^[31] Since the legislature cannot by its nature be bound by rules "fixed and announced beforehand", long-run certainty of the sort that Hayek regards as a prerequisite of a free society is unattainable.

CONCLUSION

The rule of law has held a unique place in the liberal conception of a free society. Liberal legal theorists from Dicey^[32] to Lord Hewart^[33] and Hayek have all juxtaposed the rule of law with arbitrary government; they have identified its absence with despotism and its presence with an open society. More impor-

tantly, they all share the presumption that a government operating under its principles is a sufficient condition for individual freedom. This identification of personal liberty with the rule of law is especially true in Hayek's formulation. Hayek's preoccupation with the *formal* structure of law has led him to disregard the substantive limitations on law without which personal liberty cannot be insured. In the absence of additional substantive limitations which go beyond the satisfaction of mere structural requirements, the law can become an instrument of government power as repressive as any which would exist under an arbitrary despotism.

Inasmuch as Hayek defines "freedom" in terms of the rule of law, those who regard certain legislation as invasive of that freedom are left in somewhat of a theoretical bind. For, although it might be shown that a particular prohibition on individual behavior would be harmful to some, or even to all, so long as the prohibition meets the criteria Hayek sets down for the rule of law, it could not be held to be invasive of individual freedom. Once consistency with the rule of law is taken as the sole basis for determining legitimate government action, we can no longer bring to bear a discussion of the government's interference with personal liberty. Indeed, Hayek himself acknowledges this restriction on political discourse. At one point he writes: "so long as [government measures] are compatible with the rule of law, they cannot be rejected out of hand as government intervention but must be examined in each instance from the standpoint of expediency".^[34]

The rule of law, as Hayek propounds it, requires no more than that legislation be characterized by equality, generality, and certainty. It would not preclude far-reaching government regulation of private life. The rule of law would simply require that such regulation take the form of more or less fixed rules rather than direction via administrative bodies armed with extensive discretionary powers. Even here it is not certain whether the rule of law as postulated would prohibit the legislature from delegating its authority to administrative agencies provided that meaningful standards governing administrative policy-making are in-

corporated into the statute and provided that judicial review of administrative decisions is allowed.^[35] One of Hayek's primary purpose in offering his criteria for the rule of law is to supply a theoretical framework within which individual freedom is maximized. Yet this framework, when examined, appears to allow for the concentration of use of power by the state which is inimical to personal freedom. In the final analysis the rule of law, as he offers it, appears to allow such far-reaching powers to government that freedom as we commonly understand it rests on a foundation no more secure than governmental good will.

On the basis of the arguments offered in this essay there appear to be two overriding difficulties posed by Hayek's theory. First, Hayek's concept of "freedom" is logically linked to the rule of law rather than being definitionally independent. As a result, the term, in its restricted sense, loses much of its value as a political concept and unreasonably limits the range of political discourse. Second, the rule of law, whose presence is perhaps a *necessary* condition for a free society, is offered as a *sufficient* condition. Since Hayek's concept of the rule of law is open to serious criticism on the grounds that it permits a number of seemingly peaceful, voluntary actions of individuals to be classified as coercive and, further, that it excludes from the category of coercive activity an enormous range of governmental actions which we should ordinarily call coercive, one can only conclude that it must be rejected as a valid account of the nature of freedom and a free society.

NOTES

1. See W. L. Weinstein, "The Concept of Liberty in Nineteenth Century English Political Thought", *Political Studies*, XIII (1965), pp. 145-162, for a fuller discussion of the classical liberal conception of freedom from Locke through Sidgwick, as contrasted with its later liberal revision associated with T. H. Green.
2. *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960) [Hereafter cited as *COL*], p. 11.
3. "The historically important concept of negative liberty is that of non-interference with rights, where rights, their content, nature and grounds are variously conceived and where liberty is usually thought of as one among other rights as well as consisting in liberty to en-

- joy rights in general." H. J. McCloskey, "A Critique of the Ideals of Liberty", *Mind*, LXXIV (1965), p. 489.
4. *COL*, p. 133.
 5. *Ibid.*
 6. *Ibid.*
 7. *COL*, p. 136.
 8. *COL*, p. 135.
 9. Hayek states: "To constitute coercion it is also necessary that the action of the coercer should put the coerced in a position which he regards as worse than that in which he would have been without that action." "Freedom and Coercion: Some Comments on a Critique by Mr. Ronald Hamowy", *Studies in Philosophy, Politics and Economics* (Chicago: University of Chicago Press, 1967), p. 349. The case described meets this condition; for, while it is true that my would-be host has widened my range of alternatives by the invitation, the *whole* situation is worse from my point of view than that which obtained before my host had decided to hold a party at that particular time.
 10. (Oxford: The Clarendon Press, 1958), pp. 7–16.
 11. *Four Essays on Liberty* (New York: Oxford University Press, 1969), p. xxxviii.
 12. *COL*, p. 136.
 13. *Ibid.*
 14. *COL*, p. 142.
 15. *Ibid.*
 16. "Philosophy", in *Agenda for a Free Society: Essays on Hayek's The Constitution of Liberty*, Arthur Seldon, ed. (London: Published for the Institute of Economic Affairs by Hutchinson, 1961), p. 39.
 17. *COL*, p. 153.
 18. *COL*, p. 143.
 19. *COL*, pp. 149–150.
 20. *COL*, p. 216.
 21. *COL*, pp. 153–154.
 22. *COL*, p. 134.
 23. *Ibid.*
 24. Bruno Leoni makes this point in his analysis of the rule of law. See his *Freedom and the Law* (Princeton, N.J.: D. Van Nostrand Co., 1961), pp. 68–69.
 25. F. A. Hayek, *The Political Ideal of the Rule of Law* (Cairo: National Bank of Egypt, n.d.), p. 35.
 26. *COL*, p. 152.
 27. See Leoni, *Freedom and the Law*, p. 70.
 28. *COL*, p. 208.
 29. *The Road to Serfdom* Chicago: University of Chicago Press, 1944, p. 72.
 30. *Discretionary Justice: A Preliminary Inquiry* (Baton Rouge, La.: Louisiana State University Press, 1969), p. 28.
 31. *Freedom and the Law*, p. 76.
 32. A. V. Dicey, *Introduction to the Study of the Law of the Constitution* (10th ed.; London: Macmillan and Company, 1959), pp. 188–196. Dicey's study was originally published in 1885.
 33. The Rt. Hon. Lord Hewart of Bury, *The New Despotism* (London: Ernest Benn Ltd., 1929), pp. 26–27.
 34. *COL*, p. 221.
 35. *COL*, pp. 213–214.

VOLUNTARIYISM: THE POLITICAL THOUGHT OF AUBERON HERBERT

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Auberon Herbert (1838–1906) was one of the distinctive figures in the profound and wide-ranging intellectual debate which took place during the late Victorian age. It was during this period, in the intellectual and social ferment of the 1880s and 1890s, that Herbert formulated and expounded voluntarism, his system of “thorough” individualism. Carrying natural rights theory to its logical limits, Herbert demanded complete social and economic freedom for all non-coercive individuals and the radical restriction of the use of force to the role of protecting those freedoms — including the freedom of peaceful persons to withhold support from any or all state activities. All cooperative activity must be founded upon the free agreement of all those parties whose rightful possessions are involved. Like many other Victorian figures, Herbert had wide-ranging interests. He wrote poetry and accounts of his travels. And the subjects of his non-political essays included religion, clean air and forest conservation. But Herbert’s major efforts were devoted to his writings in political theory. This has been long neglected and it is the purpose of this essay to begin to redress that wrong.^[1]

Auberon Herbert was by birth and marriage a well-placed member of the British aristocracy. He was educated at Eton and at St. John’s College, Oxford. As a young man he held commissions in the army for several years and served briefly with the 7th Hussars in India (1860). In a letter from India he expresses his opposition to the caste system while maintaining that the British attempt to eliminate the system forcibly was likely to “trample the evil in, not out”.^[2] On his return to Oxford he formed several Conservative debating societies, was elected a Fellow of St. John’s, and lectured occasionally

in history and jurisprudence. In 1865, as a Conservative, he unsuccessfully sought a seat in the House of Commons. By 1868, however, he was seeking a Parliamentary seat, again unsuccessfully, as a Liberal. Finally, in 1870, Herbert successfully contested a by-election and entered the Commons as a Liberal representing Nottingham. Throughout this period one of Herbert’s major occupations seems to have been observing wars. He spent much time near the front during the Prusso-Danish, Franco-Prussian, and American Civil wars. He only missed viewing the Austro-Prussian war of 1866 “owing to its short duration”.^[3] In the course of the Prusso-Danish war his courageous aid to wounded Danish troops led to his decoration by the Danish government. With respect to the Civil War, he wrote, “I am very glad that slavery is done away with, but I think the manner is very bad and wrong”. Whether he meant by this to emphasize the hypocrisy of the North, which had always preached “the sacredness of revolution”, or meant that even slavery should not be forcibly trampled out is unclear.^[4] For, as we shall see, there is in Herbert a pacifist tendency toward denouncing the use of all force — even force directed against force. Herbert’s accounts of these excursions illustrate how safe war was in the nineteenth century for non-combatants — at least for aristocratic English non-combatants.

During his time in the House of Commons, Herbert’s most noteworthy political acts were to join Sir Charles Dilke in his declaration of republicanism and to support Joseph Arch’s attempts to form an agricultural laborer’s union. Although, in hindsight, many of Herbert’s actions and words during the sixties and early seventies can be read as harbingers of his later,

consistent, libertarianism, he was in reality throughout this period lacking in any consistent set of political principles. During this period, for instance, he supported compulsory State education — albeit with strong insistence on its being religiously neutral.

In late 1873, Herbert met and was much impressed by Herbert Spencer. As he recounts in “Mr. Spencer and the Great Machine”, a study of Spencer led to the insight that,

... thinking and acting for others had always hindered, not helped, the real progress; that all forms of compulsion deadened the living forces in a nation; that every evil violently stamped out still persisted, almost always in a worse form, when driven out of sight, and festered under the surface.

I no longer believed that the handful of us — however well-intentioned we might be — spending our nights in the House, could manufacture the life of a nation, could endow it out of hand with happiness, wisdom, and prosperity, and clothe it in all the virtues.^[9]

However, it was even before this intellectual transformation that Herbert had decided, perhaps out of disgust with party politics or uncertainty about his own convictions, not to stand for re-election in 1874. Later, in 1879, he again sought Liberal support to regain a seat from Nottingham. But at that point his uncompromising individualist radicalism was not acceptable to the majority of the Central Council of the Liberal Union of Nottingham. In the interim, he had organized, in 1877, “The Personal Rights and Self-Help Association”. And, in 1878, he had been one of the chief organizers along with William Morris^[6] of the anti-Jingoism rallies in Hyde Park against war with Russia. Along with other consistent classical liberals, Herbert repeatedly took anti-imperialist stands. He consistently called for Irish self-determination. In the early 1880s, he opposed British intervention in Egypt as a use of the power of the nation to guarantee the results of particular speculations. And, later, he opposed the Boer War.^[7]

In 1880, following his rejection by the Liberals of Nottingham, Herbert turned to the publication of addresses, essays, and books in defense of consistent individualism and against all forms of political regimentation. Even in 1877, Auberon Herbert had been disturbed by “a constant undertone of cynicism” in the

writings of his mentor, Herbert Spencer, and had resolved to do full justice to “the moral side” of the case for a society of fully free and voluntarily cooperative individuals.^[8] And while Spencer grew more and more crusty, conservative and pessimistic during the last decades of the nineteenth century, Herbert, who continued to think of himself as Spencer’s disciple, remained idealistic, radical and hopeful. And while he willingly addressed, he refused to join, such organizations as the Liberty and Property Defense League which he felt to be “a little more warmly attached to the fair sister Property than . . . to the fair sister Liberty”.^[9] Similarly, Herbert held himself separate from the Personal Rights Association whose chief mover, J. H. Levy, favored compulsory taxation for the funding of State protective activities. With the exception of the individualistic “reasonable anarchists”, Herbert thought of himself as occupying the extreme left wing of the individualist camp, i.e. the wing that was most willing to carry liberty furthest.^[10]

In 1885 Herbert sought to establish a Party of Individual Liberty and under this rubric he gave addresses across England. His central theoretical essay, *The Right and Wrong of Compulsion by the State*, was written as a statement of the bases for, the character of, and the implications of, the principles of this Party. Again with the aim of advancing libertarian opinion, Herbert published the weekly (later changed to monthly) paper, *Free Life*, “The Organ of Voluntary Taxation and the Voluntary State”, from 1890 to 1901. *Free Life* was devoted to “One Fight More — The Best and the Last” — the fight against the aggressive use of force which is “a mere survival of barbarism, a mere perpetuation of slavery under new names, against which the reason and moral sense of the civilized world have to be called into rebellion”.^[11] Also during the 1890s, Herbert engaged in lengthy published exchanges with three prominent socialists of his day, E. Belfort Bax, Grant Allen and J. A. Hobson.^[12] Herbert continued to write and speak into this century and two of his best essays, “Mr. Spencer and the Great Machine” and “A Plea for Voluntarism”, were written

in 1906 — the last year of his life.

In all his mature writings Auberon Herbert defended a Lockean–Spencerian conception of natural rights according to which each person has a right to his own person, his mind and body, and hence to his own labor. Furthermore, each person has a right to the products of the productive employment of his labor and faculties. Since each person has these rights, each is under a moral obligation to respect these rights in all others. In virtue of each person's sovereignty over himself, each individual must consent to any activity which directly affects his person or property before any such activity can be morally legitimate. Specifically, each must forego the use of force and fraud. Each has a right to live and produce in peace and in voluntary consort with others and all are obliged to respect this peace.

Herbert offered a variety of arguments for his basic ascription of rights. One highly concise argument, credited to Spencer, appears among other places in Herbert's 1880 address to the Vigilance Association.

We can suppose no other object to be placed before ourselves but happiness We are then entitled to pursue happiness in that way in which it can be shown we are most likely to find it, and as each man can be the only judge of his own happiness, it follows that each man must be left free so to exercise his faculties and so to direct his energies as he may think fit to produce happiness; — with one most important limitation. His freedom in this pursuit of freedom must not interfere with the exactly corresponding freedom of others.^[13]

Happiness being the right and proper aim of each individual and each person's happiness being the specific aim which that person is uniquely situated to pursue, each has a right to pursue his happiness. Yet since this is a right possessed by all and equal in all men, no-one's rightful pursuit of his own happiness includes the prevention of a comparable pursuit on the part of others. A similar argument — with a logically appropriate emphasis on the presence in each person of faculties the function of which is the attainment of that person's happiness — appears in "A Politician in Sight of Haven". There Herbert argues " . . . that as men have these faculties [in the exercise of which freedom consists] there must be freedom for their exercise".^[14] These premises connect Herbert's

claim that each individual has a right to judge of his own happiness with the conclusion that each individual has a special claim over the use of his own faculties in the implementation of those judgments.

In his most systematic work, *The Right and Wrong of Compulsion by the State*, Herbert adds several further arguments for rights. He again ties the individual's claim to freedom to the conditions necessary for the individual's well-being. But here the emphasis is on moral well-being. Freedom is presented as both a causal and a logical precondition of a man's actions being truly self-beneficial — " . . . without freedom of choice, without freedom of action, there are no such things as true moral qualities . . . ".^[15] Furthermore, it is argued, those who believe that some men may rule others must appeal to the baseless premise that some people hold a natural "commission to decide what (their) brother-man shall do or not do".^[16] And this is a premise that is both ungrounded and the historical source of terrible suffering. Nor is plausibility added if it is the majority that is assigned the right to rule their brother-man. Nor can the advocate of (mere) partial sovereignty of one man over another draw any non-arbitrary line between the freedoms which such partial sovereigns are supposed to be able to deny people and the freedoms which they are required to respect. Those who embark on the restriction of equal liberty

. . . are like men who start to make their passage over the wide seas, without chart or compass, and hopefully remark that the look of the waters, the face of the sky, and the direction of the wind will at any special moment tell them what course they ought to steer.^[17]

If one rejects utilitarianism, as Herbert did, as the notion that " . . . nothing is sacred except the convenience of the larger crowd", then one must speak in terms of rights. And then, one must choose between the clear-cut, unproblematic, view that each has absolute rights over himself and the view that some people in some combinations are the owners of others' souls and bodies. In light of the oddities connected with the latter alternative, Herbert concludes that each has absolute obligations to respect the self-ownership of each other person.

Also noteworthy is an intriguing, recurring, argument of Herbert's, perhaps best expressed in the address of 1880:

... no man can have rights over another man unless he first have rights over himself. He cannot possess the rights to direct the happiness of another man, unless he possess rights to direct his own happiness: if we grant him the latter right, this is at once fatal to the former.^[18]

Herbert's argument seems designed to bring out the incongruity between the demand for absolute respect for any person A as a putative (political) rightholder over another person B with at least partial rightful authority over what B shall do or undergo, and the demand that A, as all persons, should be under the authority of others, including B, with respect to what A shall do or undergo. This incongruity does not plague the view that each man merits respect as an absolute rightholder over himself. This sort of incongruity in the triumphant assignment to each of political rights the real content of which is to render each the property of, and the servant of, the will of others is what Herbert seems to have in mind when he asserts that, "Pure critical reason obliges us to believe in Self-ownership".^[19]

In virtue of his absolute rights over himself and his faculties, a person comes to acquire a property right to the products of his faculties and labor — with the one qualification that one may not rightfully exercise one's faculties or labor upon what another already has a right to without the consent of that party. Whatever would be produced by such an illegitimate exercise would not be the rightful property of the transgressor. According to Herbert, to deny that the products of a man's rightful exercise of his faculties are his property is to deny that men have rights over themselves and their own activities.

It is idle to say in one breath that each man has the right to the free use of his own faculties, and in the next breath to propose to deal by the power of the State with what he acquires by means of those faculties, as if both the faculties and what they produced belonged to the State and not to himself.^[20]

Herbert's arguments characteristically wove together the utility of private ownership for each person and the flow of entitlement from a person's labor to his products.

In what way, we ask, would it profit a man if he were told that he owned his own body and mind, and if at the same time he were debarred . . . from the full and perfect possession, as an individual, of any of the good things of the earth — either from the possession of land, or of the products of land, for the sake of which the labours of his body and mind have been expended?^[21]

For Herbert, as in other matters of principle, to accept any compromise of property rights, to claim anything less than absolute private ownership, would be to enter onto the slippery slope leading to full State control or ownership. Still, despite the centrality of property rights to Herbert's system, he never does provide a detailed account of what specific actions produce initial property rights to objects, or of what specific actions are crucial to the transfer of property rights. Often Herbert argues as though all he need do to establish his own specific position on property rights is to criticize convincingly the socialist and land nationalizer positions. Thus, he fails to deal systematically with the common argument that, "The doctrine of individual rights may give property in labour-power, but not in the material in which it is vested".^[22] The closest Herbert comes to meeting such arguments is his claim that land to which one has established a right will be as much, and as little, a "manufactured article" as the crop which one grows on that land. Hence, if one can have an individual right to the crop raised (perhaps in virtue of "the difficulty of separating what is artificial from what is natural" in it) one can have an individual right to cultivated land and, presumably, to other material from nature which has been readied for human use.^[23] But this still leaves unanswered the questions: exactly what acts establish a property right and why? Nor does Herbert seem to have been much concerned with insuring that contemporary holders of e.g. land, had rightfully acquired their holdings from parties who had themselves rightful title to those holdings. In the pages of Benjamin Tucker's *Liberty*, Herbert was accused of joining Spencer in believing that since land holdings had so often been determined by robbery, one could not now do more for justice than insist that all future acquisitions and transfers be non-aggressive.^[24]

Against what types of actions do a person's rights provide moral immunity? Since person A's having a right to something involves his moral freedom and prerogative to do with that thing as he chooses (provided that in so doing A does not prevent person B from exercising his rights), A's rights are violated whenever he is prevented from doing as he chooses with what is rightfully his. Violations of rights consist in subverting a person's choice about and disposal of what he owns. Since physical force (and the threat thereof) is the great subverter of choice, since this is the essential vehicle for the non-consensual use of persons, their faculties, and their properties, it is against force (and the threat thereof) that all persons have rights. In addition, persons have rights against being subjected to fraud. For fraud is simply a surrogate for, and the moral equivalent of, force. Fraud is the "twin-brother of force . . . which by cunning sets aside the consent of the individual, as force sets it aside openly and violently".^[25]

In *The Right and Wrong of Compulsion by the State*, Herbert is anxious to point out that there is a potentially dangerous confusion between " . . . two meanings which belong to the word force".^[26] Direct force is employed when person A, without his consent, is deprived of, or threatened with the deprivation of, something to which he has a right — e.g. some portion of his life, liberty, or property. Anyone subject to such a deprivation or threat is, in his own eyes, the worse for it. His interaction with the wielder of force (or fraud) is something to be regretted, something to which he does not consent. This is the case, e.g. when A pays B to stave off being beaten or murdered by B. In contrast, B might get A to pay B a certain sum or do B a particular service, by indicating that B will only do something which A values if A pays that sum or renders that service. By so indicating the conditions for A's receiving from B what A values, person B may get person A to do something which, in itself, A had rather not do. If B does induce A to act by threatening (so-called) to withhold what A values, then, according to Herbert, we can say that B has used "indirect force" upon A. But "indirect force" is radically different from "direct force". In the case of indirect force, person A does not act

under a genuine threat. For he is not faced with being deprived of something rightfully his (e.g. his arm or his life). Instead he is bribed, coaxed, induced, into acting by the *lure* of B's offer of something which is rightfully B's. No rights-endangering act plays any role in motivating A. A may, of course, wish that B had offered even more. But in accepting B's offer, whatever it may be, A indicates that on the whole he consents to the exchange with B. He indicates that he values this interchange with B over the *status quo*. He indicates that he sees it as beneficial — unlike all interactions involving direct force.

The employer may be indirectly forced to accept the workman's offer, or the workman may be indirectly forced to accept the employer's offer; but before either does so, it is necessary that they should consent, as far as their own selves are concerned, to the act that is in question. And this distinction is of the most vital kind, since the world can and will get rid of direct compulsion; but it can never of indirect compulsion . . .^[27]

Besides, Herbert argues, any attempt to rid the world of indirect force must proceed by expanding the role of direct force. And, " . . . when you do so you at once destroy the immense safeguard that exists so long as [each man] must give his consent to every action that he does".^[28] The believer in strong governments cannot claim, says Herbert, that in proposing to regulate the terms by which individuals may associate, he is merely seeking to diminish the use of force in the world.

What, then, may be done when the violation of rights threatens? So strong is Herbert's critique of force that, especially in his early writings, he is uncomfortable about affirming the propriety of even defensive force. Thus, in "A Politician in Sight of Haven", the emphasis is on the fact that the initiator of force places his victim "outside the moral-relation" and into "the force-relation". Force, even by a defender, is not "moral". The defender's only justification is the necessity of dealing with the aggressor as one would with "a wild beast". Indeed, so pressed is Herbert in his search for some justification that he says, in justification of his defense *of himself*, that "The act on my part was so far a moral one, inasmuch as I obeyed the derived moral command to help *my neighbor*".^[29] In *The Right and Wrong of*

Compulsion by the State, Herbert starts by identifying the task of finding moral authority for any use of force with the task of finding moral authority for any government. He declares that no “perfect” foundation for such authority can be found, that all such authority is an usurpation — though “when *confined within certain exact limits . . . a justifiable usurpation*”.^[30] Herbert also asserts the inalienability of each person’s rights — including, presumably, the rights of each aggressor. This seems to confirm the status of even defensive force as an usurpation. But then Herbert seems to reverse himself — arguing that those who use force (or fraud), having disallowed, “this universal law . . . therefore lose the rights which they themselves possess under it”.^[31] Finally, Herbert arrives at the considered judgment that, within special contexts, self-preservation does justify self-defense. Self-preservation “ . . . justifies an action wrong in itself (as the employment of force) only because of the wrong which has been already committed in the first instance by some other person”.^[32] Ten years later, Herbert was, if anything, more hesitant about defensive force when he wrote,

If the self is the real property of the individual, we may, I think assume (*it is however at best an assumption*) that force may be employed to repel the force that would take from an individual this special bit of property in himself. . . .^[33]

Finally, however, Herbert seems to have fully overcome his hesitancy about defensive force. Possibly his most forceful statement appears in the essay, “A Voluntarist Appeal”.

If you ask us why force should be used to defend the rights of Self-ownership, and not for any other purpose, we reply by reminding you that the rights of Self-ownership are . . . supreme moral rights, of higher rank than all other human interests or institutions; and therefore force may be employed on behalf of these rights, but not in opposition to them. All social and political arrangements, all employments of force, are subordinate to these universal rights, and must receive just such character and form as are required in the interest of these rights.^[34]

According to Herbert, each person’s absolute right to what he has peacefully acquired through the exercise of his faculties requires the abolition of compulsory taxation. The demand for “voluntary taxation” only is a simple instance of the demand for freedom in all human

interaction. An individual does not place himself outside the moral-relation by merely retaining his property, by not donating it to some other person’s conception of a worthy project. Such a peaceful individual is not a criminal and is not properly subject to the punishment of having a portion of his property confiscated. Herbert particularly urged those in the Individualist camp to reject compulsory taxation.

I deny that A and B can go to C and force him to form a State and extract from him certain payments and services in the name of such State; and I go on to maintain that if you act in this manner, you at once justify State-Socialism. The only difference between the tax-compelling Individualist and the State-Socialist is that whilst they both have vested ownership of C in A and B, the tax-compelling Individualist proposes to use the powers of ownership in a very limited fashion, the Socialist in a very complete fashion. I object to the ownership in any fashion.^[35]

It is compulsory taxation which generates and sustains the corrupt game of politics — the game in which all participants strive to further their aims with resources forcefully extracted from those who do not share their aims. Compulsory taxation breaks the link between the preferences of the producers of, and peaceful holders of, resources with respect to how those resources (their property, their faculties, their minds and bodies) should be used and the actual use of those resources. For instance, compulsory taxation,

. . . gives great and undue facility for engaging a whole nation in war. If it were necessary to raise the sum required from those who individually agreed in the necessity of war, we should have the strongest guarantee for the preservation of peace. . . . Compulsory taxation means everywhere the persistent probability of a war made by the ambitions or passions of politicians.^[36]

Perhaps the most profound direct challenge to Herbert’s whole philosophical orientation appeared in Hobson’s critique, “Rich Man’s Anarchism”. There Hobson, as a representative of the “new” Hegelian organicist Liberalism, criticizes the “doctrine of separate life and self ownership” by attacking its underlying “monadism”. He accuses Herbert of holding the purportedly false view that, “The thing called Society is . . . merely an aggregation of individuals, it has no corporate existence, no ‘self’ which can be governed”.^[37] In-

stead, according to Hobson, the individual mind is a social product — “. . . made, maintained, and constantly influenced by other minds”.^[38] In an original variation on the theme that defenders of individual freedom are crass materialists, Hobson asserts that Herbert’s monadism flows from his assumption that individuals are identical to their bodies. For it is only this assumption which leads to the identification of a separate and discrete individual for each separate and discrete body. But the physical distinctness of human bodies is not, according to Hobson, morally significant.

. . . the concession of physical independence is no bar to the unity of the moral organism for anyone whose thought has passed beyond the crude materialism which conceives mind as a physical function of brain. The “self-ownership” of mind, by means of which Mr. Herbert denies the moral unity of Society and posits all “rights” as individual possessions, is a fiction, not a “natural” fact.^[39]

Hobson’s ultimate positive position is that Society is the significant moral entity and that each part of society has a duty to serve the whole and has rights against the whole or its parts only insofar as such immunities further the social good, i.e. the well-being of Society.

Herbert’s response to Hobson, largely found in his essay, “Lost in the Region of Phrases”, is a model reply to this sort of organicist argument. First, Herbert questions the relevance, for Hobson’s political conclusions, of the fact that we live and grow in communities with others, interact, affect one another for better or worse, and so on.

We are all agreed probably that we are subject to innumerable influences, that we all act and re-act upon each other in the great social whole, that the environment constantly affects and modifies the individual . . . But what in the name of good logic and plain sense have this universal interaction and interdependence to do with the fundamental dogmas of [compulsory] Socialism?^[40]

And in what possible way do the facts of human interaction (interaction which Hobson himself is led to describe in terms of an individual being affected by other individuals) imply the absence of individual minds and persons?

That when you bring men together for any purpose, either for the purpose of listening to speeches or for some common undertaking, such men act upon each other in a very marked manner, both for good and

for evil, sometimes heightening the evil, is what we all daily know and experience; but I cannot see how this heightening of emotion can in any way affect the fact that those who thus influence and are influenced are individuals, each with his own set of feelings, each with his own separate body and mind, and each with his own responsibility . . . no literary phrases about social organisms are potent enough to evaporate the individual.^[41]

Hobson’s argument, says Herbert, reduces to the incredible claim that because a number of individuals interact freely in many mutually beneficial ways they are properly subject to a Hobsonian scheme of coercion.

The syllogism, I presume, would run: We all depend upon the exchange of voluntary and mutually convenient services, arranged according to our own individual likings and requirements; therefore we are to be placed, under the system of universal compulsion, which has been amiably devised for us by Mr. Hobson’s friends . . .^[42]

It is true, of course, that each of us is a member or plays a part in a great number of interactions and organizations. But,

All these various wholes, without any exception, in which an individual is included — these so-called organisms of which he forms parts — exist for the sake of the individual. They exist to do his service; they exist for his profit and use. If they did not minister to his use; if they did not profit him, they would have no plea to exist.^[43]

Besides, if the goal is organic unity and if a unity must include each person’s interests if it is to be truly organic, then freedom is the only means to such a unity. For only if individuals are not coerced into associations will their joining them reflect genuine accommodations on the part of those associations to the interests and desires of those individuals. So if one’s goal is organic unity one must, in theory, reject compulsion.^[44] And, in practice, Herbert claims, “There is only one result you can get out of the suppression of the individual, and that is the organized dominant faction triumphing over the defeated faction”.^[45]

Herbert’s demand for a “Voluntary State”, i.e. a State devoted solely to the protection of Lockean – Spencerian rights and funded voluntarily, combined with his continual condemnation of existing State activities, led to Herbert’s being commonly perceived as an anarchist. Often these perceptions were based on hostility and ignorance — of the sort which even led to the charges that, e.g. Herbert was an “advanc-

ed Socialist” or that he favored the “abolition of all laws”.^[46] But Herbert was also considered to be an anarchist by serious and reasonably well-informed pro-State critics such as J. A. Hobson and T. H. Huxley. Similarly, J. H. Levy thought that to reject the compulsory State was to reject the State as such. And while, for these men, Herbert’s purported anarchism was a fault, the individualist anarchist Benjamin Tucker always insisted that, to his credit, Auberon Herbert was a true anarchist.^[47] Of course, there can be no question whether Auberon Herbert was an anarchist of the coercive collectivizing or terrorist sort. Nothing could be further from his own position. For as Herbert points out in his “The Ethics of Dynamite”, coercion, systematic or random, is nothing but a celebration of the principles on which the coercive State rests.

We live in an age of active evolution, and the art of government is evolving like everything else around us. Dynamite is its latest and least comfortable development. It is a purer essence of government, more concentrated and intensified, than has ever yet been employed. It is government in a nutshell, government stripped as some of us aver, of all its dearly beloved fictions, ballot-boxes, political parties, House of Commons oratory, and all the rest of it It is the perfection, the *ne plus ultra*, of government.^[48]

Whether or not Herbert was an anarchist of the individualist, private property, free market sort is another and far more complex question. Herbert himself continually rejected the label and, although he maintained cordial relationships with men like Benjamin Tucker, he insisted that his views were sufficiently different from theirs in relevant respects to place him outside the camp of “reasonable” anarchists. In what ways, then, did Herbert’s views differ from those of the individualist anarchists as represented by Tucker? Tucker had tied himself to a labor theory of value. It followed for him that such activities as lending money and renting property were not genuinely productive and that those who gained by means of such activities advanced themselves improperly at the expense of less propertied people. Thus, Tucker took the laboring class to be an exploited class — exploited by the holders of capital. And he duly sympathized with, and often shared the rhetoric of, others who were announced cham-

pions of the proletariat against the capitalist class. Herbert did not accept this sort of economic analysis. He saw interest as a natural market phenomenon — not, as Tucker did, as the product of State enforced monopolization of credit. And Herbert saw rent as legitimate because he believed, contrary to Tucker, that one did not have to be continually using an object in order to retain just title to it and, hence, to be in the moral position to charge others for their use of that object.^[49, 50]

I suspect that it was these differences — differences not actually relevant to the issue of Herbert’s anarchism — which, combined with Herbert’s desire not to grant the political idiots of his day the verbal victory and advantage of tagging him an “anarchist”, sustained Herbert’s insistence that what he favored was, in fact, a type of State. But other factors and nuances entered in. Herbert argued that a voluntarily supported State would do a better job at defining and enforcing property rights than would the cooperative associations which anarchists saw as taking the place of the State and as protective of individual liberty and property. Unfortunately, in his exchange with Tucker on this matter, the question of what sort of institution or legal structure was needed for, or consistent with, the protection of individual life, liberty, and property tended to be conflated with the question of what were the genuine bases for particular claims to property.^[51] Finally, Herbert’s considered judgment was that individualistic supporters of liberty and property who, like Tucker, favored the free establishment of defensive associations and juridical institutions were simply making a verbal error in calling themselves “anarchists”. They were not for no-government, Herbert thought, but rather for decentralized, scattered, fragmented, government. Herbert’s position was that, although it would be better to have many governments within a given territory (a republican one for republicans, a monarchical one for monarchists, etc.) than it would be to compel everyone to support a single State,^[52] if given the choice, individuals would and, for “strong minor moral reasons” should, converge on a single government as their common judge and defender within a given territory.^[53]

Ultimately how we classify Herbert depends upon our answers to these two questions: (1) Does the fact that Herbert would allow individuals to withhold support from "the State" and to form their own alternative rights-respecting associations, show him to be an anarchist?, and (2) Does the fact that Herbert thought that it would be unwise for individuals to form such splinter associations, and unlikely that they would form them, show that the central institution which he favored was a State?^[54]

No sketch of Herbert's views could be complete, even as a sketch, without some mention of Herbert's multi-dimensional analysis of power — "the curse and the sorrow of the world".^[55] Following Spencer's distinction between industrial and militant societies, Herbert continually emphasized the differences between two basic modes of interpersonal coordination. There is the "way of peace and cooperation" founded upon respect for self-ownership and the demand for only voluntary association. And there is the "way of force and strife" founded upon either the belief in the ownership of some by others or in simple reverence for brute force.^[56] It is difficult, however, to summarize Herbert's analysis since it involves a great number of interwoven moral, psychological, and sociological insights. Essentially one must look to his writings — especially his two last essays, "Mr. Spencer and the Great Machine", and "A Plea for Voluntaryism". Insofar as there is a division of labor between these two essays, the former focuses on the inherent dynamic of political power, the ways in which the great game of politics captures its participants no matter what their own initial intentions, while the latter essay focuses on the corrupting results of this captivity within those participants. According to Herbert, no man's integrity or moral or intellectual selfhood can withstand participation in the battle of power politics.

The soul of the high-minded man is one thing; and the great game of politics is another thing. You are now part of a machine with a purpose of its own — not the purpose of serving the fixed and supreme principles — the great game laughs at all things that stand before and above itself, and brushes them scornfully aside, but the purpose of securing

victory; . . . When once we have taken our place in the great game, all choice as regards ourselves is at an end. We must win; and we must do the things which mean winning, even if those things are not very beautiful in themselves.^[57]

Progress is a matter of the development of human individuality — not the growth of uniformity and regimentation. Hence,

Progress depends upon a great number of small changes and adaptations, and experiments constantly taking place, each carried out by those who have strong beliefs and clear perceptions of their own in the matter. . . . But true experimentation is impossible under universal systems. . . . Progress and improvement are not amongst the things that great machines are able to supply at demand.^[58]

Progress, then, is part of the price we all pay for power. But the possessors of power pay a further price. For, according to Herbert, power is a "fatal gift".

If you mean to have and to hold power, you must do whatever is necessary for the having and holding of it. You may have doubts and hesitations and scruples, but power is the hardest of all taskmasters, and you must either lay these aside, when you once stand on that dangerous, dizzy height, or yield your place to others, and renounce your part in the great conflict. And when power is won, don't suppose that you are a free man, able to choose your path and do as you like. From the moment you possess power, you are but its slave, fast bound by its many tyrant necessities.^[59]

Hence, ultimately, it is in no one's interest to seek power over others. Such an endeavor simply generates a dreadful war of all upon all which, even when momentarily won, makes the victor the slave of the vanquished and which robs all contestants of their dignity as self-owning and self-respecting beings. It is necessary to emphasize that, according to Herbert, liberty and respect for all rights is, ultimately, in each individual's interest. For Herbert often couched his appeals in terms of self-denial and self-sacrifice. This was especially true of his appeals to the working class whom he envisioned as forming electoral majorities for the purpose of legislating downward redistributions of property. Indeed, Herbert constantly associated socialism and force with (unconstrained) majority rule and he always assumed that the majority which would endanger freedom and property would be essentially composed of the least advantaged 51 per cent.^[60] Hence, he sometimes was insensitive to the dangers from

well-placed minority factions, and he tended to concentrate on State abuses which were intended to aid the poor.^[61] Nevertheless, he did oppose foreign interventions as being special interest ventures and he recognized the dangers from the "rich" who desired "bigger armies and fleets, more territory, more glory, and many noble opportunities of making a splash before the eyes of the world", and from those so nervous about socialism that they desire to "turn the nation into an army for [their] convenience, and submit it to military discipline".^[62]

And, ultimately, his calls upon the working classes for self-denial have to be seen in the light of his vision of progress as possible only through the development of individual moral character. In the end, Herbert makes clear that these calls are simply for the development of the discipline to withstand the temptations of (merely) short-term political windfalls and to appreciate the long-term moral, psychological, and economic importance, for each person, of respect for all individual rights. Thus, on the moral and psychological level, Herbert rhetorically asks,

If you lose all respect for the rights of others, and with it your own self-respect, if you lose your own sense of right and fairness, if you lose your belief in liberty; and with it the sense of your own worth and true rank, if you lose your own will and self-guidance and control over your own lives and actions, what can all the buying and trafficking, what can all the gifts of politicians give you in return?^[63]

And on the tactical level, he adds, "... in the end you will gain far more by clinging faithfully to the methods of peace and respect for the rights of others than by allowing yourselves to use the force that always calls out force in reply . . .".^[64] The skepticism of Herbert's contemporaries about whether they would have to live with such long-term consequences was, for them, no virtue, and, for us, no favor.

