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Bibliographic Essay

Morality and Rights
by David D. Gordon

One of the few noncontroversial assertions that can be made about human rights in political philosophy is that the topic has aroused enormous and hitherto irresolved controversy. The principal reason for the existing disagreement is that the topic of rights impinges on some of the most controversial disputes in ethical theory. I shall discuss some of the main options that underlie the various arguments about rights in contemporary philosophy. Resolving these disagreements is a much more difficult task that I do not attempt here.

In one sense my claim that the topic of rights lies enmeshed in controversy is incorrect. Everyone knows what a right is: it is a claim by a certain individual, or someone acting on his or her behalf, that treatment of a specified sort is due to him. The Yale political theorist Wesley Hohfeld long ago elaborated a classification of rights that has become standard in the literature. Into the details of Hohfeld's analysis, presented in his *Fundamental Legal Conceptions* (1923; Westport, Ct.: Greenwood Press, 1978), we need not enter here. Suffice it to say that he distinguished between a claim-right, that is, a demand on either specified persons or everyone in society that one receive something or some mode of treatment, and a liberty-right, an assertion that one is free to pursue a certain course of action. (Hohfeld also distinguishes between "powers" and "immunities.") An example will clarify this distinction. In the political system currently established in the United States, someone who owns property has claim-rights against others. He may forbid others, for example, to use his property without his consent. Everyone, whether or not he owns property, has the liberty-right to seek gainful employment. One is, in other words, free to find a job: but this freedom imposes no burden on others to provide profitable employment for the job seeker.

As I have said, Hohfeld's classification of rights has assumed an accepted place in the literature. The English legal philosopher H.L.A. Hart, in *Essays on Bentham* (Oxford: Oxford University Press, 1982), has suggested a slightly different type of rights classification. But his analysis does not break radically with Hohfeld's.

Given the general acceptance of Hohfeld's analysis of rights, why have I stated that the subject of rights is mired in controversy? The answer is simple. Hohfeld's classification tells us what a right consists of: it does not tell us what rights people ought to have, or if indeed there exist any rights at all

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Current Issues in Development Studies

African Peasants and the Market System
by George B. N. Ayittey

In 1985, affairs on the continent of Africa were thrust into world attention. In that year famine took the lives of an estimated two million Africans. The drought of 1984 was commonly cited as the cause of the famine. While Africa had experienced many droughts before, none exacted a toll in human lives nearly as high as the levels reached in 1985. There is strong evidence that the principal causes of the famine were not meteorological, but human. The economic and political policies of the African states were to blame.

Indeed, per-capita food production in Africa began its decline in 1961. According to the World Bank's 1986 *World*

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Morality and Rights (continued from page 1)

that people morally can demand that they be accorded.

To some, this assertion may induce surprise. Does not everyone who rejects a dictatorial form of government acknowledge that people have rights limiting what the government may do to them? Why then is the assertion of rights controversial for anyone who turns with a shudder from totalitarianism?

The "noncontroversial" rights, however, are legal rights, that is, claim-rights and liberty-rights that a legal system accords to those falling under its jurisdiction. In this sense, people have all and only the rights the laws of their nation grant them. Under the laws of the United States, for example, slavery was widely considered perfectly legal until the Thirteenth Amendment abolished it.

Perhaps the best approach by which one can get a firm grasp of the subject is to devote one's initial detailed study to the tradition out of which modern claims to rights arise: classical liberalism.

The main dispute over rights lies elsewhere. Are there normative rights underlying these positive rights, legitimating (or contradicting) them? What are these normative rights and on what basis do people have them? Do the answers lie in the fact that people who have rights are "better off" or are happier than those in a regime without restrictions on the power of the state? Or does the basis of rights lie deeper. Those who think the latter contend that morality delimits for each person a sphere of activity with which others may not forcibly interfere. And the justification for this protected area does not lie principally in benefit to society. On this view, the moral claims of the individual are themselves the ground level or foundation of the rest of morality, so far as politics is concerned.

And this contention, far from being obvious, has aroused heated controversy. A good way of quickly orienting oneself to some of the central areas of concern in philosophical discussions of rights is to read the anthology edited by Jeremy Waldron, *Theories of Rights* (Oxford: Oxford University Press, 1984). Another good collection is *Utility and Rights*, R. G. Frey, ed. (Minneapolis: University of Minnesota Press, 1984). Frey has himself been among the sharpest critics of the view that morality rests on individual rights. In addition to Frey's own essay, this anthology includes important articles by L. W. Sumner ("Rights Denaturalized") and Rolf Sartorious ("Persons and Property"). Also not to be missed is the bibliographic discussion of such figures as Amartya Sen, Bernard Williams, and Derek Parfit by the economist Tyler Cowen in his essay "Political Philosophy and Welfare Economics," (*Humane Studies Review* [4] No. 3, Summer 1987).

But even after perusal of these items, the student is likely to find himself or herself at sea, confronted by scores of topics and issues. Perhaps the best approach by which one can get a firm grasp of the subject is to devote one's initial detailed study to the tradition out of which modern claims to rights arise: classical liberalism. This may be especially illuminating when we consider the role played by Robert Nozick's classical liberal work, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), in stimulating a continuing philosophical reexamination of rights.

Nozick builds on a tradition that places great stress on rights to own and control property as the foundation for a just society. Such rights to own alienable property are, in this tradition, based on inalienable rights to self-ownership. (See, for example, the English Leveller Richard Overton's 1646 statement, "An Arrow against All Tyrants," in *The Levellers in the English Revolution* , G. E. Aylmer, ed. [Ithaca: Cornell University Press, 1975], John Locke's *Second Treatise on Government* [1690], and the more recent restatements and elaborations by Murray N. Rothbard, *The Ethics of Liberty* [New York: Humanities Press, 1982]; James A. Sadowsky, S.J., "Private Property and Collective Ownership," in *The Libertarian Alternative*, Tibor Machan, ed. [Chicago: Nelson-Hall, 1974]; and Randy Barnett, "Contract Remedies and Inalienable Rights" [*Social Philosophy and Policy* [4] No. 1, Autumn 1986, pp. 179-202].)

If Nozick relies for his theory of rights on self-ownership (although never using that term), he has posed a fundamental challenge to the manner in which most contemporary classical liberals proceed from this principle to justify property rights. The argument, as presented by Locke, goes from self-ownership to "homesteading": if one mixes one's labor with unowned land, has one not rightfully acquired that land?

Nozick criticizes the Lockean principle that one acquires unowned land by "mixing one's labor" with it. Why, he asks, does not mixing one's labor result in the loss of one's labor rather than the acquisition of property? Someone who pours a glass of tomato juice in the ocean does not acquire the ocean but rather loses his juice. Nozick's argument has often been misunderstood by both his critics and supporters. He does not intend to reject a "Lockean" theory of property acquisition. Rather, he thinks the view needs to be reformulated in a rigorous fashion. Pending the achievement of this difficult

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task, he thinks that an unspecified Lockean principle combined with Nozick's version of the "Lockean proviso" is the "closest instantiated realization" of a correct theory of property acquisition. (The latter concept is explained in Nozick's *Philosophical Explanations* [Cambridge, Mass.: Harvard University Press, 1981].)

A strong defense of the self-ownership doctrine and the resulting theory of property acquisition is found in Robert Sugden's book *The Economics of Rights, Co-operation and*

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Current Issues in Sociology

Revolutions
by Jack A. Goldstone

It is a puzzle that although the liberties of the West were to a large degree codified for the first time as a result of revolutions—in the Netherlands in 1566, in England in 1640, in the U.S. in 1776, and in France in 1789—in Eastern Europe, Asia, Africa, and Latin America revolutions have more often resulted in regimes inimical to liberty.

"Revolution" is a much-debated term. I use it to denote changes in national leadership that are brought about by widespread acts of insurrection, and that result in new institutions of government or new bases for status. By "acts of insurrection," I mean behavior contrary to prevailing laws, including tax strikes, land seizures, mass demonstrations, labor strikes, guerilla actions, and riots. Such activity may, but need not, include violence. In fact, in many major revolutions, including the Iranian and the French, the Old Regime fell and new institutions of government were erected with very little violence. In these cases, most violence occurred after the Old Regime had fallen, as the new rulers defended themselves against internal and external challenges.

Revolutions are not simple phenomena, but a convergence of social processes that can occur in other combinations—popular uprisings, government collapse, civil war, state-building. Thus, explaining a revolution is a complex task involving explanation of each of its components: Why were key groups hostile toward the regime? Why did state power fail? Why did internal conflict escalate? Why was state-building successful? And, perhaps most important, why did state-building follow one path rather than others?

