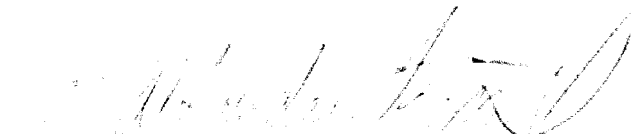
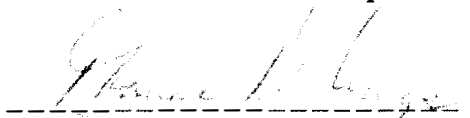
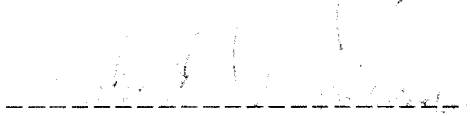
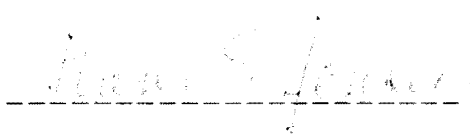


To the Graduate Council:

I am submitting herewith a dissertation written by Larry M. Hall entitled "Anarcho-Capitalist Threads in Modern Libertarianism: The Social Thought of Murray Rothbard." I have examined the final copy of this dissertation for form and content and recommend that it be accepted for partial fulfillment of the requirements for the degree of Doctor of Philosophy, with a major in Political Science.


T. Alexander Smith, Major Professor

We have read this dissertation
and recommend its acceptance.

Accepted for the Council:


Vice Provost
and Dean of the Graduate School

ANARCHO-CAPITALIST THREADS IN MODERN LIBERTARIANISM
THE SOCIAL THOUGHT OF MURRAY ROTHBARD

A Dissertation
Presented for the
Doctor of Philosophy
Degree
The University of Tennessee, Knoxville

Larry M. Hall
December 1990

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Obviously, I alone assume full responsibility for any remaining errors or shortcomings in this research project.

ABSTRACT

Murray Rothbard's anarcho-capitalism represents an largely unexplored portion of American political thought. Despite an overwhelming array of publications on politics, economics, history, methodology, and other realms of social theory, his writings have received very little attention from the community of social theorists.

A significant reason for the lack of analysis concerns the unique and radical nature of Rothbard's thought. Although this research concludes that his form of anarchism is surely an American phenomenon, he combines the influences upon his writings in ways which ultimately separate him from even his libertarian colleagues. Still, he is an extremely influential figure in the largely successful revival of contemporary American libertarianism or classical liberalism, despite his overly radical anarchist tendencies.

This project integrates Rothbard's social theory and critiques it from within the confines of a libertarian negative rights framework which defines ethical parameters around the notion of individualism and non-interference. It focuses upon five components of Rothbard's work: 1.) Methodological and epistemological foundations; 2.) Economic theory; 3.) Political ethics; 4.) Anarcho-capitalist society; and 5.) Strategies in the achievement of the libertarian system.

After a thorough analysis of each of these areas, the research concludes that Rothbard's system of libertarian ethics and his society of anarchy and property rights are quite feasible theoretically and potentially provide practical advantages over current State-imposed alternatives in many arenas. However, some major concerns remain. Concerning the private provision of

defense, Rothbard underestimates the propensities for free riding which may only be overcome (as in other arenas entailing spillover effects) with time, which makes the removal of the State apparatus highly problematic without complete international consensus. In the case of external opposition, transitional costs make his theoretical framework untenable. Moreover, the entire libertarian model faces serious tactical problems--in which Rothbard's absolutist and monistic style and theory do not relieve. He is never clearly able to guarantee that his brand of anarchism necessarily protects or cultivates the ethics of libertarianism. A rigid ethical dichotomy of the market and political processes tends to cloak this fundamentally crucial issue in his theory.

Nevertheless, Rothbard is a significant figure both in the historical understanding of the modern libertarian revival in America and in the theoretical advancement of these ideas.

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CHAPTER I
INTRODUCTION TO THE WRITINGS
OF MURRAY ROTHBARD

Why Study Rothbard?

Murray Rothbard has written approximately twenty books, dozens of scholarly articles, and hundred of articles in libertarian and popular periodicals. In combination, these writings represent a highly coherent system of social thought that has influenced a small but apparently expanding core of modern thinkers. Yet, outside this libertarian circle, Rothbard's works have received scant attention.

The scholarly community's overwhelming ignorance of this prolific writer's thought is an unfortunate circumstance. There has been very little critique of Rothbard's writings, despite the fact that his work, as a substantial and comprehensive "theory of liberty," spans across the bulk of social theory.¹

The intellectual world has been clearly witnessing a rejuvenation of classical liberalism in recent years. And Rothbard is a critical player in this unfolding drama. First, he may be viewed, as much as anyone, as the founder of this "libertarian" revival. His writings in the 1960's and early 1970's were some of the first works that began to define the new movement. Second, his radical anarcho-capitalist ideas are in many ways the foundation for the

1. There are a few exceptions, although the discussions tend to be limited. See Newman (1984, pp. 76-91); Green (1987, pp. 34-54); Sampson (1984, pp. 223-232); and Barry (1986).

milder forms of minimalism and laissez-faire which today are enjoying such intellectual success. While part of the libertarian revival is surely due to the attraction of writers like Rothbard and dedicated political activism, there are other factors which opened the door to these ideas. Historical and theoretical shortcomings in the choices provided by the American ideological spectrum in the 1960's and 1970's produced a window of opportunity for libertarianism. Whereas Rothbard's perspective has remained steadily consistent since he began writing in the 1950's, the mainstream remained far from his point of view until the social, political, and economic problems that surrounded the turbulence of Vietnam, economic stagflation, Watergate, and other similar events. Consequently, because of these potentially unexplainable events, the existing mainstream of American political economy suffered numerous chinks in its paradigmatic armor. A Watergate could not occur in America's democracy. Neither could a Vietnam. And Keynesianism had promised an age of prosperity. But in each case, the myths were uncovered, creating unexplainable gaps for the ideological status quo and an opportunity for new and different ideas. One of the most popular perspectives seeking to fill the void left by the demise of the New Deal, Keynesian, and Vietnam mentalities was a modernized notion of classical liberalism. The shift in the direction of libertarian thought has brought attention to its more radical counterpart, anarcho-capitalism, best found in the writings of Rothbard.

In important ways libertarianism represents a substantially different alternative to the political status quo. The "hard core" of Western thought for the majority of the twentieth century has entailed a more "collectivist" foundation than the preceding century, whether found in its conservative,

liberal, or more radical forms. As could be expected, it was within the more individualistic American political culture that criticism of this collectivist mentality first reemerged. Libertarianism, at first more critique than substance, has subsequently matured to provide a developed and comprehensive system of ideas. One of the key contributors to this renaissance is Rothbard: An analysis of his substantial writings would be a timely endeavor which, as of yet, has not been undertaken.

The Nature of Rothbard's Writings

In examining Rothbard's scholarship, three characteristics in his writing stand out in particular. First is the breadth of interdisciplinary knowledge evident in his work. Heavily influenced by an intellectual tradition that views social science as an intertwined and inseparable discipline, his writings span philosophy, economics, politics, history, and practice. Yet, all of these fields of study are combined in a singleness of purpose: to develop a comprehensive and convincing theory of liberty. Therefore, even within the expanse of his writings, there is always a common and unifying theme and purpose. And this purpose is, of course, an extremely radical one, namely, the removal of the State as an economically unviable and ethically dastardly entity. In this sense Rothbard is the quintessential libertarian.

Thus, his mission guarantees that, secondly, Rothbard will never fail to be provocative. His thought demonstrates both innovation and insightfulness, as he refuses to fit into common categories of theory. For

instance, while he is quite clearly an anarchist, he retains few philosophical similarities with the more familiar collectivist and syndicalist brands of anarchism. His brand of anarchism more resembles the native American individualistic kind, with still enough substantial differences in both economic and political theory to clearly distinguish his writings from these nineteenth century writers. Yet, he ironically never seems comfortable with even his philosophical neighbors in the minimalist and other classical liberal camps. In fact, Rothbard has quite often been a vocal critic of these writers.

However, this intellectual "loneliness" in no way implies a lack of logical consistency or a haphazard research program. In fact, this uniqueness is more likely the consequence of the exact opposite circumstance, an absolutist and rigorously derived system of social theory--all based upon similar foundations. Therefore, Rothbard's third characteristic and perhaps strongest attribute is his logical rigor. His staunchly deductive and axiomatic approach to both economics and political ethics leads him to a consistent and comprehensive--and radical--system of thought.

While this rigor is usually a positive attribute, it may be occasionally damaging to a system of thought. First, the absolutism leaves the opportunity for scholarly dialogue severely limited. If one rejects Rothbard's foundations, there is little reason beyond the sheer appreciation of the logic and comprehensive nature of the axiomatic system for a scholarly conversation to continue. Secondly, Rothbard's is a demanding system and even at times, perhaps, a dogmatic one. This method clarifies the dichotomy of reality and theory. While this recognition may direct action toward the ideal, it may also ignore the realities of the world and make the argument entirely untenable.

Thus, the same attributes which make Rothbard a powerful theorist serve to diminish the appreciation he might otherwise garner.

Rothbard's Major Contributions to Social Theory

We may rather neatly divide Rothbard's contributions to social theory into six general areas: 1.) economic theory; 2.) political theory and politics; 3.) public policy; 4.) epistemology/methodology; 5.) strategies of activism; and 6.) history. This research examines the substantial portions of the first five of these areas. Considering the interconnectedness of the research program, this division may appear rather arbitrary in certain ways. Yet, as careful reading of Chapters II through VI will demonstrate, there is an observable chain of logic that directs Rothbard's system of thought from the metaphysical principles of epistemology to the concrete concerns of intellectual and political strategy.

Rothbard's writings in economics spans across his entire career. Influenced heavily by Ludwig von Mises, Rothbard has maintained a strict adherence to the traditional tenets of the Austrian School of Economics that originated in the writings of Mises' mentor Carl Menger in the late nineteenth century. Rothbard's most important contribution to the Austrian school is probably his magnum opus Man, Economy, and State (1962c), arguably the last of the traditional comprehensive treatises on economics. This work was followed in 1970 by Power and Market (1977a), a companion to his 1962 publication which developed his views on government intervention in the market. One of the Austrian School's most important contributions to economics is Rothbard's "Toward a Reconstruction of Utility and Welfare

Economics" (1956), a critical appraisal of welfare economics' failure to maintain a strict subjective value theory. In 1983, Rothbard specifically provided his views on monetary theory in The Mystery of Banking (1983b) in which he further developed his arguments for the return of the gold standard. Other contributions in monetary theory includes What Has Government Done to Our Money? (1985b; 1964 originally), Economic Depressions: Causes and Cures (1983a), "Austrian Definitions of the Supply of Money" (1978a), "The Austrian Theory of Money" (1976a), and "The Case for the 100 Percent Gold Dollar" (1962a). Finally, he has written substantially on economic history, applying Austrian insights to the recession of 1819, in The Panic of 1819 (1962d) and the Great Depression, in America's Great Depression (1963a). Other contributions to economic history include "The Federal Reserve as a Cartelization Device: The Early Years, 1913-1930" (1984) and "The New Deal and the International Monetary System" (1976e).

Rothbard's major contributions to political theory are found generally in two of his works. For a New Liberty, originally published in 1973 and expanded in 1978, represents a "manifesto" of the libertarian movement (1978b). The work encompasses a combination of both political theory and the framework for anarcho-capitalism. However, Rothbard's most philosophical writings are found in The Ethics of Liberty (1982a). Further development of these themes may be explored in Egalitarianism as a Revolt Against Nature (1973a), Left and Right (reprinted 1979d), "Capitalism versus Statism" (1972a), "Freedom, Inequality, Primitivism, and the Division of Labor" (1971a), "Justice and Property Rights" (1974c), "The Logic and Semantics of

Government" (1963b), "Society Without a State" (1978d), and "Law, Property Rights, and Air Pollution" (1982b).

Rothbard's discussions of public policy may be found in literally hundreds of sources. In general, the best source is still For a New Liberty. One may also examine "The Myth of Neutral Taxation" (1981c) and "The Great Society: A Libertarian Critique" (1973b). He has also written a good deal on education specifically, including Education, Free and Compulsory (1972) and "Total Reform: Nothing Less" (1976i).

The best general source of Rothbard's views on methodology are found in Individualism and the Philosophy of the Social Sciences (1979c), which includes several articles which appeared in other forms earlier. One may also find discussions of praxeology in Man, Economy, and State (Chapter 1), "Praxeology: The Methodology of Austrian Economics" (1976g), "Praxeology, Value Judgments, and Public Policy" (1976h), "In Defense of Extreme Apriorism" (1957), "Value Implications of Economic Theory" (1973c), and "Epistemological Problems of Economics" (1962b).

The majority of Rothbard's contributions to the literature on libertarian strategy may be encountered in the numerous libertarian journals, magazines, and other assorted forms of print that arose from the late 1960's to the present.² However, these arguments are generally systematized in the concluding chapters of The Ethics of Liberty and For a New Liberty.

Finally, Rothbard has written extensively in American revisionist

2. For a generally complete list of all of Rothbard's work (through 1986) see Block and Watner (1986, pp. 34-37, 45-72).

history. While we will not be investigating these contributions in the present analysis, they still are a substantial addition to the literature of liberty. The most important of his works is the ongoing series on early American history, Conceived in Liberty, a four volume work (a fifth has yet to be published) that traces the American experience up through the Revolution. Rothbard has also written widely in recent history, particularly relating to American foreign policy, including "Harry Elmer Barnes As Revisionist of the Cold War" (1968), "The Hoover Myth" (1970), "War Collectivism in World War I" (1972c), and "The Foreign Policy of the Old Right" (1978c).

The Research Program

Our research follows this division of Rothbard's contributions to social theory in Chapters II through VI. While there are threads which weave all these categories into a comprehensive whole, it is not difficult to find the means to make these categorizations. In a sense, the chapters appear in a kind of descending order, beginning with Rothbard's and other Austrians' discussions of the ultimate foundations of epistemology and methodology, and concluding with the "real-world" concerns of the strategies to be used in actual practice to achieve the libertarian society.

We need to provide the reader two warnings. First, whereas the interconnectedness of these categories will remain obvious, it will be our task to try to separate each "realm" and analyze it on its own merits. Therefore, each chapter will limit its focus to the subject at hand; we leave it to the reader to recognize the subtle relations between these categories. While these

divisions may not provide perfect justice to Rothbard's arguments, it is a necessity of analysis.

Second, we examine Rothbard in "his environment". In investigating and critiquing his contributions to social theory we will remain within the confines of those traditions that have influenced Rothbard. There will not be thorough expositions of the kind of criticisms that a Marxist value theorist or a Keynesian economist might heap upon Rothbard's economics, for example. We limit our discussion to the "paradigm" in which Rothbard writes, namely, Austrianism, libertarianism, anarchism, etc.

Chapter II explores the epistemological and methodological foundations of Rothbard's thought. This requires an investigation of praxeology, an apriori notion of science which is deductively built upon fundamentally true axioms. Since the bulk of Rothbard's understanding of praxeology originates in the writings of Mises and other earlier Austrian writers, Chapter II focuses upon the role of Rothbard's mentor in the development of these materials. Rothbard's contributions to this body of thought are quite clearly resting upon the shoulders of earlier Austrian theory. However, although Rothbard's unique contributions in this area are limited, these discussions are required to establish the foundations and illuminate the reader to this thinker's more original work in other realms of social theory. We conclude by examining a contemporary issue of the Austrian School that helps to elucidate the foundations of Rothbard's methodology while also uncovering a potentially widening gulf within this rather unique methodological tradition.

Chapter III investigates Rothbard's contributions to economic theory.

The chapter is divided into three parts. First, we briefly examine the general themes of the Austrian School of economics. Secondly, we explore Rothbard's most important contributions to Austrianism. Our focus concerning Rothbard's contributions is on particularly two areas of economic theory, namely, monetary and monopoly theory. Thirdly, expanding this discussion, we investigate Rothbard's most unique contribution to economics, the praxeological consequences of what he terms "hegemonic" intervention, the admittance of government into the free market.

Although one may discuss the consequences of particular policies scientifically, Rothbard argues that in order to promote a specific set of prescriptions from these conclusions we require an objective set of ethics. In other words, even though Austrian economics may generally appear to promote certain policy conclusions, it may legitimately only explain the consequences. Chapter IV examines Rothbard's efforts to create the ethics which allow for a theory of liberty. In this discussion, we explore his grounding of ethics in natural law, based upon the rights of self-ownership. He develops in a method similar to his economics the body of libertarian ethics founded on the principles of property rights and the axiom of non-aggression. Finally, we examine his discussion of the State in political philosophy or, more correctly, the realization that the State represents for him the epitomy of criminality and ought not to exist.

Chapter V continues the themes that are created by the anarchist conclusions of the preceding discussion. In this chapter we transcend the mere critique of the State by Rothbard in order to look at the kinds of institutions which, he argues, may replace the functions now provided by

governments. The result is the anarcho-capitalist society in which all goods and services, including those traditionally viewed as public goods, are provided through the market process. To achieve this system Rothbard seeks to consolidate ethical imperatives and real demands. The chapter explores and critiques these policy solutions in a substantial number of specific areas, concluding in almost all cases that his efforts at linkage are, in fact, successful.

Chapter VI examines Rothbard's major contributions on libertarian strategy by exploring a problem common to radical systems of thought, namely, the pitfalls of political acceptance and practical implementation. Without adequate successes in this tactical arena, an entire system of thought faces intellectual extinction. Thus, the chapter examines several problems facing libertarian activism--many that are peculiar only to libertarianism.

Chapter VII concludes our study by reweaving Rothbard's work into a whole fabric. In our final discussions we seek to place both Rothbard and the larger libertarian movement in historical and theoretical context. Specifically, we look at the libertarian heritage and its relationship to other contemporary American ideologies. Moreover, we search for Rothbard's place within these American contexts. And, finally, we conclude by briefly speculating on what the future may hold for the ideas of Rothbard and libertarianism.

The current problems facing the more collectivist and politically interventionist arenas in the world have created an intellectual "stage" which humanity has not witnessed in many generations. These concerns require one to return and reexamine first principles of political theory in fundamental ways. In contemporary society, libertarian thought is a key component in this reexamination. The fundamental task of this research is to

analyze perhaps the most influential and provocative contributor to this body of ideas, Murray Rothbard.

CHAPTER II

ROTHBARD AND THE METHODOLOGY OF THE AUSTRIAN SCHOOL

Introduction to the Austrian School's Methodology

Before one may adequately critique Rothbard's more original contributions in political economy, he must investigate the uncommon methodological tenets of the Austrian School of Economics. The bulk of his thought has a distinctly Austrian component, a tradition that explicitly originated during the subjectivist/marginalist revolution of the 1870's in the writings of Carl Menger and that were later elucidated in the thought of his student Ludwig von Mises (Menger, 1981; 1963). While Rothbard has provided significant contributions to the body of this methodology, to completely understand these ideas one is required to explore other Austrian predecessors. Therefore, Chapter II will be a more comprehensive investigation of these foundations, which focus not only on Rothbard's writings but also on the more general tradition of Mengerian/Misesian Austrian methodology.

Menger, along with fellow Austrians Friedrich von Wieser and Eugen von Bohm-Bawerk, developed a methodology plainly in contrast to the popular German Historical School of the late nineteenth century.¹ As a result,

1. For overviews of the history of Austrianism, see White (1984); Reekie (1984, Chapter 1); Taylor (1980, Chapter 1); and Rothbard (1979c, pp. 45-61).

this Methodenstreit, or "battle over methods," pitted the Historical School, which in its more naive forms sought science founded on pure "inductivism" without any unifying formal theory, against the Austrians.² The Austrians, Rothbard argues, were a synthesis of two sources: the individualistic deductive tradition of the classical political economists (J.B. Say and Nassau Senior in particular) and the "Southwest German School" (Rothbard, 1980a, p. 30).³

In the twentieth century, the older distinction of historicism/institutionalism and Austrianism has been superseded by the dominance of modern positivism or empiricism. Epistemologically, empiricist truth-claims require verification by sensory experience. Reason alone is inadequate; mathematics and logic are retained but as purely analytic statements, true by definition, which are utilized to organize meaningful statements. Phenomena outside this realm (such as metaphysics, as positivists define it) are either impossible to verify (or falsify) or are completely non-sensical. Theorists in the mainstream of neo-classical economics, mimicked by other "less rigorous" social sciences, have adopted these overtly natural science methods and have applied them to the study of human action. Relying heavily on mathematical formalism and statistics, many modern empiricists have viewed the goal of science to produce

2. The label "Austrian", in fact, was first used by members of the German Historical School as a derogatory brand. It stuck, however. Most Austrian economists today are not Austrian by nationality.

3. For discussions of pre-Mengerian influences see Rothbard (1979c, pp. 45-51; 1976, pp. 69-71) and Kirzner (1976a, pp. 152-159).

theories that are predictive and rest ultimately on empirical sensory data (Friedman, 1953, pp. 3-43).

However, most Austrians ground their methodology on a very different form of "empiricism", or even on apparently non-empirical grounds. As a result they have often been woefully misunderstood by mainstream critics.⁴ Arguably, some parts of the Austrian's own criticisms of modern empiricism have been superseded by advancements in the study of epistemology (Butler, 1988, pp. 319-321). Yet, their fundamental critique remains and, likewise, "praxeology"--the method for understanding human action--remains a viable alternative to present frameworks of knowledge discovery. Therefore, it is necessary to outline the methodological and epistemological underpinnings of Austrian praxeology, focusing on its main architect (and Rothbard's mentor), von Mises. Ignoring a small (though fundamental) epistemological difference, there are only minor methodological differences between Mises and Rothbard. However, as we shall see, there is a more clear dichotomy between Rothbard and a number of younger current Austrians concerning more fundamental epistemological issues, a debate which we investigate in the subsequent section.

4. See, for example, Blaug (1980, pp. 91-93). Caldwell (1982, pp. 105-106, 118-119, and 134) takes Blaug to task on these misconceptions. He further argues in support of an attractive form of "methodological pluralism," contending that the application of falsificationist frameworks to the Austrian program is improper critique, since it is founded on explicitly different grounds.

Methodology, Praxeology, and the Study of Human Action

Praxeology is most thoroughly detailed in the writings of Mises (Mises, 1963, Chapters 1-7; 1976; 1985). In developing its foundations Mises clearly seeks an epistemological "middle ground" between scientific extremes. Rejecting normatively laden holism, he adopts the notion of "value free" science in the Wertfreiheit tradition of Weber. However, he also denies both the subtle relativism of historicism and the scientism of modern empiricism, developing a foundation resting upon what he terms "methodological apriorism."

Fully developed praxeology, Mises contends, transcends the commonly conceived confines of economics. By escaping these parameters and avoiding the pitfalls of both nihilism and scientism, he grounds social science on a thorough theory of subjectivism in human choice and exchange rather than on narrow profit maximization.

For a long time men failed to realize that the transition from the classical theory of value to the subjective theory of value was much more than the substitution of a more satisfactory theory of market exchange for a less satisfactory one. The general theory of choice and preference goes far beyond the horizon which encompassed the scope of economic problems as circumscribed by the economists from Cantillon, Hume, and Adam Smith down to John Stuart Mill. It is much more than merely a theory of the "economic side" of human endeavors and of man's striving for commodities and an improvement of his material well-being. It is the science of every kind of human action. Choosing determines all human decisions. In making his choice man chooses not only between various material things and services. All human values are

offered for option. All ends and all means, both material and ideal issues, the sublime and the base, the noble and the ignoble, are ranged in a single row and subjected to a decision which picks out one thing and sets aside another. Nothing that men aim at or want to avoid remains outside this arrangement into a unique scale of gradation and preference. The modern theory of value widens the scientific horizon and enlarges the field of economic studies. Out of the political economy of the classical school emerges the general theory of human action, *praxeology* (Mises, 1963, p. 3).

Praxeology studies conscious actions, as contrasted with involuntary behavior, which, Mises argues, is not a part of human social science. However, neither is praxeology an endeavor into psychology, nor is it aimed at the speculative understanding of why individuals act certain ways in specific situations. Instead, it focuses upon explaining what occurs in human activity--not by providing concrete or specific details, but by providing the observer a framework to order and understand reality.

A universally true science is achievable, Mises concludes. While the motivation of action may not be universally understood, the nature of action can be discerned. That much--as of now, at least--is all one can know, for man faces an "insurmountable" separation of subject and object Mises calls "methodological dualism."

....In the present state of our knowledge the fundamental statements of positivism, monism, and panphysicalism are metaphysical postulates devoid of any scientific foundation and both meaningless and useless for scientific research. Reason and experience show us two separate realms: the external world of physical, chemical, and physiological phenomena and the internal world of thought, feeling, valuation, and purposeful action. No bridge connects--as far as we

can see today--these two spheres....In the face of this state of affairs we cannot help withholding judgment on the essential statements of monism and materialism.... (We) are bound to acquiesce in a methodological dualism.

Human action is one of the agencies bringing about change. It is an element of cosmic activity and becoming. Therefore it is a legitimate object of scientific investigation. As--at least under present conditions--it cannot be traced back to its causes, it must be considered as an ultimate given and must be studied as such (Mises, 1963, p. 18).

Praxeology, therefore, studies the category of human action, not particular concrete acts. But in studying action categorically, one develops an understanding for the "real thing." According to Mises, there is, in fact, no alternative to accepting the truth-claim of the primordial category of action. Grasping methodological apriorism leads to the realization that one cannot imagine categories of knowledge in variance or conceive of logical contradictions with these positions.

The fundamental logical relations are not subject to proof or disproof. Every attempt to prove them must presuppose their validity. It is impossible to explain them to a being who would not possess them on his own account. Efforts to define them according to the rules of definition must fail. They are primary propositions antecedent to any nominal or real definition. They are ultimate unanalyzable categories. The human mind is utterly incapable of imagining categories in variance with them.... They are the indispensable prerequisite of perception, apperception, and experience (Mises, 1963, p. 34).

These propositions are true, prior to experience, and represent a series of "necessary and ineluctable intellectual conditions of thinking, anterior to any actual instance of conception and experience" (Mises, 1963, p. 33). They are

laws of thought or a pre-equipped "set of tools for grasping reality" (Mises, 1963, p. 35). Since the category of action is mind-founded, it cannot be nor need be falsified. To challenge its truth-claim is to verify its truthfulness. To "test" self-evident truths, Mises concludes, would be ridiculous; it is "idle to ask whether things-in-themselves are different from what they appear to us" (Mises, 1963, p. 36).

On these epistemological points, there has been a substantial amount of disagreement within the Austrian tradition. In fact, Mises is largely alone with his Kantian foundations. For instance, his mentor Menger rests his own methodology on Aristotelian metaphysics, seeking the "laws" of economics in the essences of human action, i.e., the nature and inter-connections of social phenomena (Menger, 1963, p. 37). Mises, while maintaining the core of the Mengerian program, redirects it in two distinct ways. First, he discards the psychological overtones of early Austrian motivation studies, replacing it with the study of the implication and not the motives of action. Psychological studies, in other words, are replaced by a pure theory of choice founded on the self-evidently true idea of cognitive action. Secondly, he denies Menger's broadly empirical epistemology and substitutes Kantian rationalism.

Rothbard, on the other hand, returns to the Mengerian perspective, arguing that the "axioms" of action are so broadly based in experience "that once enunciated they become self-evident and hence do not meet the fashionable criterion of 'falsifiability'" (Rothbard, 1976g, p. 25).

....Without delving too deeply into the murky waters of epistemology, I would deny, as an Aristotelian and neo-Thomist, any such alleged

'laws of logical structure' that the human mind necessarily imposes on the chaotic structure of reality. Instead, I would call all such laws 'laws of reality,' which the mind comprehends from investigating and collating the facts of the real world. My view is that the fundamental axiom and subsidiary axioms are derived from the experience of reality and are therefore in the broadest sense empirical. I would agree with the Aristotelian realist view that its doctrine is radically empirical, far more so than the post-Humean empiricism which is dominant in modern philosophy (Rothbard, 1976g, p. 24).

However, for the purpose of understanding Austrian method, the differences between Mises and Rothbard are minor, particularly when they are contrasted with mainstream positivism. Whereas Rothbard may argue that praxeological axioms are empirical, they are still just as certainly true as are Mises' rationally founded ones (Rothbard, 1976g, p. 27). And this view is unquestionably contrary to modern empiricism's constantly open-ended conception of truth-claims.

Since Mengerian empiricism, unlike the post-Humean variety, seeks fundamental truths, or essences, it is likely to be dismissed by modern empiricists as definitional propositions and, therefore, mere tautologies. A deeper understanding of these propositions, however, would lead one to recognize that these qualitative relationships and phenomena bundled in these axioms are themselves fundamentally true and critical in explaining reality.

It is unlikely any Austrian would deny a role for modern empiricism in science. Menger, for example, argues there are two kinds of empirical laws: exact (non-falsifiable) and empirical (concrete and contingent on specific

human volition). In fact, T.W. Hutchison contends that Menger's vigorous attack on the Historical School was aimed at the distinctive notion of certain historicists that they had exclusive ownership of truth (Hutchison, 1973, p. 37). This perspective, Austrians argue, is overly restrictive; science must further grasp the understanding of the essences of phenomena, a type of knowledge that "transcends" particular events but is all the while just as true. This broadly empirical notion focuses on an additional part of reality, one discovered by introspection, or by the understanding of universal inner experience. Experience includes the "reflective" as well as the "physical" (Rothbard, 1976g, p. 25). Modern empiricists would obviously frown upon such a view, since introspection fails to be "operationally meaningful" and, thus, is untestable.

For Mises, the "test" for correct praxeology does not come from comparing it with external experience, since these propositions precede history. It is impossible to discern meaning without these axioms. The proposition is "tested" and true if it is grounded in correct epistemological foundations and properly arrived at through a deductive chain of logic. Rothbard, on the other hand, views introspective experiences as antecedent to extrospective ones, and argues that praxeological axioms are "a posteriori" to the universal observations of the logical structures of the human mind and human action" (Rothbard, 1951, p. 181). Yet, they are both empirical and non-falsifiable; once stated these propositions are obviously true, even if they are not subject to extrospective verification to justify their truthfulness. Therefore, these claims are not mere tautologies; by beginning with a broader

notion of experience, methodological apriorism avoids the tentativeness of positivistic verification and the trap of circular definitional argumentation.

Moreover, Austrian methodology escapes positivism's division of the a priori (and "unreal") and the empirical (and uncertain). By expanding into the introspective realm of purposes, praxeology, as Austrian Israel Kirzner notes, avoids the limitations imposed by modern social science.

....It is the task of science to describe and explain reality. If reality consists of more than the external world, then a science that is confined to the facts of the external world is simply incomplete. It does not account for everything that is there. The Austrian approach insists that there is something besides the facts of the external world and the relationships that may be postulated between these bare facts. What is that something else? It is the realm of reality that Knight pointed to, the realm of purposes. And even if one were able to explain the facts of the external world in terms of similar facts, without regard to the human purposes underlying these facts, one would not have explained everything there is to be explained, not have set forth everything there is to set forth. One would have failed to make the world intelligible in terms of human action, that is, in terms of human purposes.... There is a realm of reality called purposes. It is there, and if we fail to point it out, then we fail in the task of making the world intelligible in terms of human action (Kirzner, 1976c, pp. 44-45).

The study of human action depends on the idea that there is an essence to human conduct, accompanied by the "consciousness of volition" (Kirzner, 1976a, p. 151). Hence, it is the introspective factor that makes "human" science, i.e., the ability to make choices. Praxeology does not propose to have knowledge of the content of specific determinations of anyone's particular

will, but only that all individuals share this ability to act willfully. While praxeology may provide some predictive ability qualitatively, its main purpose is to explain the chaotic social world, assisted by the understanding of the essence of volition. This understanding results not from generalizing about certain series of particular past events but from an essentialist understanding of humans "from within."

Since the knowledge of internal experience or mind-founded categories is required in the study of human action, it is quite illogical to utilize exclusively methodologies aimed only at external sensory data. Austrians, therefore, are highly critical of the use of natural science methods in the social sciences. Fundamental differences in the phenomena studied may lead to woefully incomplete or even misguided research. Whereas the natural world may be objectively verifiable, observable, and suitable to commonly applied deterministic methodologies, human action is the product of an individual's elective and creative faculties (which themselves give the social world its meaning) and require an alternative approach.

Thus, the appropriate methodology in the social sciences is fundamentally reversed from that of the natural sciences (assuming a deterministic method is appropriate for the natural sciences). The latter ideally begins with or is at least verified by observation, as one tests hypotheses against collected data. On the other hand, praxeology begins with true axioms and carries this knowledge into the realm of human action. In a sense, as Rothbard argues, these axioms are more firmly empirical than any natural science observation, for "since the ultimate causes are known as true, their consequents are also true" (Rothbard, 1979c, p. 21).

These axioms are derived from the "subjective" imprint on all social events. Praxeology studies person and meaning, not things, which necessarily introduces the notions of perception and subject-valuation. Nevertheless, while the focus is subject-oriented, the science--at least for traditional Austrians such as Rothbard--is still objective and untainted by personal values.

Objective praxeological theory in the social sciences may be compared to a second branch of social reality, history, or the "concrete content of human action" (Mises, 1963, p. 30). Epistemologically, theory alone is a reliable source for universal truth-claims, for history may provide neither universal understanding nor predictive capabilities of future actions. Instead, theory is used to envelope specific events, providing a "roadmap" to allow understanding.

This distinction of theory and history corresponds to the position that the social and natural sciences are fundamentally (or at least extremely) different. Since the concrete social world is indeterminate and its meaning is subject-given, historical events cannot be used to ultimately prove or disprove specific hypotheses. Likewise, the historian will never be truly objective, for he deals with unique events and necessarily invokes his own subjective meanings.

For the Austrian, these overtly uncertain themes are critical to the formation of a social science. Each historical act is unique--no more fixed for repetition than any other conceivable act. The social world is both incredibly complex and indeterminate. Even if science could somehow solve the former concern of a practically infinite number of causal variables, no degree of

understanding causality may solve the inherently unpredictable nature of human motivations and actions. Thus, praxeology is severely limited in the sense it is "accurate and irrefutable but it is not precise" (Reekie, 1984, p. 32). The understanding of particular historical events relies on the theories one applies to these actions, or what Mises terms the "non-historical" means.

....Praxeology is a theoretical and systematic, not a historical, science. Its scope is human action as such, irrespective of all environmental, accidental, and individual circumstances of the concrete acts. Its cognition is purely formal and general without reference to the material content and the particular features of the actual case. It aims at knowledge valid for all instances in which the conditions actual correspond to those implied in its assumptions and inferences. Its statements and propositions are not derived from experience.... They are not subject to verification or falsification on the grounds of experience and facts. They are both logically and temporally antecedent to any comprehension of historical facts. They are a necessary requirement of any intellectual grasp of historical events. Without them we should not be able to see in the course of events anything else than kaleidoscopic change and chaotic muddle (Mises, 1963, p. 32).

One "brings" praxeology to the study of history. It is a process more of locating the proper theory than testing it. That an axiom fails to "fit" a particular set of events makes it only inapplicable, not falsified. Still, theory is not completely severed from the concrete world; its usefulness is dependent on its application to historical events. Hence, there is a sort of intertwining of the two realms but with always a clear distinction. For example, in developing praxeological axioms, the economist must delve into history to demonstrate the meaning of his propositions or to explain specific world

events. Contrarily, the historian explains unique circumstances using all available insights (including praxeology). The mental tool of the former is the conception of universals or essences; the mental tool of the latter is the understanding of the uniqueness of events as developed through the "eyes" of the historian. Viewed from an Aristotelean perspective, the "form" of human action precedes the "matter" of action. Or, facts illustrate rather than prove propositions (Rothbard, 1951, p. 944). As Rothbard notes, this understanding allows the Austrian program a far richer view of human history.

....The praxeologist contrasts, on the one hand, the body of qualitative, nomothetic laws developed by economic theory, and on the other, a myriad of unique, complex historical facts of both the past and the future. It is ironic that while the praxeologist is generally denounced by the positivist as an 'extreme apriorist,' he actually has a far more empirical attitude toward the facts of history. For the positivist is always attempting to compress complex historical facts into artificial molds, regarding them as homogeneous and therefore manipulable and predictable by mechanical, statistical, and quantitative operations in the attempt to find leads, lags, correlations, econometric relations, and the 'laws of history.' This procrustean distortion is undertaken in the belief that the events of human history can be treated in the same mechanistic way as the movements of atoms and molecules--simple, unmotivated, homogeneous elements. The positivist thereby ignores the fact that while atoms and stones have no history, man, by virtue of his acts of conscious choice, creates a history. The praxeologist, in contrast, holds that each historical event is the highly complex result of a large number of causal forces, and, further, that it is unique and cannot be considered homogeneous to

any other event. Obviously, there are similarities between events, but there is no perfect homogeneity and therefore no room for historical 'laws' similar to the exact laws of physical science (Rothbard, 1979c, pp. 41-42).

The Austrian avoids the criticism of arbitrariness by grounding his deduced axioms in firm, epistemological foundations which, in turn, serve as an ordering framework that is applied to external experience yet is itself also true. The modern empiricist, on the other hand, attempts to formulate a body of science in a specialized and fragmented manner, failing to recognize any explicit systematic framework. From an Austrian perspective such an effort resembles an attempt to escape a maze in blind darkness.

Once the praxeologist establishes the a priori existence of human purposeful action, deduced true implications necessarily follow. In turn, these theorems may then be applied to specific areas of human activity.⁵ The statement "individuals act" establishes two necessary foundations of praxeological research. First, all action is reducible to single actors; social "wholes" derive any meaning they possess from the actions/meanings of specific individuals. In no way does this deny that individuals are influenced by their external worlds or by other individuals.

....Individualism has always been charged by its critics--and always incorrectly--with the assumption that each individual is a hermetically sealed 'atom', cut off from, and uninfluenced by, other persons....Economic theory is not based on the absurd assumption that each individual arrives at

5. Austrians have largely focused upon economics within praxeological theory. Nevertheless, apparently nothing prevents applications into other realms of social theory. See Rothbard (1951, pp. 945-946).

his values and choices in a vacuum, sealed off from human influence. Obviously, individuals are continually learning from and influencing each other (Rothbard, 1976g, pp. 30-31).

There is no denying persons may act differently when under the influence of "groups," for example. But the difference lies in the meaning attached to the event by the actor, not the fact that something other than the individual acted. As Mises quips, it is the hangman, not the "State," that executes the criminal (Mises, 1963, p. 42). The fundamental Austrian criticism is that unless one proceeds back to the foundation of human science--the human actor--he faces the dangers of falling prey to any number of the unscientific forms of holism (common in modern macro-economics). Collective units simply do not "act" apart from or not reducible to individuals as the core unit of analysis. Beginning comprehension elsewhere, as Menger notes, may lead the researcher far afield.

Whoever wants to understand theoretically the phenomena of a 'national economy' and those complicated human phenomena which we are accustomed to designate with this expression, must for this reason attempt to go back to their *true* elements, to the *individual economies in the nation*, and to investigate the laws by which the former are built up from the latter. But whoever takes the opposite road fails to recognize the nature of 'national economy.' He starts off on the foundation of a fiction, but at the same time he fails to recognize the most important problem of the exact orientation of theoretical research, the problem of reducing complicated phenomena to their elements (Menger, 1963, p. 93).

From these arguments follows the intense Austrian critique of "scientism". Rothbard, for instance, argues that this type of foundation may

ultimately result in either misguided mechanicalistic or organismic analogies. The first produces a false faith in measurement, mathematical formalism, model-building, and a propensity for misused metaphors, such as "equilibrium." The second leads to "grossly unscientific" concepts such as the "public good" and an inclination to bring abstract labels (such as "market") to life (Rothbard, 1979c, p. 15; Chapters 3-4).

Nothing within the Austrian program denies the worthiness of studying institutional arrangements--so long as they are properly rooted. In fact, a major emphasis of Austrianism has always been the study of unintended institutional consequences of individual action. But institutions are consequences, not formulators, of reality. Reality is an unceasing sequence of solitary actions which may occur in non-isolation but that all the while happen because an individual thinks and acts. Within the constraints of methodological individualism, it is only the individual that generates the real-stuff of the social world.

Hence, the second component of the initial axiom relates to individual action. Mises argues that action both results from and demonstrates an uneasiness about one's state of affairs. To act implies, first, the image of a better state and, second, the expectation that action can alleviate the uneasiness. To fail to act (which is self-evidently impossible) would signify either a perceived perfect state of affairs or no perceived aptitude to achieve success. Thus, action implies that individuals believe some level of order exists in the world and that they may benefit from acting upon this knowledge.

In seeking to relieve uneasiness, Mises contends that individuals aim

to achieve a broadly defined concept of happiness. However, happiness is purely subjective; the scientist may make absolutely no judgment on individual valuation.⁶ Therefore, human volition requires only a meager notion of rationality in this subjectivist framework. The nature of rationality is perhaps the most misunderstood of all Austrian tenets. As with other true structuring propositions, rationality is both a non-falsifiable and fruitful idea. As Kirzner explains, it demonstrates that individuals' actions are "not haphazard but are expressions of a necessity for bringing means into harmony with ends," allowing a "range of explanations of social phenomena" (Kirzner, 1976a, p. 172).

The misunderstanding of Austrian rationality (beyond the positivist criticism that it is a tautology) results from the different meaning praxeology and subjectivism attach to rational acts. The notion that it is used as a substantive concept, ie., an act is rational if the manipulated means are consistent with chosen preferences aimed at a hierarchy of ends, makes no sense in the Austrian program. Instead, rationality is "in the transference... of those features in behavior that accompany the direct pursuit of ends" (Kirzner, 1976a, p. 166). In this sense, rational and action are the same thing. All action involves choice, and the act reveals or demonstrates true valuations. To speak of concrete thoughts about preferences in particular circumstances exits the realm of praxeology. Rationality obviously cannot

6. Almost all Austrians have been staunch proponents of free markets. But to maintain such a perspective requires one to "leap" into the realm of ethics. On the impossibility of grounding the market in non-ethical ways, see Rothbard (1973c, pp. 35-39).

speak of what should be acted upon. But nor can it judge qualitatively the consequences of actions, since both the notions of human error and uncertainty, as well as the unlocked mysteries of subjective thought patterns, are always present. And these notions do not affect the Austrian notion of rationality. All this definition requires is that individuals do not act purely reflexively. Thus, the contrast is not between rationality and irrationality but rather between voluntary (human volition responding to specific circumstances) versus involuntary actions. There is human volition and there are physiological reactive responses. The former must always encompass the Austrian idea of rationality; the latter is not part of a human science (Mises, 1963, pp. 20-21).

To alleviate uneasiness, persons seek ends (either intermediate or ultimate). To achieve ends, means are utilized. The social world is given meaning by the actions of persons; or, in shaping their worlds, individuals transform things into means. This understanding of action is much more than the common economic notion of allocation of resources, as Kirzner recognizes:

....But a really unique criterion for the definition of economics is not to be found in the idea of allocating scarce resources, nor can this concept serve as an adequate foundation on which that science can be constructed. The key point is not that acting man ponders the comparative efficacy in different uses of certain given 'means,' but that he behaves under the constraint that he himself has imposed, i.e., the necessity of acting in order to achieve what he wants to achieve, so that his behavior tends to conform to the pattern implied by his scale of ends. 'Means' exist as such for acting man only *after* he has turned them to his purpose;

acting is not apportioning, but *doing* --doing what seems likely to further one's purposes (Kirzner, 1976a, p. 162).

The means-ends framework, as Mises argues, is therefore "not about things...it is about men, their meanings and actions" (Mises, 1963, p. 92).

To act implies a teleological, means to ends, framework. Means must always be scarce; otherwise, no uneasiness would be felt. Moreover, action implies the perceived ability to discover causal relationships. Without this category of causality, persons would not aim to act, since all things would be purely random. So, to intervene with the world requires at least the perception of some degree of regularity and the ability to manipulate causal relations.

To act within these constraints implies the notion of choice and preference-making. The reality of scarcity requires that choices must be made, which implies valuation. Value equates to the importance an actor attaches to an end as demonstrated by actual conduct. Means are valued according to the perception/expectation one has in their ability to attain such ends. Value, therefore, is not intrinsic in the thing valued, but is subject to the reactions each human has toward it, within their own "world" (Mises, 1963, p. 96). For example, to define a nation or individuals as "wealthy" because they possess large quantities of oil would be inappropriate from an Austrian perspective--for the same reasons tallying all the country's rocks or mud would be unfruitful. There are no ways to impose "value" on these things outside the subjective valuation of individuals and the specific time of the valuation. The focus of economic science, then, is not the measurement and/or the efficient allocation of predetermined "means", but the process of actors in an

economy conceiving of and implementing plans to define or convert things into means to respond to changing realities.

Mises calls this process of reconstituting one's state of affairs exchange. The abandoned state is called costs; profit is the difference between the two states. These generally viewed economic terms are thus much more expansive. Value is a "psychic" phenomenon, purely determined within each acting subject and intersubjectively unmeasurable.

The notion of a change to alleviate existing uneasiness in states of affairs also implies a temporal sequence. Action occurs through time and is always aimed at the future. It becomes evident to the actor through his efforts at change. The concepts of time and change clarify Austrian notions of rationality. One can speak only of demonstrated preference. In combination, Austrian temporality and rationality require:

If $A > B$, and $B > C$, at $T:1$, then $A > C$, at $T:1$

However, at $T:2$, one faces a new set of constraints. The acts at $T:1$ cannot serve as a universal guide. If, for instance, $C > A$ at $T:2$, praxeological axioms remain as true as before. Concretely, an observer simply knows for whatever reasons preferences have changed. Rational action is, in other words, always consistent but not always constant.

Finally, the notion of action implies uncertainty. Mises, in fact, considers them "two different modes of establishing one thing" (Mises, 1963, p. 105). The volatility that results from acting in an uncertain social world serves as the foundation for the Austrian criticism of probability studies and, more generally, quantitative methodology in the social sciences. Since no constant relations of any kind exist across time, any effort to track

quantitative relationships must continually be reevaluated. Prediction for obvious reasons is, accordingly, severely downplayed. Perhaps certain qualitative "mental experiments" might be useful. But these exercises, by necessarily holding numerous "variables" constant, are extremely limited because of the indeterminate and complex nature of reality. Or, no variables in the real world ever stay constant!

Because of these problems, Austrians focus on process rather than social statics. In a world that gives the notion of time real meaning, the value of mathematics becomes exceedingly limited, for there is no thing resembling what one might call the "frozen present." In explaining human action in a complex and uncertain model, the English language is much richer than a mathematical or symbolic one. Creative and unpredictable actors require a constant recapitulation of any empiricist model. As Duncan Reekie points out, quantification is an unfruitful exercise.

More important...is the Austrian emphasis on the study of the competitive process *through time*. The nature of changes in time, their degree and intensity, and even their direction cannot be deduced from initial axioms. If they could then mathematical economics would be of value as a concise reasoning tool. But human action is not 'preprogrammed.' Learning occurs, tastes and technologies change, exogenous variables are continuously imparting new shocks to the system. Only if these variables could be perfectly foreseen would mathematics be of value for conciseness. Since they are not, even if they are tractable by mathematics, the symbols and their relationships would have to be continually respecified....It is the presence of time and uncertainty that makes mathematics of little value to Austrians rather than its inability to handle their economic data. And

time and uncertainty, learning and expectation revisions are elements which are inherent in human action but which cannot be treated by abstract mathematical symbolism before, and during the ever changing events (Reekie, 1984, p. 33)

More fundamentally, while drawing quantifiable correlations may mysteriously link sets of variables, the explanatory concern--the nature of the linkage--is left unknown. Austrians, by focusing on a verbal method, are able to transcend the limitations of static studies, i.e., equilibrium models. Such models are restricted in usefulness by the social world's overwhelming complexity, the lack of anything remotely resembling pure "laboratories," the indeterminate nature of subjective volition, and the subsequent lack of human constancy. Rather than assuming these pitfalls away, Austrians focus upon these "variables." However, it is more than merely a debate over focus; by viewing human action as an ongoing process of human discovery, error, or creativity and not as series of static end-states, Austrianism redirects the nature of human sciences.⁷

This notion of (radical) uncertainty reveals a potentially serious problem in the Austrian program, however. In a certain sense, its divergence from neo-classical economics, for example, rests upon the question of how much uncertainty actually exists in the social realm. Kirzner, in fact, argues there are two distinctive strands that define Austrianism. First, human action is purposeful, a notion derived introspectively. The second strand concludes there is an unpredictability inherent in human choices and expectations

7. For a strong defense of the usage of words rather than symbols, see Egger (1978, pp. 27-31).

(Kirzner, 1976c, p. 42). The degree that the second tenet is true is a narrowly empirical question, however. While praxeological deduction may imply some level of uncertainty, it cannot imply how much.