NOTES

- Many of the major and representative essays by Herbert are reprinted in *The Right and Wrong of Compulsion by the State and Other Essays* (Indianapolis, Ind.: Liberty Classics, 1978). Portions of this essay appear as my introduction to that collection. Essays by Herbert for which the initial citation is marked with an asterisk are included in this volume and page citations for these essays are to this collection.
- S. Hutchinson Harris, *Auberon Herbert: Crusader for Liberty* (London: Williams and Norgate, 1943), p. 31.
- Dictionary of National Biography: Second Supplement* (London: Smith, Elder and Co., 1912), p. 251.
- Harris, *Auberon Herbert*, p. 59.
- Herbert, "Mr. Spencer and the Great Machine",* p. 260.
- E. P. Thompson, *William Morris* (New York: Pantheon, 1977), p. 221.
- Besides Herbert, *The Right and Wrong of Compulsion by the State*,* pp. 172–174, see Harris, *Auberon Herbert*, p. 237, and Herbert's "'The Rake's Progress' in Irish Politics", *Fortnightly Review* (1891), and "The Tragedy of Errors in the War in Transvaal", *Contemporary Review* (1900).
- Harris, *Auberon Herbert*, p. 248.
- Auberon Herbert, "The Rights of Property" (London: Liberty and Property Defense League, 1890), p. 7.
- Ibid.*, p. 39.
- S. Hutchinson Harris, "Auberon Herbert", *Nineteenth century and After* (1938), pp. 700–701.
- All of these exchanges appeared in *The Humanitarian: A Monthly Review of Sociological Science*. They included: Herbert's "Wares for Sale in the Political Market Place", Bax's "Voluntaryism Versus Socialism" and Herbert's "State Socialism in the Court of Reason" (1895), Herbert's "The Creed of Restricted Faculties" and "The Harvest of the Sands" and Grant Allen's "Strike! But Hear Me" (1895), Herbert's "A Voluntaryist Appeal", Hobson's "Rich Man's Anarchism" and Herbert's "Salvation by Force"* (1898), and Herbert's "Lost in the Region of Phrases"* (1899).
- Auberon Herbert, "Address on the Choices Between Personal Freedom and State Protection",* p. 43.
- Auberon Herbert, "A Politician in Sight of Haven",* p. 97.
- Auberon Herbert, *The Right and Wrong of Compulsion by the State*,* p. 126.
- Ibid.*, p. 127.
- Ibid.*, p. 133.
- "Address", p. 46.
- Auberon Herbert, "The Principles of Voluntaryism and Free Life",* p. 372 footnote.
- Herbert, *Right and Wrong*, p. 152.
- Auberon Herbert, "A Voluntaryist Appeal", p. 314.
- Hobson, "Rich Man's Anarchism", p. 394.
- Herbert, "A Voluntaryist Appeal", p. 325.
- Liberty*, ed. by Benjamin Tucker, Boston and New York, 1881–1908 (reprinted Westport, Conn: Greenwood Press, 1970).
- Auberon Herbert, "A Plea for Voluntaryism",* p. 329.
- Herbert, *Right and Wrong*, p. 144.
- Ibid.*, pp. 144–145.
- Ibid.*, pp. 145–146.
- Herbert, "... Haven", p. 101. (Italics added).
- Herbert, *Right and Wrong*, p. 141.
- Ibid.*
- Ibid.*, p. 142.
- Herbert, "State Socialism . . .", p. 29. (Italics added.)
- Herbert, "A Voluntaryist Appeal", p. 317.
- J. H. Levy, ed., *Taxation and Anarchism* (London: Personal Rights Assoc., 1912), p. 3. Also see M. N. Rothbard's *Power and Market* (Kansas City: Sheed

- Andrews and McMeel, 1977), pp. 165–166. For a discussion of the views of J. H. Levy, Herbert's antagonist in the exchange reprinted as *Taxation and Anarchism*, see *Liberty*, Vol. VII, No. 14, p. 4.
36. Herbert, "The Principles . . .", p. 398.
 37. Hobson's "Rich Man's Anarchism", p. 391.
 38. *Ibid.*, p. 392.
 39. *Ibid.*, p. 393. Hobson also raises, as a problem for Herbert's theory of property rights in created things, the issue of co-operative production. He argues that "organic co-operation . . . disables us from imputing any single product to the activity of an individual who was alone directly engaged in producing it" (p. 395). To my knowledge, Herbert never addresses this issue. But see Robert Nozick's *Anarchy, State and Utopia* (New York: Basic Books, 1974), pp. 183–189.
 40. Herbert, "Salvation . . .", p. 228.
 41. Herbert, "Lost . . .", pp. 247–248.
 42. *Ibid.*, p. 252.
 43. *Ibid.*, pp. 249–250.
 44. *Ibid.*, pp. 255–256.
 45. *Ibid.*, pp. 257–258.
 46. Harris, *Auberon Herbert* . . . , pp. 319–320.
 47. See Hobson, "Rich Man's Anarchism"; T. H. Huxley, "Government: Anarchy of Regimentation", *Nineteenth Century* (1890); Levy, ed., *Taxation and Anarchism*, p. 7; and Tucker's announcement of Herbert's death in *Liberty*, Vol. XV, No. 6, p. 16 — "Auberon Herbert is dead. He was a true Anarchist in everything but name. How much better (and how much rarer) to be an Anarchist in everything but name than to be an Anarchist in name only!"
 48. Herbert, "The Ethics of Dynamite",* p. 194. So thorough is Herbert's condemnation of the dynamiter that, as Victor Yarros pointed out in his general laudatory commentary in *Liberty*, Vol. X, No. 5, pp. 3–4, " . . . Mr. Herbert reasons in a way which logically involves the condemnation of force under all circumstances and leads straight to non-resistance". Here, again, we see Herbert's discomfort with even self-defensive force. Yarros, in contrast, goes on to say that "Everything depends on what the dynamite is intended for". If persons were to use dynamite in genuine acts of self-defense, they "would not be trying to govern, but to protect themselves from government".
 49. In rejecting Tucker's belief that interest reflected a grant of state monopoly, Herbert rejected the view that free banking would lead to the disappearance of interest. For a defense of this view and of the centrality of gold in a free banking system by Herbert's economically sophisticated follower, J. Greevz Fisher, see Benjamin Tucker's *Instead of a Book* (New York: Tucker, 1893), pp. 222–245. For a systematic discussion of problems in Tucker's economic thought, see "The Spooner–Tucker Doctrine: An Economist's View", in M. N. Rothbard's *Egalitarianism: A Revolt Against Nature and Other Essays* (Washington, D.C.: Libertarian Review Press, 1974).
 50. While Herbert grounded his views in a belief in moral rights and obligations, Tucker came to espouse a purportedly post-moralistic egoism, and while Herbert was at least sympathetic to theism, Tucker was aggressively anti-religious. But these differences never seem to have been factors in their disputes.
 51. *Liberty*, Vol. VII, No. 6, p. 5.
 52. See Levy, ed., *Taxation and Anarchism*, pp. 3–4.
 53. Herbert, "A Voluntarist Appeal", p. 329 and "The Principles . . .", pp. 383–384. The quoted phrase is from "State Socialism . . .", p. 29.
 54. See *Liberty*, Vol. X, No. 12, p. 3. For a portion of the contemporary version of this dispute see Nozick, *Anarchy, State, and Utopia*, Tibor Machan, *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975), and the essays by Eric Mack and Murray Rothbard in *Anarchism*, edited by J. W. Chapman and J. R. Pennock (New York: New York University Press, 1978).
 55. Herbert, "A Plea for Voluntarism", p. 316.
 56. *Ibid.*, p. 358.
 57. Herbert, "Mr. Spencer . . .", p. 267.
 58. *Ibid.*, pp. 300–301.
 59. Herbert, "A Plea for Voluntarism", p. 321.
 60. For reasons against expecting the majority coalition to be the lowest 51 per cent, see Nozick, *Anarchy, State and Utopia*, pp. 274–275.
 61. *Liberty*, Vol. X, No. 11, p. 2.
 62. Herbert, "Salvation . . .", p. 237.
 63. *Ibid.*, p. 341.
 64. *Ibid.*, p. 358.

JOHN LOCKE AND THE LABOR THEORY OF VALUE

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It is taken for granted by most economists and political philosophers that John Locke was in some sense a precursor of the labor theories of value of the nineteenth century British Classical School and of Karl Marx, yet there is a wide divergence of opinion on how Locke's work anticipated and influenced the work of later political economists. In large part this difference of opinion stems from a disagreement among historians of economic thought over how to interpret Locke himself on the subject of labor and economic value. The only point of agreement is that, in his major political essay, the *Second Treatise of Government*,^[1] Locke developed a theory of property which showed some relationship between labor and economic value. Historians of economic thought cannot agree on the significance of this relationship or on how Locke's ideas on labor and value are related to his supply and demand theory of market price in his economic writings. It has been argued, for example, that Locke had the beginnings of a theory of the exploitation of labor, that he provided a labor theory of value in the long run to supplement his supply and demand theory of price in the short run, that he presented the "metaphysical justification" for the nineteenth century labor theory of value, and that he had no labor theory of value at all.^[2]

What is characteristic of these and most other evaluations of Locke's statements about labor and economic value is that they are generally brief mentions of this aspect of Locke's thought in the context of larger works on much broader topics. There has been no detailed analysis to discover whether or not Locke can be said to have had a labor theory of value in any sense of the term. While in the history of ideas, what a man actually said may

not always be as important as how he was later interpreted, we must discover the former in order to accurately understand and appreciate the latter. Hence, in the following pages I will attempt to supply the missing detailed analysis of John Locke's "labor theory of value".

It is not surprising that there should be such a variety of interpretations on the subject of Locke and the labor theory of value. On the one hand, Locke himself was ambiguous about what he meant by both value and labor in the *Second Treatise* (as we shall see below), and on the other, there is no uniform agreement among economists as to what constitutes a labor theory of value and who, if anyone, ever espoused such a theory.^[3] It seems appropriate, then, to define how the term *labor theory of value* will be used in this paper.

There are three possible meanings of a labor theory of value that are relevant to Locke's writings: a labor theory of value may identify labor as the source of use-value or utility (the reason people desire a good in the first place), it may attempt to explain the determination of relative prices (the exchange value of goods) based on some measure of labor inputs, or it may claim that labor provides the only justifiable claim to receiving the exchange value of the goods it produces. A labor theory of value in the first sense states that the usefulness of goods and services demanded and consumed by individuals is created either exclusively or principally by the labor that goes into producing them. Almost all economists would identify labor as a contributor to the use-value of commodities, but the idea that labor is solely responsible for this use-value is unusual and probably only found in the writings of Karl Marx.^[4] While explanations of the ultimate cause of value have concerned economists for

two thousand years, when most economists discuss a labor theory of value, it is as a theory in the second sense. That is, a labor theory of value most often means a theory about the relationship between the relative value of one commodity to another and the quantity of labor which has gone into producing each of them. Such a theory tries to establish an exclusive relationship between the effort (or time) of the laborer and relative price of the commodity he produces. The most obvious (and perhaps only) example of a pure labor theory of exchange value is found in Adam Smith's beaver – deer example in the *Wealth of Nations*,^[5] where in the absence of scarce land and capital, the exchange rate of a beaver and deer is equal to the inverse of the labor time which has gone into hunting them. It is also possible to construct a labor theory of value that admits capital as a productive agent but still shows changes in relative prices to be determined by changes in labor as, some argue, did David Ricardo.^[6]

The third sense in which a labor theory of value is often understood is different from the other two, being normative rather than positive. A normative labor theory of value might hold, for example, that two goods which take the same amount of labor to produce should exchange for each other, and any pattern of prices that deviates from this norm is unjust. Or, it might instead attempt to define the just reward for the services of the labor that goes into producing a product, where the just reward depends upon the price at which the product is sold. While the ethical questions of the just price and the just wage are not unique to labor theories of value, these ethical questions have been closely associated with Locke and the labor theory of value in both the economics and political philosophy literature. Indeed, it is this normative form that most non-economists mean when they speak of a labor theory of value at all, and it was in this normative sense that the Ricardian socialists^[7] and Karl Marx read Locke.^[8] Hence, although it is not strictly a question of economic theory, the ethical implications of Locke's ideas on labor and value will be a major concern of this paper.

The following pages will attempt to show (a) that Locke did identify labor as the primary

source of use-value, (b) that he did not connect the determination of price in either the long run or the short run with the labor used to produce a product, and (c) while he did hold a labor theory of value in an ethical sense, his definition of labor was such that the ethical conclusions he arrived at were generally favorable to capitalism as he knew it and to the private property system upon which that capitalism was based.

LOCKE'S LABOR THEORY OF PROPERTY

All discussions of Locke's "labor theory of value" ultimately refer to the theory of property he develops in Chapter V of the *Second Treatise*. It is there that Locke presents his famous justification for private ownership of goods and land on the basis of the effort or labor which individuals expend to produce goods or to cause the land to produce goods of value to human beings. The structure of Locke's defense of private property is undoubtedly familiar to most readers. In the state of nature before governments had come into existence, men all had common access to the earth and the fruits thereof which God had provided for their use. However, although God had given all men an equal right to use the earth's resources, in order to survive, individual men had to appropriate some of these resources to feed, clothe and shelter themselves. [p. 304] It was Locke's problem, and the problem of seventeenth century political philosophers in general, to explain how these appropriated resources became legitimate private property which excluded other men from having any claim upon them. Grotius and Pufendorf had both argued that private property was established in the state of nature by the consent of all mankind who once shared in the original communistic ownership of these resources.^[9] Such a theory of property implied, however, that since property only existed at the consent of society, this consent could be withdrawn or modified by the society which sanctioned it originally, a conclusion which Locke sought to avoid. Instead, he argued that private property was established in the state of nature not by the consent of mankind, but by natural law.

Natural law dictated that all men had common access to God's earthly resources, and that each man had a natural right to self ownership which, when coupled with his right and duty to survive, permitted him to create private property where none previously existed:

Though the Earth, and all inferior creatures be common to all men, yet every man has a property in his own person. This no body has any right to but himself. The labor of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labor with, and joyned to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by his labor something annexed to it, that excludes the common right of other men. For this labor being the unquestionable property of the laborer, no man but he can have a right to what that is once joyned to, at least where there is enough, and as good left in common for others. [pp. 305 – 306]

Although the above passage seems to imply that private property is justified through hard work (this is the usual connotation of the word "labor"), Locke makes clear that he means "labor" to include any act of appropriation of natural resources, from the simple act of bending over and picking up acorns which have fallen to the ground, to the launching of a complicated process of production which involves owning the land itself. [pp. 308 – 309] Anytime any human effort, no matter how trivial, is expended in purposeful action, it is defined as labor. While this very general definition of labor was necessary to justify all types of acquisition of unowned resources in the state of nature, it had important implications for Locke's view of economic value.

LABOR AS THE SOURCE OF VALUE

Those who have interpreted Locke's labor theory of property as implying some kind of labor theory of value usually support their interpretation by citing Locke's many statements about the relative unimportance of land compared to labor in the production of valuable goods. Locke's basic premise is that nature by itself provides very little that is of value to mankind unless it is combined with labor:

For 'tis labor indeed that puts the difference of value on every thing; and let anyone consider, what the difference is between an acre of land planted with

tobacco, or sugar, sown with wheat or barley; and an acre of the same land lying in common without any husbandry upon it, and he will find, that the improvement of labor makes the far greater part of the value. [p. 314]

Locke repeats this theme of "unassisted nature" providing very little that is valuable again and again, as when he says, "For whatever bread is more worth than acorns, wine than water, and cloth or silk than leaves, skins or moss, that is wholly owing to labor and industry", and he concludes that "labor makes the far greatest part of the value of things we enjoy in this world". [p. 315]

The question now arising is the nature of the value which labor creates. Although there is some ambiguity in his usage, when Locke speaks of value created by labor, he usually means some kind of objective utility, an "intrinsic value, which depends only on [something's] usefulness to the life of man". [p. 312] He also refers to this kind of value as the "real use and necessary support of life". [p. 318] It is objective in the sense that there is implied a common standard of usefulness for all people, so that, for example, bread is objectively more valuable than acorns, and cloth than silk, because they provide for more of the "conveniences of life". [p. 317] It is this kind of value Locke has in mind when he characterizes gold and silver as being "little useful to the life of man", [p. 319] and rails against the desire men have for more than they need. [p. 312] Labor is primarily responsible for creating products which are more useful in this sense, and hence labor creates "most of the value" of things we enjoy in this world. Land, the common pool of resources, on the other hand, contributes almost nothing to value when compared to labor since land, by itself, can satisfy few of man's needs. Indeed, Locke pointedly refers to the Spanish practice of calling fallow land "waste" to emphasize the smallness of its contribution to value in his eyes. [p. 311] Thus, although he does not claim that land creates no value, the value it does create is minimal when compared to labor.

Locke's insistence on the overwhelming importance of labor compared to land in the production of valuable goods might be somewhat

puzzling in view of the common seventeenth century view of land and labor as co-equal sources of value. The puzzle evaporates, however, when one considers the context in which the discussion of land and labor takes place. In fact, Locke minimized the role of land in the creation of value because he was attempting to demonstrate conclusively to his readers how “the property of labor should be able to overbalance the community of land”, [p. 314] in an effort to make his theory of property more acceptable to his audience. Thus, while he argued that the right to own property apart from the common was a result of natural law which did not depend upon the consent of mankind for its legitimacy, he also took pains to point out the beneficial effects that flow from the institution of private property. In effect, he argued that while private property is the inevitable moral consequence of men laboring to support themselves, in this case, “right and conveniency went together”. [p. 320] Without the conscious application of labor to “worthless” natural resources, men would be living as savages. This is obvious when one considers that:

There cannot be a clearer demonstration of any thing, than several nations of the Americans are of this, who are rich in Land, and poor in all the comforts of life; whom nature having furnished as liberally as any other people, with the materials of plenty, i.e. fruitful soil, apt to produce in abundance, what might serve for food, rayment, and delight; yet for want of improving it by labour, have not one hundredth part of the conveniences we enjoy; and a king of a large and fruitful territory there feeds, lodges, and is clad worse than a day laborer in England. [pp. 314 – 315]

Thus, natural law guarantees one’s right to property, but in this case natural law is especially easy to comply with since it coincides with the self-interest of all mankind. Hence, when Locke says that labor makes the greatest part of the value of things we enjoy, his purpose is to emphasize these utilitarian implications of private property rather than to enunciate a theory of economic value.

While it is not difficult to accept that one should “own” the water one draws from a stream or the wheat one grows on otherwise fallow land, Locke perceived that it was more

difficult to justify owning the land itself, although he claimed that the same principle of ownership applies: “As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He by his labor does, as it were, inclose it from the common”. [p. 308] What makes ownership of the land itself palatable, however, are the external benefits accruing to mankind in general even when land ownership is limited to a few. In fact, Locke argues that “he that incloses land and has a greater plenty of the conveniences of life from ten acres, than he could have from an hundred left to nature, may truly be said to give ninety acres to mankind”. [p. 312]⁽¹¹⁾ That is, when men choose to mix their labor with the earth, they need less of the common stock to provide for their support than if they merely lived off the products of “unassisted nature”, and there is then more common stock left over to support others. Thus, labor, the activity by which men acquire private property, is also the activity which makes the earth more supportive of human life, and thus, property is beneficial to everyone, including those who do not own land.

To recapitulate so far: it is obvious that Locke believed that labor was the primary source of use value. While land by itself was responsible for a small part of the use value of goods people consume, the products of land alone could not be enjoyed by humans without the application of labor, and once labor is purposefully applied to land, there is a dramatic increase in the usefulness of the products created. In this limited sense, then, Locke did have a labor theory of value.

LABOR AS A MEASURE OF VALUE

Identifying labor as the source of use value is not the same thing as making it the measure of exchange value (or price) although the two ideas may be found in the work of one man. Ricardo, for example, claimed that labor was the source of value in all commodities that could be increased in supply and then attempted to develop a theory of value in which the quantity of labor necessary to produce a commodity explained its exchange value.⁽¹²⁾ Smith,

in contrast, did not identify labor as a source of value, but he did claim that labor was “the real measure of the exchangeable value of all commodities”, and “the only measure by which we can compare the values of different commodities at all times and at all places”.^[13] But did Locke, who identified labor as the primary source of use-value, also believe that labor could in some way be used to measure and compare the exchange value of goods? The problem is implied in a passage we have already quoted in part:

For whatever bread is more worth than acorns, wine than water, and cloth or silk than leaves, skins or moss, that is wholly owing to labor and industry. The one of these being the food and rayment which unassisted nature furnishes us with; the other provisions which our industry and pains prepare for us, which how much they exceed the other in value, when anyone hath computed, he will then see, how much labor makes the far greatest part of the value of things we enjoy in this world. [p. 315]

But how does one go about computing these values? Bread and wine may be more useful (or desirable) than acorns and water, but how much more valuable? In a world where creation of valuable goods also results in the creation of ownership rights, one would think it of vital importance to Locke to be able to measure how much value labor creates. How then does Locke propose to compare the value of goods produced by labor?

Evidence that Locke at least considered the problem of comparing the value of goods produced with differing amounts of labor is found in the following passage:

An acre of land that bears here twenty bushels of wheat, and another in America, which, with the same husbandry, would do the like, are, without doubt, of the same natural, intrinsick value. But yet the benefit mankind receives from the one, in a year, is worth 51, and from the other possibly not worth a penny, if all the profit an Indian received from it were to be valued, and sold here; at least, I may truly say, not 1/1000. Tis labor then which puts the greatest part of the value upon land, without which it would scarcely be worth anything. [p. 316]

There are several interesting inferences that can be made from this passage about Locke's ideas on labor and economic value. Perhaps the most striking has to do with the way he contrasts the “intrinsick” value of land with the “benefit mankind receives” from it. As we have already noted, earlier in the *Second Treatise*, the intrinsic

value of goods had been defined, in accordance with common usage, as depending “. . . only on their usefulness to the life of man . . .”. [p. 312] This definition was also used in Locke's economic writings, with the further implication that the intrinsic value of something could (and often was) different from its market value. In the above passage, however, the intrinsic value of a thing seems to be only a potential it has to benefit mankind, while the actual measure of that benefit is the market price of the thing in question. Apparently, Locke is saying that if all the output from an Indian's land in America were sold at current market prices in England, the Indian would receive only 1/1000 of the income an Englishman would receive from the output of a comparable piece of land in England. For the Englishman had labored to make his land productive while the Indian did little more than gather the bounty of nature. If this interpretation is correct, then what Locke believes is that while labor creates the “greatest part of the value of things we enjoy in this world”, the measure of that value is not the amount of labor which goes into producing it, but the market price at which it can be sold.^[14] The implication is clear: men labor to produce goods which men will value (and are willing to pay for); goods are not valuable simply because labor has gone into producing them. Therefore, from this passage at least, there is no reason to suspect that Locke believed there to be any causative connection between the amount of labor used to produce a good and its market price.

What makes this interpretation of Locke's view of labor and value so appealing is not only its internal consistency, but also the fact that it is consistent with the value theory he presents in his economic writings. It has been suggested by some writers that Locke presents two inconsistent value theories in his political and his economic writings, but close examination of both works suggests that the theory of economic value he developed in his economic writings also informed his discussions of value in his political essay.

Locke's major economic essay, “Some Considerations of the Consequences of Lowering

the Interest Rate and Raising the Value of Money",^[15] was published in 1692 to oppose a bill before Parliament to lower the legal rate of interest from 6% to 4%. In order to support his contention that interest is a price, and that in general prices can not be dictated by law, Locke found it necessary to explain how prices were in fact determined in the marketplace. As a result, his essay deals more with the subject of market value and money than it does with the subject stated in the title, and we find Locke stating very clearly what he believes to be the relationship between intrinsic value and market price. He says, in a concise summary of his theory of value:

1. That the intrinsick natural worth of anything, consists in its fitness to supply the necessities or serve the conveniences of human life; and the more necessary it is to our being, or the more it contributes to our well-being the greater is its worth; but yet,

2. That there is no such intrinsick natural settled value in anything, as to make any assigned quantity of it constantly worth any assigned quantity of another.

3. The marketable value of any assigned quantities of two or more commodities are *pro hic* and *nunc*, equal, when they will exchange one for another . . .

4. The change of this marketable value of any commodity in respect of another commodity or in respect of a standing common measure, is not the altering of any intrinsick value or quality in the commodity . . . but the alteration of some proportion, which the commodity bears to something else.

5. This proportion in all commodities . . . is the proportion of their quantity to their vent. [pp. 66 – 67]

What we see in this passage is Locke grappling with a problem which had troubled economic thinkers at least from the time of Aristotle, who first formulated the question: what is the relationship between a good's usefulness and its exchange value? Locke grants (as he also did in the *Second Treatise*) that goods have an "intrinsick natural worth" which depends upon their objective usefulness in supporting human life, yet he does not believe that this usefulness determines the price at which specific quantities of goods exchange. Locke perceives that there is a difference between stating, for example, that water is more useful than wheat in the abstract, and saying that one gallon of water is "worth" two bushels of wheat. He says that there is no "natural set-

tled value in anything, as to make any assigned quantity of it constantly worth any assigned quantity of another", but the logical question to ask is why not? Why doesn't a gallon of water always exchange for two bushels of wheat if they are both useful and if their capability to support human life doesn't change? Two centuries later, economists would finally be able to answer this question satisfactorily by distinguishing total from marginal utility. Locke only approached the correct answer by recognizing that the exchange values of goods depend not only on their usefulness in general, but also on the quantities which are available, quantities which are subject to change.^[16] Furthermore, the usefulness of something does help to determine its price, but only insofar as it affects the vent (or demand) for the product. "The vent of anything depends upon its necessity or usefulness, as convenience, or opinion guided by fancy or fashion shall determine", [p. 46] but notice here that a thing's usefulness is not invariable but is determined by the subjective evaluation of the individuals consuming the good. In addition, usefulness only guarantees that people want a good, not that they will be willing to pay a price for it:

What more useful or necessary things are there to the being or well-being of men, than air and water and yet these have generally no price at all, nor yield any money: because their quantity is immensely greater than their vent in most places of the world. But as soon as ever water (for air still offers itself everywhere, without restraint or inclosure, and therefore is nowhere of any price) comes anywhere to be reduced into any proportion to its consumption, it begins presently to have a price, and is sometimes sold dearer than wine. Hence it is, that the best, and most useful things are commonly the cheapest; because, though their consumption be great, yet the Bounty of Providence has made their production large, and suitable to it. [pp. 63 – 64]

Given that the quantity of a good is sufficiently limited that people will pay some price for it, the price they will pay depends upon the quantity of the good proportional to its vent, or, as this is commonly interpreted, on the supply and demand for the good. The price, furthermore, increases as its quantity is reduced and decreases as its quantity increases.^[17] It is tempting to argue that Locke was saying that the greater the quantity of any good available, the less important the use which the additional

unit will serve and therefore the lower the price people will pay for it, but imputing such a sophisticated understanding of diminishing marginal utility to Locke would be misplaced. Instead, Locke sidestepped the question of why the greater the quantity, the lower the market price, and just asserted that this is in fact the case. The market operates according to supply and demand: why this is so was not a question which Locke was directly interested in answering.^[18]

While it appears so far that Locke believed that the "benefit" mankind received from something, or its value, was measured by its market price and that the market price was determined by supply and demand, we still must question whether he also believed market price to be somehow influenced by the labor which goes into producing valuable commodities. (Recall that one interpretation of Locke is that he believed the labor used in production of a good measures its long run value.)^[19]

There are only two indications that Locke might have considered labor in some way to be related to the selling price of a product, and both are in the *Second Treatise*. The first is several statements that labor is responsible for 9/10, 99/100, or 999/1000^[20] of the value of the goods it produces. Did Locke have some actual numerical relationship between the contributions of labor and land and the price of the product in mind, or was he just resorting to hyperbole to emphasize the importance of labor to the creation of value? While the latter seems the more likely explanation considering the contexts of the statements, the idea of a relationship between labor and price cannot be airily dismissed. It is undoubtedly true that when he claims the value of things useful to the life of man is 99/100 due to labor, he means that when men expend productive effort, they produce things which people value more highly than the things offered by nature alone. Yet Locke has defined labor to be merely picking up acorns from the ground or drawing water from a stream. [p. 306] This means that no consumed goods can be the products of nature alone without any labor being expended. Is he not then implicitly saying that goods requiring

more labor to produce command a higher market price than goods which require little labor? On the other hand, this is not at all the same thing as asserting a predictable relationship between the quantity of labor (or land) required to produce a good and its market price. It appears that all Locke intended to say with his numerical examples was that the greater the amount of labor mixed with land, in general, the more useful the resulting goods produced; the more useful the goods produced, the greater their vent (or demand) and the higher their price.^[21] Thus, labor does bear some relationship to price but only by creating utility reflected in demand for the goods it creates.

The second indication that Locke may have believed that labor could be used as a measure of value is in the penultimate paragraph of Chapter V where he is discussing the effect of the use of money on the distribution of property in society. This instance is to be taken more seriously than the previous one, for here Locke actually uses the term *measure* in connection with labor and value. In this disputed passage, Locke is arguing that the use of money allows wealth to be unequally distributed, but since men have agreed among themselves to use money, there is nothing inherently immoral in this result. He says:

But since gold and silver, being little useful to the life of man in proportion to food, rayment, and carriage, has its value only from the consent of men, whereof labor yet makes, in great part, *the measure*, it is plain that men have agreed to disproportionate and unequal possession of the earth, they having by a tacit, and voluntary consent found out a way, how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus, gold and silver, which may be hoarded up without injury to anyone, these metals not spoiling or decaying in the hands of the possessor. [p. 319]

This is the only place in his writings where Locke refers to labor as the *measure*^[22] (italics his) of value, and what he means by this is by no means clear. One is not sure if he means to say that labor is in great part the measure of the consent of men to use gold and silver, or if labor is in great part the measure of the value of the gold and silver men use. If the first reading is correct, he is saying no more than that the degree to which men consent to value gold and

silver is the degree to which they have labored to acquire property. Since Locke believed that one of the main reasons for forming civil governments was to protect the unequally distributed property resulting from the use of gold and silver as money, it is not unreasonable to assume that he believed men would consent to the valuing of these otherwise worthless metals in proportion to the degree to which they had labored to acquire property. This is a somewhat eccentric interpretation, however. The more common one is the second, that Locke held labor to be the measure of the value of gold and silver and not the measure of men's consent to value the metals. Yet in "Some Considerations", Locke has said that the value of money depends upon the goods that it can buy,^[23] which leads us to believe that if labor measures the value of money, it must also measure the value of the things money can buy. If this is true, then he must have thought there was some relationship between labor and the market price of commodities. The problem with this interpretation is that there is no corroboration for it anywhere in the rest of his writings, and there is no way to determine what Locke thought this relationship might be. There is no way to know for certain what Locke meant by this strange passage, but even if we assume that the second interpretation with all of its tortuous reasoning is the correct one, it is obvious that there is not enough evidence in this one dependent clause to support the view that Locke had an analytic labor theory of value, even in the long run.^[24]

A NORMATIVE INTERPRETATION OF LOCKE'S LABOR THEORY OF VALUE

We have identified a third way — an ethical sense — in which a labor theory of value can be interpreted. In fact, there are two kinds of ethical arguments on labor and value: the first is fundamentally a theory of the "just" price while the second is a theory of the "just" wage. The former holds that the real value of something is what it costs in terms of human efforts to produce, and therefore the prices of goods should equal these real costs. This ob-

viously is *not* what Locke believed, given his insistence on quantity and vent as the only determinants of market price (the only kind of price he discussed), and given his view that the value of labor depends upon the market value of the goods it produces and not the other way around. We have already argued that there is no indication that Locke believed that prices should in any way reflect labor-time in either an analytic or ethical sense. The second possible ethical implication of a labor theory of value, however, may very well be applicable to Locke's thought. This is the argument that since labor creates the value of the output it produces, the laborer is entitled to receive the full value of the output as his just reward.

Locke's theory of property is highly amenable to this kind of argument. So much so, in fact, that he has frequently been criticized by political philosophers and economists alike for not perceiving fully the implications of his theory of property for wage labor.^[25] Locke argues that the act of creating property is responsible for creating economic value. Man mixes his body with God's resources to produce something new and uniquely his own. Does not this man have a right to everything he creates? The whole purpose of the *Second Treatise*, presumably, is to answer "yes" to this question, yet once production moves beyond the simple form of one man subduing nature to his will, it has appeared to some Locke scholars that he ignores the property rights of some men in favor of others. The problem arises when many people cooperate to produce a valuable good. In a production process that involves more than one laborer, who owns the final product and how is that ownership determined? It is evident that Locke expects his theory of property to apply to such situations, since he uses the fact of many laborers cooperating in the production of goods to illustrate the productivity of labor and the public benefits of property ownership. He tells us:

For 'tis not barely the plough-man's pains, the reaper's and thresher's toil, and the baker's sweat, is to be counted into the bread we eat; the labor of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are vast number, requisite

to this corn, from being seed to be sown to its being made bread, must all be charged on the account of labor, and received as an effect of that: nature and the Earth furnished only the almost worthless materials, as in themselves. [p. 316]^[26]

Yet, how does the labor theory of property apply in a society where production takes place through a division of labor? One might conceive of an organizing principle where at each stage of production, the individual producer sells his output for a price to the individual who is engaged in the next stage of production. Yet in at least some of these stages, more than one person must work to produce the good, and at least sometimes, there would be an employer and an employee. Who, then, creates value and owns the product created?

While Locke does not discuss ownership rights under the division of labor specifically, there are several indications that the problem would not have troubled him. In fact, we can infer that he would argue that in any production process, the owner of the output produced is the employer who directed the production. He states precisely this when he describes how men establish property in what was originally part of the common stock by referring to the medieval commons:

We see in *Commons*, which remain so by compact, that 'tis taking any part of what is common, and removing it out of the state nature leaves it in, which *begins the property*; without which the common is of no use. And the taking of this or that part, does not depend on the express consent of all the Commons. Thus the grass my horse has bit; *the turfs my servant has cut* [italics mine] and the ore I have dug in any place where I have a right to them in common with others, becomes my property. . . . [p. 307]

In so far as servants can be taken to represent wage labor, Locke is saying that the fact that a laborer worked to produce a product does not lead automatically to the establishment of that product as the property of the laborer.

This passage has generated a good bit of comment in the literature on Locke's political philosophy as being evidence of Locke's view that wage labor was somehow inferior to employer labor. Pascal Larkin, for example, has complained that in the above passage Locke has put a human being on the same functional level as a man's horse and implies that the employer can therefore extract as much work

for as little pay as he can get away with. In effect, Larkin argues, Locke gives wage labor no property rights at all.^[27] This is only partly true. Locke does put wage labor on the same functional level as a horse insofar as they are both factors of production (much the same as a modern economist would treat capital and labor as substitutable inputs), yet it is unfair to say that he neglects the property rights of wage labor. In another context later in the *Second Treatise* he discusses the limits of the power of an employer over the behavior of his employee when he explains:

For a Free-man makes himself a servant to another, by selling him for a certain time, the service he undertakes to do, in exchange for wages he is to receive: and though this commonly puts him into the family of his Master, and under the ordinary discipline thereof; yet it gives the master but a temporary power over him, and no greater than what is contained in the contract between 'em. [p. 340]

Obviously, Locke sees the relationship between a laborer (or servant) and his employer as a contractual arrangement where the laborer is able to negotiate with the employer for a wage which represents his entire claim to the property created by his work. Although it is labor that creates property, labor refers to all effort, including the effort of those who in the past produced the capital goods used by laborers in the present and the effort of the one who directs the labor of others: each receives part of the value he creates, with the wage earner receiving a guaranteed wage rather than an unspecified portion of the market value of the product. Needless to say, this in no way implies consistent exploitation of wage labor at the hands of employers.

Locke's attitude toward the property rights of wage laborers would be more satisfying if he had addressed himself directly to the problem of wage rate determination in his economic writings. If it could be shown that Locke believed that wages depended upon something other than a two party contract between employer and employee, it would be easier to claim that Locke did not believe that wage earners were in danger of being "exploited" by employers. In the absence of a theory of wage determination, Locke is still open to Larkin's criticism that employers are entitled to pay employees as little

as they can get away with as long as the employee agrees to the wage rate. Of course, even if this is what Locke meant, it is upsetting to one's sense of justice only if one believes employees to be weak and inefficient bargainers relative to employers. It might just as correctly be argued that Locke's theory of property entitles wage earners to extract as high a wage as they can get away with, no matter what the consequences to the employer, yet sympathies so generally run toward the wage earner that this argument seems never to have occurred to anyone. For some reason, it is usually assumed that wage earners will almost always get the worst of any deal made with wage-payers, yet Locke himself did not make this assumption. There is some evidence that Locke actually believed wage contracts were constrained by a market rate which sometimes favored the employer and sometimes favored the employee.

There is no direct treatment of wages in "Some Considerations", but on three separate occasions Locke asserts that laborers live "from hand to mouth" or that they generally earn little more than a subsistence income.^[28] This is no "iron law of wages", however, since he gives no analytic reason why this should be so. Instead, he just accepts this typically mercantilist idea. Furthermore, the fact that wage earners earn little is not presented as the fault of their employers: wage earners, in Locke's essay are usually farm workers just barely worse off than their tenant farmer employers, who suffer from the vagaries of the marketplace and from the hardship caused by "brokers" or middlemen, a group whose usefulness Locke did not recognize.^[29] In addition, Locke describes at least one circumstance where farm workers in times of scarce labor could negotiate for ruinously high wages, thereby also injuring the suffering farmer.^[30] Wage earners of various kinds were portrayed as moving in response to higher wages,^[31] a fact that to Locke argued for the necessity of keeping England's money supply, and therefore wage rates, equal to other European countries to avoid suffering an emigration of English laborers. Thus, while there is no specific discussion of the determination of a market wage rate, wages are referred

to as if they are market prices, just as interest and rents are analyzed as prices in Locke's economics. And while it is still technically true that both employer and employee are able legitimately to negotiate for as much of the property as they created by their joint labor, they are both constrained by a market wage. The crucial point, however, is that Locke described no just reward, either wage, rent, interest, or profit, which differed from that determined by the market.^[32]

MARX ON LOCKE

Although Locke certainly did not envision any consistent exploitation of poor wage earners by malevolent wage payers, Karl Marx nevertheless saw in Locke the beginnings of a theory of surplus value. To Marx, one didn't have to postulate the existence of evil employers in order for labor to be exploited; exploitation was inherent in the system which permitted unequal property ownership. For Marx, then, the relevant question was not whether employers are fair in their dealings with employees, but rather why the employer-employee relationship emerges in the first place. And to him, the fact that such relationship exists implies "capitalist expropriation" of what rightfully belongs to labor.

According to Marx, the source of exploitation in Locke's system is the unequal distribution of wealth that arose in the state of nature and was perpetuated in civil society.^[33] In the *Second Treatise*, we recall, Locke argued that all people had an equal right to mix their labor with common, unowned resources to create private property in the state of nature, both in consumable goods and in the land itself. The right to own private property was unlimited so long as two conditions held: that no one took more than he could use without allowing any of his property to spoil or go to waste, and that there were enough common resources of comparable quality remaining for anyone who wanted to create his own property.^[34] The first condition guaranteed that the second would obtain in the early stages of the state of nature. Even under these conditions of equal opportunity, however, Locke believed that some peo-

ple would be more "industrious and rational" [p. 309] and would create more property for themselves than others. However, as long as everyone took only what he could use before it spoiled, the diversity in property ownership would be small. That is, until money comes into use. [pp. 310 – 311]

The introduction of money plays a pivotal role in Locke's state of nature in that it marks a transition period leading inevitably to a more complex economy and to the creation of civil government. Locke describes the origin of money as an "agreement among men to place an imaginary value on an otherwise worthless substance [precious metals]". [p. 318] Marx called the results of this agreement a "political invention" contradicting the law of nature on which private property was founded (*Theories of Surplus Value*, p. 365). Although Locke's use of the term "agreement" seems to imply a consciously formulated contract (and if so, it might possibly be a means by which men attempt to subvert natural law), Locke actually describes money as the result of an evolutionary process conforming exactly with natural law:

He that gathered a Hundred bushels of acorns or apples, had thereby a property in them; they were his goods as soon as gathered. He was only to look that he used them before they spoiled; else he took more than his share, and robbed others. And indeed it was a foolish thing, as well as dishonest, to hoard up more than he could make use of. If he gave away a part to any body else, so that it perished not uselessly in his possession, these he also made use of. And if he also bartered away plums that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock; destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands. Again, if he would give his nuts for a piece of metal, pleased with its color; or exchange his sheep for shell, or wool for a sparkling pebble or a diamond, and keep those by him all his life, he invaded not the right of others, he might heap up as much of these durable things he pleased; the exceeding of the bounds of his just property not lying in the largeness of his possession, but the perishing of anything uselessly in it.