Structural Vulnerabilities

To date, most scholarship has focused on the first two questions. Here, a marked shift in understanding has occurred, largely due to Theda Skocpol's *States and Social Revolutions* (Cambridge: Cambridge University Press, 1979). In a reaction against psychological and system-disequilibrium approaches, several authors in the late 1970s argued that mere discontent or generalized "strains" were not enough to bring about revolution. Skocpol's book, which compared the French, Chinese, and Russian Revolutions, observed that the "strains" or "discontent" faced by these societies were not exceptional by historical standards. Instead, Skocpol demonstrated that these states failed, and aroused a hostile reaction from their populaces, because of certain vulnerabilities in the structure of state administration and local control. Specifically, these were states whose tax systems and economic organization did not provide them with revenues sufficient to meet the demands of international competition and conflict with more advanced states. These conditions led state leaders to assault the traditional tax structure, posing problems for elites who had benefitted from that structure. Where elites had enough autonomy to resist, they were able to paralyze the state. This was often the elites' undoing, for where elites depended on the central authorities to maintain local law and order, paralysis of the central government allowed popular anti-elite feelings to break into the open. In short, it was *structural vulnerabilities*, namely, inadequate fiscal systems and elites that were autonomous from the state, yet dependent on central authority for local dominance, that created the conditions for revolutions.

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Skocpol's work, along with work by Charles Tilly, Jeffrey Paige, Ellen Trimberger, and others, created a radical reorientation of the study of revolution (see *Revolutions: Comparative, Historical and Theoretical Studies*, J. Goldstone, ed. [San Deigo: Harcourt Brace Jovanovich, 1986], for excerpts and summaries). In the 1960s and early 1970s revolutions were examined by studying "societies" in general. Theoretically, this meant that models of discontent or strain were developed by looking at characteristics that were more or less present in all societies. Empirically, this meant that hypotheses were tested by examining sets of as many "societies" as possible—that is, large cross-national data sets. The works of Skocpol and others have changed this by emphasizing the structural factors that made some states more vulnerable to revolutions than others. Thus theoretical work now consists of better specifying the state structures, elite organization, and agrarian relations that make for vulnerability to violent change. Empirical studies of revolution using large cross-national data sets have virtually disappeared. Empirical work now consists of careful examination of a few selected cases designed to highlight the crucial structural differences between nations, or to illuminate how particular forces—such as population growth or international competition—acted on social structures in a particular historical setting to create a revolutionary crisis.

Yet this work raised further questions. Given that revolutions develop from the convergence of varied conditions and conflicts, what causes such convergence to occur at certain historical periods and not at others? How do more modern revolutions, such as those in Iran and Nicaragua, resemble or differ from the more traditional "great" revolutions that are the primary focus of these works? If so much is explained by considering how different state and elite structures respond

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to international pressures, what is the role of ideology in revolutions? And if revolution is a "state crisis," rather than a hump in the road to modernization, what do revolutions actually change?

All these issues require closer examination of the actual process of revolution, that is, the escalation of insurrection and of the trajectory of state-building in different cases. To date, these issues have only begun to be explored.

Robert Dix ("Varieties of Revolution," *Comparative Politics*, 1983) has argued that more recent revolutions, as in Cuba, Nicaragua, and Iran, differ from past "great" revolutions in being less dependent on peasant uprisings and more dependent on urban insurrections. Dix suggests that this pattern is liable to be the more common mode of revolution in the future, with consequences that are not easily foreseen.

Revolutionary Outcomes

In regard to results, Jonathan Kelley and Herbert Klein have provocatively argued that the initial successes of revolutions in rectifying inequity will generally lead to "the rebirth of inequality" ("Revolution and the Rebirth of Inequality," *American Journal of Sociology*, 1977). Yet their conclusion is modified by Susan Eckstein's empirical work on the outcomes of Latin American revolutions ("The Impact of Revolution on Social Welfare in Latin America," *Theory and Society*, 1982). Eckstein demonstrated that revolutionary outcomes vary in a number of dimensions in response to differing initial economic endowments, the choice of capitalist or socialist principles for economic reconstruction, and the composition of the revolutionary coalition. Eckstein finds that postrevolutionary regimes have been able to provide greater equality in access to land, basic medical services, and education than regimes in similar states that did not undergo revolutions. However, industrialization has had an inegalitarian effect on incomes, and state-building an inegalitarian effect on stratification, in postrevolutionary as well as in nonrevolutionary developing states. Thus revolutions have had a lasting redistributive effect on certain assets and services, although none has been able to overcome the general tendency of complex polities to stratify wealth and power.

There is probably no issue more in need of further research, and more important for policy, than the determinants of the outcomes of revolutions. Recent experience in U.S. policy has shown that it is often futile to attempt to support unpopular authoritarian regimes that are losing their grip. However, what proved disastrous for the liberties of these nations was not the fall of a Shah or of a Somoza, but the eventual drift of these revolutions to ideologically rigid and increasingly authoritarian rule. Is the Philippines headed in the same direction, or will it avoid this denouement and achieve democracy? At this point it is difficult to tell, not chiefly because we lack data, but because we lack an established theory of revolutionary outcomes.

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Ideology

On matters of ideology, much is still debated. Mary Fulbrook's *Piety and Politics* (Cambridge: Cambridge University Press, 1983) demonstrated that the degree to which the Protestant Reformation was revolutionary in early modern Europe depended less on the content of that ideology than on the nature of church-state-elite relations in various states. Only where the state was already in conflict with elites, and the latter could use Reformation ideology to attack the state (as in England), did Protestantism have revolutionary impact; elsewhere, as in Prussia, the Reformation could be co-opted and absorbed as a prop to absolutist rule. Said Arjomand similarly found for the recent Iranian Revolution that Sh'ite ideology did not cause the Shah's fall ("Iran's Islamic Revolution in Comparative Perspective," *World Politics* 1986). Instead ideology was used as a tool for popular mobilization by elites already in conflict with the Shah over an economic policy that discriminated against bazaar merchants and traditional manufacture, and over state corruption and centralization that excluded the professional and middle classes from effective participation in governance. Still, the content of Puritanism and of Shi'ism did have an important impact on the *outcomes* of these revolutions. Once introduced into the discourse of legitimacy, Puritanism carried strong egalitarian and antimonarchical messages into English politics; Shi'ism had a similar, although more thoroughly theocratic, impact in Iran. I have argued, from a comparison of the Puritan Revolution with seventeenth-century political crises in Asia, that how ideology is used in state-building following revolutionary crises makes a crucial difference in whether the emergent state will tolerate liberty or will enforce rigid orthdoxy and conformism ("Cultural Orthodoxy, Risk, and Innovation," *Sociological Theory*, 1987).

Two matters of great importance in current scholarly debates regarding politics have had as yet only a modest or ambiguous role in the study of revolutions. First, much research in political science today is motivated by the application of rational choice theory to political behavior. Yet rational choice models have had little success in explaining revolutions, in large part because their main contribution has been to show that it is "irrational," given the high costs and uncertain benefits, for individuals to engage in rebellious activity. Recently, however, Edward Mueller and Karl Dieter-Opp have shown empirically that actors in protest movements do not calculate the costs and benefits of their actions individually, but see themselves as members of groups, and hence see their rebellious actions as contributions to a public good ("Rational Choice and Rebellious Collective Action," *American Political Science Review*, 1986). I have further discussed the likelihood of rebellion using a "modified rational choice" model based on how *groups* estimate the costs and benefits of rebellion, including a consideration of "legitimacy" in terms of the diffuse benefits that may accrue to regimes from respecting certain principles of governance ("Revolution and Deterrence," in R. Axelrod, *et. al.*, ed. *Perspectives on Deterrence* [Washington, D.C.: National Academy of Sciences, 1988]). Second, the causes of war continue to be a pressing problem. Yet the relationship between war and revolution has only been very slightly explored on a systematic basis. Michael Stohl, who has surveyed the existing literature, has found no clear relationship between war and revolution that holds across time and space ("The Nexus of Civil and International Conflict," in *Handbook of Political Conflict*, Ted Robert Gurr, ed. [New York: Free Press, 1976]). In a prospective essay, Ted Robert Gurr ("War, Revolution, and the Growth of the Coercive State," *Comparative Political Studies*, 1988) does argue that revolutionary states that were formerly weak and threatened in the international arena often evolve into "garrison states," which are highly likely to be involved in international conflicts (e.g., China in Korea, Vietnam in Cambodia). But these findings are preliminary. Both the role of rational choice models and the war-revolution nexus are "underdeveloped regions" in the study of revolution.

Liberal scholarship must address Locke's question in historical time.