This issue creates a particularly important dilemma for economics. In the balance hangs the nature of order in a complex market arena. Following Hayek's concerns, Kirzner asserts:

...[W]hen postulating a tendency toward equilibrium, we do have to resort to a particular empirical proposition. Moreover, the empirical proposition in question would seem to contradict the other idea that there are an inherent unpredictability and an indeterminacy about human preferences and human knowledge. If we are to be able to say anything about the process of equilibration, especially if we are to say something about the course by which human decisions lead to unintended consequences, we shall have to rely upon the particular empirical proposition that men learn from market experience in a systematic manner. This is inconsistent with the second tenet underlying Austrian economics that there is an inherent indeterminacy in the way by which human knowledge changes (Kirzner, 1976c, pp. 48-49).

Accepting a broad and inherent notion of uncertainty means that the nature of a market order and any systematic understanding of unintended consequences becomes problematic. If the world is inherently unpredictable, science seems left with nothing but the implications of individual purposeful action. Yet, would even these implications remain? A notion of purposefulness would seem to require some level of predictability. In other words, to act at all would require actors to be correct at least part of the time. On the other hand, if the world is truly unpredictable, can science even

postulate universal truth-claims? This dilemma, as will be evidenced in the next section, threatens to generate a deep divergency in the Austrian School.

Modern Debates in Austrianism: Growing Emphasis on Inherent Unpredictability?

An increasing amount of Austrian research in recent years has focused on these themes of uncertainty. In fact, the entire idea of value-free science has been subject to internal criticism, a challenge that may ultimately reform the traditional understanding of praxeology as being universally true.

The tensions of a scientific methodology founded heavily on radical subjectivism has produced an epistemological dichotomy in the recent Austrian revival. Misesian-Rothbardian praxeology, which may be defined as a formal and universally true logic of choice, has found opposition from a growing number of younger Austrians. Perhaps the two most outspoken critics of "classical formalism" are Don Lavoie (1985a; 1986, pp. 192-210) and Richard Eberling (1985; 1986, pp. 39-55), who argue for a "hermeneutical" study of human action. By briefly examining these ideas we can ascertain a more clear understanding of Rothbard's own perspective.

These hermeneutical Austrians rely heavily on the "growth of knowledge" literature to repudiate modern positivism for failing to include the "subjectivist" (Eberling) or the "interpretative" (Lavoie) elements of knowledge. Lavoie defines this element as the "historical (both history proper and history of ideas), linguistic, narrative, dialogical, perspectivistic, tacit, and sociological aspects of economic explanation" (Lavoie, 1985a, p. 3). He

contends that through a bias toward the predictive and quantitative aspects of science over the interpretive and qualitative ones, economics, rather than immunizing itself, opens the discipline to the criticisms of the "anti-microeconomic hoards" (Marxists, Supply-Siders, Institutionalists, etc.).⁸

Building on the arguments of Richard Bernstein (1983), Lavoie interprets the growth of knowledge not as a skeptical weakening of science but as a "liberation" from both objectivism (positivism) and relativism. The idea of truth is broadened, found not in "explicit rules known by any single mind, but in the partly tacit judgments of, and the processes of interaction among, the members of the scientific community" (Lavoie, 1985a, p. 14).

This epistemological perspective has a definitive common thread with the Austrian program. Science is seen as a competitive discovery process akin to a market, from which a complex order emerges. Acceptance of one "theory" over another is never discernible in advance but emerges or is unmasked by the continual rivalry and interaction of scientists trained in a specific discipline. Thus, science is less rationalistic rule-following and more tacit judgment, intuitive sense, and personal choices by persons trained within the dialogue of a particular context. Or, science is not the "efficient allocation" of pre-determined contexts and criteria, but the process of discovering these factors.

8. See particularly Lakatos and Musgrave (1970); Lakatos (1978); Kuhn (1970); Feyerabend (1975); and, for an excellent summary of the growth of knowledge literature, Caldwell (1982).

For an intriguing application of Lakatosian science to Austrian methodology, investigate Rizzo (1982, pp. 53-74).

Yet, Lavoie argues, rejecting objectivism does not necessarily create a relativistic abyss.

But to say the scientist's trained intuition is what ultimately guides his or her search for truth, is not to say 'Anything Goes.' Rejecting objectivism does not entail embracing relativism. While alternative paradigms cannot be objectivistically translated into a neutral language and measured against a common set of standards, this does not mean that rivals should give up their vain search for one truth and all go their own relativistic ways. On the contrary our only path to truth is in their engaging in the process of contention. It is out of the confrontation between two incommensurable theories, their mutual attempts to re-interpret and criticize one another, that we hope to construct effective comparisons between them. Where we cannot disprove our opponent's theory by finding clearcut cases of falsification of its predictions, we can still try to persuade him that our interpretation is more compelling than his (Lavoie, 1985a, p. 15).

The criteria for choosing one theory over another becomes the plausibility of the specific interpretive framework. Scientific explanation rests on two dimensions: a predictive dimension that is falsifiable but as of yet unfalsified by "facts," and an interpretive dimension. But all facts are necessarily theory-laden, as all interpretive undertakings by an observer begin in a hermeneutic "circle." In other words, there is no external source outside the subjective interpretation of the person doing the observing that could arbitrate in a detached manner. Always, some prior perspective must "make sense" of facts, for the circle is closed, i.e., one is a part of the observation being made (Eberling, 1985, pp. 6-8). Hence, the criterion for what is scientifically valuable

is whatever interpretations scientists find convincing in this open-ended and ideally free-spirited "conversation."

Therefore, the context for evaluation is not "a theory vs. the facts, but two (or more) theories explaining the selected-as-relevant 'facts'" (Eberling, 1985, p. 12). Facts represent "disguised theories," so that any notion of "evidence" is problematic; to ask for facts presupposes a framework that defines which stuff is and is not relevant.

And so fails objectivism and its acceptance of "foundationalism," the view that one must ground all knowledge in a specific philosophical route which makes it immune from criticism. In economics, Lavoie notes, one finds this viewpoint as either Euclideanism (as rigorously deductive models) or as Falsificationism (as rigorously inductive frameworks). Either one of these perspectives, alone, leaves out too much of reality and thus evades the problem of theory choice by simplistically ignoring circumstances where alternative interpretive frameworks exist. By being overly narrow in focus, these techniques beg the issue.

Starting with the subjectivist notion of introspection, Lavoie and Eberling turn to hermeneutics and reject both Kantian and Aristotelian metaphysics, replacing them with a thoroughly subjectivist epistemology. Still, knowledge is not exclusively private; these introspective propositions refer to, as Alfred Schutz explains, the "one and unitary life-world common to us all" (In Lavoie, 1985a, pp. 28-29). And this knowledge produces a richer science, an "unarticulated" sociological process by which scientists and their interpretations interact. The interpretive act requires the scientist to explore the "other," but not as a detached observer but as one who is mutually

connected to the observation and dependent on other scientists in this never-ending dialogue.

Yet, if detachment is unachievable, one might argue that hermeneutical science cannot be subjected to any means of criticism or "testing." Lavoie responds:

What we find ourselves doing in the social sciences is not so much the testing of ex ante predictions but is more of the nature of an ex post explanation of principles. The only 'test' any theory can receive is in the form of a qualitative judgment of the plausibility of the sequence of the events that have been strung together by narrative. Theoretical sciences like economics can supply the principles of explanation but only the historical narrative can put these principle to work and establish their applicability and significance in some specific circumstances under investigation. But elevating the role of history and tradition in science does not imply a denigration of reason. On the contrary, these writers charge their critics with having caused an impoverishment (sic) of reason by divorcing it from practical reasoning and equating it instead with a 'strictly formal scientific methodology'....[I]f we seek to trace the sources of our prejudices, both those that distort our vision of reality and those that enable it, 'then we must turn to the past, to tradition, and to the proper authority (based on knowledge) which 'implants' these prejudices (Lavoie, 1985a, p. 38).

The source of knowledge is thus shared understanding, or the domain of intersubjective agreement resting upon, in Eberling's words, "explanatory plausibility" of historical circumstances (Eberling, 1985, p. 12). Based on traditional interpretations of praxeology, these critics have redirected the debate over Austrian epistemological foundations. Science becomes "more

dialogical than logical, more a matter of a back and forth interplay of partly implicit perspectives than a linear accumulation of explicit facts, more a dynamic process among scientists in which meaning unfolds spontaneously than a static body of data deliberately acquired" (Lavoie, 1985a, p. 41).

However, Lavoie further argues that this perspective does not represent a radical departure from the Misesian tradition, contending there has always been a strong hermeneutical component in Austrianism. Hayek's work, for example, may be rather easily fit into the growth of knowledge and hermeneutical literatures. His emphasis on subjects transforming inarticulate and tacit bits of information unintentionally into the unambiguous price structure of a complex market order seems quite similar to the more fundamental epistemological subjectivism of Lavoie and Eberling.

Moreover, Hayek drifted away from the strict Misesian praxeology after coming under the influence of Karl Popper's falsificationism. His mentor Mises, though, has generally always been interpreted as an "extreme apriorist", fully cloaked in an "apodictically certain" foundationalism. Construed in this manner, praxeology is not open-ended; it is universally true. To subject these propositions to any manner of skepticism would be ridiculous. Yet, the insights of the growth of knowledge literature require open-endedness and a rivalry of competing research programs. Dogmatism would apparently have no place in such a scientific order.

Lavoie, however, reinterprets Mises' writings by replacing the apodictic notion of universally true theory with a view that sees theory as a "scheme of interpretation" that both illuminates and is shaped by historical factors (Lavoie, 1985a, p. 45). Eberling calls the thereoms "transparent overlays" to be

"lowered on to the historical terrain," allowing understanding (Eberling, 1985, p. 40). In an important sense, this interpretation still strongly resembles traditional praxeology: It is knowledge that is "within" humans--an argument Mises made using a great deal of Kantian language.

However--and this interpretation is crucial to the new critique--Mises, according to Lavoie, never meant apriorism to be metaphysical but merely methodological. In other words, the "apriori" is a pragmatic kind, tantamount to the intersubjective life-world one takes for granted. Through theory, one captures this sameness; praxeology provides the schemes that give human action meaning.

The practical ramifications of Misesian praxeology are retained while the commonly construed (dogmatic) foundations are dismissed. The "apriori" is not a "list of explicit, self-evident intrasubjective axioms" from which we deduce true science, but a "level of pregiven intersubjectivity, of common understanding which precedes and sustains science." (Lavoie, 1986, p. 204). And, so, praxeology becomes open to dialogue and challenge.

Likewise, the common notion of Mises' separation of theory and history requires reinterpretation. Lavoie contends that Mises viewed the two realms as only different and not disconnected--merely "two complimentary aspects of cognition" (Lavoie, 1986, p. 53). That history is dependent on presuppositions that base historical "facts" seems uncontroversial in the Misesian program. That theory is somehow dependent on history is a quite bit more debatable proposition from a reading of Mises. It is apparent that the development of a specific theory is likely reliant upon the problems posed by an a priori understanding of history. But Lavoie also argues that the

acceptance of a specific theory depends on its usefulness in interpreting history.

On the second point Mises is less clear, but he can be read as endorsing the position that the reason that we accept an interpretive framework is that we believe we 'see' history better through it than through alternative frameworks. Mises held the whole purpose of theory is to 'render useful services for the comprehension of reality'....For Mises then, the value of theory is a derived demand. What a theory is worth depends on how well it 'works,' that is, how good a grasp on the events of reality it enables its user to attain. In the weighing of the usefulness of a theory for interpreting history that theory is 'tested' in the only way a theory ever is (Lavoie, 1986, p. 55).⁹

And, apparently, the justification must be a pragmatic one. Thus, it appears that Hayek's prediction about the (Austrian's) twentieth century advance toward subjectivism includes even the realm of epistemology. Science itself becomes ultimately subjectively intrinsic (although somehow defined in epistemologically collectivist terminology). There is, as Eberling concludes, "no textbook of rules to tell us whether [an interpretation] really is the correct or best one" (Eberling, 1985, p. 41). Yet, the link to the Misesian tradition remains arguably intact; Mises' contentions are similar to those of hermeneutics: "[T]hat all social theorists in practice and each of us in our everyday lives view social phenomena as already interpreted, or from within" (Lavoie, 1985a, p. 56).

9. Eberling is even more clear on this relationship, stating that history provides the selection among and modification of specific theoretical constructs. See Eberling (1985, p. 40).

Setting aside what Mises really meant (which is, in many ways, a moot point), this new epistemological approach is more consistent with the Austrian research program in certain ways. Eberling, for example, explicitly notes the similarity of traditional Austrian economics and hermeneutical science, comparing the "entrepreneurial interpretations" of the businessman and the scholar, who are both in an open-ended process of discovery, speculation of meaning, and interpretation (Eberling, 1985, pp. 28-29).

Despite these similarities, a number of Austrians remain quite unconvinced. Rothbard is a particularly harsh critic of hermeneutics, branding it a "fuzzy-minded Continental horror," "a fetid bog, a miasma of jargon-ridden incoherence," and an "incomprehensible thicket" (Rothbard, 1986, p. 12). Namecalling aside, there are concerns among a number of Austrians over the apparent "slippery slope" to historicism faced by hermeneuticians (Gordon, 1986). Rothbard also argues that the removal of universal truth-claims in economics and ethics leaves one devoid of any ammunition against statism--or, for that matter, any position--a consequence which he clearly will not accept. It may be more than coincidence, for instance, that most hermeneuticians are political collectivists as well as epistemological ones. It is unclear how or if this perspective somehow threatens individualism within the Austrian framework. Furthermore, to borrow an example from economic theory: Would individuals act to achieve ends if there were no predictability, i.e., stable conditions? If science in a similar regard is no more than open dialogue without "stable" foundations, what incentive is there for the scientist to act, i.e., to research and participate in the community's conversation. Rothbard is concerned with the dangers of

endless dialogue, or perhaps no dialogue, since truth-claims appear to originate purely subjectively.

Yet, the traditionalist arguments leave one with a sort of uncomfortable "dualism"--an "objective" science of subjectivism. While there is nothing necessarily inconsistent in such a perspective, it is very easy to see the logic of the direction hermeneutics seeks to move the Austrian program. Moreover, the debate ultimately boils down to whether scientific claims are eternally true or rather only fundamentally stable. The hermeneutical position places a great deal of responsibility and faith in the scientist who acts outside the assurances that absolute truth may be forthcoming, perhaps ironically in a manner quite similar to the faith Austrians in general have in entrepreneurs in generating an efficient market order through the discovery and exploitation of profit possibilities.

Conclusion

Where the hermeneutical-traditionalist debate will lead is highly unclear at present. In responding to neo-classical economics, many younger Austrians are apparently focusing on the features that most separate them from mainstream economics, namely, the consequences of uncertainty in the social world and the nature of a thoroughly applied subjectivism. It is quite possible that the attraction to hermeneutics is at least in part due to the dogmatic nature of modern positivism, i.e., its dogmatism toward Austrian dogmatism! As a result, certain Austrians have intuitively moved towards epistemologies and methodologies which focus upon openness and dialogue,

weary of merely "talking to themselves." Adopting the growth of knowledge literature's notion of theory choosing may then be viewed as much a practical response as a philosophical one.

Because of this pragmatism, it is unlikely one will witness a drastic overhaul of the Austrian program, despite the traditionalist cries of relativism. The epistemological debate will surely continue between the more and less relativistic camps--drawing attention away from more substantive concerns. And, ironically, these debates may themselves fuel the flames of hermeneutical sentiments. In at least one regard, this "attitude" for open dialogue is a blessing. Setting aside the question of whether praxeology represents universal truth-claims or merely schemes of interpretation, the way in which science is carried out is a critical issue. In other words, that a scientist believes certain positions are universally true does not enjoin him to retain a dogmatic approach to the art of scientific dialogue. (Although it does, of course, make dialogue either more difficult or more foundational, i.e., to debate, one is forced back to original principles.) While such a perspective may not be "pure," it may be the only avenue to providing a fuller idea of science in the social theory. Only by moving towards a methodologically pluralistic position--by Austrians and positivists alike--and breaking from the notion of "one true method" will fruitful conversation and subsequently scientific advancement occur. How much that requires Austrians to slip down the "slippery slope" remains uncertain. If praxeological propositions are, however, self-evident and eternally true, they would seem to be able to pass any plausibility test. Accepting this point, the entire debate loses some of its controversy.

But the purpose of this chapter is not to delve deeply and critically into the finer points of epistemology but only to provide an understanding of Rothbard's methodological foundations and furnish a means to comprehending his substantive social theory. Apriorism is the base for both Rothbard's economics and ethics. But debate over methodology is a very small portion of either Austrianism or Rothbard's own program; moreover, these differences are generally minute in comparison to other systems (Caldwell, 1982, p. 133). Within these confines, Rothbard is clearly a leading proponent of traditional interpretations of Misesian praxeology, maintaining a thorough notion of subjectivism that is, nevertheless, within the parameters of a universally true deductive science of purposeful human action. With this discussion of foundations completed, we may move to the more substantive issues of Rothbard's economic and political writings. Chapter III examines the first of these two areas.

CHAPTER III

ROTHBARD AND THE AUSTRIAN SCHOOL OF ECONOMICS: THEORY AND POLICY

Introduction

Austrian application of the praxeological method has been aimed overwhelmingly at the science of economics. Moreover, the largest portion of Rothbard's own writings are in this field. However, the majority of these writings are firmly built on the works of the earlier Austrians. To attempt to examine these contributions thoroughly would require a treatise itself. Therefore, in Chapter III, we explore this part of Rothbard's work by dividing our discussion into two parts: 1.) the general themes of the Austrian School, and 2.) Rothbard's unique contributions to the tradition. We conclude our discussion by examining Rothbard's rather original application of praxeological reasoning to the area of non-voluntary exchange which, in his view, is predominately the policy of government involvement in the economy.

Austrian Themes in the Study of Economic Phenomena

Duncan Reekie argues that one may divide modern Austrianism into three distinctive historical collections of theorists (Reekie, 1984, pp. 1-5). The first set includes the founder of the Austrian School Menger and his

followers Bohm-Bawerk and Wieser. The second set were students of the first, and included namely Mises and later Hayek.

Unfortunately, the school fell into almost complete anonymity following the Great Depression. First, Hayek's scholarly interests shifted elsewhere. Second, and more importantly, the advent of the depression along with the publication of J.M. Keynes' The General Theory and the subsequent "Keynesian" emphasis on macro-economics with its study and application of aggregates in the economy redirected the focus of modern economics (Reekie, 1984, p. 4). Thus, from the depression until the 1970's there was little work in the Austrian tradition, with the only substantial exceptions being the writings of Israel Kirzner and Rothbard.

However, the awarding of the Nobel Prize to Hayek in 1974 coupled with the serious practical and theoretical problems in the Keynesian mainstream has spurred a revival of interest in the Austrian School and, hence, a third collection of economists. From mainly the writings of Rothbard, Kirzner, and Ludwig Lachmann the Austrian School has expanded greatly in the contemporary setting, assisted now by a number of graduate programs with special emphases in Austrian economics.¹

A substantial portion of what makes Austrianism distinctive is, as noted in Chapter II, methodologically derived. A central tenet of the Austrian program is its thoroughly consistent application of a subjective theory of value (Taylor, 1983, pp. 32-40). In fact, White argues that subjectivism is the

1. For a partial and somewhat dated list of contemporary Austrian economists, see White (1984, p. 31). For a useful bibliography of Austrian writings (although also dated) see Eberling (1979, pp. 227-230).

"distinctive method of the Austrian School" (White, 1984, p. 4). One of the crucial components of the marginalist revolution concerned the view that value is a relationship of the evaluator and the thing evaluated rather than something which is inherent in the evaluated item. This realization solved the dilemmas that haunted the different cost of production and objective value theories of the classical economists. This orientation, for a number of reasons, leads Austrians to be highly critical of the entire "welfare economics" tradition. First, statements of social welfare may have meaning only if they can "be unambiguously translated into statements concerning the individuals in society." Secondly, Austrians will not accept statements which "measure" social welfare in terms that are not related to the actions and perceptions of particular individuals. Thirdly, any evaluation of welfare must include not only levels of economic well-being but also an evaluation of the economic institutions in the market process which provides for its continual success (Kirzner, 1988, p. 78).

In very important ways, only the Austrians have carried through the ramifications of subjectivism--exemplified by these criticisms of welfare economics. Through these applications, the Austrian School has taken a path especially divergent from the neoclassical model. In fact, Hayek goes so far as to argue that every important advancement in economics in the past century has been no more than an additional application of thorough-going subjectivism (Hayek, 1979, pp. 41-60). According to Littlechild, subjectivism for the Austrian means "the idea that actions depend upon perceptions and also the idea that different people will generally have different perceptions" (Littlechild, 1978, p. 81). Humans, then, create their economic worlds through

their perceptions, expectations, and valuations. Moreover, both their costs and their benefits are subjective. They cannot be transferred to others nor measured by others, as they exist only in the mind of the evaluator. These subjective factors are always forward-looking and anticipatory (Littlechild, 1978, pp. 82-83). The only means by which costs and benefits may be demonstrated is through the actions of the individuals and only in a limited and ordinal fashion (and, then, only if the decision is voluntary, i.e., on a free market).² The entire idea that social costs, e.g., public goods, can be ascertained rests upon an implicit objective value theory which requires at least the intersubjective measurement of individual utility (Rothbard, 1956, pp. 224-262). Welfare economics never explains how the inherent conflicts among persons' plans, expectations, preferences, etc. may be aggregated to form anything resembling a valid social welfare function (Littlechild, 1979a, p. 14).

A second important difference in Austrian economics which arises from its methodology relates to the role of mathematics in economics.³ The distrust of the tools arises not from any technical reason but from the Austrians' distinctive understanding of the nature of economics. Rather than focus upon the formal and static dictates of the equilibrium mentality, Austrians see the economy as a process. In other words, whereas often

2. The grounding of all social science in the actions of individuals is very evident in Rothbard's economic treatise (1962c), in which he begins with "Robinson Crusoe" alone in nature and proceeds to introduce, first, direct one-on-one exchange and, finally, indirect exchanges in a market economy.

3. In fact, Littlechild (1982, pp. 85-102) argues that a number of Austrian insights are being recognized by proponents of mathematical models.

equilibrium models assume perfect knowledge, for instance, the Austrian views the discovery of information as the central issue in the study of economics. For the Austrian the market is, as Lachmann says, a "continuous process without beginning or end, and should be studied as such," rather than a set of beginnings and endings of market activity, such as is representative of a Walrasian "auctioneer" (Lachmann, 1977a, p. 39). As Kirzner points out, by ignoring the fact that all activity in the economy occurs in disequilibrium--where participants do not have information concerning what the market-clearing price is--equilibrium theory "takes too much for granted" (Kirzner, 1976b, p. 117).

And this distinction is quite fundamental. Equilibrium theory cannot relieve these differences by merely adding a stunted notion of time devoid of the uncertainty of the Austrian model (O'Driscoll and Rizzo, 1985). As Lachmann argues, "macroequilibrium in motion" cannot replace the insights of the market process approach (Lachmann, 1976c, p. 156).⁴ The former still fails to grasp the existence of the inevitable divergence in the plans and expectations of persons which will always leave the economy outside equilibrium. One might conclude that whereas neoclassical economics imposes a reality on economic activity (and one that is usually highly

4. This concern has led some Austrians to question all forms of equilibrium models--even its use as a mental tool. At a point, consistently applied subjectivism approaches nihilism--a criticism often leveled in regard to Lachmann's writings, which is even more applicable to G.L. S. Shackle (who shares a number of Austrian traits). For this debate see Littlechild (1986, pp. 1-15) and Shackle (1986, pp. 19-31).

unrealistic) the Austrian School seeks to understand the process of reality-being-generated and to explain the order that subsequently arises.

This focus on coordination through time emerges in part because of a less constrained notion of economic man. The ability to predict individual action is severely limited. And, accordingly, the order that permeates the neo-classical model is replaced by inherent uncertainty and its consequences (ignorance and error, for instance) in the Austrian process. The problem of economics is not, then, to borrow Lord Robbins' famous definition, how to technically guarantee the most efficient application of given means to ends in a society. This notion treats resources as known, to merely be plugged into a given hierarchy of ends. As such, it ignores that many, even most, decisions are unattainable on the market, due to the inherent divergence of plans and actions which flows through the distinctive and separated minds of the different actors. Expectations are going to be incorrect, and new expectations and plans must be formulated continually (Lachmann, 1977e, pp. 65-80). Each set of changed plans reconstitutes the "given" resources and the demands for those goods. Instead of the formal Robbinsean calculus, then, it is the continual efficient application of resources where ends and means are only known by the distinctive individuals and where these items are in continual reformulation because they do not match with those of other market participants (Reekie, 1984, p. 34; Kirzner, 1976b, pp. 118-119; Hayek, 1948a, pp. 181-208).

The process of social coordination for the Austrian neither equates to the equilibrium model nor to pure chaos. While the equilibrium model is not useful at the macro-economic level, Lachmann argues, there is a

remaining form of equilibrium in Austrianism, understood through the rational action of individuals (Lachmann, 1976b, p. 131). Through market processes, signals are sent via the instrument of prices to direct the actions of the particular persons involved. Through the incentive of rewards and the disincentives of losses, the actor is driven to correct errors in the use or the misallocation of resources. Obviously, this coordination is an ongoing process, what Mises calls "equilibration," and is never actually achieved in the form presented in the actual equilibrium model. Competition, one might say, is for the Austrian a verb, a process of trial and error in an everchanging economy. As Lachmann notes, differences in expectations entail plans for the future that are "incoherent" (Lachmann, 1976b, p. 128). Any other notion of this process demands exceedingly ridiculous assumptions in which no conflicting notions of the future exist and all plans are compatible between individuals (Hayek, 1948a, pp. 77-91; 1948b). In reality, plans are never completely compatible, and each new moment brings forth a new set of facts.

However, there is still in the Austrian program a strong coordinating component, or what Hayek calls the spontaneous order. O'Driscoll considers this process to be the "first principle of economics" (O'Driscoll, 1978, p. 116). Nevertheless, as he points out, a substantial portion of this century's economic theory has been a reaction against the notion that an order may evolve without centrally planned direction. Austrians, on the other hand, represent the "inheritors of the Smithian system" (O'Driscoll, 1978, p. 118). Their central focus is the understanding of the institutional arrangements, such as the price system, which arise to provide an economic order of individuals based on separate human actions but devoid of central human

plan or design. Hayek goes so far as to argue that the study of unintended consequences is the most important task in economic theory (Littlechild, 1979a, p. 15). Therefore, Austrianism is essentially a view which finds a middle ground between the idea that the market represents an "anarchy of production" and thus requires some form of central planning, and the equally non-empirical notions of equilibrium theory in which the notions of error and uncertainty are washed away under the assumptions of perfect competition.

It is through voluntary exchange that this "discovery process" both satisfies individual demands at increasingly more effective means and coordinates the overall activity of the market. The critical component in both these actions is the entrepreneur, as actor. Profit and loss are both the instruments and the guideposts of action (Kirzner, 1976b, pp. 120-124; Rothbard, 1962c, pp. 463-501). This is not the common definition of an entrepreneur, who is often associated with the business owner or the capitalist in general. In Austrian theory, it is functional rather than specific to person (Reekie, 1984, p. 48). Its benefit arises, according to Kirzner, from a "rarefied, abstract type of knowledge--the knowledge of where to obtain information (or other resources) and how to deploy it" (Kirzner, 1976b, p. 120). Its function arises due to the uncertainty of the future, as persons plan to encounter what they expect to be the most likely set of events. In an actual equilibrium, there would be no role for this entrepreneurial activity (Rothbard, 1962c, p. 297). Spotting opportunities to gain through exchange is, then, the definition of this activity. It is a result of alertness that serves a valuable function in the satisfaction of individual utility through the

generation of profits--a consequence of meeting previously unsatisfied demand. But the action also facilitates the coordination of the economy by removing "ignorance" and relocating resources in more demanded and/or more efficient areas. Yet, entrepreneurs exist in the same uncertain world as all other actors; their skill is a form of speculation and their reward comes from being correct. Through the signals of profit and loss, the success or failure of the action by the individual is rewarded or punished, while simultaneously successful actions are diminishing the disorder of an uncertain future.

These insights on the coordinating roles of a market permeate the Austrian criticism of central planning, which are once again finding intellectual favor in light of the crumbling of the socialist economies of the world (Mises, 1981; Hayek, 1935; Lavoie, 1985b). The economic problem is not how to most efficiently allocate resources, as the early economic socialists presumed, but instead how to continually collect this information, both in regard to consumer demand (if individual freedom is on that particular socialist agenda) and how to ably chose between resources to best provide these final goods, over time. Yet, since the appropriate information rests with the smallest component, the individual--in fact, in some cases only the individual may have this knowledge--the more decentralized the planning process, the more adaptive and, therefore, more efficient it will be. Hence, central planning fails for at least two reasons: First, technologically, it cannot collect all the information at any given moment necessary to make efficient decisions; and secondly, (and far more importantly) this information does not exist until persons "create" it by their actions. The market is the means by

which this information arises; the chore is not so simple as to merely apply available resources to the current needs. This information is dispersed and continually being newly created. Action, in other words, is originaive and based upon the actors' expectations and own imaginations (Loasby, 1982, p. 128). Ignorance is inherent in the system whether the economy is centrally planned or market based. However, when the decisions and resources are left at the most localized levels, the flexibility and corrective processes may be carried through more efficiently. The economic world is a process and each new moment brings changes from the moment preceding it. The knowledge only makes itself known in the action which occurs in the particular time and place. And through the price system, this information can be efficiently transmitted to the entire economy--without particular individuals having to collect all the relevant data.

The Austrian focus on individual action and economic process also provides for a clear dichotomy between it and what generally is the focus of modern "macro" economics (Lachmann, 1976c, pp. 152-159). On one level, the Austrian program has no place for macro analysis: All action originates from purposive actions of individuals and is (in this terminology) "micro" in origin. However, this focus upon individualism does not mean that the Austrians do not investigate the broader concerns of indirect exchange, but only that it is studied "from the ground up" (Reekie, 1984, p. 56).

An example of this difference in approach concerns the use of aggregates in economic analysis. In this process of aggregation, all too often the crucial component of the discovery process for the Austrians, particular information, is diminished or even effectively washed away. In other words,

the economics of a specific time and place is lost and the point where coordination is actually implemented is replaced by a vague and often misleading set of aggregate figures that purports to "measure" items. But taken from their "local" context, the items are unmeasurable since they represent heterogeneous and subjectively derived stocks of goods.

An example of how Austrian "macro" notions emerge from micro foundations relates to their perspectives on interest and, subsequently, capital. For the Austrian, interest rates are directly a consequence of the micro phenomenon of individual time preferences: Persons value items more today than they will in the future. The degree of relativity between the two time periods for any person represents his own individual interest rate level. The same coordination process applicable for other goods applies in this case also; time's "price" is demonstrated by the economy's interest rate.

Similarly, capital only has meaning/valuation at the individual level. Physical heterogeneity denies one the ability to add up a "stock" of capital. Lachmann argues, for instance, that "it is useless to treat capital change as quantitative change in one factor under ceteris paribus conditions, when it is plain that at least some cetera will not remain paria" (Lachmann, 1977b, p. 210). If the quantity of the stock is based on past sacrifice, one still begs the question: Historical sacrifices are equally unmeasurable (Kirzner, 1976d, p. 139). Instead, persons apply their resources in ways they think will maximize future returns, using prices as imperfect guides. It is this perceived expected return that is important in defining capital: "[C]apital goods should be regarded as an accounting concept for forward looking decisions...at the micro, acting level, rather than a heterogeneous macro aggregation" (Reekie,

1984, p. 65). Individuals in the confines of a complex economy make use of their stocks in different ways--often mutually exclusive ways. Consequently, it is meaningless to add these stocks together in a quantified form (Kirzner, 1976d, p. 141). At best, one may understand capital structures through something akin to a "sequence analysis" which outlines the chain of changes that result from reforms in the market process (Lachmann, 1977b, p. 210). From this analysis, the economist may be able to get some idea of the kinds of expectations persons possess in regard to the future.

A focus on process also produces differing interpretations concerning the nature of the business cycle (Rothbard, 1962c, pp. 854-871; Lachmann, 1977d, pp. 276-282). According to the Austrians, these cycles are caused by an overwhelming misallocation of resources produced by the simultaneous cluster of economic errors which are the result of falsely sent information throughout the economy in the form of monetary upheavals. Particular individuals make errors all the time in the economy, and when these mistakes are made, certain persons suffer the consequences of providing products that cannot bear the costs of their production in the market. However, with the subtle inflation of the currency by a government, as through the manipulation of the credit markets, these mistakes are not recognized immediately. First, the real price lags behind the changes in apparent purchasing power due to the inflation. Second, the interest rate is affected by this additional influx of money. However, the critical point is that these influxes are misread: Entrepreneurs cannot distinguish these government induced money increases from real changes in the saving-consumption rates of the actors in the market (Taylor, 1980, p. 72). Ergo, what

appears to be a boom ensues. However, as the effects of inflation become apparent, truer signals emerge. Laborers, for example, are no longer willing to work at the previous wages. As the effects of the inflation begin to spread throughout the economy, the misallocations become evident, and the bust necessarily follows. Inflation creates a set of misleading and broadly inclusive signals that generates a general cyclical pattern, due to the cluster of errors caused by the redefinition of the the very important money supply.

As money increases, time preferences change and more resources are devoted to higher order processes of production, as interest rates fall and signal that these ventures appear to be potentially profitable. But these changes in the money supply do not affect the entire economy in similar fashion; they are not neutral (O'Driscoll and Shenoy, 1976, pp. 194-195). Money enters into an economy at a particular place, and it consequently spins out its effects from this point outward.

If the points of entrance are in the investment sectors (through the typical credit expansion), resource allocation shifts ever backward as demand for higher order products increases. Endeavors that use these resources are expanded or started on the indication that they now are profitable. But eventually the falseness of the shift emerges as finally consumers recognize the spurious nature of the boom. Hence, credit expansion suffers from the misinvested resources. The process reverses itself; prices rise in the later stages relative to the farther stages and resources begin to be drawn back into their "true" stages closer to ultimate consumption. The result is a readaptation to the pre-inflationary boost, with the losses and unemployment that follows from misapplication. The only "solution" that will prevent the

bust, and it obviously can be only temporary, is further dosages of inflation which will, in turn, produce further malinvestment and stricter medicine on "judgment" day. Unemployment and depression, especially in the higher order goods, are inevitable.

The Austrian theory also accounts for "stagflation", a problem that, for lack of theory, deeply injured the Keynesian policy paradigm in the 1970's (O'Driscoll and Shenoy, 1976, pp. 201-202 and 204-207). If government manipulation of the economy continues, actors eventually come to expect the inflationary pressure, but only after the initial damages are done. To continue to falsely create the idea that these firms are profitable, government must continue to raise the "ante" to fool the factors involved. Reflation, however, only produces further maladjustments and the recessionary pressures grow in force. To some degree, individual expectations eventually shift to partially take into account these government efforts to manipulate economic "variables". But at this point the consequence becomes both distortion (recession) and inflation. The limitations on this action, if the policy is allowed to continue, is ultimately the death of the money as the medium of exchange.

Probably the most important historical application of the Austrian business cycle theory is Rothbard's extensive examination of the Great Depression (Rothbard, 1963a). In a bit of revisionist history, he heaps substantial blame for the severity of the depression on the policies of Herbert Hoover, contrary to traditional interpretations of Hoover as one who championed laissez faire and stood idle as the depression struck. In Rothbard's view, Hoover took many of the exact wrong measures to lessen

the recessionist tensions. However, what are the correct measures? In solving this boom-bust dilemma, all Austrians proposals have at least one similarity: Remove the control governments have to freely manipulate the supply of money.⁵ Rothbard, for example, presents several things that should not be done: 1.) the prevention or delay of liquidation or the further use of inflationary tactics, since both only heighten malinvestments; 2.) the stimulation of consumption; 3.) the artificial propping up of wages at current rates, since in deflationary periods this creates a real wage increase and subsequent labor surpluses (unemployment); and 4.) the subsidization (compensation) of unemployment, since this policy postpones labor adjustments and further increases the distortion and subsequent costs of the adjustment period. As other Austrians, he concludes that the prevention of the cycles depends on the removal of manipulations in the monetary system (Rothbard, 1963a, pp. 26-33).

Austrians, then, differ substantially in their orientation to the study of economics when compared to other scientific approaches. Focused on a methodological individualism and a thorough subjective value theory which views economics as an active process full of uncertainty and its consequences, the Austrian program travels down avenues of economic theory that much of the discipline does not proceed. Grounded in the reality of individual actors in the actual market process, the Austrian School provides a much

5. Hayek (1984), for example, supports the denationalization of money, leaving the definition of what constitutes a currency to the dictates of the spontaneous order.

more useful orientation to human action than the formalism of the neoclassical schools or the aggregation of traditional macro economics.

Rothbard's Unique Contributions

Rothbard has made substantial contributions to Austrian economics. We focus upon three areas which stand out in particular: 1.) his additions to Austrian monetary theory, particularly in the area of institutional reform; 2.) his writings on monopoly theory; and 3.) his extensive and basically uncharted work on the praxeology of violent exchange. We examine the first two of these contributions in this section. The final area is discussed in the following section.

Rothbard's monetary theory follows closely the earlier Austrians, especially Mises (Mises, 1963, pp. 398-478; 1980 in general; Rothbard, 1962c, pp. 661-764; 1983b). Money has no unique meaning in the economy except that it serves as the common medium of exchange. In the free market it is a commodity, although one that is of "peculiar importance" due to its exchange purposes (Rothbard, 1962c, p. 662). Persons "buy" money by exchanging other goods and services on the market, in other words. Having once purchased money, they may then consume, invest, or hoard particular amounts of it. Changes in the relative value of it will lead to readjustments of these balances. Its purchasing power is, thus, determined by the total demand for money to hold and the total stock of money existing (Rothbard, 1962c, p. 667).

Rothbard argues that the utility of money depends, except in limited cases such as nonmonetary uses of metals, "solely on its prospective use as

the general medium of exchange" (Rothbard, 1962c, p. 669). The utility of money relies on the actual exchange value of it. What are the consequences of this point?

....For other goods, demand in the market is the means of routing commodities into the hands of their consumers. For money, on the other hand, the 'price' of money is precisely the variable on which the demand schedule depends and to which almost the whole of the demand for money is keyed. To put it in another way: without a price, or an objective exchange-value, any other good would be snapped up as a welcome free gift; but money, without a price, would not be used at all, since its entire use consists in its command of other goods on the market. The sole use of money is to be exchanged for goods, and if it had no price and therefore no exchange-value, it could not be exchanged and would no longer be used (Rothbard, 1962c, pp. 669-670).

Rothbard proceeds to distinguish money from other goods: The latter's increase always represents social benefits, whereas the former's increase is of no benefit, representing "dead stock" (Rothbard, 1962c, p. 670). In a free market, there is no "correct" stock of money, since whatever the stock, it will be used to maximize social benefit. This, however, does not mean that non-market changes in the supply of money will not potentially generate distortion, as with the activities involved in the business cycle.

It is unclear why Rothbard must make this convoluted distinction for money. First, it separates money from its formation in the spontaneous order. Money is a commodity like all other commodities, as Mises demonstrated in his famous "regression theorem" (Rothbard, 1976a, pp. 168-169). It serves a rather uniform use--the facilitation of exchange--but so do

many other valued commodities. Likewise, the increase in its production affects the demand for it, decreasing its value relative to other goods. Yet, it cannot be separated from the commodity foundations: Its original means of utility still apply.

It seems fallacious, then, to separate the uses of money into categories and distinguish one use, exchange, so as to argue that changes in the stock of money confer no social benefit. How can one say that increases in the supply of the good does not confer a social benefit? If it is a commodity like all other commodities, then it would seem that the making of exceptions is unnecessary. If the medium actually is the free market solution (and not the legally forced tender of fiat currency which is not a good to begin with, evidenced by the fact it cannot and would not exist without the force of the State), then there would seem to be alternative uses for the product if it increased in quantity--like every other good. For example, if gold were the chosen commodity as the medium of exchange and there were substantial increases in the good, then the uses of the product would likely expand into the areas of its more profitable uses, still conferring social benefits. It is unclear why it is necessary to separate money in regard to exchange and money as to its other uses (Rothbard, 1962c, p. 671). Money is like every other good in a free economy, except it is the one most used in exchanges as a medium and, thus, the one in the conversion that is likely to serve as a common language and "determine" relative values of other products (Rothbard, 1962c, p. 699). In a very real sense, then, a free market which possesses monetary exchange is merely a highly evolved barter economy.

In either case, money generally is used in the modern economy as a medium of exchange. But one must also factor temporal components into the discussion of money. This understanding of time implies that persons may not spend their currency immediately. Every person will hold back certain amounts of money for future use, which mirrors his future plans and demands. In a state of uncertainty, these resources serve a very important function of meeting these future expectations.

This recognition of a social function for cash balances in the stabilization of speculative demand separates the Austrians from the Keynesian program.⁶ Since individuals live in uncertainty, they retain cash balances relative to their perceptions of future needs. What Keynes disdainfully referred to as "hoarding" is to the Austrian merely a demand for retaining cash balances. Keynesians might, for example, argue that involuntary unemployment results from a hoarding of social expenditures depressing the stimulating effects of these purchases. But, as Rothbard points out, this makes sense only if wage rates are frozen; otherwise increased cash balances would

6. However, Rothbard (1962c, p. 678) argues money and interest rates are unconnected:

If the demand for money increases, there is no reason why a change in the demand for money should affect the interest rate one iota. There is no necessity at all for an increase in the demand for money to raise the interest rate, or a decline to lower it--no more than the opposite. In fact, there is no causal connection between the two; one is determined by the valuations for money, and the other by valuations for time preferences.

merely result in decreasing prices as a consequence of increased demands for money. And this is not, as Keynesians might contend, involuntary unemployment. This joblessness only occurs involuntarily if minimum wage requirements are enforced, either through union contracts or government policy.

These attempts by government to separate individuals from their hoarded monies only misdirects economic activity. To alleviate these distortive effects Rothbard argues favorably for private money and private banking. In a market order persons are attracted to specific attributes relative to the function of the good. Money is no different.⁷ If the demands are diverse, then a number of monetary forms are likely to evolve. Conversely, if standardization is at a premium, then denominations will become more uniform. Banks would simply be warehouses for money (Rothbard, 1962c, pp. 700-703). In most cases, then, receipts for the exchangeable commodity would serve in actual practice as "money".

But there is an important nature to these certificates or receipts. For Rothbard, these receipts are not future claims on money on the time market, but "evidence of ownership of a present good" (Rothbard, 1962c, p. 700). In other words, property rights are retained fully by the certificate holder; the warehouse is only "storing" the resource. However, owners of the warehouse soon recognize that at any given time a substantial amount of the actual goods will lay dormant in the warehouse. As a result, the opportunity to

7. As Rothbard (1985b, pp. 9-10) notes, Gresham's Law, i.e., "bad money drives out good currency," only applies in fiat systems. In a free economy, consumers will only bank with the most reputable suppliers.

lend these resources to other persons arises, allowing a extra return to the bank. Or, to take it one step further, these warehouses might simply produce false notes; since they resemble the actual notes, no one is likely to recognize the fraud. According to Rothbard, both of these cases represent fraud. They are not borrowed funds since no interest payment agreement exists between the actual owner and the user. The homogeneity of the good--gold, for example--allows the warehouse the opportunity to secretly operate these activities. In a free market, he concludes, banks must be required to keep resources equal to the money-substitute certificates outstanding, i.e., 100 per cent reserves.

Uncovered money-substitutes produce an influx of additional supplies of "money" in the economy. Each increase in the fractional reserve system, for instance, brings additional "profits" to the banks. But the consequence is inflation. But how may the warehouse make an income? Why would it provide this service? First, Rothbard points out, it may operate as any other warehouse, collecting storage servicing fees. Secondly, there may still be a lending function: Banks merely borrow funds from other individuals and relend at higher rates, serving as a sort of broker for the parties.

While Rothbard's contentions have merit, they seem to impose an order on the market that ultimately may guarantee only inflexibility. Not maintaining 100 per cent reserve requirements would seem to be fraud only if the bank misleads the customer to believe it meets these requirements. Why might not the "market" rate for actual reserves be something far less than 100 per cent? By allowing persons to place their resources where they please, and defining fraud as the misleading of the customer and the failure

to carry out the advertised business practices, it seems the fractional banking system is perfectly legitimate, as long as the money is backed accordingly. Moreover, it seems odd that Rothbard would support such a legally mandated rule, although he views it as a "general legal prohibition of force and fraud" rather than a "form of administrative government intervention in the monetary system" (Rothbard, 1962a, p. 119). The same criticism might be leveled against the idea that gold must be the chosen currency, although Rothbard is ambiguous as to whether this uniformity is required. For example, how does one know whether gold is now or always will be the most effective standard for currency? It seems the only way to guarantee its effectiveness is to continually subject it to the forces of an open market. But could not the same argument be posited concerning fractional-reserve banking?

Of course, in a purely free system the customer might demand 100 per cent reserves. Or, perhaps, the actual practice of banking might parallel Rothbard's system, as borrowed funds and kept funds simply become intermingled to represent what amounts to "fractional" reserves. And, once the market rates for the reserves are established, it would seem that the consequences of uncovered money substitutes would diminish.

In the inflation-inducing economies of the modern world, there is real pressures for upwardly spiraling influxes of uncovered money substitutes. An important Austrian contribution to economics is the nature of these influxes. Prices, as the Austrian School demonstrates, do not move in uniform and simultaneous fashion. Certain parties will benefit from the change while others are injured; accordingly, the changes occur in distinctive

parts of the market separately. Through the answering of signals sent out in the change, different individuals will respond in dissimilar ways at diverse times. Where the new money enters provides advantages for those persons in those locations; those in sectors last touched by the influx conversely suffer the greatest losses.

Therefore, inflationary effects are not likely to be proportionate to the level of the increase in total supply of money. Again, money is not a neutral good. These incremental effects which emerge piece by piece across the economy distort economic activity and produce new outlooks concerning the economy among individuals (for example, time preferences are likely reformulated), and these changes will not be uniform (Rothbard, 1962c, p. 712). If, for example, persons' cash balances simply kept pace with the increase in money, there would be no overall price increase. Of course, there may be huge upheavals in specific sectors. These disruptions are the foundation for the entire business cycle theory: Through the "fraudulent" increase of the money supply, distinctive parts of the market are led to make a cluster of economic errors.

Inflation also poses a second potential problem, namely, the destruction of the monetary system (Rothbard, 1976a, pp. 175-178). Initially, with the advent of government sponsored inflation, individuals' cash balances probably will increase, which means that prices will lag behind the monetary growth. This result leads officials to conclude they have found a "magical panacea", and further increases ensue. However, the citizenry ultimately reformulates their expectations: With each new dose of money, they come to anticipate even larger supplies. Consequently, demand for cash

balances dwindle as the purchasing power of the money drops and prices outstrip the growing supply of money. At this point all is lost. The economy faces an apparent "liquidity crunch" demanding even further increases in the supplies of currency, and the result is a vicious cycle of hyper-inflation and destruction of the currency as persons seek to rid themselves of cash for other commodities as rapidly as possible.

Clearly, money represents the "nerve center" of any developed economy (Rothbard, 1964, p. 138).⁸ In Rothbard's view, the last item that ought to be outside the coordinating processes of the market is money. Yet, through legal tender laws, the monopoly on minting, the establishment of exchange rates, and the formation of central banking the monetary system in the United States has always been under some form of political control. He contends that rather than being stabilizing institutions, government agencies operate to produce the subtle taxation that inflation coupled with our tax structures allow. His solutions are very straightforward: 1.) a 100 per cent gold dollar through deflation of the existing dollar or revaluation of the dollar concurrent with the existing money supply; 2.) the end of the Federal Reserve System, with 100 per cent requirements for all demands for gold; 3.) the Fed and the treasury relinquishment of all note-issuing powers, transferred to private institutions; 4.) the removal of any fixed relative rates of gold to

8. It is rather ironic that among even the most ardent defenders of the free market economy there is general support of government control of the money supply (for example, Milton Friedman). Many of these theorists eloquently demonstrate the advantages of the market and the failures of central planning, yet are not willing to subject the most important commodity to the same logic.

other commodities that are backing currency; and 5.) the provision for private coinage (Rothbard, 1962a, pp. 133-134). Essentially, Rothbard demands a gold-backed free banking system.

The same kinds of libertarian, free market themes are found in another area in which Rothbard has made significant contributions, Austrian monopoly theory. In his view, producers on a free market make money by serving consumers. As long as these exchanges occur on a voluntary basis, both the producer and consumer are satisfied ex ante, no matter whether the producer decides to limit production or not. The fact that demand curves are "inelastic" and appear to be at a "monopoly" price does not change this situation. Nothing prevents consumers, for example, from reforming their demand, i.e., boycotting the product, to reduce the price (Rothbard, 1962c, pp. 564-565).