And thus came in the use of money, some lasting thing that men might keep without spoiling, and that by mutual consent men would take in exchange for the truly useful, but perishable supports of life. [pp. 318 – 319]

While there is an element of agreement in the origin of money, its evolution can hardly be called a political invention. It is more in the

nature of a convention depending upon social acceptance for its existence and continuance, but which arises out of an undesigned social process.^[35] Marx was correct, however, in believing that the use of money implies profound consequences for society. With the advent of an acceptable money-commodity, it becomes possible for the more industrious to increase their wealth relative to the less industrious without running up against the spoilage limitation to property ownership. As a result, the demand for common resources increases and resources finally become "scarce and of some value". [p. 317] Eventually, there is less and less of the common stock left for newcomers to mix their labor with, and disputes between property owners and non-owners become more frequent. It is at this point that men decide to enter into a contract to form civil government to protect and regulate their property. Hence money enables the inequality of wealth to perpetuate and increase in size, and government provides a means by which property owners protect themselves against the "quarrelsome and contentious" [p. 308] who would otherwise put the enjoyment of legitimate property in jeopardy.^[36]

While the political consequences of the introduction of money are significant (and have been too sketchily treated here), the economic consequences of the resultant inequality of wealth and exhaustion of the common stock are also important (and more to the point of this paper). The most important economic consequence is that after the exhaustion of the common stock, those who want to earn a living but are not lucky enough to be born into a family with property, will have to find some way of mixing their labor with the resources (land and/or capital) owned by others to create their own property. They can do this either by becoming wage earners, as we have already noted, or by in essence acting as entrepreneurs and borrowing land and capital to finance their own enterprises. In this case, they would then have to pay the owners a fee (rent and/or interest) for the use of the property. Marx claimed that interest and rent were evidence of surplus value created by the worker and expropriated by the property owner and hence

illustrated the exploitation of the non-property class by the propertied (*Theories of Surplus Value*, p. 365). Locke, however, saw the matter differently. To Locke, interest and rents were market means of allocating resources from the less enterprising to the more enterprising. While both payments had their origin in unequal property ownership, they perform a function which operates to the mutual benefit of owners and borrowers, and to the benefit of society in general by increasing its productive output. Locke argues:

That he that has skill in traffick, but has not money enough to exercise it, has not only reason to borrow money to drive his trade, and get a livelihood; but as much reason to pay use for that money; as he, who having skill in husbandry but no land of his own to employ it in, has not only reason to rent land but to pay money for the use of it . . .

Borrowing money upon use is not only by the necessity of affairs, and the constitution of human society, unavoidable to some men, but that also to receive profit for the loans of money, is as equitable and lawful, as receiving rent for land . . . ["Some Considerations", p. 57.]

While it appears that Locke saw nothing inequitable in the paying of interest and rent, one wonders if perhaps, in view of Locke's labor theory of property, Marx didn't have a point in his reading of Locke. That is, if labor is indeed the major source of value as Locke argues in the *Second Treatise*, how can he conclude that rents and interest are legitimate in his economic writings, since they "by compact transfer that profit that was the reward of one man's labor into another man's pocket"? ("Some Considerations", p. 55.) Does one rule of value creation and ownership apply in the state of nature and another in a politically and economically complex society? One could argue, as Locke did, that the unequal distribution of property which gives rise to interest and rent developed naturally and justly in the state of nature and became institutionalized as part of the social contract, but then what has happened to the labor theory of property? One is left to infer (the preceding quotation notwithstanding) that the same rules which apply to wage labor also apply to interest and rent payments. That is, they are contractual arrangements that permit non-property owners to enjoy the benefits of the property of others in

return for a specified payment. This does not mean, however, that labor plays no role in the creation of the property that forms the payment to the "capitalist" or landowner. If we recall Locke's broad definition of labor, we remember that it includes not only direct labor, but all purposeful acts leading to the creation of goods useful to human life (and therefore desirable), and these include the activities of those who clear the land, who produce intermediate goods for sale, and who direct the productive activities of others. Hence interest, rents (and profits) are not deductions from the value created by direct labor, as Marx would argue (and as Smith on occasion argued), but component costs of production which represent payments to all those who have contributed at some time to the value of output.^[37]

SUMMARY

In summary, the following can be concluded about Locke and the labor theory of value. While Locke did believe that labor was the major creator of economic value, the relative value or price of a thing was dependent upon its usefulness and scarcity and not the amount of labor it contained. Locke would have agreed completely with Archbishop Whately's famous dictum: "It is not that pearls fetch a high price because men have dived for them; but on the contrary, men dive for them because they fetch a high price."^[38] However, he would also have argued that diving made the pearls more useful to the life of men because it made them more readily available. Pearls on land are more useful and hence more valuable than pearls in the bottom on the ocean. The measure of the usefulness of a thing was the price it would sell for in the competitive market place. There is no indication that Locke believed there would be any relationship between the market price of something and the amount of labor that went into its production, either in the long run or the short run (concepts that were foreign to Locke's thought). As for the ethical arguments that labor should receive as its reward the value of the output it created, this was in fact the subject of all of Chapter V in the *Second Treatise*. Since individuals mixed their bodies in the form

of their labor with free resources, they created something new which was indisputably their property. This did not imply that wage labor created the whole value of the property, however, nor did it imply that there should be any specific relationship between the value produced and the reward to wage labor. Locke instead defined property-creating labor to be the labor of the person directing the value-creating endeavor, one might almost say the entrepreneur, rather than the labor of all who happened to work at some project. Wage labor was considered to be a contractual arrangement where the wage earner settled in advance the reward he was entitled to receive for his efforts, in exchange for giving up any property rights in the final product. The amount of the wage he received was most likely determined by the market as were all other prices in Locke's economic thought. Similarly, interest and rent, both payments originating in unequal distribution of property ownership, were treated as market determined rewards for past labor which served the purpose of allocating property to the most industrious user in a complex economy characterized by scarcity of resources. Needless to say, there was no theory of exploitation either stated or implied in Locke's writing on labor and value. If anything, Locke's labor theory of property implied an optimistic view of the possibilities open to all "industrious and rational" people in the emerging capitalist economy of the seventeenth century.

In a flash of tantalizing insight (which, unfortunately, he never elaborated upon), Marx epitomized Locke's philosophy as "the expression of the bourgeois concept of right as against feudal privilege", and claimed that it served as the "basis for all the ideas of the whole of subsequent English political economy". That short description can serve as a concluding statement here. In feudal society, one's status, privileges and, to a great degree, one's wealth were determined by a network of interlocking feudal obligations, ultimately tied to land tenure. But it was Locke's intent to present a theory of property which transcended the feudal limitations of wealth and station by means of the concept of property in one's own

person. The concept of self-ownership is clearly not only a cornerstone of individualism and personal freedom, but also an invitation to social and economic mobility.

Commercial economy thrives on the transfer of resources to those who can make them most profitable. It was just this kind of resource mobility that Locke's labor theory of property and his theory of market value justified. In his system, one earned property through one's own efforts, but the value of that property was determined by the market. While land ownership could be an important source of wealth, land belonged by right not to a noble family but to the highest bidder, and ownership of capital could rival land as a source of personal wealth (and status). Furthermore, in a society characterized by resource scarcity, self-ownership implies that everyone has some basic property endowment, some stock of human capital, which provides him with a source of income. With this basic human capital, then, one doesn't need a pool of common resources or the benefits of gentle birth in order to acquire real property and wealth: one can do so through one's own efforts and the borrowed property of others who may not have as great a share of vision or ambition. Hence, in a commercial exchange economy based on Lockean property rights, resources are allocated through a system of merit rather than family, and can flow to those who are most able to use them for their own (and society's) benefit.

Where Marx saw self-ownership in terms of exploitation of workers forced to "alienate" their labor by selling it as a commodity on the market, Locke saw freedom, social mobility and improved economic opportunities for all, but especially for the talented and industrious. It was in this way, perhaps, that Locke, albeit imperfectly and incompletely, provided a philosophical justification for the economic liberalism of Smith and the British classical school more than a century later.

NOTES

1. John Locke, *Locke's Two Treatises of Civil Government*, Peter Laslett ed., (2nd ed. Cambridge: Cambridge University Press, 1967), pp. 283 - 446. Hereafter referred to as *Second Treatise*.

2. Both Karl Marx, *Theories of Surplus Value* (Moscow: Progress Publishers, 1963), pp. 365–367, and Eugen von Böhm-Bawerk, *Capital and Interest*, (South Holland, Illinois: Libertarian Press, 1959), I, 28–29 and 242, interpreted Locke's labor theory of property in combination with his theories of interest and rent as implying exploitation of labor. Hannah Robie Sewall, *The Theory of Value Before Adam Smith* (American Economic Association Publications, Series 3, No. 2 1901), p. 76; Othmar Spann, *The History of Economics* (New York: Norton and Co., 1930), p. 106, and more recently Douglas Vickers, *Studies in the Theory of Money 1690–1776* (Philadelphia: Chilton Co., 1959), p. 140 and Henry W. Spiegel, *The Growth of Economic Thought* (Englewood Cliffs, New Jersey: Prentice-Hall, 1971), p. 166 all attribute a labor theory of value to Locke on the basis of Chapter V of the *Second Treatise*. Werner Stark, *The Ideal Foundations of Economic Thought* (New York: Oxford University Press, 1944) argues that Locke had an objective theory of value in the *Second Treatise* which contrasted with his subjective value theory in his economic writings, while Edmund Whitaker, *A History of Economic Ideas* (New York: Longmans, Green and Co., 1940), pp. 419–421, believes that the *Second Treatise* contained a cost of production theory in the long run in which the cost factors were labor and capital where capital was past labor. Robert Lekachman, *A History of Economic Ideas* (New York: Harper and Row, 1959), p. 59, attributes to Locke "The metaphysical justification for the labor theory of value", although he does not credit Locke with an economic labor theory of value, and Joseph Schumpeter, *A History of Economic Analysis* (New York: Oxford University Press, 1954), p. 120 simply states without elaboration that Locke's theory of property had nothing to do with an economic labor theory of value, a position supported by Ronald Meek, *Studies in the Labor Theory of Value* (London: Lawrence and Wishart, 1956), pp. 21–22. The theme of this paper is that Schumpeter was essentially correct and that Meek's position comes closest to the one presented here.
3. That there is some doubt that anyone, except possibly Karl Marx, ever held a labor theory of value, despite the usual textbook accounts of the labor theory of value of the British Classical school, can be illustrated by two examples: Adam Smith and David Ricardo. While it is common to discuss the "labor theories" of both these major figures in Classical Political Economy, Samuel Hollander has recently argued persuasively, in *The Economics of Adam Smith* (Toronto: Heinemann Educational Books, 1973), pp. 116–117, that Smith's labor theory of value in the early state was a "summary statement clearly designed as an introduction to the main case. The great attention paid to the labor quantity and labor cost theories of value in commentaries . . . is unjustified". Similarly, almost twenty years ago, George Stigler argued in "David Ricardo and the 93% Labor Theory of Value", *American Economic Review* (June, 1958), reprinted in *Essays in the History of Economics* (Chicago: University of Chicago Press, 1965), pp. 326–342, that David Ricardo never meant to espouse a true labor theory of value but rather had an empirical hypothesis about the major determinants of long run price. The most extreme position, however, is taken by Donald F. Gordon, "What was the Labor Theory of Value", *American Economic Review* (May, 1959) pp. 462–472, who claims that "no major economist of the classical period held what would, by modern usage, be called a labor theory of value".
4. *Capital* (New York: The Modern Library, nd), p. 45. "A use-value, or useful article, therefore, has value only because human labor has been embodied or materialized in it." Ricardo, in *The Principles of Political Economy and Taxation*, Everyman's Library Edition (London: J. M. Dent & Sons Ltd., 1911), on the other hand, claimed that "possessing utility (use value) commodities derive their exchangeable value from two sources: from their scarcity, and from the quantity of labor required to obtain them". (p. 5)
5. (New York: The Modern Library, 1937), p. 47.
6. See, for example, Mark Blaug, *Economic Theory in Retrospect* (Homewood, Illinois: Richard D. Irwin, Inc. 1962), pp. 81–129.
7. This was especially true of Thomas Hodgskin. See Maurice Dobb, *Theories of Value and Distribution Since Adam Smith* (Cambridge: Cambridge University Press, 1973), p. 137.
8. *Theories of Surplus Value*, pp. 365–367.
9. For a discussion that contrasts Locke's view of original ownership with that of Grotius and Pufendorf, see Martin Seliger, *The Liberal Politics of John Locke* (N.Y.: Praeger, 1969), pp. 180–188.
10. It is interesting to note that Adam Smith echoed this idea in Chapter I of *Wealth of Nations*, where he says ". . . the accommodation of an European prince does not always so much exceed that of an industrious and frugal peasant, as the accommodation of the latter exceeds that of many an African king, the absolute master of the lives and liberties of ten thousand naked savages". (Cannan edition, N.Y.: Modern Library, 1937), p. 12. Cannan notes that the idea is also found in Mun and Mandeville.
11. Colin Macpherson, in his unorthodox treatment of Locke's political philosophy in *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Clarendon Press, 1962), has misinterpreted this important passage and thereby misunderstood the benefits Locke saw arising from property ownership. Macpherson argues that Locke's statement about the supposed benefits of enclosure assumes "that the increase in the whole product will be distributed to the benefit, or at least not to the loss, of those left without enough land . . ." (p. 212). In fact, Locke's argument, as we have seen, holds that the very act of enclosure releases more raw materials for the rest of mankind than had previously existed for their support. No "distribution" of the products of enclosed land need take place for society to benefit from private property.
12. *The Principles of Political Economy and Taxation*, especially pp. 5–32.
13. *The Wealth of Nations*, p. 31. In these passages, Smith apparently was (a) enunciating a real cost theory of value and (b) using labor as an index number to measure real wealth.
14. Another implication is that the marginal product of the worker is 999/1000 of the output. Of course, Locke had no concept of marginal productivity, but it is still interesting to note his attempt to compare the output of identical pieces of land with and without labor applied to it, to measure the "contribution" of labor.

15. Reprinted in *Several Papers Relating to Money, Interest and Trade, etc.* [1969] (New York: Augustus M. Kelley, 1968). Hereafter cited as "Some Considerations".
16. Locke is quite insistent about the relativity and changeability of market price. He gives as reason for the impossibility of price fixing the following. "... that things must be left to find their own price; and it is impossible in this, their constant mutability for human foresight to set rules and bounds to their constantly-varying proportion and use, which will always regulate their value." "Some Considerations", p. 51.
17. Locke generally treated changes in quantity as shifts in supply although occasionally he described the effects of price changes on quantity supplied as well. While, as one would expect, the modern distinction between changes in a supply or demand curve and movements along that curve was foreign to Locke, he managed to explain price determination tolerably well without this distinction.
18. For a fuller treatment of Locke's theory of economic value, see Karen Vaughn, *John Locke: Economist and Social Scientist* (forthcoming, Chicago: University of Chicago Press, 1980), Chapter II.
19. In addition to Sewall and Vickers already mentioned (note 2), this position is also implied by Lewis Haney, *History of Economic Thought* (New York: Macmillan, 1932), pp. 120–121.
20. "I think it will be but a very modest computation to say, that of the products of the earth useful to the life of man, 9/10 are the effects of labour: nay, if we will rightly estimate things as they come to our use, and cast up the several expenses about them, what in them is purely owing to nature, and what to labor, we shall find that in most of them 99/100 are wholly to be but on the account of labor." (p. 314) See also p. 316.
21. James Bonar, *Philosophy and Political Economy* (London: George Allen & Unwin Ltd., 1922), p. 93, comes to a similar conclusion with respect to these passages. He interprets Locke as saying that labor adds to the intrinsic value of things by making them more useful but without making any connection between usefulness and exchange value.
22. In fact, the only other instance of Locke discussing a "measure of value" at all was in his second essay, "Further Considerations Concerning Raising The Value of Money" (1695) in *Several Papers Relating to Money, Interest and Trade, etc.*, p. 21 where he calls money the "common measure" of the value of commodities. While finding an objective measure of value may have been a concern of Petty's, Locke was more interested in explaining what determines the economic value of goods as reflected in their money prices. Obviously, then, when we ask if Locke believed labor to be the measure of value, we are asking if he thought the prices of goods were related to the labor that went into producing them, not if he wanted to use labor hours to compare the economic value of two goods.
23. "Some Considerations", p. 14. "Gold and silver though they serve for few yet they command all the conveniences of life; and therefore in a plenty of them consists riches." Furthermore, the only measure of the value of money is its quantity (that is two ounces of silver is twice as valuable as one ounce). Locke says of gold and silver, "For they having as money no other value, but as pledges to procure, what one wants or desires, and they procuring what we want or desire, only by their quantity, tis evident, that the intrinsic value of gold and silver used in commerce is nothing but their quantity." p. 31.
24. In addition to the above arguments, there is some evidence that Locke's paragraph on labor as a measure of value has not come down to us accurately. See Laslett's comment on the text of the *Second Treatise*, p. 320.
25. Bonar, *Philosophy and Political Economy*, p. 94, criticized Locke for calling market price rather than labor cost the natural value of goods. Among political theorists both James Gough, *John Locke's Theory of Property* (Oxford: Clarendon Press, 1950), and Pascal Larkin, *Property in the 18th Century with Special Reference to England and John Locke* (Cork: Cork University Press, 1930) have assumed that Locke had a labor theory of value, although both writers understand this in a moral rather than an analytic sense. Macpherson, *Possessive Individualism*, argues that Locke deliberately suppressed the rights of wage labor in favor of the emerging "capitalist classes".
26. It seems reasonable to conclude from this passage that Locke viewed capital goods as intermediate products and would subsume them under the category of "past labor" in anticipation of the classical doctrine. See my *John Locke: Economist and Social Scientist*, Chapter III.
27. Larkin, *Property in the 18th Century*, p. 66.
28. On p. 34 and p. 92, Locke describes the laborer as living from "hand to mouth". On p. 34, the context is an attempt to estimate the average cash balances held by different groups in society where the laborer's condition was such that he spent all of his income between payment periods and therefore saved nothing. There is no implication that the laborers were particularly poor — only that they saved nothing. On p. 92, Locke is analyzing the effects of a sales tax. He argues that "the poor laborer and handicraft man" cannot bear the burden of the tax because "he just lives from hand to mouth already", implying that if prices rise, his wages must rise proportionately or he will not be able to support his family. The implication here is definitely that laborers lived at subsistence. On p. 115, Locke explicitly uses the term "bare subsistence" to describe the general level of laborers' incomes, implying that they are very poor.
29. "Some Considerations", p. 42. "... The multiplying of brokers hinders the trade of any country, by making the circuit which the money goes, larger, and in that circuit more stops, so that the returns must necessarily be slower and scantier, to the prejudice of trade. Besides that, they eat up too great a share of the gains of trade by that means starving the laborer, and improverishing the landholder whose interest is chiefly to be taken care of, it being a settled unmoveable concernment in the commonwealth."
30. "For there being a want of day-laborers in the country, they must be humored, or else they will neither work for you, nor take you commodities for their labor." "Some Considerations", p. 37.
31. "Some Considerations", p. 79.
32. I deal with Locke's concept of just price and just profit at length in my *John Locke: Economist and Social Scientist*, Chapter V.

33. Marx's discussion of Locke is found primarily in his *Theories of Surplus Value* cited above, note 2.
34. "For this labor being the unquestionable property of the laborer, no man but he can have a right to what is once joined to, at least where there is enough, and as good left in common for others." *Second Treatise*, p. 306. "As much as anyone can make use of to any advantage of life before it spoils; so much he may by his labor fix a property in. Whatever is beyond this, is more than his share and belongs to others. Nothing was made by God for man to spoil and destroy." *Second Treatise*, p. 308.
35. The origin of money in Locke's system is a good illustration of an institution which arose, as Hayek would describe it, as the "result of human action but not of human design". That is, an institution which arose in a spontaneous but orderly process. See F. A. Hayek, *Studies in Philosophy, Politics and Economics* (Chicago: The University of Chicago Press, 1967), pp. 96 – 105. Nozick has more recently used the term "invisible hand explanation" to describe essentially the same idea (although he is understandably inaccurate in attributing a conventional theory of money to Locke). See Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974), pp. 18 – 22.
36. This is a very hasty summary of my interpretation of Locke's theory of the origin of the state. For a detailed analysis, see my *John Locke: Economist and Social Scientist*, Chapter IV.
37. Of course, to argue that current rewards to the descendants of those who labored in the past are also just requires a theory of inheritance, which Locke provides in the *First Treatise*, pp. 225 – 228. Here, he bases his argument on childrens' right, not only to a bare subsistence, but to the conveniences and comforts of life, as far as the conditions of their parents can afford. "Hence it comes, that when their parents leave the world, and so the care due to their children ceases, the effects of it are to extend as far as possibly they can, and the provisions they have made in their life time, are understood to be intended as nature requires they should, for their children." (p. 225).
38. Quoted in Eric Roll, *A History of Economic Thought* (Englewood Cliffs, N.J.: Prentice Hall, 1953), p. 339.

COST AND CHOICE — AUSTRIAN VS CONVENTIONAL VIEWS*

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The relationship between product prices and production costs is front page news today. President Carter assured farmers during the 1976 presidential campaign that his administration would raise farm prices sufficiently high to cover production costs. A year later there were farmer demonstrations in the President's home town and throughout the country, protesting the unfavorable relationship between farm prices and production costs.

There is also widespread sentiment for setting prices of electricity, oil, natural gas and other energy sources on the basis of production costs. Government intervention to base prices on cost requires that costs be calculated. Politicians and most economists (except for members of the Austrian school) have assumed that costs relevant to production decisions, can, in fact, be determined. Little attention has been given by conventional economists, politicians, and the public-at-large, however, to problems the outside observer faces in determining costs of any production process. This paper demonstrates that choice-influencing costs are inherently subjective and not subject to objective measurement, and stresses the implications for economic regulation and efficiency measurements of real world economic activity.

The primary purpose of this paper is to contrast Austrian and conventional concepts of cost. Cost in the logic-of-choice context of conventional neoclassical economic theory is contrasted with subjective cost relevant to individual decision-making. The Austrian subjective

concept of cost is shown to be sound as it relates to individual choice. The limitations of objective estimates of "cost" when used as a normative standard in evaluating observed market behavior are stressed. Implications of the findings are related to a number of policy issues and problems involving cost.

THE NATURE OF COSTS

Austrian (and virtually all other) economists define cost in terms of opportunity cost. The opportunity cost of any decision represents the value of opportunities foregone as a result of the decision made. Cost involves the conscious sacrifice of an available opportunity by the decision-maker. The cost of a vacation trip, for example, is the value placed by the decision-maker on the boat, refrigerator, or other alternatives which must be foregone if the trip is taken.

Opportunity cost stresses the relationship between the act of choice by the decision-maker and opportunities foregone. "Costs are equal to the value attached to the satisfaction which one must forego in order to attain the end aimed at".⁽¹⁾ This cost as it influences choice is based on the decision-makers' anticipations and cannot be discovered by another person. That is, no one else is capable of accurately assessing the value of the sacrificed alternative by the decision-maker. Thus, as recognized and emphasized by the Austrians, the opportunity cost of any activity is inherently subjective.

A recognition that cost is subjective has profound implications for the economic analyst. Since cost is experienced by the decision-maker at the moment of choice, it means that there is

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no way for outsiders to objectively measure the costs which are relevant to decisions actually made. Thus, the definition of cost in terms of opportunities foregone, though accepted by conventional and Austrian economists, is consistent only with the basic subjectivist approach of the Austrians.

Conventional neoclassical theorists implicitly assume that cost is objective, i.e. that the cost of production can be determined by outside observers. The market price of the resources used in production is typically taken in neoclassical theory to be an estimate of opportunity cost. The "cost" of producing corn, for example, is obtained by adding together the market values of land, labor, fertilizer and other inputs required to produce a bushel of corn.

The *ex ante* planning process, however, inevitably involves subjective judgment by the entrepreneur. Summing up production outlays is an objective procedure but does not provide the relevant cost of production which influences entrepreneurial behavior. The market price of an input may differ considerably from its opportunity cost to the entrepreneur, as illustrated by the following example. Consider the cost to be imputed to (say) land in producing corn. The cost of land in corn is the value of opportunities foregone by using land for corn instead of using land in its best alternative use. Cost by its very nature, however, involves choice, and choice cannot be predetermined and still remain choice.^[12] The cost of similar land in corn may well be quite different for Jones and Smith. Jones, for example, may anticipate a return to land of \$30 per acre when using the land for soybeans (the best alternative use). Smith, on the other hand, being more optimistic about future soybean yields or prices, may anticipate a return of \$50 per acre to land in soybeans. Thus, the opportunity cost of land used in producing corn is \$30 per acre for Jones and \$50 per acre for Smith, even though Jones and Smith pay the same rental price for land.

This example illustrates the fact that cost of land (and other inputs) as it influences the entrepreneurial decision (choice) is inherently subjective. It explains why Jones may be observed to plant corn and Smith soybeans even though a

conventional enterprise budget of costs and returns might show the same cost for each producer. Such budgets typically assume that yields and prices are given. In reality, of course, the entrepreneur must estimate both yields and prices. Production decisions are based on opportunity costs which exist only in the mind of the decision-maker. Since choice is among thoughts or things imagined, there is no way for an outside observer to determine these subjective evaluations.^[13]

Consider a second illustration of why the *ex ante* planning process under uncertainty involves subjective judgment by the entrepreneur as well as a capacity for arithmetical calculations. Expectations concerning future demand and cost conditions affect the decision of whether to continue to operate with present plant, machinery, and equipment or whether to make major adjustments in the productive facility. Expectations determine expected depreciation (including obsolescence) and, consequently, determine allowances for interest and depreciation. Here again, there is no way for the outside observer to determine the relevant costs which influence entrepreneurial choice. The depreciation and interest cost estimates by outside observers must be based on historical costs or on the observer's estimate of opportunity costs, which may bear little or no relationship to opportunity costs as perceived by the entrepreneur.^[14]

Hayek stresses the point that anticipating future changes is an entrepreneurial function and necessarily subjective. "In no sense can costs during any period be said to depend solely on prices during that period . . . in fact, almost every real world decision concerning how to produce depends at least in part on the views held about the future."^[15]

As shown later, the fact that expectations are subjective poses seemingly insurmountable problems for economic analysis of entrepreneurial choices.

In neoclassical economic theory, revenues and costs are assumed to be known. The major emphasis is placed on the logic of maximizing profits subject to given costs and returns. Given these data, profit maximization is an objective procedure.^[16] The Austrian subjectivist ap-

proach, on the other hand, stresses the fact that such data should not, in fact, be assumed to be given to the decision-maker. In reality, a key function of the entrepreneur is to estimate prospective costs and returns in choosing between alternative production plans or strategies.^[7] Alchian has shown that profit maximization loses meaning as a guide in choosing among alternative courses of action under conditions of uncertainty.^[8]

There is no hard and fast distinction between the Austrian and conventional neoclassical economists on the cost issue. In fact, some economists not usually identified with the Austrian school are more in the Austrian subjectivist tradition than in the conventional neo-Marshallian objectivist tradition on the cost issue. James Buchanan and Ronald Coase are good examples. Buchanan, along with G. F. Thirlby, recently edited a book which defends the subjectivist view of cost.^[9] The book presents a collection of articles mainly by economists identified at some time with the London School of Economics (Lionel Robbins, von Hayek, R. S. Edwards, G. F. Thirlby and Jack Wiseman). One of the articles is by R. H. Coase.

Coase's article consists of a shortened version of a series of articles which he wrote for *The Accountant* (a British publication) in 1938. In these articles, Coase clearly illustrates the problems posed to the accountant by the subjectivist nature of cost. Cost to the decision-maker involves an *ex ante* evaluation of uncertain future outcomes. Since the future is always uncertain, the evaluation of future outcomes will vary from person to person and will be influenced by numerous factors including the attitude toward risk. The result is that cost as it influences choice loses its objective content. As Coase states,

There is no one decision which can be considered to maximize profits independently of the attitude of risk taking of the business man. A further point is that the correctness of the decision cannot be determined by subsequent events. If a businessman undertakes to do something which entails certain risk, he considers that the chance of gain is worth the risk he runs, and whether he succeeds or fails has no relevance to his preference.^[10]

Although the subjective nature of cost

emerges clearly in his early work, Coase does not appear to have pursued the implications of this work as it relates to empirical applications of neoclassical price theory.

IMPLICATIONS

The distinction between the objective and subjective views of cost has a number of implications both theoretical and empirical.

Methodology

Cost theory in economic texts is handled quite differently by the Austrian school when contrasted with the conventional neoclassical school of economics. Since cost as it influences choice is inherently subjective, little use is made of cost curves in economic texts written by the neo-Austrians. Rothbard, in his *magnum opus*, *Man, Economy and State*, justifies this difference in approach between Austrians and other economists as follows:

It may be noted that, in this work, there is none of that plethora and tangle of "cost curves" which fill the horizon of almost every recent neoclassical work in economics. This omission has been deliberate, since it is our contention that the cost curves are at best redundant (thus violating the simplicity principle of Occam's Razor), and at worst misleading and erroneous.^[11]

The Austrians take the same methodological approach to cost theory as they take toward economic theory in general. The Austrians stress the logical theory of economic choice and deny the value of empirical testing of economic hypotheses. As Kirzner states in explaining the approach of Mises and other latter-day Austrians:

... empirical confirmation of the theorems obtained by abstract knowledge is neither possible nor necessary. It is not possible, because there are no constants in the realm of human actions; it is therefore impossible to investigate the consequences of changes in one variable with assurance that no disturbance is at the same time being caused by changes in other variables. On the other hand, confirmation of economic theorems is not necessary because the theorems themselves describe relationships logically implied by hypothesized conditions. The validity of these relationships can be tested by examining the reasoning employed to establish them.^[12]

There is a fundamental difference of opinion between Austrian and conventional economists concerning prediction and hypothesis testing. A

general discussion of these differences as reflected in Kirzner's comments is beyond the purview of this study. However, in the context of the topic of this paper it seems clear that there is no way for an outside observer to test hypotheses related to opportunity cost, since only the decision-maker is able to evaluate sacrificed opportunities.

Consider, for instance, the example of an outside observer who wishes to test the hypothesis that the cost for Jones of commuting by bus is lower than his cost of commuting by car. The analyst has no way to determine the relevant costs, the sacrificed opportunities, associated with a particular mode of travel. What, for example, is the value placed on flexibility, on time spent travelling, etc.? When the economic analyst arbitrarily assigns values to these variables, there is no reason to expect them to correspond with the actual opportunity cost experienced by the decision-maker. Thus, the result of such an analysis is not valid for normative purposes. It is invalid to conclude from such an analysis that the driver could reduce cost by changing his mode of travel.

In the conventional neoclassical theory of the firm, emphasis is placed on the logic of profit-maximizing behavior by the firm, assuming that information on costs and returns is given. Stress is placed on the relationship between marginal and average cost curves and product demand under equilibrium conditions.

A problem usually not explicitly recognized, arises in conventional cost theory when resources are specialized. Most conventional theory texts deal with a world of unspecialized resources. In the real world, however, land, labor, productive facilities, and entrepreneurship are specialized and differ between firms. The price theory book by Friedman is one of the few texts to point out the problem posed by specialized resources to conventional cost analysis.

The existence of specialized resources . . . makes it impossible to define the average cost of a particular firm for different hypothetical outputs independently of demand. . . . Take the copper mine of the preceding paragraph: its cost curve cannot be computed without knowledge of the royalty or rent that must be paid to owners of the mine, if the firm does not itself own it,

or imputed as royalty or rent, if the firm does. But the royalty is clearly dependent on the price at which copper sells on the market and is determined in such a way as to make average cost tend to equal price. . . . The equality of price to average cost . . . is forced on the firm by the operation of the capital market or the market determining rents for specialized resources.⁽¹³⁾

The specific implications of specialized resources are further considered in a later section. In spite of the explicit recognition of problems posed to conventional cost theory by specialized resources in Friedman's text, there is no recognition of the problems involved in obtaining the cost data which lie behind cost curves.

Problems associated with the subjectivity of cost do not arise as long as concern is limited to the *logic* of choice, and much of conventional economic theory is concerned with this logic. The logic of choice, as it relates to cost, for example, instructs the decision-maker on which outlays are relevant for current decisions and which are "fixed costs". The rule "let bygones be bygones" is often difficult to apply in making real world choices. "Instructing the decision-maker as to how he should choose may produce 'better' choices as evaluated by his own standards."⁽¹⁴⁾ Thus, the logic of choice as it applies to cost can be treated independently of the process of determining cost.

In many cases, historical data can provide useful information to the entrepreneur in assessing future conditions. Today, there are private firms which specialize in providing cost estimates and (other) outlook information based on historical economic data. It should be clear, however, that operations research and econometric studies at most can provide useful information to the entrepreneur. The data provided will be interpreted in different ways by different entrepreneurs and do nothing to reduce the subjective nature of the entrepreneurial function.

The use of objective cost estimates poses no problem as long as they are considered to be *data* for use by the entrepreneur and not as choice-influencing costs. A serious problem arises in neoclassical theory, however, when objective "cost" estimates made by external observers are used for normative purposes and are assumed to represent the costs appropriate

to current decision-making, i.e. to the theory of choice. As shown by the above example relating to land cost in producing copper, there is no reason to expect a direct relationship between the objective cost estimates of neoclassical theory and the costs relevant to the act of choice.^[15]

The examples discussed below demonstrate how common it is to use objective cost estimates in a choice context (for normative purposes), viz. in determining “optimum” price and output levels and for evaluating the efficiency of firm and household decisions. The Austrian criticism of the use of cost and return estimates by outside observers for normative purposes appears to be unassailable. The results are not valid because the costs relevant to the act of choice in any economic decision are subjective. That is, outside observers cannot obtain objective cost estimates which are appropriate to the moment of choice. The inappropriateness of using objective cost estimates as though these estimates were costs appropriate to the act of choice will be discussed in three different contexts.^[16]

Economic regulation

A considerable amount of attention is devoted to the problem of monitoring firm costs in regulating public utilities and other “natural monopolies”. State utility commissions are active throughout the U.S. estimating the cost of providing electricity, telephone services, etc., to be used as a basis for rate setting. This activity presumes that the government regulator has an objective basis for setting prices based on costs which would prevail under competitive conditions.

An appreciation of the nature of the role of the entrepreneur is necessary to understand the problems faced by regulators in setting prices. In the case of public utilities, regulatory commissions attempt to insure that these “natural monopolies” charge a competitive price (or rate of return) as determined by production costs. Since choice-influencing costs are subjective and incurred at the moment of choice, cost as it influences entrepreneurial behavior cannot be obtained from the firms’ accounting “cost” records. Attempts to force utilities (or other

“natural monopolies”) to set price equal to cost can be no more than hollow appeals.^[17] Production decisions, as stressed by Hayek, hinge on views held about the future as well as current conditions, and there is no reason to expect the regulator’s view to coincide with that of the entrepreneur. Thus, there is no objective procedure by which the regulator can determine whether prices should be increased or decreased if prices are to be based on “costs”.

A closely related point concerns the nature of the market. The market, as Hayek stressed, is not merely an alternative way of discovering costs and prices which are capable of being determined by central direction. Competitive costs can only be determined by having competition. Yet, much economic regulation assumes that competitive costs can be determined through the regulatory process.

In view of these problems in measuring cost, it should not come as a surprise when economic studies find the effect of regulatory commissions on utility rates to be negligible. Stigler and Friedland, for example, in a pioneering study were unable to find any significant effect of the regulation of electrical utilities on utility rates.^[18] Perhaps the apparent lack of effect of regulatory commissions in holding down rates in such cases is fortunate for the consumer. There is no reason to expect that the effect of holding down current rates (thereby curtailing future supply below the level of an unregulated public utility) will redound to the benefit of the public. It seems just as likely that the effects will be similar to those of current price controls on oil and natural gas. These controls reduced the production and supply of these products below the level dictated by the market, causing, or at least exacerbating, the shortage during the winter of 1976–1977.

The subjective nature of cost poses the same problems for all other regulatory agencies which are charged with setting prices in “the public interest”. In some cases, however, the problem differs slightly from the case of utilities. In the case of milk (and other commodities produced under government price supports), the price is *deliberately set above* the competitive level. In the case of price supports for milk and other agricultural products,

minimum wages, etc., where price is deliberately raised above the market level, the lack of any objective basis in setting price is even more apparent than in the case of public utilities where the avowed purpose is to set price on the basis of cost. When the price is not set at the competitive level, the problem of determining the appropriate price is the same as that faced by Aristotle and others who sought the "just price".

The example of milk and other agricultural products where price is deliberately raised above the market level illustrates another important point. When price is set above the market level by government fiat, increases in product price will be capitalized into specialized input prices through competitive market forces so that production outlays will rise to meet returns. In the Austrian terminology, it is milk prices which determine milk costs and not production costs which determine milk prices. Consequently, attempts to set price based on production outlays (as proposed by Candidate Carter) are meaningless in the case of all production involving specialized resources since an increase in product price will be capitalized into increased production outlays. Under these conditions, the best estimate of cost is product price!

The phenomenon of input prices rising in response to changes in product price has also been observed in the case of farm real estate in recent years. Consider the effect of the price explosion of agricultural products in 1973 on the price of land. Farm real estate values in the U.S. have, on the average, more than doubled since 1972. Increases in land prices, however, are not responsible for high food prices. Instead, the expectation of high farm product prices in the future are responsible for high farm real estate prices. Lower farm product prices in 1977 dampened future expectations and reduced agricultural land prices in some states.

Assessing economic efficiency

The correctness of entrepreneurial decisions made under uncertain conditions, as Coase pointed out 40 years ago, cannot be determined

by the outcome of subsequent events. Yet, the economics literature is replete with examples purporting to measure economic inefficiencies. The sources of inefficiency identified are definitional, however, and not related to the only appropriate norm for measuring efficiency, viz., the goal of the decision-maker. Efficiency, meaningfully defined, means that the decision-maker has no preferred alternative at the time the decision is made, given the circumstances.^[19] When the subjective nature of choice is recognized, it becomes clear that it is impossible for the outside observer to identify any action or choice as inefficient or irrational in terms of the costs and benefits experienced by the decision-maker at the moment of choice.^[20]

Empirical studies which compare the costs and benefits of regulatory agencies, for example, can never establish that such agencies are inefficient in a planning or choice sense. The costs and returns relevant to choice are those related to the expectations and goals of the entrepreneur when the program was initiated. These data, of course, are subjective, and not available *ex post* to economic analysts. If the expected gains and costs at the moment of choice could be fully specified, the regulatory agency would appear rational or efficient.

Recent studies have shown the FDA, FCC, FTC, and ICC and other regulatory agencies to be contrary to purpose and ineffectual as perceived by the empiricist using historical data.^[21] This does not mean, however, that they are inefficient in the planning or choice sense since, as Coase stresses, correctness of decisions made under uncertain conditions cannot be determined *ex post*, i.e. by subsequent events.

Even though an outside observer can never establish that an action of a particular firm is inefficient based on a measurement of costs and returns which motivate choice, the economic analyst is not completely helpless in evaluating the degree to which the entrepreneur is successful. In a world of uncertainty, the relationship between purposive behavior and success is likely to be ambiguous. Success may be due to chance rather than to superior motivation or foresight. Alchian has proposed survival as a

criterion for evaluating firm success.^[22] This means that success should be judged on results rather than on motivation. In a market economy, realized positive “profits” may be taken as the criterion by which successful and surviving firms are selected. If monetary losses are large enough, the firm will be driven out of business regardless of its goals. As indicated above, success in some cases is accidental while in others it is due to entrepreneurial astuteness. Regardless of the reason for success, however, survival of the firm is achieved by those whose actions are most appropriate in terms of adapting to market conditions.