It is interesting to note that though many of the "structural" theorists of revolution—Skocpol, Trimberger, Eckstein—describe themselves as influenced by Marxist thought, their work has shifted the study of revolutions in the direction of classical liberal theory, that is, to concerns with the power of the state and the influence of elites. However, of late there has been a divergence between the study of revolution and classical liberal theory. Liberal theorists have tended to pose Locke's question—when does rebellion preserve liberty?—in abstract terms, and to answer with similarly abstract notions of rights and conditions in "societies" in general. Modern studies of revolution have decisively rejected approaches that start with "societies" in the abstract in favor of approaches that examine the structural characteristics of particular societies in specific historical settings. If liberal scholarship is to have the influence it should in this field, it must address Locke's question in historical time and demonstrate the specific historical conditions under which revolution is likely to preserve or extinguish liberty. For millions of people in the world who are facing the prospect, or consequences, of revolutions, there is probably no more important contribution political scholarship could make.

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African Peasants (continued from page 1)

Development Report (Washington, D.C.: 1986), only two black African nations—Kenya and Malawi—out of forty-one are self-sufficient in food production.

Something is clearly wrong when starvation and other forms of human privation are commonplace on a continent as rich in natural resources as Africa. According to David Lamb, the continent of Africa "has 40 percent of the world's potential hydroelectric power supply; the bulk of the world's gold; 90 percent of its cobalt; 50 percent of its phosphates; 40 percent of its platinum; 7.5 percent of its coal; 8 percent of its known petroleum reserves; 12 percent of its natural gas; 3 percent of its iron ores; and millions upon millions of acres of untilled farmland. There is not another continent blessed with such abundance and diversity."[1]

Nor is the problem a lack of foreign aid. More than $90 billion in aid from international agencies and donor countries has been pumped into Africa since 1960. The tiny country of Tanzania alone received more than $3 billion in foreign aid between 1972 and 1981. Further, lack of foreign largesse cannot explain poverty; the prosperous and economically advanced nations of the West were not made rich by externally supplied economic aid. (See, for example, the work by Nathan Rosenberg and L. E. Birdzell, Jr., *How the West Grew Rich: The Economic Transformation of the Western World* [New York: Basic Books, 1986].) The root causes of Africa's ills lie elsewhere.

The twin keys to understanding the tragedy of Africa are 1) expropriation of peasant producers, often in the name of "modernization" and 2) ruinous state interventionism, in the form of barriers to trade, high taxes, state investment, and kleptocracy, *the rule of thieves.*

The twin keys to understanding the tragedy of Africa are 1) expropriation of peasant producers, often in the name of "modernization," and 2) ruinous state interventionism, in the form of barriers to trade, high taxes, state investment, and *kleptocracy*, the rule of thieves. I have explored the reasons for black Africa's underdevelopment and poverty elsewhere (see especially my "Economic Atrophy in Black Africa," *Cato Journal* [7] No. 1, Spring/Summer 1987, pp. 195-222). In this essay I will attempt to sketch briefly an alternative path for economic, social, and political development in Africa, offering academic-research suggestions for students in economics, anthropology, history, sociology, political science, and related disciplines.

Two Systems

The colonial system that spread over Africa left behind a significant legacy after the departure of the European powers; European-type nation-states and bureaucracies

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remained as the official form of political organization. This system was superimposed over a multifarious network of indigenous political systems, relying on custom, tradition, and other forms of authority. (See, for example, the important work of the historian Parker T. Moon, *Imperialism and World Politics* [New York: Macmillan, 1926] for a description of how colonial states were created.) Whether the legacy has been on balance positive or negative is not the focus of this essay. What is important is to realize that the African continent has at least two parallel political systems, sometimes overlapping and mutually reinforcing, and sometimes at odds.

The rise of Western-educated elites to the pinnacles of power in the new African states brought with it the attempt to imitate the West or the East, typically in totally inappropriate ways. This "development by imitation" took many forms: prosperous American farmers use tractors, so too must we in Africa; the Soviet Union has collectivized farms, so too must we in Africa. New York has skyscrapers, so too must we. Little or no thought went into the questions of *why* Americans used tractors (often unsuited to African soil), how well collectivized farms have performed in the USSR, or why New York has skyscrapers. Perhaps the most bizarre example of this imitation occurred in 1976 when President Bokassa of the Central African Republic spent $20 million to crown himself Emperor of the Central African Empire, just to prove that Africa too can have Emperors like Europe.

African states, in receipt of billions of dollars in foreign aid from Western nations, squandered this wealth on vast projects that bore little or no reasonable relation to the conditions of life in Africa. Systems of agriculture, manufacturing, and infrastructure were imported wholesale from the West, usually resulting only in enormous debts, ruined soil, rusting factories, and unused airports or highways in countries with little need for them. This enormous waste of resources was accompanied by "rent-seeking," or pursuit of profits through the state, on the part of the ruling elites. In East Africa the peasants have a word for the ruling elites: *wabenzi*, men of Mercedes Benz.

Africa's Indigenous Market Tradition

The majority of Africans are peasants, a term used not pejoratively but descriptively. They are mostly illiterate and tend to orient their lives more by custom and age-old practices than by the convoluted dictates and policies of national governments. The two systems—traditional and governmental—coexist in a complex relationship. When they do clash, as is often the case, the peasants tend to retreat to their traditional mould of rural life, self-sufficiency, and subsistence farming. (See the discussion of this process in Victor Azaya and Naomi Chazan's essay "Disengagement from the State: Reflections on the Experiences of Ghana and Guinea," *Contemporary Studies in Society and History*, January 1987.)

As state intervention leads to distortions, more interventions are "required" to correct them, leading to an expanding network of controls and the use of naked coercion to enforce them.[2] Like human beings everywhere else, African peasants respond to incentives. When penalized for producing, they produce less. A historicist model would deny "rationality" to peasants (or to non-Europeans) and consign them to a pre-rational "moral economy." It is an easy step from this model to denial of human rights and liberty to such allegedly "pre-rational" peoples. (See, in this connection, the work of Samuel L. Popkin on Vietnamese peasants, *The Rational Peasant: The Political Economy of Rural Society in Vietnam* [Berkeley: University of California Press, 1979]. Popkin's work contains a valuable generalized discussion of peasants as "rational problem solvers." See also the essay by Sheilagh Ogilvie, "Toward a Critical Classical Liberal History," *Humane Studies Review* [4] No. 2, Spring 1987.)

African peasants have traditionally been derided as "backward," unworthy of serious study except by anthropologists with interests in primitive societies. This denigration of African traditions has produced feelings of inferiority among African elites. As the sociologist Stanislav Andreski (*The African Predicament: A Study in the Pathology of Modernization* [New York: Atherton Press, 1969]) writes, this "leads the rulers of Africa to give priority to obtrusive symbols of modernity—such as show hospitals, airports, big industrial projects, television stations, assembly halls—and to disregard more important but less conspicuous matters like fostering small work-shops. The economic planners would advocate for the importation of ruinously expensive tractors but not for introducing wheelbarrows and scythes, which would bring more palatable benefits." (p. 87) For a broad criticism of the established model of development economics, see P. T. Bauer's *Dissent on Development* (Cambridge, Mass.: Harvard University Press, 1971 and 1976).

In East Africa the peasants have a word for the ruling elites: wabenzi, *men of Mercedes Benz.*

While the traditional sector is almost universally denigrated, it is here that real and lasting solutions to Africa's problems are likely to be found. It is in this sector that the majority of the population lives. The peasants are the backbone of African economies; they are the producers of Africa's real wealth.

The production of large agricultural surpluses is the key to economic prosperity in Africa, and that means peasants should be allowed to produce for free markets. Precisely how these surpluses are generated, whether by "modern" or "primitive" techniques, is immaterial to a starving and destitute African population. It makes little difference to a starving person whether the fish on his plate was caught from a "primitive dug-out canoe" or from a "modern trawler" built in Norway. The real challenge for development in Africa is to turn to existing indigenous institutions, practices, customs, and techniques, including the despised "primitive dug-out canoe," to generate large surpluses and allow the peasants to lift themselves out of poverty.

Contrary to popular development myths, historians have established that free trade and free markets existed in Africa as far back as the tenth century, well before the continent was "discovered" by European explorers in the fifteenth century. The writings of the early travellers to Africa documented a dense and complex web of continental trade and interregional exchanges. Free trade made possible the growth of many African empires in earlier times, including Ghana, Mali, Songhai, and Bornu in West Africa, and Great Zimbabwe, Chokwe, and Nyamwezi in Central and East Africa. (For a discussion of these trading empires, see my essay, "The Lessons of Africa's Market Tradition," *Economic Affairs* [7] No. 1, October/November 1986.)

Economic anthropologists such as Polly Hill have shown how systems of credit and land ownership reflect a market system, rather than "primitive communism."

The West did not invent, overnight as it were, democracy, free markets, and money; these institutions emerged over a long period and—in various states of development—also existed in Africa before the coming of the Europeans. The view that free markets, free trade, democracy, and free speech were "introduced" by Western imperialism and colonialism has done great harm to Africa. After independence, African elites generally did everything they could to obliterate what were seen as legacies of colonialism, not realizing that they were destroying a large part of their own traditions.