To argue otherwise is to establish some form of socially objective standards founded normally on a solid dosage of hindsight. But in a real market error is unavoidable. Moreover, producers always seek to increase their returns. The withholding of resources, e.g., as with a cartel, must be viewed as a single action within a larger economy. By correcting errors, i.e., exploiting a profitable opportunity, these producers satisfy consumer demands and increase social utility whereas otherwise these wants would have gone unheeded (Rothbard, 1962c, p. 569). It is important to keep in mind that the supply which is provided is done so voluntarily and amounts to exactly that much more than would have existed had individuals acted differently. Why, then, ought one to blame the producers who are alert to a unsatisfied demand and are rewarded accordingly? That they are able to profit

is not their doing so much as it is instead the inaction of everyone else not realizing the circumstances subject to exploitation! The same logic applies when producers withhold their product, as in the case of property destruction by the producers so as to diminish supply (as with farmers burning their crops). Nothing prevents the consumers from changing their demand schedules out of "philanthropic dismay" to prevent the destroying of the good (Rothbard, 1962c, p. 570).

Rothbard's arguments are quite topical in today's "collusion-phobia". In his view, cartels and/or merger activities are no different in kind from the ordinary activities of the firm. There is no secret optimal size of a firm: All one can depend upon is that over time a free market's competitive process will tend toward the optimal satisfaction of the consumers. Moreover, there is no way to distinguish between acts aimed to "restrict" production and those oriented to increase efficiency (Rothbard, 1962c, p. 575).

If the consequences of a "monopoly" activity does "restrict" production to the point of leaving opportunity for additional profit, one is likely to find entrepreneurial activity seeking to exploit these resources, forcing the cartel/firm to compete. On the other hand, if the costs (and prices) continue to fall for a firm as it grows in market share, then the "monopoly" is obviously serving the consumer with a lower priced product. There are no rules as to the optimal number of firms in any market.

However, cartels are generally highly unstable organizations (unless, of course, mergers result). The control of production requires the permanent unanimous support of the members. But the more efficient members have a constant incentive to break out of agreements in which they are held back by

the less efficient producers. Furthermore, even if the cartel might somehow successfully hold itself together, this success merely means that outside entrepreneurial actions become profitable (if profits, in reality, do remain).⁹

There is one additional criticism: Could it not be possible for there to emerge the "one big cartel"? On this point, Rothbard argues that economic science may provide one conclusion on the size of firms: Any firm must be limited by the needs of calculability, the necessity to refer its own operations to relative ones to gauge its own efficiencies. Just as pure socialism is impossible, the one firm is also unachievable since there would be no way to rationally allocate all the factors of production. Similarly, as these limits are approached by any industry, the efficiency of the firm diminishes (Rothbard, 1962c, p. 585).

Rothbard's critique of monopoly theory does not stop with a defense of the market processes, however. On a more theoretical level, he contends that the concept of monopoly has no practical meaning. Price, he argues, is a "mutual phenomenon": To argue that a firm could have "control" over its price is clearly a misnomer (Rothbard, 1962c, p. 587). Producers provide products at certain prices; consumers may or may not purchase them. Through this exchange, a market order emerges and no producers have any extra-market powers.

9. See Rothbard (1962c, p. 583). As he points out, critics of this competitive process who argue that the market is somehow different in the modern setting because of the huge firms (which presumably makes it impossible to raise the capital to compete with them) fail to realize that the same economy which allows such developed industry equally provides one the ability to compete against it.

...[I]t is completely false to say that the [small] farmer and [Henry] Ford differ in their control over price. Both have exactly the same degree of control and of noncontrol: i.e., both have absolute control over the quantity they produce and the price which they attempt to get; and absolute noncontrol over the price-and-quantity transaction that finally takes place. The farmer is free to ask any price he wants, just as Ford is, and is free to look for a buyer at such a price....Naturally, every seller...will attempt to sell his produce for the highest possible price; similarly, every buyer will attempt to purchase goods at the lowest price possible....'Charging whatever the market will bear' is simply a rather emotive synonym for charging as high a price as can be freely obtained (Rothbard, 1962c, pp. 588-589).

Rothbard completely rejects the neo-classical definition of monopoly price and, consequently, the idea of monopoly. Its terminology, derived from its static analysis of the economy, misconstrues the nature of profits and losses (Rothbard, 1962c, p. 597). Incomes are made and lost in economic actions which take place in an uncertain world. Hence, the consequences of a specific supply of a product upon the economy is unknown until the good faces the tests of newly emerging market forces. If the result is profits for the producer, certain signals are transmitted to other entrepreneurs who move into this particular less than perfectly competitive arena. Thus, consumer preference alone limits competition. But all of these points lead to a second fundamentally more damning criticism in Rothbard's view:

....[T]here has been a great deficiency in the economic literature on this whole [monopoly] issue: a failure to realize *the illusion in the entire concept of monopoly price*...[W]e find *that there is assumed to be* a 'competitive price', to which a higher 'monopoly price'--an outcome of restrictive action--is contrasted....[But] in the market, there is

no discernible, identifiable competitive price, and therefore there is no way of distinguishing, even conceptually, any given price as a 'monopoly price'. The alledged 'competitive price' can be identified neither by the producer himself nor by the disinterested observer (Rothbard, 1962c, p. 605).

In the real world, demand curves and supply curves are not known. Instead, a producer will estimate costs and benefits and try to maximize profits, wages, rents, etc. Competition is an ongoing activity, yet the neo-classical model views it as static and assumes away the very points of observation concerning competitive practices (Armentano, 1978, p. 96). One may not merely assume that a cut in production represents monopolistic restriction. Neither the economist nor the producer knows the consequences of any action beforehand. There is, then, in Rothbard's view, neither anything wrong with "monopolies" nor anything useful in the discussion of them in theory!

Nevertheless, there is one circumstance where monopolies may be said to exist, according to Rothbard. He proposes three possible definitions for monopoly: 1.) Producers who have achieved monopoly prices; 2.) the single seller of a good; and 3.) a producer holding a special grant from the State (Rothbard, 1962c, pp. 590-593). The first of these definitions, as we have seen, is unfounded since these prices cannot be known in a real market process. The second interpretation might be legitimate in a sense, but, obviously, it is so inclusive as to be meaningless. To a certain degree, all goods are heterogeneous; each actor is a monopolist alone in his narrow market.

Therefore, only the third choice makes sense in the market order: Governments create the only kind of discernible monopolies.¹⁰

It seems there are no flaws in this application of Austrian economics on monopoly theory, although it differs substantially from other contributions on the subject by even Austrian economists (Armentano, 1978, pp. 99-101 and 104-108). Armentano, in fact, argues that these principles could be effectively applied in contemporary public policy through a "radically different theoretical perspective," which goes well beyond most "free-market" advocates in recent antitrust debates (Armentano, 1988, p. 4). Whereas these proponents of reform rely on equilibrium models, Rothbard's Austrian competitive model fundamentally redefines the issue by focusing on process and institutional arrangements. Rather than attempting a case-by-case analysis of firms in a boundless and undefineable market arena, based on fundamentally spurious data, the market process approach seeks to provide the guarantees for a competitive environment. In Rothbard's view, this solution would eliminate government interference in the economy.

These alternatives seem to provide a potentially rewarding direction in antitrust policy focused less on specific cases or even particular markets and more on the economic environment's rules and processes. However, it must be noted that these reforms would also represent a radical transformation of the existing policy arena, demanding nothing short of the complete elimination of all existing antitrust laws. Rather than being judge of whether

10. Armentano (1978, pp. 108-109) accepts the Rothbardian definition of "monopoly" as the only correct one.

"adequate" competition exists in a certain market, the State's role becomes one aimed at simply removing legal and/or political impediments to a free economy.

Monetary intervention and State-granted monopoly privileges are two excellent examples of how, according to Rothbard, the market is prevented from carrying out its coordination functions. He develops his theory of exchange to not only entail free market actions but also to encompass the study of involuntary behavior. This perspective vastly expands the uses of the praxeological method. In the final section of Chapter III, we examine these writings in detail.

Involuntary Exchange: The Effects of Government on the Economy

Throughout all of Rothbard's writings there is a distinctive "dualism" which serves as the base for his anarchist views. (See Chapters IV and V for further development of these perspectives.) On the one hand, there are the voluntary actions which take place in the free market. On the other hand, there are the involuntary or violent activities of forced or coercive exchange. To Rothbard, the State represents an organized manifestation of the latter activity. Therefore, in his praxeological analysis, the market and the government represent voluntary and involuntary acts, respectively.

The foundation for this dualism originates in the writings of the German sociologist Franz Oppenheimer. Oppenheimer argues that the State is built upon conquest. But more important for our present discussion is his argument that humanity satisfies its desires in one of two opposite ways. One

he calls the "political means" (or "robbery"): the "unrequited appropriation of the labor of others." The other he terms the "economic means" (or "work"). The latter activity relies on one's own labor or the voluntary exchange of the consequences of such labor for survival (Oppenheimer, 1975, p. 12). All of human history, Oppenheimer concludes, has been a "contest between the economic and the political means" (Oppenheimer, 1975, p. 13).

The division of Rothbard's study of economics (as well as his theories on ethics presented in Chapters IV and V) follows the Oppenheimer distinction. Like Oppenheimer, he argues there are two kinds of exchanges: violent "hegemonic" (or exploitative) acts and voluntary contractual acts (Rothbard, 1962c, pp. 67 and 71). However, Rothbard apparently extends these dual acts further to equate economic and political means always with markets and governments, respectively--linking specific structures to particular means.

This fundamental division may be found throughout Rothbard's discussion of economics. In his economics per se, he constructs the market order devoid of any violent interaction. Conversely, he goes to great lengths to demonstrate the non-voluntary nature of actions in which government is involved (Rothbard, 1977a, pp. 16-17 and 203-247). While we will not continually repeat the same criticism, there is in this context a potentially serious problem. This dualism sets up a sort of "evil-good" or, better stated, a "efficient-inefficient" dichotomy which is observable at two levels. First, free exchange promotes efficiency; coerced activity is inefficient. Of course, this is the foundation of all of Austrian economics. But in Rothbard's work there is a second set of definitions that many critics might challenge: The market is by

definition and observation directed always by free exchange, whereas the State represents Oppenheimer's "political means". In Rothbard's arguments, institutional processes (markets and governments) and the means they represent (exchange and conquest) become simultaneous. In other words, there may be no involuntary act in the "free" market. Ultimately, Rothbard's "science" rests upon Oppenheimer's and others' conquest theories of the State, rejecting a priori the idea of "political consent" (and, subsequently, any contractarian or consensus theories of government).

These distinctions are best found in Rothbard's most original contributions to praxeology concerning the "economics of violent intervention" (Rothbard, 1977a, p. 11). Whereas his economics assumes that no government exists (or, that all actions resemble Oppenheimer's "economic means" rather than "political means") the praxeology of hegemonic relations introduces government and violence into the network of exchange. Rothbard argues that any exchange that occurs on the free market signifies the ex ante maximization of utilities among individuals. In other words, freely choosing individuals decide for themselves what their actions and ends are to be. However, coercive intervention forces persons to commit acts they would have not otherwise done. Subsequently, there is a necessary loss of utility by the person intervened upon, to the gain of the invader. One may distinguish the two actions, accordingly: Voluntary acts are those exchanges where, ex ante, both parties receive increases in their utilities, whereas interventionist acts are those where one person or set of persons gain at the expense of another or others. Or, exploitation is only possible in the interventionist setting (Rothbard, 1977a, p. 14).

Interventionist actions may be undertaken through any public or private institution. However, Rothbard concludes that "the vast bulk" of invasions are performed through the State, since it alone is "legally equipped to use violence and since it is the only agency that legally derives its revenue from a compulsory levy" (Rothbard, 1962c, p. 766). Therefore, he confines his criticisms to only government intervention. Unfortunately, though, he never demonstrates praxeologically how one possesses the ability to infer that every action by the State is involuntarily imposed. As we shall see, this dogmatically imposed dualism sheds doubts on the entire praxeological nature of Rothbard's discussion.

Even if one accepts the argument that allowing voluntary exchange increases individual utility, it only supports utility maximization ex ante. The larger concern is likely to be ex post considerations. Rothbard argues that the market also holds the advantage relative to its consequences, as it is able to reduce economic errors in judgment and action with the least amount of suffering. The alternative to these market corrective devices is the use of government and, as he notes, this option is absent the structural dynamics that a market possesses which works to diminish inefficiencies and shorten the lengths of any distortive effects (Rothbard, 1977a, pp. 19-23).

In order to prove his argument, Rothbard examines the ex post effects of government and/or violent forms of intervention on the free market. In developing the science of intervention, he divides "invasion" into three categories: 1.) autistic intervention; 2.) binary intervention; and 3.) triangular intervention. We discuss each separately, examining some of the

government policies which fit each category and the consequences they generate in society.

Autistic Intervention

The simplest form of intervention Rothbard calls autistic intervention: "[W]hen the invader coerces a subject without receiving any good or service in return" (Rothbard, 1977a, p. 11). These include actions such as murder, assault, slavery, force religious observance, etc. The distinguishing factor is that the person is required to follow commands that involve his property alone; there is no regulated exchange between persons. The intervener receives no goods or services for his actions but does limit the parameters of the other's activities. Rothbard, however, does not detail the economic effects of autistic intervention, since there is no observable exchange.

Binary Intervention

Binary intervention are acts that force persons to make concessions to other individuals by either requiring or denying an exchange between persons. The relationship features two persons in the economic situation. Rothbard argues this type of intervention has received scant attention from economists concerned with the effects of government intervention, as almost all research has been focused on triangular intervention. Yet, he argues, these forms of intervention are equally important. He divides these activities into

two general subsets: government revenues (taxation) and government expenditures.

Governments gain revenues either directly through taxes levied on individuals or indirectly through the use of inflation of the money supply. Praxeologically, Rothbard concludes, there is no difference between these activities, on the one hand, and robbery and counterfeiting, on the other (Rothbard, 1977a, pp. 83-84). In both cases, resources are transferred in arrangements not agreed upon by the coerced parties involved.

Two distinct groups arise from these activities: the "tax consumers" and the "taxpayers". Rothbard includes as tax consumers the "full-time rulers", whose livelihoods depend on these resources (politicians and bureaucrats, for example), and the "part-time rulers", who benefit from subsidies that are provided by the government. Taxpayers are those individuals who are on balance providing the resources to support the rulers. In reality, these types are often extremely difficult to define because of the dispersion of costs and benefits that accompany a complex and actively intervening government. This diffusion, though, does not make the shifting of resources any less real. Essentially, these transfers represent consumption expenditures by those officials having the authorities to make the re-routing decisions, not because they actually consume the shifted resources but because their wishes redirect the economy's patterns of production (Rothbard, 1977a, p. 86). These actions distort an economy's resource allocation, transmitting information that does not originate from the consumers in the market and refocusing resources on items that do not effectively satisfy true consumer demand. As such, social utility, defined through individual satisfaction, is

diminished. And this distortion is inevitable no matter what kind of "revenue enhancement" is applied. Rothbard completely rejects the notion of "neutral taxation" (Rothbard, 1977a, p. 87; 1981c, pp. 519-564). The critical question relative to the distortion imposed upon the economy is not the type, but the amount of the tax. Increases in the level of taxes heightens economic damage.

What are the ways in which specific taxes affect the economy? The focal point, of course, is who pays and who benefits from the tax. Rothbard contends that taxes can never be "shifted forward", i.e., from the seller to the buyer, or through the stages of production to the ultimate consumer (Rothbard, 1977a, p. 88). This argument goes against a substantial portion of economic theory. Yet, if one is truly maintaining a thoroughly subjectivist value theory, there appears to be no other possible conclusion.

....It is generally considered that any tax on production or sales increases the costs of production and therefore is passed on as an increase in price to the consumer. Prices, however, are never determined by costs of production, but rather the reverse is true. The price of a good is determined by its total stock in existence and the demand schedule for it on the market. But the demand schedule is not affected at all by the tax....A tax, therefore, *cannot* be passed on to the consumer (Rothbard, 1977a, pp. 88-89).

Rather, the effects of taxation fall upon the production side of the exchange. Otherwise, why had the producer not already passed the "costs" along prior to the tax in the form of higher prices? The reason is, of course, that individual demand schedules are unaffected by these outside influences.

Arguments that such levies as sales and excise taxes may be passed along the stages of production are false, Rothbard concludes. Instead, they are constantly shifted backwards to each good's original factors of production and, subsequently, dictate the decisions of whether to utilize those resources in a specific manner. What occurs is a shift from the goods adversely affected by the tax toward the resources that the government purchases and/or subsidizes with the collected revenues. Certain original factors valued in a free economy might fall into disuse; others may be refocused on the newly preferred goods and services of the now-consuming government. And these changes will spill over into the complex network of exchanges in which these products are attached.

Whereas a sales tax is generally applied across the board proportionally on almost all final goods, excise taxes are aimed at particular goods and services. As a consequence, the costs of the tax are imposed directly on a selected subset of the economy, which drives these factors into other less taxed industries. Still, Rothbard argues, everyone suffers because of these taxes. Obviously, the specifically affected persons are most injured, as they must shift into less lucrative areas. But consumers also suffer from the distortion and loss of a portion of a product they demanded (which drives the price of the remaining factors in that area up).

All taxes in reality are "income" taxes, of course, but what unique effects does the "official" income tax have on the economic process? Rothbard argues that it is, first, a levy that cannot be shifted forward or backward in the stages of production. Second, it will decrease the payer's standard of living: The costs of working increase and conversely the costs of leisure diminish

(Rothbard, 1977a, pp. 96-97). Hence, the bulk of the distortion in this case occurs within the preferences of particular individuals. Work for money relative to work for barter is also penalized. As a result, income taxes work to "bring about a reduction in specialization and a breakdown of the market, and hence a retrogression in living standards" (Rothbard, 1977a, p. 96). The advantages of a monetary economy are diminished. These losses, he contends, also lower the taxpayer's real income and his valuation of monetary assets. In turn, as assets diminish, time preferences increase--and proportionally more of these resources go toward consumption. This disincentive for saving is only doubled by the imposition of additional income taxes upon interest returns on investments and/or saving, which serves to drive the interest rates below the rates that time preferences would bear on a free market.

On this point, Rothbard follows the correct neutral Austrian position on the question of what kinds of taxes ought to be applied in government fiscal policy. Many conservatives, such as a number of the recently popular "Supply-Side" economists argue for a fiscal policy that creates disincentives for consumption and conversely incentives for savings. Traditional Keynesians, on the other hand, support a "demand-side" solution. The presumption of both these policy prescriptions is that a given savings-to-consumption ratio is somehow "incorrect", and may be corrected with certain fiscal policies. Rothbard argues:

[There is] a curious tendency among economists generally devoted to the free market to be unwilling to consider its ratio of consumption to investment allocations as optimal. The economic case for the free market allocations tend at all

points to be optimal with respect to consumer desires....[P]eople voluntarily choose between present and future consumption in accordance with their time preferences, and this voluntary choice is their optimal choice. *Any tax levied particularly on their consumption, therefore, is just as much a distortion and invasion of the free market as a tax on their savings....* (Rothbard, 1977a, pp. 99-100).

However, Rothbard's conclusions concerning the social effects of income taxes on time preferences is more difficult to prove--at least from a praxeological perspective. Although it is true that the time preferences of taxpayers will increase, it would seem that the tax consumers' preferences would decrease as they rake in the benefits of the subsidy. Rothbard's response to this argument is less than satisfactory:

....Government expenditures, however, constitute diversion of resources from private to government purposes. Since the government, by definition, desires this diversion, this is a consumption expenditure by the government. The reduction in income (and therefore in consumption and saving-investment) imposed on the taxpayers will therefore be counterbalanced by government consumption-expenditure. As for the transfer expenditures made by the government (including the salaries of bureaucrats and subsidies to privileged groups), it is true that some of this will be saved and invested. These investments, however, will not represent the voluntary desires of consumers, but rather investments in the fields of production not desired by the producing consumers. They represent the desires, not of the producing consumers on the free market, but of exploiting consumers fed by the the unilateral coercion of the State (Rothbard, 1977a, p. 98).

He is correct to point out the existence of these "malinvestments". Moreover, these mistakes will cause distortions within the market. However, it remains

unclear why time preferences must increase socially. Depending on the preference sets of the winners and losers in these "exchanges", it would seem possible, though perhaps impractical, that they may stay the same or even increase. It seems unlikely that the economist could make any predictions in regard to these circumstance beyond those of particular individuals.

Corporate taxes are similar to other income taxes, although they represent "double taxes" expropriating from "corporation" and owner's income. As a double tax, these levies direct persons into other forms of economic organizations. Moreover, because of the second rung of taxation, upon income, the incentive in the corporate system is to leave earnings tied up in capital at rates much higher than would have occurred on the free market. Rather than encouraging efficient investment, the tax only benefits a rigid form of investment, preventing would-be dividends from being utilized elsewhere (Rothbard, 1977a, p. 102).

Windfall profit taxes distort for similar reasons: They lead persons to make economic decisions which hamper or prevent the adjustments the price system produces in the market. By penalizing the successful entrepreneur, the tax prevents the market from "knowing" the true consumer demands. Furthermore, it lessens the incentives the investors have in exploiting possible lucrative circumstances. Rather than congratulating the person who has discovered new items or services which fill a previously unfulfilled demand, these taxes punish successful entrepreneurship.

Whereas these forms of "income" taxes are detrimental to the market process, Rothbard finds taxes on accumulated capital to have a "far more

devastating, distorting, and impoverishing effect" (Rothbard, 1977a, p. 112). These taxes, he recognizes, go well past mere taxation on present income; they plunge into an economy's existing capital stock. Obviously, there is only so long that this kind of activity may continue, for these actions ultimately lower the standard of living for everyone, taxpayers and tax consumers alike. Take, for example, a gift tax. Gifts are generally defined as income. But, in reality, all they represent is a transfer of previously created wealth. To tax these goods creates heavy disincentives both for the particular transfer and, most importantly, for the initial production of these products. These exchanges are a significant portion of any economy, as Rothbard points out, since every bit of property that exists changes hands every two to three generations, through inheritance. The effects concern not only narrowly defined economic outcomes, but spill over negatively into sociological and cultural issues concerning, for example, the family.¹¹

These kinds of taxes represent taxes on wealth (the property tax would fit neatly into this category, also). But to tax wealth is to create incentives to relieve one's self from such wealth and, consequently, to reduce the amount of capital in the economy. As Rothbard realizes, it is this capital accumulation that "differentiates our civilization and living standards from those of primitive man" (Rothbard, 1977a, p. 117).

11. Similar arguments would apply to property taxes. See Rothbard (1977a, p. 113-116).

The progressive tax structure provides a similar although less severe form of wealth drainage. Rothbard argues that the progressive tax

...acts as a penalty on service to the consumer, on merit in the market. Incomes in the market are determined by service to the consumer in producing and allocating factors of production and vary directly according to the extent of such services. To impose penalties on the very people who have served the consumers most is to injure not only them, but the consumers as well. A progressive tax is therefore bound to cripple incentives, impair mobility of occupation, and greatly hamper the flexibility of the market in serving the consumers.... (Rothbard, 1977a, p. 118).

Despite these damning points, Rothbard sees the entire debate over the progressive tax as being overblown. First, the same kinds of criticisms which may be applied to progressivism can also be applied to proportional taxation. In both cases, the higher the income, the greater the tax. In either circumstance, incentives for both work and savings are diminished and distorted. The more pressing concern for Rothbard is, again, not the structure of the tax, but the degree of the levy (Rothbard, 1977a, p. 122).

Rothbard critiques many of the possible "canons" postulated in the defense of specific means of taxation. He finds it ironic that these kinds of issues even arise in the modern age: Why, for instance, did the debates over "just taxation" not go the way of the notion of "just price" in the post 1870's (Rothbard, 1977a, p. 137)? Rothbard's similarly criticizes the implicit ethical positions which sneak into the supposedly "value-free" discussions of the economics of public finance. There are no maxims of just taxation, he concludes. Take, for example, the traditional canons of the father of

economics, Adam Smith, which are generally accepted without a second thought by modern economists.

....Perhaps the most 'obvious' was Smith's injunction that costs of collection be kept to a 'minimum' and that taxes be levied with this principle in mind.

An obvious and harmless maxim? Certainly not; this 'canon of justice' is not obvious at all. For the bureaucrat employed in tax collection will tend to favor a tax with high administrative costs, thereby necessitating more extensive bureaucratic employment. Why should we call the bureaucrat obviously wrong? The answer is that he is not, and that to call him 'wrong' it is necessary to engage in an ethical analysis that no economist has bothered to undertake (Rothbard, 1977a, p. 137).

Without this ethical foundation, no one can really talk about the proper kind of taxation. Economics alone cannot determine the rightness of any of them.

Another of these canons is the demand for tax uniformity, i.e., the tax code should be devoid of exemptions and apply to all persons equally. Rothbard points out an implicit flaw in the logic of equal treatment:

....[I]t seems clear that the justice of equality of treatment depends first of all on the justice of the treatment itself....Are we to maintain that 'justice' requires that [persons] be enslaved equally? And suppose that someone has the good fortune to escape....[H]e who maintains that a tax be imposed equally on all must first establish the justice of the tax itself (Rothbard, 1977a, p. 139).

In other words, without ethical foundations which are not to be found in the science of economics, one person's chastisements for tax evaders is another person's idea of escaping the criminality of the tax collector! Uniformity within the tax structure is unachievable, according to Rothbard, for two

reasons. The first reason concerns the nature of the State: If there were not income transfers, there would be no need or demand for a government. In fact, one could argue that the essence of a State is redistribution, since every act it performs in some way redistributes wealth from a set of losers to a set of winners.

While Rothbard clearly distinguishes by definition tax consumers and taxpayers, it seems these distinguishing factors are nearly impossible to discern in practice. In the political complexity of contemporary society, the network of these persons is incredibly confusing, complicated, and overlapping. It might be argued that the continuance of transfers does not result from the benefits of tax consumers so much as from the fact that almost all parties have a perceived vested interest in its maintenance. This (false) perception results from a comparison of one's concentrated government benefits and his dispersed and often partially hidden costs. In other words, citizens clearly perceive the benefits of tax consumption, but often face vague and/or diffused tax payments. Of course, there are still some clear examples of both sets of persons; as Rothbard notes, we may be generally secure in assuming that bureaucrats are tax consumers, for instance (Rothbard, 1977a, p. 142).

Another reason Rothbard contends there cannot be uniformity relates to the subjective nature of valuation. There really is no way to determine non-arbitrarily what ought to be included as income. And, moreover, if non-monetary items are included, how does one determine the "values"? Uniformity, therefore, demands additional principles, i.e., uniformity in relation to other principles (Rothbard, 1977a, pp. 143-144). As might be expected, none of the possible criteria meet the standards of Rothbard's

praxeology. For example, one's ability to pay is "highly ambiguous" and allows "no sure guide for practical application" (Rothbard, 1977a, p. 144). Likewise, other "sacrifice" theories fail for similar reasons.

....The many variants of the 'sacrifice' approach are akin to a subjective version of the 'ability to pay' principle. They all rest on three general premises: (a) that the utility of a unit of money to an individual diminishes as his stock of money increases; (b) that these can be compared interpersonally and thus can be summed up, subtracted, etc.; and (c) that everyone has the same utility-of-money schedule. The first premise is valid (but only in an ordinal sense), but the second and third are nonsensical. The marginal utility of money does diminish, but it is impossible to compare one person's utilities with another, let alone believe that everyone's valuations are identical. Utilities are not quantities, but are subjective orders of preference.... (Rothbard, 1977a, p. 150).

This thorough subjectivism produces the same conclusions in the critique of regressive "benefit" theories of taxation, i.e., levies in accordance to the benefits the taxpayer receives. In discerning the benefits of exchanges on a voluntary market, all one may demonstrate is that a benefit ex ante has occurred; he cannot measure the degree of that benefit. Benefits are no more defineable than costs.

Binary activities include not only the consequences of differing tax structures but also the economics of expenditures. Rothbard divides this category into two additional subsets: transfer activities and resource-using expenditures (Rothbard, 1977a, p. 168).

Transfer expenditures redirect transfer resources as "pure subsidy-granting activities" (Rothbard, 1977a, 169). Rothbard concludes that they also

create a distinction that does not exist in the market: They separate the production of resources from their distribution. Consequently, resources are taken from where the market actors allocate them as efficient servants of the consumer, to be placed in the hands of others who are presumably inefficient.

The economic consequences of subsidies are well established. Resources are misallocated, mobility of capital and other factors are hampered, and consumers foot the bill. However, as Rothbard points out, there is an additional problem which is often overlooked.

....Where government intervenes...*caste conflict* is thereby created, *for one man benefits at the expense of another*. This is most clearly seen in the case of government transfer subsidies paid from tax or inflation funds-an obvious taking from Peter to give to Paul. Let the subsidy method become general, then, and everyone will rush to gain control of the government. People will be more and more neglected, as people divert their energies to the political struggles, to the scramble for loot....The inefficient achieve a legal claim to ride herd on the efficient. *This is all the more true since those who succeed in any occupation will inevitably tend to be those who are best at it....* (Rothbard, 1977a, pp. 170-171).

In the present political situation, this point seems quite important. While many writers have bemoaned the evils of "interest group liberalism" or "hyper-pluralism", there are few who have recognized that the root of this problem stems from the artificial dichotomy of human production and distribution. By distinguishing existing bodies of wealth from the productive capacities which created the wealth, a society, first, punishes the creators (and likely diminishes their effort and number) and, secondly, practically guarantees that a struggle over the "pile" of goods and services will ensue. In

this environment, a political economy's focus shifts toward distributional conflicts and, as a result, both the existing stock of resources and, much more importantly, the "attitude" of the economy is transformed, imbalanced toward higher time preferences and consumption. To postpone enjoyment or focus upon productive acts in this distributive process is to miss the division of the "pie". As one may imagine, the long-term consequences of this behavior are severe.

These actions have similar effects regardless of whom they are intended to affect. As Rothbard notes, relief for the poor, for example, increases the marginal utility of leisure relative to work. This entitlement (which distinguishes public "charity" from the private strands), in turn, exhausts the resources of other non-governmental organizations aimed at the removal of poverty.

Resource-using expenditures, the second category of binary expenditures, also redirect goods in ways not chosen by the market toward ends chosen by governments. These services are provided as either "free" or with attached user fees. In the former circumstance, the receipt and payment of the service are "split" and, since it is provided freely to the citizen, the demand for the service exceeds the market's demand. The result, Rothbard concludes, is an inevitable overuse of the product. Therefore, it is another form of subsidy with users gaining at the expense of non-users, as in the example of public schools or state highways. Since no pricing scheme exists for the allocation of the given good, a government cannot rationally determine the proper levels of the activities. Rather than having prices to determine where to allocate the resources it possesses, the State must rely on

the narrow dictates of the specific agency personnel or government planner. But in this case, it is the single person making the "consuming" decisions rather than actual consumers, as articulated through the whole body of information provided by market prices.

Might this dilemma be eliminated by the implementation of user-fees? According to Rothbard, this solution, while perhaps preferable to free services, suffers from the same fundamental and "fatal flaw".

....It is...that government can obtain virtually unlimited resources by means of its coercive tax power. Private businesses must obtain their funds from investors. It is this allocation of funds by investors on the basis of time preferences and foresight that rations funds and resources to the most profitable and therefore the most serviceable uses....In short, payment and service are... indissolubly linked on the market. Government, on the other hand, can get as much money as it likes....Government...has no checkrein on itself, i.e., no requirement for meeting a profit-and-loss test of valued service to consumers, to enable it to obtain funds....(Rothbard, 1977a, pp. 175-176).

Consequently, the rhetoric that permeates allocative decision-making within the governmental organization is consistently dominated by demands for more resources as the rational action. From this perspective, this is the rational choice, in fact, since the cost side of the decision-making is severely limited or non-existent. One faces the ultimate negative externality problem, since costs may be almost completely avoided by the "producer". As Rothbard notes, within the voluntariness of the market (with presumably clearly defined property rights), the increase of such resources in one arena may only come at the expense of some other activity, and the action is judged according

to its ability to satisfy consumer demands through the signals of profit and loss.

Furthermore, when government creates enterprises, these businesses have inherent advantages over any remotely related market alternative, since the State plays by a wholly distinctive set of rules in their capital formation. Ultimately, the result is the destruction of these market industries, since investment flows away from these unfortunate competitors who obviously cannot compete against the public industry.

Therefore, criticisms that governments ought to run themselves "as a business" entirely miss the point. To be operated as a business demands the strict discipline of the marketplace. First, the lack of market-accountable organizational discipline makes this demand extremely problematic. Second, the skills that individuals develop in this environment tend to be politically effective rather than economically efficient (Rothbard, 1977a, p. 178). To borrow terminology from Public Choice theory, actors become increasingly efficient at "rent-seeking" rather than "profit-seeking". The same drains on the economy faced in the capital markets occur similarly in the labor areas, as potentially productive persons are drawn by higher than market wage rates and/or heightened job security into government employment. From Rothbard's perspective, these distortions begin with the first government involvement; "for each governmental firm introduces its own island of chaos into the economy" (Rothbard, 1977a, p. 180). In his view, the removal of these governmental interventions can only lead to better service, lower costs, less distortion of consumer demand and resource allocation, and, finally,

greater social harmony, avoiding the mad rushes to live off the distributive State.

While this discussion is interesting, and Rothbard's application of subjectivism is correctly administered, it all seems to be beside the point. If, in his severe dualism, only markets can guarantee the rational allocation of resources, why even discuss distinctive modes of taxation, for example? Under his absolutist logic, there really is no way to distinguish one form from another.

The crux of Rothbard's contention is that it is the voluntary nature of exchanges which allow a true reading of demonstrated preferences. If elements of force dictate the patterns of choices made by an individual, there are unreliable actions to be observed and, subsequently, to be misunderstood. But might there be voluntary forms of taxation and/or expenditures which could be distinguished? For example, are there not political actions, in a democracy at least, that are voluntarily accepted by the persons involved? According to Rothbard, there are none. First, "nonvoters" may not be said to have consented. But suppose that all taxes were, in fact, provided "voluntarily"? For once, at least, he recognizes the possibility of a free riding problem, arguing that under a gift system, services such as defense would suffer since the benefit is garnered regardless of one's payment--resulting in excessive demands and overly limited supplies (Rothbard, 1977a, p. 163).

A democracy could provide a "fee" for "voting", i.e., a poll tax, so as to rest upon a voluntary foundation. Of course, this payment is, therefore, not a tax at all but rather is more akin to representing dues. If these taxes existed, the voting turnouts would likely drop substantially, as Rothbard argues.

Accordingly, our current democracy does not represent a voluntarily conceived system of decisionmaking. And democratic participation alone fails to meet his criteria for voluntariness. First, voting "is a highly marginal activity"; the voter receives "no direct benefits from his act of voting" and "his aliquot power over the final decision" approaches zero (Rothbard, 1977a, p. 164). Second, voting in a collective setting produces a "disjunction between voting and payment, on the one hand, and benefit on the other" (Rothbard, 1977a, pp. 164-165). This "collectivization" of political resources is quite similar to the diffusion of distribution and production in a State-infested economy.

This discussion, however, is a perfect example of the way in which Rothbard allows value-laden arguments to spill over into his praxeology. If one is truly to maintain a subjectivist value theory, how may praxeology tell us whether, for a given individual, voting is a "highly marginal act"? In fact, it is rather obvious that for many persons the opposite is true. One might argue that objectively these actions represent a form of wasted effort, but it is unclear how one might reach this conclusion without something more than praxeology may provide. Rothbard dismisses democracy--or for that matter, all political activity--rather arbitrarily. The reason, of course, is that he implicitly assumes that all political acts are equivalent to coercion.

His second reason for rejecting democracy's voluntariness is problematical for similar reasons. Disjunctions between payment and the act of exchange--whether they are voting or investing in some other person's project--and the receipt of benefit, occur constantly. If we assume, for example, that a specific government action is consented to by those affected by it, why

would the action, praxeologically speaking, be any different from an agreement between a company and a group of stockholders? Simple empirical observations of the historical atrocities of the State cannot alone eliminate the potential of an act that is both "political" and voluntary. Therefore, it seems that Rothbard slips into these critiques, under the guise of "value-free" science, a set of implicit ethics of his own. These actions may be seen as distortive or impoverishing only if they do not represent the demonstrated preferences of the consumers. But praxeology does not provide the tools to deny the possibility of democratic contractualism; only a system of anti-statist ethics can accomplish this task.

Triangular Intervention

Triangular intervention involves an invasion which interferes with an exchange between persons by a third person who either forces or prohibits the exchange. One may sub-divide this category into two parts: price control and product control. As we noted above, it is this category that tends to receive the overwhelming bulk of attention from economists concerned with the effects of government interference.

Price controls, if effective as a means of regulation (i.e., if they have a real effect upon the product), create artificial shortages or surpluses, depending upon whether the edict establishes maximum or minimum prices. In both cases, resources are either shifted into or out of these markets in distortive manners. Entrepreneurs are sent false signals, in other words. The same kind of controls may be applied with similar consequences to

saving and investment markets through the institution of usury laws. In these cases, persons' time preferences remain unchanged, so application of maximum rates removes a portion of available funds. Paradoxically, then, the individual supposedly benefitting from the dictum, the more risky borrower, is locked out of the market by the shortage of available resources, since the higher rates are denied (Rothbard, 1977a, p. 33). While the stated aim of such controls is usually to benefit persons who seemingly cannot borrow funds at the "market" rate, the result is to do just the opposite, preventing numerous persons from the product at all, while also spilling over and distorting other parts of the economy. Probably the only consistently sure "winner" in this triangular arrangement is the person who creates and administers the regulations (Rothbard, 1977a, p. 34). Another likely beneficiary is the individual with a long and successful credit rating and substantial equity. Since the policy creates an artificial shortage of borrowed funds, only those in least need of assistance will be able to garner loans.

Often, rather than interfering with the price of an item, the intervening force might control the product directly. As a result, a demand in the economy either is prevented from being fulfilled or is at least altered by the force involved. Subsequently, opportunities for both capital and labor resources are driven from their best opportunities, or driven into the less efficient, more monopolistic, and more risky black market.

Rothbard distinguishes two forms of product prohibition: absolute prohibition and partial prohibition (Rothbard, 1977a, p. 35). Absolute prohibition eliminates the product entirely, whereas partial prohibition "rations" the product in some way (amount, style, formula, etc.). Control

essentially represents a form of monopoly grant, so as to either provide or deny certain activities. Since freedom of entry is denied by government edict, the consumer is forced to deal with the grantee of monopoly privilege. But as is pointed out in the discussion of monopoly theory, with open entry there can be no monopoly over time since profits are "ephemeral". The same logic applies to "quasi-monopolies": As long as a specially enforced privilege remains, gains are made through coercive measures. Rothbard argues that while one may not draw a distinction between "competitive" and "monopoly" price, one can distinguish "free market" and "monopoly" price. The difference, he argues, is that the second set has "conceptually identifiable and defineable" attributes, whereas competitive price has no meaning in the economy since value is subjective. The critical feature is the voluntariness of the arrangement; to speak, therefore, of government monopolies is to Rothbard a redundant exercise.

Rather than repeat the similar lines of logic of earlier discussions, the following section outlines briefly a number of Rothbard's applications of praxeology to particular public policies representing forms of special government grants of privilege:¹²

1.) Compulsory cartels. By forcing all industries within a certain sector to accept imposed production quotas, government arbitrarily sets levels which over time increasingly distort the economy because of the rigidities in

12. The proceeding discussions are drawn from Rothbard (1977a, pp. 41-80).

production. As a consequence, quality and efficiency levels at best stay unchanged; more likely, efficiency falls because of the removal of new entry pressures.

2.) Licensing. An occupational license prevents many possible entrants into a particular labor sector from actual entry, since they cannot afford the requirements. Because this process is often heavily influenced by the industry itself, the result is the maintenance of special privileged status. This practice is especially oriented toward monopolistic practices in labor markets, where licenses (as with the restrictions gained by government-sponsored union contracting) always restrict entry, driving up wages for those with jobs but increasing overall unemployment.

3.) Safety and Quality Standards. On a free market, these concerns are left to the voluntary demands of the consumer. These qualifications eliminate the buyer's freedom to determine quality standards and restrict competition. As long as actual fraud has not occurred there is no reason to involve any other participant other than the parties involved in the exchange. (For a discussion of fraud, see Chapter IV.) If the parties involved in the exchange consent, ex ante utility is increased.

4.) Tariffs. Tariffs are merely product monopoly controls applied internationally. The loser is the consumer and the general standard of living, since resources are required to be utilized in less than optimally efficient ways by paying for the protection of the privileged industry. The rhetoric of unfavorable balances of trade is without any foundation: If exchange is voluntary all trade is favorable ex ante, no matter which side of the debtor-creditor relationship one finds himself. The only saving grace of the tariff,

ironically, is that in the long term, it is likely to have less potentially damaging effects than other monopoly grants. With tariffs, there is at least still free trade within a region.

5.) Immigration Restrictions. These amount to "geographical grants of oligarchy" in the labor markets. If an internationally free economy existed, one would witness a flow of labor resources, i.e., individuals, toward the higher wage areas. With restrictions on movement, however, current job-holders in the labor market benefit from the limitations at the expense of those unemployed and/or prevented territorial entry. The greatest benefits fall upon those laborers in the particular markets of the potential emigrants. And these are the markets most in need of unrestricted entry. As a further distortion, the artificially high wages boomerang back around, as capital flows out into those areas where restrictions abroad hold wage rates low. As a result, there is inefficiency in the world markets due to the imbalance caused by restrictions on immigration, exemplified by distorted divisions from country to country of the overall population.

6.) Child Labor Laws. These normally considered bits of humanitarianism represent, in fact, labor restrictions on a substantial sector of the population, to the benefit of the other portions. Childless families gain at the expense of those with children. Also, since a large portion of potentially productive labor is restricted by law from working (but who are still consuming), the overall standard of living diminishes.

7.) Conscription. Actions such as a forced military draft remove persons from their chosen economic advantages and require them to work at wages below the market levels; essentially, then, conscription is a form of

taxation. Furthermore, this activity shifts resources away from the demands of consumers toward those of the government. Finally, like other labor limitations, conscription removes a substantial portion of the labor force, increasing the benefits for those remaining.

8.) Minimum Wage Laws. Persons whose productive capabilities are below the set rate find themselves unemployed. Those persons in most need of employment--namely, those at the margin--are locked out. Those employees above this rate benefit from the artificial reduction in the labor force. (This would explain union lobbying efforts to increase minimum wage limits, despite the fact their own wages are substantially higher than the legislated rates.)

9.) Unemployment Benefits. After these other restrictions aid to create unemployment, this compensation subsidizes the loss, diminishing the potential disdain of the kinds of restrictions the unemployed worker might face. These subsidies especially immunize those individuals/groups organized and active in developing the original restrictions, such as unions.

10.) Antitrust Laws. Ironically, these acts, according to Rothbard, diminish rather than facilitate competition. Since the only monopoly is a government monopoly, it is impossible for any policy to reduce them. Antitrust laws in reality are vague dictates that produce capricious and arbitrary interferences in the market. Competition is a process, not a quantity: As long as the market processes are carried out without fraud there is no reason for any involvement. Politicos substituting their judgments for those of the market can only create woefully misinformed policy which upsets the critical risk components in the system, since participants, fearful of the

interpretive edges of vague (and, therefore, highly discretionary) policy, play close to the cuff.

11.) Patents. Rothbard views patents as monopoly grants similar to those listed above. Granting patents restricts the independent discoveries of others for the same or very similar idea or invention. However, this seems to be a rather curious position.

Patents, like any monopoly grant, confer a privilege on one and restrict the entry of others, thereby distorting the freely competitive pattern of industry. If the product is sufficiently demanded by the public, the patentee will be able to achieve a monopoly price.... (Rothbard, 1977a, p. 74).

Before we examine this puzzling conclusion, let us examine one additional area that unfortunately creates even more confusion.

12.) Rights of Eminent Domain. The granting of a license of eminent domain for an industry represents a "license for theft." The consequence is the distortion that potential "takings" create. Moreover, the benefactors of the grant receive an increase in investment above the market levels at the expense of the initial property holders.

Throughout these discussions, Rothbard points out the nature of monopoly, namely, the granting of a special privilege upon a certain sect in the economy. Furthermore, he concludes, these grants may only exist through the State's interference. But he raises an additional concern: Are not corporations themselves a grant of special privilege? Rothbard argues they are not, but are "free associations of individuals pooling their capital" (Rothbard, 1977a, p. 79). Since the issue of limited liability is open to all transactors prior to doing business, no privilege exists. Would not this point

be contrary to his discussion of fractional banking, though? It is difficult to discern any critical theoretical distinction between the idea of pre-accepted limited liability and pre-consented fractional reserves. In both cases, producers and suppliers enter "contracts" which seem to be voluntary. Likewise, in both cases, the value/usefulness of the institutional arrangement is determined through the competitive processes of the market.

Unfortunately, though, this entire discussion leaves one haunted by what is not discussed. Why, for example, are not the existence of property rights themselves a grant of privilege? Whereas Rothbard may be able to answer this question in Chapter IV in his discussion of ethics, there appears to be no way to gain these answers praxeologically. Furthermore, it is unclear how praxeology may link the existence of property rights to the consequences of "voluntary" exchange. Is Rothbard's own "value-free" science implicitly sliding values in the side-door?

Conclusion: Caught in His Own Praxeological Web

Throughout his discussion of economics, Rothbard stresses his adherence to scientific objectivity. Yet, as we have seen, there are reasons to conclude that his science is a tainted value-freedom. It seems that he is as guilty of the inclusion of his own brand of ethics as are the systems he critiques. While praxeology may be able to argue that the consequences of voluntary action will produce certain results, it cannot draw distinctions between what Rothbard calls market and government actions. To accomplish this goal, a number of concepts demand definitions. But it would appear these

definitions transport us into the realm of ethics. This point seems especially true concerning what criteria establish voluntary activity. Otherwise, Rothbard cannot use subjectivist value theory in order to make his points. While we may accept the maxim that individuals making voluntary decisions will maximize their own utility, we cannot accept, praxeologically at least, that market actions are always voluntary.

With regard to the praxeology of violent intervention, Rothbard distinguishes the "free" and "hampered" markets (Rothbard, 1977a, p. 256). In the free society, he argues, the economist's function is educational and, thus, he may not establish the existence of ethical rules. On these points, he is correct, for science can neither determine the proper rates or structures of taxation, nor can it implicitly accept community standards without these representing ethical positions.

Rothbard asks the essential question: "If the economist *qua* economist must be *Wertfrei*, does this leave him any room for significant pronouncements on questions of public policy" (Rothbard, 1977a, p. 260)? He concludes that the praxeologist may, first, uncover the implicit and inconsistent ethics of tainted perspectives and, secondly, may demonstrate the consequences of different forms of government interference. On the first point, there is no debate. However, the latter function is troublesome. Before one can discuss the effects of "violent", i.e., political, action, he must define what is and is not violence. Praxeology, founded on the "truth" of subjectivism, may not rely on anything but the demonstrated preferences of the actors involved. Under subjective value theory, who is to say all government action is coercive and all market activity voluntary? Under

consistent subjectivism, do the concepts "artificial shortage", or "real market conditions" have any meaning, for example? What allows us to conclude that the present level of a product is optimal or sub-optimal without some baseline upon which to gauge these terms? It is clear that Rothbard's baseline is the voluntariness of the decision of the actor. Unfortunately, he then leaps, willy nilly, to associate his dual bases of voluntary and involuntary action completely with the existing social institutions of market and State. In other words, market decisions are never involuntary.

Rothbard slips a set of ordering ideas into his theory which allows him to create an ethically founded dualism between the two forms of activities. There is nothing necessarily incorrect about this dualism (in fact, without imposing these empirical and ethical observations the concepts of political/hegemonic means and economic/contractual means would be meaningless), but its rightness is not founded praxeologically. Furthermore, one may even be able to convince persons that they would prefer what Rothbard calls the "market" principle over the "hegemonic" principles. But these principles only receive meaning through the provision of ethical ordering, followed by an observation of reality. The institution of Oppenheimer's economic means, defined as the non-existence of coercion, may produce these consequences, but we cannot assume nor can praxeology provide us the knowledge that the institution of these peaceful means correlates a priori with markets, without bringing other components into the discussion. Could there not be "economic means" that are politically initiated, and vice-versa? The choice is not as simple as following out the premises of praxeological reasoning and merely choosing between the "society of

contract" and the "society of status" (Rothbard, 1977a, p. 266). The decision over whether one chooses the consequences of the market or the results of State intervention is not where the ethical questions begin and Rothbard's praxeology ends; they are inherently intertwined with his entire discussion.

While this is a perhaps a damning criticism of Rothbard's praxeological critique of politics (although they do not take away from the power of the ideas themselves), his own criticisms has led him to indeed explicitly establish this system of ethics which he implicitly applies to the praxeology of violent intervention. In Chapter IV, the ethics underlying Rothbard's scientific inquiry are defined in the examination of his libertarian system of political ethics.