What is the process by which traits associated with success are acquired by firms? Trial and error is likely to play an important role since the firm must always operate in a climate of uncertainty. In addition, whenever successful firms are observed, we might expect that the elements common to success will be copied by competitors in their quest for success. In explaining past results (success), the economist may be able to determine the attributes which were important to survival, even though individual participants were not aware of them.^[23] This does not imply that purposive behavior is absent from reality. It does mean that the economist can select the most successful firms and predict the effects of higher taxes, wage rates, etc. under market conditions without assuming that participants are aware of and act according to their cost and revenue curves.

The ability of the economist to identify firms on the basis of success is largely negated under a regime of economic regulation. Under government regulation, “profits” do not determine firm survival since prices can be raised or taxes can be used to cover losses. Thus, there is no presumption that surviving firms are efficient in terms of meeting the market test. It is significant that most goods and services provided through the government sector are sold at a price which requires a government subsidy.

Although survival provides a criterion for identifying the most successful firms, identification of the traits associated with success will always be tentative. Firms differ in an almost infinite variety of ways, including differences in size, location, capital facilities, and

management, and it is not generally possible to select traits which are necessary for survival. At one time, for example, economists placed a great deal of emphasis on determining the “optimum size” firm. However, since a range of firm sizes persists over time, there is no reason to think that there is *an* optimum size of firm.

Alchian realizes that it will not be easy for economists to determine the more viable types of economic interrelationships.^[24] Similar difficulties are faced in isolating the effects of economic regulation.

Economic regulation — why hope springs eternal

Machan points out that empirical cost and benefit studies can never discredit attempts at regulation:

Empirical objections to a particular proposal for regulation cannot in themselves invalidate the *general* course of conduct. So what if studies demonstrate that this particular effort of such and such a regulatory agency has not worked? The *next one might*. Especially if we change some features of the policy in what appear to be significant ways.^[25]

Machan's point is closely related to the *ex ante* versus *ex post* distinction noted above. The relevant costs and benefits in evaluating any decision are those appropriate to the decision at the moment of choice. The fact that there is a discrepancy between the net benefits anticipated when the decision was made and those realized when the program was implemented doesn't mean that the original decision was “bad”. To so conclude would be to judge a decision on the basis of subsequent events.

The astuteness of a decision must be based on *ex ante* data, i.e. on the expected costs and benefits at the time the decision was made. As Machan indicates, the fact that one type of regulation is generally agreed to be counter-productive doesn't necessarily lead to the expectation that other types of regulation will also be counter-productive or unfavorable in the sense of its anticipated cost-benefit ratio. Why? “Better regulation” is always a possibility. The lack of effectiveness of Nixon era price controls, for example, was attributed by J. K. Galbraith (and others) to the fact that the people in charge weren't sufficiently dedicated to the concept of price controls. For Ralph Nader

and many people in the "consumerist" movement, the basic problem with government regulation lies in laxity, ineptitude, or venality by the regulators. In this view, the ICJ, CAB, and other regulatory agencies can achieve their objective by placing better people in charge.

There are almost an infinite number of similar arguments which might be used to lead people to think that new regulation will be more effective than current regulation. The effectiveness of regulation might be improved by moving it from the federal to the local or state level, i.e. by moving it "closer to the people". Or, it might be improved by moving it from the local or state level to the federal level to avoid the corruption of local and state politicians, to standardize the level of service among wealthy and poor states, etc. The administration of regulatory agencies might be improved by increased "consumer" representation, by eliminating "petty rules", by allowing for a greater diversity of consumer tastes, by "sunset" features in legislation, by a new Consumer Advocacy Agency, etc.

Since government regulation can vary in an almost infinite number of ways, it seems unlikely that empirical cost and benefit studies of existing regulation will ever discredit the concept of government regulation. At the same time that the Carter Administration professes dissatisfaction with airline regulation, for example, it is waging the "moral equivalent of war" to regulate further energy and medical care. The failure of past government regulation to achieve stated goals appears to have little or no influence on the momentum to regulate further currently unregulated areas.

SUMMARY AND CONCLUSIONS

Cost is defined in terms of sacrificed alternatives by both Austrian and conventional neoclassical economists. The latter group holds that cost can be measured by an outside observer, while the former group stresses the fact that only the decision-maker is able to assess the value of the sacrificed alternative. This paper has attempted to demonstrate that the distinction between the Austrian and conventional views of cost is important and greatly

influences the way the economist's role is viewed. In conventional neoclassical theory, the role of the entrepreneur is minimized, as emphasis is placed on the allocation of *given* means among *known* alternative ends. The Austrian approach stresses the fact that information about means and ends is not given to the entrepreneur, but that the entrepreneur's success hinges on how effectively he gains control of and uses resources in a world permeated with uncertainty.

Can the conventional and Austrian approaches to cost be reconciled? No problems arise in conventional economic theory so long as the task of cost theory is viewed in terms of the logic of choice. That is, there is no problem so long as cost theory is viewed as a system of logic by which the decision-maker can make "better choices". The problem arises when attempts are made to estimate costs which influence entrepreneurial choice.^[26]

A recognition of the fact that choice-influencing costs cannot be objectively measured by outside observers places a new perspective on efforts by government to set prices on the basis of cost in the case of farm prices, petroleum prices, hospital prices, utility prices, etc. A recognition of this fact also makes it clear that government regulatory agencies cannot base prices on costs which motivate entrepreneurial behavior. So long as this basic subjective nature of cost is not realized, central planners, public policy makers, consumer interests, and other groups will continue to demand of government regulation that which it cannot provide, viz. cost data relevant in setting utility rates and product prices. Objective "cost" data and cost estimates are often useful to the entrepreneur. It should not be forgotten, however, that objective "cost" estimates are not the costs which influence individual choice and, hence, cannot be used for normative purposes.

NOTES

1. Ludwig von Mises, *Human Action* (Chicago: Henry Regnery Co., 1966), p. 97. Rothbard, closely identified with the "subjectivist economics" of the Austrian school, also stresses the subjective nature of cost. "In the first place, it must be stressed that these costs are subjective and cannot be precisely determined by out-

- side observers or be gauged *ex post* by observing accountants." Murray Rothbard, *Man, Economy and State* (Los Angeles: Nash Pub. Co., 1970), p. 291.
2. J. M. Buchanan, "Is Economics the Science of Choice?" in *Roads to Freedom — Essays in Honour of Friedrich A. von Hayek*, E. Streissler (ed) (New York: Augustus M. Kelley, 1969).
 3. "Choice is necessarily amongst thoughts, amongst things imagined. For when experience is actual and proceeding, outside the realm of ideas, it is unique and already chosen." G. L. S. Shackle, *Epistemics and Economics: A Critique of Economic Doctrines* (Cambridge: Cambridge University Press, 1972), p. 130.
 4. Shackle clearly demonstrates the relationship between cost and the entrepreneur's expectations. "The material possessions, the equipment of the business or of the economic society as a whole, would have no more value than the most casual objects and features of the scene, were they not embraced in a technology, an organization, a policy and, at any moment, a plan of action specified as to the persons whose interests it is to serve or whose orders or desires it is to satisfy, and as to its location and its timing. . . . The 'facts' at best are like a few pieces of coloured stone or glass intended for a mosaic as a whole from the suggestions offered by these few disconnected fragments. A slight, accidental re-arrangement of the scattered fragments can reveal new possibility . . ." Shackle, *Epistemics*, p. 428.
 5. F. A. Hayek, *Individualism and Economic Order* (Chicago: Univ. of Chicago Press, 1974), p. 198.
 6. Shackle points out that there is no place for choice in this approach. "In economics of the accepted Western, maximizing kind we are confronted with a basic contradiction: men are choosers, they choose the best, each for himself; what is the best can always be known to each person, either by merely consulting his own tastes or by applying the techniques of engineering or, where knowledge lacks a *simple* precision, by applying statistical techniques which turn ignorance of the particular into knowledge of the aggregate. . . . And so we have men in this situation: what is 'the best' for him is known to him uniquely and for certain; how to attain it is dictated by circumstances, and can be inferred from them. What, then, is left for him to do in the way of choosing?" G. L. S. Shackle, *Decision, Order, and Time in Human Affairs* (Second ed., Cambridge: Cambridge Univ. Press, 1969), p. 272.
 7. Israel M. Kirzner, *Competition and Entrepreneurship* (Chicago: The Univ. of Chicago Press, 1973).
 8. "Under uncertainty, by definition, each action that may be chosen is identified with a distribution of potential outcomes, not with a unique outcome. . . . It is worth emphasis that each possible action has a *distribution* of potential outcomes, only one of which will materialize if the action is taken, and that one outcome cannot be foreseen. Essentially, the task is converted into making a decision (selecting an action) whose potential outcome *distribution* is preferable, that is, choosing the action with the optimum *distribution*, since there is no such thing as a maximizing distribution". A. A. Alchian, "Uncertainty — Evolution and Economic Theory", *Journal of Political Economy*, 58 (June, 1950), p. 212.
 9. J. M. Buchanan and G. F. Thirlby (eds.), *L.S.E. Essays on Cost* (London: Weidenfeld and Nicholson, 1973).
 10. *Ibid.*, pp. 104 – 105.
 11. Rothbard, *Man, Economy and State*, p. 529.
 12. I. Kirzner, "Divergent Approaches in Libertarian Economic Thought", *Intercollegiate Review* (January – February, 1967), p. 107.
 13. Milton Friedman, *Price Theory* (Chicago: Aldine, 1976), p. 147.
 14. " . . . the logic reduces to the economic principle, the simple requirement that returns to like units of outlay or input must be equalized at the margin in order to secure a maximum of output. . . . If a potential chooser is made aware of the principle in its full import, he will weigh alternatives more carefully, he will think in marginal terms, he will make evaluations of opportunity costs, and finally, he will search more diligently for genuine alternatives. The norms for choice can be meaningfully discussed, even if the specific implementation takes place only in the internal calculus of the decision-maker." Buchanan, "Is Economics the Science of Choice?" pp. 48 – 49.
 15. J. M. Buchanan, *Cost and Choice* (Chicago: Markham Pub. Co., 1969), p. 35.
 16. "The false step is taken when the explicitly objectified payoff structure that is postulated for use in the abstract theory of economic behavior is translated into direct guidelines for the explicit manipulation of choice alternatives. This procedure must assume that the actual *choice-maker* in the real world *behaves* strictly as the pure economic man of the theorist's model." Buchanan, "Is Economics the Science of Choice?" p. 60. Moorhouse makes the point in a slightly different way, " . . . social phenomena are inherently subjective. Men act according to their *perception* of relevant data. Subjective evaluation of external stimuli, though unobservable and hence, nonquantifiable, are part and parcel of the phenomena economists wish to explain". John C. Moorhouse, "The Mechanistic Foundations of Economic Analysis", *Reason Papers* No. 4 (Winter, 1978), p. 65.
 17. E. C. Pasour, "Regulation's Fatal Flaw," 10 *Reason* (October, 1978), pp. 26 – 30.
 18. G. J. Stigler and Claire Friedland, "What Can Regulators Regulate? The Case of Electricity", *Journal of Law and Economics* (October, 1962).
 19. E. C. Pasour, Jr. and J. B. Bullock, "Implications of Uncertainty for the Measurement of Efficiency", *Am. Journal of Ag. Econ.*, Vol. 57, No. 2 (May, 1975), pp. 335 – 339.
 20. "Human action is necessarily always rational. . . . The ultimate end of action is always the satisfaction of some desires of the acting man. . . . It is a fact that human reason is not infallible and that man very often errs in selecting and applying means. An action unsuited to the end sought falls short of expectation. It is contrary to purpose, but it is rational, i.e., the outcome of a reasonable — although faulty — deliberation and an attempt — although an ineffectual attempt — to attain a definite goal". Ludwig von Mises, *Human Action* (Chicago: Henry Regnery Co., 1966), pp. 19 – 20.
 21. A good discussion of the problems of a number of present government regulatory agencies is presented in *The Crisis of the Regulatory Commissions*, Paul W. MacAvoy (ed.) (New York: W. W. Norton & Co., 1970).
 22. Alchian is not advocating "scientism", i.e. that economists emulate the procedures of the natural

- sciences. Instead, he seeks to increase an understanding of the precise role and nature of purposive behavior in the presence of uncertainty and incomplete information. Hayek's comments on "prediction and control" in biology apply even more strongly in economics and the social sciences. "The theoretical understanding of the growth and functioning of organisms can only, in the rarest of instances, be turned into specific predictions of what will happen in a particular case because we can hardly ever ascertain all the facts which will contribute to determine the outcome". F. A. Hayek, *Studies in Philosophy, Politics and Economics*, pp. 33 – 34.
23. "It is not even necessary to suppose that each firm acts as if it possessed the conventional diagrams and knew the analytical principles employed by economists in deriving optimum and equilibrium conditions. . . . The fact that an economist deals with human beings does not *automatically* warrant imparting to these humans the great degree of foresight and motivations which the economist may require for his customary analysis as an outside observer or 'oracle'" Alchian, "Uncertainty", p. 216.
 24. "The undiscerning person who sees survivors corresponding to changes in environment claims to have evidence for the 'Lysenko' doctrine. In truth, all he may have is evidence for the doctrine that the environment, by competitive conditions, selects the most viable of the various phenotypic characteristics for perpetuation. Economists should beware of economic 'Lysenkoism'" *Ibid.*, p. 215.
 25. Tibor Machan, "Costs and Virtue, the Debate on Planning", *National Review* (June 11, 1976).
 26. "The failure of economists to recognize that the sense data upon which individuals actually choose in either market or political choice structures are dimensionally distinct from any data that can be objectively called upon by external observers led directly to the methodological chaos that currently exists". Buchanan, "Is Economics the Science of Choice?", p.64.

BENITO CERENO AND LEGAL OPPRESSION: A SZASZIAN INTERPRETATION

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To collaborate with an author in perceiving the implied ethical problems he poses and passing a moral judgment on their solution can be, as Wayne Booth has remarked, a heady experience for the enlightened reader.^[1] The wide attention given to *One Flew Over the Cuckoo's Nest*, both as novel and as film, suggests to the student of literary history that nineteenth century fiction has also raised questions which may give pause to anyone considering the American Dream. Since Herman Melville's *Benito Cereno* and Mark Twain's *Adventures of Huckleberry Finn* were both mimetic portrayals of slavery, it is instructive to contrast the two. Each was an attempt, like Ken Kesey's book, to awaken its readers from somnolent optimism, forcing them to confront the realities of institutionalized evil. Yet *Benito Cereno* appeared almost thirty years before *Huckleberry Finn*, and it addressed a pre-Civil War audience. Thus the insights provided by the psychiatric scholar Thomas S. Szasz for understanding a novel like *One Flew Over the Cuckoo's Nest* are applicable to Melville's story, for reasons that I shall demonstrate in this paper.

To begin with the obvious, which sometimes needs to be emphasized, we should remember that, like coercive psychiatry today, in large parts of the western hemisphere during most of the nineteenth century slavery, though abhorred by many people, was legal, defended with all the power of the state. It was also socially sanctioned, in the antebellum North as well as in the South, with religion and custom combining to mask it as an institution benefiting not only white society but also the oppressed blacks.

Hence much of the pathos of *Huckleberry Finn* lies in Huck's unquestioning acceptance of the fact that he is committing a crime by not

surrendering his slave companion to Jim's legal owner. According to the beliefs of his society, Huck is also endangering his soul. The most poignant scene in the novel occurs when, after much mind-twisting vacillation, he finally resolves not to reveal Jim's whereabouts. Teetering back and forth in an agony of indecision and doubt over what course to follow, he never doubts that one alternative involves compounding a crime and enacting a sin.

The more I studied about this, the more my conscience went to grinding me, and the more wicked and low-down and ornery I got to feeling. . . . The plain hand of Providence [was] slapping me in the face and letting me know my wickedness was being watched all the time from up there in heaven, whilst I was stealing a poor old woman's nigger that hadn't ever done me no harm I most dropped in my tracks I was so scared. Well, I tried the best I could to kinder soften it up somehow for myself, by saying I was brung up wicked, and so I warn't much to blame; but something inside of me kept saying, "There was the Sunday school, you could a gone to it; and if you'd a done it they'd a learnt you, there, that people that acts as I'd been acting about that nigger goes to everlasting fire."

It made me shiver. And I about made up my mind to pray; and see if I couldn't try to quit being the kind of a boy I was, and be better. So I kneeled down. But the words wouldn't come.

Huck thinks of the many kindnesses Jim has shown him.

I was a trembling, because I'd got to decide, forever, betwixt two things, and I knowed it. I studied it a minute, sort of holding my breath, and then says to myself:

"All right, then, I'll go to hell." . . .

It was awful thoughts, and awful words, but they was said. And I let them stay said; and never thought no more about reforming.^[2]

Although Huck chooses to contravene the legal sanctions of his society for Jim's sake, he does not question the morality of the law; he simply decides to break it. Moreover, his opinion of the very conventional Tom Sawyer falls

when he thinks that Tom has also decided to break the law in helping a slave escape. Subsequently we learn that Tom has done no such thing. Jim has been free all along, manumitted in his dead mistress' will, and Tom knew it. His cruel torments of Jim, and his reckless disregard for the ex-slave's safety as well as their own, had been occasioned by nothing but a romantic playing of foolish boys' games. He is merely enacting an elaborate charade, which has no more ethical profundity, though it is a good deal more dangerous for all concerned, than his earlier rout of a Sunday School picnic with wooden swords.

Huck makes a completely individual decision to break the law in one instance; it never occurs to him to challenge the moral foundation of the law itself. Tom Sawyer, however, does not break the law even in the single instance involving Jim; he merely pretends to do so. Both he and his creator were, in a fundamental sense, playing it safe. *Huckleberry Finn* was published in 1884–1885. Mark Twain wrote his novel years after the abolition of slavery, although he was portraying an antebellum society. Moreover, whatever its status at law, helping the kindly and paternalistic Jim flee to freedom was hardly an offense to right feeling.

Herman Melville, however, said "NO! in thunder"^[3] to slavery while it was still legal by showing its victims reacting with murderous violence.^[4] His extraordinary novella, *Benito Cereno* (1855),^[5] in effect turns the institution upside down, and portrays whites as the slaves of a band of African Negroes. Cargo on a South American slaver, they have mutinied and become dominant on board the *San Dominick*, killing the whites or holding them hostage. The Castilian Chilean captain, Don Benito Cereno, had formerly accepted slavery unthinkingly along with his society's other mores. But his experience as a helpless slave forces him to recognize the horror of human bondage, and although he is rescued from the insurrectionists, who are either captured or killed, his distraught psyche has been dealt a fatal blow. An honorable if hitherto unreflective man, he cannot cope with the ethical inferno he has glimpsed, and he wastes away. Telling the blunt Captain Amasa Delano that the Negro has cast

"such a shadow" upon him that he cannot live, he succumbs to the vision of an evil too monstrous to be borne.

This story, written while slavery was under statutory protection in the United States, was created with great subtlety so that the horror of what the blacks do is fully apparent. Nevertheless, it is clear to modern readers that Melville was really mounting an extraordinarily effective attack against the perverted laws which allowed so intelligent and resourceful a person as Babo, leader of the mutineers, no role except that of a slave. *Benito Cereno* presents a wholly legal institution as a betrayal of humanity. The horrendous and terrifying crimes of mutiny and murder threaten society, to be sure, but the society they threaten is thereby revealed as one that has institutionalized evil.

When we look at the novella in more detail, we perceive the subtle ways in which Melville has portrayed his nightmare vision. He says explicitly that the devices on the oval shield mounted on the *San Dominick's* stern are symbolic. The most prominent medallion among them shows a masked satyr "holding his foot on the prostrate neck of a writhing figure, likewise masked" (p. 70). Who is the oppressor, who the oppressed?

The differing responses to slavery of Captain Amasa Delano and Don Benito Cereno reveal Melville's psychological profundity. Only a superficial Candide who sees little harm in the human soul can maintain his equanimity in a slave-holding society riddled with injustice. Delano is described as "a person of a singularly undistrustful good-nature, not liable, except on extraordinary and repeated incentives, and hardly then, to indulge in personal alarms, any way involving the imputation of malign evil in man". Melville then adds sardonically: "Whether, in view of what humanity is capable, such a trait implies, along with a benevolent heart, more than ordinary quickness and accuracy of intellectual perception, may be left to the wise to determine." His benignity, indeed, is what enables the Yankee captain to bear a charmed life, as he smiles and chats his way among the mutineers. He himself says that his feelings of "good-nature, compassion, and charity" conquered his distrust in a situation

where he might have paid for acuteness with his life (pp. 67, 168).

But in a profounder sense, this same shallow optimism prevents him from understanding Cereno's distress and fatal melancholy after his rescue. The Castilian has observed that "even the best man [may] err, in judging the conduct of one with the recesses of whose condition he is not acquainted". Don Benito himself, having become acquainted with those dark recesses in the microcosmic slave society of the *San Dominick*, is now in a position to understand the mutineers' conduct. It is a knowledge he cannot live with. When Captain Delano says, "the past is past; why moralise upon it?" Don Benito reveals his premonition of death. The astonished Yankee cries, "You are saved, . . . you are saved: what has cast such a shadow upon you?" "The negro", is Don Benito's response (pp. 168–169). After such knowledge, what forgiveness? On being dismissed by the court of inquiry into the mutiny, he retires to the seclusion of a monastery, where he dies three months later.

At this point, it is instructive to consider some comments by Dr. Szasz — who has made detailed studies of various forms of oppression — on American slavery and its psychological consequences, for slave, slaveholder, and abolitionist.¹⁶¹ His perceptions help us to understand not only Amasa Delano and Benito Cereno, but also Babo and his followers. Szasz, following other thinkers, begins by emphasizing the paternalistic perspective that played an important part in justifying slavery. He quotes Stanley M. Elkins on the comforting stereotype of the merry Negro slave, happy in his bondage. According to Elkins, "the failure of any free workers to present themselves for enslavement can serve as one test of how much the analysis of the 'happy slave' may have added to Americans' understanding of themselves". The Yankee Captain Amasa Delano is, of course, no adherent of slavery; but for that very reason the stereotypes with which it has infected his thinking are the more repugnant. Although at one point he reflects that "slavery breeds ugly passions in man", he does not consider blacks as fully human.¹⁷¹ In his view they are almost a different species from whites; their docility and

contentment are due to their limited minds. He regards them as rather stupid, inferior beings specially adapted to make cheerful, loyal and affectionate personal servants. African women, he thinks, are tender-hearted but tough, "unsophisticated as leopardesses; loving as doves". The animal imagery in which Delano thinks of Negroes is revealing. "At home, he had often taken rare satisfaction in sitting at his door, watching some free man of colour at his work or play. If on a voyage he chanced to have a black sailor, invariably he was on chatty and half-gamesome terms with him". He "took to negroes, not philanthropically, but genially, just as other men to Newfoundland dogs" (pp. 105, 121).

Szasz points out to the contrary that nothing in the nature of things ordained that Africans should be slaves. Rather, "the white man who sailed for Africa, captured the Negro, brought him to America in shackles, and then sold him as if he were an animal, created slavery and slaves". Slavery was not an existential absolute; it was a particular form of interaction between oppressor and oppressed, which, like all tactics of exclusion, could be turned around, with the former victim becoming the master. But seeing it in this light had far-reaching implications. It meant that the dedicated slave-holder, while paying lip service to the fatuous notion that "a merrier being does not exist on the face of the globe than the Negro slave", lived in constant fear of his violence and revolt. On the other hand, Szasz indicates that to protest "against the slave trade would have provoked the hostility of powerful religious and economic interests", since the critic of slavery would have been "at odds with all the tradition and wisdom of Western civilization". The decent slaveholder who manumitted his slaves — as he had to once he faced honestly his oppressive relationship to them — was threatened with "expulsion from the community — through economic pressure or personal harassment or both". It is this moral dilemma that Benito Cereno's harrowing ordeal has forced him to confront — and he can find no solution. After his rescue, he cannot even look at Babo, and faints at the trial when he is forced to do so.

But the perception of slavery as an oppressive

relationship had even more drastic consequences for slaves. It meant, according to Szasz, that they "had an obligation to revolt and emancipate themselves". Even the fatherly Jim in *Huckleberry Finn* has this attitude. The young Huck is horrified, as Mark Twain ironically points out, when his slave companion reveals that "the first thing he would do when he got to a free State" would be to save his money

and never spend a single cent, and when he got enough he would buy his wife, which was owned on a farm close to where Miss Watson lived; and then they would both work to buy the two children, and if their master wouldn't sell them, they'd get an Ab'litionist to go and steal them.

It most froze me to hear such talk. He wouldn't ever dared to talk such talk in his life before. Just see what a difference it made in him the minute he judged he was about free. It was according to the old saying, "give a nigger an inch and he'll take an ell". Thinks I, this is what comes of my not thinking. Here was this nigger which I had as good as helped to run away, coming right out flat-footed and saying he would steal his children — children that belonged to a man I didn't even know; a man that hadn't ever done me no harm. (p. 73)

But the decision that Melville's Babo reaches is far more terrible, with monstrous consequences. Like Jonathan Swift before him, Melville recognized that, if the oppressed are not to internalize their own degradation, they must fight against it. At the same time, again like Swift, he realized that the enslaved make the worst tyrants.^[8] We learn at the trial that Babo "had determined to kill his master, Don Alexandro Aranda, [who had thought his slaves were so "tractable" they need not be fettered] both because he and his companions could not otherwise be sure of their liberty, and that to keep the seamen in subjection, he wanted to prepare a warning of what road they should be made to take did they or any of them oppose him". We learn also that "all the negroes, though not in the first place knowing to the design of revolt, when it was accomplished, approved it" (pp. 154, 161).

The dauntless Babo was a man of extraordinary intelligence and administrative ability. He had been, as he says, even "in his own land . . . only a poor slave; a black man's slave was Babo, who now is the white's" (p. 90). Gambling everything on mutiny and murder, he

had achieved a few months' respite from his debased status. But he had not won "freedom"; as shackled by slavery as ever, he simply became the oppressor rather than the oppressed, still lacking the independence which, in Szasz's words, would have afforded him "the luxury of seeing and saying the truth". His grim fate haunts the reader, a symbol, like the *San Dominick's* medallion, of man's inhumanity to man:

As for the black — whose brain, not body, had schemed and led the revolt, with the plot — his slight frame, inadequate to that which it held, had at once yielded to the superior muscular strength of his captor, in the boat. Seeing all was over, he uttered no sound, and could not be forced to. His aspect seemed to say, since I cannot do deeds, I will not speak words . . .

Some months after [the trial], dragged to the gibbet at the tail of a mule, the black met his voiceless end. The body was burned to ashes; but for many days the head, that hive of subtlety, fixed on a pole in the Plaza, met, unabashed, the gaze of the whites. (pp. 169 – 170)

What I am suggesting in this paper is that *Benito Cereno*, unlike *Huckleberry Finn*, is in many ways a precursor of *One Flew Over the Cuckoo's Nest*, and that most people can deal with it more objectively than they can the modern novel. Both Melville and Kesey had the courage to attack legal oppression at the very time when it was most strongly entrenched, supported not only by law but also by social custom and economic interest. Although Kesey has been a member of the prestigious American Association for the Abolition of Involuntary Mental Hospitalization, an organization composed primarily of psychiatric and legal professionals, many people, as the cinematic version of his novel revealed, have failed to perceive that it was institutional psychiatry itself he was attacking. The reactions to both his novel and its film adaptation illuminate some of the difficulties Melville was struggling with. Like Kesey, he had to pick his way gingerly over territory strewn with land mines, any one of which might blow up in his face. In *Benito Cereno* he answers a rhetorical question posed by Szasz. Commenting on Euripides' definition of a slave as someone who cannot speak his thoughts, Szasz asks — as the Greek dramatist had not — "Is a man a slave because he cannot speak his thoughts, or is he incapable of speaking his thoughts because he is a slave?" Melville por-

trayed one of his three main characters as an intelligent and resourceful man who could not speak his thoughts precisely because he was a slave. Moreover, Babo himself was acute enough to realize that his status shackled not only his limbs, but his tongue. Since he could not speak his mind, he remained silent.

That Melville was honest and courageous enough to remain true to his vision of evil in the society he lived in cost him the price of perceptive critical recognition of his novella for many years. Despite the resurgence of interest in his writing in the 1920s and 30s, *Benito Cereno* continued to be misread until the last decade. Thus Merlin Bowen in 1960 still saw Babo as a malignant expression of existential evil rather than the oppressed victim of a legally sanctioned social institution. Even today one encounters curious readings of this story. For example, while William B. Dillingham's recent study of *Benito Cereno* is in many ways penetrating and sophisticated, its conclusion is skewed by contemporary fashionable attitudes toward "mental illness". Not only does Dillingham fail to deal with Cereno's perception of slavery, after he has experienced it at first hand, as an oppressive institution; he trivializes Melville's portrayal of Cereno's vision of this terrible truth as a "parable of a psychological situation" in which Babo is subjected to the further indignity of completely losing his own identity to become incorporated into Cereno's soul, with the critic taking up where a slaveholding society left off. The Spanish Cereno-Babo, who is called "Dominick" in this interpretation, admits that he is "mentally ill" and wants to be "normal" like Delano (now called "Bachelor"). Even though, through Bachelor, "society with its institutions" helps him, there is no final "cure for the patient" because his "mental stability" has been taken over by madness. Bachelor, "an ordinary, normal person", cannot understand "why Dominick could not simply snap back and be normal once this illness was diagnosed and the treatment applied".⁽⁹⁾

One is chagrined to discover a sensitive and well-informed study of Melville's story deteriorating into this nonsense at its conclusion. The reason, however, is not far to seek. Just as slavery in antebellum America

permeated the thinking and imagery of an entire society — including the Yankee abolitionists represented by Captain Delano — so "mental illness" today, with all its stereotypes, has become imbedded in contemporary thinking to the extent that an able critic like Dillingham is swept up by its capacity for creating myths. *Benito Cereno* has had to wait over a century for any real understanding. But it is now time to recognize and confront the issues of human wickedness it explores, instead of evading them by resorting to the metaphors of disease. This monumental achievement of nineteenth-century fiction is awe-inspiring in its examination of what evil institutions can do to the ethical standards even of good men.

NOTES

1. Wayne C. Booth, *The Rhetoric of Fiction* (1961; rpt. Chicago: The University of Chicago Press, 1966), p. 307.
2. Samuel Langhorne Clemens, *Adventures of Huckleberry Finn*, eds. Sculley Bradley, Richmond Croom Beatty, and E. Hudson Long (New York: W. W. Norton Company, 1962), pp. 166–168.
3. Letter to Nathaniel Hawthorne, April 16, 1851; from Merrell R. Davis and William H. Gilman, eds., *The Letters of Herman Melville* (New Haven: Yale University Press, 1960). Actually, Melville is referring to Hawthorne himself.
4. For useful discussions of Melville's attitude toward slavery, see Charles H. Foster, "Something in Emblems: A Reinterpretation of *Moby Dick*", *The New England Quarterly*, 34 (March, 1961), pp. 3–35; Alan Heimert, "Moby Dick and American Political Symbolism", *American Quarterly*, 15 (Winter, 1963), p. 512; Margaret M. Vanderhaar, "A Re-Examination of 'Benito Cereno'", *American Literature*, 40 (May, 1968), pp. 179–191; Eleanor E. Simpson, "Melville and the Negro: From *Typee* to 'Benito Cereno'", *AL*, 41 (March, 1969), pp. 19–38; Scott Donaldson, "The Dark Truth of *The Piazza Tales*", *PMLA*, 85 (October, 1970), pp. 1082–1086; Jean Fagan Yellin, "Black Masks: Melville's 'Benito Cereno'", *AQ*, 22 (Fall, 1970), pp. 678–689; Ruth B. Mandel, "The Two Mystery Stories in *Benito Cereno*", *Texas Studies in Literature and Language*, 14 (Winter, 1973), pp. 631–642; Joyce Sparer Adler, "Melville's *Benito Cereno*: Slavery and Violence in the Americas", *Science & Society*, 38 (Spring, 1974), pp. 19–48; Howard Welsh, "The Politics of Race in 'Benito Cereno'", *AL*, 46 (January, 1975), pp. 556–566; and Carolyn L. Karcher, "Melville's 'The Gees': A Forgotten Satire on Scientific Racism", *AQ*, 27 (October, 1975), pp. 421–442.
5. Herman Melville, "Benito Cereno", in *The Piazza Tales*, Vol. X, *The Works of Herman Melville* (London: Constable and Company, 1923), pp. 66–170. This edition is used for all quotations and page references in the text.

6. His observations are taken from the following sources: *Ideology and Insanity* (Garden City, New York: Anchor Books / Doubleday, 1970), pp. 127–136; “Blackness and Madness”, *The Yale Review* (Spring, 1970), p. 337; *Ceremonial Chemistry* (Garden City, New York: Anchor Press / Doubleday, 1974), p. 86; *Karl Kraus and the Soul-Doctors* (Baton Rouge: Louisiana State University Press, 1976), p. 46.
7. A good contextual *Weltanschauung* for his views is provided in an anthology edited by Louis Ruchames, *Racial Thought in America*, Vol. 1, *From the Puritans to Abraham Lincoln* (Amherst: Univ. of Massachusetts Press, 1969). See also Warren Howard, *American Slavers and the Federal Law, 1837–1862* (Berkeley: University of California Press, 1963).
8. For a perceptive analysis of Swift’s views that has large implications, see Ann Cline Kelley, “Swift’s Explorations of Slavery in Houyhnhnmland and Ireland”, *PMLA*, 91 (October, 1976), pp. 846–855.
9. William B. Dillingham, “A Dark Similitude — ‘Benito Cereno’”, in his *Melville’s Short Fiction: 1853–1856* (Athens: University of Georgia Press, 1977), pp. 227–270; see especially pp. 267–270. For Bowen’s interpretation, see his *The Long Encounter: Self and Experience in the Writings of Herman Melville* (Chicago: University of Chicago Press, 1960).

PRINCIPLE AND EXPEDIENCY: THE STATE DEPARTMENT AND PALESTINE, 1948

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"We have no long-term Palestine policy. We do have a short-term, open-ended policy which is set from time to time by White House directives" (p. 1222). So wrote a member of the State Department Policy Planning Staff, Gordon P. Merriam, in July 1948. In a much-awaited volume of the *Foreign Relations* series, the truth of Merriam's observation is driven home.

According to the conventional wisdom, the United Nations in effect established the state of Israel, doing so when the General Assembly voted for the partition of Palestine in November of 1947. President Truman ardently and consistently believed in a Zionist state, and hence was taken aback when Warren R. Austin, American Ambassador to the Security Council, in March 1948 announced that the United States was abandoning partition and supporting a UN trusteeship. As Margaret Truman writes in her memoirs (*Harry S. Truman*, 1973), the President never formally committed himself to this plan. Even before the British mandate ended, Arabs launched massive assaults against Jewish settlements, never once seeking compromise with the Jewish Agency. Although some Palestinian Jews took the offensive, these were terrorists of the Irgun and Stern Gang, not the recognized Zionist forces known as the Haganah.

The scenario continues. When Truman recognized the state of Israel in May 1948, doing so as soon as David Ben-Gurion announced its formation, he did not do so for political reasons but for humanitarian ones. In fact, he had already written off New York State, where many Jews vote, in the forthcoming presiden-

tial campaign. Israel herself, always the vastly outnumbered party, fought against British-backed Arab armies to retain her sovereignty, although in so doing she gained additional territory. Fortunately for the United States, she was — from the outset — not only the "sole democracy" in the Middle East but a militantly anti-Communist nation, a country that served as a bulwark against Soviet penetration of the Middle East. Palestinian refugees were encouraged by their own leadership to leave; in fact they ignored Jewish pleas that they remain in the land of their birth. At no time did Arabs attempt to establish a state on the area allocated them by partition. Although Israel continually sought negotiation, the Arab nations would not even agree to recognize her existence, much less discuss peace.

The real story, of course, is a far more complex one, and the new *Foreign Relations* volume sheds indispensable light on this complexity. The volume itself begins in January 1948, in the wake of the partition resolution. On November 29, 1947, the General Assembly had passed Resolution 181, which had recommended (a) the partition of Palestine into Arab and Jewish states (b) an economic union between the two new states administered by a joint economic board and (c) an independent Jerusalem under UN trusteeship. A UN commission was to supervise Palestine's transition from British mandate to two independent nations.

On January 20, 1948, the State Department's Policy Planning Staff, directed by George F. Kennan, found partition unworkable. As its memo noted, increasingly influential Irgun and

Stern elements within the Zionist movement were committed to far greater boundaries; the Arabs of Palestine and the Arab states vehemently opposed partition, much less the proposed economic union (although on November 29, the latter expressed their willingness to accept the principle of a federal state in Palestine).^[1] Given Moslem proclamations of a *jihad* against the Jews and the irregular military units being organized in Arab states to fight in Palestine, war was inevitable. The UN made no provision for enforcing partition, so Soviet troops could intervene, causing the United States in turn to do likewise. America could well be outflanked in the Eastern Mediterranean.

The consequences of partition, the document continued, were ominous. The "more moderate and intellectual" Arab leaders might be replaced by irresponsible elements; hatred of Zionism might extend to include all Westerners; Russia might use the partition precedent to set up puppet regimes in Azerbaijan, Armenia, and Macedonia; and Jews could be openly harassed in Moslem countries. Arab regimes could cancel British and American air bases, cease pipeline construction (and on February 21 the Arab League tentatively agreed to deny American firms pipeline rights until the US altered its Palestine policy),^[2] drastically curb American trade, and close down United States schools and missions (pp. 546–554).

While finding "all of us" to blame for the Palestine imbroglio, Kennan claimed on January 29 that "the main responsibility will have to rest with the Jewish leaders and organizations who have pushed so persistently for the pursuit of objectives which could scarcely fail to lead to violent results" (p. 580). On February 24, the diplomat denied that the conflict had "direct relation to our national security", found "past commitments" of "dubious wisdom", warned against "domestic pressures", and called for "a fairly radical reversal of the trend of our present policy". Otherwise, he argued, the United States alone would be immediately responsible for protecting the Jewish population against the Arabs or witnessing a Russian presence in the area (p. 657).

Other State Department officials were also skeptical of partition. For example, on January 26, Dean Rusk, chief of the State Department's UN division, found "serious doubt that there is legal authority for the United Nations to impose a recommendation of the General Assembly by force upon the Arab inhabitants of the proposed Jewish state" (p. 558). And early in February, George Wadsworth, American Ambassador to Iraq, told Truman that Arab leaders were convinced that partition betrayed America's own principles of "self-determination and majority rule". Over forty per cent of the new Jewish state, he said, would be Arabs "whose ancestors had owned the land for many centuries" (p. 597).

State Department anxieties could only be confirmed by the report of Robert B. Macatee, US Consul General at Jerusalem, dated February 9. "The Government of Palestine", he claimed, "is admittedly in a state of disintegration". Vital government services were long interrupted, with both Jewish and Arab communities refusing to compromise (p. 606). Troops from Iraq and Syria carried out attacks on Jewish settlements, while Jewish armed groups took the offensive in Jaffa, Jerusalem, and Tireh. "Such activities are designed, according to the Jews, to force the Arabs into a passive state", so reported Macatee. The British, he continued, "cannot get out of Palestine too soon" (pp. 609–612).