Research into these traditions can take many forms, including actually living in African communities and seeing how their economic and social systems work. This is preferable to relying on inaccurate, incomplete, and misleading reports issued by government agencies.

Such investigations could deal with the political life of African peoples. For example, certain tribes, such as the Tiv and the Ibos of Nigeria, the Konkomba of Togoland, the Kru of Liberia, and the Tallensi of Ghana are remarkable for their strong traditions of individualism. They may offer especially interesting case studies. (See, for example, A. Boahen and J. B. Webster's *History of West Africa* [New York: Praeger Press, 1967] and *African Kingships in Perspective: Political Change and Modernization in Monarchical Settings*, Rene Lemarchand, ed. [London: Frank Cass and Company, 1977].)

The economic systems of Africa also are illuminated through such field research. Economic anthropologists such as Polly Hill have shown how systems of credit and land ownership reflect a market system, rather than "primitive communism." (See her two excellent works, *Rural Capitalism in West Africa* [Cambridge: Cambridge University Press, 1970] and *Development Economics on Trial* [Cambridge: Cambridge University Press, 1986].)

Historical Approaches

A historical approach may also yield fruitful lessons. There were ancient civilizations and great empires in Africa. Many newly independent African states assumed the names of some of these empires; Ghana, Zimbabwe, and Burkina Faso are examples. The rise and fall of some of these empires provide interesting historical insights. For example, the empire of Dahomey was the most centrally controlled state in West Africa in the nineteenth century. Agricultural production was centrally planned by the state; all palm trees in the kingdom were counted and a constant check kept on their annual yield; taxation was about one-third of the total production; prices were fixed by royal decree. Dahomey collapsed under the weight of its own regulations. (See Boahen and Webster's *History of West Africa*.)

The literature on past African civilizations is extensive. Among the works worth consulting are Basil Davidson's *The Lost Cities of Africa* (Boston: Little Brown & Co., 1959) and *A History of West Africa* (New York: Anchor, 1966), J. D. Fage's *An Introduction to the History of West Africa* (Cambridge: Cambridge University Press, 1962), Jacques Marquet's and Joan Rayfield's *Civilizations of West Africa* (Oxford: Oxford University Press, 1972), and Carter G. Woodson's *The African Background Outlined* (New York: Negro Universities Press, 1968).

There are over two thousand tribes, or nations, in Africa. There is, therefore, an opportunity to search for commonalities among African political systems. For example, most tribal governments have a council of elders, which is much like a cabinet. The council typically consists of the heads of various extended families, or clans. In most tribal societies, this council has greater effective powers than the chiefs and can instigate removal of the chief if he flouts popular desire. The structure of such traditional political systems and their reliance on the consent of the governed deserves attention from students of African politics.

Two caveats should be noted at this point. First, much of the work of African scholars has tended to dwell on colonialism, racism, slavery, nationalism, and liberation. While these are indeed important topics, they have often obscured the equally (if not more) important understanding of the functioning of African societies outside of the experience of colonialism. Second, while bloody intertribal feuds have occupied much of the attention of historians of Africa, less attention has been paid to intratribal peace and cooperation, to the freedoms and rights tribespeople enjoyed within their own tribes. This was one of the reasons many Africans bore "tribal marks"—to distinguish members of one tribe from another, not only for protective reasons but also for the enjoyment of certain customary rights and freedoms. Just as the history of European societies is not exhausted by a history of Europe's many bloody wars, neither is the history of Africa exhausted by a history of intertribal warfare.

In the study of economic institutions, it needs to be stressed that Africa's traditions of free trade and free markets stretch back for centuries. Works that should be consulted by the student of African trade include P. T. Bauer's *West African Trade* (New York: Kelley, 1967), Peter Garlick's *African Traders and Economic Development* (Oxford: Clarendon Press, 1972), Claude Meillasoux's *The Development of Indigenous Trade and Markets in West Africa* (Oxford: Oxford University Press, 1971), and Peter Wickins's *An Economic History of Africa* (Oxford: Oxford University Press, 1981).

The works by economic anthropologist Polly Hill cited above, *Rural Capitalism in Africa* and *Development Economics on Trial*, also should be read. Hill is perhaps the

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African Peasants (continued from page 7)

most notable economic anthropologist to have done work in this area; Africa needs more Polly Hills to study indigenous modes of saving and systems of credit, investment, land tenure, and marketing and economic organization. Her work refutes many myths, including the myth of "communal land ownership" posing an obstacle to agricultural development. In fact, in many parts of Africa communal ownership poses little problem since usufructuary rights (the rights to use others' property) can be exerted and enforced. While the lack of animal manure in many areas (due to the presence of the tse-tse fly) has led to different patterns of land ownership, this has not stopped markets in land from developing and contracts of lease and sale from being enforced in native courts.

Indigenous forms of economic organization often escape the attention of observers. This is especially so because they are not reported in governmental statistics; they are sometimes illegal and almost always despised as "backward and primitive."[3] In Ghana, cocoa farmers adapted the extended family system into a unique economic scheme called the *abusa*. Under *abusa* the net proceeds from the cash crop were divided into thirds, with one third going to the hired laborers and caretakers, one third going to the owner of the farm and one third set aside for capital expenditures. This system also permeated many other aspects of commerce in traditional Africa; native fishermen along the West African coast, for example, used a similar scheme. Under the rival but less common *abunu* scheme, net proceeds were divided in two, one part going to the workers and the other to the farm owner.

Another indigenous system is *susu*, a self-help communal saving-scheme that was popular during the colonial era. Participation was open, and each participant contributed a certain fixed amount into a fund, or "pot." When the funds reached a certain amount, members took turns collecting it.

In essence, susu *was simply a form of savings that did not show up in national income accounting, thus giving the erroneous impression that peasants did not save. Of course, were the "primitive"* susu *system introduced to America it would be called a* credit union.

For many migrants to the urban areas, *susu* was their primary source of capital. They lacked the collateral to borrow from the colonial banks and were too far removed from the rural areas to draw funds from their extended families.[4]

It was quite easy for early writers to mistake *susu* for an extension of the all-pervasive family obligations and to derogate the system as "primitive communism." But, in essence, *susu* was simply a form of savings that did not show up in national income accounting, thus giving the erroneous impression that peasants did not save. Of course, were the "primitive" *susu* system introduced to America it would be called a *credit union*.

Many other similar schemes are to be found across Africa. The "family pot" system (such as that of the Ewe seine fishermen of Ghana and Togoland, known as *agbadoho*) is typically managed by the head of the extended family for its general welfare. Besides loans to family members to operate businesses or to finance education, funds were also used to pay for funerals, maintain the family house, pay medical expenses, or invest in business enterprises. Contributions to the family pot, contrary to popular belief among foreign observers, were voluntary, not obligatory. Of course, a family member's failure to contribute extinguished his access to the funds.

The exploration of these topics will help us to understand the real lives of African people, as well as to deepen our appreciation for the creativity, entrepreneurship, and abilities of human beings, who adapt themselves to their circumstances rather than to the dictates of intellectual elites. The sources cited above should provide a useful introduction to a great research program, one that will provide opportunities for students in economics, anthropology, sociology, history, political science, and many related disciplines.

Notes

[1]David Lamb, *The Africans* (New York: Vintage Books, 1983), p. 20.

[2]Local staples must often be sold at government-dictated prices (in order to subsidize urban elites). In Ghana, when peasant traders refused to sell at below-market prices, markets were dynamited and destroyed by the Air Force and detachments of the Police Striking Force. This drove up prices of locally produced foodstuffs by more than 600 percent between January 1982 and April 1983, leading the state to set up Price Control Tribunals to hand down stringent penalties. See, for example, the report in the *Ghanaian Times* of June 12, 1982: "The Brong-Ahafo Tribunal imposed a $8,000 fine on Grace Lamiere, a popular baker in Sunyani, for buying a bag of flour above the controlled price." (p. 8) The February 18, 1983, issue of *West Africa* reports that "An Accra trader, Umaro Shaibu, was jailed for 4 years by the Price Control Tribunal in Accra for selling a bottle of 'Sprite' for $2.50 instead of $1.00." (p. 576) For a general discussion of the dynamics of interventionism, see Ludwig von Mises's essay "Middle of the Road Policy Leads to Socialism" in his collection of essays *Planning for Freedom* (South Holland, Ill.: Libertarian Press, 1980).

[3]See, for example, "Informal Capitalism Grows in Cameroon," *New York Times*, November 30, 1987, on the omnipresence of "tontines," or informal savings and credit systems. Attitudes among some economists are changing, as the article notes: "For years development economists saw Africans' tontines as archaic tribal institutions that would die out with the rise of modern economies based on European-style banking systems. But now many economists see the tontines as a highly efficient method of promoting grass-roots efforts in capitalism."