CHAPTER IV

THE POLITICAL THEORY OF ROTHBARD

Introduction: The Establishment of Political Ethics

Praxeology alone cannot generate any specific kind of ethical system. In order to justify libertarianism, therefore, Rothbard turns to the establishment of a system of objective ethics based on natural law. As political theorist Norman Barry recognizes, this formulation of a set of objective ethics is one of the major characteristics separating Rothbard and anarcho-capitalism from most forms of "minimalist" classical liberal systems. This natural law foundation is, he notes, "more or less explicit rationalism of the kind condemned by Hume and Smith in the eighteenth century and Hayek in this," producing a "resolutely unhistorical methodology" (Barry, 1986, p. 166). Rather than accepting the ethical framework of uncertainty or ignorance in the evolutionary system of Hayek, for instance, Rothbard postulates a rationally conceived and axiomatic system of ethics. Nevertheless, as an Austrian economist, he is also thoroughly versed in the economics and sociology of the spontaneous order and the invisible hand. While there are times when in his writings the two distinctive ideas are used interchangeably, it is very clear that the ethical system of natural law always takes precedence over any form of consequentialism.

However, Rothbard admittedly never attempts to establish the ontological foundations of his natural law libertarianism. In fact, his claims of objective law amount to little more than the assertion that they exist. Instead,

he follows the natural law arguments of Thomas Aquinas in contending that natural law exists, is discernible by reason, and is separate of any question of faith-bound theology or question of God's existence. Hence, ethical laws, like physical laws, are discoverable through reason. All things, Rothbard argues, have specific natures; humans, like all other entities, are open to observation and reflection as to their true natures. In other words, objective reason "can be employed by all men to yield truths about the world" (Rothbard, 1982a, p. 10). The good and the natural are, thus, synomonus; the achievement of human nature is the fulfillment of the natural law. To violate these natures is to fail to achieve human potential.

....Since men can think, feel, evaluate, and act only as individuals, it becomes vitally necessary for each man's survival and prosperity that he be free to learn, choose, develop his faculties, and act upon his knowledge and values. This is the necessary path of human nature; to interfere with and cripple this process by using violence goes profoundly against what is necessary by man's nature for his life and prosperity. Violent interference with a man's learning and choices is therefore profoundly 'antihuman'; it violates the natural law of man's needs (Rothbard, 1978b, p. 28).

Rothbard tries to bridge the infamous is-ought gulf through the use of a teleological ethics which concludes that humans are naturally bound to do the moral action. Ultimately, the survival of the human depends upon following these principles. However, there are reasons to believe that there remains an exceptional gap between these ideas. Presently, it takes only a cursory observation of society to realize the problematical nature of this

argument. It may be argued that on several occasions, Rothbard is overly optimistic in narrowing this gulf.

Let us assume for the sake of the argument, however, that these are not crippling concerns. Ethics for Rothbard is a realm wholly separate from praxeology, for praxeology builds upon a subjective value theory and ignores the fundamental values of the decisions made by actors in the social world. Praxeological "happiness", then, is defined in a purely formal sense, based upon individual preferences, without making judgments on those preferences. This definition says nothing of the objective nature of the choices made, whereas natural law, in fact, seeks to make statements as to the ethics of the preference. One might argue intuitively, for example, that Austrian praxeology leads to the support of a free market system. In reality it may not; it can only support a market order on the condition that one accepts the values the market is founded upon or the consequences it creates. Obviously, this is a subtle distinction due to the deeply rooted support of a freely functioning economic system which seems to follow from the consequences of the Austrian research program. Rothbard, therefore, embraces the rather unusual (though not necessarily inconsistent) perspective of being an objectivist in ethics and a subjectivist in other realms.

This dictotomy leads Rothbard to be highly critical of the more popular economist's utilitarian political ethics. First, he challenges the ultimate foundations of an ethics based quantitatively, i.e., the "greatest good for the greatest number" and the implicit recognition of individual equality. Utilitarianism, he argues, is further trapped in a contradiction.

....[U]tilitarianism implicitly assumes these

subjective desires [of individuals] to be absolute givens which the social technician is somehow duty-bound to try to satisfy. But it is common human experience that individual desires are *not* absolute and unchanging....But how could that be so if all individuals' values and desires are givens and therefore not subject to alteration by the inter-subjective persuasion of others? But if these desires...are changeable by the persuasion of moral argument, it would then appear that inter-subjective moral principles do exist that can be argued and can have an impact on others.

Oddly enough, while utilitarianism assumes that morality, the good, is purely subjective to each individual, it assumes on the other hand that these subjective desires can be added, subtracted, and weighed across the various individuals in society... (Rothbard, 1982a, p. 202).

While this may be a damning criticism of utilitarianism, it is difficult to grasp how this argument in any way establishes the existence of "inter-subjective moral principles." And Rothbard never clearly justifies how that in the science of economics all benefits and costs are individually subjective, whereas in ethics there exists an objective standard.

Nor does he explain the common problem of natural law theory, namely the notorious disagreement over what actually are the laws of nature. The followers of Thomas Aquinas were generally Catholic communitarians and would have been unsympathetic of Rothbard's radical individualism, for example (Barry, 1986, p. 176). While Rothbard might respond that philosophy has evolved since the time of Aquinas, this foundational void still fails to satisfy present-day natural law theorists, practically none of whom would accept Rothbard's system of ethics. One might conclude that Rothbard, failing to prove the existence of the roots of libertarian ethics, is guilty of the same crime often attributed to fellow libertarian Robert Nozick--a libertarianism

devoid of foundations.¹ He simply accepts the ontological existence of these truths. Moreover, he clearly distinguishes this natural law from positive law. The former provides an objective set of rules that are eternal and immutable by definition and are founded upon the fixed nature of humans. The latter, on the other hand, contains numerous non-rational components, including the dependence on tradition and the use of force as he defines it. In Rothbard's view, reason alone is the only appropriate means to establishing a politically ethical system. Accepting this method's primacy, natural law is constantly a radical component in politics, threatening these non-rational parts of the status quo.

This is an important point, for in modern interpretation natural law is quite often seen as a distinctly conservative phenomenon. Yet, for Rothbard, it becomes that which has been as of yet unachieved in the fulfillment of the natural, and rational, society. Its realization requires a radical makeover of the present world. His assumption, however, is that these natural laws may objectively be established through rational discourse.

Rothbard also provides an additional twist to his understanding of natural law by arguing that many natural law philosophers (especially the ancients) failed to correctly enunciate true maxims. The failure arises for these theorists because they rooted their political philosophy in the State rather than centering it on the individual. They missed the mark by not establishing the correct principles of justice in the source of moral and

1. For a discussion of the requirements of demonstrating the existence of natural law, particularly from a libertarian perspective, see Flew (1982, pp. 278-279).

immoral action, the single actor. There is, then, a clear consistency between Rothbard's system of ethics and the criticisms he and other Austrians within the tradition of methodological individualism make concerning the study of "macro-economics": the "leap" these studies make from the real component in action (the individual) to a misleading form of holism (the State).

Thus, from Aristotle's correct dictum that man is a 'social animal,' that his nature is best fitted for social cooperation, the classicists leaped illegitimately to the virtual identification of 'society' and the 'State,' and thence to the State as the major focus of virtuous action (Rothbard, 1982a, p. 21).

Instead, Rothbard founds his natural law on a more recent political philosopher, John Locke. From this merging of natural law and individualism comes the framework of natural rights. One might view this fusion as a synthesis both theoretically and historically of objective universal law and subjective fulfillment of human interests. Thus, by "individualism" Rothbard does not mean atomism. That interpretation, he argues, is an "authoritarian straw man" (Rothbard, 1978b, p. 28). Universal moral laws transcend individual interests. In fact, it is the social nature of mankind that encompasses the most basic natural facts: Cooperation, exchange, learning, and interaction are critical both for the economic and ethical survival of mankind. Nevertheless, these principles are derived from and mediate the acts of individuals and they exist to "serve" the individual. It is the State that is the "anti- social instrument, crippling voluntary interchange, individual creativity and the division of labor" (Rothbard, 1982a, p. 187).

Political Philosophy and Individual Morality

In his political philosophy, Rothbard focuses upon the concept of rights, which ultimately are social or political notions, i.e., boundaries within which individuals may act in relation to others. Therefore, one must distinguish personal ethics (how one leads his own life) and political philosophy (how one interacts with other individuals).

[There is a] crucial distinction we shall make...between a man's *right* and the morality or immorality of his exercise of that right. We will contend that it is a man's right to do whatever he wishes with his person; it is his right not to be molested or interfered with by violence from exercising that right. But what may be the moral or immoral ways of exercising that right is a question of personal ethics rather than political philosophy--which is concerned solely with matters of right, and of the proper or improper exercise of physical violence in human relations (Rothbard, 1982a, p. 24).

Thus, Rothbard seeks to formulate a "political philosophy of liberty"--a "social ethic of liberty"--not a personal set of morals for individuals (Rothbard, 1982a, p. 25). This is a very important distinction in its application. In the discussion of numerous libertarian applications to modern political dilemmas, he defends positions that will most definitely offend the personal moralities of many individuals. However, it is important to realize that libertarian political philosophy is simply the specification of what legitimate functions (if any) the State may entertain, or what certain persons may impose upon other persons. Where activities are undertaken that do not violently cross the paths of other persons, Rothbard's ethics are silent. Thus,

the system makes no ethical judgments on individual behavior unless interaction occurs within a social framework. Unfortunately, he never explains how we may create an objective ethic at this level but cannot formulate one at the level of personal economic or ethical decision-making. (Coming from the Austrian tradition, one might be more likely to conclude that an objective ethics may not be formulated.) Presumably, though, no legitimate overarching system of personal morality may contradict the principles of libertarian political philosophy.

Rothbard concludes that political philosophy has failed at its truth-seeking task in contemporary scholarship in at least two ways. The dominant failure emerges from political science's infatuation with "empirical fact-grubbing" and model-formulation. The fallacy in this case arises from the perspective that value-free policy prescriptions may be drawn from scientific research. The result is a type of backdoor philosophizing, in which "scientists" make implicit value judgments under the guise of objectivism. In almost all circumstances, these implicit value prescriptions generate an advantage for the existing status quo. The second failure comes from political philosophy's contemporary interests--an evasion of true philosophy for historical study of "antiquarian descriptions and exegeses of the views of *other*, long gone political philosophers" (Rothbard, 1982a, p. 25). As a result, modern political debate proceeds devoid of well-founded systems of ethics applicable to modern political questions. For Rothbard, no advocacy of actual public policy may legitimately occur without this component (Rothbard, 1973c, pp. 35-39; 1974c, pp. 101-106).

Libertarian Ethics: Humans in Isolation

The concept of "Robinson Crusoe" appears in Rothbard's political philosophy as well as in his economic theory. He distinguishes for the purposes of clarification the notion of the individual alone in nature and the idea of an actor in society. Through such abstraction one may attain an understanding of what occurs in interaction among individuals without becoming entangled in the network of society, and losing all clarity.

The learning process Crusoe encounters is the same for ethical understanding as it is for economic survival. Through both introspection and extraspection, he learns the "natures" of phenomena. This "fusion of spirit and matter," or ideas directing energies, allows the discovery of natural laws, as it does for economic laws (Rothbard, 1982a, p. 31).

But what natural laws of political and/or social relations may a lonely Crusoe realize? First, he discovers the "primordial natural fact of his freedom: his freedom to choose, his freedom to use or not use his reason about any given subject" (Rothbard, 1982a, p. 31). In other words, he discovers his free will as an individual. From this realization, Crusoe recognizes that he possesses and controls his self and his own body--a "natural ownership of self" (Rothbard, 1982a, p. 31).² Even without any additional ownership, this natural "fact" cannot be denied. These realizations are intertwined, for the

2. Not all libertarians accept the notion of "self-ownership"; see Machan (1989, pp. 139-140). Machan argues that self-ownership is impossible, since one cannot simultaneously be one's self and own one's self.

right of self-ownership provides the human the opportunity to achieve his ends and satisfy his human potential.

Is there not a tension in this connection between free will and natural law? If one is bound by the dictates of nature, how can he have free will? Rothbard draws a very important distinction between freedom and power.

Man is free to adopt values and choose his actions; but this does not at all mean that he may violate natural laws with impunity--that he may leap oceans with a single bound. In short, when we say that 'man is not 'free' to leap the ocean', we are really discussing not his lack of freedom but his lack of *power* to cross the ocean, given the laws of his nature and of the nature of the world. Crusoe's freedom to adopt ideas, to choose his ends, is inviolable and inalienable; on the other hand, man, not being *omnipotent* as well as not being omniscient, always finds his *power* limited for doing all the things that he would like to do. In short, his power is necessarily limited by natural laws, but not his freedom of will. To put the case another way, it is patently absurd to define 'freedom' of an entity as its power to perform an act impossible for its nature (Rothbard, 1982a, pp. 33-34)!

Freedom is defined negatively: It is the absence of interference in person and property by other persons. For that reason freedom and power may well be antithetical concepts. And, since the abstracted Crusoe exists in total isolation, it would be correct to say he is totally free, even though there are surely numbers of things beyond his control or possession.

This distinction is crucial to the Rothbardian system and to libertarianism in general. In many modern definitions of "positive" freedom the notion becomes hopelessly entangled with the the idea of entitlement,

opportunity, or empowerment (Rothbard, 1982a, pp. 215-216). This perspective is unfortunately inconsistent, for in the natural world humans are entitled to nothing. We in essence create (or do not create) our "worlds." Therefore, in productive society any entitlement comes at the expense of some other "creative" person--if it is defined as anything more than the principle of non-interference. These truths do not vary in the social world, for from a natural law perspective freedoms that do not exist in nature cannot emerge outside of it. Rothbard's model of ethics is therefore consistent. Notions of freedom which entail an idea of power are inconsistent, unachievable, and extremely conflictual, and as rights, cannot exist simultaneously in the social world. As an absolutist ethical theory there is no (logical) potential for any conflict of rights. Ultimately, the only remaining natural freedoms must be negatively-founded, framed upon the idea of the non-interference of others.

However, each "person's freedom of movement, one critic notes, will be a function of what he owns" (Barry, 1986, p. 180). While this assessment is correct, it seems to ignore the fact that an individual also owns at least himself in this system. And alternatives to this idea of ownership remove even this moral imperative by "socializing" the notion of rights to include particular forms of interference. In his isolated world, Crusoe has the ability to transform the physical resources available to him. He is free in the only sense the term has any meaning--in nature. In this world there is obviously no fear of conflicting claims--his "title" goes as far as his reach allows. Of course, for the purposes of political philosophy, this isolated state has little meaning relative to property rights--except in the foundation of their

existence for both the isolated and populated worlds. But these rights need not be transformed in society, for in both isolation and interaction Rothbard's principles of ethics are the same. Civil society's emergence does nothing to change the fundamental laws of nature.

Libertarian Ethics: The Introduction of Society and Human Interaction

Interaction changes our discussion in substance but not in principle. Through exchange, as Rothbard demonstrates in his discussion of economic theory, civilization expands. And through a market order and price system, these exchanges can be calculated in extremely efficient manners despite the high complexity of the economy. Rothbard calls this world of total voluntary exchange a free society or a society of "pure liberty" (Rothbard, 1982a, p. 40). But exchanges require an ethical and legal foundation, namely, the notion of ownership and a system of property rights. According to Rothbard, humans may ethically acquire wealth through exploitation of virgin resources, through voluntary exchange of previously created wealth or one's labor, or through the receipt of gifts from someone else's stock of resources attained through one of the first two methods. And each of these situations falls back ultimately on human self-ownership and the consequences of the mixture of one's labor accordingly.³

3. Certain philosophical traditions, namely the Marxists, reject the idea of one's labor representing a commodity. But Rothbard (1982a, p. 40) disagrees: Since labor is alienable from one's self, it is the productive services and not the individual in exchange.

As we previously noted, by defining property rights as a consistent extension of each person's own self-ownership, there is no inconsistency in applying this framework to a complex society. Rousseau's famous paradox of freedom and chains need never exist, according to Rothbard! Civilization requires no surrendering of human freedom in order to garner the benefits of civilized society; in fact, it thrives from the maintenance of pure liberty. And pure liberty is the only ethic which is equally applicable to all persons simultaneously in the community. All other notions of the ethical society violate this requirement of universal application since any other system contradicts the idea that all persons must live by a code of equal justice.

This primacy by libertarians of "property" rights is often misunderstood by modern theorists, particularly modern "liberals" who create the arbitrary dichotomy between property rights and "human" rights. For Rothbard, it is not so much that property rights take precedence, but that they are the only kind of rights. In other words, there are no human rights that are not property rights, since all rights emerge from the natural fact of individual self-ownership. From this perspective, free speech, for example, results from the fact we own ourselves and what we say. Contrary to the rationales so often heard in modern debate about the non-absoluteness of speech (and the subsequent necessity to "balance" rights), speech is totally absolute and consistent when thought of in terms of property rights. As Rothbard notes, the critical and often ignored issue in the debate over speech is where the speech occurs. In other words, to utilize a common example, one cannot yell "fire" in a theater because he does not own the theater. (See Chapter V for additional discussions of the rights of expression.) The failure

of the modern liberal perspective is that it treats humans as "ethereal abstractions."

....If a man has the right to self-ownership, to the control of his life, then in the real world he must also have the right to sustain his life by grappling with and transforming resources; he must be able to own the ground and the resources on which he stands and which he must use. In short, to sustain his "human right"--or his property rights in his own person--he must also have the property right in the material world, in the objects he produces. Property rights *are* human rights, and are essential to the human rights which liberals attempt to maintain.... (Rothbard, 1978b, pp. 42-43).

To further illustrate this point, let us borrow a common and extreme example often used against strict property rights theorists, namely, the "lifeboat" scenario. The prime requirement, of course, is to unsort those who may live from those who die in this dire situation. For Rothbard, these determinations follow from distinguishing ownership of the boat. In cases where the owner is a member of the party, he has sole responsibility to determine who lives or dies, based on whatever criteria he values. Hence, those persons he asks to leave are trespassers and may be discarded. If the owner is not present and has not made his demands for the use of the lifeboat known, or if he is dead, then the homesteading principle (discussed below) applies. In other words, if the boat holds five persons, and ten persons are trying to use it, ownership goes to the first five persons to possess the boat. But in seeking to attain the boat, one is not free to aggress against other persons seeking to accomplish the same goal. This resolution may appear exceedingly harsh, but any conclusion is, by necessity, grim.

Thus, all of Rothbard's theory follows from the natural facts of self-ownership and the homesteading principle. What are the consequences of such a strict notion of property rights? Rothbard apparently rejects any notion of an end-state (and generally egalitarian) idea of distributive justice, or the "Lockean proviso" which compromises a view of property rights that is purely historical. For him, it is completely the rule of "first come-first served."

But even Rothbard would surely admit that such a notion of justice leaves open the distinct possibility of vast resource inequality due to extreme differences in capital and land resources. And will not these vast inequalities be utilized to unequally apply unethical means in the social process? This problem does not concern Rothbard, who, in fact, maintains a rather extreme anti-egalitarian perspective. First, individual freedom is critical both for ethical reasons and for the survival of humankind; inequality of wealth and control are therefore inevitable. Second, the ethics of egalitarianism represent a "revolt against nature", which can only demolish civilization by violating both the basic nature of man (largely by rejecting the idea that humans have a distinctive nature) and, consequently, the laws of economics (Rothbard, 1973a, pp. 348-357; 1971a, 226-245).

Forms of Interaction: Property Rights and Criminality

According to Rothbard, there are only two alternatives concerning ownership: the libertarian notion of total self-ownership and the idea of ownership by others. The latter alternative may be further sub-divided into

two additional categories: the "'communist' one of Universal and Equal Other-ownership" or the "Partial Ownership of One Group by Another--a system of rule by one class over another" (Rothbard, 1982a, p. 45; 1978b, pp. 29-30).

How do these latter two alternatives stand ethically? The partial ownership ethic, Rothbard contends, fails for lack of universality by either rendering certain entities as non-humans or allowing one group to aggress against others. Hence, it fails to meet both moral and impartiality requirements. Furthermore, by living off the production of others, certain classes violate the natural requirement for life that they be productive in a voluntary exchange environment.

The communist alternative suffers for similar reasons. In complex societies, i.e., those composing more than a few persons, communist ethics disintegrates into partial rule by others. It is rather easy to understand how this breakdown occurs. In the complex economy, there exists a distinction of property, either through de facto or de jure means. To fail to provide realistic rules concerning possession, i.e., "rights" of property, the system provides a vacuum that is filled by either overt or covert applications of force. Rothbard correctly argues that all property is ultimately private property. The important issue is how one defines the parameters of ownership/possession and not how one might eradicate notions of property. In the real world, then, communism is utopian (as is the general category of egalitarianism) and is an impractical economic and ethical formula. Since this ethic is essentially self-destructive, Rothbard argues, movement in the direction of communism may also be viewed as contrary to natural law.

Since humans are not "floating wraiths", ownership necessarily extends to other material properties in society as it does in isolation. However, according to Rothbard, natural law extends ownership only to the point of actual use. In other words, although certain persons might arrive first on Mars, they may not claim actual ownership of the entire planet unless they are somehow able to homestead and mix labor with such a large land mass.

What an individual creates by mixing his labor becomes his property so long as he has not stolen it from another individual. Can this justification be extended to include not only created property, but also the actual existing lands? Rothbard argues that land is no different from other tangible properties.

...[T]he justification for the ownership of ground land is the same for that of any other property. For no man actually ever 'creates' matter: what he does is take nature-given matter and transform it by means of his ideas and labor energy. But this is precisely what the pioneer--the homesteader--does when he clears and uses previously unused virgin lands and brings it into his private ownership. The homesteader--just as the sculptor, or miner--has transformed the nature-given soil by his labor and his personality. The homesteader is just as much a 'producer' as the others, and therefore just as legitimately the owner of his property (Rothbard, 1982a, pp. 48-49).

The land is unowned prior to the homesteading. It is, he argues, valueless until it is turned to production in some form. Rothbard rejects the Georgist position because it fails to recognize that land, like all other resources, must necessarily be controlled by someone. To place ownership in some abstraction

called "society" or the State is to beg the question. In reality, no producer creates new matter; he merely transforms it. There is no distinction between land and other natural resources.

Wealth, the result of production, may then be obtained in one of two ways. Following Oppenheimer's lead again, Rothbard concludes that humans may either produce or steal resources (economic or political means). Only the first alternative, as we stated earlier, is legitimate, for the second one contradicts human nature. An aggressor lives parasitically off others, but parasites cease to exist in the absence of producers. Therefore, parasitism represents acts wholly against the nature of humans:

Parasitism cannot be a universal ethic, and, in fact, the growth of parasitism attacks and diminishes the production by which both host and parasite survive. Coercive exploitation or parasitism injures the production for everyone in the society. Any way that it may be considered, parasitic predation and robbery violate *not only* the nature of the victim whose self and product are violated; but also the nature of the aggressor himself, who abandons the natural way of production--of using his mind to transform nature and exchange with other producers--for the way of parasitic expropriation of the work and product of others. In the deepest sense, the aggressor injures himself as well as his unfortunate victim (Rothbard, 1982a, pp. 49-50).

The libertarian "creed", according to Rothbard, rest upon one central axiom: "no man or group of men may aggress against the person or property of anyone else"--the "non-aggression axiom" (Rothbard, 1978b, p. 23). This concept of aggression or coercion is crucial to the entire libertarian model. Unfortunately, there exists an unavoidable ambiguity with the term. The "invasive use of physical violence or the threat thereof" leaves the

boundaries hazy. Does "physical" force, for example, exclude psychological "force"? Or, might "invasion" be defined so loosely as to include practically every minor "externality" (incessant whistling or one's hair color, for instance)?

In his stinging critique of F. A. Hayek's discussion of coercion, we are able to gain a bit more understanding of Rothbard's own perspective of what constitutes invasion (Rothbard, 1982a, pp. 219-228). In The Constitution of Liberty, Hayek defines coercion as "the control of the environment or circumstances of a person by another" that creates the situation where, "in order to avoid greater evil, [the person] is forced to act not according to a coherent plan of his own but to serve the ends of another" (Hayek, 1960, pp. 20-21). Rothbard argues this definition opens the floodgates to all manner of "non-aggressive" acts being defined as coercion (Rothbard, 1982a, p. 219). Furthermore, by contending that in certain cases coercion should be allowed to prevent even greater coercion (for example, punishing a nagging wife), Hayek grants coercion an "additive quality" that it does not possess (Rothbard, 1982a, p. 219). This quality results, Rothbard argues, from a failure to distinguish qualitative differences between violent acts and peaceful ones. As a ethical monist, Rothbard postulates only two alternatives: voluntary and aggressive actions.

How does this monism employ itself in Rothbard's system of ethics? To borrow one of Hayek's examples: Would it be coercion for a manager to fire an employee in a mining town simply due to his dislike of the man (Hayek, 1960, pp. 136-137)? To Rothbard, it would not be an illegitimate invasion. As manager (acting in the interests and with the support of the

owner), one is free to use or not use his property as he sees fit. Obviously, in this libertarian system of ethics, there is no natural "right" to employment, regardless of how serious the consequences may be because of the dismissal. No matter how drastic one formulates the consequences, Rothbard's position would not change until the action of the employer could be defined in his theory as invasive. Thus, with regard to Hayek's definition, Rothbard concludes:

...[We] are duty-bound to do one of two things: either to confine the concept of 'coercion' strictly to the invasion of another's person or property by the use or threat of physical violence; or to scrap the term 'coercion' altogether, and simply define 'freedom' not as the 'absence of coercion' but as the 'absence of aggressive physical violence or the threat thereof'....Unfortunately, [Hayek's] middle-of-the-road failure to confine coercion strictly to violence pervasively flaws his entire system of political philosophy. He cannot salvage that system by attempting to distinguish, merely quantitatively, between 'mild' and 'more severe' forms of coercion (Rothbard, 1982a, p. 223).

Rothbard is correct to criticize the "quantitative" nature of Hayek's coercion, but to accept a qualitative definition burdens him with the demand of preciseness. Both the concepts of "physical" and "invasion" require more exact and precise definitions in order to be truly meaningful. Otherwise, the system provides no parameters of rightful or wrongful actions. In defining his terms, Hayek fell into the trap of defining in degrees, whereas Rothbard's failure is to beg the question by being overly vague. Until these definitions can be established with more clarity, the model's ethical applicability is diminished. Thus, the individualistic framework remains, but the legal

definition of "invasion" may mean practically nothing at all or it may imply almost everything. Obviously, Rothbard, as a libertarian, would prefer to rest nearer the former end of the continuum. However, nothing prevents the extension of morals to include what might be called "quasi-invasive".

For instance, could the continual racial badgering of a minority person be defined as an invasive act? Or, under the Rothbardian notion, would "brainwashing" be a physical invasion? Would it be so immediately, or only after an observable change, or at some other point in time? To be consistent, it would seem that one may select one of two possible alternatives: Either the act is immediately invasive or it is never invasive, since, by definition, this is or is not a "physical" invasion. The latter answer is obviously more in line with Rothbard's perspective, yet it would prove to be highly unsatisfactory to many theorists (even some with libertarian tendencies) to ignore these common but difficult to define relationships.

But let us proceed from the assumption that we have at least a partially defineable foundation upon which to build. Is aggression always unjustified? Rothbard concludes that historical investigation is necessary in any given case; thus, property rights may not be extended to properties previously expropriated. No one may act aggressively against the legitimate property of another. Any given situation, therefore, must define the natural owner and aggressor. It goes without saying that in the highly unethical and statist world of today, existing legal property rights claims may well have serious ethical problems.⁴

4. Similarly, Rothbard would reject Public Choice theorist James

In this context, a fallacious argument which tries to distinguish private property and community property often arises against the libertarian model. The effect is to separate community property from the ethical constraints of normal legitimate ownership concerns. But Rothbard makes no distinction between a single owner and a group of individuals who happen to call themselves a government.

Thus, the crucial question is *not*, as so many believe, whether property should be private or governmental, but rather whether the *necessarily* 'private' owners are legitimate owners or criminals. For ultimately, there is no entity called 'government'; there are only people forming themselves into groups called 'governments' and acting in a 'governmental' manner. *All* property is therefore always 'private'; the only and critical question is whether it should reside in the hands of criminals or in the proper and legitimate owners. There is really only one reason for libertarians to oppose the formation of governmental property or to call for its divestment: The realization that the rulers of government are unjust and criminal owners of such property (Rothbard, 1982a, p. 55).

Does this not open a Pandora's box of persons with actual property claims challenging specific historical situations? As a consequence, does it not produce an extremely disordered society? Rothbard argues to the contrary: Unless one can be shown to be a criminal of someone's person or property, then the assumption must be that the possessor is the legitimate owner. In fact, even if the present possessor is proven to be in control of criminally

Buchanan's (1975) acceptance of the status quo as an ethical foundation in establishing property arrangements.

obtained property, there may be circumstances that warrant the status quo. For example, if the owner or his ancestors are clearly identifiable, then the property returns to the rightful owner(s), even if the property is no longer in the ownership of the actual criminal. If the original owners are not identifiable, however, it becomes more complicated. If the actual criminal still possesses the item, Rothbard argues, he must surrender it. The good returns to a state of "no-ownership" and will go to the first "homesteader." But, if the present possessor is not the actual thief and the legitimate owners are unknown, then the homesteader is obviously the present holder of the property. The presumption is that unless there is clear evidence of both criminal action and victim(s), the item remains in its status quo circumstances, although ill-gotten gains may never remain with the actual criminal. (However, the forced return of the items ought to distinguish any separable items of value added by the illegitimate possessor.)

Within this ethical framework, one might argue that the "loser" would be those persons who purchase properties that have been gained criminally. Rothbard, however, suggests that the use of some form of title search and/or insurance process similar to the types which already exist for land sales (where property exchanges represent substantial resources) could easily be applied under these circumstances.

It should be clear by now that Rothbard's system of ethics is built upon a set of two alternatives: the theory of the rights of property and the theory of criminality. The former idea represents legitimate action: Every person has an absolute right of ownership of himself and all unclaimed resources he discovers and transforms. Conversely, criminal action is the transgression of

these legitimate claims, and in the ethical society, must be invalidated (Rothbard, 1982a, p. 59).

The Problem of the Limited Earth

One very serious criticism likely to arise against a system of ethics so fundamentally based on self-ownership and the extension thereof is that certain kinds of property, namely land, is, at least for the foreseeable future, in a definitely limited supply. Under Rothbard's homesteading position, is one to rely in every case on a simple first come-first served framework? Furthermore, how may this seemingly arbitrary principle be justified within a natural law system?

First, Rothbard's requirement of usage for the establishment of legitimate property claims eliminates a portion of this problem. In other words, no person may make mere broad-sweeping claims to land and justly establish rightful ownership. Thus, the scarcity of land created by this type of claim would not constitute a problem within his system. To demonstrate this proposition, Rothbard returns to the Crusoe model:

...Crusoe, landing upon a large island, may grandiosely trumpet to the winds his 'ownership' of the entire island. But, in natural fact, he *owns* only the part he settles and transforms into use....But so long as no other person appears on the scene, Crusoe's claim is so much empty verbiage and fantasy, with no foundation in natural fact. But should a newcomer--a Friday--appear on the scene, and begin to transform unused land, then any *enforcement* of Crusoe's invalid claim would constitute criminal aggression against the

newcomer and invasion of the latter's property rights (Rothbard, 1982a, p. 64).

However, Rothbard does not mean by this requirement that property must be in continual use. Rather, it must have been employed at some point in the past, so that one may be said to have "imprinted the stamp of his personal energy upon the land" (Rothbard, 1982a, p. 64). Yet, as the world grows more populated and the technological advances extend the abilities for persons to mix with larger parcels of property, the potential problem of not having enough to go around remains or even increases. In fact, Rothbard's principle extends this problem, since once the property has been transformed by a person, it remains that person's property for perpetuity. Thus, those coming later face apparently even more difficult obstacles.

It is important to note, however, that his position is built upon the satisfying of past aggressions against historical property claims--in no way a trivial point. In cases where property has been aggressively stolen years ago, it must be rightfully returned to present day ancestors. For critics worried about the unequal division of property and its effects on one's ability to enjoy the homesteading requirements, it is likely that substantial parcels of land would need to be legitimately transferred out of the ownership of (presumably more powerful) aggressors. There would be, at least initially, an equalizing tendency.

Rothbard identifies two forms of illegitimate land monopolies: forms of feudalism and "land-engrossing," or unfounded broad claims to virgin property mentioned above. The first of these forms, he argues, is a serious problem internationally and one often ignored by even free market economists who underestimate the role of property rights in a just society.

His libertarian perspective provides a unique twist to the debate concerning land reform in less developed countries, since it at once supports a staunch property rights scheme and condemns "state capitalism." For example, the leasing of properties to industries by governments would be found to be illegitimate, since the claims of ownership by these governments violate principles of property rights. If, on the other hand, properly homesteaded titles emerge, then investment, development, etc. are quite legitimate. Unfortunately, in regions unsupportive of the market, the illegitimate activities of "capitalists" and the legitimate actions of a free market have been perceived comparably.

It is possible, even probable, that a large portion of the problem of limited land and, more importantly, subsequent concentrations of property, would disappear under a truly libertarian framework. Therefore, Rothbard's idea of property rights represents radical land reform: The "immediate vacating of the title and its transfer to the peasants, with certainly no compensation to the aggressors who had wrongly seized control of the land" (Rothbard, 1982a, p. 71). Similarly, concerning the slavery issue in America, Rothbard argues the moral solution would have been immediate abolition with compensation paid not to the "owners" of the slaves, but vice-versa, with the plantations going to the former slaves--the true homesteaders. For example, these principles would generate extreme anti-capitalist but pro-free market consequences simultaneously in less developed nations.

However, in discerning historical claims, one question arises concerning Rothbard's compensatory rights. Why, in the unsorting of legitimate and illegitimate historical property claims, do ancestors hold any

sort of favored status in the process of readjustment? Of course, Rothbard rightfully supports an individual's right to control his inheritance as an extension of property rights over one's gifts (Rothbard, 1978b, pp. 40-41). But in cases where these wishes are not and cannot be known, what natural law principles provide a special privilege to persons merely falling within an ancestral line?

Let us assume for a moment that ancestors have no special claims. If we rely upon Rothbard's argument, the property would presumably return to a state of non-ownership. Following the principles of homesteading, would not the property remain with the ancestor of the aggressor (who did not commit any criminal acts)? Are we, then, in the case of generational aggression, returned in reality to a framework of accepting for the most part the legitimacy of the status quo, dismissing historical circumstances? Perhaps we can establish an exception in those cases in which present generation "victims" can achieve the extremely difficult task of demonstrating past aggression. (Perhaps some form of individualistic and libertarian "affirmative action" extremely different from the present policy?) Without these historical connections, there seems to be no a priori rationale to benefit the ancestors of invaded persons.⁵ It would seem proper to require claimants

5. For instance, why should the beneficiaries of an "affirmative action" program receive "compensation" from other individuals without having to demonstrate injury? If we might for a moment assume that "discrimination" is an aggression under libertarian principles, it would appear possible to redress these injuries and provide restitution to the injured parties. But the claimant must be required to show actual injury to himself, not some long past ancestor. Of course, libertarian theory does not normally disallow private discrimination, but the point ought to be clear.

across generations to directly prove injury from the earlier aggression before they may rightfully claim compensation. Of course, this principle need not allow the obvious homesteading advantages which go to the thief's ancestors. But it removes the incentive to demand the punishment of such crimes, since no apparent person has claims against the ancestor. While this reformed principle does not go so far as to justify the status quo ethically, it significantly diminishes the rather radical compensatory historical framework that Rothbard outlines by eliminating most inter-generational claims.

This principle raises a potentially even more complicated issue in the management of aggression, namely, the proper punishment of criminals in society. Any libertarian model makes as its first principle the non-existence of "society"! Crime is an individual act perpetrated by criminal(s) upon victim(s). Rothbard argues that the libertarian principle of punishment must be one of proportionality. As a code, proportionality establishes the maximum punishment allowed the victim upon the proven aggressor. To advance beyond these limits is to become an aggressor oneself. Of course, since the punishment is the victim's decision, he is free to choose less than the maximum standard. Rothbard again makes the assumption that the heirs have some legal standing in this decisionmaking process (Rothbard, 1982a, p. 85). Either the heirs, or the murdered person through a pre-determined will, may establish the form of punishment demanded in cases in which the victim is deceased. The burden or the relief of satisfying justice falls upon the ancestors.

In Rothbard's view, the critical component in the theory of

punishment is restitution, a factor that has been increasingly ignored as the State expands its monopoly in the instigation of punishment.⁶ If, for example, a simple theft occurs, the aggressor is required to restore at least the amount or items taken, either through return of the resources or enslavement until the resources are redressed. For certain types of crimes, restitution may demand more. In cases of aggression, for instance, restitution equal to the monetary loss of the victim is insufficient and proportionality must be applied in a different form. First, the criminal must lose rights to the same extent as he has taken them. In the cases of monetary theft, for example, the criminal should pay double the crime, as well as other specifically established costs for non-monetary items (fear, mental anguish, etc.). Likewise, in assault cases, the victim would be free to beat the aggressor twice as badly, or at least "more than the same extent" (Rothbard, 1982a, p. 88).⁷ The victim is again free to choose a less serious punishment, or to reach a contractual agreement with the aggressor to allow some other form of punishment.

Of course, this "two teeth for a tooth" principle tends to run counter to modern notions of punishment. Deterrence, for example, a utilitarian notion at foundation, creates potentially dangerous and unjust social consequences

6. On the notion of restitution in a libertarian society, see also Rothbard (1980b); Nozick (1974, pp. 59-63); Ferrara (1982); and Barnett and Hagel (1977).

7. As Rothbard notes, the practice of restitution would produce the opposite results of the contemporary punishment model in which the taxpayers are required to pay the expenses of arresting, trying, convicting, and incarcerating criminals. See also Rothbard (1982a, pp. 86-87).

such as the over-punishment of more frequently and less severe petty crimes or even the conviction of innocent people to make a social point (Rothbard, 1982a, p. 91). Neither does the notion of rehabilitation satisfy the principles of justice. If implemented in its entirety, the logic of this form of "punishment" results in completely indeterminate sentences--a complete dismissal of any idea of proportionality. Moreover, it transfers completely the dispensal of justice to a third party, the State, which leads to a subsequent disintegration of the principle of equality under law. As Rothbard notes, "therapy" quite often calls forward much harsher punishment than simple proportionality, or, on the other hand, it may produce rapid "rehabilitation" for severe crimes. Each of these principles ignores the only person who ethically has "standing" in these cases, namely, the victim.

Several potential criticisms arise from Rothbard's discussion of punishment. The first problem, an admittedly minor one perhaps, deals with the rather arbitrary nature of his "two teeth for a tooth principle." Rothbard himself does not seem overly committed to this perspective, calling it a "fall back" position (Rothbard, 1982a, p. 88). Moreover, he is unclear as to the proper extent of restitution in specific cases. This understandable lack of clarity is not a major shortcoming for the libertarian system. The crucial components are unscathed by this unavoidable problem: It removes any sort of State's interest and retains the individualistic nature of crime and punishment. Still, as with the definition of "physical invasion" (though obviously not to the same degree) the rudiments of proportionality lack adequate clarity.

Peter Ferrara argues that this principle of double punishment may just

as easily be characterized as a combination of both restitution and retribution, and still be defined without a State interest. Whereas Rothbard's position is defined, according to Ferrara, as "a strict lex talionis whereby the victim has the right to do to the criminal exactly what the criminal did to the victim," there is no apparent reason why this lex talionis cannot be viewed as retribution for the aggression (Ferrara, 1982, pp. 127-128).

Perhaps a more pressing criticism concerns the potential removal of more impartial third parties in implementing the actual punishment. Rothbard readily allows persons to "take the law into their own hands," although he anticipates that in a free market such activities would be handled by those with comparative advantages in those arenas. Otherwise, the executor of the punishment may be liable for exaggerating the punishment or mistaking the criminal--both for which they themselves would become criminals.

On the other hand, a criticism might alternatively emerge from an opposite kind of problem. It is surely conceivable that individuals might not be able or may not be courageous enough to implement punishment against an aggressor. By removing the force of the State from the punishment of criminals, one possibly leaves the separate individual in a frightened and intimidated position. Rothbard's response seems less than adequate: If the victim does not choose to respond, then no rights have been violated. In cases where the victim is a pacifist, this argument might carry some weight; the "debt" is simply forgiven. It is very easy to imagine, however, how even a majority of victims might face unconquerable intimidation from their aggressors. Of course, they are free to hire other persons to get their justice,

and, as he notes, the present system cannot avoid cases lost through intimidation, either. Still, there are times when the State's monopoly of force serves as a valuable instrument in the protection of victims' rights.

Yet, it would seem such active participation by those directly affected may produce positive consequences arising from heightened enthusiasm. While there obviously exists a greater incentive to capture the aggressors, this advantage may be outweighed by the loss of objectivity which comes from third party investigations. However, these persons are liable for their actions--not only their acts of punishment but also their activities in uncovering evidence. Hence, as Rothbard correctly notes, it is quite likely that police and judicial work would be left up to those persons trained in those areas.

How are these rights to punish aggressors woven into libertarian ethics? According to Rothbard, rights of punishment emerge from natural rights of self-defense.

If every man has the absolute right to his justly-held property, it then follows that he has the right to *keep* that property--to defend it by violence against violent invasion....To say that someone has the absolute right to a certain property, but yet lacks the right to defend against attack or invasion, is also to say that he does *not* have total right to that property (Rothbard, 1982a, p. 77).

Similarly, persons have the right to hire contractually persons to carry out the same function. The extent of this self-defense is as simple as the ancient "nose-fist" analogy, i.e., legitimate self-defense ends at the point where another's property rights in person or thing begins. In itself, this rule communicates very little information. Retaliation does not, for instance, apply to what Rothbard calls "non-violent harm" (Rothbard, 1982a, p. 77). To

adopt one of his examples, while boycotts may have particularly damaging effects on a producer, the "injured" party has no right to respond to these actions in a violent way. (Of course, nothing would prevent the producer from retaliating in other non-aggressive ways, say, by refusing to provide other products or perks desired by the boycotters. Likewise, while unions are free to peacefully strike, so is an employer free to fire anyone he pleases and to replace them accordingly.)

Thus, the crime must be, according to Rothbard, a violent or "invasive" act before retaliation is justified (Rothbard, 1982a, p. 77). Included in this category would be at least three acts: actual physical aggression, intimidation or threat of violence, and fraud or "implicit theft." It is not exactly clear how these categories parallel with the definition of invasion relative to the ethics of aggression. Would, for example, intimidation represent "physical" force? These categories are at once minutely narrow and infinitely broad. For example, where does one draw the line between hearty persuasion and criminal intimidation? Rothbard contends that the threat of aggression must be "palpable, immediate, and direct; in short, that it be embodied in the initiation of an overt act." Furthermore, we must "bend over backwards to require the threat of invasion direct and immediate, and therefore to allow people to do whatever they may be doing" (Rothbard, 1982a, p. 78). In other words, the "self-defender" maintains the burden of proof to show that actual violence occurred or would have surely happened. If the violence did occur, the transgressor is warranted to defend against that invasion.

But to what degree may one return aggression? As with the difficult

question of punishment, it is often exceedingly difficult to legitimately gauge the extent of the response which may be proper. In the case of a threat, the danger must be immediate and overt. Once this fact is established, the ethical validity of the response retreats again to the notion of proportionality, i.e., loss "to the extent that [one man] deprived another man of his [rights]" (Rothbard, 1982a, p. 80). It goes without saying that this principle applies with equal force to police or other types of community security personnel.

Rothbard also defines fraud in contractual agreements as an act of violence, either by failure to implement one's obligation after benefitting from the other party or by unauthorized adulteration of properties involved in the exchange. However, he argues, the failure to carry out a contract is not always a fraudulent act. Contracts are only enforceable if actual theft occurs. For instance, to borrow one of his examples, one may not be required to follow up on a promise of marriage six months in advance--since no actual property has changed hands. If, however, actual property is appropriated, then the agreement is enforceable and violent self defense is warranted to retrieve the property. He, therefore, veers away from an absolutist position on contracts by arguing that these agreements are a derivative of the right of property. Only in those contracts where failure to execute would signify property theft would there be legitimate means to enforce them. If, on the other hand, the property has not been transferred from one party to another, no theft has occurred. Property rights are absolute; contract rights, in his view, are merely instruments to facilitate the benefits of ownership and a free society.

An important consequence of this "title-transfer" position is the

rejection of any notion of a "breach of promise." The fulfillment of a contract is not based upon any form of expectation on the part of the as of yet unfulfilled recipient, but is founded solely on forms of "implicit theft" where title has gone from one party to the other without the latter fulfilling his obligation. This issue is a very important and conflictual point in libertarianism. Rothbard argues there is no form of property in one's promises or expectations. These contracts are, then, unenforceable. In this instance we have what Barry calls the "superficially startling view" that any contract resting on promise or expectation, rather than being implicit theft, may be breached at will (Barry, 1986, p. 183).

....The basic reason is that the only valid transfer of title of ownership in the free society is the case where the property is, in fact and in the nature of man, *alienable* by man....i.e., in natural fact can be given or transferred to the ownership and control of another party....But there are certain vital things which, in natural fact and in the nature of man are *in* alienable, i.e., they *cannot* in fact be alienated, even voluntarily (Rothbard, 1982a, pp. 134-135).

These "vital" items include the human will or control of one's self. Likewise, these rights are inalienable. Thus, Rothbard argues, it would be inconsistent to conceive of a notion of rights--which by their nature are founded on "absolute self-ownership"--in concert with alienability.

Rothbard uses this argument to reject social contract theory as well.

....A basic fallacy is endemic to all social contract theories of the State, namely, that *any* contract based on a promise is binding and enforceable. If, then, *everyone*---in itself of course a heroic assumption--in a state of nature surrendered all or some of his (sic) rights to a State, the social contract theorists consider this promise to be binding

forevermore....While, on the contrary *other* attributes of man: specifically, his self-ownership over his own will and body, and the *rights* to person and property which stem from that self-ownership, are 'inalienable' and therefore cannot be surrendered in a binding contract. If no one, then, can surrender his own will, his body, or his rights in an enforceable contract, *a fortiori* he cannot surrender the persons or the rights of his posterity (Rothbard, 1982a, p. 230).

This position further explains Rothbard's subordinate role for the right of contracts. A "slave contract", for instance, would not be enforceable since no person may alienate ultimate control over himself. And since the "slave" is not an implicit thief in Rothbard's definition, neither would he owe any payment for removing himself from any life-long obligation.

But is there no property in any form of promise? What of the costs borne by the person left "holding the bag"? For Rothbard there is no legitimate claim; instead he chalks the loss up to poor entrepreneurship and forecasting--an unfortunate learning experience. Therefore, persons ought to be free at any time during the course of a job contract, for example, to quit and move elsewhere (including military enlistees!). The only recourse for the employer apparently involves blacklisting such individuals, unless, of course, some form of conditional property exchange has actually occurred. In these cases of exchange, tangible property is involved--and these resources are alienable.

While this perspective may be within the parameters of libertarian ethics, it seems to be rather disconcerting once one speculates upon its potential consequences. For example, let us again borrow a Rothbard example.

....Suppose that a celebrated movie actor agrees to appear at a certain movie theater at a certain date. For whatever reason, he fails to appear. Should he be forced to appear at that or some future date? Certainly not, for that would be compulsory slavery. Should he be forced, at least, to recompense the theater owners for the publicity and other expenses incurred by the theater owners in anticipation of his appearance? No again, for his agreement was a mere promise concerning his inalienable will, which he has the right to change at any time.... The fact that the theater owners may have made considerable plans and investments on the expectation that the actor would keep the agreement may be unfortunate for the owners, but that is their proper risk....The owners pay the penalty for placing too much confidence in the actor. It may be considered more moral to keep promises than to break them, but any coercive enforcement of such a moral code, since it goes beyond the prohibition of theft or assault, is itself an invasion of the property rights of the movie actor and therefore impermissible in the libertarian society (Rothbard, 1982a, p. 137).

One may assume the principle would be the same had the owner refused to allow the actor to appear upon arrival. For theorists concerned with the consequences of individual actions, this perspective is quite troubling. Who, for instance, would be willing to take the heightened risk of ever trusting persons with which one would contract? In addition, it might increase the likelihood of "pay-backs", which would damage civilized exchange and, subsequently, society's standard of living. It is, however, unlikely that the results of these principles are all that controversial. First, for any reputable person, failure to carry out promises would rather quickly diminish one's standing in his profession. Secondly, to avoid these potential problems, Rothbard suggests the use of "performance bonds" which would

require the promiser to put up a bond that would cover pre-appearance costs. As alienable property, this could transfer to the other party.⁸ Interestingly, this process avoids the requirement so common in today's legal system of having to bring suit to collect damages after the breach of contract. As a result, Rothbards notes, contemporary courts are forced into the difficult role of trying to ascertain "fair" levels of compensation, rather than performing their proper function of guaranteeing the performance of contracts.

One existing legal mechanism somewhat related to contracts but unavailable to a libertarian society would be the instrument of bankruptcy. These actions clearly violate the property rights of the creditor, Rothbard contends. If the debtor is simply hiding assets, he is guilty of both theft and fraud. If the bankruptcy is due to lack of resources, then the debtor should be required to surrender future income, plus interest, until the debt is paid in full. Of course, nothing prevents the creditor and debtor from individually working out their own arrangements. Or, to borrow a position similar to that of the nineteenth century libertarian Lysander Spooner, one may treat the debt at its initiation as a form of a partnership (Hall, 1986, pp. 176-177).