Soon the State Department sought a UN trusteeship, said trusteeship substituting for partition and replacing the British mandate until Jews and Arabs could work out a *modus vivendi*. If the Policy Planning Staff still hoped for Arab acquiescence in partition (p. 621), it still suggested on February 14 that the United States simply give lip service to the partition resolution; it should not press the Security Council for its implementation (p. 629). The National Security Council, in a draft report dated February 17, opposed the sending of American troops to Palestine; partition, so the NSC claimed, should not be enforced "against the objections of the inhabitants of Palestine" (p. 632). The Central Intelligence Agency also denied that partition could be implemented (pp. 666–675). On February 21, the State Depart-

ment claimed that the UN Charter did not empower the Security Council to enforce partition (p. 639), and Austin spoke to this effect before the Security Council (p. 653).

On March 5, George C. Marshall told Austin to seek a trusteeship in the UN, one lasting until "the people of Palestine are ready for self-government". Although the United States, said the Secretary of State, should not "go on record as voting against partition", it should request "the Secretary-General to convoke immediately a special session of the General Assembly to consider the Palestine question further" (p. 681). Marshall hoped to embarrass the Soviets, strong supporters of partition, declaring that they should be made to show how partition could be carried out peacefully when Jews, Arabs and Great Britain were all taking irreconcilable positions (p. 702). The Soviet representative to the UN, Andrei Gromyko, professed ignorance on the topic, but still did not want the plan modified (p. 734).

Within the White House, however, opposition to a trusteeship was already developing. Early in February, Truman had referred to "the fanaticism of our New York Jews" (p. 593), and on February 19 he assured Marshall that "we could disregard all political factors" (p. 633). However, Clark Clifford, Special Counsel to the President, adamantly stood for continuing the partition policy. In a memo to the President dated March 8, he claimed that "the American people" opposed "acts of appeasement toward the Arabs" and listed various resolutions endorsing a Jewish homeland. (In quoting from the Balfour Declaration, he overlooked portions that provided continuance of "civil and religious rights of the existing non-Jewish communities in Palestine".) Clifford endorsed US cooperation with an international security force, one that would draw upon American volunteers; Russian troops, he said, would comprise no more than one-tenth of the total unit. Calling for the lifting of the American arms embargo, he claimed that such action would give "the Jewish militia and Haganah, which are striving to implement the UN decision, equal opportunity with the Arabs to arm for self-defense".

If the Arab states did not accept partition, he continued, they should be branded aggressors.

Oil diplomacy, said Clifford, would not be a factor. "The fact of the matter is that the Arab states must have oil royalties or go broke", he wrote, claiming that they could only get the dollars they needed from the United States. For example, he maintained, ninety per cent of Saudi revenues derived from American oil royalties. Arab states would automatically spurn Soviet overtures, he went on, acting in the realization that Russian influence automatically threatened "their social and economic structure". On the other hand, collapse of UN authority in Jewish Palestine might result in unilateral Russian intervention. Hence the United States should abandon "the ridiculous role of trembling before threats of a few nomadic desert tribes". All such advice, he added, was "completely uninfluenced" by the forthcoming presidential elections (pp. 690-696).

Further protests came from Moshe Shertok (later Sharett), head of the Political Department of the Jewish Agency, who told Under Secretary of State Robert A. Lovett on February 21 that an imposed trusteeship would merely create Arab violence and fortify Jewish extremists, while turning all Palestine into a united Arab state. The Jews, Shertok said, would be a minority, left to the mercy of the Arab majority (p. 646). On March 13, Shertok claimed that Palestinian Jews were ready to sign "any paper guarantee" that would assure Arab rights in the new state; however, "they preferred trust in their good faith and self interest". With so many "Jewish hostages throughout the world", Jews in Palestine would be "living in a glass house . . . under the severe light of world opinion" (p. 716).

Arab alternatives suddenly became visible. On March 14, some Arab delegates to the UN, including those from Syria, Lebanon, and Egypt, claimed that their own states, and the Arab Higher Committee, would agree to either a unitary or federalized state, or to trusteeship. Under the first two schemes, the state would be ruled by a bicameral legislature, with Jews equally represented in the Senate; up to 100,000 Jews could enter the new nation each year for

from two to three years, with a lesser number admitted each year thereafter (p. 724).

Four days later, the United States, France, and China called for a trusteeship (p. 740), and Willard L. Thorp, Acting Secretary of State, cabled Austin, telling him that the US would only support enforcement measures connected with such a policy (p. 742). On the following day, Austin addressed the UN. Coming out for trusteeship, he denied that partition could be enforced peacefully. (On February 16, the UN Palestine Commission had predicted that unenforced partition would result in "uncontrolled, widespread strife and bloodshed" [p. 631].) The editors of the State Department volume, drawing upon both Department memos and professional historians, imply that Truman had full knowledge of the trusteeship proposal and gave it his approval (pp. 744–750).

On April 1, the Security Council endorsed resolutions calling for both a truce and a special session of the General Assembly, its task being to consider the future government of Palestine (p. 777). On the following day, the State Department drafted its own trusteeship plan, one that would assure "the territorial integrity of Palestine" (p. 779) and use a plebiscite to ascertain the view of "the majority of the registered members of both the Arab and Jewish communities of Palestine". Both communities would have to approve any plan submitted to the UN (p. 796). To the State Department, at any rate, partition was dead, although Truman publicly declared on March 25 that he still favored partition for the future (p. 760).

Enforcement factors soon played their role. Loy W. Henderson, Director of the State Department's Office of Near Eastern and African Affairs, warned Marshall that enforcing a trusteeship might require "the shedding of American blood in Palestine" (p. 756). To reduce such dangers, Henderson continued, the United States must avoid "Zionist pressures", cooperate with the British, defuse the Palestine issue in the forthcoming presidential election, end illegal arms smuggling into Palestine, and bring Jews and Arabs together (p. 757). The Joint Chiefs, in a memo dated April 4, predicted that American military involvement would require 46,000 U.S. troops as well as the

same number from Great Britain. In addition, it would necessitate early implementation of selective service, over-extend U.S. armed forces overseas, and create additional expense (p. 800). On April 19, Secretary of Defense James A. Forrestal reported that any such troop allocation would leave no forces available for other areas (pp. 832–833). On the same day, Rusk told the General Assembly that the United States lacked the military capability to fight a war in Palestine (p. 833). However, Marshall warned the British ten days later that if Arab nations invaded Palestine, UN forces would have to intercede. And if these Arab troops included contingents from Transjordan, a British ally, the United States would hold the United Kingdom responsible (p. 865). Foreign delegates to the UN refused to commit themselves to a trusteeship until America expressed its willingness to send troops (p. 845).

Things were obviously in limbo. Chaim Weizmann, president of the World Zionist Organization and soon to be Israel's first president, wrote Truman on April 9. There was, he said, no assurance that "a trustee is available, that Arabs or Jews will cooperate, that the General Assembly will approve an agreement or that any effective measures can be improvised by May 15th", the latter being the date that the British mandate was due to expire. The Jewish people, he claimed, faced the choice of "Statehood" or "extermination" (pp. 808–809).

The Zionists obviously planned to go ahead with statehood. On April 15, Weizmann told American delegates to the UN that, if there were no two-thirds majority in the General Assembly for trusteeship, the Jews of Palestine had the legal right to establish their own nation. The Arabs, he said, were too weak to resist, and economic needs left them unable to cut off oil sales to the United States. Touching on a different point, Weizmann claimed that, since the 1920s, there was no possibility of the Jewish state going Bolshevik (p. 823). When Marshall told an off-the-record press conference on April 28 that an armistice had virtually been reached, Shertok told the Secretary the next day that the Jewish Agency opposed the proposed UN truce. It would defer statehood and thereby

prejudice "our rights and position" (p. 875).

The famous Deir Yassin incident was now reported. On April 13, the American consul at Jerusalem cabled Marshall, informing the Secretary that Irgun and Sternist forces attacked Deir Yassin, an Arab village several miles west of Jerusalem. "Attacks killed 250 persons, of whom half, by their [Zionist forces] own admission to American correspondents, were women and children", his bulletin said (p. 817). (Historian Howard M. Sachar calls Deir Yassin "the most savage" of Zionist "reprisal actions", as "more than two hundred Arab men, women, and children were slain, their bodies afterward mutilated and thrown into a well".)^[3]

Then, on May 3, Consul Thomas C. Wasson reported from Jerusalem that Arab armies had not yet invaded Palestine; however, thousands of individual Arabs were fleeing the country. The recent battle at Jaffa, Wasson claimed, was started by the Irgun, with the Haganah "taking over in the midst of battle". (Sachar writes that when Zionists captured Jaffa on May 14, the local Arab population of 70,000 fled in terror.)^[4] Referring to both Deir Yassin and Jaffa, Wasson reported: "Until recently Irgun started such operations; if successful were continued by Haganah; if not were repudiated by responsible Jewish quarters" (p. 890).

On the next day, Robert M. McClintock, special assistant to Rusk, drafted a memorandum (unsent) to Lovett. The refusal of the Jewish Agency to accept on-the-spot truce negotiations, said McClintock, clearly revealed its intent "to go steadily ahead with the Jewish separate state by force of arms". If the Jewish Agency, which had military responsibility, sought to round out the state after May 15, "the Jews" would be "the actual aggressor" against "the Arabs" (p. 894).

Meanwhile, on April 20, Austin called for a trusteeship in the UN (p. 836), but Henderson remained anxious. Two days later, Henderson told Lovett that the Palestine problem should "no longer . . . be treated as a football of domestic politics, but as a matter seriously involving the security of the United States". Marshall, he said, should meet with "the outstanding leaders of the Jewish Community in the

United States" and convince them to "prevail upon the Jews in Palestine to adopt a reasonable and conciliatory attitude". The Secretary should also tell Arab representatives that mass fighting in Palestine would create "political and economic disaster" in the Arab world (pp. 841 – 842).

One of the more interesting documents in the State Department collection concerns Marshall's conversation on May 4 with Dr. Judah Magnes, president of the Hebrew University in Jerusalem. Magnes, who had long sought a binational state in Palestine, asked the United States to impose economic sanctions on both sides. Calling the Jewish community there "an artificial development", he predicted that sanctions could halt "the Jewish war machine" (p. 904).

But the White House was slowly shifting, moving eventually in the direction of recognizing the new Jewish state that Weizmann announced would be created on May 15. On May 11, Rusk claimed that rejection of a truce by both parties "cuts the heart out of trusteeship" (p. 966). At a meeting with various government advisers held on May 12, Clifford called for immediate recognition of the Jewish state, a suggestion that Lovett termed "a very transparent effort to win the Jewish vote". The United States, said the Under Secretary, would be recognizing a nation while the General Assembly was still considering the further government of the whole Palestine area. Marshall warned that if Truman followed Clifford's advice, he — the Secretary — would "vote against the President". Truman, acting over Clifford's objection, endorsed a State Department resolution to the General Assembly calling for a truce and a UN Commission (pp. 975 – 976), whose major task would include promoting "agreement on the future government of Palestine" (p. 979). Truman claimed to be well aware of "the political risks involved which he, himself, would run" (p. 976). Far from being a consistent and enthusiastic champion of the Jewish state, Truman was obviously wavering.

Nothing, however, had yet been resolved. Although the State Department draft resolution indicated that America no longer saw partition

as workable (p. 979), Weizmann pointed to the November General Assembly resolution as legitimizing the creation of his new nation (p. 982), and on May 12 the United States dropped support of the trusteeship plan. Clifford soon began making arrangements with Eliahu Epstein (later Eliahu Elath), director of the Jewish Agency's political office in Washington, to expedite American recognition (p. 989), and Truman recognized the Provisional Government of Israel hours after its birth (p. 992).

The State Department, of course, was resting uneasy all this time. Wasson reported on May 13 that, with the exception of the Irgun attack on Jaffa and Haganah occupation of certain areas on the Jerusalem – Tel Aviv road, Palestinian Jews had strictly observed the partition boundaries. He noted, however, that David Ben-Gurion, chairman of the provisional Zionist Council of State, “had always said that the main aim of Jews was to get all of Palestine”, that Haifa was under Jewish domination and the former Arab city at Jaffa now deserted, and that “most representative Arabs have fled to neighboring countries” (p. 985). On the same day, Marshall told varied diplomatic offices that internal weaknesses made Arab activity in Palestine most difficult. Iraq, he said, had recently suffered from strikes, neither Lebanon nor Syria had any real army, the Saudis could barely keep their own tribes in order, and Transjordan depended on British officers (p. 983).

It was, however, Truman's recognition that caused the real consternation. Clifford pointed to “unbearable pressure” to “recognize the Jewish state promptly” (p. 1005), while Lovett feared that the President's action might lose “the effects of many years of hard work in the Middle East with the Arabs” (p. 1006). A General Assembly resolution of May 14, authorizing a UN mediator for Palestine, had involved no recognition of either Israel or partition (pp. 994 – 995). Henderson stressed that recognition was *de facto*; it did not necessarily involve U.S. commitment to the partition boundaries (p. 1002).

When the news of Truman's actions reached the UN, the American delegation saw its labors for truce and mediation undercut. Marshall

feared that the whole U.S. delegation might resign *en masse* (p. 993). On May 19, Austin declared that recognition had “deeply undermined the confidence of other delegations in our integrity”. The “feeling” prevailed, he continued, that “the Jews . . . violated spirit of truce effort, and prevented conclusion of formal truce”, with the United States tacitly endorsing such violations and thereby harming the UN effectiveness (p. 1014).

The British were furious. Foreign Secretary Ernest Bevin told American ambassador Lewis W. Douglas on May 22 that American recognition “had cut the ground from under the efforts which we were making, not entirely unsuccessfully, with the Arabs on the bases of these United States proposals” (p. 1034 – 1035). Two days later, Bevin denied that Transjordan's Arab Legion entered “any part of the area recommended for the Jewish state by the Assembly”. Furthermore, Legion attacks on parts of Jerusalem resulted from “the breaking of cease-fire by the Jews” (p. 1038).

Kennan wrote another one of his analytical memos, this one expressing “deepest apprehension over the trend of U.S. policy”. He repeated the warnings of the Policy Planning Staff that the United States should undertake no major responsibility “for the maintenance and security of a Jewish state in Palestine”. Current American actions, he said, “threaten not only to place in jeopardy some of our most vital interests in the Middle East and the Mediterranean but also disrupt the unity of the western world and to undermine our entire policy toward the Soviet Union” (p. 1021). Lovett, in forwarding Kennan's recommendation to Marshall, concurred (p. 1022).

Israel wasted little time in seeking U.S. assistance. On May 25, ten days after Arab forces attacked Palestine, Weizmann sought American lifting of the arms embargo, declaring that the new nation-state of Israel needed “anti-tank weapons; anti-aircraft weapons; planes; and heavy artillery” (p. 1042). In addition, he desired a loan from the Export – Import bank (p. 1043). The Division of Near Eastern Affairs declared that Arabs would perceive the lifting of the embargo as “an American declaration of war”, a move that

would “immediately evoke hostile and violent mob reaction against the United States” (p. 1060).

The new nation also wanted “the right kind” of diplomatic envoy. On May 26, Weizmann sought full exchange of diplomatic representatives (p. 1051), and Shertok wanted the United States to send someone of ministerial rank (p. 1074). Clifford opposed sending a career diplomat, preferring, he said, “a big calibre man of large reputation”. When Truman chose James G. McDonald, a strong Zionist proponent, as Special Representative to Israel, Lovett immediately protested. The Under Secretary was soon informed by Clifford that the President would brook no opposition (p. 1311).

Now that the Zionist state was recognized, the State Department sought modification of its boundaries. On June 23, McClintock drafted a “Top Secret” memorandum calling for a new drawing of boundaries, one that followed the Peel Report of 1937. McClintock asserted that Israel’s jagged borders (“a portrait by Picasso”, he noted) were “fantastic” in the absence of economic union with an Arab state. He suggested Israeli control of the coastal area from Tel Aviv to Haifa, with a considerable portion of western Galilee included. In turn, Transjordan would receive areas of the Negev allocated to Israel by partition. Such “freezing” of Israel’s boundaries, McClintock asserted, would guard “the Arab states against the wider pretensions of the Jewish revisionists and such fanatics as those of the Irgun who have pretensions to the conquest of Transjordan”. McClintock also called for Jerusalem’s internationalization under UN auspices: “to allow Jerusalem to be a Jewish capital”, he wrote, “would incite reciprocal emotion in the Arabs” (pp. 1134–1138). Acting U.S. representative to the UN, Philip Jessup, concurred in such recommendations, to which he added official international recognition of Israel’s *de facto* control of Jaffa (p. 1166). By September 1, Marshall had approved the bulk of these recommendations (p. 1368).

State Department recommendations concerning the Negev and western Galilee were somewhat similar to those proposals offered on

June 28, 1948, by UN mediator Count Folke Bernadotte at Rhodes. Bernadotte differed in that he recommended the inclusion of Jerusalem into Arab territory (with municipal autonomy for the Jewish community), further consideration of Jaffa’s status, a free port at Haifa, and a free air terminal at Lydda (p. 1154). He also called for the rights of refugees to return home without restriction, review of immigration at the end of two years, and common defense and economic cooperation with Jordan (p. 1153).

Both parties rejected Bernadotte’s proposals, with the Arabs still holding out for a united state (p. 1192) and Israel particularly fearful of immigration restrictions (p. 1191). On July 9, Arab officials formally rejected a truce that lasted almost a month, and Zionist forces soon took the offensive, gaining territory in Galilee, the Negev, and northern Gaza. Israel was no “David” fighting an Arab “Goliath”, as its committed troops — so a CIA estimate noted — outnumbered the Arabs over two to one. “The Jews”, said the CIA, “may now be strong enough to launch a full-scale offensive and drive the Arab forces out of Palestine” (p. 1244).

In general, Bernadotte was pessimistic. Early in August, he noted that Israel demanded all Galilee by right of conquest, a corridor from Jerusalem to Tel Aviv, and the return of the Negev, awarded it under the partition provisions. In addition, he learned that Israel would not negotiate on boundaries as a condition of the peace settlement (p. 1316).

Jerusalem was a particularly sticky point. On August 4, Consul General John J. Macdonald reported that Arab leaders in Jerusalem favored demilitarization of the city while the military governor of Jewish Jerusalem was obstinate in his refusal (p. 1277). The Israeli government argued in part that Christian indifference to the city justified its control (p. 1286). Israel, Bernadotte suspected, was merely using delaying tactics pending the time it could “demand Jerusalem be included in Jewish state” (p. 1287). Pessimistic concerning Jewish intentions in Jerusalem, Macdonald recommended that Israeli intransigence be criticized publicly by both the UN and the US (p. 1302).

The United States, however, continued to resist major responsibilities for Palestine, refusing Bernadotte's request for American marines in Jerusalem (p. 1235). On August 19, Forrestal told the National Security Council that troop deployment to Palestine would jeopardize connections to other parts of the world "vital to United States security" (p. 1322). Both Israel and Arab forces, so the State Department suggested, should contribute "small well-disciplined military units . . . to assist in demilitarization and to control possible extremist outbreaks" (p. 1305), also adding that "Palestinian Arabs should . . . have right of expressing their views in some manner" (p. 1305).

At this point the refugee issue started coming to the fore. As Professor Sachar notes, there were various reasons for the flight, an exodus that reached nearly 175,000 during the last weeks of the mandate. Despite Zionist claims, Sachar finds no evidence for the charge that the Arab governments themselves called for evacuation. On the contrary, he notes, the Arab League told Palestinians to stay put. Once on the offensive, Israel "encouraged" about 100,000 Arab inhabitants of Lydda, Ramle, and surrounding villages to flee, often doing so by spreading tough warnings ahead of them. By July 9, the number of Arab refugees reached 300,000, proof — writes Sachar — that "the Jewish republic" was "capable of waging ruthless and brutal warfare on its own".¹⁵

The State Department received similar reports. Aubrey E. Lippincott, Consul at Haifa, noted on June 23 that Arabs returning to Haifa were considered aliens. Since they had to obtain identity cards and swear allegiance to the Israeli state, the remaining Arabs determined to leave (p. 1138). Four days later, American Consul General Macdonald cabled that Shertok, now Israel's Foreign Minister, declared that Arabs could not return until a general political settlement was made, an attitude that — so Macdonald predicted — would only increase refugee bitterness (p. 1151). Upon hearing that Israel would bar 300,000 refugees, Jefferson Patterson, Chargé in Egypt, claimed that "such action can no doubt be justified as necessary security measure for new state";

however, its application would "convince Arabs that real intention of Jews is to dispossess refugee Arabs of property and enterprises in Israel in order to provide space and economic opportunities for Jewish immigrants" (p. 1155). Bevin called for international efforts to settle Jewish refugees elsewhere, so as to "remove feeling that world is trying to solve problem, which Arabs had no part in creating, at expense of Arabs alone" (p. 1249).

George C. Marshall was also disturbed. The Secretary of State called for gradual Israeli absorption of Arab refugees, declaring that otherwise Israel would be giving the impression that assimilation of Jewish immigrants was taking place at the expense of the former Arab inhabitants. Failure to partially repatriate the refugees "might create difficulties", wrote the Secretary of State, "for 265,000 Jews permanently residing in Arab states" (p. 1311).

Israel, however, remained intransigent on the issue. Early in August, Shertok told Bernadotte that Arab refugees would constitute a fifth column. According to the American Chargé in Cairo, Shertok said that "Economically PGI [Provisional Government of Israel] had no room for Arabs since their space was needed for Jewish immigrants", to which Bernadotte replied that it seemed anomalous for Zionists to demand the migration to Palestine of Jewish displaced persons when they refused to recognize the refugee problem "they had created" (p. 1295). Bernadotte himself had witnessed the seizure of Arab property by Jews (p. 1295).

State Department concern continued. Noting the Arab refugees who fled from Haifa on April 21 – 22, and from Jaffa on April 25, and recalling Jewish promises of safeguards for Arab minorities, Marshall accused Israel of "callous treatment of this tragic issue" (p. 1367). Rusk too was concerned, claiming that "Israel may be using the fate of these unfortunate people to enhance its bargaining position". "A substantial number of refugees", he contended, could be permitted to return "without prejudice to the domestic security of the state of Israel" (p. 1332). Epstein, now representative of the Provisional Government of Israel, confirmed Rusk's analysis, declaring

that "this question would be of importance to them [the Israelis] as a bargaining point" in negotiations with the Arab states (p. 1347).

By the middle of August, Marshall was becoming strongly critical of Israel. On August 16, Marshall sent Truman a secret memo in which he questioned Israel's desire to maintain a current peace. He listed several factors — military occupation of much of Jerusalem, systematic violation of the UN truce, continual sniping against Arab positions, reception of arms from France, Italy, and Czechoslovakia — that cast light on Israeli sincerity, noting as well Shertok's official proclamation that Israel would not currently accept those 300,000 refugees who, said Marshall, "fled from their homes and are now destitute in nearby Arab areas". Russia, so feared the Secretary of State, would take advantage of the crisis to "foment trouble" in Iran and Iraq, while Israeli hostilities against Transjordan might pit the U.S. against Britain (pp. 1313–1315).

Soviet strategy, as revealed by the Syrian minister to Moscow Zeineddine to Walter Bedell Smith, American ambassador to Russia, remained constant. Continued support for Israel, commented the Syrian, would lead to further Arab setbacks, which in turn would discredit the "ruling classes" in the eyes of their people. If the Arabs were given no other choice, they would seek aid from the Soviets (pp. 1370–1371).

Particularly intriguing is the "Jordanian connection". On March 12, in a conference of Truman and administration officials, it was learned that Shertok had recently hinted of a "behind the door" deal with Abdullah ibn Hussein, King of Transjordan. If Abdullah took over the Arab portion of Palestine, said Shertok, the Jews could establish their sovereign state without any need to make a truce with the Palestinian Arabs (p. 973). On January 3, 1949, the State Department continued its endorsement of a "Jordanian solution" (p. 1706). At the same time, Lovett dismissed what he called the "Arab Palestinian Govt" which, he said, was established without consulting Arab Palestinians and was dominated by the Mufti of Jerusalem (p. 1448).

The documents covering Bernadotte's pro-

gress report to the UN, given on September 16, show how he modified his original proposal by making concessions to Israel by seeking internationalization of Jerusalem, deleting economic union with Transjordan, and assigning all Galilee to Israel. However, his report included "the right" of Arab refugees to return at the earliest possible date. "The Arab inhabitants of Palestine", Bernadotte wrote, "are not citizens or subjects of Egypt, Iraq, Lebanon, Syria and Transjordan, the States which are at present providing them with a refuge and the basic necessities of life" (pp. 1401–1406). They also cover Bernadotte's assassination (pp. 1414–1415) and Marshall's endorsement of September 21, without White House permission, of the UN mediator's new proposals (p. 1416).

Neither side liked Bernadotte's final suggestions. Most Arab representatives stressed that Haifa, Jaffa, and Galilee recently had a majority of Arabs (p. 1423). Yet Fawzi Bey, senior Egyptian delegate to the General Assembly, made no objection to the existence of the state of Israel. The Arabs, said Bey, no longer desired a unitary state in Palestine; indeed negotiations with Israel could begin once the Arab refugees were permitted to return home (pp. 1424–1426). Israel, too, opposed the plan, with Shertok claiming that Israel needed an "adequate area in which to live and grow" (p. 1453). All of Galilee, he told Marshall on October 5, was needed for defense, while the Negev was essential for absorbing immigrants (p. 1453).

Despite Marshall's endorsement, the White House warned against accepting the Bernadotte plan in its entirety. Clifford called Lovett from Truman's campaign train in Tulsa on September 29, telling the Acting Secretary of State that "pressure from the Jewish groups on the President was mounting and that it was as bad as the time of the trusteeship suggestion" (p. 1430). In a secret memo dated September 30, McClintock quoted Lovett to the effect that disavowing Marshall "would impugn the integrity of the United States" (p. 1438). On the same day, McClintock — noting the heavy Zionist pressure for the partition boundaries — claimed that the United States would have to

concede most, if not all, the Jewish settlements in the Negev to Israel (p. 1439).

When Lovett attempted to secure Truman's approval of the Bernadotte plan, the President at first endorsed it, doing so on October 10. However, on the following day, White House advisers vetoed it (p. 1466). The British, who wholeheartedly backed the Bernadotte proposal, soon found America backsliding, for Lovett began hinting at "minor modifications" (p. 1469). On October 15, Lovett — in what was a transparent political move — instructed the American UN delegation at Paris to "let others do the talking" (p. 1471). Three days later, the Acting Secretary received a request from Truman, personally delivered to his Washington home by Clifford, ordering American UN delegates to avoid any action on Palestine without Truman's personal authorization. UN debate, the President said, must be deferred until after the election (p. 1490). Forrestal soon accused Clifford and David Niles, Administrative Assistant to the President, of using the Palestine issue for "squalid political purposes" (p. 1501).

Hence, when Fawzi told Austin on October 17 that Israeli forces, in violation of the current truce, took military initiative in the Negev, the State Department merely replied that the United States would take no unilateral measures (p. 1492). Fawzi replied in turn that the situation was rapidly deteriorating, with the U.S. appearing "to be waiting on SC [Security Council] action instead of stirring SC into action". Egypt and Arab societies, he continued, were facing severe disruption, with "far-reaching repercussions" possibly in the offing (p. 1500).

Early in the presidential campaign, it appeared as if both parties would follow a bipartisan approach to the Palestine question. On October 2, Lovett reported a conversation with John Foster Dulles, leading foreign policy adviser to Republican presidential candidate Thomas E. Dewey and member of the U.S. delegation to the General Assembly then meeting in Paris. Lovett warned Dulles against Zionist efforts to play off "one party leadership against the other in the contest for votes", as such behavior could only subject America to

"contempt, acrimony and ridicule" in the General Assembly. Dulles claimed to understand the situation, promising to do all he could to influence the Republicans toward moderation (pp. 1448–1449).

However, not long after, candidate Dewey publicly repudiated the Bernadotte plan, doing so on October 23 when he backed the partition boundaries (p. 1507). Immediately Clifford — and Lovett also — urged Truman to reaffirm his support of the Democratic platform, said statement endorsing the partition boundaries and claiming that all modifications should be subject to Israeli (but not Arab) veto (p. 1503). Truman did so on October 24, stressing that any boundary modification must be "fully acceptable" to Israel and promising to expedite loans to Israel as well (pp. 1513–1514). Clifford rejoiced in the new campaign moves, saying that Dewey's initiation was "the best thing that has happened to us to date" (p. 1509).

During all this time, Israel was gaining territory in the Negev, going down as far as Beer-sheba (p. 1509). In the maneuver known as "Operation Ten Plagues", it broke the truce line of October 14. Israel, in fact, had dynamited her own trucks to create the incident needed for her troops to move swiftly. On October 23, Lovett acquiesced in Israeli domination of the northern Negev (p. 1508), although Marshall found it a "serious mistake" to publicize America's support. Public exposure, he said, would threaten General Assembly endorsement of the Bernadotte plan, harden Israeli desires to capture the entire Negev, and harm relations with Egypt, then losing major strongholds there (p. 1515). Ambassador Douglas feared that America's new Negev policy would play into Soviet hands, for it would destroy any chance for a Palestine settlement that year (p. 1516). The American delegates to the UN, he said, could not even mention the Negev without "giving the appearance of condoning Israeli military aggression across UN truce lines", and thereby creating "cynical reactions" in other countries. The entire Palestine situation, Douglas maintained, was "probably as dangerous to our national interest as is Berlin" (pp. 1516–1518).

On October 26, UN mediator Ralph Bunche,

successor to Bernadotte, ordered all troops back to the October 14 truce line (p. 1518). The British sought a Security Council resolution that would levy sanctions upon any defiant nation (p. 1525), although Lovett warned that the U.S. needed specific presidential approval before it could cooperate (p. 1523). On October 29, Shertok told Marshall that, even if the Security Council ordered Israeli compliance, Israel could not leave newly-occupied lands. Accusing Egypt of "wanton aggressiveness . . . in invading Palestine territory" and pleading "self-preservation", he called withdrawal an "act of suicide" (pp. 1526–1527).

Under such circumstances, fighting could only continue. On November 3, Marine Brigadier General W. E. Riley, chief of the U.S. truce observers, reported to Bunche that both sides were violating the truce, with "this attitude most pronounced in the Jews". Arab forces, Riley said, generally "have endeavored to comply with the cease fire"; their violations, he continued, consisted of retaliatory action. On the other hand, "willful and premeditated violations of the truce by the Jews are now routine". Israeli forces were far superior to all enemy troops and "could undoubtedly clear all of Palestine of Arab forces in a relatively short time" (p. 1541).

On October 29, the Security Council adjourned without voting on the Negev. Lovett, noting how the American elections affected UN conduct, wryly wrote, "Am told removal restrictions on normal procedures may be expected next week when silly season terminates" (p. 1528). On a more serious note, he told Marshall that "our past experience with formally approved positions and institutions which are subsequently and suddenly altered or revoked is dangerous and intolerable" (p. 1534). His concern was undoubtedly heightened when Truman ordered the American delegation to abstain on any UN vote, indeed to avoid taking any position on Palestine before election day (p. 1535). On November 4, the day after Truman was re-elected, the Security Council asked the belligerents — with American approval — to return to the truce line of October 14 (p. 1546).

After the American people went to the polls, Israel still remained intransigent. Weizmann, congratulating the President on his election victory, claimed that "sheer necessity compels us to cling to the Negev". Furthermore, he accused the British of using Arab states as "hired assassins" (pp. 1550–1551). (Denying such claims as Weizmann's, Ambassador Douglas maintained that "the meticulous observance by the British of the arms embargo . . . had reduced the Arab forces and the Arab Legion to a state of almost complete impotence" [p. 1537]. Even British military installations at Amman and Iraq, wrote Douglas on November 12, receive no English war materials [p. 1571].)

At this stage, Truman refused to back Israel totally. On November 10, he told Douglas and Lovett that support for partition boundaries by no means implied that the United States would support Israeli claims to Jaffa and western Galilee. However, he said, Israel "might well consider relinquishing part of the Negev to Arab States as *quid pro quo* for retaining Jaffa and western Galilee" (p. 1565). Yet on November 28, when Truman wrote Weizmann, he spoke somewhat differently. In a letter drafted by Niles, the President deplored any attempt to take the Negev from Israel and promised the nation low-term loans. He predicted General Assembly backing for the American position, which involved opposing "any territorial changes in the November 29th [1947] resolution which are not acceptable to the State of Israel" (p. 1633).

American diplomats were learning how unbending Israel had become. On November 10, Lovett met with Epstein and Michael Comay, Israeli representative to the UN. Comay, while welcoming any armistice, opposed both Bunche's suggestion of demilitarized neutral zones and the Security Council call for leaving recently-captured areas. Epstein admitted that the forthcoming Israeli elections made his government oppose withdrawal. Extremists, "still an important and dangerous element", might turn to Russia. Lovett saw Israel facing a choice: she could either lay claim to western Galilee and Jaffa, or justify domination of the Negev "on the grounds of right and justice" bestowed in the partition resolution. She could

not do both. Comay replied that he considered territory allotted by the partition resolution "as belonging to Israel by right, and considered that the territory militarily occupied outside this area could be a matter for discussion". However, Epstein backed Lovett's position, declaring that Israel wished to abide by UN decisions and negotiate directly with the Arabs (pp. 1562–1563).

The Cold War again entered into the Palestine controversy. In a conversation between Marshall and Shertok on November 13, the Israeli foreign minister claimed that his government sought to "steer a middle course" between the U.S. and the U.S.S.R. Although "many Israelis" wanted to "go along with the Russians", American support for Israel's position on negotiations, an armistice, and immediate admission to the UN would counterbalance such sympathy. (Weizmann pointed to a "dangerous" Russian influence if Israel was forced to "surrender" the Negev [pp. 1606–1607].) Marshall in turn told him that Israeli arms purchases from Soviet-dominated Czechoslovakia increased Arab fears, and that open Israeli flouting of UN resolutions would affect her membership in that body, U.S. loans, and American *de jure* recognition (pp. 1577–1580). On the following day, Shertok wrote Marshall, claiming that when such "fundamental national interests" as the Negev were at stake, Israel had "no choice" but to ignore the Security Council (p. 1561). He found himself "deeply alarmed by the apparent determination to pursue the November 4th line to the bitter end" (p. 1582).

On November 15, the American delegation to the UN drafted a resolution on Palestine. It called for acceptance of Israel as an independent state, opposed any new General Assembly resolution on boundaries, and endorsed UN control of Jerusalem and a UN conciliation commission. "Arab Palestine standing alone", it continued, "could not constitute a viable independent state". Hence, it should "be transferred to one or more of the neighboring Arab states through the process of negotiation conducted by a UN conciliation commission, taking into account the wishes of the inhabitants of Arab Palestine" (p. 1596). Mc-

Clintock protested, declaring that the paper ignored almost all of Bernadotte's proposals and challenged Truman's desires as expressed on November 10 (p. 1600). On December 7, Ben-Gurion told Bunche that despite the Security Council resolution of November 4, which called for a truce and withdrawal from the Negev, he would not comply until Egypt was prepared to negotiate (p. 1653).

As winter approached, the State Department received hints of Arab bending. On November 10, Stanton Griffis, American ambassador to Egypt, reported that King Farouk favored direct negotiations with Israel (p. 1561). Then, a week later, British officials claimed that Arabs would back the Bernadotte plan provided the UN would assume responsibility for firm frontiers. The recent Israeli military success, so British officials feared, worsened prospects for talks, for at the outset of any such conversations, the Arabs would be bargaining "under duress". Sir Orme G. Sargent, British Permanent Under-Secretary of State for European Affairs, feared "another Munich", with the powers selling "Abdullah down the river for the sake of specious peace" (p. 1602).

The British were equally disappointed in American policy. According to Ambassador Douglas, Truman's statement of October 24 undercut British–American cooperation concerning Israeli boundary changes. Bevin in fact considered Bernadotte's proposals weighted against the Arabs, backing them only because Britain had hoped to "stand shoulder to shoulder" with the United States in pushing a general solution through the General Assembly. The United Kingdom was particularly concerned about the Negev. Not only did it serve "like a dagger blade dividing the Arab world"; Israel would obtain virtually all the arable land in what had been a predominantly Arab area (p. 1611).

British anxieties were soon realized. On November 20, Jessup qualified "general" U.S. agreement with Bernadotte's report by declaring that any modification of partition boundaries must be acceptable to Israel, and needless to say, the British reacted unfavorably. Jessup did declare that the Palestinian refugees should "be permitted to return to their homes,

with adequate compensation to those who chose not to return" (p. 1617).

On December 22, Israel again violated the Security Council truce resolution, this time by the Negev move known as "Operation Ayin". Israel acted, claimed Truman's Special Representative McDonald, because of a continued Egyptian threat to its south, financial strain, and the belief that only by such efforts could she gain "the territory in the Negev allotted under partition" (p. 1689). Lovett drafted a cable to McDonald, which was not sent, declaring that if Israel had indeed violated the truce, it could not be categorized as a "peace-loving state" and the United States would be forced to review support for her UN application (p. 1690). The British desired American cooperation for a Security Council resolution, one that would set a truce and time limit for Israeli withdrawal to her position of October 14 (p. 1691). Although the United States abstained in the voting, doing so along with Russia and the Ukraine, the British proposal passed eight to nothing (p. 1699).

During this time "the Jordanian connection" took a new twist. On December 29, Sir Alec S. Kirkbridge, British minister to Transjordan, reported that Elias Sassoon, former head of the Oriental Section of the Jewish Agency, and Colonel Moshe Dayan, commanding officer of the Israeli forces in Jerusalem, met with Abdullah el Tel, Transjordanian representative. According to Kirkbridge, the two Israelis told Abdullah that Israel was no longer interested in a mere armistice and that Transjordan must choose "either peace or war". Kirkbridge feared that unless Transjordan immediately agreed to peace negotiations, Israel would attack Iraq, thereby rendering Transjordan helpless (pp. 1699–1700).

The United States suddenly took a tough position, with McDonald instructed to meet with Ben-Gurion and Shertok. Israel, said Lovett, must withdraw from Egyptian territory and abandon her "threatening attitude" towards Transjordan or face "a substantial review" of American policy (p. 1704). Israel, Shertok responded, had no intention of seizing Egyptian territory and sought an armistice with Transjordan. McDonald reported the im-

mediate withdrawal of small Israeli units from the Egyptian side of the frontier (p. 1706).

Because the volume ends on the last day of December, readers might not realize that cease-fires took place early in 1949, with Israel's boundaries extending well beyond those outlined in the partition resolution. On January 19, 1949, the White House announced a hundred million dollar loan to Israel, and six days later the United States extended *de jure* recognition to Israel. The Palestinian war radicalized several Arab regimes, with a military coup in Syria in 1949, Abdullah assassinated in 1951, and Farouk overthrown in 1952.

The volume challenges recent claims made by Clifford, in material containing little documentation, to the effect that Truman never abandoned support for partition. Concerning the May 12 meeting, at which Truman supposedly backed Marshall and Lovett over Clifford, the former Special Counsel asserts that the President "simply did not want to embarrass General Marshall in front of the others". Clifford further maintains that various experts on the UN Charter found the Security Council having the authority to partition Palestine, that the State Department's Office of the Legal Adviser recommended an arms embargo on certain Arab states and the arming of a Jewish militia, and that he personally convinced Lovett of the wisdom of recognition before it was announced.