[4]This is not much different from the "Dividing Societies" used by British industrial workers to accumulate savings and provide for medical needs in the late nineteenth and early twentieth centuries. So much for the charge of primitivism. See David Green's *Working Class Patients and the Medical Establishment: Self-Help in Britain from the Mid-Nineteenth Century to 1948* (New York: St. Martin's Press, 1985).

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Book Review

Policy and Principles in the Age of Jefferson *by David N. Mayer*

A Review of John R. Nelson, Jr., *Liberty and Property: Political Economy and Policymaking in the New Nation, 1789-1812* (Baltimore: Johns Hopkins University Press, 1987)

A bromide in the recent historiography of early America is that the Jeffersonian Republicans had a poorer grasp of the developing commercial, capitalistic America than did the Hamiltonian Federalists. Historians have all too frequently viewed Treasury Secretary Alexander Hamilton's economic program of the early 1790s as a harbinger of modernity, and the opposition by Thomas Jefferson, James Madison, and others as activated by a "politics of nostalgia," which feared economic change as "corruption" and sought to preserve a static, agrarian society of "virtuous yeomen." Thus according to this view, the political-party struggle in America of the 1790s and early 1800s was merely a replay of the party struggles of early eighteenth-century England between a commercial "Court" party led by the prime minister, Walpole, and its agrarian "Country" opposition, led by Bolingbroke. (See, for example, Lance Banning's *The Jeffersonian Persuasion* [Ithaca, N.Y.: Cornell University Press, 1978] and Drew McCoy's *The Elusive Republic: Political Economy in Jeffersonian America* [Chapel Hill: University of North Carolina Press, 1980]. An extreme statement of the "Country" interpretation may be found in Forrest McDonald's *The Presidency of Thomas Jefferson* [Lawrence, Kansas: University Press of Kansas, 1976], where the author asserts [p. ix] that "very nearly everything in Jeffersonian Republicanism was to be found in Bolingbroke.")

But the identification of Hamilton with Walpole and capitalism, on the one hand, and of Jefferson with Bolingbroke and classical republicanism, on the other, has not gone unchallenged. Foremost among the critics of this "civic-humanist" interpretation of Jeffersonian Republicans has been Joyce Appleby, who has attempted to show that they were in fact "modern." Indeed, in her most recent work she has endeavored to turn the tables on revisionist orthodoxy by arguing that "the principle of hope," a forward-looking confidence in commercial prosperity through an expanding free market economy, was the essence of Jeffersonian Republicanism and of its challenge to the classical republicanism of the Federalists (Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s* [New York: NYU Press, 1984]).

Appleby's direct challenge to the civic-humanist interpretation has transformed contemporary American historiography essentially into a debate over the significance of the two vastly different, and apparently opposed, traditions of civic humanism and liberalism. (For a more complete bibliography and a more detailed analysis of the debate, see Richard Vernier's review essay "Interpreting the American Republic: Civic Humanism vs. Liberalism," *Humane Studies Review* [4] No. 3, Summer 1987.)

John Nelson's *Liberty and Property* is a fresh contribution to this debate. As Appleby has challenged the portrait painted by Lance Banning and others of the clash of political ideologies, Nelson challenges Drew McCoy's view of the divergent political economies of the Hamiltonian Federalists and Jeffersonian Republicans. Refining the classical republican interpretation, McCoy has argued that while Hamilton unreservedly embraced modernity, seeking to use governmental power to push the United States toward higher stages of economic development, the Jeffersonian Republicans struggled with a political economy wracked by internal contradictions. Seeking to reconcile classical republicanism with more modern social realities and American conditions, the Republicans, argued McCoy, hit on a peculiar solution: "a vision of expansion across space—the American continent—as a necessary alternative to the development through time that was generally thought to bring with it both political corruption and social decay" (McCoy, *The Elusive Republic*, pp. 9-10).

McCoy's study of divergent political economies in Jeffersonian America thus neatly meshed with the "Court-Country" interpretation. Madison and Jefferson, as McCoy described them, envisioned the United States as remaining a nation of industrious farmers who marketed their surplus abroad and in return imported finer manufactures, relying on household industry to produce domestically only the coarser manufactures that could not be bought abroad without producing a dangerously unfavorable balance of trade. Hamilton, on the other hand, "had succeeded in discarding

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the traditional republican heritage" and envisioned America not as a virtuous agrarian republic but as a powerful, economically advanced modern state, much like Great Britain. His program for modernizing America through a national bank and government subsidies for manufactures raised "the specter of Walpole" in the minds of the Jeffersonian Republicans. This was so, argued McCoy, because of their fundamentally different ideological perspectives: "what

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Hamilton applauded as positive growth and development, Madison shunned as corruption and decay" (McCoy, pp. 133, 155).

Nelson's major thesis—a virtual counterpoint to McCoy's—is that the Jeffersonian Republicans (in particular, the "triumvirate" of Albert Gallatin, James Madison, and Thomas Jefferson) were the true advocates of comprehensive economic development, including manufacturing, in America. Their opposition to Hamilton's programs, Nelson argues, was "rooted not in vague philosophical notions but in a hardheaded analysis of the destructive effects his actions had on the economy and the political cohesion of the union." The Republicans did not oppose federal power or commercial enterprise per se; rather, they opposed Hamilton's use of the coercive powers and the patronage of the national government "to create government of a faction, by a faction, for a faction," referring to the handful of powerful merchants on whom Hamilton sought to rely to insure stability for the new government. The Republican triumvirate—and especially Gallatin—sought instead to nourish the national

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market system so as to generate economic prosperity, political unity, and social stability, which, according to Nelson, are the three "essential attributes of a powerful and independent nation" (pp. xiv, 77).

Nelson's study is most effective in comparing the actual effects of Hamilton's and the Republicans' policies on the development of manufacturing. The distinction between Hamilton's policy of "giving a free course to Trade" to preserve his fiscal system and the Republican triumvirate's policy of using the powers of the national government to effectuate and protect "free markets" for American goods is important. Although both policies involved the use of federal powers, only the latter truly promoted the national market system and, with it, domestic manufacturing.

Hamilton's chief goal was to enlarge the power of the federal government by creating a mutual dependence between it and certain propertied men; his instrument for doing this was the national debt spawned by the newly created Bank of the United States. In practice this fiscal program dictated Hamilton's foreign policy. Funding an accumulating national debt through tariff revenues meant acquiescence in foreign, chiefly British, restrictions on American trade. To impose protective tariffs and discriminatory tonnage duties against Britain—as Madison and Jefferson proposed in 1793-94—would be disastrous to Hamilton's program because that program depended on British imports for revenue and on American merchants engaged in the British trade for political support. Thus the necessity of keeping America tied commercially to Britain required Hamilton to embrace a policy of "giving a free course to Trade."

In contrast, Jefferson's foreign policy was twofold: commercial discrimination to free foreign markets from restrictions on American trade and development of domestic industry to attain independence from closed markets. "It is of monumental importance," observes Nelson, "to recognize that Jefferson's foreign policy mandated the development of domestic manufactures and that Hamilton's did not. ... As Merrill Peterson observes, 'Ironically, the factories and workshops [Jefferson] had preferred to keep in Europe would the more likely result from his commercial system than from Hamilton's fiscal system'"(p. 69).[1]

During his presidency, Jefferson followed essentially the same foreign economic policy that he had urged as Secretary of State; what changed, particularly by his second term, was not the policy but rather the international situation, which determined which side of the policy he would emphasize. As war between Britain and Napoleonic France intensified, and with both sides imposing ever more severe restrictions on American trade, Jefferson's efforts to play one side off against the other through threats of commercial discrimination failed. Unable to protect American access to foreign markets, Jefferson ultimately chose the harsh policy of the Embargo, interdicting all foreign trade, as the alternative to war. Although the nonimportation and embargo policies of Jefferson's administration sought primarily to remove foreign encumbrances on American commerce and not to stimulate certain domestic manufactures as an end in itself, they did result in an increase in the number of factories and workshops. As Nelson notes, for example, in New England, the number of cotton mills grew from four in 1804 to eighty-seven in 1809 (p. 168).

Against the background of these differing policies, Nelson reexamines Hamilton's *Report on Manufactures*, which was submitted to Congress in December 1791. Noting that the recommendations contained in Hamilton's report were far more limited in scope than those proposed in the draft prepared by his assistant, Tench Coxe—who was an avid proponent of domestic industry—Nelson concludes that while Hamilton recognized the utility of some American manufacturing, he gave it a low priority in the context of his efforts to establish his fiscal program.[2] "If the acid test of support for America's economic independence was support for domestic manufacturing, Madison and Jefferson stood firm for protective tariffs and nonimportation; Hamilton vacillated according to the needs of his fiscal system," Nelson argues. "In the end it was not he but they who affirmed manufacturing because it came to be an essential condition of independence" (p. 73).