Thus, Rothbard's system of ethics may be rather simply summarized in a concise code of action. Humans own themselves and are free to mix themselves with the natural environment--homesteading property that is to that point in time unused by any other person. Contrarily, violent acts--Oppenheimer's "political means"--are acts of criminality and unethical under

8. Rothbard (1982a, pp. 137-140) explains that these bond arrangements were quite common and successful in the Middle Ages, proving to be a "remarkably flexible instrument" in diminishing the concerns of critics.

the libertarian code. In no cases are these acts of violence ethically justifiable, no matter who the actor is. From these principles, what role does the State play in Rothbard's political philosophy?

The State in the Rothbardian System

The answer to the question of the government's role is quite logical: There is no role for the State in Rothbard's political system.

....For libertarians regard the State as the supreme, the eternal, the best organized aggressor against the persons and property of the mass of the public.....In fact, if you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band, and all the libertarian attitudes will logically fall into place (Rothbard, 1978b, p. 46).⁹

Governments, according to his essentialist definition, commit violence through avenues not usually open to private institutions in society. Governments are not institutions built upon any notion of a social contract, but rather they are formed and are maintained through the continuance of conquest and force. Their most common violation is the confiscation of property through taxation. The State also frequently requires service or denies otherwise legitimate activities of persons. It is responsible for the majority of destruction historically, largely through its ability to monopolize and coalesce aggression. Moreover, it lacks any "guardian" to check the actions of this

9. For extended discussions of this same theme, examine Rothbard (1974a); (1972a, pp. 60-75); (1978d, pp. 191-207).

monopoly force. Crime, obviously, occurs in the "private" world. But the State provides a "legal, orderly, systematic channel for predation on the property of the producers; it makes certain, secure, and relatively 'peaceful' the lifeline of the parasitic caste in society" (Rothbard, 1978b, p. 51).

Since the State is built upon a grand scheme of theft, Rothbard concludes that we have no obligation to obey its commands. This principle provides a far-reaching conclusion: Ethically, one is free to evade taxes, to homestead government (stolen) property, to violate government contracts, and to refuse to follow government orders. (For practical reasons, he does not necessarily suggest civil disobedience, however!) The State is not merely another entity in the private society; it is "an inherently illegitimate institution of organized aggression" (Rothbard, 1982a, p. 186).

Rothbard finds the overwhelming support of a monopolistic State apparatus to be highly ironic, given the treatment usually afforded "private" monopolies in social theory. Citizens have granted incredible powers to governments--to control money, to dispense justice, to regulate transportation avenues and postal services, to police society and the defense apparatus, to name a few--that few individuals in theory would tolerate in the market sector. Unlike a legitimate private organization, the State may force persons to purchase their "product." Always, Rothbard concludes, taxation represents theft.

It would be an instructive exercise for the skeptical reader to try to frame a definition [of taxation] which does not *also* include theft. Like the robber, the State demands money at the equivalent of gunpoint; if the taxpayer refuses to pay, his assets are seized by force, and if he should resist such

depredation, he will be arrested or shot if he should continue to resist. It is true that State apologists maintain that taxation is 'really' voluntary; one simple but instructive refutation of this claim is to ponder what would happen if the government were to abolish taxation, and to confine itself to simple requests for voluntary contributions. Does anyone *really* believe that anything comparable to the current vast revenues of the State would continue to pour into its coffers (Rothbard, 1982a, p. 163)?

In Rothbard's view, the answer to this question is obviously "no". But does this response settle the issue, or has he conveniently dismissed the complex question of "free riders" in social exchanges? Are there not "public goods" that individuals demand but, due to the product's special characteristics of non-exclusibility, would largely avoid the costs of in a freely functioning economy? Would not in these cases individual rationality mislead a free economy interested in the "actual" demand by permitting free riding? And, would not these goods then be severely underproduced? To the degree any of these questions raise legitimate concerns, how else might these products be provided without the use of government coercion, i.e., taxation and regulation? Otherwise, what incentives exist for the user of the product to bear the costs and, consequently, what advantages exist for the producer to provide the good when profits disintegrate due to free riding beneficiaries?

Rothbard responds to this dilemma in a number of ways. First, the act of requiring the less than interested person to contribute still represents coercion; the inclusion of the entire set of persons does not eliminate the non-voluntary nature of requiring an act that would have gone unperformed otherwise. And these principles still take precedence over the potential underproduction of particular goods.

Secondly, by providing these so-called public goods there is no way to ascertain the levels of contributions that the person would have been willing to provide in a voluntary setting. In a free society with an open market, the exact amount of individual demand is known and shown by the demonstrated preferences of the involved actors (Rothbard, 1956, pp. 225-232). If the payment is due to forced action, one cannot know the extent of demand any given person has for the project. It is, for instance, very unlikely that a libertarian "volunteers" the payment for specific government projects, despite the claims that these items represent public goods.

Thirdly, in the statist solution to the free rider problem there is a component which likely results in the overproduction of the given item. Through the use of coercion, the "voluntary" portion is expanded to entail levels well above "true" demand. As a result, rather than satisfying "true" demand, these programs simply increase the size of the State at the expense of individual consumer sovereignty.

Rothbard evidently denies the entire idea of public goods and free riders. In fact, he follows Austrian subjectivism to conclude the only true demand is the demonstrated preferences of free exchange. One might argue that he places too much emphasis on the unfettered market. Might not demand for these goods also be demonstrated through political mechanisms? These factors are unreliable signals, according to Rothbard. As we demonstrated in Chapter III, voting and day-to-day activities of apparent political consent do not satisfy the requirements of demonstrated preference, not even for those persons who participate politically or even those individuals who appear to support the proposed action. The existence of

democratic decision-making powers has only "enabled an ideological camouflage to be thrown over the naked exploitative reality of political life." Democracy creates the fictitious "we" and, therefore, buries the concern for individual ethics. If, for example, "we" impose involuntary servitude, certain persons will suffer the costs of aggression whereas others will benefit from this criminal activity. In no way, for Rothbard, can the number of persons within a society alone ever establish justified action, nor may decisions made under the duress of political processes be viewed as voluntary decisions. Political acts represent actions of aggression or responses thereof, whereas market processes represent freely chosen activities.

Therefore, the discussion of the voluntariness of democratic processes is largely idle chatter for Rothbard, since consent and the State mix like oil and water. The usual political condition, he argues, is oligarchy. This tendency is due to two separate reasons. In the first place, there is a natural inequality and subsequent division of labor unavoidable in human relations. Diversity and differing levels of talent are inherent in society. In the second place, the State is an organization controlled by a powerful minority who exist off the "fruits of parasitic exploitation." Whereas a market economy based on the principles of non-aggression relies on legitimate means to achieve the means of survival, the political system depends on the transfer of one's legitimately attained wealth to non-producers, or, "parasites".

Who are encompassed in this oligarchic organization? They include the full-time administrative and/or elected structure and those private individuals or groups who successfully seek privileges of some form from the first group. From our discussions in Chapter III, we found that Rothbard

divides society into two portions: those who make up this ruling structure, the "tax-consumers", and those who support the rulers, the "tax-payers". Based on this distinction, the State is tantamount to nineteenth century American anarchist Lysander Spooner's highwayman--only worse!

....It is a status that allows the State to feed off its victims while making at least most of them support, or at least be resigned to, this exploitative process. In fact, it is precisely the function of the State's ideological minions and allies to explain to the public that the Emperor does indeed have a fine set of clothes....The ideologists must explain that murder by one or more persons or groups is bad and must be punished, but that when the *State* kills it is not murder but an exalted act known as 'war' or 'repression of internal subversion'.... (Rothbard, 1978b, p. 167).

Rothbard, however, faces a perennial problem in political philosophy. If parasitism is successful only if maintained by a rather small numerical minority (a self-evident truth), then why does this criminality continue? He may not argue that the subjects are actually consenting to the criminality, nor does he want to rely on tradition or habit to explain the inactivity in the face of what appears to be such obvious aggression. For his own theory to be "activated" there must be a substantial role for human reason. Yet, reason, in his view, would not lead humans to consent to the actions of the State. Thus, consensus theories are empirically incorrect. He attempts to escape this dilemma by expanding the oligarchic structure to include an additional class of historically influential individuals, namely, the intellectuals. "Rulers" have used this very important alliance to increase their control with the aid

of a given society's intellectuals, who, in turn, use ideology as their weapon. Essentially, the masses have been duped.

....The masses do not create their own abstract ideas, or indeed think through these ideas independently; they follow passively the ideas adopted and promulgated by the body of intellectuals, who become the effective 'opinion moulders' in society. And since it is precisely a moulding of opinion on behalf of the rulers that the State almost desperately needs, this forms a firm basis for the age-old alliance of the intellectuals and the ruling classes of the State. The alliance is based on a *quid pro quo* : on the one hand, the intellectuals spread among the masses the idea that the State and its rulers are wise, good, sometimes divine, and at the very least inevitable and better than any conceivable alternatives. In return for this panoply of ideology, the State incorporates the intellectuals as part of the ruling elite, granting them power, status, prestige, and material security. Furthermore, intellectuals are needed to staff the bureaucracy and to 'plan' the economy and society (Rothbard, 1978b, pp. 54-55).

Rothbard goes to great lengths to defend this position (Rothbard, 1978b, pp. 54-69). Whereas the original intellectual "class" was found within the Church, today one is more likely to locate it in the realms of expertise, i.e., "value-free" scientists, economists, planners, political experts, etc. A number of techniques have been employed to keep the masses in line, including the glorification of tradition or habit, the deprecation of the individual, the subsequent exaltation of the collectivity, the smashing of dissident voices in the bud, the establishment of the notion of ruler inevitability, the collectivization of State criminal actions, the creation of the fear of other States (and the subsequent necessity of one's own government), the creation of a nationalistic spirit, the infusion of guilt for persons too successful for the

good of the rulers, and the exploitation of fear for the unknown alternatives to the status quo. All of these arguments may be categorized in one of two ways: The rule of the State "is inevitable, absolutely necessary, and far better than the indescribable evils that would ensue upon its downfall" or the rulers represent "especially great, wise, and altruistic men--far greater, wiser, and better than their simple subjects," as in the form of divine right or today in the fashion of a technocracy (Rothbard, 1978b, p. 59).

But why do intellectuals need the State? The masses have little use for the "product" of the intellectual. Therefore, it likely follows that one finds a high propensity of parasitism among intellectuals. Their "product" is unmarketable in a free economy driven by consumer demands. It also seems to follow that where the State controls more of society's wealth and property, one is less likely to encounter intellectuals who are not "lapdogs" for the existing political power elite. Yet, as Rothbard notes, even in Western societies where there has existed important criticism against the powers of the State, it is still highly possible for the rulers to turn the intellectual elite and their arguments to the benefit of the government. For example, one might argue that the surrendering of portions of the American Bill of Rights to expediency is pertinent in this regard, as demonstrated by the current "War on Drugs". Even broader kinds of concerns arise in the present-day scurry for government-funded research grants by the academic community.

The State, according to Rothbard, also employs other instruments to maintain its control. Education especially is crucial in the maintenance of the "moulded" mind. This is an extremely important point that is often subtly avoided in the contemporary debate over the perils of education. Lower level

schools are heavily dictated by the whims of the State apparatus through public education, while post-secondary education is increasingly coming under the spell of public monies and, in turn, public control. In addition to these influences, there is the "virtually total control" the State has over the airwaves through heavy regulation and, consequently, quasi-nationalization (Rothbard, 1982a, p. 169). All of these factors serve as major sources of real or potential abuse.

It must be emphasized that the State does not merely use coercion to acquire its own revenue, to hire propagandists to advance its power, and to arrogate itself and to enforce a compulsory monopoly of such vital services as police protection, firefighting, transportation, and postal services. For the State does many other things as well, none of which can in any sense be said to serve the consuming public....Often it pushes its way into controlling the morality and the very daily lives of its subjects. The State uses its coerced revenue, not merely to monopolize and provide genuine services inefficiently to the public, but also to build up its own power at the expense of the exploited and harassed subjects: to redistribute income and wealth from the public to itself and its allies, and to control, command, and coerce the inhabitants of its territory (Rothbard, 1982a, p. 171).

This seems to cover all possible avenues; hence, the State has no purpose in a free society. In fact, it cannot exist if the rights of humans are to maintained to their fullest.

Rothbard's criticisms of the limited or laissez-faire State are equally unsympathetic. Once the State is created there are no means by which it can be checked. It can be expected to expand. It is obviously in the interest of a ruler given limited power to increase his control. And with power comes the

ability to gain even greater domination. Hence, limited government creates a false security for those individuals interested in individual rights. Moreover, it provides an adequate window of opportunity for the expansion of statism.

However, it seems that Rothbard paints himself into a theoretical corner with his attack on limited government. He argues, for instance, that the persons who utilize the State will have an economic interest to expand their powers (Rothbard, 1982a, p. 176). It is unclear why these persons must first put on their "political" hats before attempting to expand their realms, though. If we could rely on the market and a social respect for the ethics which presumably emerge from such an order, there would be no problems. But one does not eliminate "political means" simply by assuming away the existence of the State. Rothbard is surely correct when he argues that the overwhelming number of atrocities committed throughout history were perpetrated by or through the State. But he further argues this historical record of conquest "demonstrated that *any* power, once granted or acquired, *will* be used and therefore abused" (Rothbard, 1982a, p. 176). What he does not explain, however, is how in a society with admittedly differentiations in power, political violence will not arise and be utilized to violate human rights--whether through the State or some other equally ingenious institution. The obstacle of coercive power may not be simplistically assumed away. The solution to the problem of power is to determine the ways in which these institutions may be prevented from arising and serving as potent means of oppression. Eliminating the commonly defined State does not deny the evolution of other institutions that may provide the exact same invasive services. Rothbard comes perilously close at times to assuming that the

removal of one set of institutions (the State) creates some sort of vacuum that necessarily will be filled by another set of preferred processes (the free market).

For example, in a critique of Robert Nozick's Anarchy, State, and Utopia, Rothbard criticizes the "invisible hand" notion of the minimal State by arguing that such a structure has no historical reality. In other words, no State has ever evolved in the manner Nozick portrays. Instead, Rothbard argues, history demonstrates that conquest and force have created and maintained the modern State (Rothbard, 1982a, pp. 229-230). But does not this criticism apply even more strongly in the case of Rothbard's anarcho-capitalism, since no society has ever even remotely approached this model? If, in other words, one agrees that the State is unequivocally founded on conquest, what magic occurs which redirects this inherent violence toward an anarchy of peaceful and respectful self-ownership? Conquest theorists face a dilemma when they propose a system of ethics which they claim are achievable. Perhaps Rothbard's system approaches the utopian models which he criticizes more closely than he is willing to admit.

Rothbard's cogent attack on laissez-faire fails not so much for being incorrect, but for failing to distinguish his own ideas from the same criticisms. He is correct to deny the possible existence of either the limited State (in revenue or power) or the "neutral" State. The twentieth century world's infatuation with the Big State seems to prove these assessments. In the United States, for example, the culture of limited government gradually gave way to these alternative viewpoints. He is also right to conclude that law need not arise through the State. Nevertheless, the critical question concerns

the type of mechanisms that may legitimately be employed to achieve the control of aggression in the real world of unequal economic power, human self-interest, and opportunity for illegitimate advantage. Many forms of anarchism face the criticism of being utopian in nature, as they rest upon a too elevated notion of humankind or demand unreasonable changes in human nature (Barry, 1986, pp. 162-163). While Rothbard may not face these extreme hurdles, there are still some very difficult questions concerning the theory's practicality. Does he have a workable alternative that will address these difficult questions?

In the next chapter, we move from a discussion of Rothbard's foundation of ethics and his blistering critique of the government to an investigation of his alternative mechanisms to the State. Chapter V explores the application of anarcho-capitalism in the arena of public policy.

CHAPTER V

THE ANARCHO-CAPITALIST SOCIETY

Introduction: The Stateless Society

Rothbard seeks to establish the foundations of the just society in the development of his political philosophy. In the process he demolishes the function of the State in terms of the definition, interpretation, and enforcement of these principles by opting instead for an anarchist society built upon the free market. Sharp criticism of the State, both historically and theoretically, is naturally a much simpler task than formulating a feasible and preferable alternative. Liberal political theorists, for example, have traditionally faced the rather persuasive charges of anarchist literature against the actions of the State. However, no Stateless model which provides a more desirable and/or feasible alternative has yet to appear.

Rothbard has at least one advantage over many previous anarchist writers in that he does not assume some kind of metamorphosis of human nature which enables the system to mesh with the real world (a common problem in many of the "leftist" theories of anarchism). From his perspective, any political system must ultimately be tested against social reality and if it is based on unreal or utopian foundations, it must be rejected. Rothbard, therefore, accepts human nature "as it is" and seeks to produce a workable anarchist system within these parameters.

Chapter V investigates a large number of Rothbardian applications of ethics to real-world public policy problems. In each case, we examine the

arguments for theoretical consistency and practical applicability alike. One of the potential advantages of Rothbard's system is that he integrates an optimistic consequentialism with an absolutist ethics demanded by his brand of libertarianism. Hence, he argues that anarchism is both ethical and achievable. We conclude by exploring whatever flaws or shortcomings exist in his integrated system.

Specific Policies

There is no specific order to these preliminary expositions. Each arena of policy is explored as a distinctive substantive issue. In each case the criticism focuses most prominently upon Rothbard's ability to formulate workable policies that are simultaneously true to libertarian principles.

Rights of Individual Expression

It is in many ways unfruitful or misleading to make distinctions among personal rights in the libertarian system. As we explained in the last chapter, all libertarian rights for Rothbard arise from the same foundations of self-ownership; hence, the dichotomy of property and personal rights is fallacious. Ultimately, all rights are property rights.

This consistent ethical foundation demands a framework for the rights of expression that is far more absolute--relative to property rights--than any contemporary court would be willing to accept. On the other hand, for individuals less concerned with possessive rights, these arguments fall far

short of expectations concerning rights of expression. Rothbard, for instance, sets aside a number of present "exceptions" to the freedom of speech. Never, for example, should a speaker be restrained for "inciting a riot." Such a rationale totally denies human freedom of will. One has committed no crime of property or person through mere incitation. Only if the speaker participates in the physical invasion, or in cases where the person is manager of a perpetrated crime, would he be guilty. And in these circumstances, one is not guilty of illegal speech but of property infringements.

There is, however, a gray area in this last exception. Rothbard argues that the "law of accessories" dictates that the "boss" is also responsible in the criminal planning of events (Rothbard, 1978b, p. 95). To distinguish the boss from the riot inciter may at times be a somewhat difficult task, although Rothbard argues that it is, nevertheless, "clearcut" (Rothbard, 1982a, p. 80). From the viewpoint of the listener, if individuals are not free to accept or reject what they hear, how may there be a distinction between the henchmen and the crowd participants? Since advocacy can never be considered a crime, a more consistent application would treat the boss as a mere supplier of information until whatever time he receives some share of the booty or, in fact, physically invades the victim. Under the same principle, one punishes the listeners for their actions and not the speaker for his words. The consistent application would be that there may be no crime in words (or thoughts). But this conclusion leads to an intriguing understanding of the common concepts of libel and slander, as well as other issues concerning the dissemination of information. Such concepts have no legal meaning in Rothbard's system.

....What the law of libel and slander does, in short, is to argue a 'property right' of someone in his own reputation. Yet someone's 'reputation' is not and cannot be 'owned' by him, since it is purely a function of the subjective feelings and attitudes held by other people. But since no one can truly ever 'own' the mind and attitude of another, this means that no one can literally have a property right in his 'reputation'....Hence, speech attacking someone cannot be an invasion of his property right and therefore should not be subject to restriction or legal penalty (Rothbard, 1978b, p. 95).

Thus, any person "slandered" has suffered no property loss. One's reputation in actuality is not one's property at all, since our "reputation" is solely what other persons think of us. If one owns his mind, then he cannot own another's mind, so these beliefs are not, properly speaking, his own. The truthfulness or falsity of the information is, as a result, insignificant.

Would not the consequences of this position be disastrous? For Rothbard, this determination is the correct ethical position because it is consistent with the principles of self-ownership. But one may just as easily defend this perspective with a consequentialist argument. Today's laws concerning expression, for example, are riddled with exceptions which make the value of these "protections" less than secure (malicious intent requirements in libel cases, for example). Yet, what would occur if persons were not programmed to believe all they read or hear, even though it is often false information? To allow the press, for instance, to print any information removes the assumption that what one reads is always true, and so diminishes the reputational damage, unless the printer has worked diligently to develop and maintain an unblemished record for accuracy. In all

likelihood, levels of print would arise, ranging from the most reputable to the completely irreputable publications, with the consumer being required to distinguish between the levels. Persons would be "reprogrammed" to be more skeptical, and an undistinguished press would face the constraints of the market, no longer able to wrongly hide behind amendments which tend to protect the reputable and irreputable publishers indiscriminately. Just as the market distinguishes levels of efficiency in other business realms, it would likewise favorably influence the production of the printed and spoken word.

Therefore, persons have a right to disseminate their "knowledge", no matter what the consequences. For example, Rothbard consistently supports the act of blackmail (Rothbard, 1982a, pp. 124-125). After all, both parties benefit in the exchange, and without theft on the part of either person. By agreeing not to disseminate a certain set of information about Person B, Person A has agreed to an exchange of security for closed-lippedness. Of course, once the contract is made, both parties are bound by the ongoing ethical principles to uphold the agreement.

Nevertheless, there is apparently a potential drawback in this scenario. What if Person A decides to "bleed" B by making continual demands for additional payments? There is a distinct possibility that the information is of the type that is inalienable for A, i.e., his knowledge of B remains even after the agreement to remain quiet is arranged. However, the answer to this dilemma rests upon Rothbard's understanding of the nature of this information. B, once he reaches his saturation point for paying the additional blackmail, must simply allow the information to be made public, at which

time he may sue the blackmailer for violating the original blackmail contract. Before one feels sympathy for B, it is important to remember that he never had sole "ownership" of the knowledge. A also "owns" the information; his agreement exchanged some sort of property for the maintenance of silence.

Similarly, persons have an absolute right not to be required to disseminate information. This principle applies in all cases, including those situations that concern the State's power of subpoena. In other words, everyone has a right to "protect [or not protect] the confidentiality of their sources." The only exception to this right of dissemination occurs "if [the information] was procured from someone else as a *conditional* rather than absolute [form of] ownership" (Rothbard, 1982a, p. 123). For example, if someone shares trade secrets on the condition that the information not be transmitted, but nevertheless releases the knowledge, he violates the contract established previously between the two individuals.

A common complaint likely to come from critics unaccustomed to a libertarian system of ethics is that Rothbard and other libertarians fail to appreciate the highly conflictual nature of the different rights of expression. However, there are no conflicts in these rights from Rothbard's perspective. If modern liberals, for example, consistently founded their system of rights upon an idea of self-ownership, most of the "expression" questions flooding the courts today would be moot.

...[T]hose problems where rights seem to require weakening are ones where the *locus of ownership* is not precisely defined, in short where property rights are muddled. Many problems of 'freedom of speech', for example, occur in the government-owned streets: e.g. *should* a government permit a

political meeting which it claims will disrupt traffic, or litter streets with handbills?....

The whole problem would not arise, it should be noted, if the streets were owned by private individuals and firms-as they would be in a libertarian society....One would, in a fully libertarian society, have no more 'right' to use someone else's street than he would have the 'right' to pre-empt someone else's assembly hall; in both cases, the only *right* would be the property right to use one's money to rent the resource, if the landlord is willing.... (Rothbard, 1982a, p. 117).

The right to speech, then, is dependent upon the ownership of the place the speech is delivered. Or, to borrow a common example, yelling "fire" in a crowded assembly hall is wrong not because of some convoluted clear or present danger rationale, but rather because the owner of the hall would not allow it. If these sorts of issues were judged based upon the principles of ownership, any existing conflicts over rights of expression would be eliminated. Of course, the removal of conflict altogether would depend upon how well the rights of property are defined. Rights of expressions are no different from any other negative externality: They are the result of improper or underdeveloped definitions of property rights. (For more on other externalities, see the discussion of environmental issues below.)

Similar principles apply to other forms of expression. The owner of a newspaper, for instance, is free to determine its content, just as the owner of the assembly hall. Radio and television stations are free to set their own programming without regard to any sort of governmentally founded "fairness" principle. (It is important to note that in conjunction with this freedom, there must be the application of the homesteading principle for the

airwaves, removing the monopoly presently maintained by the State. This principle would increase the number of property owners able to "be heard".)

Rothbard's consistency demonstrates the inherent contradictions in systems that separate property rights from rights of expression. Without defined property rights, the right to communicate is perched upon an extremely unsteady base. Rothbard employs as an example one of the systems that seeks to sever the relationship of these rights, "democratic socialism", to make his point:

....An abstract constitution guaranteeing 'freedom of the press' is meaningless in a socialist society. The point is that where the government owns all of the newsprint, the paper, the presses, etc.. the government-as-owner *must* decide how to allocate the newsprint and the paper, and what to print on them.....Any government may profess its devotion to freedom of the press, yet allocate all of its newsprint only to its defenders and supporters. A free press is again a mockery; furthermore, why *should* a socialist government allocate any considerable amount of its scarce resources to antisocialists? The problem of genuine freedom of the press then becomes insoluble (Rothbard, 1982a, p. 99).

There is additional criticism which might be brought against Rothbard and his effort to make expression rights dependent upon property rights. Persons who are unfortunate enough to own no property appear to be locked out the process of effective communication. This critique, if it were in fact true, would appear to be a rather damning one until it is understood that this scenario represents little or no change from the present reality. Defined rights of property do limit, however, the open conflict that arises when two or more sets of rent-seekers demanding government assistance battle over

the same parcel of land or other property in order to have their respective views heard. The continual growth in the amount of "public" ownership of lands only creates greater conflicts over the rights of individuals to possess these properties, so as to satisfactorily "express" themselves. It is unlikely that this redefinition discriminates against the poor or underrepresented any more than the present system. Their voices carry little weight in contemporary society. However, by allowing different regions to adjust to the demands of expression accordingly, the change would probably allow a bit more order, while forcing protesters to pay the "costs" of their activities. And these costs currently fall disproportionately upon the weakest sectors of society.

"Victimless" Crimes

In the past few years, there has been a clear diminishment of toleration for what are commonly called "victimless crimes". These "vices", which often produce detrimental results for the partaking individual but fewer clear consequences as spillover effects for others, are increasingly gaining the wrath of numerous special interest lobbies for a plethora of reasons ranging from health concerns to moral sanctimony.

The terminology "victimless crime" ought to tip the reader off at once to Rothbard's position on such issues as gambling, pornography, illicit sexual activities, or drug sales and usage. If no victim exists, there can be no crime; hence, neither the "State" nor "Society" has any legitimate claim to intervene in these arenas. Rothbard concludes that most of the debate over

pornography, for example, is "distressingly beside the point" (Rothbard, 1978b, p. 103). For him, the consequences of pornography on the participating individual are politically non-issues. Issues are "political" only if they are clear acts of invasion by one person against another. Although some individuals may find "smut" disgusting, they are not justified to employ force to impose their personal values upon other persons. Indeed, to interfere is to make of the intervener a criminal. The act of imposing morality rests upon an inherent contradiction, for moral action makes sense only if an individual chooses the behavior by his own free will (Rothbard, 1978b, p. 105). An immoral act (such as a legislative dictum) cannot be applied to force a moral one (the choice not to be "perverted").

These same principles are also applicable to "sex crimes". For instance, Rothbard supports the complete legalization of prostitution, since it is nothing other than a specific occupation. Rather than focusing upon the act of prostitution, legal officials would be better advised to concentrate upon activities that are truly illegal which often accompany these businesses. (This argument, of course, assumes that once prostitution is removed from the black market, these accompanying illegal acts would remain. It is more likely the criminal component would disappear completely, as the profitability which arises from the risk of illegality is removed.)

A common thread woven throughout the justifications for these types of governmental interferences in these types of activities is paternalism, i.e., certain persons (usually entailing the poor and/or the uneducated) are unable to protect themselves against the temptations of these vices. Therefore, wise elites must act on their behalves. As Rothbard notes, there is nothing

preventing persons from "propagandizing" until their hearts are content concerning the "evils" of these activities. However, if one recognizes the free will and self-ownership of individuals, he cannot allow acts of force to make these decisions for persons.

Are these acts always devoid of criminal spillover, though? For example, what about the complaint that the viewing of pornography leads persons to commit criminal acts? Rothbard is generally silent on this question, although from a libertarian perspective, this criticism itself is highly problematical. First, the proposition that there is a direct causal linkage between the two activities is empirically far from convincing. But, secondly, and more importantly for the libertarian, this sort of argument denies the natural human control of will. Are we, for instance, prepared to make criminals out of magazines, card tables, or rolled containers of tobacco? In other words, there can be no crime until a criminal act has been committed; at best, only in the most drastic cases, where spillover effects are clearly going to invade other persons rights, would preemption be justified. (Of course, would this response even be considered "preemptive" in nature at that point?)

Abortion, Birth Control, and Childrens' Rights

Perhaps the most controversial area of public policy within the libertarian movement concerns the issue of fetal rights. Rothbard argues for an extreme "pro-choice" position, concluding that the decision of whether or not to have a baby belongs solely to the woman. Therefore, the State has no

legitimate right to intervene either to deny or to require any forms of birth control.

Abortion is the most thorny of these issues, obviously. Rothbard contends that the question of when human life begins is "irrelevant" in regard to the question of legality.

If we are to treat the fetus as having the same rights as humans, then let us ask: What human has the right to remain, unbidden, as an unwanted parasite within some other human being's body? This is the nub of the issue: the absolute right of every person, and hence every woman, to the ownership of her own body. What the mother is doing in an abortion is causing an unwanted entity within her body to be ejected from it: If the fetus dies, this does not rebut the point that no being has a right to live, unbidden, as a parasite within or upon some person's body (Rothbard, 1978b, p. 108).

Ignoring for the moment Rothbard's rather shocking terminology, is not the mother responsible for the fetus, since she is in part the "cause" of his (its) existence? Since she is an absolute owner of herself, he reasons that the woman is free to change her mind and abort the fetus at any time during her pregnancy (Rothbard, 1978b, p. 108). And since the fetus represents a "parasitic invader", abortion ought not to be viewed as murder, but as "the expulsion of an unwanted invader from the mother's body" (Rothbard, 1982, p. 98). There is no implicit "contract" in the act of conception between fetus and mother. As noted in the last chapter, promises do not represent enforceable contracts. The contract is enforceable only if there has been some implicit theft involved. Furthermore, all contracting parties must be "voluntarily and consciously contracting entit[ies]" (Rothbard, 1982a, p. 98). To "enslave" the

woman and require her to keep the fetus violates Rothbard's theory of the inalienability of a human will.

For Rothbard, there is no "right to life" in natural fact. Even if one concedes that the fetus is a living human, it would have no natural right to obligate the mother to carry it. But to follow to completion Rothbard's own logic, would not one be required to abstain from the use of violence in the dismissal of the fetus from the body? Or, if it is an aggressive parasite, do the principles of self-defense allow one to abort? Would a violent abortion be proportional? These seem to be important questions. Although Rothbard dismisses the gigantic debate over the issue as to when life begins, this question is, nevertheless, quite important.

Suppose, for instance, that a person driving down an interstate highway stops to pick up a hitchhiker. Upon entering the car, the hitchhiker asks if he may ride to the next town. The driver promises to carry out the request. Would the driver, halfway to the destination, be allowed to change his mind and demand that the hitchhiker remove himself from the car? From Rothbard's perspective there would presumably be no invasion involved in the decision, since the promise is not enforceable contractually. What if the driver dumps the hitchhiker in a desolate desert where the chances of survival are nil? Rothbard would likely respond that, while this is morally undesirable, there is no violent invasion of the hitchhiker; thus, the act is legitimate. At the exact moment the driver demands that the hitchhiker depart, the latter becomes, one might say, a "parasite".

Or, let us explore this scenario from another direction. Once the hitchhiker entered the car on the consent of the driver, what if the driver

locked the doors and proceeded to drive in an extremely wreckless manner, eventually hitting a telephone pole and severely injuring or killing the hitchhiker? May we still define the hitchhiker as a parasite, even though he is given no opportunity to leave on his own accord? Similarly, is the "defense" of the driver (killing or maiming) proportional to the "attack" of the passenger? Applying this same scenario to the abortion issue, how may one treat a woman's decision to abort or how does one handle the even thornier issue of miscarriage?

These examples are raised not so much in order to answer these questions as to point to the critical components of the debate. To determine ethically the proper actions of driver and hitchhiker would seemingly require the judge to explore the original "contract" made when the two persons met. The judge also must be able to determine the "human-ness" of the hitchhiker. But perhaps there are important differences between the hitchhiker and a fetus. For purposes of the abortion issue, the central question seems to be the nature of the conception as it relates to woman and fetus and to the nature of the fetus/child. But can a fetus formulate a contract in the absence of a third party acting with a "power of attorney" on its behalf (which would not seem to be allowable in the libertarian system)? At best, the fetus' rights require that it be taken from the mother's womb without any violence to the "baby". As a potential-human, it would seem that it requires at least this much respect; any ethical error should be to the benefit of the fetus. If it is biologically able to survive, then so be it. The driver may not be required to carry the hitchhiker to his destination without there being some conditions that would create implicit theft if the driver violently removed

the hitchhiker from the car. Of course, the newly conceived fetus has made no such prior arrangements. Nevertheless, the driver is not free to aggress against the hitchhiker except in cases of equally proportional self-defense. Moreover, having "consented" to bring the "passenger" aboard, both mother and driver must under proportional justice provide the adequate opportunity for the fetus and the hitchhiker to depart at the time they become parasites.

The principle of proportionality creates dilemmas over the nature of miscarriages caused by abuse. While it allows the fetus to be treated as a parasite, would it allow the mother to act wrecklessly to the degree of willingly killing the fetus? Assuming they could survive, what rights, then, would the children have? Rothbard argues, that as the creator of the baby, the mother becomes the "owner" of the child.

....A new-born baby cannot be an existent self-owner in any sense. Therefore, either the mother or some other party or parties may be the baby's owner; but to assert that the third party can claim his 'ownership' over the baby would give that person the right to seize the baby by force from its natural or 'homesteading' owner, its mother. The mother, then, is the natural and rightful owner of the baby, and any attempt to seize the baby by force is an invasion of her property right (Rothbard, 1982a, p. 99).

However, this principle leads Rothbard into highly murky waters. Obviously, he does not intend for the ownership of children to be permanent, nor in this special case do libertarian principles allow for the same absolute control of property. Therefore, the property rights of parents over children are limited "in time" and "in kind" (Rothbard, 1982a, p. 99). The parent is a "trustee", for as soon as the baby leaves the body of the mother, he "possesses

the right of self-ownership by virtue of being a separate entity and a potential adult" (Rothbard, 1982a, p. 99).

Are these views consistent with the position Rothbard maintains on abortion? This inquiry explains why the concern as to when "life" begins remains critical, even in the libertarian model. The same negative freedoms which apply to new-born babies would seem to also pertain to fetuses, if they can be established as living human beings. At some point of the pregnancy, survival outside the womb is surely probable. The remaining question is: Does abortion or abusive miscarriage constitute an act of murder? By employing Rothbard's own principle of proportionality, the "parasitic" actions of the baby would not constitute the ethical equivalency of the woman's murderous act. In fact, until the woman desired to remove the fetus, would its actions even be considered parasitic, since they were carried out with the mother's (implicit) consent?

Therefore, may a notion of negative rights based upon self-ownership be used to prevent abortion? In a limited sense it may, in cases in which the fetus is formed to the point of being viable outside the womb. And in other circumstances, in no way may violent means be used to "kill" the fetus. However, before right-to-lifers leap with joy, it is important to note what this conclusion does not entail. On this point, Rothbard is on stronger grounds. While force may not be used against the baby, neither may the mother nor anyone else be required to take actions which have the ramifications of sustaining the child.

...[T]his means that a parent does not have the right to aggress against his children, but also that the parent should not have a legal obligation to feed,

clothe, or educate his children, since such obligations would entail positive acts coerced upon the parent and depriving the parent of his rights....The law, therefore, may not properly compel the parent to feed a child or to keep it alive.... (Rothbard, 1982a, p. 100).

Is this a satisfactory principle? First, one might argue that the parents have an enforceable duty to feed their children, for example. As an undeveloped human the child is not a full self-owner and cannot be demanded to provide for himself. But, as Rothbard notes, in order to obligate one to meet the child's needs, one is required to illegitimately violate the rights of others by demanding an unfounded duty of them. Hence, parents may legitimately be liable for child abuse but not child neglect (Rothbard, 1982a, p. 100; pp. 103-104).

Are there ethical principles which would allow one to set the parents aside as the persons responsible for these obligations to the new-born child? One might argue that the parents stand out because they are the "creators". It might be argued that the act of creation implies some type of contract. Of course, relying on his theory of contracts, Rothbard rejects this possibility.

Yet, there seems to be some degree of arbitrariness in the Rothbardian definition of children. Nowhere does he adequately explain why parents have ownership of their offspring. Admittedly, if homesteading principles are applied, it is quite logical to conclude that the child "belongs" to the parent (or, at least to the mother). But this argument hinges on the assumption that a child is "property", which Rothbard does not adequately defend. It is unclear how the failure to amount to a full human necessarily makes an entity property. Are there not grounds in the case of human children to perhaps create a third category that is neither human nor

property? Otherwise, one is left with the distinct possibility that children can be slaves--a position Rothbard rigorously denies for adults, even if the slavery is freely chosen. And he consistently supports this idea of virtual enslavement, arguing that since children are property, they can be transferred from adult to adult like any other commodity. Hence, a "purely free society will have a flourishing free market in children" (Rothbard, 1982a, p. 102).

Ironically, from an end-state framework of justice, this institution of child-trading is actually quite attractive. As Rothbard notes, this "market" already exists, although in the legal markets it possesses rather steep price controls approaching zero. It is called adoption. The consequence of removing these price controls would be to satisfy the dire shortages on this market by transferring children from less wanted situations to persons or families with higher demands for the children. In these exchanges, as in free exchange in general, all parties would be better off, he concludes.

But Rothbard is not an ethical consequentialist. From an end-state perspective, one might well imagine an intricate system of human slavery beneficial to the slaves themselves. For him, however, such a system would fail since it attempts to alienate the inalienable will of individuals. Thus, a conclusion that results in an advocacy of "baby-selling" rests upon a rather arbitrary position that children are property, although no a priori reason exists to assume that this is the moral state of affairs.

In denying the idea of animal rights, for example, Rothbard argues that humans have rights because they are

...grounded in the nature of man: the individual man's capacity for conscious choice, the necessity for him to use his mind and energy to adopt goals

and values, to find out about the world, to pursue his ends in order to survive and prosper, his capacity and need to communicate and interact with other human beings and to participate in the division of labor. In short, man is a social and rational animal. No other animals or beings possess this ability to reason, to make conscious choices, to transform their environment in order to prosper, to collaborate in society and the division of labor (Rothbard, 1982a, p. 155).

Would not children be as easily placed in this category as in the category of quasi-property? If capacity is the critical component, why must babies, for instance, be viewed as "future human adults" rather than simply humans (Rothbard, 1982a, p. 156)? If we assign babies to the category of property, why not also place humans who fail miserably to meet their capacities in this classification?

This position of children as property places Rothbard in difficulty by forcing him to make exceptions to the principle of property rights. Numerous rights of the parent become murky in their role as trustee. One problem concerns at what point the trustee relationship is completed. Or, as one might state, when does property becomes "human"? Wishing to avoid having to choose an arbitrary age, Rothbard argues that the child has full rights "when he demonstrates that he has them in nature--in short, when he leaves or 'runs away' from home" (Rothbard, 1982a, p. 102). Therefore, just as parents are free to ignore or sell their children, the children for their part are free to go seeking better accommodations without the parents having any recourse (beyond persuasion) to require the child to return.

Does not this create further difficulties with the property argument? For instance, a farmer's cow might wander off to another farmer's herd of

cattle. No matter how long the cow remains "lost" (assuming the new farmer does not "mix" labor and positively transform the cow), it still rightfully belongs to the original farmer. To argue that cattle and children are not the same moral entities is to simply prove the point being made: Cows may be traded whereas children may not be exchanged.

Nevertheless, in other circumstances, Rothbard recognizes rights of children. For instance, in consistent libertarian logic, he opposes educational truancy laws, child-labor laws, "incurability" and "waywardness" statutes, indeterminate juvenile criminal sentencing, and the absence of basic due process in juvenile proceedings. But the proper defense of these existing policy failures only increases the tensions in Rothbard's discussion of parent-child relations and the issues of birth control. On this issue, many questions remain. It would seem that in the cases where the fetus is viable, the right of the mother to "abort" the child goes only so far as the release of the baby from the body. At that point, the child may be "homesteaded", i.e., adopted. For this reason, the rhetoric of absolute "pro-choice" often heard in libertarian circles seems to be an inconsistent application of ethical principles. One's choice extends only as far as another individual's rights. The satisfaction of this principle depends upon the meaning of the concept "individual"; it is unclear how Rothbard or libertarian theory can provide this definition with the mere postulation of a non-aggression axiom.

Education

In order to create a Stateless society, a primary function which must be adequately provided in a market sector is the education of the community. One of the sacred cows of modern statism is "public education", with all the advantages and disadvantages which flow from it. In Rothbardian society, there obviously are no public schools nor is there compulsory education. One of his criticisms of public schooling in America is that it forces children "into spending a large portion of the most impressionable years of their lives in public institutions" (Rothbard, 1978b, p. 119; also, 1974b, pp. 11-32). Increasingly, a comparison of public education and public incarceration seems appropriate, particularly in urban arenas.

Part of the reason for the continuation of this farce, Rothbard argues, is the "misplaced altruism" of the middle classes (Rothbard, 1978b, p. 120). These groups commonly seek to act in the "best interests" of other groups, usually lower and working classes. He contends that this misguided effort is the result of a confusion of formal education and education in general (Rothbard, 1978b, p. 120). There is no reason why certain basic skills, for example, must necessarily be learned in the strict confinements of a public school. This process constricts the uniqueness of each child. Moreover, many skills deemed critical by the educational establishment are not as important as is often contended by these groups, particularly when considered in light of the child's lost creativity and productive capabilities which results from the crippling intrusion by the State.

Ultimately, however, it is the conscious desire to conform young

persons and not misguided altruism that directs public education, according to Rothbard.

...[F]rom the beginning of American history, the desire to mould, instruct, and render obedient the mass of the population was the major impetus behind the drive toward public schooling. In colonial days, public schooling was used as a device to suppress religious dissent, as well as to imbue unruly servants with the virtues of obedience to the State....

One of the most common uses of compulsory public schooling has been to oppress and cripple national ethnic and linguistic minorities or colonized peoples-to force them to abandon their own language and culture on behalf of the language and culture of the ruling groups....and to mould them...into 'one people'.... (Rothbard, 1978b, pp. 123-125).

He argues that the debilitating conformity of public education places shackles upon the individual. This position is completely consistent with his natural law perspective of human as creator and unique individual. To avoid the charge of unequal treatment, any education bureaucrat, he surmises, must treat all persons in the same way (Rothbard, 1978b, p. 127). Sheltered from the efficiency demands of a free society, the bureaucrat is likely to take the uniformed path. Unfortunately for the government planner, each student does not require the same educational methods. This tension between the uniqueness of children and the uniformity of centralized bureaucracy increases as the public sector usurps larger shares of the education market. Uniformity heightens conflict as fewer people are satisfied with the product provided. If education were left to the free market, Rothbard concludes,

differences in educational techniques and substance would emerge to the level of diversity demanded from the consumers of the educational product.

These arguments are applicable to many arenas beyond public education. Our present society is arguably a haven for public conflict. It could be forcefully argued that this conflict is in large part due to the increased "politicization" of our society in this century. In this environment, government decisionmaking tends to uniform the kinds of activities available in any given arena of human action. If the solution to a demand is limited to a single alternative which is determined by the State, persons with diverse interests and perspectives are required to struggle in an arena of political coercion to achieve their individual demands at the expense of all other parties. This struggle of different interests will not likely overcome a government's natural tendency to produce uniform processes and policies. Therefore, it is likely that most if not all parties will be dissatisfied with the political outcomes. This inability to fulfill particular individual needs is especially probable in a political process that is highly equalitarian, democratic, and participatory. And each new conflict and "resolution" only brings forth the next level of heightened conflict.¹

Thus, publicly controlled schools are not desirable because of the consequences they create for the persons (children and adults) subjected to them. But as one might have guessed, for Rothbard there is a more

1. The currently popular and relatively successful reform efforts to increase "choice" in public education seems to demonstrate this point. Even the normally "liberal" Brookings Institution has arisen in support of the notion of vouchers. See Moe and Chubb (1990).

condemning reason for the removal of the public school system, namely, that the provision of taxes to fund a system is an ethical violation of the absolute right to one's property. Obviously, people without children who are "benefitting" from the service are heavily burdened.

In Rothbard's view, children do not have a "right" to an education. As with a living wage, there is no way in natural fact that such a guarantee may be promised. In addition, the "middle-ground" stance often supported by laissez-faire libertarians which provides for the public funding of education without the public control of it is similarly rejected. For example, he rejects Milton Friedman's well-known voucher plan (Friedman, 1962, pp. 85-107; Rothbard, 1976i, pp. 102-107). Whereas he agrees it would be a "great improvement over the present system in permitting a wider range of parental choice and enabling the abolition of the public school system," vouchers still represent the "immorality of coerced subsidy" (Rothbard, 1978b, p. 135). Moreover, one may anticipate that with the provision of any subsidy will come eventually (re)control of the service.

There are, however, other problems connected to the public financing of education. Compulsory attendance and a subsidized product promote an excessive demand for the particular service. These legal and economic realities serve to create additional social problems by filling the classrooms at all levels with students who would be better served doing something other than interfering with persons who demand the product at its real costs. The "mania for mass schooling," Rothbard concludes, has "led to a mass of discontented and imprisoned children" (Rothbard, 1978b, p. 136). These subsidies are even more oppressive for higher education, since the

overwhelming number of persons benefitting from them come from higher income families. Due to the huge financial advantages enjoyed by state-supported schools, privately funded institutions face incredibly tough odds in competing with the subsidized schools, especially if these schools are not historically well-situated.

But does publicly provided education not produce positive externalities that would otherwise go unprovided in the absence of State intervention? As with other similar government services, Rothbard rejects this argument--for the same reasons. First, costs are subjective; therefore, social costs or benefits cannot be measured. Secondly, even if these benefits could be measured, there is no way to prove they are all positive externalities, especially in the present public education system (Rothbard, 1976i, pp. 105-106). The product generated by many public schools, for example, leaves much to be desired. Furthermore, there are no means to measure whether private alternatives might not provide even more positive spillovers. This argument in support of public education is too limiting in the way in which it defines education. After all, might not these positive externalities occur in every activity of a human's "education"?

Rothbard's approach to the policy of education may be summarized rather succinctly:

...Get the government out of the educational process. The government has attempted to indoctrinate and mould the nation's youth through the public school system, and to mould the future leaders through State operation and control of higher education. Abolition of compulsory attendance laws would end the schools' role as prison custodians of the nation's youth, and would

free all those better off outside the schools for independence and for productive work. The abolition of the public schools would end the crippling property tax burden and provide a vast range of education to satisfy all the freely exercised needs and demands of our diverse and varied population....The miasma of government, of moulding the youth of America in the direction desired by the State, would be replaced by freely chosen and voluntary actions.... (Rothbard, 1978b, pp. 140-141).

So far as the effects of educational subsidy are concerned, Rothbard is right on target. For instance, in the past fifty years State-subsidized universities have achieved an undue competitive advantage in the world of tax-supported education. As a result the comparative enrollments of State-funded and privately funded schools have changed dramatically (Friedman and Friedman, 1984, pp. 142-147).

Politics is in many ways the art of ordered aggression, and these subsidies are classic examples of this physical invasion of one set of economic winners at the expense of another set of economic losers. By overestimating the demand for formal education at all subsidized levels, the signals sent through the market are highly distorted. From a purely consequentialist standpoint, there are serious doubts concerning the usefulness of the entire myriad of public education.²

Is Rothbard's ethical grounding of the purely private provision of education also justified? Yes, since the rights of self-ownership supersede any end-state concerns in his system of ethics. Nevertheless, one might argue that

2. Furthermore, the provision of education does not approach what might be viewed as a public good. For example, see Goldin (1988, pp. 77-78).

in certain cases persons may find themselves in situations where they are unable to implement any decisions. For example, would it be just to hold a six year old ghetto youth accountable for his condition? His advancement, without some form of assistance is, to say the least, problematical. Rothbard might respond by arguing that although this situation is an unfortunate state of affairs, there is no way to demand assistance legitimately in order to aid this child, since such aid can only come through the coercive expropriation of another's property. While it may be highly laudable for one to voluntarily intervene on the behalf of the child, there is no obligation to do so. To argue otherwise is to create an opening for a state of parasitism and violence. Is not what is true in the assisting of this child in this scenario also not as equally valid for many other persons in many other circumstances? If one grants an exception in this circumstance, he opens the floodgates to unbridled violations of individual rights, unless he can somehow distinguish this particular situation from all the other states of affairs.