Clifford also finds "a note of anti-Semitism" in efforts of unnamed revisionists who see recognition as a partisan move, but he offers no evidence for this charge. (He does deny that the State Department or Forrestal were anti-Semitic.) He cites Arab "violence", though mentioning none by Zionists. He claims that politics played a minor role in Truman's recognition, for in May 1948 party strategists had already "written off" New York. Needless to say, he is silent about his own role in the fall campaign.^[7] Thomas Paterson, reviewing the *Foreign Relations* volume in the *American Historical Review*, finds Clifford disingenuous, and this historian can only concur.^[8]

The volume also challenges observations made by Ian Bickerton, particularly Bickerton's claim that Truman's actions

between May and November, 1948 do not suggest a course based on political expediency".^[9] However, it supports the interpretation made by John Snetsinger, who explains Truman's moves in light of the "Jewish vote". Snetsinger notes a memo, written in Clifford's own handwriting, to the effect that on March 8, 1948, Marshall informed Austin that Truman had approved trusteeship. Concerning the controversial May 12 meeting, Snetsinger finds Clifford telling Truman not to pass up the opportunity to recover his reputation in the Jewish community. Throughout the whole campaign, Snetsinger notes, Clifford was in constant touch with Israel supporters.^[10]

Finally, at long last, we can begin to make our appraisals not on the basis of self-serving interviews and memoirs, in which selective memory is far too often at work, but on the basis of primary sources. For this we are indebted to the Historical Division of the State Department, for their volume is both thorough

and timely, indeed indispensable to our understanding of the diplomatic process.

NOTES

1. Fred J. Khouri, *The Arab - Israeli Dilemma* (2nd ed.; Syracuse: Syracuse University Press, 1976), pp. 54 - 56, 76.
2. Howard M. Sachar, *A History of Israel* (New York: Knopf, 1976), pp. 301 - 302.
3. *Ibid.*, pp. 333 - 334.
4. *Ibid.*, p. 308.
5. *Ibid.*, p. 334.
6. *Ibid.*, p. 338.
7. Clark Clifford, "Recognizing Israel", and "An Exclusive Interview with Clark Clifford", *American Heritage*, XXVIII (April, 1977), pp. 4 - 11.
8. *American Historical Review*, LXXXII (December, 1977), pp. 1356 - 1357.
9. Ian J. Bickerton, "President Truman's Recognition of Israel", *American Jewish Historical Quarterly*, LVIII (December, 1968), pp. 173 - 240.
10. John Snetsinger, *Truman, the Jewish Vote, and the Creation of Israel* (Stanford, Calif.: Hoover Institution Press, 1974).

ANARCHY REVISITED: AN INQUIRY INTO THE PUBLIC EDUCATION DILEMMA*

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Public schooling has become a prodigious bureaucratic institution that operates as a rigorous maintenance system. Its function is to inculcate the masses with acceptable ideologies and to weed out dissenters whose recalcitrant behavior and spontaneity are viewed as dangerous to the democratic tenets of the United States. As compulsory attendance laws surfaced and were enacted, the educational monolith became ever more securely entrenched in American society. Public education has become a breakwater interrupting the dynamics of inquiry, dissent and innovation which are essential to democracy and to the human condition.

In light of the above it seems timely to reevaluate the historical critiques of public education that apparently have largely been ignored, misinterpreted and misconstrued. A revitalization and reexamination of the major criticisms of the 19th and 20th century anarchists could provide a catalyst which might revitalize the arrested development of American education and life.

The major anarchist critics of education, William Godwin, Peter Kropotkin, Pierre-Joseph Proudhon, Mikhail Bakunin, Francisco Ferrer, Leo Tolstoy and Max Stirner, all believed to varying degrees that man was essentially a benign creature with a potential for goodness. However, they suggested that the habits and institutions of authority manifested in economics, politics, education, and in some

cases religion, only served to warp the natural goodness and wisdom that is the essence of man and mankind. Consequently, significant educational change must express the natural sentiments of an unstructured mass who, through the association and utilization of intellectual communes and cooperatives will arrive at a new synthesis — a new direction for American education.

This paper will be primarily concerned with identification and documentation of the educational viewpoints espoused by the European anarchists of the nineteenth century. A second section will highlight the ideas of two of the prominent contemporary opponents of public schooling, Ivan Illich and the late Paul Goodman. Following this, a third section will attempt to depict the commonalities between the European precursors and the contemporary “deschoolers”.

William Godwin (1756–1836) is considered to be the first European to develop a comprehensive anarchistic critique in his *Enquiry Concerning Political Justice* (1793). His blatant attack on government, which he viewed as an unnecessary evil that should be introduced as sparingly as possible, and his belief in man’s capacity to develop his intellect independently, were to form the foundations of the anarchistic tradition.^[1] His ideal society was egalitarian and completely anarchistic, but his abhorrence of violence precluded revolution as a means to this end. Godwin tolerated the idea of a loosely knit democracy as a transitory phase evolving into an ultimately stateless society.

Godwin’s opposition to a system of national education was based upon a maxim of the

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Enlightenment — social progress could only come about through the development and application of human reason. Godwin believed that human reason and individuality were antithetical to a state controlled educational system which would serve to bolster the power of the political machinery of the state.

... the project of a national education ought uniformly to be discouraged on account of its obvious alliance with national government. This is an alliance of a more formidable nature than the old and much contested alliance of church and state. Before we put so powerful a machine under the direction of so ambiguous an agent, it behooves us to consider well what it is that we do. Government will not fail to employ it, to strengthen its hands, and perpetuate its institutions.^[2]

Godwin also dismissed the possibility of the participation of the church in education. The church was an antiquated and dogmatic institution that indoctrinated the masses with ideas that were static and restrictive.

... even in the petty institutions of Sunday Schools, the chief lessons that are taught are a superstitious veneration for the Church of England, and to bow to every man in a handsome coat. All this is directly contrary to the true interests of mankind. All this must be unlearned before they begin to be wise.^[3]

Godwin's understanding of the Sunday Schools' role in education is worth noting. In Burton Pollin's thesis, *Education and Enlightenment in the Works of William Godwin*, the author indicates that there is room to believe that the English Sunday Schools, set up by Roger Raikes of Gloucester in 1780, were intended to imbue poor children with a sense of discipline through religious and elementary education. After the development of the Sunday School unions (1785), these schools were widely regarded as institutions of social control that did not in any way limit the cheap supply of child labour.^[4]

Godwin's intense polemic against the proponents of national education (e.g. George Dryer, Mary Hayes, Thomas Paine, Edmund Burke) dismissed the argument that a national system could be defended as supplying the citizen with a rudimentary appreciation of the law. Godwin believed that just law was self-evident to the rational man and could be differentiated from the technical law manufactured and interpreted by the courts. The train-

ing in these technical aspects of law would be superfluous within a proper condition of society. Because this condition of society was an ideal and not yet a reality, Godwin conceded a limited role of social control to the government. In his ongoing argument against national education, he declared, in the second edition of *Enquiry Concerning Political Justice* (1796),

It is not the business of government . . . to become the preceptor of its subjects. Its office is not to inspire our virtues, that would be a hopeless task; it is merely to check these excesses, which threaten the general security.^[5]

Godwin was not inclined to deny the urgent need to improve literacy and to develop a wider and a deeper culture in society. He felt that this could be accomplished through the use of literature^[6] and through voluntary discussion groups led by cadres of the enlightened which would disperse knowledge by educating an ever increasing number of people. Needless to say, the Government and the Church would have no part in this voluntary undertaking.^[7]

Godwin detected an inherent problem in his informal and voluntary system of education. He pointed out that it would be difficult to find a substantial number of enlightened teachers for most had been indoctrinated by the teachings of Church and State. Apart from a small group of friends who shared his educational views (Thomas Holcroft, a liberal novelist and playwright; David Williams, a spokesman for advanced educational views in *Lectures on Education*, and a handful of others^[8]), the vast majority of pedagogues were imbued with a sense of servility to the state, in Godwin's opinion. It should be noted that Godwin did make some limited concessions to public education in his essay of "Of Public and Private Education" in *The Enquirer; Reflections on Education, Manners, and Literature* (1797).^[9] These concessions on the advantage of the socializing aspects of public schooling as opposed to private education, could have been prompted by Godwin's realization that the enlightened teacher was an endangered species. It is more likely that his partial acknowledgement of public education was due to the public opinion of the time (1797). Because of the dismal failure of the French Revolution, which

had resulted in autocratic rule by a vicious oligarchy, most of the antigovernment literature espousing individual freedom was considered by many to be insidious. In February, 1793, *An Enquiry Concerning Political Justice* was considered by many to be a major philosophical treatise worthy of praise. But by the end of the Terror in 1794 and certainly by 1797, Wordsworth, Coleridge and the great majority of the English intellectual community had turned against both the revolution and Godwin's anarchism.

Godwin's partial acknowledgement of public education could also have arisen from the influence of his wife Mary Wollstonecraft whom he met in 1791 and married in March of 1797.^[10] Mary Wollstonecraft was a proponent of free government coeducation, the central idea of her major work, *A Vindication of the Rights of Women* (1792).

However, the major anarchistic tenets developed in *Political Justice* (1793) later reappeared in *The Enquirer*. The educational revision that appeared in the latter can be simply explained as a concession to Godwin's critics,^[11] since his attack on national education was not deleted in the second and third editions of *Political Justice* in 1796 and 1798.

Godwin's views on education can be summarized as follows: the instrument for moral, political and basic education cannot be associated with any government or ecclesiastical institution, nor can this education be carried out by any educational bodies whether secular or religious. Education can only be developed by social interaction and communication guided by groups of enlightened preceptors who will investigate a variety of topics and share their conclusions. "Their hearers will be instigated to impart their acquisitions to still other hearers, and the circle of instruction will perpetually increase. Reason will spread, and not a brute and unintelligent sympathy."^[12]

William Godwin's radical critique of society and national education appears to be relatively benign when compared with the thoughts of Max Stirner (1806-1856). In his profoundly original monograph, *The Ego and His Own* (1844) Stirner lashed out at any and all forms of

authority and indoctrination.

Just as the schoolmen philosophized only inside the belief of the church . . . without ever throwing a doubt upon this belief; as authors fill whole folios on the State without calling in question the fixed idea of the State itself, as our newspapers are crammed with politics because they are conjured into the fancy that man was created to be a zoon politician — so also subjects vegetate in subjection, virtuous people in virtue, liberals in humanity, without ever putting these fixed ideas of theirs to the searching knife of criticism. Undislodgable, like a madman's delusion, those thoughts stand on a firm footing, and he who doubts them — lays hands on the sacred.^[13]

Stirner's central argument was the ownership of self which can be described as absolute individuality. To Stirner, liberal humanism was as dangerous as any form of government for it had become the church of the secular age and therefore suppressed individual initiative and freedom of will. Stirner's critique of education follows suit. The implicit danger of educational methodology was that the internalization of knowledge served to control the will of the individual when, in fact, the opposite should occur. Knowledge should be used by the individual when, in fact, the opposite should occur. Knowledge should be used by the in-

In *The False Principle of Our Education* (1842), which appeared in Karl Marx's paper *Neue Rheinische Zeitung*, Stirner indicated that knowledge and the school were synonymous with life. The free man would educate himself through unstructured experiences, since any pedagogical influence would impede the path to freedom and result in a state of submissiveness.^[14] Stirner made a distinction between the free man and an educated man. The educated man was subservient to his thoughts which were dominated by acceptable social values dictated by the state. The free man or egoist was responsible only to his individual will. The will was the master of his knowledge and thoughts.

Within a historical context Stirner argued that, following the Reformation, the exclusive humanistic mode of education based on the classics raised its beneficiaries above the masses who regarded the educated man as an authority.

. . . education as a power, raised him who possessed it over the weak, who lacked it, and the educated man counted in his circle . . . as the mighty the powerful, the imposing one: for he was an authority.^[15]

The development of universal schooling which arose out of the age of the Enlightenment mitigated the authority that had been given to the classical scholar. This new system of popular education was based upon a practical and useful curriculum that was designed to prepare the citizen for an operative life. Stirner rejected the humanist approach because of its explicit master – slave connotation. However, universal schooling was as dangerous to the quest for a free will as was its historical predecessor. The authority manifested in public schooling was not based upon the possession of classical knowledge but rather upon the authority of a “practical and useful” ideology — pragmatism. Stirner believed that the socialization process in a system of national education was abhorrent. For any metaphysical veneration (in this case the worshipping of pragmatism) would impede if not extinguish the natural development of an egoist’s free will. Universal education, under the guise of pragmatism, was a refined system of indoctrination that maintained the authority of the State. This process of inculcation centered upon the teacher – student relationship. The student’s freedom of will was sacrificed to an increasing belief that beneficial education was inextricably linked to the expertise of teacher and institutions.^[16]

Stirner unequivocally denounced any institutionalized form of education. He would have rejected those attempts at reforming institutionalized schooling that held on to the concepts of the teacher and the school (e.g. Ferrer’s Modern School, Tolstoy’s Yasnaya Polyana, etc.). Stirner’s concept of education was directly related to the idea of unrestricted self development. Education was life and socialization was a product of culture not of the schools.

Mikhail Alexandrovitch Bakunin (1814-1876) is considered by many to be the father of the contemporary ideology of anarchy, at least in its collective sense. Bakunin was an ardent revolutionary, who not only professed a doctrine of collective anarchy but also actively participated in the 1848 revolutions in Paris, Dresden and Prague as well as the insurrection in Lyons following the Franco-Prussian war. Bakunin was profoundly affected by Pierre-

Joseph Proudhon’s political conception of federated producers’ cooperatives that would spontaneously arise from below. This concept was reiterated by Bakunin in his work *Statism and Anarchy* (1873):

We believe that the people will be happy and free only when they build their own life by organizing themselves from below upwards, by means of autonomous and totally free association, subject to no tutelage but exposed to the influence of diverse individuals and parties enjoying mutual freedom.^[17]

Bakunin rejected national education as it existed before the coming anarchist revolution. His reason was that a national system of education served the interests of the state and not of the people. These interests were essentially socio-economic as the government acted to preserve the disparities of wealth and class in a country.

This [governmental oppression of the working class] is the sole aim of a governmental organization, of the permanent conspiracy of the government against the people. And this conspiracy, openly avowed as such, embraces the entire diplomacy, the internal administration — military, civil, police, courts, finances, and education — and the Church.^[18]

Bakunin believed that society, in a natural state, was a collective humanity independent of all control. Bakunin’s understanding of society as a mutual interdependence of individuals, voluntarily cooperating in all endeavors, was later to become a central theme in Peter Kropotkin’s anarcho-communism. Bakunin propounded the idea that the only necessary authorities for man were the laws of his own nature and those of the environment. And since in the ideal society no other form of compulsion would be permissible, man must understand these natural laws of society and the environment.

The principal function of the post-revolutionary society would be to educate its members in order to preserve the harmonious and effective operation of the new social order. Bakunin’s educational scheme was to be based upon a scientific inquiry into nature and society. He gave it the name of integral education for it encompassed both the theoretical and practical aspects necessary for the fullest development of an individual’s potential.^[19] The programme of integral education was sub-

divided into three areas of inquiry, each one a requisite for the next. The first area was a theoretical study of the sciences, which would teach each individual the rudiments of the scientific method. After the individual had gained a general understanding of science, he or she would select a specific field in which to undertake a concentrated study. The second part of Bakunin's proposal was to be technical training where each individual would be taught a useful vocation. Following this, a third area was concerned with the study of morals and ethics.

Alongside of scientific and industrial education there will necessarily be a practical education, or rather a series of experiments in morality, not divine but human morality. Divine morality is based upon two immoral principals, respect for authority and contempt for humanity; but human morality, on the contrary, is based upon contempt for authority and respect for freedom and humanity.^[19]

Bakunin's system of education was unavoidably compulsory for he believed so long as there existed two or more degrees of education in society this would result inevitably in class distinctions. He did not deny that some individuals were naturally endowed with a greater propensity to learn, but he felt that these natural differences were exaggerated and that most of them could not be attributed to nature but to the educational differences prevailing in the existing society. Immediately following the revolution, Bakunin admitted, his system of integral education would not maintain the then current level of scientific exploration and discovery but it would greatly reduce the number of ignorant people.^[20]

Admittedly, Bakunin's system of integral education seems to have an authoritarian flavor about it. However, compulsory attendance was only to be enforced during the initial stages of the education of the young. Afterward, there would be a free entry and exit policy, as witness the following quotation:

But these schools [of integral education] should be free from even the slightest application or manifestation of the principle of authority. They will not be schools in the accepted meaning, but popular academies, in which neither pupils or master will be known, but where the people come freely to get, if they find it necessary, free instruction, and in which, rich in experience, they will teach many things to their professors who shall bring them the knowledge that they

lack. This then will be a sort of intellectual fraternity between educated youth and the people.^[21]

It should be noted that Bakunin's ideal of integral education could only exist in a truly egalitarian society. Also his belief in productive communes and cooperatives, voluntarily associated in a loosely knit federation, tends to preclude any similarities between integral education and a system of national schooling. Bakunin's abhorrence of public education in the bourgeois State can be successfully summarized in the following quotation:

But you [bourgeois socialists] do not teach them, you poison them by trying to inculcate all the religious, historical, political, juridical and economic prejudices which guarantee your existence, but which at the same time destroy their intelligence, take the mettle out of their legitimate indignation and debilitate their will.^[22]

One of Bakunin's contemporaries who generally subscribed to the collectivist tenets of anarchism was Pierre-Joseph Proudhon (1809—1865). Proudhon is popularly recognized for his contributions in the economic realm, namely his proposal of a natural banking system which supported the ideas of free credit and equitable exchange. Proudhon was also indirectly responsible for the futuristic conception of society as a free federation of working men's cooperatives. It is probable that the social reorganization that Proudhon proposed was essentially a restatement of Charles Fourier's concept of the phalansterian communities.^[23] His first major publication was *What is Property?* (1840) and in this work, Proudhon became the first advocate of a society without government to call himself an anarchist.

Proudhon's views on education come significantly close to those of Mikhail Bakunin. Proudhon, in his *Idea of the Revolution in the Nineteenth Century* (1851), suggested that a system of state-controlled education, through its separation of professional and practical instruction, served to make a distinction between classes, resulting in governmental tyranny and the subjection of the working class. Proudhon argued against a sense of superiority that students gained when they embarked upon a solely theoretical education, devoid of practical application. When educa-

tion is integrated or “ . . . when it becomes at once a matter of training the mind and of application to practical affairs in the workshop and in the house . . . ”^[24], the government’s control of it would inevitably disappear, for the disparities between theory and practice would be dissolved and the corresponding class distinctions would no longer provide fuel for the suppressive government machinery. The following quotations should illustrate this point.

If the school of mines is anything else than the actual work in the mines, accompanied by the studies suitable for the mining industry, the school will have for its object, to make, not miners but chiefs of miners, aristocrats.^[25]

and

It was not for the People that the Polytechnic, the Normal School, the military school at St. Cyr, the School of Law, were founded; it was to support, strengthen, and fortify the distinction between classes, in order to complete and make irrevocable the split between the working class and the upper class.^[26]

Proudhon supported a complete decentralization of schooling. He felt that the small communities, workingmen’s associations and agricultural communes should, at their own discretion, select a teacher who could provide a specific service corresponding to the wants and needs of the community. The teacher would not have to be certified by the state and indeed could be self-taught. Proudhon specified that the relationship between the community and the teacher would be a free contract subject to competition. Proudhon’s conception of a free contract was a working relationship between an individual and one or more of his fellow citizens. The fulfillment of the contract was not based upon any legal maxims upheld by the state, but rather on the individual’s moral will.

It is probable that some of Pierre-Joseph Proudhon’s contempt for public schooling was due to his personal education. His comprehensive knowledge and his expertise in Latin and Hebrew were acquired through self-education. Proudhon’s educational emphasis on decentralization and on the integration of the theoretical and practical, were some of the salient characteristics within his revolutionary program.

No revolution henceforward will be fruitful if a recreation of public education is not its crowning feature. . . . The organization of education is at once the condition of equality and the sanction of progress.^[27]

The theory of mutual aid, which was the thesis of Peter Alexeyevitch Kropotkin’s (1842–1921) anarcho-communism refuted Charles Darwin’s evolutionary emphasis on natural selection. Kropotkin argued that the real struggle for existence took place in a collective sense. This collectivity was represented by the adaptation of all individuals to those conditions that were best for the survival of the entire species. The struggle was between the species and the environment, not between different members of a species. Kropotkin believed that the history of man had been characterized by cooperation. Voluntary cooperation was ultimately the basis of all human development. He asserted that anarcho-communism or communism without government was the synthesis of two ideals that mankind had pursued throughout the ages — economic and political liberty.

Kropotkin credited compulsory national education with the preservation of state government. He indicated that, for the most part, all books and journals, both academic and popular, espoused a veneration of government.

Kropotkin foresaw the possibility that compulsory public schooling could successfully inculcate values that would eliminate independent thinking and criticism.

We are so perverted by education which from infancy seeks to kill in us the spirit of revolt, and to develop that of submission to authority; we are so perverted by this existence under the ferrule of a law, which regulates every event in life — our birth, our education, our development, our love, our friendship — that if this state of things continues, we shall lose all initiative, all habit of thinking for ourselves.^[28]

The educational approach that Kropotkin propounded seems to embrace most of the critiques and alternatives that have been expounded so far. However, there is always an exception to any generalization. In Kropotkin’s pamphlet *Modern Science and Anarchism* (1913), he attacked Max Stirner’s belief in the full development of the individual as a selective educational process, that would cater only to the most

gifted and would therefore have as its result the process of an existing educational monopoly by the few. Kropotkin added that this educational monopoly could only be maintained under the oppressive wing of a state; “. . . the claims of these individualists necessarily end in a return to the state idea and to the same coercion which they so fiercely attack themselves”.^[29] Whether this critique can be justified is a matter of interpretation. Perhaps Max Stirner can clarify the point.

In this universal education, therefore, because the lowest and the highest meet together in it, we come upon the true equality of all for the first time, the equality of free people: only freedom is equality.^[30]

Kropotkin agreed with Proudhon and Bakunin on the necessity of integrating theory and practice in an educational system to avoid class distinction.

Repeating the formulation of Proudhon, we say: if a naval academy is not itself a ship with sailors who enjoy equal rights and receive a theoretical education, then it will produce not sailors but officers to supervise sailors. . . .^[31]

Kropotkin defended this argument by alluding to the fact that many of the great intellects in history necessarily combined brain work with manual work or innovations with handicrafts. Galileo manufactured his own telescopes; Newton learned how to grind the lenses for his experiments in optics; Linnaeus became acquainted with botany while helping his father in the garden. Kropotkin pointed out that industrialization and the inherent division of labor have caused the worker to lose his intellectual interest in production and therefore his innovative capacity.

Kropotkin advocated a complete education combining a thorough knowledge of science and of handicraft. He dismissed attempts to set up schools of technical education because these served to maintain the division between manual and mental labor. Kropotkin emphasized self-discovery within the scientific schooling of the young and felt that the educational method of combining practical experience with theoretical insight would facilitate and expedite the learning process. His vision of public schooling was that it would be free, not compulsory and not limited in the curricular sense.^[32] The educa-

tion would be carried on by the various cooperatives and associations that were to be the social units following the elimination of the state.

The following quotations seem to summarize Kropotkin's opposition to public schooling and his vision of an ideal education. These thoughts were expressed in a letter from Peter Kropotkin to Francisco Ferrer, congratulating Ferrer on the founding of the educational review, *L'Ecole Renouée*:

Above all, education in the true sense of the word: that is to say the formation of the moral being, the active individual, full of initiative, enterprise, courage, freed from the timidity of thought which is the distinctive feature of the educated man of your period — and at the same time sociable, communistic by instinct, equal with and capable of feeling his equality with every man throughout the universe; starting emancipated from the religious, narrowly individualistic, authoritarian principles which the school inculcates We must come to the merging of manual with mental labor, as preached by Fourier and the International . . . we will then see the immense economy of time that will be realized by the young brain developed at once by the work of hand and mind.^[33]

For the most part, this paper has dealt with critiques of, and hypothetical alternatives to, public schooling. It would be fruitful to investigate the practical application of libertarian education. Francisco Ferrer and Leo Tolstoy organized libertarian schools in Barcelona, Spain, and at Yasnaya Polyana, Russia, respectively. Both of these men believed that education and not social revolution was the proper means of implementing social change.

Francisco Ferrer's (1859–1909) Modern School was established in September, 1901, in Barcelona.^[34] Between 1884 and 1885, Ferrer was involved in a popular republican rebellion led by General Villacampa against the oppressive Spanish regime. The Spanish republican rebels were subdued and those who escaped persecution and arrest fled to foreign countries. Ferrer managed to escape to France, and in Paris he was introduced to the principles of the Modern School. The tradition of the Modern School in France was developed by a group of people, particularly Louise Michel, who originated the movement within her school on Mont-martie; Paul Robin, who set up a

school for the underprivileged at Cempuis; and Madelaine Vernet and Sebastian Faure who established a communal school called La Ruche (The Beehive), based on libertarian tenets.^[35]

Ferrer's Modern School was financed by one of his students, a Mlle. Meunier, who in 1900 unconditionally bequeathed to Ferrer a sum of £30,000. Ferrer attempted to provide a privately financed system of education that would be concerned with developing a sense of self-ownership and social awareness, independent of the dogmas of state or church.

If modern pedagogy means an effort towards the realization of a new and more just form of society; if it means that we propose to instruct the rising generation in the causes which have brought about and maintain the lack of social equilibrium; if it means that we are anxious to prepare the race for better days, freeing it from religious fiction and from all ideas of submission to an inevitable socio-economic inequality; we cannot entrust it to the state nor to other official organisms which necessarily maintain existing privileges and support the laws which at present consecrate the exploitation of one man by another...^[36]

Ferrer believed in the principle of a sliding tuition rate that would allow children from all walks of life to attend the Modern School. A private school that demanded exorbitant fees would preserve class privilege and disrupt social harmony.

The curriculum of the Modern School utilized the study of the natural sciences in order to familiarize the students with a scientific mode of inquiry. "A rigorous logic, applied with discretion . . . established intellectual harmony and gave . . . a progressive disposition to their wills . . . —all were enabled to see the errors of others as well as their own, and they moved more and more to the side of common sense."^[37] It is revealing to note that Ferrer has great difficulty in finding educational sources and texts were not riddled with absolute assertions and rigid principles. When the library of the Modern School was opened, it contained but one work—*The Adventures of Nono* by Jean Groue. The Book was a social satire that dramatically contrasted the social evils of the present with the future delights in the "land of Autonomy".^[38] In July of 1909, Ferrer called a conference of his teachers to consider book selections for the fall semester. Of the new

publications discussed, special emphasis was given to Peter Kropotkin's just published *Great French Revolution*.^[39]

Ferrer's system of education, especially the curricular aspects of the Modern School, has been attacked as dogmatic. It is true that the teachers in the school and a great deal of the literature read there were imbued with a sense of anarchy.^[40] However, the school did lay great emphasis on the scientific method, and Ferrer always insisted that there was an objective set of facts that could be learned without subjecting the student to an ideology.^[41] Ferrer himself indicated that the Modern School was not intended to inculcate revolutionary ideals in the students:

I venture to say quite plainly: the oppressed and exploited have a right to rebel, because they have to reclaim their rights until they enjoy their full share in the common patrimony. The Modern School however has to deal with children, whom it prepares by instruction for the state of manhood, and it must not anticipate the cravings and hatreds, the adhesions and rebellions which *may* be fitting sentiments in the adult.^[42]

As was the case with Stirner and Godwin, Francisco Ferrer also anticipated the problem of finding rational educators who were not indoctrinated with the teachings of church and state. Ferrer, however, solved the problem:

Professional teachers have to undergo a special preparation for the task of imparting scientific and rational instruction. . . . The solution of the problem was very difficult, because there was no other place but the rational school itself for making this preparation. . . . Nevertheless, in order to complete my work, I established a Rationalist Normal School for the education of teachers, under the direction of an experienced master and with the cooperation of the teachers in the Modern School.^[43]

Ferrer believed that the idea of rational education developed at the Modern School would be a model for other independent educational institutions in Spain. There were a substantial number of societies interested in scientific and rational education, especially The Republican Fraternities, the Centers of Instruction, and various working men's organizations. Between 1901 and 1909 Ferrer organized 109 schools in Spain.^[44] Ferrer's influence was not restricted to the Peninsula, as his concept of the Modern School was adopted in the United

States, specifically in the form of the Modern Schools in New York City and in Shelton, New Jersey.

Ferrer's life came to an abrupt end in October 1909. The Spanish government accused Ferrer of instigating an insurrection in Barcelona. Following a mock trial, in which defense evidence was confiscated by the police, Ferrer was found guilty and sentenced to be shot. On October 13th he was executed. Yet in 1912, the Supreme Military Council of Spain was forced to declare that no single act of violence could be directly or indirectly traced to Ferrer.^[45]

The central idea of the new "Libertarian" education for which Tolstoy and Sebastian Faure have worked, and in behalf of which Francisco Ferrer has died, is that the emphasis of education shall rest on the "drawing out" of the authentic nature of the child. In our schools of today . . . just the opposite principle is recognized. The object of the teacher is too often to impose something on the child, to stifle the pupils' real individuality, to make children as much alike as possible, all this must be changed.^[46]

Lev Nikolaevich Tolstoy (1828–1910) is popularly recognized for his contributions to literature, including *Anna Karenina*, *War and Peace*, and other works. Tolstoy approached anarchism in a non-violent and religious manner. His religion was an entirely ethical one which ignored ecclesiastical dogma and affirmed universal love and brotherhood. Christianity, as Tolstoy saw it, was incompatible with the state and its array of coercive institutions. He sought the solution to society's ills in changing the morals of individuals, and he considered the revolutionary approach of his contemporaries to be severely misguided.

Tolstoy's ideals of universal welfare and a brotherhood of man were to be realized through education. According to Tolstoy, the mission of education was to inspire and influence individuals so that they could appreciate truth and beauty and abhor cruelty and power. In the ideal stateless order, Tolstoy believed that "men are to be held together in societies in future by the mental influence which men who have made progress in knowledge exert upon the less advantaged".^[47] Knowledge was derived from conscious instruction in the pedagogical sense and from un-

conscious suggestion manifested in the social and natural environment and in the actions of the teacher.

Education, for Tolstoy, was a process of freeing the natural creativity in individuals through learning. Compulsory public schooling would only impede this process.

Every pupil is so long an anomaly at school as he has not fallen into the rut of this semi-animal condition. The moment the child has reached that state and has lost all his independence and originality, the moment there appear in him various symptoms of disease – hypocrisy, aimless lying, dullness and so forth – he no longer is an anomaly: he has fallen into the rut, and the teacher begins to be satisfied with him.^[48]

Tolstoy also opposed public schooling because he believed that a great part of the practical or vital education that people obtained was disassociated from any form of formal schooling. "Maybe it is easier for a workman to study Botany from plants, Zoology from animals, Arithmetic from the abacus, with which he has to deal, than from books."^[49] He felt that any system of education had to grow out of the people and could not be directed from a central authority.

. . . The government seems to be imposing the obligation of another, unfamiliar education on the masses, removing from them participation in their own affairs, and demanding from them not guidance and deliberation, but only submission.^[50]

Tolstoy detected the populace's attraction towards public education and saw how this demand would be utilized by the state in its ongoing process of centralization.

The need of education is just beginning freely to take germ in the masses. After the Manifesto of February 19th [the Russian government's proposal during the 1890's for public education], the people everywhere expressed their conviction that they now need a greater degree of education. . . . This conviction has found its expression in the fact that everywhere free schools have been rising in enormous numbers. The masses have been advancing on the paths on which the government would like to see them go.^[51]

Tolstoy criticized the University system as an intolerably rigid and elitist institution that was based upon "the dogma of the professors' papal infallibility". He saw that the university alienated the student from his family and community (institutions that Tolstoy cherished) and that most of his educational experience was useless.

He comes back to his home; all are strangers to him. . . . He shares neither their faith, nor their desires, and he prays not to their God, but to other idols. His parents are deceived, and the son frequently wishes to unite with them into one family but he no longer can do that. . . . But the deed is done, and the parents console themselves with the thought that such is now the age; that the present education is such that their son will make a career for himself somewhere else. . . .

Unfortunately . . . the parents are mistaken. . . . The information which he has acquired is of no use to anybody, no one gives him anything for it. Their only application is in literature and in pedagogy, that is, in the science dealing with the education of just such useless men as he.^[52]

The real university to Tolstoy, was a voluntary community of individuals who investigated topics of common interest that arose from the cultural background of the participants. There was no compulsion to attend — students and teachers gathered together freely and discussed matters that would have some significance, either in a theoretical or practical sense, in their own lives.

Tolstoy believed in educational progress, which he understood as a popular evolution towards equality of knowledge. However, he disagreed with the thought that one must teach in accordance with the demands of the time. The progressive demands of the time were essentially those principles that maintained the social standing of the educated gentry, the educated merchants and the official classes. Public schooling which inculcated “progressive” and “acceptable” beliefs and behavior was an insidious tool of the upper classes and/or the state.^[53] Tolstoy declared:

. . . we see, on the contrary, that the advocates of progress in this respect, judge precisely as did the old landed proprietors who assured everybody that for the peasants, for the state, and for humanity at large, there was nothing more advantageous than serfdom and manorial labor; the only difference is that the faith of the landed proprietors is old and unmasked, while the faith of the progressists is still fresh and in force.^[54]

In the 1860s Tolstoy implemented his proposed alternative modes of teaching, by establishing a school at his estate, Yasnaya Polyana. The school dismissed traditional authority, whether in the form of a required curriculum, examinations or punishments and rewards. Tolstoy believed that the initiative and originality of children could only develop in an

atmosphere of freedom. This did not imply disorder or indiscipline. Freedom, to Tolstoy “replaces an external artificial order by one that is internal, organic and genuine, one that springs from life itself like the regular and spontaneous working of an organism; one that is not felt as constraint”.^[55] Freedom, in this sense, would provide a fertile atmosphere for self-expression and self-realization. The School at Yasnaya Polyana, according to the accounts of Tolstoy, was a successful but fleeting experiment. (The school was closed several years after its inception. This was largely due to government pressure and public opposition.)

Tolstoy explains that no one is ever rebuked for tardiness, but they never are tardy, except some of the older ones whose fathers, now and then, keep them back to do some work. In such cases, they come running to school at full speed, and all out of breath. The teacher may begin with arithmetic and pass over to geometry, or he may start on sacred history and end up with grammar. At times the teacher and pupils are so carried away, that instead of one hour, the class lasts three hours.^[56]

There is one other salient characteristic of the school at Yasnaya Polyana that most visibly distinguishes Tolstoy from other European anarchists. Tolstoy utilized the Bible, for he considered it to be the most comprehensive work available. “There is no book like the Bible to open up a new world to the pupil, and to make him without knowledge, love knowledge. . . . All the questions from the phenomena of Nature are explained by this book; all the primitive relations of men with each other, of the family, of the state, or religion, are for the first time consciously recognized in this book.”^[57] The religious flavor of Tolstoy’s anarchism should not be misconstrued as ecclesiastical dogmatism. For Tolstoy, Christianity was anarchy based on love.

We come now to the salient critiques and alternatives to contemporary public schooling suggested by Paul Goodman and Ivan Illich. We offer not a comprehensive enquiry but rather a succinct exposition of their thoughts on a public system of education.

The late Paul Goodman (1911 – 1971), ardently opposed the bureaucratic and stultifying proliferation of public schooling in the

United States. Goodman recognized the viability of a system of compulsory schooling in Jeffersonian times when people were taught to display "citizenly initiative", and revolutionary zeal. "Everybody had to become literate and study history, in order to make constitutional innovations and to be fired to defend free institutions, which was presumably the moral that history taught."^[58]

Goodman perceives compulsory public schooling as an unnecessary evil that should be introduced as sparingly as possible. The contemporary "school-monks": the administrators, professors, academic sociologists and licensed teachers have developed into a vast intellectual monolith that is venerated by society. This absurd worship of public schooling is based on the belief that social and economic advancement are inextricably related to the quality of education received.^[59] Goodman believes that the compulsory education system or any similar form of formal education is designed to inculcate a sense of subservience in the student, and to shape acceptable patterns of behavior and thought.

It is in the schools and from the mass media, rather than at home or from their friends, that the mass of our citizens in all classes learn that life is inevitably routine, depersonalized, venally graded; that it is best to toe the mark and shut up; that there is no place for spontaneity, open sexuality and free spirit. Trained in the schools they go on to the same quality of jobs, culture and politics. This is education, miseducation socializing to the national norms and regimenting to the nation's "needs"^[60]

At present when formal education swallows up so much time of life and pretends to be practical preparation for every activity, the ideological processing is especially deadly. Those who succumb to it have no wits of their own left and are robots.^[61]

Goodman claims that one's most valuable educational experiences occur outside the school. Participation in the activities of society should be the chief means of learning. Instead of requiring students to succumb to the theoretical drudgery of textbook learning, Goodman recommends that education be transferred into factories, museums, parks, department stores, etc, where the students can actively participate in their education. With an emphasis on voluntary education and intrinsic motivation, it is essential that there be a large

variety of educational opportunities.

Teacher certification can be dismissed as a state system of rubber stamping. Its inherent function is to insure the systematic indoctrination of state preceptors and to control the elements of supply and demand in the teaching profession. Incidental education would utilize the expertise of druggists, storekeepers, mechanics, etc. to introduce students to the realities of vocations or professions. There would be significant emphasis on science and technology.

Finally contemporary education must inevitably be heavily weighted toward the sciences. . . . Our aim must be to make a great number of citizens at home in a technological environment, not alienated from the machines we use, not ignorant as consumers, who can enjoy the humanistic beauty of the sciences, and above all, who can understand the morality of a scientific way of life.^[62]

The ideal schools would take the form of small discussion groups of no more than twenty individuals. As has been indicated, these groups would utilize any effective environment that would be relevant to the interest of the group. Such education would be necessarily non-compulsory, for any compulsion to attend places authority in an external body disassociated from the needs and aspirations of the students. Moreover, compulsion retards and impedes the students' ability to learn.

The basic intention behind the compulsory attendance laws is not only to insure the socialization process but also to control the labour supply quantitatively within an industrialized economy characterized by unemployment and inflation. The public schools and universities have become large holding tanks of potential workers.

The universities are no longer free intellectual communities that participate actively on society. Goodman feels that they have evolved into academic corporations that have alienated students and professors through formal administrative procedures.

My argument, then, is a simple one. The colleges and universities are, as they always have been, self-governing communities. But the personal relations in such communities have come less and less to consist in growing up, in the meeting of veterans and students, in teaching and learning, and more and more in every kind of communication, policing, regulation, and

motivation that is relative to administration. The community of scholars is replaced by a community of administrators and scholars with administrative mentalities, company men and time servers among the teachers, grade seekers and time servers among the students. And this new community mans a machine that, incidentally, turns out educational products.^[65]

Goodman's intense polemic against compulsory public schooling can be summarized by the following quotation from his *Compulsory Mis-education and The Community of Scholars*:

The school system as a whole, with its increasingly set curriculum, stricter grading, incredible amounts of testing, is already a vast machine to shape acceptable responses. Programmed instruction closes the windows a little tighter and it rigidifies the present departmentalization and dogma. But worst of all it tends to mummify the one lively virtue that any school does have, that is a community of youth and of youth and adults.^[66]

Ivan Illich (1927–) is popularly recognized for his critical exposé, *Deschooling Society*. Illich was born in Vienna and was educated in Rome's Gregorian University, where he received a master's degree in theology and philosophy, and at the University of Salzburg, where he received a doctorate in the philosophy of history. The most complete biography of Illich can be found in Francine Gray's *Divine Disobedience*. Illich's intense argument against compulsory public schooling generally reiterates Paul Goodman's critique, but Illich adds a revolutionary flavor to deschooling: the dismantling of the public education system would coincide with a pervasive abolition of all the suppressive institutions of society.

Illich condemns public schooling for a variety of reasons. The general theme is that the nature of man is incongruent with the centralized and institutionalized society of the technocrats. The paradigm of the technocratic society is the public school. It is venerated in a religious sense for it makes futile promises of economic advancement and social mobility to the modern proletariat. Illich maintains that this new world religion has to be disestablished from the state and that this will be a violent process.