One of the many other valuable contributions of Nelson's book is its explanation of the "economic origins" of the Republican coalition. Support for the Republican opposition to Hamilton's programs was not distinctly"agrarian"; the Republican party encompassed a broadly based coalition that cut across occupational, as well as geographic, lines, including merchants and manufacturers along with yeoman farmers. Nelson's study demonstrates that it was the Jeffersonian Republican economic policy, with its emphasis on the national market system, that was the key to the Republican

Real differences in political thought and constitutionalism motivated the Republican opposition to Hamilton's program in the 1790s and defined the Republican "revolution of 1800," which brought the Jeffersonians to power.

party's political success. The alternative that the Republicans offered to Hamilton's policy of force and patronage was the market system itself; the national market, Nelson persuasively argues, served as a unifying agent—the key not only to prosperity and social stability, but also to the political support of the diverse constituencies that comprised the Republican coalition.

The widely accepted notion that Hamilton was an "economic nationalist" and that the Jeffersonian Republicans, once in power, became "Federalist" in their policies by embracing nationalism is simplistic and misleading, as Nelson persuasively argues. Hamilton's nationalism "extended only to formation of a central government; otherwise, he sought commercial alliance with Britain, which effectively precluded economic independence.... Hamilton's policies would have maintained an agrarian America, though under the control of a merchant faction,while the policy proposals of Jefferson, Madison, and Gallatin in the early 1790s would have advanced economic independence through expanded foreign markets and some degree of industrialization" (p. 165).[3]

The book is also valuable because it helps to explain more fully the transition from Jeffersonian Republicanism to the political party system of later decades, the rivalry between the Jacksonian Democrats and the National Republicans, or Whigs. During the period following the Jefferson and Madison administrations—the so-called "Era of Good Feelings," when the Federalist party was dead at the national level—a real division lurked beneath the superficial unity of the Republican party. On the one hand were the "Old Republicans," committed to Jeffersonian principles of federalism and the distrust of governmental power, many of whom found appealing the egalitarian, laissez-faire policies of Jacksonian Democracy. On the other hand were those Republicans, like John Quincy Adams, whose economic nationalism prefigured that of the Whigs—particularly, the "American System" of tariffs, internal improvements, and central banking that Henry Clay would begin to advocate in the 1820s. Nelson's book, more clearly than most studies of the Jeffersonian period, shows the link between the policy of economic nationalism and the principles of Jeffersonian Republicanism.

In particular, Gallatin's *Report on Manufactures* in April 1810 anticipated the American System in advocating direct loans to manufacturers, protective tariffs, and a federally constructed national transportation network. Nelson astutely points to Gallatin's affinity for finance, commerce, and manufactures as important in easing his party's transition "from a political-economic program chiefly based on development of agricultural resources and unrestricted international markets to one promoting federal aid for internal improvements, manufactures, and banking." A common denominator of the program of commercial discrimination proposed by Madison and Jefferson in the 1790s and the program proposed by Gallatin in 1810, Nelson adds, was the idea that it was the purpose of government to facilitate commerce (p. 116).

But despite its important contributions to the scholarship of Jeffersonian America, Nelson's *Liberty and Property* is flawed. Indeed, it is ironic that from one of Nelson's major strengths—the identification and elaboration of the Republicans' national economic policy—comes a basic weakness in his analysis: an inadequately sophisticated treatment of the ideological dimensions of Jeffersonian Republicanism.

The differences between Hamilton and the Republicans that Nelson describes are differences in policy, not ideology. He asserts that both parties "agreed on property, contract, the ultimate ends and origins of political society, and some form of republican government." He also writes that the Republicans "consistently shied away from exerting strong pressure on Congress for economic development or straying too far from constitutional strictures" not because of genuine political or constitutional scruples, but simply because they sought "to distance themselves politically" from Hamiltonian policies (pp. 165-66). Surely these assertions are overstated, if not simply wrong.

Real differences in political thought and constitutionalism motivated the Republican opposition to Hamilton's program in the 1790s and defined the Republican "revolution of 1800," which brought the Jeffersonians to power. Nelson comes close to conceding this when he quotes Madison: "The distinction [between the parties] has its origin in the confidence of the [Republican Party], in the capacity of mankind for self Govt. and a distrust of it by the other [party] or by its leaders" (p. 165).[4] Jefferson expressed a similar idea when he explained to one correspondent, early in his presidency, the vision that would guide his administration:

> Our people in a body are wise, because they are under the unrestrained and unperverted operation of their own understandings. Those whom they have assigned to the direction of their affairs, have stood with a pretty even front. If any one of them was withdrawn, many others entirely equal, have been ready to fill his place with as good abilities. A nation, composed of such materials, and free in all it's [sic] members from distressing wants, furnishes hopeful implements for the interesting experiment of self-govern-

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Crosscurrents

Summer Seminars on Liberty & Society

The Institute for Humane Studies will sponsor two interdisciplinary seminars for students in 1988. The seminars, intended for undergraduate and graduate students, provide a thoroughgoing introduction to the foundations of classical liberal thought. The seminars include lectures and readings in law, philosophy, economics, and history. The core of the program, however, is the intensive student discussion groups, where the participants critically discuss the lectures and readings for the day. Complete information and application rules are contained in the announcement on the back page of this issue of *Humane Studies Review*. (The announcement contains a description of the required letter of application; *no special form is needed* to apply.) Students who have not already attended are encouraged to apply; previous graduates, faculty, and other friends of the Institute are urged to share the information with students who they believe might benefit from participation and to send the names and addresses of potential applicants to the Institute. Recommendations of candidates should be sent to Tom G. Palmer, Editor, *Humane Studies Review*, Institute for Humane Studies, George Mason University, 4400 University Drive, Fairfax, VA 22030. Letters inviting candidates to apply will be sent on receipt of the recommendations.◆

Anti-Federalism and the Constitutional Ratification Debates

As we enter the bicentennial period of the ratification debates of the United States Constitution, new scholarship is being focused on the issues that separated Federalists and Antifederalists. The single issue of support for or opposition to the new Constitution has divided the two camps, but a closer examination of the underlying issues reveals a more complex struggle, with very different concerns represented on each side of the issue of Constitutional ratification. While some Antifederalists were fearful of the consequences for liberty of a strengthened national state, including George Mason, Patrick Henry, and Richard Henry Lee, other Antifederalists were more concerned with federal restrictions on the power of the states to inflate the currency or to restrict trade. And similarly for the Federalists: while Alexander Hamilton sought expanded powers for the national state, James Madison saw the new Constitution as a means of checking the power of majorities to seize state power and diminish the liberties of minorities. All of these various factions contributed to the new constitutional order of the Republic, the Antifederalists most clearly through their insistence on a federal Bill of Rights.

Two new collections of essays by noted historians help to shed light on this complex debate. *Beyond Confederation: Origins of the Constitution and American National Identity* (Chapel Hill: University of North Carolina Press, 1987), ed. by Richard Beeman, Stephen Botein, and Edward C. Carter, III, contains two especially interesting essays. Ralph Lerner in his contribution questions the basis of the Classical Republican/Civic Humanist interpretation of the ideology of the Founding period (see the discussion of this issue in Richard Vernier's "Interpreting the American Republic: Civic Humanism vs. Liberalism," *Humane Studies Review* [4] No. 3, Summer 1987). Gordon Wood argues that the Antifederalists, in pursuing special interests through the legislatures, were more "modern" than the Federalists, who sought a republic of virtue through a system of checks and balances. *The Constitution and American Life*, a special issue of the *Journal of American History* ([74] 3, December 1987), also addresses these issues. Among the most interesting articles are Joyce Appleby's "The American Heritage: The Heirs and the Disinherited" and Thomas L. Haskell's "The Curious Persistence of Rights Talk in the 'Age of Interpretation.'"

The bicentennial of the period that concluded with ratification of the American Constitution and passage of the Bill of Rights provides the opportunity for students to explore the philosophical and political concerns that motivated the historical players. Not only students of history, but also political scientists, philosophers, sociologists, and legal scholars can take advantage of opportunities for research and writing on these issues.◆

New Work on Hayek's Thought

A sign of the growth of interest in the ideas of the classical liberal thinker F. A. Hayek has been the increasing number of studies of his thought. Barbara Rowland's *Ordered Liberty and the Constitutional Framework: The Political Thought of Friedrich A. Hayek* (Westport, Ct.: Greenwood Press, 1987) builds on previous discussions of Hayek, such as Norman Barry's *Hayek's Social and Economic Philosophy* (London: Macmillan, 1979) and John Gray's *Hayek on Liberty* (Oxford: Blackwell, 1984), rather than starting *de novo*. She relates problems and issues in Hayek's thought to those in other streams of political thought, for example, in Michael Sandel's *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982) and Alasdair MacIntyre's *After Virtue* (Notre Dame, Indiana: University of Notre Dame Press, 1984). This feature makes her study particularly useful to those wishing to relate work in the classical liberal tradition to other recent work in moral or political philosophy. While appreciative of Hayek's accomplishments, Rowland is also critical, arguing that problems in Hayek's thought are rooted in defects in his conception of the self. This work should prove especially useful to students of moral and political philosophy and related disciplines.◆

Origins of Individualism

This year marks the tenth anniversary of the beginning of a most intriguing and controversial scholarly drama. Almost simultaneously, a book and an article summarizing it were published. What sparked the controversy and what keeps the dispute burning is the author's contention that in England there was no clear cut transition from feudal-peasant society to industrial-capitalist nation, from nonmarket communalism to market-oriented rationality. If accepted, this would overturn the conventional wisdom built up over the past 150 years by no less than Macaulay, Marx, Tönnies, Tawney, Weber, and others.