On its face there seems to be no reason to make such a distinction with regard to education. First, there is no way to draw any boundaries around the meaning of education. One of the unfortunate consequences of the contemporary educational mentality is its equation of education with only formal education i.e., in a classroom with an instructor, which is a definite fallacy. Yet, something is still troubling. Education might best be defined as acts of learning and creation that confronts natural man. Furthermore, one could perhaps argue that the ability to compete in the free society rests upon the ability to attain the tools for that competition. If the fulfillment of human nature is the ultimate good, then it might be argued that the ethical priority

of negative freedom is less important than the ability to enjoy that freedom. Rothbard argues essentially that the satisfaction of human nature and the framework of negative rights are synonymous. But are they in circumstances such as our ghetto youth example?

But this argument leads one directly into the fallacies of positive freedom. And, as a consequence, one commits the natural fallacy of supporting an egalitarian foundation of ethics. In nature, no one has these "rights"; in civilized society, these positive rights may only be gained at the expense of true natural rights. We are, thus, forced back to Rothbard's position. But we are trapped in the dilemma of this perspective's total impracticality. Moreover, it recognizes the harshness of natural facts, and persons in political society are likely to refuse to accept such realism. Perhaps a compromise position supporting forms of guaranteed loans or partial vouchers might satisfy most parties, as it is able to recognize the ethical and practical concerns of Rothbard's critique while simultaneously acceding to the present realities of the policy debate. But Rothbard is completely correct on at least one point: We cannot tolerate the continuation of the educational status quo. In the very important arena of education, there is too much at stake to allow the government such dominant control.

The State and Involuntary Servitude

As Rothbard points out in his discussion of education, libertarian ethics prevents the existence of compulsory school attendance laws. Yet, there are many other far more insidious and life-threatening matters in

which the State imposes its control over one's body. As we demonstrated in the preceding chapter, for Rothbard, any form of slavery violates the inalienability of the human will.

Probably the most blatant example of this control in the modern world is the military draft. While actual conscription is presently in hiatus, registration remains and this would be a rather ridiculous policy if it were not for the likelihood that this process will be transformed again into an actual draft situation at the sign of the first major "crisis". Therefore, the difference between a forced registration and actual conscription is one of degree only.

But how can a society defend itself against external aggression without some mechanism to provide this defense? The first mistake made in this type of inquiry concerns the usage of the term "society". For Rothbard, this term is a "mythical abstraction" that certain individuals (those usually not doing the fighting and dying!) utilize "to cloak the naked use of coercion to promote the interests of specific individuals" (Rothbard, 1978b, p. 80).

How does one provide for defense if coercion is not utilized? First, Rothbard argues, nothing prevents one in a libertarian society from defending himself individually when invaded. Of course, all of us do not have a comparative advantage at defense. Therefore, part of the community is likely to contract with the others to provide their "expertise". Why, he asks, must these persons be conscripted?

....No one is conscripted on the free market, yet on that market people obtain, through voluntary purchase and sale, every conceivable manner of goods and services, even the most necessary ones....Why can't they hire defenders as well?....
(Rothbard, 1978b, p. 80).

Indeed, the military never seems to have a shortage of officers, or even non-conscripted clerical workers. But enlisted men face under a draft situation what is tantamount to an intrusive tax. Unwilling to pay the market rates for these defenders, the political system imposes the burden on a small minority of persons, namely, those citizens drafted and those others linked to those suffering the direct effects of the involuntary servitude.³

This notion is consistent with Rothbard's theory of contracts, to the effect that individuals are free to employ themselves with defense organizations based on free exchange (ignoring, for the moment, the possibility that the organization is a criminal actor, in which case, the contract is between criminals and has no moral sanction) but they may not be required to carry out the length of the enlistment contract if they wish to quit.

If we accept the human rights premises of Rothbard, there appears to be no grounds to challenge these conclusions. Unfortunately, this vestige of the past remains, despite the existence of the thirteenth amendment of the Constitution. Instead, in fact, there appears to be increasing support for yet another form of involuntary servitude, national service for (of course) young persons, the least powerful force in our political process. Whereas libertarian theory is clearly defined concerning conscription, there is a more complex issue of involuntary servitude, namely, forced institutionalization or hospitalization of mental patients. Once aimed historically at maintaining public order (by removing these persons from society) present compulsory

3. Rothbard (1978b, pp. 82-83) further decries the potential violence of maintaining a standing army.

commitment is rhetorically at least more humane or, at least, more paternalistic.⁴ The logic behind commitment, according to Rothbard, is flawed. The central argument is generally to the effect that a person who is to be committed is "dangerous to self or others". But to be dangerous to one's self is not an issue that pertains to the State, since a person has absolute control of his own will and subsequently his own life. No one, therefore, has a right to interfere with another individual's right to choose his own course of action. (Criminal suicide is to the libertarian an ethical oxymoron, for example.)

Of course, if one interferes forceably with another individual, recourse is required. The flaw in the logic behind institutionalization is the confusion of potential violence and actual violence. To act on the possibility of potential violence is to allow "an open sesame for unlimited tyranny" (Rothbard, 1978b, p. 91). Under this principle, anyone might well be locked away, incarcerated until the experts deemed him safe for the rest of us! On the other hand, the spurious claims of insanity pleas in crimes ought not be allowed. Such a concept distinguishes the crime from the criminal. Conversely, it ironically creates for the criminal the danger of an indeterminate sentence devoid of any relationship to the actual crime.

In the case of involuntary commitment, are Rothbard's principles consistent with the entire corpus of his thought? It appears that they are. However, one potential problem exists, which relates to his discussion of children's rights. Are there not obvious cases where an adult has no capacity

4. For an excellent review of this radical libertarian position, see Szasz (1989, pp. 19-26).

to act sensibly? And if this is true, how would this circumstance be different from that of a baby or a small child? If we apply Rothbard's principle of "trustee-ownership" to this particular relationship, would it not be legitimate for the "owner" of this person to act on his behalf? If the person has never left his parents, it would be consistent to say they remain his trustees. But what of the more difficult situation in which a once well-functioning adult suffers a debilitating mental breakdown? In a sense these persons are no longer "humans", but they are, like children, still potential adults. It is easy to discuss the inhuman nature of mental commitment without dealing with the real ethical concerns in this scenario. Is this person now property, to be homesteaded? If he is, would not the logical historical owner be more than likely the relatives? And are they not free to commit the person, at least until that person demands to leave or runs away--as with the child leaving his parents?

While Rothbard and other libertarian critics have been extremely astute in their critique of involuntary commitment, there remains a number of rather thorny ethical issues with regard to the notion of self-ownership and the rights of humans, as well as the rights of "less-than-humans". As with the abortion issue, these cases are found in the gray areas between humanity and property.

Rights at Trial and the Judicial System

A critical part of the anarcho-capitalist model is the judicial system. It is through a court's legal structure that ethical principles find their identity in

the social world. Therefore, there must be within the judicial process the means to define the boundaries of property rights in society. And, of course, the courts themselves must also abide by the ethical principles of libertarianism. In other words, the legal system may not be viewed conveniently as some sort of super-judiciary outside the constraints imposed on the remainder of the society.

This latter constraint imposes some extremely tough limitations on the actors involved in both the collection and utilization of evidence. Quite often, human property rights conflict with what are commonly viewed in contemporary society as legitimate enforcement powers of the State. For example, since within Rothbard's system all forced labor is tantamount to slavery, so then is the common practice of coerced testimony. In fact, the entire power of subpoena is illegitimate. No one, he argues, may be forced to attend a trial; since even the defendant is innocent to proven guilty, even he is not required to appear.

The Rothbardian legal system would not have a "district attorney", since there exists no "State" interest. Furthermore, there would be no incarceration of alleged criminals prior to their trials except in those cases in which "the criminal has been caught red-handed and where a certain presumption of guilt therefore exists" (Rothbard, 1978b, p. 88). (It is unclear how Rothbard can make this distinction from the general principles of natural fact, however.) The common contemporary problem faced by so many suspects in funding bail would be eliminated, since incarceration would be ended prior to the trial. Nor would society require compulsory jury duty. Rothbard concludes that the State (or the court) ought to be required to

pay market wages to attract an adequate number of jurors. Finally, no person would have an absolute right to an attorney, since the costs of this burden would have to be borne by other individuals.

These ethical impediments would not only involve actual court procedures, but would also apply to the police's or security agency's collection of evidence.

....[I]f everyone is supposed to be subject to the same criminal law, then exempting the authorities from the law gives them a legal license to commit continual aggression. The policeman who apprehends a criminal and arrests him, and the judicial and penal authorities who incarcerate him before trial and conviction--all should be subject to the universal law. In short, if they have committed an error and the defendant turns out to be innocent, then these authorities should be subjected to the same penalties as anyone else who kidnaps and incarcerates an innocent man (Rothbard, 1982a, p. 81).

The "authorities" would have little means to garner testimony from anyone except through the voluntary cooperation of the persons involved in the investigation. Since it is itself criminal to invade the property of another, there would be no legal means to conduct searches or wiretaps of another person's property regardless of warrants, unless one is willing to accept the risks of criminal trespass if the suspect turns out to be innocent or the intrusion by the investigator surpasses the requirement of proportionality in the punishment of a criminal. For Rothbard, the constraints upon law enforcement officials are rather confining.

....It is proper to invade the property of a thief, for example, who has himself invaded to a far greater extent the property of others. Suppose the police

decide that John Jones is a jewel thief. They tap his wires, and use this evidence to convict Jones of the crime. We might say that this tapping is legitimate, and should go unpunished: provided, however, that if Jones should prove not to be a thief, the police and the judges who may have issued the court order for the tap are now to be adjudged criminals themselves and sent to jail for their crime of unjust wiretapping (Rothbard, 1978b, p. 109).

Rothbard argues this principle has two "happy consequences": First, the officers of the court would act only in extremely certain situations where the evidence against the individual is overwhelming and, secondly, the investigators would be equally accountable for their own criminal actions (Rothbard, 1978b, p. 109). If police officers use undue force to gain confessions or information, they are liable for these actions, unless the suspect is, in fact, found guilty. If the suspects are found to have committed illegal activities, then "the police should be exonerated," unless the torture is greater than the crime (Rothbard, 1982a, pp. 81-82). These principles eliminate the issues which accompany the present debate over the Court's usage of the "exclusionary rule", i.e., illegally seized evidence may not be presented against a suspect in a trial. Rothbard's position on this issue appears closer to the view of the Reagan administration and especially Ed Meese's arguments than to the common civil libertarian position. However, the intent of his views is quite different from the "law and order" mentality of Meese and others. Rothbard's position on rights of the criminally accused diverge immensely from the present interpretations of our legal system. Warrants would be allowed, but with a strict accountability placed upon the user and authorizer of these court orders. No one would be compelled to testify against

himself or anyone else; the ability to compel such testimony through the use of force would be relative to the crime of the testifier. Neither party in the investigation would have the power to compel witnesses to appear at a trial. If the party is guilty of no crime, then no testimony may be demanded. The issue of the right to a speedy trial is for the most part a moot point, since except in the most rare cases, the accused would not be retained. The right of counsel would be dependent on the willingness and abilities of the accused parties to afford such assistance. Jury trials would still exist, but compulsory jury duty would not be allowed. Apparently, the parties involved in the cases would be responsible for "purchasing" these agents. And, finally, no cruel or unusual punishment would occur, unless, of course, the crimes committed were "cruel and unusual."

Rothbard argues that both police protection and a judicial system ought to be provided privately. Those critics who deny the possibility of private police protection operate from a critical misconception, he concludes.

...[T]here is a common fallacy...that the government must supply 'police protection', as if police protection were a single, absolute entity, a fixed quantity of something which the government supplies to all....In actual fact, there are almost infinite degrees of all sorts of protection....

[And] the point is that the government has no rational way to make these allocations. The government only knows that it has a limited budget....with no indication at all as to whether the police department is serving the consumers in a way responsive to their desires or whether it is doing so efficiently. The situation would be different if police services were supplied on a free, competitive market....On the free market, protection would be supplied in proportion and in whatever

way that the consumers wish to pay for it...
(Rothbard, 1978b, pp. 215-216).

What may we anticipate in such a system? First, as with any private business, the police would face a scarcity of resources and would be unable to enforce all crimes. Therefore, they would rationally allocate resources and enforce "whatever the customers are willing to pay for" (Rothbard, 1978b, p. 216). In other words, those consumers with more to lose would contract through their "pocketbooks" for greater security in the areas most preferred by them. Secondly, those companies which satisfy their customers, not only for security but also for numerous other criteria (courtesy, for example), would be the most successful institutions and the businesses most likely to be imitated. As in the case of private education, a private security market provides a highly diversified product. Finally, the probability of protecting victims' rights and retrieving their property would be greatly enhanced since the consumer would be "king". The focus of criminal investigations would be redirected from a vague notion of the "public interest" to the actual individual consumer who is faced with the real concerns of criminal aggression. In his anarcho-capitalist society, Rothbard anticipates that security would be provided by either the landowners or insurance companies. Persons would likely pay monthly premiums and contract protection from a specific company. Furthermore, nothing prevents agreements between agencies to handle special situations. Hence, one may expect a highly complex internal security network to evolve if it is given the freedom to develop through the trial and error processes of the market.

One may raise at least four criticisms in opposition to a private interior police force. Rothbard responds to three of these concerns (Rothbard, 1978b,

pp. 218-222). First, one might argue that police protection is a "natural monopoly", i.e., because of the unique nature of this good, no more than one provider of the good could survive in the long term. However, this argument is less a criticism against private police forces as it is an assumption that only one police force would survive. Furthermore, under a private system, there always remains the opportunity for new entry if the single producer fails to satisfy citizen demands. And, as technology evolves, it is becoming increasingly clear that in a number of areas such as security, the natural monopoly argument is becoming obsolete.

A second criticism leveled against the provision of private police forces concerns the inability of the impoverished to be able to afford the services. If the services are not provided by government, would these individuals not have to fend for their own survival. Again, as Rothbard demonstrates, this criticism is not an argument against the feasibility of private-sector police. The concern over provision to the poor is relevant to any good or service. Under a market of private police, the poor would be furnished in the same ways they are (or are not) supplied for other goods, namely, through charity. Furthermore, because of the increased efficiency provided by the discipline of the market, the product is likely to be more affordable and in more diverse forms to meet differing income demands.

A third complaint is the potential for "clashing protection agencies", i.e., wars between different police forces. Given the current statist alternatives, Rothbard minimizes the dangers of these private wars. First, even if these kinds of actions did occur occasionally, society "would at least be spared the horror of inter-State wars, with their plethora of massive,

superdestructive, and now, nuclear, weapons" (Rothbard, 1978b, p. 220). If the world were privatized, conflict would be localized, meaning that destruction would likely be limited in scope and devastation, since great weapons would kill both sides. Mass destruction only arises because of the "slicing off of territorial areas into single, governmental monopolies" (Rothbard, 1978b, p. 220). Secondly, nationalism, which is a critical component of modern war in the age of the nation-state, would also diminish. Finally, to fear the "anarchy" of a localized private police system is to ignore the very real and potentially more disconcerting "international anarchy" which exists presently between nations who for many reasons do not like each other (Rothbard, 1978b, p. 221).

But these examples are worst case scenarios and, as Rothbard correctly notes, there is no a priori reason to assume these situations would occur any more than they do currently. Consumers pay the bills in a market system and they will likely demand forms of protection that are as non-intrusive as possible. It would be rational to solve the conflicts not by escalated violence, but by peaceful arbitration in the courts. Present differences between distinctive American states do not explode into open warfare. There are no preconceived reasons to assume that changes in the manner of police protection will fundamentally alter the levels of war or violence.

A fourth criticism on which Rothbard is rather silent relates to the problems of positive spillover effects and, hence, the potential for large amounts of free-riding activity in the provision of internal defense. If the service is non-excludible, then it would seem to face the dangers of persons attempting to garner the benefits of the service without being required to pay

the costs of the product. If this activity occurred, two negative circumstances would result. First, when persons discover that they are able to benefit the fullness of the pertinent protection without demonstrating these levels of demand by payment, they will withhold their resources. As all persons realize the benefits of such action, the level of protection would drop, perhaps, significantly. Secondly, since the company who is providing the service would not be able to impose these costs, the profitability of the enterprise would diminish substantially. Thus, the good would apparently be "underproduced". To carry the argument to its logical conclusion, government must correct these misread demands through the use of coercion.

However, is the use of force necessarily the only solution to perceived free-riding? Public goods theory unfortunately rests upon static temporal assumptions. For example, it assumes that after the parties involved in the series of exchanges recognize what appears to be efficient behavior through the withholding of their demands for police services, they would then retire from the process of making plans and achieving their specific ends. Hence, both free riders and non-free riders would cease action and stand content, even though a substantial set of their demands are unsatisfied. This assumption is extremely unrealistic. Would these individuals not observe the decline of the product they demand and, subsequently, note that other persons are following the same strategy they are attempting, to the detriment of both parties. It is a quite spurious assumption to completely ignore the potential for cooperation and exchange to alleviate these potential spillover effects. Since it is to the benefit of almost all the parties involved that police

protection exists, then we can expect it to be present. Or, over time, cooperation will overcome free riding. Of course, there will remain a few persons who are seeking to free ride or who are unable to afford or do not demand the service. And, these persons will overly benefit from the provision of the service. But there is absolutely no reason to assume that they will make up a substantial portion of the beneficiaries.

Is Rothbard overly optimistic in assuming the entrance of profitable organizations into a free market for internal security? It seems fair to assume that if profits exist, entrepreneurs arise to exploit these opportunities. Therefore, we must not fall into the trap of defeating his argument with a "straw man" argument which rests upon the uncertainty, rather than the viability, of these contentions. The important question is whether the profits for private police firms would exist. Two potential problems stand out as the most serious concerns. The first, the potential existence of spillover and free riders, we have hopefully laid to rest. However, the second concern is quite different. Due to the "burdens" Rothbard's ethical theory requires of the police and courts, it is very possible that extreme disincentives exist for anyone considering entrance into these professions. For example, if police officers are held criminally liable for their actions, would there be many police officers, and at what price? The protection of the rights of the criminally accused is quite "costly". These principles might make successful police work much more difficult and eliminate a substantial portion of the savings in costs that the dynamics of a market order provides. It would also be much harder to provide the service. Of course, if we compared these costs to those the contemporary State would face if they were required to play by

ethically legitimate rules, then these differences in costs would likely evaporate. Also, Rothbard's ethics eliminates many of the extremely expensive traditional crime-fighting services. Since only real crimes and not mere vices would be the jurisdiction of the police, some of the more difficult problems would be eradicated. These "crimes" without victims, which for self-evident reasons are difficult to enforce, are the focus of a substantial portion of modern police budgets.⁵

An even more thorny concern in the privatization of internal defense is the problem of arbitration in a Stateless society. As with the protection business, the "exchanges" which occur in the courts may leave at least one party in the action unsatisfied. Therefore, the imposition of the law upon individuals is unlike normal market exchanges of goods and services in that it necessarily must entail some degree of coercion.

Of course, in many cases the parties involved may be willing to accept the verdict which emerges from the arbitration process. People are often able to work out their differences. In the present system, there is not an overwhelming effort to disregard the legal code. Obedience of the law is obviously not completely a function of force. Thus, the criticism that arises which expects high rates of refusal from individuals asked to accept private

5. The perfect contemporary example is the United States' "War on Drugs". It is an exceedingly difficult task to fight "crime" when none of the parties involved in the activity view the act as criminal. Without the assistance of a "victim" the State begins its task with extreme handicaps, since it must capture persons who are providing their consumers with a valuable product. These costs are only increased when there exists the kind of demand that spurs the present narcotics market.

verdicts--within a community that presumably accepts the decision--is unquestionably exaggerated.

Nevertheless, in some cases, persons are going to deny their criminality even after the evidence leads to this verdict. In Rothbard's private system, how will courts alleviate this important problem? It may be useful to explain how these courts would operate privately. He concludes that they would function considerably more efficiently and morally than our present institutions. State-maintained courts, like all other government institutions, face the problems that are generated by the "taint" of politics and the inefficiencies that are characteristic of any kind of monopoly. Rather than being financed by taxpayers, private courts would form agreements with private persons. One might, Rothbard surmises, subscribe to a permanent service; more likely, one would hire on a case-by-case basis. Or, courts and police agencies might operate through contracts or as one firm (Rothbard, 1978b, p. 223). The task of arbitration would be similar to the present modes of hiring legal defense.

The use of private courts is not at all outlandish. In fact, it is an increasingly popular practice, brought on in part by the inefficiencies and unsatisfactory results of government courts. Rothbard's courts would operate in a similar fashion with the parties involved determining the rules by which the proceedings would operate. But these institutions would be devoid of the overarching arm of the federal and state governments that cloud present private arbitration. Instead, they would depend on what David Osterfeld terms "bilateral laws" which are "created on the spot by the individuals concerned" and, thus, are only binding upon the particular actors

(Osterfeld, 1989, p. 55). These activities would represent, then, a process similar to voluntary exchange and would encompass all the benefits that exist with this sort of flexibility.

But is it not this "overarching arm" that ultimately determines the acceptance of these decisions? How would a private court enforce its decision if the losing party simply ignored it? Rothbard, turning to historical examples, argues that the most effective tool in enforcement is the power of ostracism and community boycott (Rothbard, 1978b, p. 224). But these tactics are likely only effective in cases where the "criminal" is a fixed member of the community who values his reputation in the region. Most criminals probably do not care about these matters.

A portion of this problem is eliminated by the fact that all property and decisions would be private. Since the streets, roads, parks, etc. would also be privately owned, the incentive to prevent crime would be greatly increased. Public ownership of property creates a "tragedy of the commons" in the area of crime prevention just as it does in any other area.

Still, crime will occur. How will the unwilling criminal be made willing? To understand how private courts might work, it is important to trace Rothbard's argument stage by stage (Rothbard, 1978b, pp. 225-227). If a criminal act is committed against an individual, he would appeal to his protection agency who would, in turn, work to locate the criminal. Suppose they apprehend the person they have evidence committed the crime. Most likely, the case will be taken to the victim's judicial service, particularly if the alleged criminal is uncooperative. If both parties are members of this court, the problem of the arbitration's bindingness is largely eliminated. The alleged

criminal would be informed of the charge; he may appear at the trial if he desires. However, he, like all other persons involved in the case, cannot be forced to testify. If the defendant is found guilty, the court, through its marshals, would act to seize the criminal for sentencing and subsequent restitution.

It is obviously more complicated if the alleged criminal is not a client of the same court. The victim would probably first plead his case to his court. If a verdict of guilty follows, the plaintiff may turn to his company and refuse to accept the verdict of the victim's court for what he argues are legitimate reasons.

The problem arises if the two private court decisions conflict. However, rather than turn to open warfare, it is likely better for business that these courts have rules for such circumstances that allow appeals, or that they at least establish procedural agreements on a case-by-case basis. The subsequent decision would then be final and binding. Rothbard argues that since only two parties exist in a criminal dispute, the "sensible" number of appeals would be when a similar conclusion is found by two courts (Rothbard, 1978b, p. 227). There is apparently no reason in natural law why this principle must always be binding, however.

A strength of this system may simultaneously be viewed as a weakness. Private arbitration avoids the dangers of the present monopoly structure. Persons in the process may freely choose between different forms of judicial decisionmaking. However, the system has no court of last resort like the present Supreme Court. This lack of central and final authority leaves open a wide range of legal processes and rules for any given community. But

there is no a priori reason why this diversity would be necessarily bad. Essentially, the only parties who have any standing in a given case are the criminal and the victim. The manner in which decisions are reached is not overly critical as long as ethical principles are satisfied.

Rothbard, therefore, is correct to argue that a structure of law will exist even without the State apparatus. In his system there would be no legislative "will" and no statutory law. Law would arise and be defined as it has been for centuries through common law processes, but devoid of a legislature.

But the most significant question in this discussion of private courts remains to be answered. Why are we to assume that private judges, who are bound ultimately by what the specific community will tolerate, will consistently render libertarian decisions? Or, apply this same inquiry to the thorny concern of enforcement of the "law". Suppose, for instance, that we return to Rothbard's discussion of the power of ostracism and boycott. In boycotting an "evil" merchant, the other merchants may surely achieve the results that Rothbard anticipates; lawbreakers will be kept honest by the forces of community influence in many cases. The power of these techniques are often underestimated in today's highly politicized society. However, why are we to suppose that the larger number of merchants are acting as the "good guys"? We surely may not assume that majority behavior equates to consistent libertarian principles in the present political system; the larger and more powerful majorities continually smash the libertarian rights of individuals. Has Rothbard fallen prey to the utopian trap which has devastated the Marxist vision, namely, that under a changed environment, human nature transcends through some form of mystical metamorphosis

which overcomes present limitations. Why should we expect the state of anarchy to also be a libertarian system? Unfortunately, Rothbard's response to this concern is unclear. He argues that libertarian ethics would exist apparently because they represent the natural order of human society. He contends that a legal code must be one that is generally accepted by both the community and the courts (Rothbard, 1978b, p. 225). Due to this requirement, the code "would insist on the libertarian principle of no aggression against person or property, define property rights in accordance with libertarian principle, set up rules of evidence...and set up a code of maximum punishment for any particular crime" (Rothbard, 1978b, p. 225). Furthermore, he contends:

Of course, in the future libertarian society, the basic legal code would not rely on blind custom, much of which could well be antilibertarian. The code would have to be established on the basis of acknowledged libertarian principle, of nonaggression against the person or property of others; in short, on the basis of reason rather than on mere tradition, however sound its general outlines. Since we have a body of common law to draw on, however, the task of reason in correcting and amending the common law would be far easier than trying to construct a body of systematic legal principles *de novo* out of the thin air (Rothbard, 1978b, pp. 230-231).

If Rothbard is implying by these comments that to be ethical any system must establish these rules, then there is no theoretical dilemma. However, if he means that one may expect this ideal world as an historical reality, then the argument needs to be further defended. One may not simply assume into existence these principles. We must be convinced that given the State-less

environment, these principles would be the chosen legal code.⁶ Otherwise, we face the possibility of a society built upon a Hobbesian anarchist nightmare of brute force.

Despite the unlikelihood that human society would ever approach Rothbard's state of ethical bliss, his model does provide a number of attractive advantages over the existing statist framework. First, certainly, the common law has distinct advantages over statutory law in providing the principles of individual justice. In fact, if one denies the idea of any sort of collective notions of justice, e.g., the public interest or social justice, there are no reasons for legislatures to exist. The decisions of these judges are limited in scope and, furthermore, focused upon the proper matters, namely, the persons who actually have legitimate standing in the case and the particular issues of that suit. Secondly, while it might in the short run create chaotic circumstances, the removal of monopoly status for both the provision of protection and arbitration provides the opportunity for both a more efficient and an enhanced ethical delivery of libertarian justice.

National Defense

A legal code's success depends in large part on the society's willingness

6. This requirement is likely the most important difference between Rothbard's theory and David Friedman's utilitarian anarcho-capitalist model. See Friedman (1978, pp. 155-164); also see Sampson (1984, pp. 215-232). As an ethical skeptic, Friedman avoids the overarching moral code in which Rothbard requires. Instead, he relies on the market process to determine a community rules.

to accept the rules. One of the reasons Rothbard's system of law without government may, in fact, be more than a utopian dream is due to the legal and sociological consensus that exists within any given community. But we live a very large world which appears quite often to be devoid of any common ground which would allow the forces of consensus to weave its magic. If other actors do not accept the legitimacy of the libertarian society, what prevents them from taking advantage of the rather fragile abilities of decentralized anarchist systems to defend themselves against non-libertarian orders? In other words, despite the potential superiority of the anarcho-capitalist "game", can it survive if a portion of the players "cheat"? This question is most pertinent in regard to the dangers of external enemies and the requirement of an adequate defense mechanism.

However, Rothbard is prepared to extend anarcho-capitalist principles to even the realm of national defense. First, he argues that the threat of armed invasion of our society rests in substantial part on the perceived threat that our own "defensive" actions create. In the anarchist society, the fear created by the concept of nation-states would be gone. With these critical "tension-makers" removed, aggressive actions would be squelched by coalitions of defense protection agencies who combine and defeat the remaining outlaws (Rothbard, 1978b, p. 238).

Is this not an especially naive perspective? For example, suppose that tomorrow the United States government disbanded and left the former citizens to arrange their own defense and police protection. Would we support this action even if we were all anarchists? If we severely decentralized our defenses, would we not open ourselves to armed attack

from other countries who maintain their centralized and coordinated armies? Could not the Soviets (for the sake of argument) use their comparative advantage of centralization, coordination, cooperation, and a different set of (unethical) rules to roll over each of the emerging private protection agencies in our newly-conceived territory? Rothbard, however, argues this hypothetical scenario leads to an unfair criticism.

....When we contemplate any sort of new system, whatever it may be, we must *first* decide whether we want to see it brought about....[W]e must first assume that it has been established, and *then* consider whether the system could work, whether it could remain in existence, and just how efficient such a system would be....[W]e have said nothing about how to *get* from the present system to the ideal; for these are two totally separate questions....If someone agrees that a world libertarian society, once established, is the best that he can conceive...then let him *become* a libertarian...and then [let him] join us further in the separate-and obviously difficult-task of figuring out how to bring this ideal about (Rothbard, 1978b, pp. 238-239).

Unfortunately, it is not so easy to separate the proposition of the ideal from the accomplishment of that ideal; the two activities are inseparably intertwined. Even Rothbard recognizes that the larger the original group agreeing to end the State, the greater the likelihood one has of avoiding the domination by the remaining States (Rothbard, 1978b, p. 239). He fails, however, to realize that the dynamic processes which make size an issue also implies no one would likely ever "secede". A country that unilaterally disarms on the hope that a private sector for defense would emerge faces the very real possibility of being overrun by a more powerful enemy who chooses to remain statist. The world, unfortunately, would still retain many of the

characteristics of a government-sponsored jungle. All we would have done by ending our defense capabilities is handicap our abilities to play the current "game".

Of course, one might argue that the metaphor of the jungle is itself mere perception, reinforced by the violence of an unjust system. Actually, almost everyone would love to live in libertarian peace, if they could be assured that everyone else would follow suit. But this assertion, right or wrong, ignores the most important issue. In the case of persons making decisions in our example, perception, one might say, is reality. And we must accept these realities in building a system of ethics. Because of the frictions generated between behaviors based upon interests and ethics, one faces all the components of a classic prisoner's dilemma in which, although all parties may view the present circumstances less desirable than the libertarian model, they will remain as they are. To act otherwise allows other players to coup substantial benefits by avoiding the ethical rules. Hence, human self-interest might well dominate ethical considerations. If the nature of the act of dismantling the State's military structure can generate such a complex set of decisions, then it is obvious that the questions of anarchist tactics and the proposition of the good society are not as separable as Rothbard wishes to argue. If the ideal is utopian and the effort to achieve it creates circumstances far inferior to the present system, why consider the route at all?

Yet, for Rothbard, even unilateral reform does not create overly dire circumstances.

...In the first place, the form and quantity of defense expenditures would be decided upon by the American consumers themselves. Those

Americans who favor Polaris submarines, and fear a Soviet threat, would subscribe toward the financing of such vessels. Those who prefer an ABM system would invest in such defensive missiles. Those who laugh at such a threat or those who are committed pacifists would not contribute to any 'national' defense service at all. Different defense theories would be applied in proportion to those who agree with, and support, the various theories being offered....

But let us assume the worst. Let us assume that the Soviet Union at last invades and conquers the territory of America....[T]he Soviet Union's difficulties will have only just begun. The main reason a conquering country can rule a defeated country is that the latter has an existing State apparatus to transmit and enforce the victor's orders onto a subject population....

Furthermore, the occupying Russian's lives would be made even more difficult by the inevitable eruption of guerrilla warfare by the American population...[N]o occupying force can long keep down a native population determined to resist....And surely the anticipation of this sea of troubles, of the enormous costs and losses that would inevitably follow, would stop well in advance even a hypothetical Soviet government bent on military conquest (Rothbard, 1978b, pp. 239-241).

While these arguments may be partially valid, they unfortunately do not respond to our concerns. Once again, Rothbard ignores the possibility of substantial free riding activity. Despite Rothbard's argument to the contrary, there are many modern cases in which occupying forces, in fact, did control countries despite a citizenry which would have preferred alternatives. Look at the Czechs, for instance. We may not, then, simply assume the existence of what would appear to him to be rational activity on the part of resisters or, for that matter, the invaders, to be the norm.

Tibor Machan, representing a common minimalist criticism, directs a slightly different argument against private defense. He argues that the service implies some "type of geographical homogeneity" among the areas to be covered by the defense agency (Machan, 1975, p. 149). How would police agencies, for example, move from area to area, since property rights are absolute? What guarantees exist that these companies would be able to effectively carry out their services? However, it is unclear why this complaint is a problem. This same concern might be applied to any delivery system, from milk delivery persons to defense agencies. What makes defense services different?

The crucial difference concerns the extremely high costs of transition from the statist society to the anarchist world. The incredibly high levels of uncertainty impose especially high costs upon the transformation. There is no guarantee that these defense forces would arise in a private economy to adequate levels fast enough to prevent the incentive of other states to take advantages of the turmoils of transition. The prevention of free riding, as we noted in our discussion of police protection and courts, requires both adequate levels of time and a pre-existing degree of consensus. Without these variables there appears to be no reason to believe that persons would not free ride, seeking to benefit from the largely non-excludible good of defense from foreign invasion without facing the costs. Hence, those persons not purchasing defense protection would likely include more individuals than simply those who are pacifists or those who scoff at the risks of invasion. However, unlike the free riding with other goods, in which large portions of free riding dissipates once the actors are given time to reconsider the

consequences of their choices, the temporal factor in the military arena opens a window of opportunity for annihilation. Modern war technology makes the stakes of advancing into the unknown highly problematical, while generating increased pay-offs for exploiting those groups implementing these efforts. And the possibility of achieving an enforceable and universal transformation of the entire world simultaneously goes against astronomical odds. Private defense is not possible because it fails logically but because the world simply cannot reach this system from where we are today.

Due to these problems, the tactics of reform are not simply strategic obstacles. This issue must be the foundation of the discussion of the private provision of defense. Libertarianism would be best served by locating means by which the coercion of government may be kept to a minimum within the defense arena. Rothbard's anarcho-capitalist system approaches its limits with the private provision of defense. He must surrender to the possibility of the existence of a "public good" or to at least the possibility that time and space factors deny his system the ability to overcome certain free riding propensities.

War and Foreign Policy in the Less Than Anarchist World

In the ideal Rothbardian world, of course, there would be no foreign "policy". But if we assume that governments exist, we may still be able to apply the ethical imperatives of libertarian justice upon the actions of the State. Unfortunately, due to his absolutist ethical monism, Rothbard's

discussions of foreign policy often become confusing and even ethically arbitrary.

For Rothbard, the same negative rights framework of non-intervention which applies to acts between individuals also holds true for the conduct between governments. Therefore, intervention is allowed only in cases of self-defense or restitution and may only be imposed upon those persons responsible for the transgression. This latter requirement makes the act of war in the modern world ethically problematical.

War, then, even a just defensive war, is only proper when the exercise of violence is rigorously limited to the individual criminals themselves....

It has often been maintained...that the development of the horrendous modern weapons of mass murder...is only a difference of *degree* rather than kind from the simpler weapons of an earlier age....[A] particularly libertarian reply is that while the bow and arrow, and even the rifle, can be pinpointed, if the will be there, against actual criminals, that modern nuclear weapons cannot. Here is a crucial difference in kind. Nuclear weapons...are *ipso facto* engines of indiscriminate mass destruction....We must, therefore, conclude that the use of nuclear or similar weapons, or the threat thereof, is a crime against humanity for which there can be no justification (Rothbard, 1982a, pp. 190-191).

The requirement that any military action must pinpoint the enemy is perfectly consistent with libertarian ethics. However, the discussion of nuclear weapons seems quite arbitrary, especially when it is related to Rothbard's position on gun control. Humans act; lifeless objects do not. Moreover, the right of self-defense is only meaningful if one provides the victim the instrumentation to successfully ward off the invader. He correctly

argues that bearing arms and using them are entirely different ethical acts. Yet, concerning nuclear weapons or other non-selective weapons, he concludes that their "disarmament becomes a good to be pursued for its own sake," or the "highest political good" (Rothbard, 1982a, p. 191). How Rothbard can square these two positions is unexplainable. He confuses in the most obvious ways the possession of potentially violent items with the actual use of them. It is unclear how a weapon's selectivity establishes distinct moral principles which are prevailing over human action. Such a principle denies the possibility that these weapons might be used for beneficial non-violent reasons. Before one dismisses this proposition as completely unfounded, it might be useful to consider the relatively peaceful state of affairs in the "nuclear age". If we may grant the deterrence argument any credence, then it would be premature to reject a priori the existence of this weaponry.

Rothbard contends that all State-sponsored wars are illegitimate aggressions since they entail violence against the property owners within their own territory (taxation) and usually involve the indiscriminate killing of persons in or from the enemy territory. The consequences of these acts of violence linger endlessly. Echoing the writings of Randolph Bourne, Rothbard concludes:

...[W]e must allude to the domestic tyranny that is the inevitable accompaniment of inter-State war, a tyranny that usually lingers long after the war is over....It is in war that the State really comes into its own: swelling in power, in number, in pride, in absolute dominion over the economy and the society. The root myth that enables the State to wax fat off war is the canard that war is a defense *by* the State of *its* subjects. The facts are precisely the opposite. In war...the State frantically mobilizes the

people to fight for *it* against another State, under the pretext that *it* is fighting for them. Society becomes militarized and statized, it becomes a herd, seeking to kill its alleged enemies, rooting out and suppressing all dissent from the official war effort, happily betraying truth for the supposed public interest.... (Rothbard, 1982a, pp. 195-196).

Only in those occasions deemed "vertical violence" by Rothbard, when the citizenry carries out revolution against the State, may there be ethical justification for war. Unfortunately, the greater the success the State has at creating the "herd" mentality among its citizens, the less likely revolution opposing the government will occur.

What, then, should libertarians do in the support or opposition of a government's foreign policy? According to Rothbard, one should, first of all, support the least aggression possible by limiting coercion to within his own borders. Essentially, this principle requires the "total avoidance of war" (Rothbard, 1982a, p. 193). Secondly, cases in defense of one's own citizen's person or property ought not to extend beyond existing territorial borders. Persons who move beyond their original "countries" must accept the new rules of that territory. Thirdly, in situations in which war presently exists, it would be the libertarian position to "reduce the scope of assault against innocent civilians as much as possible" or, to "induce the warring States to observe fully the rights of neutral citizens" (Rothbard, 1982a, p. 194). The military policy of any State would be especially limited. Similarly, foreign aid would be eliminated. Since the aid comes from the forced taxation of person's property, it also represents aggression, as do other forms of political or diplomatic involvement.

This idea of "peaceful coexistence" would entail free trade and

exchange on one hand, and military and political "isolation" on the other hand. On the surface, it seems to be quite consistent with the overall domestic program of libertarianism. Yet, as Rothbard willingly admits, individual libertarian ethics lose much of their clarity in foreign policy because of the monumental level of the effects of military and political acts at the inter-State level (Rothbard, 1978b, p. 268). A libertarian foreign policy would not entail the mere "turning of the cheek". Nevertheless, the State may not ethically expand beyond its borders in warlike fashion. The level of involuntary involvement of persons in these scenarios makes the application of any libertarian principles in relations between States extremely problematic.

To provide an example of this dilemma, let us explore one of the fundamental tenets of libertarianism, namely, the support of free trade between nations. On the surface, it would appear completely consistent to argue that free trade is the only ethical route of economic activity. But consider this issue as it might be applied on the individual level. If a person stole from another individual to obtain the capital needed to produce his product for trade, would this theft not be viewed as a criminal activity? Ought not the resources be returned to the rightful owner, even at the expense of whomever made the mistake of purchasing the item from the thief? This conclusion is deeply embedded in libertarian ethics. Yet, how in principle would this scenario be different from cases where certain countries subsidize specific exports to increase their sales--at the expense of the country's taxpayers?

Or, let us investigate a second example: Why would it necessarily be illegitimate for the State to become more involved in citizens' problems in

other countries than within their own territorial boundaries? If one's rights have been violated, why should the arbitrary boundaries of nation-states dictate the responses of persons coming to the aid of these victims?

Therefore, because of the ethical "taint" in which States and their political acts create, it would be quite feasible to argue that libertarianism offers very little guidance for most foreign and military policy issues. Most libertarians, including Rothbard, strongly promote both political and military non-intervention. Yet, it is unclear exactly how useful these theories are in providing general policy guidance, since there are no purely political nor perfectly economic actions in existence in contemporary political economy.

There are obvious reasons to superficially argue that the non-interventionist perspective is consistent with the whole fabric of libertarian ethics. Non-intervention in the protection of self-ownership might be in theory as consistently applied to collectivities of persons as it may be to single individuals. And Rothbard supports that conclusion, advocating the closing of foreign bases, the removal of foreign troops, the end of espionage activities, the shutting off of all foreign aid for all reasons, and consequently, the significant reduction of military capabilities (Rothbard, 1978b, pp. 291-294).

However, there is an additional libertarian principle that would seem to be as pertinent in this situation, namely, the right of persons to defend themselves from real aggressors. The determination of the circumstances surrounding the rights of self-defense is purely historical, i.e., it emerges from past acts which violates one's rights. For example, what does the notion of principled isolationism imply for certain Middle East countries who have been aggressing against each other for literally centuries? Do we define an

military act by the Palestinians as an act of aggression or an act of self-defense? If it is self-defense, it would be perfectly legitimate under the libertarian code of ethics for the Palestinians to enter the territory of the Israelis and act aggressively. How, then, may libertarians in the topsy-turvy world of nation-states and infinite historical aggression formulate any a priori principles in support of isolationism?

Suppose Person A aggresses against Person B at Time-1. B then returns to his own territory. To capture B, would not A be justified to transgress into B's territory? Or, in his search to catch or protect himself from B, would it not be perfectly legitimate for A to contract with C for the use of C's territory in exchange for whatever C values? Are these contracts on their face illegitimate, and if they are (for the reason that they are established by the State apparatuses), then is not the entire discussion of libertarian non-intervention moot? Hence, one may not conclude, for example, that the participation of the United States in NATO, in the Phillipines, or elsewhere is illegitimate without an extremely careful case-by-case analysis.

Rothbard may be correct in his stinging criticism of political and military intervention by the United States and other governments. However, this criticism is based on practical, not principled, argument.⁷ Libertarianism may no more justify total non-intervention in the area of foreign policy than it may in the realm of individual ethics. Persons have a right to self-defense. One may not discern before the fact what sort of actual arrangements will be

7. Libertarian theory may begin with identical premises and reach alternative conclusions in foreign policy issues due to complex historical factors. See, for example, Cox (1990, pp. 15-19) and Richman (1990, pp. 32-37).

produced between States. One may only define and justify the manners in which forms of intervention may occur.

Public Welfare for the Rich and the Poor

It is rather simple to infer the role Rothbard surmises for what is commonly called "public assistance" or "welfare".⁸ Forced charity is illegitimate. Only voluntary charity may be allowed in his libertarian society. Since each person is absolute owner of himself and his property, he is free to provide his labor and goods to persons as he sees fit.

Rather than repitiously proceeding through the ethical arguments, let us examine what Rothbard anticipates from a world without governmentally provided assistance. First, he does not expect massive suffering. As he indicates, there was very little public assistance in America prior to the fateful Great Depression; nevertheless, the world survived--and at a much lower standard of living (Rothbard, 1978b, p. 148). Religious organizations and other private institutions filled what today would be viewed as a large void. And these groups satisfied these needs without generating the horrible disincentives found in the contemporary policy structure which often locks persons into a cycle of failure.⁹ Rothbard accepts the generally conservative

8. For a critique of the Welfare State's "finest hour", i.e., the Great Society, see Rothbard (1973b, pp. 88-94).

9. For an historical example of successful provision of private charity, see Rothbard (1978b, pp. 148-151). On the unfortunate dynamic that accompanies government aid, see particularly Murray (1984, pp. 205-218).

critique that a major portion of the problem of poverty is due to "irresponsible present-mindedness" and argues that the solution requires the "inculcation of 'bourgeois' future-minded values" (Rothbard, 1978b, p. 154). Yet, he also willingly endorses the popular left-wing criticism that public assistance "demoralizes" the recipients. Both of these arguments seem to fit neatly into Rothbard's conception of the individual creative human. Thus, publicly coerced welfare is injurious to taxpayer and tax consumer alike.

But Rothbard's most damning criticism is that welfare does not even achieve what the rhetoric purports to accomplish, namely, the redistribution of wealth from rich to poor. In fact, many programs accomplish the exact opposite result, benefitting the rich at the expense of the poor and politically underrepresented (Rothbard, 1978b, pp. 157-162).

What, then, according to Rothbard, should government do to eliminate its involvement in welfare? First, eliminate (or at least "drastically reduce") taxation and allow the consequent expansion of the economy to truly assist the poor. Secondly, significantly reduce government programs, especially those which create regressive tax transfers. Instead, one ought to leave these resources with the private consumers who will allocate them much more efficiently and equitably. Thirdly, eliminate government "roadblocks from [the poor's] productive energies," such as minimum wage and licensing laws (Rothbard, 1978b, p. 165).

Would government "getting out of the way" in the area of public charity be the best solution? Perhaps the best responsive question is: For whom? It is obviously not the best answer for certain powerful corporate giants who since at least the Progressive Era have significantly benefitted

from their under-the-table alliances with the State. Neither is it beneficial for the corporate farmer who rakes in huge subsidies at the expense of the taxpayers, the consumers, and the small farmers forced to compete on a very unequal "playing field". Nor is it preferred by union leaders and members who benefit from the security of the effects of minimum wage laws and State-enforced job protection. But these specific groups in no way represent "the poor". If they are benefitting from these "assistance" programs, is it not conceivable that, overall, the poor represent "taxpayers" in our political process and not "tax consumers"? And, if this is the case, would not the removal of these programs generally benefit the poor? Of course, when one examines the problem of poverty, the general improvement in the lot of the impoverished sectors likely will not be sufficient for the supporters of public assistance. Will there not still be a set of poor persons who will suffer--even die--without public aid? Must we tolerate the huge levels of usurpation of these programs by middle and upper class citizens to prevent the potential of dire consequences for a small number of extremely underprivileged individuals?

Both libertarians and welfare socialists provide less than satisfactory responses to these questions because both perspectives are required to heavily speculate as to the world that would exist devoid of government welfare. Nevertheless, Rothbard's arguments are quite convincing. First, he is very likely correct that without public assistance the standard of living in a given economy would be substantially higher. Accordingly, either fewer people will be poverty-stricken or the society will be able to maintain a larger number of persons. (This is an important and usually overlooked point: "The poor" will

always be with us. But this phenomenon is due to the fact that when the economy enjoys real growth, it generates an influx of new marginally survivable persons, either through immigration or heightened birth rates. It is, then, mere rhetoric to speak of the ending of all poverty, unless there are incredible and oppressive forces at work in the world.)

Secondly, the ability of the private sector to coordinate the provision of charity is highly underrated. As Hayek has often argued in his criticisms of centrally planned socialist systems, expanding social complexity demands further division of both labor and information and, thus, an increasingly decentralized social system. Some critics argue that without coercion persons would not provide the resources required to fund the elimination of poverty. But this argument is mere speculation, since both the heavy burden of taxation and, more importantly, the creation of a morally irresponsible attitude among individuals would be removed from the formula of the debate if public assistance suddenly evaporated. It is just as likely that a complex network of charity would arise, tailored to meet more diverse needs and assist those persons that donators deem deserving.

Thirdly, Rothbard is correct in pointing out the regressive nature of many of the present welfare programs. This argument ought to be even more cogent for egalitarians, who support progressive taxation and the redistribution of wealth. Of course, they might still support only reform rather than complete elimination of public aid. But does not the existence of these programs for the politically and economically weak depend upon the political support of the very powerful interests in society? Is it, then, possible to discuss a truly egalitarian-centered redistributive State? In any case, a large

portion of these resources never make their way to the lowest economic classes in the system.

Finally, there remains for Rothbard, at least, the ethical illegitimacy of public assistance. These programs are a clear violation of one's rights of person and property. Moreover, they are a demoralizing process for both the "giver" and the "receiver". The former is denied the satisfaction of a freely chosen moral choice. The latter is denied control of his own will, forced to subsist in an inhuman way off the dictates of an impersonal State.

Environmental Policy in Anarchy

Environmental policy represents one of the most hotly debated issues on the contemporary political agenda. The heavy involvement of the media and special interest groups, as well as several real environmental concerns, places conservation at the top of the public debate. Environmentalism is also an area in which libertarian scholarship may offer a great deal of assistance.