The time of reformation, desecularization and the disestablishment of the school will bring processes

analogous to those which occur in the breakdown of established Churches . . . we will see struggles for investiture, struggles for local control and struggles for freedom from dogma. We will experience the rise of lay preachers, sectarianism, heresies, inquisitions and religious wars.^[66]

Illich charges public schooling with institutionalizing acceptable moral and behavioral standards and with constitutionally violating the rights of young adults. "Children are neither protected by the 1st amendment or the 5th when they stand before the secular priest. The teacher is at once the guide, teacher and administrator of a sacred ritual."^[66]

In the economic spectrum, the school alleviates the burden of unemployment by detaining significant numbers of would-be workers. Illich feels that compulsory public education is economically unsound and a useless waste of time.^[67] He suggests that tax revenues allocated to public education would be unquestionably put to better use by developing skill centers and an educational voucher system or edu-credit cards, as Illich refers to them.

Skill centers would be set up so that anyone at anytime could choose instruction among hundreds of available skills. These centers would be publicly financed, and each citizen's edu-credit card would entitle the holder to their use. Illich emphasizes on-the-job training and contends that trade schools should be a part of related industries rather than remain independent of them.

Instead of the trade school, we should think of a subsidized transformation of the industrial plant. It should be possible to obligate factories to serve as training centers during off-hours, for managers to spend part of their time planning and supervising this training, and for the industrial process to be so redesigned that it has educational value. If the expenditures for present schools were partly allocated to sponsor this kind of educational exploitation of existing resources, then the final results — both economic and educational — might be incomparably greater.^[68]

Illich subscribes to Goodman's belief that most of the useful education that people acquire is a by-product of work or leisure and not of the school. Illich refers to this process as "informal education". Only through this unrestricted and unregulated form of learning can the individual gain a sense of self-awareness and develop his creative capacity to its fullest extent. Illich also

concurs with Goodman's opposition to teacher certification for similar reasons. Licensing serves to discriminate between those who have acquired diplomas from public schooling and those who have not. Illich believes that industry and educational systems should not discriminate because of licenses but should provide performance tests for specific job-related skills.

Illich's ideal educational system would include the edu-credit cards and skill centers in addition to the central concept of "learning webs". This educational system would have three purposes: to provide access to available resources to all who want to learn; to empower all who want to share what they know; to find those who want to learn it from them; to furnish all who want to present an issue to the public with the opportunity to make their challenges known. The system of learning webs is aimed at individual freedom and expression in education by using society as the classroom. There would be reference services to index items available for study in laboratories, theatres, airports, libraries, etc.; skill exchanges — which would permit people to list their skills so that potential students could contact them; peer-matching, which would communicate an individual's interest so that he or she could find educational associates; reference services to educators at large, which would be a central directory of professionals, para-professionals and free-lancers.^[69] Illich's "web system" is a well-thought-out alternative to public schooling. Its emphasis on a prodigious supply of educational resources, individual freedom of choice, unrestricted accessibility, and self-development, all seem to provide a solution to the problems of compulsory public schooling. However, the viability of Illich's "web system" is dependent upon the principle of centralization. Centralization implies the creation of a bureaucracy that coordinates and manages a comprehensive system. In the case of the web system it appears that its management could be undertaken by a small group of people. This could lead to a system of education more frightening and Orwellian than the present state of affairs. This reasoning is pure supposition and should be taken as such.

The intellectual precursors of the contemporary opponents of compulsory public schooling, were for the most part the European anarchists of the nineteenth century. Ivan Illich has indicated that,

As far as my criticism of schooling is concerned, the most important direct influence of which I am aware is that of Mr. Everett Reimer. . . . The intensity of our joint exploration puts — in my opinion — other direct influences in the shadow. Among those 19th century authors whom you mention, Proudhon, Bakunin, Kropotkin and Stirner were certainly points of reference in our conversation.^[70]

Everett Reimer reiterates Illich's deschooling theme in his only major publication, *School is Dead: Alternatives in Education* (1971). It would appear that Reimer did not directly influence the work of Illich, but rather that their relationship was of mutual benefit. In the foreword to *School is Dead*, Reimer stated,

This book is the result of a conversation with Ivan Illich that has continued for fifteen years. We have talked of many things, but increasingly about education and school, and eventually, about alternatives to schools.^[71]

This would seem to indicate that the educational viewpoint of the European anarchists of the 19th century was *the* major influence upon the contemporary critique espoused by Ivan Illich.

Paul Goodman indicated in the introduction to Peter Kropotkin's *Memoirs of a Revolutionary* (1970 edition) that "Kropotkin's running critique of the system of formal education also continually strikes home".^[72]

In a general survey, all of these opponents of public schooling criticized the institution because of its perverse relationship with the government. The schools inculcated beliefs and behavior that were politically and economically beneficial to the power structure of the state.

The emphasis on the need to integrate theoretical and practical education is supported by Bakunin, Proudhon and Kropotkin, and this belief is reiterated in the proposals of Illich and Goodman. Proudhon's idea that both the theoretical and practical aspects of technical education should be carried out in the factories and in workingmen's associations is similar to Illich recommending that industry incorporate the trade schools of contemporary times. Goodman's support of the thesis of integral

education is evidenced by the following:

Dispense with the school building for a few classes; provide teachers and use the city itself as a school, its streets, cafeterias . . . and factories. Where feasible, it certainly makes more sense to teach using the real subject-matter than to bring an abstraction of the subject-matter into the school building as curriculum.^[73]

And other commonality is the basic belief that education is synonymous with life and that the most useful learning experiences are acquired outside the confines of the classroom. Goodman's and Illich's recognition of informal or incidental education is significantly close to Max Stirner's proposition that knowledge and school were integrated into life and could only be discovered through social interaction. Tolstoy follows suit, in his polemic against public schooling which refuted the necessity of learning to read and write.

Among people who stand at a low level of education, we notice that the knowledge or ignorance of reading and writing in no way changes the degree of their education. We see people who are well acquainted with all the facts necessary for farming and with a large number of interrelations of these facts, who can neither read nor write; as excellent military commanders, excellent merchants . . . and people simply educated by life who possess a great store of information and sound reasoning, based on that information. . . .^[74]

The concept that a system of national education serves to maintain class disparities is generally accepted by the European anarchists and by the contemporary deschoolers. However, there are specific ideological differences within this general consensus. The mutualist, collectivist and communist strains of anarchy as propounded by Proudhon, Bakunin and Kropotkin strongly emphasized the principle that national education would cater to the middle class and would be detrimental to the urban and agrarian proletariat. Ferrer and Tolstoy recognized the principle of class struggle but they were also concerned with the problem of self-ownership within the suppressive educational environment of the public schools. The individualist anarchism of Max Stirner was based upon the concept of an absolutely free development of the individual, and consequently disregarded the argument that a system of national education would cater to one class or

to another. Within this spectrum of anarchy, Illich and Goodman would probably come closest to Ferrer and Tolstoy. Both groups recognized that compulsory public schooling was designed to maintain the inherent class structure of society, but they also emphasized the negative effect that compulsory public schooling had on the individual. Godwin's conception of anarchism would place him much closer to the individualist strain of Stirner than to the socialistic principles of Bakunin, Proudhon and Kropotkin.

Another common element subscribed to by these opponents of public schooling was the belief in utilizing small educational groups. In many cases this would correspond to the social organization in a stateless society. All of the European anarchists supported the principle of a federation of small associations and it follows naturally that this idea would be applied to education.

The problem of finding adequate educational resources not imbued with the dogmatism of the state is explicitly indicated in the works of Godwin, Ferrer, Stirner, and Kropotkin:

We may open any book of sociology, history, law, or ethics: everywhere we find government, its organization, its deeds, playing so prominent a part that we grow accustomed to suppose that the state and the political man are everything. . . .^[75]

This problem is implied by both Goodman and Illich, for both recognize and identify the process of indoctrination that occurs in the public schools which utilize "acceptable" educational textbooks.

The curricular emphasis on science or upon developing a working knowledge of the scientific method seems to be a general trait of the the European anarchists. This emphasis has largely been adopted by both Goodman and Illich, although it has evolved into an affirmation of technical education.^[76] Mikhail Bakunin clearly indicated the necessity of acquiring an education based on science.

Since no mind . . . is capable of embracing . . . all the sciences, and . . . since a general knowledge of all sciences is absolutely necessary for the complete development of the mind, instruction divides naturally into two parts: the general one, giving the principal elements of all sciences . . . and the special part, necessarily divided into several groups or faculties,

every one of which embraces a certain number of mutually complementary sciences.^[177]

This paper has been concerned with depicting the common elements between the 19th century anarchistic opponents of public schooling and two contemporary counterparts — Paul Goodman and Ivan Illich. All held to varying degrees that education was experientially synonymous with life. Pedagogy should be viewed as an unfettered and ongoing enquiry into those areas of individual and collective interest(s), which in their entirety define the perimeters of their culture or cultures. Educational authority, imposed from above, and manifest in governmental or ecclesiastical institutions, only creates a synthetic environment that is antithetical to learning. Educational authority and organization should be an internal function and responsibility of freely formed communes and cooperatives, i.e. those social units envisioned as the basic units of a new and liberated social order.

Although there are many dissimilarities between these thinkers, it appears that the central arguments against public schooling developed by the anarchists in the nineteenth century have been rejuvenated and reiterated in the works of Paul Goodman and Ivan Illich.

NOTES

1. William Godwin, *Enquiry Concerning Political Justice and Its Influence on Morals and Happiness* (Baltimore: Penguin Books Ltd., 1976), p. 556.
2. *Ibid.*, pp. 616–617.
3. *Ibid.*, pp. 614–615.
4. Burton Ralph Pollin, *Education and Enlightenment in the Works of William Godwin* (New York: Las Americas Publishing Company, 1962), p. 134.
5. *Ibid.*, p. 121.
6. William Godwin, *The Enquirer; Reflections on Education, Manners, and Literature* (London: Paternoster-Row, 1797), pp. 30–31.
7. Pollin, *Education and Enlightenment in the Works of William Godwin*, p. 145.
8. *Ibid.*, p. 130.
9. Godwin, *The Enquirer: Reflections on Education Manners, and Literature*, pp. 56–64.
10. Godwin, *Enquiry Concerning Political and Its Influences on Morals and Happiness*, p. 14 (Introduction.)
11. Pollin, *Education and Enlightenment in the Works of William Godwin*, p. xv (Introduction.)
12. *Ibid.*, p. 145.
13. Max Stirner, *The Ego and His Own*. John Carrol, ed. (New York: Harper and Row, 1971), p. 60.
14. Max Stirner, *The False Principle of Our Education*, Translated by Robert Beebe (Colorado Springs: Ralph Myles, Publisher, 1967), pp. 23, 26.
15. *Ibid.*, p. 12.
16. Joel H. Spring, *A Primer of Libertarian Education* (New York: Free Life Editions, 1975), pp. 49–50.
17. Marshall S. Shatz, ed., *The Essential Works of Anarchism* (New York: Quadrangle Books Inc., 1972), p. 158.
18. Irving L. Horowitz, ed., *The Anarchists* (New York: Dell Publishing Company Inc., 1964), p. 132.
19. The term “integral” does not here mean the essential part of a whole entity. Instead, Bakunin conceptualized integral as holistic, and hence aimed at consolidating and harmonizing learning experiences associated with both the vocational and intellectual realms — manual and mental labour. Furthermore, Bakunin’s concept of integral meant that no mere part would be abstracted out from the totality of the child’s learning experience.
20. G. P. Maximoff, *The Political Philosophy of Bakunin: Scientific Anarchism* (New York: The Free Press, 1953), p. 332.
21. *Ibid.*, p. 334.
22. *Ibid.*, p. 336.
23. George Woodcock, *Pierre-Joseph Proudhon; His Life and Work* (New York: Schocken Books Inc., 1972), p. 13.
24. Shatz, ed., *The Essential Works of Anarchism*, p. 111.
25. *Ibid.*, p. 111.
26. *Ibid.*, p. 111.
27. Woodcock, *Pierre-Joseph Proudhon; His Life and Work*, pp. 79–80.
28. Peter Kropotkin, *Kropotkin’s Revolutionary Pamphlets; A Collection of Writings by Peter Kropotkin*, Roger N. Baldwin, ed. (New York: Vanguard Press, 1927), p. 197.
29. *Ibid.*, p. 161.
30. Stirner, *The False Principles of Our Education*, p. 26.
31. Kropotkin, *Factory, Fields and Workshops Tomorrow*, Colin Ward, ed. (New York: Harper and Row, 1975), p. 190.
32. *Ibid.*, p. 186.
33. Peter Kropotkin, “The Formed School”, *Mother Earth* (New York: Emma Goldman and Alexander Berkman, Vols. 3, 6, August, 1908), p. 261.
34. Emma Goldman, *Anarchism and Other Essays* (New York: Dover Publications, Inc., 1969), p. 155.
35. *Ibid.*, pp. 148–153.
36. Francisco Ferrer, *The Origins and Ideals of the Modern School*, translated by Joseph McCabe (London: Watts and Co., 1913), p. 34.
37. *Ibid.*, p. 6.
38. *Ibid.*, p. 62.
39. Goldman, *Anarchism and Other Essays*, p. 161.
40. Ferrer, *The Origins and Ideals of the Modern School*, p. 67.
41. Spring, *A Primer of Libertarian Education*, p. 45.
42. Ferrer, *The Origins and Ideals of Modern School*, p. 33.
43. *Ibid.*, pp. 41–42.
44. Goldman, *Anarchism and Other Essays*, p. 159.
45. Ferrer, *The Origins and Ideals of the Modern School* (Introduction), p. ix.
46. Leonard Abbot, “The Ideal of Libertarian Education”, *Mother Earth*, Vols. 6, 4, p. 118.

47. Sarla Mittal, *Tolstoy: Social and Political Ideas* (Meerut, 1966), p. 104.
48. Leo Tolstoy, *Tolstoy On Education*, translated by Leo Wiener (Chicago: University of Chicago Press, 1967), p. 17.
49. *Ibid.*, p. 38.
50. *Ibid.*, p. 106.
51. *Ibid.*, p. 103.
52. *Ibid.*, pp. 137 – 138.
53. *Ibid.*, pp. 164 – 180.
54. *Ibid.*, p. 170.
55. Mittal, *Tolstoy: Social and Political Ideas*, p. 104.
56. Tolstoy, *Tolstoy on Education*, pp. 251 – 252.
57. *Ibid.*, pp. 310 – 311.
58. Paul Goodman, *Compulsory Mis-education and The Community of Scholars* (New York: Alfred A. Knopf, 1962), p. 19.
59. *Ibid.*, p. 16.
60. *Ibid.*, p. 23.
61. Paul Goodman, "The Present Moment in Education", *Anarchy*, Vol. 10, (January 1, 1970).
62. Paul Goodman, *Compulsory Mis-education and The Community of Scholars*, p. 62.
63. *Ibid.*, p. 238.
64. *Ibid.*, p. 87.
65. Francine Gray, *Divine Disobedience; Profiles in Catholic Radicalism* (New York: Alfred A. Knopf, 1970), p. 316.
66. Ivan Illich, *Deschooling Society* (New York: Harper and Row, 1971), p. 46.
67. *Ibid.*, pp. 21 – 22.
68. Ivan Illich, *Celebrations of Awareness; A Call For Institutional Revolution* (New York: Doubleday and Company, inc., 1971), p. 107.
69. Illich, *Deschooling Society*, pp. 103 – 150.
70. Unpublished Letter; Ivan Illich to Robert Chappell, July 1977.
71. Everett Reimer, *School is Dead; Alternatives in Education* (New York, 1971) (Foreword).
72. Peter Kropotkin, *Memoirs of a Revolutionist*, Introduction by Paul Goodman and Barnett Newman (New York: Grove Press, Inc., 1968), p. xxii.
73. Goodman, *Compulsory Mis-education and The Community of Scholars*, p. 32.
74. Tolstoy, *Tolstoy on Education*, p. 35.
75. Kropotkin, *Kropotkin's Revolutionary Pamphlets*, p. 165.
76. Goodman, *Compulsory Mis-education and The Community of Scholars*, p. 62.
77. Maximoff, *The Political Philosophy of Bakunin, Scientific Anarchism*, p. 332.

THE MONETARY HISTORY OF AMERICA TO 1789: A HISTORIOGRAPHICAL ESSAY

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In no other field is the crucial importance of theory to history more obvious than in the field of economic history. One's knowledge of the concrete historical events may remain unchanged, but if the economic theory applied to those events is altered, then one's entire historical interpretation will of necessity be modified. A historical account can be factually accurate and yet, if the informing economic theory is faulty, give a totally false interpretation. Furthermore, the validity of the theory, in economics at least, is often decided *a priori* to history, on some other basis. This procedure is not objectionable if the historian's theoretical paradigm is explicit. However, it makes the task of historiography more complex. One must not only consider the overt interpretations and explanations offered by different historians; one must also determine each historian's theoretical framework, whether explicit or implicit, and subject it to theoretical criticism.

The monetary history of the British colonies in America and of the United States prior to the adoption of the Constitution in 1789 is extremely varied. Many different monetary experiments were tried by colonial and state governments. Unfortunately, the monetary theory used by current historians is flawed and, consequently, their rendering of the period is unsatisfactory. In this paper, I will first describe how changing monetary theories have been reflected in the historical accounts. Then I will criticize the current accounts and, using the monetary theory developed by Austrian economists,^[1] offer a more accurate reinterpretation of the monetary history of the period.

I

Before proceeding to an examination of

specific historians, it is necessary to understand a few key concepts and to be familiar with a general overview of the specific events. The monetary history of America to 1789 can be conveniently divided into three periods: the colonial period (up to 1775), the revolutionary period (1775–1781), and the confederation period (1781–1789). Each period is distinctive, and while some historians have treated all three, many have confined themselves to one or the other.

The colonial period contained the greatest variety of monetary practices, but these can be roughly divided into three categories.

(1) *Manipulation of the unit of account*

The monetary standard for accounting purposes in the colonies was the English pound, shilling, and pence. However, most of the coins in the colonies were Spanish or Portuguese. The standard Spanish dollar contained 387 grains of silver, while the English silver shilling weighed 86 grains. Therefore a dollar should have been worth four shillings and six pence. The colonies, in the hope of attracting foreign coin and specie, arbitrarily overvalued the dollar in terms of shillings, or in other words, devalued the unit of account. This technique was first adopted in 1642 when Massachusetts declared the Spanish dollar equal to five shillings. Other methods used to attain the same results were, instead of devaluing the shilling in terms of dollars, to devalue the shilling in terms of silver or gold. Either way, the process led to competing devaluations, as high as seven shillings and six pence to the dollar, and different monetary standards in each colony. Another expedient employed to hold coins by the colonies was to forbid their export.

(2) *Bills of credit*

Bills of credit were simply fiat paper money. They were issued in one of two ways. One way was for the government to print the money and then spend it to cover expenditures, usually the financing of a war effort. Future taxes would be pledged towards retiring the bills. The bills would be withdrawn from circulation by being paid directly as taxes or by being redeemed in specie that had been collected through taxes. Often, however, when the pledged taxes came due, the bills would be reissued rather than withdrawn. This type of currency finance was first employed in Massachusetts in 1690 and eventually embraced at one time or another by all the colonies.^[2]

The other way of issuing bills of credit was through land banks. Instead of spending the money directly, the issuer would loan the money out at interest with land as security. When the principal on the loan was repaid, the bills might either be reloaned or retired. The issuer could be a group of private individuals or the government. Although private land banks were frequently proposed, they only operated briefly during the 1740s in Massachusetts.^[3] Government land banks appeared in all the colonies.

It should be noted that the term "bills of credit" is used here in the generic sense, including both types of paper money. Sometimes the term is used to refer only to paper money paid out directly to cover government expenses. The term is a misnomer, anyway, because in neither case was the bill of credit a credit instrument. It did not represent borrowings of the government repayable in money at some future date; it was money. This was true despite the fact that bills of credit sometimes paid interest. Colonial governments also engaged in actual borrowing. For this they issued treasury notes comparable to private bills of exchange, and these, of course, were credit instruments and not money. Unfortunately, the colonial governments blurred the distinction between credit transactions (involving the exchange of a present good for a claim to a future good) and current transactions (involving the exchange of a present good for a present good) not only by paying interest on some bills of credit but also

by issuing so-called "treasury notes" that were, in fact, paper money.

(3) *Legal tender*

Although often treated in conjunction with bills of credit, the practice of legal tender is conceptually distinct. Legal tender could be of two types. Public legal tender established what would be accepted as money for payment of taxes, quit-rents, and other public levies. By declaring something public legal tender, the government obviously helped foster its use as money. Private legal tender decreed what the government would permit to be used in the payment of debts and the fulfillment of contracts. It had the effect of fixing the value of the monetary good in terms of the unit of account. For instance, when tobacco was declared legal tender, it had to be set at a certain rate of pounds of tobacco to shillings. This fixed rate was either set by statute or left up to the courts. If two or more goods were legal tender, then the exchange rate between them was officially fixed. Exchange rates set by statute never coincided with market exchange rates; exchange rates set on an *ad hoc* basis by the courts might possibly do so. The discrepancy between legal and market rates of exchange was the source of perennial complaints by creditors, because it allowed debtors to pay their debts with overvalued money. Private legal tender at different times was used to fix the exchange rates between quite a variety of goods: wampum and specie, tobacco and specie, heavy coins and light coins, paper money and specie, gold and silver, etc. Paper money was frequently, but not always, declared private legal tender by the issuing colony. *De facto*, paper money was always public legal tender (if only at the loan bank that had issued it or for the taxes pledged toward its redemption), although Parliamentary restrictions prevented this from always being formally admitted.

Other monetary experiments of limited scope and less interest include Massachusetts' successful but temporary running of a mint between 1652 and 1684^[4] and Virginia's system of tobacco warehouses with fully backed warehouse receipts circulating as money substitutes.

Great Britain also had an impact on its colonies' monetary practices. Throughout the colonial period, Britain prohibited the export of English coins to the colonies and forbade the establishment of colonial mints. Too much, however, has been made of these restrictions. The ban on exports applied only to British coins, and not to specie, which could be freely exported. Thus, British coins could be melted down and exported without hindrance. Also, the restriction did not apply to foreign coins.

England looked askance at the colonies' competitive devaluations of their units of account, and in 1704, the Crown proclaimed that six shillings to the dollar was the maximum devaluation permitted. Because of widespread evasion, Parliament enacted this proclamation into law in 1707.

The British government was particularly unhappy with colonial bills of credit. At first it attempted to restrain the colonies through instructions to the royal governors and suspension clauses. When this proved ineffective, Parliament passed the Currency Act of 1751. This act applied only to New England. It confined the issue of paper money solely to important government expenses, it placed limits on the quantity issued and the period of redemption, and it barred making paper money private legal tender. The Currency Act of 1764 covered the rest of the colonies, and it prohibited making bills of credit legal tender, public or private.

During the revolutionary period, the Continental and state governments financed the war effort through massive emissions of bills of credit. A serious hyperinflation resulted. All states made the bills of credit legal tender, and most of them instituted formal price fixing. Eventually, the paper money became worthless. At the end of the revolutionary period, the Bank of North America was founded. It was a nationally chartered bank which loaned out paper money bank notes. It operated with a fractional specie reserve, and most of its loans were made to the government. The remainder were made to private individuals against various forms of security.

With the confederation period, not only had the emission of Continental paper money ceas-

ed, but the Bank of North America lost its national charter and became a state chartered institution. National coinage legislation was discussed, but nothing was enacted. Many of the states returned to the issue of bills of credit. Three states chartered banks.

II

During the colonial period, monetary policy was an important and controversial issue. The debate was recorded in a rich pamphlet literature. On the hard-money side, the leading partisan was Dr. William Douglass, a Scottish physician and scientist who had settled in Boston. His most famous pamphlet, "A Discourse Concerning the Currencies of the British Plantations in America", was published in 1740. In it, he contended that "There can therefore be no other proper *Medium* of Trade, but Silver, or Bills of Exchange and Notes of Hand payable in Silver at a certain *U'sos* or Period, which by a currant Discount are reducible to Silver ready Money, at any Time." He held paper money in scorn. "To make a Bill or Note bearing no Interest and not payable till after a dozen or score of Years, a legal Tender . . . in Payment of Debts, is the highest of *despotick* and arbitrary Government."¹⁵ Douglass felt that increasing the quantity of money only depreciated the value of each monetary unit and caused price inflation. Inflation hurt creditors, laborers, and those living on fixed incomes, and represented an insidious form of taxation. Legal tender laws coupled with paper money drove specie out of circulation, increased the foreign exchange rate, and brought about an unfavorable balance of trade. Only a specie currency could maintain stable prices, attract specie, and balance foreign trade. If banks issued paper money, it must be backed by a fractional specie reserve.

Douglass' most formidable opponent was Benjamin Franklin. His "Modest Enquiry into the Nature and Necessity of a Paper-Currency" appeared in Philadelphia in 1729 and has become a classic. Franklin argued that "There is a certain proportionate Quantity of Money requisite to carry on the Trade of Country freely and currently; More than which would be of no Advantage in Trade, and Less, if much less, ex-

ceedingly detrimental to it."¹⁶¹ The colonies suffered from a scarcity of money, brought on by an unfavorable balance of trade, and this scarcity depressed the economy. Issuing paper money brought economic prosperity and, if done in moderation, could avoid depreciation. In addition, since paper money was cheaper, it provided the benefits of a medium of exchange at far less cost than specie.

The pamphlets of Franklin and Douglass show the emergence of two opposing schools: the advocates of hard (metallic) money and the advocates of managed money. Without too much simplification, most historians treating this question fall into one of these two schools. Variations exist within each position, but most of the arguments that historians subsequently adopted were anticipated by Douglass or Franklin.

III

The hard-money school's interpretation developed earliest. Its theoretical underpinning was the quantity theory of money, which states that the value of money depends upon the supply of money and the demand for it. If the supply decreases, other things remaining equal, the value of money will go up and the price of goods will fall. Conversely, if the quantity of money is increased, the value of money will fall and prices rise. Modern writers often accuse the old hard-money advocates of using a crude quantity theory in which the demand for money is ignored. This is untrue; even the earliest statements of the quantity theory make explicit the *ceteris paribus* assumption on which they are based. The old hard-money theoreticians did not ignore the demand for money; they merely thought that it was fairly stable in the short-term, a question which economists still argue over.

The hard-money school's policy goal was money that maintained a stable value. Whether this goal was achieved could be measured in two ways, by the stability of the exchange rate between colonial monies and English money or by the stability of prices. Hard-money writers usually focused on one or the other, although a few considered both. The policy prescription most likely to achieve this goal, according to

these writers, was the adoption of the precious metals, gold or silver, as the monetary standard. If governments were permitted to print money, they would inevitably print too much and cause depreciation. Only specie could be relied upon to provide stability.

William M. Gouge, the Jacksonian economist, was the first hard-money theoretician to write a monetary history of the United States. Published in 1833, it was entitled *A Short History of Paper Money and Banking in the United States*.¹⁷¹ Gouge's initial four chapters are on colonial commodity money, colonial paper money, Continental paper money, and the Bank of North America, respectively. Although now outdated, Gouge's historical research was impressive for the time. He condemned legal tender laws, devaluations of the unit of account, and bills of credit. He included tables showing the depreciation of both colonial and Continental paper money. He even attacked the Bank of North America. In that respect he went much further than Douglass before him or most hard-money writers afterwards by consistently opposing all paper money, even when issued by banks with specie reserves.

Despite its pioneering research, Gouge's work was primarily polemical. Following it, however, came several works devoted solely to historical scholarship. In 1839 Joseph B. Felt, a clergyman working in the Massachusetts archives, wrote *An Historical Account of Massachusetts Currency*.¹⁸¹ Henry Bronson examined the monetary records of Connecticut and published the results in the *Papers* of the New Haven Colony Historical Society in 1865.¹⁹¹ The next year, John H. Hickcox's *A History of the Bills of Credit or Paper Money Issued by New York from 1709 to 1789*¹¹⁰¹ appeared. At the same time, Henry Phillips compiled the two volume *Historical Sketches of Paper Currency of the American Colonies Prior to the Adoption of the Federal Constitution*.¹¹¹¹ In his first volume, Phillips reprinted an 1837 pamphlet on Rhode Island by Elisha R. Potter,¹¹²¹ and included essays of his own on Pennsylvania, New Jersey, and Virginia, with a two page discussion of Vermont's paper-money issue of 1781. The second volume he devoted to

Continental money.

Because these works were scholarly efforts and, more importantly, because they were less concerned with the economic impact of paper money than with the details of when bills were emitted and how many, their theoretical bias was not pronounced. Nevertheless, Felt, Bronson and Potter can be placed without reservation in the hard-money camp. Phillips and Hickcox are not as easy to position. Phillips did condemn as harmful the issues of Virginia, New Jersey, and the Continental Congress, but with Pennsylvania, a colony noted for the restraint of its policies and the relative lack of depreciation by its currency, he concluded that the issue of fiat money was prudent and successful. Hickcox reached a similar conclusion with regard to New York.

In 1874, William Graham Sumner made a brief monetary survey of the period prior to 1789 in *A History of American Currency*.^[13] This work, as Sumner himself admitted, was sketchy and rough, merely pointing the direction toward further research. Its treatment of both the colonial and confederation periods focused mostly on New England and took a hard-money attitude. One of Sumner's contentions was that the unfavorable balance of trade of the colonies was due to a preference for foreign goods and capital over specie on the part of the colonists. The first edition of Albert S. Bolles' *The Financial History of the United States*^[14] was published also in 1874. Bolles dismissed the colonial experience with the statement: "Paper money had been tried in all the Colonies, and nowhere had the experiment worked satisfactorily, save in Pennsylvania."^[15] His first volume, based on much new research, covered national finance during the revolutionary and confederation periods and confirmed the hard-money position. Sumner examined the same territory in even greater detail in his two volume *The Financier and Finances of the American Revolution*.^[16] These volumes, unlike his previous work, were scholarly and authoritative. The book combined a financial history of the American Revolution with a biography of Robert Morris. In it emerged what has become the standard interpretation.

The Continental paper money used to finance the Revolution was seriously over-issued and generated a hyperinflation. Sumner denounced paper money for causing a "social palsy".^[17] He took a favorable view of Morris and approved of the Bank of North America as a sound financial scheme. Charles J. Bullock took nearly the identical stance in his work on the same topic, *The Finances of the United States from 1775 to 1789, With Especial Reference to the Budget*.^[18] His work only differed from Sumner's in that it was an institutional rather than a political history. Another institutional history relating to national finance published at this time was Lawrence Lewis, Jr.'s brief *History of the Bank of North America: The First Bank Chartered in the United States*.^[19] Lewis viewed his subject positively.

While Bolles, Sumner, and Bullock were working out the hard-money position on national finance, a number of studies bolstered the hard-money case at the state and colonial level. Charles H. J. Douglas' *The Financial History of Massachusetts from the Organization of the Massachusetts Bay Colony to the American Revolution*^[20] gave extensive space to monetary affairs. Douglas blamed Massachusetts' paper-money policies on the masses of impoverished debtors. William Zebina Ripley's *The Financial History of Virginia, 1609-1776*^[21] devoted two chapters to monetary issues. Ripley praised Virginia, the last colony to issue bills of credit, for avoiding the temptation for so long. C. W. Macfarlane, in his article on "Pennsylvania Paper Currency",^[22] presented extensive price series for many commodities. Macfarlane's price information was taken from colonial newspapers and was amazingly complete. Although a hard-money advocate, Macfarlane was forced to admit that bills of credit had suffered little depreciation in Pennsylvania. "The most strenuous opponents of paper money will hardly deny, that under such circumstances [as prevailed in Pennsylvania] the value of almost any currency might be maintained. The difficulty is, that few legislative bodies are likely to be as wise as the Assembly of Pennsylvania seems to have been during this period."^[23]

Frank Fenwick McLeod wrote "The History of Fiat Money and Currency Inflation in New England from 1620 to 1789".^[24] He found that the "fluctuating and complicated currency retarded business and crippled commerce. . . Inflation was triumphant, business paralyzed".^[25] Charles Bullock gathered together three of his studies in his *Essays on the Monetary History of the United States*.^[26] Two of them gave the history of paper money in states that had not previously been treated, North Carolina and New Hampshire. The third, "Three Centuries of Cheap Money in the United States", was a general commentary.

The culmination of these colony and state studies, and perhaps the premier work of the hard-money school, was the massive two volume *Currency and Banking in the Province of Massachusetts Bay* by Andrew McFarland Davis.^[27] Imposingly researched, it examined in detail the political struggles surrounding Massachusetts' currency and banking legislation through the Parliamentary ban of 1751. It also surveyed policies in other New England colonies. It analyzed the economic consequences of the various policies, blaming the bills of credit for driving specie out of circulation and raising exchange rates. Davis' researches led to his editing, in four volumes under the title of *Colonial Currency Reprints, 1682–1751*,^[28] the colonial pamphlet literature on money.

Eventually, the hard-money position found its way into more general secondary works and texts. One of the most popular of these was Horace White's *Money and Banking: Illustrated by American History*.^[29] White devoted several chapters to colonial commodity money, legal tender, bills of credit, colonial banking, and the Bank of North America. "The pamphlets and records of the colonial period are filled with accounts of the distress and demoralization caused by depreciated paper made legal tender", he wrote; "the emission of bills of credit on loan was, in effect, a conspiracy of needy landowners against the rest of the community."^[30] Later editions of A. Barton Hepburn's *A History of Currency in the United States*^[31] also included chapters presenting the hard-money line on colonial and Con-

tinental paper money. Hepburn even denounced the practices of Pennsylvania. Finally, the hard-money case was cautiously but ably defended in Davis Rich Dewey's *Financial History of the United States*.^[32]

One notion that has often been attributed to the hard-money school is that paper money was always instituted at the behest of poor, agrarian debtors. The hard-money school did recognize that depreciating money helped debtors and hurt creditors, giving debtors an incentive for supporting paper money, but they did not necessarily equate debtor interests with agrarian or lower-class interests. Only Douglass, Bullock, and White hinted at such an explanation, and none of them developed it at any length. If the poor-agrarian-debtor thesis came to dominate historical interpretations, the hard-money school is not responsible. The responsibility really belongs to the historians of the progressive school, none of whom wrote specifically on money.

IV

After the turn of the century, the hard-money school began to lose its prominence. This was in part due to the increasing popularity of the ideas of managed money. Even before the Keynesian revolution, economists were concluding that government management of the money supply would be much more efficient than reliance upon the precious metals. The first signs of a shift in historical interpretation came with the publication of several new colony studies. Clarence P. Gould's *Money and Transportation in Maryland, 1720–1765*^[33] appeared in 1915, and in 1923 Kathryn L. Behrens published her *Paper Money in Maryland, 1727–1789*.^[34] Gould, who devoted only one chapter to transportation, was almost ecstatic over Maryland's paper-money policy. "Considering the peculiar benefits to grain and tobacco culture, the conveniences offered to trade, the exceptionally high exchange that the bills maintained throughout most of their life, and the faithful redemption of every shilling at face value, it is hardly too much to say that this was the most successful paper money issued by any of the colonies."^[35] Behrens, whose study

extended into the revolutionary period, was only slightly less enthusiastic, and she agreed that "As a colony Maryland had solved the problem of paper currency."^[38] Although not as substantial as the studies of Gould and Behrens, Richard S. Rodney's *Colonial Finances in Delaware*^[37] also saw paper money as necessary and beneficial. Another state study published about the same time was William Estill Heath's article, "The Early Colonial Money System of Georgia", a purely descriptive account that took no position on the desirability of paper money.^[38]

In 1934 Curtis Putnam Nettels applied the new interpretation foreshadowed in the works of Gould and Behrens to all the colonies. His book, *The Money Supply of the American Colonies Before 1720*,^[39] was the first general treatment from the managed-money school. Actually, over half the book discussed not the colonial money supply but the colonial balance of payments. Nettels' consideration of this issue, however, provided the groundwork for his argument that the unfavorable balance of payments caused a chronic shortage of money in the colonies:

The colonies — as a debtor region — were confronted with a continuous adverse balance of payments, and their available specie was repeatedly drawn away to creditors in Europe. The scarcity of specie in America gave birth to a widespread belief that prices of colonial products were ruinously low because money was wanting. . . . One solution of these difficulties appeared to be an enlargement of the volume of currency.^[40]

On this basis, Nettels justified all of the colonial monetary experiments: the making of commodity money legal tender, the devaluation of the unit of account, and the issue of bills of credit. All of them were efforts by the colonists to attain some economic independence.

Even more outspoken in his defense of colonial monetary practices was the economist Richard A. Lester. In his book, *Monetary Experiments: Early American and Recent Scandinavian*,^[41] he refined Nettels' argument about the shortage of money. Precious metals were too expensive a form of money for the colonies. By using cheaper paper money, the colonists were conserving resources and making themselves wealthier. Previous historians had

distorted the colonial experience by ignoring the middle colonies. "Since there was relatively little depreciation in the middle colonies, most of the writers have played up the experience of the New England colonies. There the depreciation of the currency was more extreme." This was due to "a peculiar currency arrangement" in which "the paper money of each New England colony was freely accepted without discount in the other New England colonies".^[42] Thus, each colony had a built-in incentive to issue bills of credit without restraint. The middle colonies, on the other hand, particularly Pennsylvania, used sound money management to avoid depressions and stimulate the economy. Lester argued that without currency emissions, prices would have fallen and depression would have resulted. In short, "our colonial forefathers were much more intelligent on money matters than hitherto they have been given credit for being".^[43]

Although he provided a strong theoretical justification for the managed-money school, Lester's research was limited. The work that finally nailed down the managed-money interpretation historically was Leslie Van Horn Brock's dissertation, "The Currency of the American Colonies, 1700–1764: A Study in Colonial Finance and Imperial Relations".^[44] Overlapping and bringing forward Nettels' account through the Currency Act of 1764, it was thoroughly researched and has become the standard treatment of the subject. It gave a history of the monetary policies in each colony, in the process confirming the conclusion that on the whole paper money was salutary. Because of the specie drain, it was needed, and most colonies issued it with enough restraint to be successful.

Although the managed-money triumvirate of Nettels, Lester, and Brock has supplanted the hard-money school, both groups share certain principles. Both accept the quantity theory of money, and both have, at least implicitly, stability of purchasing power as their policy objective. They differ as to the most efficient means of attaining that objective. Even on the historical record, their differences are not as great as at first they might seem. The hard-money advocates freely admitted that the

monetary policy of Pennsylvania resulted in relatively less depreciation. As Gouge put it, "All things go by comparison. The credit bills of Pennsylvania were so much better than those of the other Governments, . . . but it was not a fact that they never sunk below the value of the gold and silver which was current in the colony before the first emission of its paper."^[45] For the hard-money school, Pennsylvania's experience was exceptional; the prevailing tendency was toward massive depreciation. The managed-money school, on the other hand, admitted that even in Pennsylvania some fall in exchange rates took place — just not enough to be concerned about. They also agreed that in New England and during the Revolution too much money did result in serious inflation. For them, however, these cases were aberrations explained by extenuating circumstances (war, for instance); Pennsylvania's experience was typical.

While Nettels, Lester, and Brock were revising the interpretation of colonial finance, a few historians were doing additional research on the revolutionary period. Ralph V. Harlow's "Some Aspects of Revolutionary Finance"^[46] gave a broad overview of the issue of paper money by the Continental Congress and the various states. William B. Norton, in "Paper Currency in Massachusetts during the Revolution",^[47] noted the relative conservatism of Massachusetts' monetary policies during the Revolution. Massachusetts placed greater reliance on borrowing than on bills of credit and attempted scrupulously to repay creditors. Neither of these works attempted to revise the previous negative historical verdict on revolutionary bills of credit. Also important was Anne Bezanson's *Prices and Inflation During the American Revolution*,^[48] which provided incredibly complete price series for the period. Earlier Bezanson had coauthored with Robert D. Gray and Miriam Hussey a similar book about *Prices in Colonial Pennsylvania*.^[49] The Bezanson-Gray-Hussey series were those used by Lester in his study of Pennsylvania currency. William I. Davisson's "Essex County Price Trends: Money and Markets in 17th Century Massachusetts",^[50] gave colonial price statistics for a different area and an earlier cen-

tury. Davisson's figures only went up to 1685, before the first paper-money emission, but they covered the years during which the Massachusetts mint operated, which Davisson felt had had a stabilizing influence on prices. The most recent study of colonial prices is John J. McCusker's *Money and Exchange in Europe and America, 1600–1775: A Handbook*.^[51] This monumental work of research gives series on the exchange rates between all the colonies and London, painstakingly pieced together from a huge array of contemporary quotations.