The book, *The Origins of English Individualism* (Oxford: Basil Blackwell, 1978), by Alan Macfarlane, a Fellow at King's College, Cambridge, and a Reader in Historical Anthropology at Cambridge University, was conveniently summarized in an article entitled, "The Origins of English Individualism: Some Surprises" (*Theory and Society*, September, 1978). Macfarlane's research had truly led to some surprising results.

Macfarlane holds doctorates in both anthropology and history. Until the early 1970s he was a distinguished, if somewhat middle-of-the-road, scholar. He held to all of the things accepted as verities about England's feudal order: that the extended family, not the individual, was the basic unit of society; that land was owned communally, never by individuals; that for these reasons property was not transferable outside the family; that movement from one locale to another (labor mobility) was unusual; that wage labor also was, at best, rare; that women had no or few property rights; that the cash nexus was virtually nonexistent among country folk, and so forth.

Macfarlane's research into archives other than manorial records, which did not record as much in the way of individual relationships, either legal or ecclesiastical, revealed the possibility of an altogether different scenario. This scenario was so different that, for Macfarlane, the findings served as a cultural and intellectual shock of the first order. In his careful analysis of parish registers, wills, diaries, listings, and other such records, Macfarlane discovered a world that another British historian discussed in another context as one being "turned upside down." Macfarlane found that every single canonical belief listed above was either vastly overstated or, in most cases, simply wrong. In short, he showed that the English peasantry, "one of the most thoroughly investigated peasantries in history turns out to be not a peasantry at all."

It is notable that Macfarlane showed that the model of the peasant used by anthropologists and many historians was entirely inappropriate to understanding the English peasantry. This model was based on the East European "peasant," who was not a peasant at all, but a serf, and who lived under constraints different from those of the English peasant.

Macfarlane's argument was more than the orthodox British historians could take. Critical and generally unkind reviews appeared by the dozens in the major journals of thought and opinion. Citations for several of the most notable reviews (not all negative) follow: Rosamond Faith (*Journal of Peasant Studies*, April 1980, pp. 384-389); Mark Goldie, "Old Whiggery, New Battle: Macfarlane's English Individualism" (*Cambridge Review*, 1978, pp. 111-114); R. M. Hartwell, "Freedom and Freeholders" (*Inquiry Magazine*, March 17, 1980, pp. 25-27); David Herlihy (*Journal of Family History*, Summer 1980, pp. 235-236); Donald N. McCloskey (*Journal of Political Economy*, August 1981, pp. 839-840); J.G.A. Pocock (*History and Theory*, 1980, pp. 100-105); Alan Ryan, "Yeomen, Not Peasants" (*The Listener*, December 14, 1978, pp. 790-791); and Lawrence Stone, "Goodbye to Nearly All That" (*New York Review of Books*, April 19, 1979, pp. 40-41).

Seemingly undeterred by the reaction of the critics, Macfarlane continued researching, writing, and publishing his findings. His publications on this and closely related topics over the past ten years add up to an extremely impressive *oeuvre*. Besides *The Origins of English Individualism*, his key publications are *The Justice and the Mare's Ale* (Cambridge: Cambridge University Press, 1981); *A Guide to English Historical Records* (Cambridge: Cambridge University Press, 1983); *Marriage and Love in England: Modes of Reproduction, 1300-1840* (Oxford: Basil Blackwell, 1986); and *The Culture of Capitalism* (Oxford: Basil Blackwell, 1987).

The reception to *Marriage and Love* was, if anything, even less hospitable than to the earlier *The Origins of English Individualism*; see especially the acrimonious review by Lawrence Stone, "Illusions of a Changeless Family" (*The Times Literary Supplement*, May 16, 1986).

Macfarlane has restored classical liberal themes in historiography. In *The Culture of Capitalism*, Macfarlane's most recent restatement of his thesis and rejoinder to his critics, he reexamines the accounts of nineteenth century legal historians such as Sir Frederick Pollock and Frederic William Maitland's *The History of English Law* (1898; Cambridge: Cambridge University Press, 1968), showing what legal history can tell us about economic and social history. His work represents a restoration of the flowering of the classical liberal historiography that followed World War II, as represented by such scholars as R. R. Palmer, John Hexter, and Peter Gay.

The thesis advanced in *The Origins of English Individualism* seems to have been strengthened in *The Culture of Capitalism* by his having responded to key criticisms. Nevertheless, there remain literally dozens and dozens of research topics for dissertations and articles yet to be written—for example, the development of specific markets and institutions not only during the Middle Ages but centuries before the Black Death, as far back as at least the ninth and tenth centuries, and the specific origins of the Industrial Revolution, if in fact it can any longer even be considered a revolution in the normal historical sense of the term. There are many more. One is alluded to slightly in *The Culture of Capitalism*. Whereas in *The Origins of English Individualism*, Macfarlane seemed to be making the case that the English were *sui generis* in their institutions and culture, and therefore came to the "Industrial Revolution" first, in *The Culture of Capitalism* he seems to open his thesis to include Western Europe. We know that the condition of the English "peasantry" was anything but the communalistic serfdom that reigned (was imposed) in Eastern Europe, but what about the Low Countries? Was France really the same as Russia? To gain further insight into the early development of the legal institutions of capitalism throughout Europe by the eleventh and twelfth centuries, one will want to consult Harold J. Berman's extraordinary work *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Mass.: Harvard University Press, 1983).

The range of investigation and research can be broadened further. Is Western Europe all that different from the rest of the world? Consider the case of Southeast Asia. Samuel L. Popkin, in his *The Rational Peasant: The Political Economy of Rural Society in Vietnam* (Berkeley: University of California Press, 1979), demonstrates that the "peasant" in Vietnam appears to act very much like Macfarlane's market-oriented British yeoman. Or consider Africa. Noted anthropologist Polly Hill, in her *Development Economics on Trial* (Cambridge: Cambridge University Press, 1986), tells almost the same story about "peasants" in West Africa as Popkin and Macfarlane in their studies.

Alan Macfarlane's work is as important in its implications as any going on anywhere in the world. Will liberal scholars follow where this iconoclast has led?◆

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Crosscurrents (continued from page 13)

History, Rights, and Moral Community

Many recent debates on moral, legal, and political philosophy have revolved around the question of whether there can be a universally valid set of moral rules. Claims on behalf of a rational and coherent foundation for morality that is valid for all rational agents are disputed in many quarters. "Communitarianism"—the idea that moral values are meaningful only within particular communities and that such communities provide the only bases for moral claims—has emerged as a powerful challenge to liberalism. (For a general review of this debate, see the essay by Chandran Kukathas, "Liberalism and Its Critics," *Humane Studies Review* [4] No. 1, Winter 1986-1987.)

Liberal thinkers have responded that this view of morals is just a new kind of moral subjectivism, making communities instead of individuals the ultimate sources of validity in morals. The Stoic view that mankind is one community is replaced by a "communitarianism" for which moral values depend on *local* mores and traditions.

"Communitarianism," however, does not offer convincing answers to central questions in moral philosophy. How can we establish a community among different cultures and traditions? How is a dialogue about values possible among societies that do not share a common tradition? How are we to avoid infinite fragmentation of values and practices? Can we make sense of mankind as a community?

These questions are not new. They were raised when the European explorers and conquerors encountered radically different societies and cultures. What may today appear as an abstract debate was a matter of tremendous importance for the societies discovered and colonized by the Europeans. Two examples reveal the relevance of these questions to actual political practice: the Spanish subjugation of the Amerindians in the sixteenth century and the discovery of Australia by the British in the late eighteenth century. In both cases, moral and legal scholars attempted to comprehend the implications of this contact of cultures without collapsing into relativism. An examination of the arguments developed in those debates may help us to gain insights into problems in modern moral and political philosophy.