Rothbard is extremely critical of the political establishment's overall treatment of the issue of economic growth and its ecological consequences. He contends that the American liberal intelligentsia has waffled to and fro on these controversies, passing through at least seven "stages" of contradictory and confusing changes of perspective in post-war America (Rothbard, 1978b, pp. 242-244). First, there was the notion around the time of World War II that capitalism faced "secular stagnation" which required the institution of certain forms of central planning. In the 1950's, though, despite record expansion, liberals joined a "cult of economic growth" which demanded government

intervention or planning to "force-feed" the economy. Then enters the quintessential liberal J. K. Galbraith who argued that we have grown too much and, thus, were "suffering" from too much affluence. Again, the solution to this pressing problem was government intervention. Nevertheless, only four years later affluence gave way to the suddenly discovered vast poverty of Michael Harrington's America. The solution was, again, increased government intervention. However, the next great expansion generated the great fear that growth was becoming so rapid that all employment would be ultimately automated out of existence. Once the economic problems of the late 1960's occurred, this fear was quickly replaced by the return of a philosophy of "gloom and doom". By the mid 1970's, however, liberals had returned to a "super-Galbraithian position" as spaceship-earth sped out of control without the able leadership that could be provided through, again, government involvement. All of these rapid intellectual posturings ultimately left the establishment's position in a contradictory bundle of several positions drawn from particular stages in the evolution. For example, Rothbard concludes that these interpretations place us in a world of post-scarcity yet, for some reason, our resources are being rapidly depleted by the greed of the market system.

This confusing journey through recent liberal intellectual history concerning the environment and the economy provides an excellent means to establish perhaps the two most important planks of Rothbard's discussion of environmental policy. First, the debate over the environment is soaked in unfounded rhetoric and cloaked with an anti-free market ideology. Secondly, it is the market with its thoroughly developed system of property rights, and

not socialism and central planning which best provides for conservation of the ecology and stable unintrusive economic growth.

The common attacks on materialism and technology in modern environmental debates, Rothbard contends, are based largely on economic naivete. These market forces generate the contemporary standard of living; they provide those wishing to kill the goose that lays the golden egg with their subsistence.¹⁰ Therefore, the removal of these economic activities, he concludes, cannot be the solution to environmental problems.

What we need is more economic growth, not less; more and better technology, and not the impossible and absurd attempt to scrap technology and return to the primitive tribe. Improved technology and greater capital investment will lead to higher living standards for all and provide greater material comforts, as well as the leisure to pursue and enjoy the 'spiritual' side of life. There is precious little culture or civilization available for people who must work long hours to eke out a subsistence living....What we need is for government to get out of the way, remove its incubus of taxation and expenditures from the economy, and allow productive and technical resources once again to devote themselves fully to increasing the well-being of the mass of consumers.... (Rothbard, 1978b, pp. 246-247).

But are there not limits to this economic growth? Economic resources exist in a world of scarcity. If we place such emphasis on growth, will not these resources "run out" because of wreckless and indulgent use of them? A

10. Of course, subsistence is a definite misnomer; it is unlikely the environmental movement will ever be heavily populated by the lower classes!

popular point of humor among modern libertarians concerns the practically infinite number of "doomsday" reports which reappear year after year which warn of the world's diminishing resources. Each period seems to have its own resource of concern. In the 1970's it was crude oil. Today a favorite is timber (although oil seems to be returning to these discussions). Each of these fears has at least one thing in common: They ignore the price mechanism in a market economy. Prices, by sending the signals of the existing supplies and demands for any given product, conserve the product and prevent rapid depletion if the market is allowed to function.

For example, let us assume that we own a tree farm. As owners of the trees and not some other resource, we may first conclude that we view the production of trees to be in our comparative advantage. Otherwise, we would sell the property or use it for other more profitable activities. However, the environmentalist might argue that this private tree industry allows the owner to deplete important natural resources purely for the sake of profits. But how do profits arise in a free economy except through the satisfaction of the consumers who, evidently, in this particular case do not value as much as the environmentalist the maintenance the present level of trees?¹¹ If these critics truly view the protection of our trees as crucial, they are free to "put

11. These actions would be preferable to spending large amounts of funds in rent-seeking and/or rent-avoiding through the "lobby-regulate" network of politics. Environmentalists might be served investing in the purchase of "set-aside" conservatories rather than focusing so many resources upon government assistance. There is little doubt society would be better served.

their money where their mouths are", purchase the property from us, and conserve the lands as a tree sanctuary.

Would we not go on a wild spree of cutting and selling the timber as private owners? Not unless there is an incredible demand for the resource and the prices for the product skyrocketed. If that occurred, one would literally see the "asphalt jungles" being returned to nature, since huge profits would follow from these transformations. More likely, though, we would consider present and future income requirements and withhold part of our resources, accordingly--as would other tree owners. Otherwise, the price of trees would plummet because of the sudden influx of the goods on the market.

Suppose, on the other hand, we actually believe some of the doomsday reports and feel that there will be a substantial shortage of the resource. We would withhold our product until the future. The price would increase, as demand remained constant while supply diminished. We, in turn, would garner greater profits and, at the same time, we would provide a "social" good by withholding the timber until a period when it will be in greater demand.

Finally, as the owners of the land where the trees grow, it would be rather irrational for us to cut the trees and flee the property. Instead, knowing that unless we die we will require subsistence in the future, it is quite likely that we would refurbish our resources by planting more trees.

But certain items cannot be replaced--at least not at our current levels of technology. Still, for Rothbard, the same principles would apply equally for non-reusable products such as oil. Conservation is best protected through an undistorted price system which drives up prices in times of relative shortage

of the good and creates incentives for more thorough conservation of the good, a search for adequate less expensive (more plentiful) substitutes, and the discovery of new technologies to respond to these existing demands.

Are there, however, in a market economy adequate incentives to prevent the long-term depletion of resources? In other words, why would we as owners desire to conserve resources across generations? Is there not instead incentives for each generation to deplete as many resources as possible before their deaths? This enticement for rapid consumption and short time horizons is potentially a serious concern. However, what often gets lost in the debate over resource depletion is whether any known alternatives to the market economy would be any more successful in alleviating this problem. As Rothbard argues, the public ownership of resources tends to guarantee that the resources will be exhausted (Rothbard, 1978b, pp. 250-251). Without private ownership, the property is left to the "tragedy of the commons". Collectization of property generates incentives for individuals to compete for a set of resources without regard to the long term consequences of their present usage. One is required to consume the resource as quickly as possible or surrender it permanently to other actors facing the same constraints. Take for example the common "cut and run" practice which occurs with forests on government-leased public lands. Without any future connection to the property, the cutters are induced to strip the property of all valuable resources. Leasing strips away the constraints or expectations of future returns from the lands.

There are no convincing arguments which would provide for the allocation and control of these resources which are more persuasive than

those in support of a market price system. Moreover, if resource allocation were left to the political process, it would be logical to presume that the corporatists would have substantial advantages in the competition over these rent-seeking activities. Of course, this conclusion is unacceptable to the environmentalists who are convinced that they understand these issues more clearly than the consumer. Again, nothing prevents these individuals--if, in fact, they truly are representative of a substantial portion of the population--from pooling their resources and purchasing the land to be set aside from any form of development. Furthermore, when a resource reaches a truly limited supply, it will be "conserved" by high prices. It is doubtful that environmental experts have a better grasp of the supply of a given resource than the billions of decisions that go into the composition of a given price.

Solving the concerns of cross-generational depletion of resources, however, depends on extra-economic matters which, perhaps, neither private nor public ownership may guarantee, such as cultivating family structures which might lengthen human time horizons. If an argument might be made for either system of allocation's ability to generate these kinds of sociological needs, evidence would seem to be on the side of private enterprise in the fostering of the family. The dynamics of human self-interest dictate that under political constraints, individuals exhibit extremely short time horizons. Present powerful political coalitions will not surrender the advantages they have gained from the obvious lack of political clout retained by future generations in the contemporary situation. This unwillingness to give up these "entitlements" is well demonstrated in the hapless struggle against government budget deficits. Therefore, the heightened scope of

government activity in environmental issues only increases the rent-seeking opportunities and acts to shorten human time horizons, which causes resources to be exploited in increasingly rapid ways.¹²

On the other hand, public ownership of resources on some occasions acts to prevent development rather than overuse resources (Rothbard, 1978b, p. 252). As Rothbard points out, the classic example of this "problem" is the dormant state of the world's oceans. Instead of being subjected to the "cut and run" philosophies of government leasing, the sea suffers from the State's uniform application of rules in the opposite manner, as it is made almost completely "off-limits". Rather than establishing property rights for homesteaded ocean areas, which would provide a stable development of numerous aquacultural opportunities, these waters remain in their "primitive, unproductive hunting and gathering stage" (Rothbard, 1978b, p. 252). Yet, modern technology provides exceptional opportunities to take advantage of these forms of property. Unfortunately, political knowledge oftens fails to keep abreast with technological advances.

While the privatization of property solves many of what are considered today as serious environmental problems, there remains the potentially more difficult problem of negative externalities.¹³ What would the libertarian system do to prevent the imposition of spillover costs upon

12. For a similar and equally pessimistic Public Choice argument, see Barry (1986, pp. 194-195). For a discussion of the importance of time horizons in public policy, examine Smith (1988).

13. For an excellent discussion of the problems of externalities, see Dahlmann (1988, pp. 209-234).

innocent third parties? The same solution applies to these costs in the environmental arena as in all other areas of policy, namely, the continual clarification of individual property rights. Rothbard, for instance, applies this principle to the most difficult forms of externalities, water and air pollution. By leaving the "ownership" of these resources in the hands of the government, he argues, individuals have incentives to impose spillover costs onto persons through these resources, e.g., dirty water. But if the rivers were owned privately, then persons would noticeably suffer the costs of these spillovers. If the resources are not owned, however, other private individuals and government controllers of other goods have an additional incentive to heighten pollution-causing activities. Public ownership, in other words, encourages water pollution! The technology of industries evolve around the notion that the industry is sanctioned by the State and is a legitimate polluter, since it does not have to consider these costs in the operation of its business.

May we apply these same principles to the ownership of air, though? According to Rothbard, there are no reasons not to adequately define property rights with this good, also.

....But in the case of air pollution we are dealing not so much with private property in the air as with protecting private property in one's lungs, fields, and orchards. The vital fact about air pollution is that the polluter sends unwanted and unbidden pollutants-from smoke to nuclear fallout to sulfur oxides-through the air and into the lungs of innocent victims, as well as onto their material property. All such emanations which injure person or property constitute aggression against the private property of the victims. Air pollution, after all, is as much aggression as committing arson against another's property or injuring him physically. Air

pollution that injures others is aggression pure and simple.... (Rothbard, 1978b, p. 256).

Pollution controls, then, would follow the same principles of liability which any other spillover problem would face. Though Rothbard rejects the ad coelum rule that property owners possess airspace indefinitely above them, he accepts the view that persons own "zones" dependent on the definitions of the owner's homesteading activities. Hence, ownership would be defined by historical understanding of the owner's level of use of the property (Rothbard, 1982b, pp. 84-91). If aggression occurs there would be liability. Of course, the plaintiff must prove beyond a reasonable doubt that he has suffered actual harm, that the pollutants caused the harm, and that the other party was directly responsible for the production of the pollutants.¹⁴

Injuries from environmental hazards would be handled just as any other impairments. Persons who believe they have been injured by, say, an industrial pollutant would be free to bring a suit against the alleged aggressor. If the court finds the industrialist guilty, then he is liable in proportion to the crime. This would not open the courts to infinite numbers of frivolous cases, since the burden of proof would still rest with the accuser, and the loser may be liable to pay the court costs. However, if, by clarifying property rights, these costs were no longer allowed to be passed on to third parties indiscriminately, the number of cases which exist under the present failed regulatory model

14. Rothbard (1978b, pp. 74-76) rejects the often applied principle of "vicarious liability" which originated in medieval law and is occasionally applied to contemporary employer-employee relationships, so as to hold a third party employer liable for torts committed by an employee.

would diminish immensely. This point is particularly true if common law class action suits are allowed.

These principles may be applied to any externality. There seems to be no reason to conclude that a court, operating on a case by case basis with the proper rules of property, would be unable to determine criminal activity. If public ownership exists this clarification is less than ideal, though. Rothbard's proposals concerning environmental issues appear to have the greatest potential for correcting current policy problems. By choosing a "middle-ground" between a position which contends that economic growth supersedes all concerns of the environment or that environmental concerns are not real on the one hand and the misguided and exaggerated arguments of "no-growth" and ecological hysteria on the other hand, libertarianism offers a viable and ethically sound theory of environmentalism which seems best able to balance the concerns of the environmental debate.

Yet, there are many remaining concerns that are not so easily solved by the Rothbardian property rights framework.¹⁵ One such problem which has received little attention in libertarian theory concerns the issue of humans' relationships to the animal kingdom. Rothbard is extremely brusque with animal rights. Unlike humans, he concludes, animals do not have the ability to reason and consequently do not have natural rights. Animals should have rights "whenever they petition for them;" that they obviously cannot file such a petition demonstrates to him that they do not possess rights

15. For an excellent trilogy of articles on the concerns of libertarians regarding environmental and animal rights issues, see Hospers (1988, pp. 23-31); (1989b, pp. 46-49); and (1990, pp. 26-36).

(Rothbard, 1982a, pp. 155-156). Yet, this radically anthropocentric ethical perspective seems arbitrary. First, it is unclear how these conclusions so obviously follow from his political philosophy. As we argued in Chapter IV, a political theory may outline relations between rights-bearers; more discussion is required to determine who shall be these rights-bearers. Secondly, it is also unclear how a system founded on a teleological notion of natural rights may so abruptly dismiss the possibility of an evolving and expanding community of morally sanctioned entities.

Furthermore, there exists several potentially huge problems at the international ecological level such as the "greenhouse effect" which, if real, pose a dilemma for Rothbard's individualist model. His responses to these issues--that animals have been going extinct since the beginning of time and that scientists cannot agree what ecological catastrophe is going to actually occur--are less than satisfactory arguments, to say the least (Rothbard, 1989a, pp. 13-14). Faith in the market process may at some point become a blinding force which obscures serious short run problems from the theorist which might make the long run obsolete. While market arrangements and property rights clarification may be able to solve these serious problems, one may not presume that these concerns will magically disappear or that they do not exist.

Transportation in Anarcho-Capitalism

If privatization of the oceans and rivers is achievable in Rothbard's anarcho-capitalist system, then surely private ownership of the highways and

thoroughfares is also possible. These businesses might range from a merchant association's ownership of the city streets around their shops to the corporate ownership of super-highways. There is a distinct possibility that police protection and street ownership might well be combined in urban areas. In some cases, street ownership might be a separate business in itself, similar to a corner grocery store. The street owners might charge the involved store owners and/or their customers for the benefits of the street. They would be required as any industry to maintain their product or face the loss of customers.

Rothbard argues that the rules of the roads would be established by the owners. Would this privatization not create chaotic circumstances in which each new street (with different ownership) would have its own set of rules and, hence, make travel hectic or even impossible? Rothbard considers such a concern as "absurd".

....Obviously, it would be to the interest of all road owners to have uniform rules in these matters, so that road traffic could mesh smoothly and without difficulty. Any maverick road owner who insisted on a left-hand drive or green for 'stop' instead of 'go' would soon find himself with numerous accidents, and the disappearance of customers and users.... (Rothbard, 1978b, pp. 207-208).

Therefore, the realities of the market would demand the consolidation and cooperation of the diverse owners of the properties. There is no reason to believe that these characteristics would be any more difficult to achieve than with any other market activity that requires a common set of rules and similar language. The notion that these rules would not exist comes from the limitations that arise currently from the non-existence of a developed set of

real world examples. When one examines numerous other products which are provided by the free market, he does not find the high degrees of chaos. For instance, there is an "order" in the manner shoes receive their sizes, despite the fact that no one actually planned this conformity across industries. And, there are particular examples of roads or comparable items which are privately maintained (ferries, for instance) that have relatively no significant problems. If one were to speculate what would occur if the world of transportation went private, it would be more likely that there would not be widespread chaos in regard to the nature and enforcement of traffic rules.

A more challenging criticism of private roads concerns the potential inefficiencies of toll collection. It might be argued that the present ownership of the roads by the State relieves the users of the troublesome problem of the toll road. However, Rothbard argues, a toll would not likely be the means of collection except in a very limited number of cases. In the congestion of urban traffic, for instance, licenses or stickers may be required. Or, there is the possibility in the near future of the technology of electronic equipment which would not only register one's travel on specific streets and roads, but also could record the time of the road's usage, allowing the owners to price-discriminate to stabilize periods of congestion. In fact, perhaps the most promising aspect of highway privatization concerns a private owner's ability to distinguish rush hours from slow times in road usage. Present means of financing highway use do not rationally allocate the use of roads. A gas tax is collected based on the number of miles one travels and his vehicle's fuel efficiency, with no knowledge of when the travel occurs. Roads become congested, then, because the costs of travel at peak times are held far below

true market rates. If road owners were allowed to price-discriminate based on the periods of highest congestion, then traffic would flow more smoothly and safely on probably less highway.¹⁶ One might witness an increase in commuter pools or even the change of the normal business workday if the true costs of the present structure were uncovered.

There is one additional issue concerning privatized roads which Rothbard does not address. Under the present system the government enjoys the "benefit" of eminent domain, which allows the taking of property for "public" use. Of course, in Rothbard's system of ethics, this activity is immoral. Yet, how would private road-builders handle the single property owner who is unwilling to sell his land which rests in the center of a proposed highway construction? Suppose Person A decides to build this super highway across the country. He is able to purchase all the property except Farmer B's large farm which substantially blocks the building of the road. From a utilitarian perspective, eminent domain would likely be justified; one may not allow one person to defeat the demands of so many people. However, under Rothbard's ethics, one either meets the farmer's demand or, if that option is unavailable, he builds around the farm. Are not the consequences of this stalemate highly "inefficient"?

The problem in this scenario is more than likely overrated. Such a highway would surely generate substantial increases in the value of the land the farmer retains. In fact, if one is concerned with the economic potential of

16. A similar type of program might be applied to the airline industry. Through price-discrimination private airports could eliminate congestion and improve airline safety. See Rothbard (1987b, p. 1).

one's property, he would quite rationally beg the highway-builders to construct through the farm. One might even pay the road builder for the rights to be included in the route. But let us assume the farmer places a greater value on privacy. If he would not sell, the costs to go around him are minimal in most cases, especially if the purchase and planning of the highway properties precede any actual development. Finally, why would it be so detrimental for the whole project to fall through? Why would a trans-continental highway necessarily be preferred to a network of shorter roads?

One may easily imagine a system of private roads servicing parcels of landed property or businesses, providing each person with adequate easements to prevent property blockade. Part of the world would proceed as it always has, only minus the failures of a congested and rather dangerous public highway system. It is quite likely market accountability would be preferable to government control. The reform however, might drastically change the modes of transportation, since persons would be required to pay for the total cost of their "product".¹⁷

17. See Rothbard (1978b, pp. 212-213). For example, if the "subsidies" were removed, one might even witness a revitalization of more "collective" forms of transportation, e.g., buses, trains, etc. Of course, these industries would also be required to surrender their current government assistance.

There is one additional criticism which is occasionally brought against private highways. Initially, part of the rationale behind the interstate system concerned national defense matters. What would happen to defense capabilities without an integrated transportation system? Rothbard is apparently silent on this question, although based on similar issues, we may assume this lack of government networks would not be a serious concern.

Conclusion: Anarcho-Capitalism in Perspective

Excluding the criticisms we have noted, Rothbard's anarcho-capitalist system represents a consistent, ethical, and even a potentially workable social model. Several important critiques do stand in the way of its ideal existence, though. First, Rothbard's presentation of private national defense is less than convincing. Security against groups of persons who do not share one's common language or culture is probably the only good which approaches the definition of a pure public good. Even it is not "pure", but the circumstances surrounding the provision of the good do not allow any community the luxury of developing the necessary private processes or institutions which would overcome the initial dilemma of non-excludibility. Thus, the provision of private defense faces a classic case of the prisoner's dilemma, in which no single group has the incentive to end State coercion and privatize defense unless all other "players" do the same. Since the potential for unanimous consent occurring approaches zero, it would probably be more fruitful for Rothbard and anarchist libertarians to focus on the limitations of government coercion within a limited State which provides national defense.

Secondly, while one may be able to conceive of an actual anarcho-capitalist system, Rothbard never is able to inescapably unite libertarian ethics and the Stateless society. There are no assurances that libertarian ethics would be retained in anarchy, although the legitimacy of the anarchist society requires their maintenance. Whereas there are reasons to believe that libertarian rights would have a better opportunity for survival in a common

law system which is devoid of the strong monopolistic forces of a State and the "social" components of the legislative process, there still remains the possibility of a reemergence of the State (in form and/or in name) through the denial of libertarian ethics by the more powerful forces in the community.

Thirdly, Rothbard never addresses the transitional consequences imposed upon persons if the system actually transformed into anarcho-capitalism. He would support an immediate transformation from existing statism if given the alternative. But these radical reforms generate results which are themselves a separate ethical concern. How does one sort out the incredible costs to individuals in the dismantling of State programs and processes and the consequent reformation of plans (Barry, 1986, pp. 189-190)? From Rothbard's absolutist position this problem would surely be outweighed by the primacy of libertarian ethics. Nevertheless, it might be convincingly argued from an overtly conservative stance that these reforms would be too "expensive".

Finally, there is a very practical concern which remains: The radical nature of Rothbard's libertarianism far removes his theories from the mainstream of both policy debate and philosophical discussions. As he recognizes, the overcoming of these differences in perspectives poses perhaps the greatest hurdle in the achievement of the libertarian society.

People tend to fall into habits and into unquestioned ruts, especially in the field of government. On the market, in society in general, we expect and accomodate rapidly to change, to the unending marvels and improvements of our civilizations....But in the area of government we

follow blindly in the path of centuries, content to believe that whatever has been must be right. In particular, government, in the United States and elsewhere, for centuries and seemingly from time immemorial has been supplying us with certain essential and necessary services, services which nearly everyone concedes are important....So identified has the State become in the public mind with the provision of these services that an attack on State financing *appears* to many people as an attack on the service itself.... (Rothbard, 1978b, p. 194).

Furthermore, a libertarian, immersed in the tradition of free markets and the spontaneous order, faces an additional problem when trying to convince the heavily "constructivist" and rationalistic modern individual to make this potential "leap of faith". The libertarian cannot outline the "nuts and bolts" of each and every privately provided service.

....The point is that the advocate of a free market in anything cannot provide a 'constructive' blueprint of such a market in advance. The essence and the glory of the free market is that individual firms and businesses, competing on the market, provide an ever-changing orchestration of efficient and progressive goods and services: continually improving products and markets, advancing technology, cutting costs, and meeting changing consumer demand as swiftly and efficiently as possible. The libertarian economist can try to offer a few guidelines on how markets might develop where they are now prevented or restricted from developing.... (Rothbard, 1978b, p. 195).

The failure to provide exact formulas, frameworks, or facts seriously threatens reform and, hence, fails to convince the twentieth century human's constructivist mentality. The modern citizen demands a "plan"--the kind of details provided by the socialist model. But the evidence seems to challenge a

polity's ability to control or manipulate these complex policy issues. Rothbard (and libertarians in general) face a perplexing dilemma: The sorts of policy positions he supports by their nature leave many individuals unimpressed or unconvinced because of their lack of detail and/or control. Unfortunately, simplicity is seldom a virtue in structuring a complex society. Thus, we continue to face failed policies.

As Rothbard clearly understands, the success of the libertarian movement ultimately rests on its ability to educate and persuade persons of its validity and value. For that reason, he focuses substantial attention on the more practical concerns of strategy. In Chapter VI, we examine these perspectives.

CHAPTER VI

STRATEGIES FOR ATTAINING THE LIBERTARIAN SOCIETY

It is obvious that the kind of society which Rothbard argues is ethically imperative is vastly dissimilar to the present world. These differences require him to provide guidelines for a system of political ethics and also to produce a theory of strategy for the accomplishment of these principles.

Libertarianism is "a philosophy seeking a policy" (Rothbard, 1982a, p. 253). The non-aggression axiom is applied to any given situation to judge the morals of that particular circumstance. This employment of a universal rule is especially pertinent to Rothbard's non-consequentialist version of libertarian principles. By grounding ethics in natural law, he formulates a theory which provides "an iron benchmark with which to judge...any existing brand of statism" (Rothbard, 1982a, p. 253). As we noted in Chapter IV, Rothbard's anarcho-capitalist theories are radical in nature and demand massive changes from the status quo. In fact, the factor that poses the most serious challenge to the success of libertarianism is probably the huge gulf between its ideal society and the current world. If his system of thought is both a feasible alternative and preferable to the existing political realities, then the only remaining problem is the practical concern of achieving these outcomes.

This issue is a critical problem in the contemporary libertarian movement. As Rothbard notes, tongue in cheek, at times it has been apparent that liberty is not always the "highest political end" for a number of the

movement's proponents; some advocates find "the desire for self-expression, or the bearing witness to the truth of the excellence of liberty" as the more important political principle (Rothbard, 1982a, p. 254). There is within the movement a definite propensity toward intellectual scholasticism at the expense of the potentially more difficult tasks of political activism and reform.

What must this libertarian strategy entail? Rothbard argues that it first must be thoroughly grounded in a sense of justice that is essentially unbending in all situations.

....Hence, to be grounded and pursued adequately, the libertarian goal must be sought in the spirit of an overriding devotion to justice. But to possess such devotion on what may well be a long and rocky road, the libertarian must be possessed of a passion for justice, an emotion derived from and channelled by his rational insight into what natural justice requires. Justice, not the weak reed of mere utility, must be the motivating force if liberty is to be attained (Rothbard, 1982a, p. 254).

These principles of action are not without controversy. An ongoing and often heated struggle among libertarian strategists concerns one's approach to seeking reform. Some tacticians within the movement argue in support of a more practical strategy which may "bend" to the current political realities and is more open to short-term compromise in the hope of achieving more substantial long-run objectives. Advocates of this position are openly more political, attempting to "live in the world" they seek to change. Political success requires one to be a viable alternative in the process of debate and reform. To affect policy requires both a technically workable solution and the ability to get on the "agenda". To focus upon notions such as

the privatization of national defense, for example, leaves one open to serious accusations of being utopian. As a consequence, there is the distinct possibility that all the libertarian's perspectives may be dismissed or ignored. In other words, the pragmatic libertarian strategy "comes down" to the less than perfect real world and, by maintaining realistic goals in a give-and-take environment, directs the world toward more libertarian-oriented solutions. Not only does this pragmatism allow libertarian alternatives into the policy dialogue, it also forces the movement to recognize the complexity of the social order. While liberty may well be the greatest good in the long term, its achievement requires a framework in which persons accept and respect it. One simply cannot radically transform society, a la the French Revolution, and expect to be able to maintain a stable system. Change of any kind must be gradual, for there are too many established institutional norms and expectations among individuals to allow immediate and drastic reform.¹

Rothbard rejects these pragmatic perspectives to the degree that they are not consistently and unidirectionally aimed at the fulfillment of absolute ethics. If liberty is the highest good, then the strategy must be to achieve it by "the most efficacious means" (Rothbard, 1982a, p. 254). One must be "an abolitionist" who would, if able, "abolish instantaneously all invasions of liberty" (Rothbard, 1982a, p. 254). To deny this perspective, he concludes, is to give some other political ideal priority and, thus, to ultimately defeat the strategy. For example, the fear of upsetting present social institutional

1. Hospers (1989a, pp. 29-36) draws a similar dichotomy within the movement between "open" and "closed" libertarianism.

connections demonstrates that one may value order, rather than liberty, as the highest political good.

The demand for such extreme results, according to Rothbard, is not utopian. To consider the absolute support of the libertarian model as utopian is to misuse the concept.

While it is vital for the libertarian to hold his ultimate and 'extreme' idea aloft, this does not...make him a 'utopian'. The true utopian is one who advocates a system that is contrary to the natural law of human beings and of the real world. A utopian system is one that could not work even if everyone were persuaded to try to put it into practice....

In short, the term 'utopian' in popular parlance confuses two kinds of obstacles in the path of a program radically different from the status quo. One is that it violates the nature of man and of the world and therefore could not work once it was put into practice. This is the utopianism of communism. The second is the difficulty in *convincing* enough people that the program should be adopted. The former is a bad theory because it violates the nature of man; the latter is simply a problem of human *will*, of convincing enough people of the rightness of the doctrine.... (Rothbard, 1978b, p. 303).

Of course, the immediate support of complete abolition will not likely produce these results in the real political world. But the problem with gradualism, in Rothbard's view, is that it undercuts principled action prior to the political confrontation it will surely face in the social arena. It is the libertarian's function in the compromising state of real politics to "keep

upping the ante" (Rothbard, 1982a, p. 301).² If one enters the political debate with a less than absolutist attitude, he is destined to fall short of his goals.

Moreover, Rothbard's libertarianism is founded on a procedural notion of justice, i.e., it rejects the common view of consequentialism that "ends may justify means". Unfortunately, the "means" applied in each of the gradualist's compromises are ends in themselves--further aggressions against specific members of the community--that surrender additional portions of the only legitimate position (Rothbard, 1982a, p. 256). For example, there are many utilitarian-libertarians who, in effect, argue that the provision of individual liberty maximizes total individual satisfaction. But "social" welfare and not liberty become the highest goal in this perspective. As an advocate of an "end-state" notion of justice, there is really no reason why a utilitarian might not be quite willing to accept rather brutal "compromises" upon some persons so as to achieve higher satisfaction in the long-run for other individuals who, of course, are not the ones suffering the sacrifice. For Rothbard, these principles necessarily contradict the theory of liberty. His position does not demand "all or nothing" immediately. It merely requires that the tactics for achieving a libertarian society do not contradict themselves

2. One might argue this strategy was used quite successfully by American socialists in the twentieth century. While socialism has never appeared attractive to the American ethos, it has over time chipped away at the country's value structure. For example, one may compare The Socialist Party of America's early twentieth century platforms to the policy agenda today. There are practically no parts of the document that are not commonly accepted policy in the contemporary setting. This circumstance lends credence to the view that more often than not one may expect an especially gradual transformation of a successful ideological movement.

by either setting some other principle above liberty for certain purposes or by taking actions that redirect even for apparently temporary parcels of time the achievement of these ultimate principles. In other words, transitional steps are welcomed and, obviously, if any success occurs, expected. But an unqualified strategy that results in transitionism and a predetermined tactic of moral give-and-take are quite different, ethically speaking.

In the process of reform it is difficult to imagine libertarian principles not becoming intermingled with the State. It is virtually impossible to separate the effects of the government from any "private" act. Furthermore, social reform itself has increasingly fallen within the domain of State activity. If the State is, as Rothbard concludes, the "permanent enemy of mankind" (Rothbard, 1982a, p. 257), then libertarian strategists face an apparently unsolvable paradox: How can one bring about political change without the use of political action? This dilemma seriously threatens libertarian political aspirations (or, if one prefers, it has kept the levels of libertarian coercion to minute levels). Is not the Libertarian Political Party, for instance, at root an ethical oxymoron? If the use of politics is tantamount to aggression in Rothbard's ethics, in what direction may the movement turn to achieve its goals?

Consider a recent argument of libertarian George Smith which demonstrates the kinds of tensions that emerge when an absolutist systems of ethics meets the impure world. He challenges the "disturbing trend" of libertarian intellectuals entering careers in State-funded universities and colleges. These "welfare intellectuals", he concludes, are selling out to statist interests (Smith, 1990, p. 37). This view held by some libertarians denies any

bending from the straight and narrow path. However, it would seem that in the real world the path is wide and full of crooks (no pun intended); if libertarians are going to have any real policy success, this attitude must subside.

Can Rothbard's principle of unidirectionality avoid this dilemma? Perhaps. If the party were to gain political power and use it only to reduce their function of power on every occasion, then there would appear to be no necessary contradiction. But with each reduction of their own control comes a decreasing ability to achieve the next reduction. Such efforts face the dilemma of diminishing abilities to achieve these ends. The simple abdication of control does not solve the libertarian agenda. Even an anti-government policy plan requires positive actions by the State to cultivate and enforce these changes. Freedom is not attained merely by the creation of a political vacuum.

Moreover, to expect any political leadership to relinquish power goes against historical realities and practically all the wisdom of libertarianism's own principles! Are there not, for example, the uncontrollable temptations of power once control of the State is attained? Why are we to assume that humans with libertarian proclivities are different from any other individuals? This perspective comes perilously close to making the same unfounded class distinctions that Marxists made years ago. As Rothbard and many others, including the nation's founders, have eloquently demonstrated time and time again, humans (of which libertarians are a subset) are not angels, and if they are given the monopoly powers that accompany political

control, they will likely use them for the satisfaction of their own interests and not the maintenance of any moral imperative.

To be true to his principles, the libertarian must deny the existing world--at least the part called politics. Does this leave him with any tactics that might be successful? There is at least one possibility, and Rothbard gives it high priority. He concludes that ideas ultimately rule the world. For this reason, libertarianism's success hinges on the development, dissemination, and persuasion of these ideas. These activities require a libertarian "movement"--an "active group of dedicated libertarians" willing to spread the gospel (Rothbard, 1982a, p. 259).

Education, then, is obviously the most important component. Rothbard argues for a two-front assault. First, there must be "hard thinking and scholarship" among the more intellectual members of the movement to develop, refine, and reinforce the theory of libertarianism. But, secondly, there must also be activism to allow the dissemination of these ideas in ways that may be appreciated by the population-at-large. This interaction is crucial both to spread the word to the "unwashed" and to provide for the inner-health of the movement itself. As Rothbard readily understands from years of scholarly seclusion, one of the most difficult parts of emerging alternative movements is that, at least in the beginning, it is "a lonely creed" subject to the pitfalls of intellectual isolationism (Rothbard, 1978b, p. 299).

While it may seem self-evident that any successful political movement requires an influential cadre of leaders, the more pressing and unique concern for the libertarian movement relates to the general nature of movement politics. If one lives by the ethical proposition that non-

intervention or privacy in person and place is the highest ideal, it is extremely difficult to be convinced to cooperate in collective activities. Whereas collectivist-thinking persons might be much more inclined to participate in group action, the libertarian culture tends to look upon such activity with suspicion or even disdain. Part of this problem apparently results from an important difference among certain groups within the libertarian circles as to how they view the notion of "individualism". For some (particularly the followers of the philosopher Ayn Rand) individualism represents a philosophical form of egoism and subsequently contains definite threads of atomism. These individuals in particular are not likely to be joiners. To differing degrees, these same attitudes permeate the greater bulk of the libertarian political culture.

Yet, there is nothing in the body of mainstream libertarian thought that denies the importance of cultivating community or acting collectively, as long as these actions are voluntary. Humans are social animals. In fact, one might argue that the reason liberty is the highest ideal is due to the fact that only in a free society may humans discover the communities or "utopias", to borrow Nozick's terminology, which provide for their individual happiness.

Still, the paradox remains for Rothbard's libertarianism. If we assume that these concerns may be overcome, how does he envision the activities of these intellectual cadres? The fundamental goal would be to work to "raise people's consciousness" toward a higher acceptance of the principles of liberty.

....[W]e might conceive of the adoption of libertarianism as a ladder or pyramid, with various individuals and groups on different rungs of the

ladder, ranging upward from total collectivism or statism to pure liberty. If the libertarian cannot 'raise people's consciousness' fully to the top rung of pure liberty, then he can achieve the lesser but still important goal of helping them advance up a few rungs up the ladder (Rothbard, 1982a, p. 260).

In this consciousness-raising, Rothbard provides a role for some pragmatic coalition-building with alternative ideological perspectives. On issues concerning freedom of markets and property rights, he suggests the potential of "united front activities" with sympathetic conservatives. Similarly, the same possibilities exist to ally with modern liberals on rights of expression and other "personal" rights. These alliances, he concludes, serve two distinctive functions:

By engaging in such united fronts on *ad hoc* issues, the libertarian can accomplish a two-fold purpose: (a) greatly multiplying his own leverage or influence in working toward a specific libertarian goal--since many non-libertarians are mobilized to cooperate in such actions; and (b) to 'raise the consciousness' of his coalition colleagues, to show them that libertarianism is a single interconnected system, and that the *full* pursuit of their particular goal requires the adoption of the entire libertarian schema. Thus, the libertarian can point out to the conservative that property rights or the free market can only be maximized and truly safeguarded if civil liberties are defended or restored; and he can show the opposite to the civil libertarian. Hopefully, this demonstration will raise some of these *ad hoc* allies significantly up the libertarian ladder (Rothbard, 1982a, p. 260).

Both of these functions have critical importance in the advancement of the libertarian movement. First, there are substantial gains presently being made by libertarianism because of its rather unique position between liberals

and conservatives on many policy issues today. While self-identifying libertarians are extremely outnumbered by both liberals and conservatives (Maddox and Lilie, 1984), they have infiltrated the policy arenas to the degree that they can have substantial (although, perhaps, indirect) influence within both political institutions and interest group movements. In the recent decisions of the Supreme Court, for example, there is evidence of how this dynamic unfolds: As liberal and conservative judges continue to split over issues as they have done historically, a small number of libertarian-leaning justices often become critical "swing votes". For example, while liberal and conservative commentators agonize over how the same Court could hand down anti-Affirmative Action decisions and uphold rights to burn the American flag, libertarians hail both as well-reasoned decisions.³ The same apparent inconsistency involving public support of the right to abortion and public opposition to tax increases is also explained by the existence of a significant libertarian culture. While liberalism and conservatism are established and are generally defined and understood in the political process, libertarianism faces the identity crisis which always accompanies new political movements. However, because of its unique policy prescriptions of "fiscal conservatism" and "social liberalism", libertarian theory has the distinctive advantage of being able to infiltrate the ideological status quo.

The second purpose of this infiltrating strategy is even more significant. Libertarianism's ultimate success may rest upon its ability to

3. As of yet, it is unclear how the appointment of David Souter will affect this dynamic. Likely, we may expect either a more conservative and restrained Court or a more libertarian activism.

demonstrate the super-ethical nature of its theory. In other words, libertarianism's political ethic does not rest on the same ideological plane as simple conservatism, liberalism, socialism, etc. These ideologies postulate a universal ethic of the good society too narrowly and then require all persons, by force if necessary, to live by these principles. Libertarianism, on the other hand, is distinctive in that it imposes no limiting set of political guidelines upon individuals beyond the idea that every person is free to choose his own "good society" and obligated to allow the same freedom for others. Or, as Robert Nozick argues, persons are left to find their own utopias (Nozick, 1974). Libertarian theory seeks to escape the confines of an overly limited notion of political philosophy. By highlighting a philosophy of human individual rights and a toleration for divergent views of the good society, this perspective expresses a set of ethics which may be superimposed over common ideologies and ways of life.

It would seem apparent that a political ethic which seeks to expand individual control/choice over one's decisions as a general rule would be well-received. Despite these advantages, libertarianism has not been able to mobilize the kind of consensus it potentially could amass. On one hand, one might argue that these ideas are extremely "elitist"---a criticism that seems to deserve some credence if one merely investigates the common demographic features of libertarians. On the other hand, there are persons in the present "illegitimate" system who would not accept change and view libertarian theory as a radical threat to the status quo. Due to this problem, Rothbard argues that there are particular groups more assessible to education efforts (Rothbard, 1978b, p. 308). Convincing defense contractors, politicians, and

bureaucrats of the evils of statism, for instance, is unlikely. Instead, one ought to focus on attempting to "convert the mass of the people who are victimized by State power, not those who are gaining by it" (Rothbard, 1978b, p. 308). But to succeed in these arenas, the movement must be able to overcome the elitist stigma. Being "elite radicals" obviously creates some rather peculiar problems.

Where, then, may the libertarian movement turn for support? Will not the achievement of political success necessitate the forging together of coalitions of the existing power structure? Again, Rothbard's uncompromisingly radical nature leaves him in a dire dilemma: How may an ethical system based on overt anti-statism be successful in a world where the State and the interests it represents are by definition the dominant force? What prevents the State from using numerous means, including cooptation, censorship, or even outright violence to suppress ideas that are increasing in popularity and that are threatening the foundations of its power base? By being ethically confined from playing the political game, Rothbard's libertarianism leaves him with very few or no alternatives for achieving his objectives, since he is morally confined from using political instruments to realize reform. While he recognizes this dilemma, he is rather ambiguous as to how it may be overcome. The unfortunate fact is that, as the monopoly force in a given society, the government and the forces it represents retain huge advantages over any set of upstart ideas.

How may Rothbard expect ethics to transcend interests among those very potent individuals or groups whose demands are being exceedingly well-served in the existing interest-founded polity? He argues that "other

means than education, means of pressure, will have to be used," including voting, the use of other non-public institutions, and massive boycotts. Unfortunately, it would seem each of these actions face serious problems. First, is not voting illegitimate in the libertarian society--an act of political criminality? And given the environment, is voting any more than a myth-perpetuating mechanism? Secondly, if non-public institutions could actually attain significant power, it is quite likely that the government would employ either collusion, cooptation, or premature destruction to prevent these alternatives from ever arising. Thirdly, boycotts are not likely to be any more successful than the other alternatives, since the victims of continual "theft" are not prepared to compete with the beneficiaries of plunder. Therefore, it is extremely difficult to envision any sort of fair struggle between the power-impotent and Rothbard's "Corporate Welfare-Warfare State" (Rothbard, 1978b, pp. 308-309).

In developing tactics, Rothbard borrows a number of ideas from the historically successful Marxist theories of political strategy. One example of this similarity concerns the theory of ideological deviation from the "correct" path. Movements may deviate from the ideal goals either by what Marxists term "right opportunism" or "left sectarianism" (Rothbard, 1982a, pp. 260-261; 1978b, pp. 299-300). Rothbard argues that libertarianism faces dilemmas similar (though over very different issues) to those that challenged Marxist strategy. Right opportunism threatens the libertarian movement by allowing it to "immerse itself in minor and short-run gains, sometimes in actual contradiction to the ultimate goal itself" (Rothbard, 1982a, p. 261). Conversely, left sectarianism leans to the other extreme, always prepared to purge the

movement of any individual who supports anything but the immediate and complete transformation of the world to libertarian ideas. Furthermore, there is a tendency for some persons in these kinds of movements to leap from one end of the continuum to the other edge. Thus, in a rather strange way, the two extremes may in reality "feed on and reinforce each other" (Rothbard, 1982a, p. 261). Once this phenomenon begins, it is likely that the movement will turn on itself and disintegrate into petty internal squabbling.

There is some evidence of this sort of struggle occurring within a part of the libertarian movement. During the last four Presidential elections, for example, the Libertarian Party has ridden a tactical "roller-coaster", rotating between pragmatism and ideological purity in alternate elections from 1976 to 1988. While the Party is by no means the bulk of the libertarian movement, it seems fair to conclude that it represents a fairly reliable subset of libertarianism. If this behavior can lead us to make predictions about the candidate and strategy for 1992, we may expect an ideological purge after the more pragmatic candidacy of Ron Paul in the 1988 election.⁴

Rothbard also accepts the Marxist notion that a radical program's success requires both "objective" and "subjective" pre-conditions (Rothbard, 1982a, pp. 261-262). In other words, the success of a movement depends upon the self-conscious support of its principles as well as the existence of crises that severely fault the existing system and often weaken the support of the

4. Despite the political squabbling, the body of libertarian scholarship continues to grow--perhaps far out of balance in relation to the successes of libertarian political activism. Unfortunately, the popular press tends to focus upon the Party activities.

ruling groups. The radical cadre must be in place to exploit the crisis when it occurs, filling the intellectual vacuum that results from the loss of faith in the status quo. Those systems of thought that have a history of predicting the actual problems which eventually occur obviously have the advantage in filling the arising void.

Like the Marxists, Rothbard is optimistic that such a crisis must occur in contemporary society, due to the system's inherent inner contradictions. Obviously, these contradictions are not the same for Rothbard as for the Marxists. Rather than the market order disappearing, it is discovered in the libertarian ideal world. But like Marxism, libertarianism is a "highly optimistic creed" because of the perceived inevitability of the failure of statism.

...[F]ortunately for the cause of liberty, economic science has shown that a modern economy *cannot* survive indefinitely under such draconian conditions [as despotism, stagnation, and totalitarianism]. A modern industrial economy requires a vast network of free-market exchanges and a division of labor, a network that can only flourish under freedom. *Given* the commitment of the mass of men to an industrial economy and the modern standard of living that requires such industry, then the triumph of a free-market and an end to statism becomes inevitable in the long run (Rothbard, 1982a, p. 263).

Libertarianism, then, will "win" because only it is compatible with the nature of humans and the realities of nature. According to Rothbard, history made a "great leap, a sea-change" with the Industrial Revolution that cannot be undone without causing massive death (Rothbard, 1982a, pp. 314-315). He

comes exceedingly close to guaranteeing, at least in the long run, the inevitability of libertarian society.

Yet, these contentions seem built more upon faith than either logic or historical evidence. Outside a relatively small temporal span of world history, humans have existed primitively and often in virtual slavery. As we noted in the preceding chapter, it is difficult to imagine how the triumph of liberty is inescapable. There is little reason to believe that the world is indeed committed to the modern market economy and the standard of living that free trade (of all contemporary known alternatives) allows.⁵ Furthermore, there is no guarantee that even if humankind is committed to these living standards it will be able to intelligently link prosperity to certain economic and political ideas.

Still, there are many reasons to at least be hopeful if one, like Rothbard, supports the principles of libertarianism. Much of the socialist world is facing the inner contradictions of central planning, for example. After having drifted toward state capitalism and the Welfare State for decades, much of the "free" world also faces the tough problems of no longer being able to provide programs without serious political and/or economic repercussions. As a result, we are witnessing world-wide privatization and deregulatory movements. Perhaps the natural fact that one cannot live beyond one's means indefinitely has come to be realized in the contemporary world. Rothbard's contention that economic laws ultimately demand the

5. For example, there is very little reason to anticipate that substantial portions of the current ecological movement will ever endorse libertarian policy prescriptions.

recognition of the role of markets and subsequently facilitate the advent of libertarian principles seem especially persuasive.

Yet, on other fronts, the world seems to be heading in the opposite direction. The United States is a particularly good example of these trends. Today, we face the real potential for a new age of neo-prohibitionism aimed at eradicating many of the "vices" that diverse religious, medical, racial, ethnic, gender, and other assorted ideological groups find offensive. As a consequence, large numbers of activities are defined as negative externalities; hence, toleration for these actions evaporates. Rather than becoming less politicized, society becomes a pit of open public conflict where all decisions fall within the jurisdiction of the State.

Therefore, it is quite possible that we are we only witnessing the changing of the "ideological guard". What we define in the modern American context as conservatism may merely be replacing contemporary liberalism. This political realignment brings with it minor changes when examined from a libertarian perspective. While State-sponsored aggression may appear in different garb, there is no substantial weakening of statism.

Needless to say, the signals for the future of the libertarian movement are, at best, mixed. While libertarianism has made inroads in academia, journalism, and even politics, it would be overly optimistic to argue that it will inevitably score a victory over its intellectual rivals. However, political philosophy is presently in one of those periods of void which arises following the destruction of the previously dominating world-view. If we may argue that Marxism-socialism was, in fact, the ideological paradigm of the twentieth century, then we do seemingly face an intellectual vacuum. The perspectives

which most convincingly provide the best explanations for socialism's apparent failures and the most attractive guide for future political action have the advantages in filling this void. While libertarianism is not alone in this intellectual struggle, it does hold distinctive advantages, since it has been one of the most consistent and thorough alternatives challenging socialist-Marxist ideology.⁶ And, of course, all of these speculations presume that ideas ultimately shape and direct the world order.

However, is Rothbard's rather absolutist approach the optimal strategy for winning over libertarian converts and, subsequently, bringing on the advent of libertarian society? Unfortunately, his approach faces extreme dilemmas which all too often leaves one with little or no course of effective action. While it may be ethically true that the ends do not justify the means, if libertarians are not willing to play political hard-ball and/or involve themselves in the compromising and negotiating atmosphere of power-politics, they may be destined to fail. This possibility is unfortunate since the body of libertarian scholarly writings represents a substantial and convincing alternative to the less than successful ideological status quo. There may be an imbalance in the libertarian movement toward intellectual pursuits that all

6. In fact, Peterson (1987, pp. 237-245) explores the common complaints that anarchism is impractical and concludes that such perspectives result from low levels of moral development! Using modern cognitive development theory, he argues that persons who are at higher levels of moral development are much more often able to envision society without the coercion of the State apparatus. Moreover, as higher order organizations evolve, one may anticipate less government in this emerging "postconventional" stage.

too often leaves these ideas on the "drawing board", deficient of the willingness to slice through the soiled activities of a political process.

Moreover, the absolutism prevalent in a substantial portion of the movement handicaps the open dialogue which must emerge for these ideas to receive a fair hearing. Unfortunately, neither Rothbard's monistic foundations nor his propensity to use the instrument of shock in his rhetoric are conducive to that kind of interaction. Therefore, while the anarcho-capitalist model may have important points to add to the debates in political ethics and public policy, it faces the dilemma of finding itself increasingly preached to the previously converted.