Most of the research done after Nettels, Lester, and Brock has built upon or refined their approach. Theodore Thayer's general commentary on "The Land-Bank System in the American Colonies",^[52] was not totally uncritical. He felt that land banks had failed in New England, both because they over-issued money and because the security they required was inadequate. "Nevertheless, in four colonies — Pennsylvania, New Jersey, New York, and Maryland — the system was on the whole successful and is deserving of more attention than it has been given."^[53] E. James Ferguson, in his "Currency Finance: An Interpretation of Colonial Monetary Practices",^[54] ostensibly dealt with both the land bank and "currency finance" methods of emitting bills of credit, although he gave greater consideration to the latter. He surveyed the historical literature and did battle, again, with the hard-money school. "An effort will be made to show that in the middle colonies, from New York to Maryland, paper money was successful. Secondly, it will be argued that except in New England and the Carolinas, paper money did not engender any great conflict between broad classes of the population."^[55] Ferguson later reworked his article and made it the first chapter of his book, *The Power of the Purse: A History of American Public Finance, 1776–1790*.^[56] The book was a welcome addition to the literature on finance during the revolutionary and confederation periods, but its analysis of the Continental inflation was quite standard. Ferguson's real contribution was his coverage of the debt and taxation questions. He also painted a less favorable picture of Robert Mor-

ris than had Sumner. Bray Hammond's highly overrated *Banks and Politics in America: From the Revolution to the Civil War*^[57] addressed its first two chapters to pre-1789 monetary history. Predictably, Hammond thought highly of the Bank of North America. He, alone among historians, even praised Rhode Island's emissions of paper money. His main purpose, however, was to discredit the myth that paper money was supported by poor, agrarian debtors. On the contrary, the demand for paper money, claimed Hammond, whether bills of credit, Continentals, or bank notes, came from sophisticated merchants and commercial interests.

Of the few state studies done after 1941 when Brock wrote his dissertation, the only one not holding to the managed-money line was Donald L. Kemmerer's "Paper Money in New Jersey, 1668–1775".^[58] Kemmerer, in fact, found a boom–bust cycle accompanying New Jersey's paper money policies. When new paper-money was injected into the economy, an inflationary boom would result. When the money was redeemed, a deflationary depression followed. Kemmerer concluded that "the method of suddenly expanding and gradually contracting the paper-money supply was largely responsible for both evils".^[59] Peter E. Ellertsen, on the other hand, thought much more highly of New Jersey's policies in his article, "Prosperity and Paper Money: The Loan Office Act of 1723".^[60] Looking at a shorter time span, he decided that the loan office was responsible for New Jersey's great prosperity. Richard M. Jellison's "Paper Currency in Colonial South Carolina: A Reappraisal"^[61] was also favorable. "The first period, from 1703 to 1731, was one of much experimentation and may be characterized by depreciation. The years following 1731 witnessed not only complete acceptance of the medium but also stability in its value."^[62] Jellison's conclusions were significant because managed-money historians had usually conceded that South Carolina's paper-money policies were as bad as those in New England.^[63]

Bray Hammond was probably the most vocal in his efforts to debunk the poor-agrarian-debtor thesis, but he was not the most per-

suasive. Ten years earlier, Joseph Dorfman, in his examination of the colonial monetary debate in *The Economic Mind in American Civilization*, discovered that "Contrary to the tradition that historians have perpetuated, a critical analysis of the contemporary literature indicates that the proponents as well as the critics [of paper money] were not poor debtors or agrarians, but for the most part officials, ministers, merchants, and men of substance and learning in general".^[64] Dorfman's conclusion was confirmed by George Athan Billias. In *The Massachusetts Land Bankers of 1740*,^[65] Billias systematically investigated the proponents and opponents of Massachusetts' 1740 land-bank scheme and found that the poor-agrarian-debtor thesis did not hold. Herman J. Belz, in two journal articles,^[66] extended the description of political forces battling over paper money in Massachusetts both forward and backward from 1740. Although he found some agrarian support for paper money schemes, Belz agreed that the most significant support came from merchant groups.

Along with the political forces within the colonies fighting over monetary policy, historians have explored the implications of the money issue for the colonial relationship with Great Britain. Some argue that the colonists' frustrations with British monetary restrictions contributed to the Revolution. Robert M. Weir found in his article, "North Carolina's Reaction to the Currency Act of 1764,"^[67] that this was true in North Carolina. Jack P. Greene and Richard J. Jellison, in "The Currency Act of 1764 in Imperial–Colonial Relations, 1764–1776",^[68] examined the various evasions of the Currency Act that occurred in all the colonies outside of New England and the colonial effort to get the act reinterpreted, modified, or repealed. They decided that the act was an important psychological irritant in British–American relations. Lawrence H. Gipson's "Virginia Planter Debts before the American Revolution"^[69] described the genesis of the Currency Act of 1764 and showed how it originated from the desire of British creditors to protect themselves from Virginia's monetary legislation. Jack M. Sosin's discussion of the Currency Act and the colonial reaction to it in

"Imperial Regulation of Colonial Paper Money, 1764–1773"^[70] treated in less detail the material covered by Gipson and Greene and Jellison and reached the same conclusion.

One area of monetary history that has captured the interest of at least one historian is counterfeiting. Counterfeiting was endemic in colonial and revolutionary America, and at times caused very serious problems for the colonies' paper money issues. The counterfeiting of Continentals was especially serious. Kenneth Scott investigated this topic in his book, *Counterfeiting in Colonial America*,^[71] and in numerous articles and monographs on individual colonies.^[72]

Many of Scott's contributions appeared in numismatic journals, which have a special interest in counterfeiting. Although largely ignored by mainstream historians, the numismatic discussions of colonial money are excellent references. Often they are more comprehensive and thorough with regard to such matters as the dates, the quantities, and the denominations of paper money emissions. Eric P. Newman's *The Early Paper Money of America* is the standard numismatic guide, superseding all previous catalogues and providing extensive bibliographical references to the remainder of the numismatic literature.^[73]

V

The writings on the political ramifications of monetary policy so far discussed — those of Billias, Greene and Jellison, Sosin, and the others — if not directly reinforcing the managed-money school's interpretation, are at least consistent with it. Only a few recent writings have contradicted the managed-money orthodoxy in any fashion. The first of these, M. L. Burstein's "Colonial Currency and Contemporary Monetary Theory: A Review Article",^[74] was highly technical and not based on a wide range of secondary material (let alone primary sources), but it did contain some thoughtful theorizing. Burstein compared figures on Pennsylvania's money supply with data on prices in Pennsylvania and England, the exchange rate, and interest rates. His conclusion was that "reasonably long-run

elasticities of liquidity preference [were] very high indeed".^[75] What that means is that changes in the money supply did not matter. In the long-run, prices in Pennsylvania were comparable to those in London and the exchange rate was stable regardless of what happened to the quantity of money. By reaching this conclusion, Burstein struck at the heart of both the hard-money and managed-money schools. In effect, the demand for money was so flexible that the colonists could absorb into their cash balances as much money as was printed *and* the much touted money shortage was a mirage. This premise, that money does not matter, is such an important feature of modern Keynesian economics that it is a wonder that no one before had applied it to the colonial experience. Unfortunately, even if one accepted Burstein's theoretical premise, his use of limited data made his conclusions highly tentative.

Another author who questioned the whole quantity-theory framework was Joseph Albert Ernst. One of Ernst's early contributions, an article entitled "Colonial Currency: A Modest Inquiry into the Uses of the Easy Chair and the Meaning of the Colonial System of Freely Floating International Exchange",^[76] was a reply to Burstein. Ernst expanded the article into a chapter of his book, *Money and Politics in America, 1755–1775: A Study in the Currency Act of 1764 and the Political Economy of Revolution*.^[77] Like Burstein, Ernst contended that the quantity of money did not really matter internationally for the determination of exchange rates. Exchange rates were governed by changes in the balance of payments, which in turn were determined by the sale of colonial exports, the purchase of imports by colonists, and the inflow of English capital. Unlike Burstein, Ernst inconsistently maintained that the quantity of money did matter domestically, and he accepted the managed-money school's position on the necessity of printing money to alleviate the specie shortage. The rest of his book was a discussion of the politics surrounding the Currency Act of 1764 in which Ernst argued for a new economic interpretation of the Revolution.^[78] He covered much the same territory as Weir, Greene and Jellison, Gipson, and Sosin, but in doing so he presented an ac-

count of colonial monetary practices that started in 1764, where Brock leaves off.

While Burstein and Ernst both attacked the quantity-theory framework used by the hard-money and managed-money schools, their policy recommendations were more congenial with managed money. In Ernst's case this followed from his acceptance of the domestic importance of the money supply. In Burstein's case, since the quantity of money does not matter, there could be no serious objection to increasing it through the printing press. Only one recent writer has disputed the managed-money school's policy recommendations: Roger W. Weiss, in his article, "The Issue of Paper Money in the American Colonies, 1720–1774".^[79] Weiss argued that the colonies suffered from no real scarcity of specie. Using data from Pennsylvania and Boston, he attempted to demonstrate that even without the emission of paper money, prices would have risen rather than fallen.^[80] Colonial money issues were not well managed anyway; "Their volume changed erratically and with a large amplitude." This was due to the fact that "the issues were made to meet the needs of the colonial treasuries and these needs rose greatly in times of war".^[81] He adds that "it should be clear that a monetary system, the changes in whose issues of paper money depend on the erratic fiscal needs of government, will not very well serve the need for maintaining a stable money supply or of balancing the international movements of specie".^[82] By casting doubt on the government's ability to manage the money and by denying the colonial shortage of specie, Weiss is resurrecting the hard-money approach. More recently, Weiss has bolstered his conclusions with a study of "The Colonial Monetary Standard of Massachusetts".^[83]

IV

In appraising the state of historical research on money in America before 1789, one glaring deficiency is immediately obvious. There is no general overall treatment of the monetary practices in the states during the confederation period. Despite the seeming importance of this period toward influencing the monetary ar-

rangements in the Constitution, it is usually treated as an addendum to the revolutionary or colonial period. Some, though not all, of the state studies go through to 1789.^[84]

The revolutionary period is adequately covered by both general and specific works, but they all share a common interpretation. All agree that bills of credit issued by the Continental and state governments resulted in a serious hyperinflation. Some controversy exists over the Bank of North America, the character of Robert Morris, and the necessity of bills of credit for the war effort, but the really interesting questions in this period seem to lie outside the field of monetary history.

In contrast to the two later periods, the colonial period has both an extensive literature and rousing controversy. The main problem is that the older works of the hard-money school are, for the most part, theoretically superior to the newer treatments by the managed-money school, but the newer treatments are historically sounder than the older, out of date works. To get a completely accurate picture of the colonial monetary experience, one must consult the newer works for data and the older works for theory.

Consider some of the justifications for the colonial monetary policies that have graced the writings, from Franklin to Ferguson, of the managed-money school. By the far the most pervasive is the claim that due to an unfavorable balance of trade, the colonies suffered from a chronic shortage of money. The best rejoinder to that claim is still the one given by Adam Smith: "No complaint, however, is more common than that of a scarcity of money. Money, like wine, must always be scarce with those who have neither wherewithal to buy it, nor credit to borrow it."^[85]

Money is a medium of exchange. When a good is used as money, it is desired so that it can be exchanged for other goods. It is not used up in consumption or production. Therefore, any stock of the monetary good, within certain very wide physical limits, can perform the monetary function with equal facility. There is no optimal supply of money. Increases in the stock of money confer no social benefit; decreases cause no harm. A smaller stock of

money simply requires that a given monetary unit have greater purchasing power or, in other words, that prices be lower.

Most writers, even Sumner, White, and some of the other members of the hard-money school, have denigrated the colonial use of tobacco, wampum, and other commodities as money. They ignore that fact that all money, even gold and silver, emerges on the market when some commodity previously only used for consumption or production is employed as a medium of exchange because of its wide marketability. Gold and silver are more durable, portable, and divisible than other commodity monies, but the colonial use of their staples and other less satisfactory commodities as monies befitted their low level of economic development. The colonial domestic economy was just not that complex.

The colonial trade with England and other areas, in contrast, was highly developed, and here it is argued that the colonists' unfavorable balance of trade drained away their specie. However, regional trade balances are merely aggregations of individual trade balances. Every individual has his own balance of payments for any given period, during which he will add to, subtract from, or leave unchanged his own cash holdings. Any net flows of money in regional balances of payment result solely from changes in the demand for money. Specie and foreign coins were readily available, and all that colonists had to do was to trade for them. The balance of trade was not an exogenous condition foisted by circumstances upon the colonists; it resulted from their own market preferences. "The colonists evidently preferred to import British goods rather than invest in an improved domestic monetary system", point out James Shepherd and Gary Walton. "Their preference was to substitute other forms of media for specie, rather than to manage with less British and European manufactured goods."^[87] The lament that the colonists could not pay their debts to English merchants because an unfavorable balance of trade had drained off all their specie is no more valid than the excuse given by an individual debtor that he cannot repay the money he owes to a bank because he had an unfavorable balance of

payments that month.^[87]

Another argument cites as evidence of a shortage of money the fact that interest rates were too high or that money was too "tight". This argument confuses a shortage of money with the scarcity of capital. The interest rate is not the price for money; rather it is the price in the time market. All individuals discount the future against the present, but different individuals do so at different rates. The interest rate is the premium received by savers for foregoing present consumption. Savings must occur for capital to accumulate, and high interest rates indicate that immediate consumption is more important to the economy than capital accumulation. The high interest rates in colonial America reflected the scarcity of capital. Usury laws probably converted the capital scarcity into a shortage, making savings unavailable at the legal rate. The way to alleviate the scarcity was — as happened through time — to save more capital.^[88]

Printing new money can seemingly alleviate the scarcity of capital if it is injected through the loan market, as in the case of colonial land banks. The supply of loanable funds increases and the interest rate falls. However, this fall in interest is not matched by an increase in real saving. No one has foregone present consumption. Therefore, the investments induced by the fall in interest rates are really malinvestments, misallocating resources. This generates a boom — bust trade cycle. The new money enters the loan market, interest rates fall, and investments are induced. As the new money circulates throughout the economy, the new investments turn out to be malinvestments and they suffer losses; a depression results.^[89]

This explains the apparent prosperity that followed the first emission of new money, and the boom — bust cycle noted by Kemmerer in New Jersey. It also exposes the fallacy in Lester's defense of managed money for preventing depressions. Lester equates falling prices with depression. Actually, during several historical periods, secularly falling prices and economic prosperity have existed simultaneously. A depression is a cluster of business failures caused by the distortion of interest rates that accompanies the injection of new money in the

loan market. The prosperity of the boom phase of the cycle is merely an illusion.

In one sense, however, the clamor over the shortage of money in the colonies was valid. Colonial *governments* were continuously experiencing such a shortage. To finance a war through taxes collected in the form of tobacco or wampum was inconvenient and difficult. To require citizens who did not ordinarily use specie to pay taxes in that form was burdensome. The connection between the colonial wars and the issue of paper money was no coincidence, nor was the connection between overdue tax debts and paper money in Shays' rebellion. Paper money was often demanded because it would make tax payments easier. In the case of the revolutionary bills of credit, paper money was issued in lieu of taxes altogether.

When managed-money advocates argue that paper money is less expensive than specie, they are thinking in terms of macro-economic aggregates that never influence people's economic actions. No one ever decides on the basis of the overall cost to society to use a paper shilling rather than a silver shilling. Individuals only act according to the specific array of costs and prices facing them, and if the prices they pay and earn are the same in both paper and silver shillings, then it will be a matter of indifference to them which they use. The important economic fact is that paper money is less expensive to the person or institution issuing it. Specie can only be acquired by trading something that was produced for it. Paper money can just be created and spent. Consequently, the issuing of paper money redistributes wealth and income. Economically, it is no different from counterfeiting.

The hard-money school was correct in noting that paper money depreciates. The quantity theory of money holds true to the extent that prices are always higher after the issue of new money than they otherwise *would have been*. The price level, however, might not change dramatically because other factors go into its determination. By resting the case against paper money solely on depreciation, they left themselves open in those cases, like Pennsylvania, where the depreciation was relatively

limited. Even if there is no depreciation, the printing of paper money always has distribution effects. It always shifts resources from producers to the non-producing issuers and their privileged favorites. This makes paper money objectionable even when there is little depreciation.

The first gainer is the issuer of paper money, who spends it for something he wants. Since he has produced nothing in exchange for the purchased good, someone else must lose. This is accomplished either through a rise in prices, to the extent that the new money circulates, or a decrease in current consumption, to the extent that the new money is held in cash balances. In one case the new money creates a hidden tax on cash holdings; in the other, a forcible loan at zero interest. In addition to the first issuer, those whose incomes rise before the prices they pay also benefit. Those who are hurt the most are those facing prices that go up before their incomes. Individuals on fixed incomes lose. Debtors gain at the expense of creditors. Debtors, furthermore, are not always poor, and quite often during the colonial period they were wealthy merchants and landowners. Merchants may be debtors and creditors both, and they may shift back and forth. If the new money is injected through the loan market, it temporarily lowers interest rates which benefits merchants and businessmen who wish to expand their operations. The price of durable goods, like land, is very sensitive to interest rates. A fall in interest tends to raise the price of land, so landowners also benefit.^[90] Land speculators who are also debtors doubly benefit. Thus, the political revisionism of the managed-money school is the one area where their reinterpretation of events has merit. The support of wealthy merchants and landowners for paper money makes theoretical sense.

A corollary of the quantity theory of money is the purchasing power parity theory, which claims that the exchange rate between coexisting monies will tend to equate to their purchasing power. If dollars can buy five times more than shillings, then the exchange rate will tend to be five shillings per dollar. This theory allowed the hard-money school to measure the depreciation of paper money through the fall in

its exchange rate with English sterling. Ernst argued that the purchasing power parity theory is oversimplified; that exchange rates between London and America were determined by the value of imports bought, and the value of exports sold, and the value of capital flows. Ernst's argument is a *non sequitur*. No purchasing power parity theorist has ignored the operation of supply and demand in the determination of exchange rates. These very forces are the ones that bring about purchasing power parity.^[91]

For example, if a colony should increase its money supply, the price of its domestic products will rise. This makes foreign goods relatively cheaper. Imports will increase, and exports will decrease. These factors combined will drive up the exchange rate until the point is reached where purchasing power parity is restored. If the exchange rate is not at parity, if for instance the dollar will buy only five times more than a shilling, but the exchange rate is six shillings per dollar, then individuals can profit by trading dollars for shillings and buying products. This lowers the shilling demand for dollars and products that can be bought with dollars and raises the dollar demand for shillings and products that can be bought with shillings. This will drive down the exchange rate toward five shillings per dollar.^[92]

The purchasing power parity theory holds whether the monies coexist in the same geographical area or are employed mainly in different areas. Government fixing of the exchange rate is totally unnecessary. When the government does fix the exchange rate, it never fixes it at the market parity rate. As a consequence, one of the monies is overvalued while the other is undervalued. In the example above, if the government fixed the rate at six shillings per dollar, shillings are artificially undervalued and dollars are artificially overvalued. Individuals will increase their demand for shillings and decrease their demand for dollars. Any price denominated at the fixed rate of six shillings to the dollar when the market rate is five shillings to the dollar will be paid in dollars. Since the exchange rate cannot adjust, a surplus of dollars and a shortage of shillings will emerge. This result is a classic illustration of

Gresham's Law; bad money has driven out good, or more precisely stated, money artificially overvalued by government has driven out of circulation money artificially undervalued.

The monetary history of the colonies offers many demonstrations of the operation of Gresham's Law. Through legal tender laws the exchange rate between different monies was fixed. Usually specie was artificially undervalued. Tobacco drove out specie, or paper money drove out specie, or light coins drove out heavy coins. The colonial juggling of the unit of account was a special kind of rate fixing. It did not usually fix the exchange rate between two different monies, because the colonial shillings were allowed to float in terms of British shillings, but merely changed the denomination of the existing money. Suddenly, a coin that was previously worth five shillings was now worth six shillings. This encouraged the importation of coins, gave a boost to exports, and discouraged imports. The effect was temporary, however as prices would immediately rise in terms of the new unit of account so that the same coin would purchase the same quantity of goods as before.

In short, the hard-money school was basically correct. The colonial — and revolutionary — monetary experience was a continuous stream of government failures. There was no shortage of money. That complaint provided the excuse for governments and special interests to plunder the economy through the printing of paper money. In the New England colonies, the depreciation was so severe that the monetary system was nearly wrecked, as it finally was throughout America during the Revolution. Even though depreciation was more mild in the middle colonies, the printing of money still had distribution effects. In all the colonies, the monetary policies were erratic and subservient to the fiscal appetite of governments. When bills of credit were emitted through land banks, they had the further undesirable effect of distorting interest rates. Paper money did not generate prosperity, it generated the boom — bust trade cycle. At the same time, legal tender laws drove specie out of circulation. On the whole, it was an abysmal record.

NOTES

1. The seminal work on Austrian monetary theory is Ludwig von Mises, *The Theory of Money and Credit*, new enl. ed., (1953; reprint ed., New York, 1971). See also the appropriate sections of Mises, *Human Action*, 3rd rev. ed., (Chicago, 1966), and Murray Rothbard, *Man, Economy, and State*, 2 v., (Princeton, 1962). Rothbard's *What has Government Done to Our Money?*, (Santa Ana, 1964), is a good, brief introduction to Austrian monetary theory. Rothbard has applied Austrian theory to the colonial experience in the second volume of his history of the American Revolution, *Conceived in Liberty II* (New Rochelle, 1975), pp. 123–140. Rothbard provides one of the best short surveys of colonial monetary policies, and I have relied on it heavily in this paper.
2. In Maryland in 1733, bills of credit, in addition to being used to finance government expenditures, were passed out to all the inhabitants as compensation for the tobacco destroyed in Maryland's price-support program. Economists are fond of abstracting from the distribution effects of increases in the money supply by considering the case where a helicopter flies over and evenly distributes the new money among the people. This is the only case, as far as I know, where the helicopter effect has actually been approximated in practice.
3. Sometimes private land bank proposals envisioned loans on personal property as well as land. Usually there was no provision for any specie reserve fund to redeem notes, but a private specie bank did operate briefly also in Massachusetts.
4. Virginia unsuccessfully tried to mint copper coins. Maryland's attempt to establish a mint proved unsuccessful. A numismatic history of these early mints is Sylvester S. Crosby, *The Early Coins of America and the Laws Governing Their Issue* (1875; reprint ed., New York, 1970).
5. Andrew McFarland Davis, ed., *Colonial Currency Reprints, 1682–1751*, III, (1911; reprint ed., New York, 1964), pp. 309, 326. Davis' four volume work is a compilation of most of the pamphlet literature on colonial money with an excellent introductory essay. Douglass' pamphlet was also reprinted in American Economic Association, *Economic Studies*, 2 (1897), no. 5, with a biographical essay by Charles J. Bullock. Joseph Dorfman, *The Economic Mind in American Civilization, 1606–1865*, also covers the monetary debate, although he does not do justice to Douglass. See also Harry E. Miller, *Banking Theories in the United States before 1860*, (Cambridge, 1927).
6. Davis, *Colonial Currency Reprints*, II, p. 336. Franklin's pamphlet can also be found in Jared Sparks, ed., *The Works of Benjamin Franklin*, II, (Boston, 1836), pp. 254–277. Franklin's advocacy of paper money was not without ulterior motives. As he so charmingly put it in his *Autobiography*, (reprint ed., New York, 1940), p. 82:

It [the pamphlet] was well receiv'd by the common people in general; but the rich men dislik'd it, for it increas'd and strengthen'd the clamor for more money, and they happening to have no writers among them that were able to answer it, their opposition slaken'd, and the point was carried by a majority in the House. My friends there, who conceiv'd I had been of some service, thought it fit to reward me by employing me in printing the money; a very profitable jobb and a great help to me.
7. (1833; reprint ed., New York, 1968). The full title was *A Short History of Paper Money and Banking in the United States, Including an Account of Provincial and Continental Paper Money. To Which is Prefixed an Inquiry into the Principles of the System, with Considerations of its Effects on Morals and Happiness. The Whole Intended as a Plain Exposition of the Way in which Paper Money and Money Corporations, Affect the Interests of Different Portions of the Community*. The reprint edition includes an introductory essay by Joseph Dorfman.
8. (Boston, 1839).
9. "A Historical Account of Connecticut Currency, Continental Money, and the Finances of Revolution," New Haven Colony Historical Society, *Papers*, 1 (1865), pp. 1–192.
10. *With a Description of the Bills, and Catalogue of the Various Issues*, (1866; reprint ed., New York, 1969).
11. (1865, 1866; reprint ed., New York, 1972).
12. "A Brief Account of the Emissions of Paper Money Made by the Colony of Rhode Island" (Providence, 1837). Potter's pamphlet was also reprinted later by Sidney S. Rider under the title "Some Account of Bills of Credit or Paper Money of Rhode Island from the First Issues in 1710 to the Final Issue in 1786", *Rhode Island Historical Tracts*, no. 8, (1880).
13. (1874; reprint ed., New York, 1968).
14. 3 v. All references are to the 4th ed., (1884; reprint ed., New York, 1896).
15. *Ibid.*, I, p. 29.
16. (1891; reprint ed., New York, 1968). See also Sumner's *A History of Banking in the United States*, (New York, 1896).
17. *Ibid.*, I, p. 60.
18. University of Wisconsin, *Bulletin: Economic, Political Science, and History Series*, 1, no. 2, (Madison, 1895).
19. (Philadelphia, 1882).
20. Columbia University, *Studies in History, Economics and Public Law*, 2nd ed., 1, no. 44, (New York, 1897). The first edition was published in 1892.
21. Columbia College, *Studies in History, Economics and Public Law*, 4, no. 1, (New York, 1893).
22. American Academy of Political and Social Science, *Annals*, 8 (July, 1896), pp. 50–126.
23. *Ibid.*, p. 74.
24. American Academy of Political and Social Science, *Annals*, 12 (Sep, 1898), pp. 229–249.
25. *Ibid.*, p. 245.
26. (New York, 1900).
27. American Economic Association, *Publications*, 3rd ser., 1, no. 4; 2, no. 2, (New York, 1900, 1901).
28. *op. cit.*
29. 5th ed., (Boston, 1911). The first edition of this work was published in 1896. White also wrote "New York's Colonial Currency", *Sound Currency*, 5 (1 Mar, 1898), pp. 50–64.
30. *Ibid.*, pp. 86–87.
31. Rev. and enl. ed., (1924; reprint ed., New York, 1967). The first edition, *History of the Coinage and Currency in the United States and the Perennial Contest for Sound Money*, (1903; reprint ed., New York, 1968), omitted mention of colonial and revolutionary monetary policies.

32. 12th ed., (1934; reprint ed., New York, 1962). The first edition came out in 1903.
33. Johns Hopkins University, *Studies in Historical and Political Science*, 33, no. 1, (Baltimore, 1915).
34. Johns Hopkins University, *Studies in Historical and Political Science*, 41, no. 1, (Baltimore, 1923).
35. Gould, *Money and Transportation in Maryland*, p. 11.
36. Behrens, *Paper Money in Maryland*, p. 58.
37. (Wilmington, 1928). The word "finances" in the title is misleading. This short book deals exclusively with Delaware's paper money from 1723 through the Revolution.
38. *Georgia Historical Quarterly*, 19 (June, 1935), pp. 145–160.
39. University of Wisconsin, *Studies in the Social Sciences and History*, no. 20, (Madison, 1934). Much of the contents of this book had already appeared in previous journal articles. Nettels included within his compass the British sugar islands.
40. *Ibid.*, p. 8.
41. (Princeton, 1939). The bulk of Lester's work on America was contained in two previous articles, "Currency Issues to Overcome Depressions in Pennsylvania, 1732 and 1729", *Journal of Political Economy*, 46 (June, 1938), pp. 324–375, and "Currency Issues to Overcome Depressions in Delaware, New Jersey, New York, and Maryland, 1715–1737", *Journal of Political Economy*, 47, (April, 1939), pp. 182–217.
42. *Ibid.*, p. 7.
43. *Ibid.*, p. ix.
44. (Ph.D. dissertation, University of Michigan, 1941). Brock's dissertation has been published by Arno Press (New York, 1971).
45. Gouge, *A Short History of Paper Money*, pt. 2, pp. 8–9.
46. *American Historical Review*, 35 (October, 1929), pp. 46–68.
47. *New England Quarterly*, 7 (March, 1934), pp. 43–69.
48. Industrial Research Department, Wharton School of Finance and Commerce, *Research Studies*, no. 35, (Philadelphia, 1951). A much earlier study that gave some prices for the same period was Arthur Harrison Cole, *Wholesale Commodity Prices in the United States, 1700–1861* (Cambridge, 1938). Before the publication of her book, Bezanson wrote an article, "Inflation and Controls, Pennsylvania, 1774–1779", *Journal of Economic History*, 8 (sup. 1948), pp. 1–20, that is the only piece that I have seen that even begins to consider the distribution effects of the Revolutionary hyperinflation.
49. Industrial Research Department, Wharton School of Finance and Commerce, *Research Studies*, no. 26, (Philadelphia, 1935).
50. Essex Institute, *Historical Collections*, 103 (April, 1967), pp. 144–185.
51. (Chapel Hill, N.C., 1978). McCusker also includes series between London and other European centers of trade.
52. *Journal of Economic History*, 13 (Spring, 1953), pp. 145–155.
53. *Ibid.*, p. 145.
54. *William and Mary Quarterly*, 3rd ser., 10 (April, 1953), pp. 153–180.
55. *Ibid.*, p. 157.
56. (Chapel Hill, N.C., 1961).
57. (Princeton, 1957).
58. New Jersey Historical Society, *Proceedings*, 74 (April, 1956), pp. 107–144.
59. *Ibid.*, p. 144.
60. *New Jersey History*, 85 (Spring, 1967), pp. 47–57.
61. *South Carolina Historical Magazine*, 62 (July, 1961), pp. 134–148. This article was based on Jellison's dissertation, "Paper Currency in Colonial South Carolina, 1703–1764", (unpublished Ph.D. dissertation, Indiana University, 1952), which I have not seen.
62. *Ibid.*, p. 134.
63. Another state study that would not be worth mentioning except for the fact that it is the only treatment of North Carolina outside of Bullock's is Mattie Erma Parker's very short pamphlet (14 p.), *Money Problems of Early Tar Heels* (Raleigh, N.C., 1942). Unpublished state studies that I have not examined are Paton Yoder, "Paper Currency in Colonial Pennsylvania", (unpublished Ph.D. dissertation, Indiana University, 1941); Blanchard MacInnes, "Rhode Island Bills of Credit, 1710–1755", 2 v. (unpublished Ph.D. dissertation, Brown University, 1952). and Donald B. Scheick, "The Regulation of Commodity Currency in Colonial Virginia", (unpublished Ph.D. dissertation, Indiana University, 1954).
64. Dorfman, *The Economic Mind*, p. 142.
65. University of Maine, *Studies*, 2nd ser., no. 74 (Orono, 1959).
66. "Paper Money in Colonial Massachusetts", Essex Institute, *Historical Collections*, 101 (April, 1965), pp. 149–163, and "Currency Reform in Colonial Massachusetts, 1749–1750", Essex Institute *Historical Collections*, 103 (Jan, 1967), pp. 66–84.
67. *North Carolina Historical Review*, 40 (Spring, 1953), pp. 183–199.
68. *William and Mary Quarterly*, 3rd ser., 18 (October, 1961), pp. 485–518.
69. *Virginia Magazine of History and Biography*, 69 (July, 1961), pp. 259–277. Gipson argued further that the desire to evade their debts was a powerful motivation among Virginia planters propelling them toward revolution. Emory G. Evans, "Planter Indebtedness and the Coming of the Revolution in Virginia", *William and Mary Quarterly*, 3rd ser., 19 (October, 1962), pp. 511–535, disputes that thesis, but nothing he says detracts from Gipson's account of the genesis of the Currency Act. On the issue of planter indebtedness, see also James F. Shepherd and Gary M. Walton, *Shipping, Maritime Trade, and the Economic Development of Colonial North America* (Cambridge, 1972), pp. 137–155.
70. *Pennsylvania Magazine of History and Biography*, 88 (April, 1964), pp. 174–198.
71. (New York, 1957).
72. "Counterfeiting in Colonial New York", in *Numismatic Notes and Monographs*, no. 127, (New York, 1953); "Counterfeiting in Colonial Virginia", *Virginia Magazine of History and Biography*, 61 (January, 1953), pp. 3–33; "Counterfeiting in Colonial Pennsylvania", in *Numismatic Notes and Monographs*, no. 132, (New York, 1955); "Counterfeiting in Colonial Maryland", *Maryland Historical Magazine*, 51 (June, 1956), pp. 81–100; "Counterfeiting in Colonial New Jersey", New Jersey Historical Society, *Proceedings*, 75 (July, 1957), pp. 170–179; "The Great Epidemic of Coining in the Jerseys", New Jersey Historical Society, *Proceedings*, 75

- (April, 1957), 112–127; “Earliest Counterfeiting in New Jersey”, New Jersey Historical Society, *Proceedings*, 75 (January, 1957), pp. 18–34; “Counterfeiting in Colonial North Carolina”, *North Carolina Historical Review*, 34 (October, 1957), pp. 467–482; “Counterfeiting in Colonial Connecticut”, in *Numismatic Notes and Monographs*, no. 140, (New York, 1957); *Counterfeiting in Colonial Rhode Island*, (Providence, 1960). An earlier work by a different author is Harold Gillingham, “Counterfeiting in Colonial Pennsylvania”, in *Numismatic Notes and Monographs*, no. 86, (New York, 1939).
73. (Racine, 1967). See also Eric P. Newman and Richard G. Doty, eds., *Studies on Money in Early America* (New York, 1976).
 74. *Explorations in Entrepreneurial History*, 3 (Spring-Summer, 1966), pp. 220–233.
 75. *Ibid.*, p. 221.
 76. *Explorations in Entrepreneurial History*, 2nd ser., 6 (Winter, 1969). Ernst was primarily upset at Burstein’s shoddy research. However, it is not at all clear that Ernst really understood that he and Burstein reached essentially the same conclusion. In general, Ernst is a contentious writer, disparaging of all previous contributions to the field. Furthermore, his theoretical forays are at least as shoddy, in their own way, as Burstein’s research. For a brief theoretical critique of Ernst, see the review of his book by Gary M. Walton, *Business History Review*, 48 (Summer, 1974), pp. 245–246.
 77. (Chapel Hill, 1973). Other previous articles by Ernst that were incorporated into his book were “Genesis of the Currency Act of 1764: Virginia Paper Money and the Protection of British Investments”, *William and Mary Quarterly*, 3rd Ser., 22 (January, 1965), pp. 33–74; “The Currency Act Repeal Movement: A Study of Imperial Politics and Revolutionary Crisis, 1764–1767”, *William and Mary Quarterly*, 3rd ser., 25 (April, 1968), pp. 117–211; “The Robinson Scandal Redivivus — Money, Debts, and Politics in Revolutionary Virginia”, *Virginia Magazine of History and Biography*, 77 (April, 1969), pp. 146–173.
 78. Ernst’s political thesis relies heavily on Richard Sheridan, “The British Credit Crisis of 1772 and the American Colonies”, *Journal of Economic History*, 20 (June, 1960), pp. 161–168.
 79. *Journal of Economic History*, 30 (December, 1970), pp. 770–784.
 80. This directly contradicts Lester, *Monetary Experiments*, p. 106. Amazingly, both Lester and Weiss use the same price series for Pennsylvania (those in Bezanson, Gray, and Hussey, *Prices in Colonial Pennsylvania*), and both calculate what prices would have been by the same method (divide the commodity price index by the exchange rate index for the same year and multiply by 100). Their differences arise because they are considering different time periods. Lester’s hypothetical price level is drawn only for 1720 through 1745, even though his graph goes up to 1774. If he had continued his hypothetical price level to the end of the graph, he would have reached the same conclusion as Weiss. Weiss admits that between 1720 and 1739 prices would have fallen by 20 per cent, but for the period 1720 to 1774, they would have gone up 24 per cent.
 81. Weiss, “The Issue of Paper Money”, pp. 782–783.
 82. *Ibid.*, p. 775.
 83. *Economic History Review*, 2nd ser., 27 (November, 1974), pp. 577–592.
 84. Specifically: Felt, *An Historical Account of Massachusetts Currency*; Hickcox, *A History of the Bills of Credit or Paper Money Issued by New York*; Phillips, *Historical Sketches of Paper Currency*; McLeod, “The History of Fiat Money and Currency Inflation in New England”; Bullock, *Essays on the Monetary History of the United States*; and Behrens, *Paper Money in Maryland*. Of course, general state histories will also contain material, but I have not surveyed them for this paper.
 85. *The Wealth of Nations*, (1776; reprint ed., New York, 1937), p. 407.
 86. *Economic Development of Colonial North America*, p. 166. Shepherd and Walton find that the colonial balance of trade was not even all that unfavorable and that most of the capital within the colonies at the time of the Revolution had been accumulated through domestic saving rather than borrowed from abroad. Furthermore, the deficits were higher in New England than in the South. The literature on the colonial balance of payments begins with Nettels, *The Money Supply of the American Colonies*. Also of interest is Sheridan, “The British Credit Crisis of 1772”.
 87. Weiss, “The Issue of Paper Money”, pp. 774–775, makes almost the same point.
 88. Burstein, “Colonial Currency”, p. 222, points out the confusion between shortages in the “stock of transactions balances” of money and high interest rates. He also mentions the deleterious effects of usury laws. They discourage capital accumulation through borrowing, encourage forms of business organization that internalize profits, and, most importantly, encourage banks and other financial intermediaries to over-issue their liabilities. Sumner, *A History of American Currency*, p. 125, makes note of this last impact. Despite the importance of usury laws under pre-industrial conditions when market rates of interest were high, very few economic historians have considered them.
 89. This, greatly simplified, is the Austrian business cycle theory, first developed by Mises. It is discussed in the works noted in note 1 above. Friedrich A. von Hayek refined the theory in *Monetary Theory and the Trade Cycle* (New York, 1933); *Prices and Production*, 2nd ed. (London, 1935); and *The Pure Theory of Capital*, (Chicago, 1941).
 90. The price of a durable good is the discounted value of its expected future returns. For instance, given a machine that lasts two years and earns \$10 per year, if the interest rate is 5 per cent per year, the machine will sell for $\$10 + \9.52 . (\$9.52 invested at 5 per cent will yield \$10 in a year, so the value of \$10 one year from now is \$9.52.) This total is what economists call capitalized value. For a permanently durable good, like land, the formula for calculating capitalized value works out to $P = A/i$, where P is the present capitalized value (price) of the land, A is its future annual rents, assuming that they are expected to remain constant through time, and i is the annual rate of interest. You can see that if the rate of interest falls by one half, the price of land will double!
 91. Walton makes this criticism in his review of Ernst’s book, *op. cit.*
 92. I have simplified the analysis by ignoring capital flows. Their inclusion makes the analysis more complex but does not materially alter the basic conclusion.