In a recent article, libertarian theorist Loren Lomasky argues for a "partial compliance theory" within both libertarian strategy and its code of morals (Lomasky, 1990, pp. 39-40). Lomasky recognizes that success may only come in gradual intervals. A useful libertarian strategy, then, demands 1.) the existence of legitimate expectations in light of present political realities and the subsequent human expectations derived from these realities; 2.) the realization of the transaction costs in reform and the subsequent recognition that one might not prefer immediate reform even when the ultimate morality demands it; and 3.) the recognition that in many circumstances the best case may be the avoidance of the worst case, or at least the one true way may not be attainable.

Of course, this argument surely leaves Lomasky susceptible to charges of impurity from those in the inner circles. And, to follow the "low road" of ethics poses some very serious concerns. One always faces the "slippery slope" of compromising the movement into an untimely death. But if libertarian

supporters are not careful, they will miss a glorious opportunity to fill the void created by the demise of world socialism. Whereas it may not be necessary to relegate ethics to the Hobbesian world of fantasy, it is probably no more preferable to rest uncompromisingly upon absolutist ethics. If libertarianism takes this route, its program is destined to fail--similar to all other brands of utopianism--as it will become unachievable in reality and unfamiliar to anyone outside the small circle of ardent believers.

With these issues taken into consideration, our discussion of Rothbard's social theory is completed. Chapter VII concludes our discussion by examining the importance and place of Rothbard, in particular, and libertarianism, in general, in the evolution of American political thought.



CHAPTER VII

ROTHBARD, LIBERTARIANISM, AND THEIR PLACE IN AMERICAN POLITICAL THOUGHT

Introduction

We conclude our discussion of Rothbard's work by attempting to bring his writings into an historical focus. This effort requires that we examine four interrelated subjects in Chapter VII: 1.) Rothbard's (and libertarianism's) historical heritage; 2.) libertarianism's relationship to the modern American ideological setting; 3.) Rothbard's status in the evolution of libertarianism and his influence in the present revival of these ideas; and 4.) the future of libertarian thought in regard to the theoretical and historical advantages or disadvantages it possesses within contemporary American political thought.

America and the Libertarian Heritage

Although libertarianism has in recent years spread in influence worldwide, it is at root an American phenomenon. It is clearly a child of this country's experience with the ideas of classical liberalism. And Rothbard's anarcho-capitalist writings are as pure a statement of American radicalism that has ever been penned. By extending the logic of the philosophy of individualism and individual rights, he carries classical liberalism into the realms of anti-authoritarian anarchism. It is unlikely his thought would be understood outside this context.

In a recent work on modern American ideology, William Maddox and Stuart Lilie correctly articulate the fundamentally classical liberal character of the United States (Maddox and Lilie, 1984, pp. 7-12). They identify six important tenets within this political perspective. First, and most importantly, classical liberals maintain the idea of individualism. Humans are autonomous; they precede society and/or the State and create these institutions to match their own personal interests. Hence, individuals are viewed as "ends" and not "means" in the social order. Secondly, classical liberals accept an instrumental or mechanical notion of government. Political obligation is usually a function of individual self-interest, based on the idea of the contract or constitution. Thirdly, through the "social contract", the State is limited to the protection of the rights and/or interests of the members of the community. These limitation generate the "nightwatchman" State politically/legally and support an economic system founded on the principles of laissez-faire. Fourthly, classical liberalism endorses the notion of individual rights which create separate spheres of action within the society for particular individuals. These rights specifically include the rights to life, liberty, and property. Fifthly, the rule of law is preferred--particularly the idea of legal equality. Through this tenet, the classical liberal seeks to dissolve existing privileges and guarantee equal protection of individual rights through the requirements of generally applied rules. The final, and least important, tenet for classical liberalism is the existence of representative government. While democracy was a central part of government for most early American liberals, its significance was as an instrumental force in the checking of political power, not as a primary factor in the benefits of actual

participation in the political community. Since the goal of the classical liberal theorist is to limit the State, participation is not an important item of concern.

Libertarianism is quite clearly a reawakening of these tenets in modern political debate. The only factors which separate the two sets of ideas are time and the degree of "purity". Libertarians face a different agenda in the contemporary world. Moreover, writers such as Rothbard are much more sophisticated ideologically than past orthodox liberals.

Nevertheless, the similarities are quite strong. Rothbard, for instance, draws an extremely close connection between the two schools of thought. Accordingly, libertarian theory has been a significant component in the history of American thought. The initial foundations of the movement are found in the English writings of the Levelers and, of course, John Locke. In America, the more radical Lockean writings of John Trenchard and Thomas Gordon, in Cato's Letters, laid the framework for an American libertarian ethos. These principles are exemplified in both the revolutionary war debate and in the Articles of Confederation, the United States' first government. These ideas enjoyed the advantages generated by the unique nature of the American situation which provided a cultivating atmosphere for classical liberalism. These views began unimpaired in the United States, minus the feudalistic and aristocratic privileges and institutional constraints which impeded European classical liberalism. Moreover, they possessed the popular support of overwhelming numbers of the citizenry. Finally, our geographical isolation provided a nurturing atmosphere for these ideas, exemplified in both our early domestic and foreign policies. America, Rothbard concludes,

was "born in an explicitly libertarian revolution" (Rothbard, 1978, p. 6).¹ These foundational principles have never completely disappeared.

In Rothbard's view, early libertarian America was the nation of the Declaration of Independence, the Articles of Confederation, and the principles of the Anti-Federalists, and not the America of the pragmatic and ordered liberty of the Constitutional Framers. While Federalist theory maintained great influence in the early years of post-Constitutional America, he concludes that libertarian values began to dominate thought in the early nineteenth century. He particularly links modern libertarian thought to the Jeffersonian and Jacksonian movements which, he argues, "explicitly strived for the virtual elimination of government from American life" (Rothbard, 1978, pp. 6-7).²

Despite the "grave antilibertarian flaw in the libertarianism of the Democratic program" of slavery in Jacksonianism, Rothbard refuses to accept the notion that the new emerging Republican coalition had any libertarian influences (Rothbard, 1978b, p. 8). He views the nineteenth century Republican Party as statist, nationalist, anti-secessionist, and corporatist. Eventually, however, the Democratic Party also surrendered these classical liberal principles, domestically in 1896, and internationally in the 1910's.

1. For a more extended discussion, examine Rothbard (1978b, pp. 1-19). For a divergent perspective which views libertarianism as "gravely flawed," see Newman (1984, pp. 50-75).

2. Rothbard's discussions of history often unfortunately tend toward hyperbole. For example, it is unlikely that Native Americans viewed the "Trail of Tears" as an example of the United States striving for the elimination of the State.

Therefore, in Rothbard's view, by the twentieth century both major political parties in America, and the ideas they represented, had surrendered the traditional libertarian ethos which had been so significant to the nation's early experience.

It is in what Bernard Bailyn calls the "permanent legacy" (Bailyn, 1967, pp. 1-21) of the Revolution and the grassroots classical liberalism of Jeffersonianism and Jacksonianism that Rothbard roots modern libertarianism. He defines the evolution of ideas in America political thought in a rather unique manner, viewing them as a struggle between the liberatory ideas of classical liberalism versus a series of conservative traditions in different "clothing" which sought to prevent the dynamic extension of individual freedom. These conservative propensities began to reshape American thought in the late nineteenth century, he contends. Radical ideas faced extreme reaction from what he terms the "Old Order", which sought to return to a society of privilege, hierarchy, mercantilism, militarism, and absolutism through the usurpation of the opportunities in which the Industrial Revolution and its consequences provided. Rothbard heaps the greatest blame for the diminishing of libertarian values in the Western world upon this "conservative" tradition. As a "dressed-up version of the *ancien regime*," the conservative forces reconnected old privileged alliances within the new institutional arrangements of the modern industrial world of the late nineteenth century (Rothbard, 1978b, p. 10). In Rothbard's view, then, the Progressive movement was anything but forward-looking. Its fusion of labor, corporation, and State contrived to reestablish a new conservative ruling

class.³ Ultimately, the final collaboration with intellectuals (see Chapters IV and VI) gave this New Order the ability and opportunity to reshape public opinion in Western democracies. Hence, the ethos of classical liberalism passed away--or, at least, went into hibernation.

Rothbard realizes that one of the most effective means in achieving this transformation was through the expropriation of political labels. The twentieth century's "New Order", fundamentally reactionary in nature, was able to capture the "progressive", "radical", and even "liberal" labels. Conversely, classical liberalism, particularly in America, was stuck with the "conservative" stigma (Rothbard, 1978b, p. 12). Even today, classical liberals are incorrectly positioned in the same ideological camp as traditional or communitarian conservatives. (See the proceeding section for additional discussion.) A central thesis in his historical analysis is that these classifications are fundamentally incorrect.

There was, according to Rothbard, a second reason for the disintegration of classical liberalism in the nineteenth century, namely, the advent of socialism. Socialism represented a "confused, hybrid movement" which combined parts of both classical liberalism and conservatism. It

3. Note the similarities of Rothbard's interpretations of American political and economic history and those of Neo-Marxism. Both views, for example, highlight the emerging collusion between State and Business which arose rapidly in the Progressive Era. Obviously, however, these interpretations use similar evidence to reach wholly different conclusions. Whereas Marxists view collusion as a demonstration of the inherent inevitability of capitalism's failure, libertarians conclude that this evidence shows the necessity for limiting or (in Rothbard's case) removing the temptations of government and the political process.

coupled liberal ends (liberation) with conservative means (centralized authority) and, in the process, silenced the radical purpose which once defined liberalism (Rothbard, 1978b, pp. 12-13). The camouflaged Old Order--veiled in the radical rhetoric of Marxism--was able to "outflank" liberalism in the arenas of hope and reform. Whereas liberalism once represented radical change, it settled into a moderate and, subsequently, stagnant gradualist position with the advent of socialism. Rothbard, thus, interprets modern liberalism's efforts to reform and/or reject the classical tenets as a surrendering of its initial purpose to a series of collectivist and/or conservative ideologies.

Hence, from Rothbard's perspective, it was not the competition with superior ideas, but the "inner rot within the vitals of Liberalism" that ultimately defeated it (Rothbard, 1979d, p.4). First, it surrendered its devotion to abolitionism for adherence to a conservative gradualism as the proper ethical position. Secondly, it abandoned natural rights philosophy for utilitarian ethics. Accordingly, expediency and the acceptance of the status quo replaced militancy and change (Rothbard, 1978b, pp. 15-16). Consequently, without these specific ethical imperatives, liberalism suffered a gradual devolution toward statism. Thirdly, a substantial portion of liberalism came to accept social Darwinism, which a priori rejected the path of radicalness. Theorists such as Herbert Spencer, Rothbard concludes, "abandoned liberalism as a fighting, radical creed and confined [their] liberalism in practice to a weary, conservative, rearguard action against the growing collectivism and statism of [their] day" (Rothbard, 1979d, pp. 4-5). Finally, liberalism's historical commitment against imperialism and militarism, exemplified in

the writings of the English Manchester School, passed away as the world entered the twentieth century. As a result, the guiding principles of neutrality and non-intervention were replaced by foreign involvement and power-driven nation-states which, Rothbard contends, led to the devastation caused by this century's wars. Modern liberalism, then, lost sight of the values of non-interventionism and classical rights, turning instead to an economically and militarily intervening State that redefined its rights framework to include overtly egalitarian overtones.

And for the substantial part of this century the ideas of classical liberalism have been in deep hiatus in America. The "isms" of the twentieth century which arose from the turbulence in Europe dominated political debate and practice. The scattered remnants of what was termed liberalism gradually became co-opted by these similarly collectivist ideologies. Only muffled criticisms from a few remaining critics of this evolution toward statism remained.

However, as Friedman and McDowell note, at the close of World War II, there were arising concerns which were to foreshadow the reemergence of classical liberalism in America and elsewhere (Friedman and McDowell, 1983, p. 48). Beginning with the trenchant arguments found in Hayek's Road to Serfdom, a reappraisal of the directions that liberalism was taking began (Hayek, 1944). While one of the "isms" seemed buried, namely, fascism, a substantial threat to liberal values remained after World War II, evidenced by the spread of socialist influence. Hayek's criticisms of the popular modes of central planning joined a set of historical enemies by demonstrating the economic and political shortcomings of both fascism and socialism. His work

laid the groundwork for the critiques of socialism and the milder social liberalism which was to follow.

Initially, the criticisms of expanding collectivist thought arose under the larger umbrella of what was called in America, at least, conservatism. However, the movement itself possessed fundamentally divergent perspectives. The tensions which existed in the "right-wing" of American ideology between traditional conservatism and libertarianism rested dormant when focused upon the critique of the modern social liberal agenda. It was not until the crisis of Vietnam and the turbulence of the 1960's that these fundamental differences overwhelmed the possibility of a permanent alliance. The core value of individualism which most assists in distinguishing the libertarian movement from traditional conservatism was bound to become elucidated in times of political and intellectual crisis.

The contemporary period has produced crises that have further distinguished libertarianism from either American conservatism or modern liberalism. In the past thirty years events have redefined the political spectrum, threatening the Keynesian policy paradigm, the militaristic and anti-communistic policies of foreign intervention, and the entire socialist and central planning mentality. Libertarianism's uniquely individualistic message continues to separate it from the traditional views of the American ideological mainstream.

Yet, in a difference sense, the definition of these ideas are merely the rediscovery of a heritage. No serious political perspective in America may expect to achieve popularity without retaining some degree of this libertarian inclination; there still remains a fundamental reverence in American to the

tenets of individualism; although classical liberalism may be deep below the apparent contemporary political debate, it is still present. Of course, at times, these impulses demonstrate themselves in unprincipled and illogical ways and stray substantially from the founding principles of America. But they ultimately provide the most rudimentary drive in American public policy. Contemporary libertarianism may be understood as a concerted effort to rediscover these first principles through a thoughtful and principled development of these tenets.

It is not difficult to understand why libertarian ideas have flourished the longest and most thoroughly in their American contexts. Criticisms which arose against the expanding statism in this century were often the works of American critics (Nock, 1983; Chodorov, 1980). Likewise, it is not surprising that the libertarian revival first reemerged on the American political scene. In fact, David DeLeon argues that there is an "anarcholibertarian sensibility" in the American political tradition (DeLeon, 1978, p.6). He identifies this sensibility in three distinctive strands: 1.) the radically Protestant and individualistic nature of American religion; 2.) a sense of economy that highlights the singular spirit rather than the collective spirit, in which community is often defined through market processes; and, 3.) a feeling of openness and opportunity and all that is derived from these sensations in the historical boundlessness of America physically. All of these factors combine to create radical, liberatory, and even utopian core values. American liberalism, which is arguably more of a way of life than a set of ideas, is the moderate expression of these values. Libertarianism, when viewed in this light, is simply the more radical and consistent expression of

the first principles of classical liberalism and the American way of life. And surely Rothbard represents the purest modern statement of this "sensibility".

However, radicalism has historically been characterized by violence, inconsistent writings, and utopianism. To the degree in which libertarianism represents American radicalism, it seems to be different. First, its focus is upon ideas and not action. Different from both the active but intellectually devoid "New Left" and the fatalistic but intellectual sophisticated traditional conservative movement, the libertarian movement seeks to synthesize activism with the intellectual forces that shaped the American experience. Secondly, these ideas are attractive to individuals who are not normally found in radical political movements. Libertarianism has in many ways an ironic middle class, or even upper class, attraction (Maddox and Lilie, 1984). As DeLeon argues, anarcho-capitalism allows "college kids [to] find the transition from Republican to anarchist much less difficult than may be imagined" (DeLeon, 1978, p. 123). It is, then, an anarchism for middle America which is both intellectually sophisticated and American to the core. The libertarian heritage represents the subtle foundations for much of everyday pragmatic American politics. In unusual ways it transcends common contemporary ideological labels and provides a deeper understanding of our intellectual heritage. It is able, for example, to simultaneously accept Paine and Jefferson, Thoreau and Emerson, the abolitionists, Henry George, anarchists like Lysander Spooner and Benjamin Tucker, Randolph Bourne, and Albert Jay Nock while also being able to claim the writings of John C. Calhoun, William Graham Sumner, Ludwig von Mises, Friedrich von Hayek, Frank Chodorov, Henry Hazlitt, Ayn Rand,

Milton Friedman, and even a substantial portion of Barry Goldwater. Radicalize any of these writers and discover a piece of Rothbardian thought.

Libertarianism's Position in the Modern Ideological Spectrum

As we noted in the preceding section, it has been common to classify libertarianism as a subset of the larger conservative movement which grew in influence in America after World War II. Yet, this classification has never really done justice to either libertarians or traditional conservatives because of their fundamental differences. For example, traditional conservative Russell Kirk assesses libertarianism.⁴

It is of high importance, indeed, that American conservatives dissociate themselves altogether from the sour remnant called libertarians. In a time requiring long views and self-denial, alliance with a faction founded upon doctrinaire selfishness would be absurd-and practically damaging. It is not merely that cooperation with a tiny chirping sect would be valueless politically; more, such an association would tend to discredit the conservatives, giving aid and comfort to the collectivist adversaries of ordered freedom. When heaven and earth have passed away, perhaps the conservative mind may be joined in synthesis-but not until then. Meanwhile, I venture to predict, the more intelligent and conscientious persons within the libertarian remnant will tend to settle for

4. For a thorough discussion of the libertarian-conservative "fusionist" debate, by a number of respected scholars, examine the works collected in Carey (1984).

politics as the art of the possible, so shifting into the conservative camp. At Last Judgment, libertarianism may find itself reduced to a minority of one, and its name will be not Legion, but Rothbard (Kirk, 1984, pp. 123-124).

Kirk argues that a number of fundamental distinctions separate libertarians and conservatives (Kirk, 1984, pp. 120-122). First, libertarians deny the existence of a "transcendent moral order" for humans, and thus are "converts to Marx's dialectical materialism." Secondly, libertarians grant primacy to liberty, whereas conservatives are concerned first with social order. Thirdly, libertarians view the cement of society as self-interest bonded through the "nexus of cash payment." Conservatives, on the other hand, accept society as a "community of souls" linked by friendship and love. Fourthly, libertarians believe in the goodness of human nature; conservatives argue that it is "irremediably flawed". Fifthly, the libertarian views the State as the "great oppressor." Conservatives see it as "ordained of God," as the instrument toward which virtue may be achieved. Sixthly, Kirk concludes, libertarians see the world as "a stage for the swaggering ego." Conversely, conservatives respect tradition and the ancient customs.

These comments are significant not because of their validity--on most points Kirk woefully misunderstands the libertarian perspective--but because they demonstrate the grand chasm between traditional conservative and libertarian perspectives. In a more balanced argument, Rothbard points out five potential issues which separate the two systems of ideas (Rothbard, 1981a, pp. 355-362).

The first difference concerns the relationship of freedom and virtue. As Kirk notes, conservatives view the State as the instrument by which humans

may become virtuous. Libertarians, on the other hand, see the State as the worst possible institution for this purpose; since it rests on the initiation of force, the government guarantees that virtue will not be achieved. Secondly, whereas libertarians see individuals as the only "life-stuff" in the social world, conservatives grant a reality to collective entities such as the State or society. For libertarians these institutions are abstractions. However, the traditional conservative often comes quite close to giving these items ethical priority. The libertarian would generally argue that efforts to achieve State-enforced community ultimately disintegrates true community which evolves through voluntarism. Thirdly, a conservative is at root "an empiricist, distrusting rational abstraction and principle, and wrapping himself in the custom of his particular society." A libertarian, on the other hand, (quoting Lord Acton) "wishes for what ought to be, irrespective of what is" (Rothbard, 1981a, p. 357).⁵ There is, then, according to Rothbard, a role for rational thought which may supersede tradition and habit. Fourthly, as Kirk argues, conservatives grant priority to order. Libertarians, on the other hand, contend that order may only emerge through the provision of individual liberty. They view State-imposed order as "artificial and destructive of the harmony provided by following the natural order" (Rothbard, 1981a, p. 360). Thus, libertarians would thoroughly agree with Proudhon's famous dictum that liberty represents the mother, and not the daughter, of order. Finally, there

5. While this distinction surely applies in Rothbard's case, there appears to be no reason why a libertarian must accept these rationalist constraints. For example, Hayek clearly would not; nevertheless, he claims he is not a conservative.

has been a traditional disagreement between the two groups over who should rule, namely, the "populist" versus "elitist" debate. But, as Rothbard points out, this distinction has become muddled in recent years because of the contemporary conservative's attraction to "ultra-populism", a rather clear break from the traditional elitist notion of rule in historical conservatism (Rothbard, 1981a, p. 361). He argues that libertarians have consistently maintained a "commonsensical" perspective which neither grants the masses eternal wisdom nor the elites complete confidence, yet still holds to a long-run optimistic view of society.

Although there have been sporadic efforts to achieve a "fusion" of libertarian and conservative theory, there is little reason to believe this synthesis is, in reality, possible. Might, then, libertarianism find a home within modern liberalism? There are definite reasons to envision an ideological unification. As we noted in the previous section, both modern liberalism and libertarianism emerge from the same classical liberal genes. Many libertarians share with modern liberals common Enlightenment principles such as the rationalistic and science-focused approaches to structuring society, for instance. Nevertheless, each would view the other as a gross mutation in contemporary policy debates. Modern liberalism in many ways resembles a "garbage barge" of ideas scarred by the years of intellectual battles with alternative perspectives. Consequently, it has co-opted a vast array of conflicting and moderating perspectives. It is a hybrid mix of democratic socialism, theoretical egalitarianism, and pragmatic utilitarianism, with remnants of old liberalism and individualism. Rothbard is completely correct when he argues that modern liberalism has lost its

"fire". It represents in the modern political struggle the force for the status quo. Modern liberalism is devoid of vision and, like a boxer who has fought one too many rounds, does not seem to have the fortitude to rediscover a new one. The chances of libertarianism realigning with its historical name are, therefore, unlikely. The differences from the many years of separation are much too significant to overcome to allow a chance for a new fusion.

Hence, it appears that libertarianism fits into no pre-existing notions of ideology in contemporary American society. It would be more fruitful to define the movement as a separate and viable alternative to the common ideological systems available in the modern American context. In fact, one might proceed even further and speculate that the present set of ideological alternatives are no longer applicable in our present policy context. This point assists in explaining the success of modern libertarianism. Novel technology, new political and economic realities, and transforming cultures make the older definitions and classifications of ideologies obsolete in the new world. The instability of internationalism, for example, makes the questions which loom in the future larger and more significant and, in turn, causes the answers which traditional ideologies provide to be insufficient and small. The world is passing through a set of events that may define a new millennium, and its emergence transforms the existing set of questions which define political debate while enlivening the opportunities and dangers these ideas produce. It is a period which cannot rely on humdrum politics-as-usual. A more comprehensive world order requires a more extensive intellectual perspective than either traditional American liberalism or conservatism may provide.

One of these transformed and fundamental questions goes to the root issues concerning the role and even the existence of the State. On one hand, we may be entering a world which demands high levels of authority and hierarchy to diminish the dangers of international economic and political disorder. On the other hand, we might be engaging a new age of individual and industrial mobility and technology which makes old definitions of the State or perhaps even the nation-state itself obsolete. We are entering an age that will first, judge the consequences of the past sixty years of American politics and, secondly, provide a new guide for the next era. Of course, it is still too soon to know exactly what this guide will entail, but it seems that libertarianism is an especially useful model for meeting these new challenges.

Rothbard and Modern Libertarianism

Where does Rothbard's writings fit in this libertarian renaissance? He represents in many ways the "Marx" of the modern libertarian movement. First, he developed many of his ideas in a period when libertarianism did not have the substantial intellectual following it boasts today. Secondly, in his work is the ideological and rhetorical fire which sparks an intellectual movement. Many of the ideas that Rothbard's radical arguments first (re)developed are found in the practical and more acceptable writings of numerous contemporary minimalists and laissez-faire proponents today.

Although he is extremely critical of Rothbard's system of thought, Stephen Newman calls him "the founder of the modern libertarian movement" (Newman, 1984, p. 27). He concludes that Rothbard represents a

"model of the secular intellectual who has discovered a new faith" (Newman, 1984, p. 27). While Newman provides these comments in a derogatory manner, there is an important function to be served by these attitudes, especially in the embryotic stages of a movement.

Furthermore, more than perhaps any other libertarian theorist, Rothbard has actively worked to diminish the gulf between the American Left and Right. Libertarianism possesses the advantage of being able to dialogue with both liberals and conservatives. Depending upon the specific issue, Rothbard has been over his career equally at home with both ends of the traditional spectrum. As a revisionist historian and a severe critic of American foreign policy, he finds allies on the Left (Radosh and Rothbard, 1972; Rothbard, 1972c, pp. 66-110). As a dogmatic free market Austrian economist, he is equally at ease with numerous conservative groups. He is definitely a unique mixture of American political thought.

Norman Barry correctly identifies a number of philosophical roots or sources of Rothbard's unique substance and style (Barry, 1986, p. 173). Three of these influences stand out as most important. First, there is the influence of the political philosophy of John Locke, especially his notions of property rights and his theories of ownership. Rothbard formulates his natural rights theory which rests upon the principle of self-ownership. It is quite clear that he identifies himself as a part of both of the natural rights tradition and that he understands his mission as one that is focused upon correcting the contradictions which remain in Lockean political theory (Rothbard, 1982a, pp. 21-22). The second influence, the Austrian School of Economics, entails the largest portion of Rothbard's scholarly work. Accepting his mentor Mises'

scientific method and style, Rothbard carries forward the Austrian paradigm in substantial ways. Praxeology and the use of apriorism--in economics and ethics--serve as the foundation for the entire bulk of his work. He is consistently able to merge these "value-free" perspectives with the ethics found in his theory of liberty to provide a double front in his ongoing intellectual struggle against statism (Barry, 1986, p. 173). Rothbard's third significant influence, Barry concludes, is distinctly American. There are clear similarities between Rothbard's writings and earlier native American anarchism. This inborn critique of the American State differs from "imported" syndicalism and communistic anarchism in the same ways America itself differs from the Old World. His writings resemble the "peculiar kind of moral fervour" that is found in the individualistic anarchism of writers such as Spooner, Tucker, and Stephen Pearl Andrews. And it also differs in substance from collectivist anarchism, as it attempts to remove the "chains of authority" in uniquely American ways, namely, through homesteading, the marketplace, and the destruction of politics.

The unusual combination of influences allows Rothbard to borrow from diverse traditions, often filling apparent voids in each set of ideas. He brings to Locke's theory the rigorous logic of an a priori axiomatic method, leading him to recognize the contradictions that Locke, trapped between two epochs of human history, could not realize. Rothbard rescues political philosophy from the error of the classical theorists who sought to establish ethics in collective society rather than upon the individual moral actor. He provides the Austrian program the ethical foundations for the free market that praxeology alone cannot generate. Conversely, to the moral fervor of

native individualistic anarchism he brings the insights of post-marginalist economics, correcting the weakest portion of American anarchist theory (Rothbard, 1974d).⁶ Barry concludes of Rothbard's writings:

Rothbard's social thought, quite unjustifiably neglected in the contemporary teaching of social science, represents a remarkable synthesis of economics, politics, jurisprudence and the philosophy of social science, directed entirely at the problems, and indeed prospects, of a free society. His work constitutes perhaps the most powerful and sophisticated form of individualistic anarchism this century, if not in the entire history of this particular social philosophy (Barry, 1986, p. 173).

How, then, does one explain the almost complete scholarly ignorance of the substantial body of Rothbard's writings? One might argue that his views are too far outside the mainstream of American political thought. Yet, a cursory investigation of any major university library will uncover numerous works on other anarchists. Most (if not all) of these writings entail analyses of either communists or syndicalists. Perhaps radicalism is more in style on the Left or, maybe anarcho-capitalism does not have a significant scholarly following.

However, Rothbard's approach to theory does not facilitate a propensity for scholarly dialogue, either. For example, he continues to write in a style more appropriate of a movement in its embryonic stages. His absolutist and monistic foundations also limit analytical discourse. Mutual

6. Rothbard correctly interprets Benjamin Tucker's theory of interest as flawed, for example. He includes Lysander Spooner's views in that critique, although there are seemingly important differences. See Hall (1986, pp. 226-229).

exchange of ideas with other systems or perspectives seems to be fruitless when one feels he possesses the absolute truth. Nor is there much to be gained in continued investigation by critics of Rothbard who reject the initial premises in his thoroughly logical chain of axioms. While these criticisms provide no evidence in favor or against the truth-claims of his ideas, they do raise the equally important issue concerning the necessity of having an intellectual audience. Due to the nature of his work, Rothbard may be destined to be ignored in American political thought.

Rothbard's often brusque style further hinders the generation or maintenance of an audience. For example, he is presently working toward the completion of a comprehensive history of economic thought. But the small examples of that research which are proceeding the text seem unnecessarily controversial and devoid of a comprehensive understanding of historical circumstances. Consider his assessment of Adam Smith:

....[Smith's] devotion to laissez-faire was dubious at best, and his 'contributions' to economics were retrograde and disastrous. It took a century for thinkers outside of Britain, especially in Austria, to revive and develop the French utility and subjective value tradition.... (Rothbard, 1987a, p. 8).

Smith was off the mark on value theory. Furthermore, most of the ideas of The Wealth of Nations may now be pieced together from earlier sources to demonstrate that Smith was also not all that original when we investigate his theories from our modern perspectives. Moreover, Smith had numerous exceptions to his principle of a laissez-faire economy. Finally, Smith, as Rothbard is prone to note, may well have been sympathetic to the State Church and he may have been a diligent customs officer. Nevertheless, from

a strategic standpoint, what purpose do these criticisms serve in the development of modern libertarian theory? Furthermore, the assessment itself suffers from the dogmatic application of an unbending universal code that is apparently oblivious to historical factors. Are we in 200 years, for example, to ignore or condemn the contributions of Rothbard and focus instead on the fact that he was employed by a State-supported University? Having developed the "gospel" of anarcho-capitalism, Rothbard may now ignore his intellectual opponents and chastise his comrades in the advancement of the free society--although the first group surely outnumbers the second set. This attitude might best explain why his works may never receive the attention they deserve from even fellow libertarians. His radical style and reproachful rhetoric served a younger movement well; his ideas provided the foundation for much of the libertarian paradigm today. But libertarian theory has matured intellectually from the questions of foundations and first principles. Today, it faces the equally difficult issues of concrete policy and application of libertarian ethics. Rothbard served a crucial role in the advancement of these ideas, but as a founder and historical figure rather than a contemporary and continuing influence.

The Future of Libertarianism

Nevertheless, that libertarianism has been able to reach a "mature" stage speaks optimistically about the possible intellectual and political successes of these ideas. In our final section, we explore both reasons for this

optimism and also some remaining problems for libertarianism, in general, and Rothbard, in particular, concerning this system of thought.

If the program were given the opportunity, what kind of world would the ideas of Rothbard and libertarianism create? During the course of our previous discussions, we attempted to critique Rothbard's arguments from within the libertarian mentality, setting aside other distant criticisms which might arise. However, one who does not accept the premises of this model may provide a number of additional criticisms against the system. Some of these complaints result solely from critiquing portions of these ideas too narrowly or from pulling items out of context. A second set of critiques arises from the realist set of assumptions, which contend that human society cannot exist under the (lack of) constraints imposed by libertarianism. In this critique, libertarian theory is guilty of failing to recognize the additional value and role of order in society. Thus, these ideas represent not the heritage of American politics, but what Friedman and McDowell call "a brilliant caricature" of it: Through the exaggeration of individualism and the apolitical portions of human existence, libertarianism "disfigures" political life by ignoring or at least underestimating the institutional and political power necessary to secure a balanced liberty (Friedman and McDowell, 1983, pp. 62-63). By overemphasizing individual liberty, this movement ironically increases disorder and the demands for authoritarianism.

Stephen Newman, in one of the few mainstream critiques of modern libertarianism, carries this criticism further. He concludes that libertarianism, rather than being a response to the modern crisis of public authority, represents a "symptom" of the disease itself (Newman, 1984, p. 49).

Following the well-known writings of Theodore Lowi, Newman argues that the combination of limited public resources and weak governments created circumstances which ignored the crucial issue of the "public interest". Libertarianism's unfortunate response is to deny the existence of the concept of an overarching public purpose and, subsequently, reject a role for political power. Its solution to the crisis of authority is to abolish politics and to replace it with the market (Newman, 1984, p. 42). But, in Newman's view, this solution begs the question, for it merely replaces political power with economic power. Unfortunately, he concludes, libertarianism tends to ignore the potentially oppressive consequences of private power and creates a world in which persons "may be formally free but have little or no control over their own lives" (Newman, 1984, p. 48).

Rothbard's system seems to be quite susceptible to these criticisms. If freedom is defined completely in regard to one's property rights, i.e., limitations on movement are dictated by the space one is in control of, then it is possible that persons who own no property could be completely free and unable to do anything (Barry, 1986, p. 173)! Rothbard might respond to this criticism in one of three ways: 1.) So what? The dictates of ethics demand this conclusion and, thus, it is imperative that property rights take precedence over any other values; 2.) There must be additional components in the definition of freedom and rights; it may not be solely the result of property ownership; or, 3.) It is morally imperative that this definition of freedom remain inseparably linked to a self-ownership and homesteading framework; however, the consequences of this imperative are such that the concerns

raised by these criticisms are unfounded. In other words, these complaints fail to investigate the entire anarcho-capitalist "package".

Rothbard obviously may not accept the second choice without surrendering his entire system of ethics. Yet, if the implicit assumption of the first alternative is correct, i.e., that one may anticipate inequality of outcome in the libertarian system, then these ethics may create severe hardships for numerous persons (and, at times, he comes very close to supporting this untenable position). Even if absolute property rights are ethically necessary, it would be an unacceptable consequence for the persons who suffer the fate of impoverishment; therefore, there are serious concerns involving the degree of social order which would be retained in such a system. But is not third possibility empirically unattainable? Will not the "play" of market forces guarantee an emerging inequality of property and, subsequently, eliminate the effective use of one's rights? May rights of any kind be protected within a system which generates inordinate differences in the levels of resources each individual possesses and, consequently, the amount of economic power one retains?

There is a long-standing and implicit assumption in the vast majority of liberal thought which concludes that unhampered markets create unequal material outcomes. Even Rothbard seems to accept this conclusion in his criticisms of egalitarianism. However, if inequality is the rule, his entire system is threatened by the critique leveled above. These outcomes likely erode a community's respect for ethical principles, creating more of a Hobbesian condition than a Lockean one in a state of anarchy. If this

inequality reached substantial portions, the entire order itself would be severely threatened.

Is, then, the maintenance of social order (which presumably would be threatened by vast difference in wealth among persons) a "public good" beyond private provision in an anarchist system? There appears to be no reasons to assume that free riding would not be overcome by cooperation in this area as in almost all the arenas we discussed in Chapter V. The extreme transitional costs which apply to external defense are surely not applicable in this case; social disorder brought about by wealth inequities would evolve in a very gradual manner. There are no theoretical reasons to presume private charity would not prevent social turmoil. But the need for these actions on the part of wealthy individuals is itself built upon an assumption as to consequences of a market process. The outcomes of an unbridled free market is an empirical question and, as of yet, we have had no perfect laboratory to test this proposition. Neo-Marxists and libertarians alike have indicated the tendencies of alliances to arise between businesses and the State. From political collusion follows monopoly and inequality. Without the monopolistic instrumentations of political power, might the concern over inequality largely disappear? Might it be more likely that economic inequality is the result of allowing the use of governmental institutions? And, if this argument is correct, would it not be best to eliminate or at least severely restrict these institutions? Rather than define libertarianism as a means of protecting existing privilege through the language of human rights and markets, why not view its market process as an essential ingredient in accomplishing the exact opposite results of breaking privilege and dispersing

wealth in increasingly equal increments? From this perspective, the most effective way to prevent undue social power is to avoid the formation of any forms of State-maintained monopoly power.

But the main criticism in which Newman levels against libertarianism is that it destroys the notion of the public life. In opposition to this "vision", Newman supports a "classical" view of participatory politics which he argues will foster a strong sense of collectivity and community. Unfortunately, this critique seems to arise from a misconception of libertarianism. Newman argues, for example:

Libertarianism aims at nothing short of the privatization of social existence. True to its liberal origins, libertarianism rejects the public life in favor of the private life cultivated by self-interested bourgeois individualists....[T]his position overlooks the broader conception of politics that derives from the classical republican tradition and the ancient Greek *polis*. It denies the element of collective purpose essential to their understanding of political life. Libertarianism carries liberal privatism to an extreme by redefining the state (in terms of its functions) as a kind of private enterprise and moving to replace politics by the market.

In the world projected by libertarian theory the individual stands in relation to the whole not as a citizen but as a consumer..... (Newman, 1984, p. 162).

This familiar complaint misunderstands the depth of libertarian social theory. First, Newman misconceives and underestimates the breadth of the libertarian "marketplace". A libertarian market (in the Austrian tradition, at least) encompasses all exchanges, not merely those within the "cash nexus"; it remains neutral on the issue of the value of the action except to protect the principle of non-interference. The difficult burden of demonstrating how a

political structure better facilitates the plans of individuals than the actual individual falls upon the proponents of the doctrine of a specific "public interest". Secondly, he substitutes for the liberal instrumental conception of the State a naive and utopian view of the polity. Somehow, "citizenship expands the power of the individual to shape the social environment in collaboration with others." On the other hand, "consumership requires that the individual confront the world as given." For reasons he leaves unknown, the market order must be "accepted as a fact of social life" waiting for entrepreneurs and powerful corporations to move the world (Newman, 1984, p. 163). Yet these same "isolated" individuals are able to discover the warmth and community of the State. In the polity, the individual is significant and enjoys a sense of belonging. In a marketplace, he is weak and isolated. Newman falls prey to the same dogmatic dualism that he accuses libertarianism of.⁷ It is not clear, for example, why the State is going to be any more responsive than the market to the needs of the "public life". If one compares the notion of the single individual against the force of the market with the idea of citizens who able to generate strong collective identity within the State, then, of course, the latter alternative will appear more attractive.

But, obviously, this comparison is a false dichotomy. More often it is the single citizen against the Big State. At times, it is large collectivities against the Big Corporation. The same human nature which helps to dictate actions in one of these realms remains unchanged when one moves into the

7. On the critique of "libertarian dualism" examine Sciabarra (1987, pp. 93-95).

other arena. Newman, for example, argues that envy is not a political emotion, since it "promotes the egoistic war of all against all" and will not "generate bonds of allegiance that transcend economic self-interest" (Newman, 1984, p. 164). But his notions of both envy and politics represent utopian, or at least highly unlikely, visions of human reality. Whether envy is "political" in Newman's idealized perspective is unimportant; it surely occurs in the political process in the real world. Theory must take humans as given. Newman's criticisms of libertarianism come full circle and defeat his own vision: The consumer and the citizen are the same individual.

Yet, there is an even more misguided criticism in Newman's argument, one that is commonly found in attacks on libertarianism.

Politics, understood in terms of collective purpose, invites us to consider the public good before our private desires. Libertarians cannot contemplate this notion of politics without perceiving the threat of totalitarianism. They fear the destruction of individuality in the name of a higher good. Ultimately, their case rests on the claim that freedom and privacy are inseparable. Whatever its character, whether totalitarian or not, politics is always an invasion of privacy. It burdens private men and women with public obligations (Newman, 1984, p. 164).

He unfortunately makes a common error in politics of creating an overly limited notion of what is entailed by the term "public". Why must the "public good" receive its meaning through the dictates of a government, for example? Moreover, why must there always be one singular purpose? For libertarians, politics by definition is the use of force by certain persons who agree with the implementation of an action against others who are not

willing to voluntarily go along with the decision. By definition, when it is possible, we ought to avoid these sorts of activities. The intent of the former group might well be to place the good of the public (assuming such a thing exists) over the selfish interests of the particular individuals. But it may (perhaps more likely) be merely the former coalition's imposition of their brand of interests upon all the rest of society. The articulation of the "good society" through monopolistic political actions quite often becomes either naive rhetoric or clever camouflage for the execution of special interests.

There is absolutely no reason why self-interest may not be transcended as easily in the anarchist system as within the polity. Newman's argument fails unless he is willing to contend that the market itself creates selfishness, whereas politics somehow creates the desire for an altruistic and/or collective purpose. But this assumption is riddled with problems. First, it faces the inner contradiction that arises when one uses force through the State apparatus to achieve "moral" ends. A libertarian would argue that to conclude that an immoral action may be used to achieve a moral conclusion faces a severe dilemma. As Rothbard points out, freedom is a necessary, although not a sufficient, condition for virtue. Moreover, why would one turn to the State for assistance in "imposing" morality; it is arguably the worst form of institutional arrangement for achieving these goals, for it embodies the monopoly of violence (Rothbard, 1981a, p. 353; Hayek, 1944, pp. 134-152). While the market process cannot guarantee virtuous actions, there appears to be no reason to anticipate that the political process will be any more successful at this endeavor.

But Newman's additional criticism is even less appropriate in regard to libertarian theory. Critics perceive the market process as an atomistic, estranged, and alienated system devoid of any sense of community. But from the libertarian perspective, the only true communities which exist are those that emerge through the free interaction of individuals. These critiques unfortunately possess a limited idea of the Stateless society. For example, there is no reason why libertarians must support "privacy" as the primary value or live isolated and segregated lives. These are merely values which individuals may chose or reject freely. They are not, in fact, the values that most libertarians would expect to be dominant in a free society. Persons will create their own communities, their own higher values, and their own obligations in the State-less society. These values will arise without the (generally misdirected) intervention of the government. More importantly, there is no reason to assume that these community values must be imposed uniformly upon all individuals. Humans are free to seek their privacy, but this same principle provides them the freedom to create their own communities. Privacy, atomism, and isolation are the consequences of the market only if persons freely choose those values. And the extension of the State--the alternative in this case--surely does not eliminate these problems.

Therefore, Newman's (mainstream) critique of libertarianism fails because it applies an unfortunately incorrect and overly limiting notion of virtue on human interaction. The libertarian principle of value neutrality may offend writers such as Newman who believe that a more narrowly defined notion of the good society ought to be imposed on their fellow citizens. All that libertarian theory postulates is that liberty is the highest

political end and not necessarily the highest human end (Rothbard, 1981a, p. 354). Still, these perceptions remain in the academy: These ideas supposedly lead to societies of "isolated, hermetically sealed atom[s]," operating in a vacuum; they generate libertines and hedonists who "worship the Sears-Roebuck catalogue"; or, they are atheistic and materialistic with absolutely no connection to spiritual matters (Rothbard, 1980c, pp. 9-13). Sometimes in life persons may exhibit each of these qualities; at other times, they may be able to transcend these characteristics. But these qualities will exist or will not exist regardless of whether the State is present or absent. To conclude that within the market, these activities will somehow mystically increase is an empirical question and, as of yet, there is no reason to believe it has any foundation in reality. In fact, it would be perhaps easier to demonstrate a correlation between the growth of the public sector and the kind of materialism and greed that so troubles Newman. It is this type of naive perspective which blindly ignored the consequences of statism and gave rise to the libertarian renaissance in the first place.

Hence, despite these substantial criticisms there is strong evidence that libertarianism is enjoying expanding influence in both political and intellectual circles. One may speculate that these ideas will continue to increase in influence into at least the near future. There are at least three reasons for this optimism.

First, there is a substantial amount of evidence that there is significant support for libertarian policy among mass opinion, although the number of self-identifying libertarians remains low. Maddox and Lilie argue that the old liberal-conservative spectrum of post-World War II is no longer applicable in

the contemporary American political scene (Maddox and Lilie, 1984, pp. 1-4). By further dividing ideological classifications from two into four components, they are able to successfully place a substantially larger number of persons under fairly consistent ideological quadrants.

Maddox and Lilie define the new category of libertarianism as supportive of both economic freedom and social freedom. Individuals exemplifying these qualities, they conclude, tend to support minimal government, property rights, social freedoms, and a non-interventionist foreign policy. They also found that (by 1980) approximately one/fifth of Americans could be classified as libertarians. More importantly, perhaps, these numbers increased significantly during the period of post-Watergate/Vietnam America. At the beginning of the 1970's, for instance, conservatives outnumbered libertarians by a margin of two to one; by 1980, libertarians had surpassed conservatives in total numbers. Maddox and Lilie also explored these ideologies based on their demographic components. While populism (persons taking policy stances that are generally opposite those of libertarians) remained the largest overall category, with slightly more than one/fourth of the total, libertarianism may hold substantial future advantages. The populist ideology is found heavily among older individuals, particularly those persons who came of maturity before or during the New Deal (Maddox and Lilie, 1984, p. 76). Libertarianism, on the other hand, is strongest with groups maturing in the period of 1950-1970--individuals who in 1990 are coming into positions of influence and power. Moreover, libertarians tended to be of middle to upper class backgrounds, with higher incomes and greater levels of education (Maddox and Lilie, 1984, p. 96). All this evidence would seem to

indicate that the libertarian movement may find an influential and willing audience for their ideas in the 1990's.

Secondly, there is an expanding network of libertarian think tanks, institutes, presses, journals, and educational programs and seminars to satisfy the demands generated by the growing mass appeal.⁸ Furthermore, there seems to be an extensive crusade to attract young scholars to these ideas. In short, there is clear evidence that at least the intellectual portion of libertarianism has its house in order. Whereas the gradual influx of young libertarians into the academy does not compare to the rapid penetration of American universities by Neo-Marxists in the 1960's, the eventual effect may be quite similar.

Thirdly, the "objective" criteria that Rothbard discusses seems to be in place internationally for the substitution of a new dominant ethic. The changes in the American political system in the last twenty years, for instance, ought not to be underestimated. The language of the Welfare State's Great Society and the anti-communist rhetoric of the Vietnam conflict has been replaced by austere budgetary constraints and military disengagement from the Cold War. On a grander international scale, we may be witnessing the demise of socialism. But while the practical political battles seem to have been won for Eastern Europe (at least the impediments have been removed), the more important intellectual battle remains. Both liberals and

8. Friedman and McDowell (1983) include a partial and now outdated list of libertarian organizations. Our own unofficial count netted over thirty libertarian or libertarian-leaning foundations, institutes, presses, or other forms of organizations aimed at the dissemination and/or development of these ideas in the United States.

conservatives in America are scrambling to respond to recent world-changing events. Conservatism is now required to reconsider its overt anti-communist perspectives which won control of the movement over the traditional isolationist segments in the 1950's. It can no longer rely on the successes of the "we-them" mentality which directed its international "vision" in recent political debate. Today, with the possibility of their ultimate enemy disintegrating, this strongly negatively-oriented ideology faces a severe identity crisis.

Liberals face a more subtle and potentially more damaging problem, though. Lost in the hoopla of the emerging "democracy" in Eastern Europe are the economic realities which are probably more important in the production of these changes. Concerning the viability of centralized socialism, Ludwig von Mises has been vindicated. But Mises' critique was equally aimed at the "third way" of economic allocation, namely, the mixed economies of the West. While modern liberalism stresses the divergent political attributes of socialism and liberalism, it tends to ignore the economic arena. But there are ominous parallels between political and economic authoritarianism. Liberation is not achieved through acceptance of only half of this formula. On this issue, American liberalism may face its ultimate challenge.

It will be these sorts of issues which potentially may provide the kind of crisis that leads to fundamental intellectual change. Perhaps it will emerge so slowly as to be undetected until its effects have clearly restructured the contemporary world. As we have continually demonstrated in our discussions, there are numerous reasons to anticipate that the libertarian

movement will be a significant participant in the reforms that emerge. And Murray Rothbard's anarcho-capitalism has surely been a vital component in the advancement of these ideas.

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VITA

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From September 1977 to June 1979, Larry attended Patrick Henry Community College in Martinsville. In August 1979, he transferred to Carson-Newman College in Jefferson City, Tennessee. At Carson-Newman, he became a member of Alpha Chi International Honor Society, Mortar Board Honor Society, Blue Key Honor Fraternity, and Phi Alpha Theta Historical Honor Society. He also served as an assistant editor to the campus newspaper and Chief Justice of the college's supreme disciplinary court.

Larry graduated magna cum laude from Carson-Newman in May 1982 as "Outstanding Graduate in Political Science," receiving a Bachelor of Arts degree in Political Science and History. Following graduation, he remained at Carson-Newman for one year to serve as assistant director of the college's debate and forensics program.

In August 1983, he began graduate studies in Economics at George Mason University in Fairfax, Virginia. A recipient of the Westgate Foundation Fellowship, Larry was a student of the Center for the Study of Market Processes, a program specializing in the Austrian School of Economics. However, a growing interest in political theory and American politics led him to transfer to The University of Tennessee, Knoxville in September 1984, where he began graduate work in Political Science. He received his Master of Arts in March 1986 and remained at Tennessee to complete his Doctor of Philosophy in Political Science. In September, 1988, he

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From August 1989 to May 1990, Larry served as Instructor of Political Science at Rhodes College in Memphis, Tennessee. In August, 1990, he became Assistant Professor of Political Science at Belmont College in Nashville, Tennessee, where he offers courses in American Politics, Political Theory and Methodology, and History of Political Thought. He receives his Doctor of Philosophy in Political Science in December 1990 from The University of Tennessee, Knoxville. He plans a career in college teaching combined with his research interests in American Political Thought and liberal political theory.