The crucial question posed by the Spanish discovery of America was whether the Amerindians had the same nature as Europeans, and therefore the same rights, or whether they were what Aristotle called "natural slaves." The historian Lewis Hanke has written insightful treatments of this debate. In *Aristotle and the American Indians* (1959; Bloomington: Indiana University Press, 1970) Hanke examined the influence of Aristotelian psychology on the conceptions that Europeans had of the Amerindians. In *The Spanish Struggle for Justice in the Conquest of America* (Boston: Little Brown, 1965) Hanke offers an account of the debates about the just treatment of the Amerindians sparked by the missionary Bartolome de las Casas. Hanke's *All Mankind is One: A Study of the Disputation between Bartolome de las Casas and Juan Gines de Sepulveda in 1550 on the Intellectual and Religious Capacity of the American Indians* (DeKalb: Northern Illinois University Press, 1974) presents a well-written digest of the main arguments in the debate.

Hanke's theme has been revisited by the historian Anthony Pagden in his book, *The Fall of Natural Man: The American Indian and the Origins of Comparative Ethnology* (Cambridge: Cambridge University Press, 1982). Pagden's principal interest is in how the debate about the rights of the Amerindians gave rise to modern comparative ethnology. Pagden discusses the writings of Francisco de Vitoria (the founder of the School of Salamanca), Bartolome de las Casas, and the explorer Jose Acosta. Pagden has restored the debate to its proper intellectual context and provided a very close analysis of the relevant texts. However, the author opens up a number of themes that, given his focus on the origins of ethnology, are barely developed. A less-explored but important theme is the political and legal thought of the School of Salamanca, especially their theories of justice and human rights.

When the question of "natural slavery" had been largely settled, other questions beset the European discoverers. When the British arrived at the Antipodes, the humanity of the Australian aboriginals was no longer at issue. Other questions, however, did not command universal agreement: did the aboriginals have property rights over the land on which they lived, or were they still in the "state of nature" and without just claims over land? In *The Law of the Land* (New York: Viking Penguin, 1987) historian Henry Reynolds tells the intellectual and political story of this question. Reynolds shows how the initial view that Australia was no man's land—*terra nullius*, as it is called in international law—was very rapidly replaced by the admission by legal and political authorities of the legitimacy of the claims to property of the aboriginals. Reynolds also shows how, despite the consensus about the legitimacy of the aboriginals' claims, particular interests prevented their recognition in practice.

Reynold's book opens a line of research on the question of original appropriation of land that modern discussions of property rights should take into account. He handles well the legal sources on which the discussion relied—Grotius, Vattel and Blackstone—and shows that they did not support the argument that Australia was *terra nullius*. As Reynolds shows, the traditions of International Law and of English Common Law give ample support to the property claims of the aboriginals. The material presented in *The Law of the Land* suggests that the legitimacy of property rights should not be settled behind a "veil of ignorance," without reference to the actual historical evolution of property. Students of moral and legal philosophy should find concrete historical examples, such as those offered by Hanke, Pagden, and Reynolds, helpful in complementing abstract reasoning about rights claims that transcend particular communities and embrace the entire community of mankind. Students of anthropology, sociology, political and social history, and related disciplines should find these texts useful in elaborating models of moral and political development.◆

Causation in the Law

The role of causation in law occupies a central place in classical liberal jurisprudence. Because of the role of agency in liberal jurisprudence (see, for example, *Law and Its Presuppositions: Actions, Agents and Rules*, by S. C. Coval and Joseph C. Smith [London: Routledge & Kegan Paul, 1986]), the issue of causation deserves careful examination by philosophers and legal and economic theorists working in the classical liberal tradition. Does omission of an act (e.g., failure to come to the aid of another party) cause the "result"? Should negligence or strict liability be the standards applied by judges in tort law? What role do rights have in the determination of legal causation? These and other questions are examined in the "Symposium on Causation in the Law of Torts" in the *Chicago-Kent Law Review* ([63] No. 3, 1987). The foreword by symposium editor Mario Rizzo establishes a number of issues, while contributions by Ernest Weinrib, Judith Jarvis Thompson, Mark Kelman, and Richard Epstein eludicate the relationship of legal causation to rights, strict liability, efficiency, and liberty. Copies of the issue are available for $10 from the *Chicago-Kent Law Review*, 77 South Wacker Drive, Chicago, IL 60606. Students of moral philosophy, law, and jurisprudence will find this volume most helpful in making the distinctions appropriate to addressing such complex issues as pollution ("toxic torts"), "good samaritan laws," and the foundations of legal rights.◆

Noninterventionism Surveyed

American noninterventionism is surveyed in a new bibliographical work by Justus Doenecke, *Anti-Interventionism: A Bibliographical Introduction to Isolationism and Pacifism from World War I to the Early Cold War* (New York: Garland Publishing, 1987). Doenecke offers a synoptic view of the scholarship on American noninterventionism, covering movements, issues, groups, and prominent figures, including writers like Albert Jay Nock, H. L. Mencken, and Felix Morley; political leaders like Herbert Hoover and Senators William E. Borah, Burton K. Wheeler, and Robert A. Taft; and public figures like Charles Lindberg and William Randolph Hearst. This book is a valuable guide to scholarship in this area and will prove useful to students of American political, military, and diplomatic history.◆

Evolutionary Theories of Society

One of the main themes of recent classical liberal scholarship has been the study of spontaneous orders, those ordered systems that result from human action but not from conscious overall design. This theory has been applied to such diverse social phenomena as language, money, the price system, and even the foundations of the social order itself. Two new essays develop and expand themes from F. A. Hayek's evolutionary theory of society and social rules. Gerard Radnitzky's essay "An Economic Theory of the Rise of Civilization and Its Policy Implications: Hayek's Theory Generalized" (*ORDO: Jahrbuch für die Ordnung von Wirtschaft und Gesellschaft*, Band 38, Stuttgart: Gustav Fischer Verlag, 1987) combines Hayek's account of spontaneous orders with Karl Popper's theory of scientific progress and with recent research in sociology and biology. Radnitzky's essay is wide-ranging and informative. (*ORDO* is published every year in Germany and includes both English and German articles, generally on themes of interest to classical liberals, with brief summaries in both languages. Subscription information is available from Gustav Fischer Verlag, Wollgrasweg 49, D-7000 Stuttgart 70, West Germany.)

Finnish economist Martti Vihanto has also written an essay, "The Evolutionary Theory of Rules and the Spontaneous Order" (Turku, Finland: The Turku School of Economics and Business Administration, September, 1987), that provides a Hayekian theory of the spontaneous emergence of rules of order, including law. Scholars interested in reading Vihanto's paper may write to him at the Turku School of Economics and Business Administration, Rehtorinpellonkatu 3, 20500 Turku, Finland.◆

Government Growth Studied

The growth of government in the twentieth century has proven one of the most serious and fruitful topics for research in political science, economic history, and related disciplines. One of the leaders in the revival of economic history in the United States, Robert Higgs, has produced a valuable overview of the various theories of government growth, carefully woven together with exacting historical scholarship. *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (Oxford: Oxford University Press, 1987) should be read by every serious student of American history and of political economy generally. The book is available for $24.95 from Laissez Faire Books, 532 Broadway, 7th Floor, New York, NY 10012 (add $1.00 for U.S. surface mail, $2.00 for United Parcel Post, and $2.50 for foreign surface mail). Orders may be made over the phone toll-free by calling 1-800-238-2200, extension 500. (When ordering be sure to state the special book code HS4597, and the Departmental code HS2R.)◆

Friendship and the Foundations of Community

On what is real community based? "Communitarian" critics of liberalism often charge that liberalism is based on "atomism" (see, for example, Charles Taylor's essay, "Atomism," in his *Philosophy and the Human Sciences: Philosophical Papers*, Vol. 2 [Cambridge: Cambridge University Press, 1985]) and argue that moral systems should be based on the needs of communities, rather than on the rights of individuals. But what is the foundation of community? Philosopher Stephen R. L. Clark has argued in a very provocative article, ("Slaves and Citizens," *Philosophy* [63] 1985), that true citizenship in a community rests on voluntarism, that "Freedom, of the kind which is denied in slave-societies, does not rest merely in the absence of external impediment (so that Robinson Crusoe was free before Friday), but in the form of social exchange and personal development that enables all to meet as friends." This theme of friendship, voluntarism, and the uniqueness of the individual is also explored in philosopher Neera Badhwar's essay, "Friends as Ends in Themselves" (*Philosophy and Phenomenological Research* [48] No. 1, September 1987). Like Clark, Badhwar orients much of her argument to Aristotle's discussion of friendship in Book VIII of the *Nicomachean Ethics*, and argues that true friendship (in the sense of "end friendship," or loving another as an end in himself or herself) needs "an analysis of the person or self in friendship that allows us to accomodate the idea that friendship love is dependent on the qualitative identity of the friend, yet not such as to persist independently of her qualitative identity."

Another approach to the question is found in David L. Norton's *Personal Destinies: A Philosophy of Ethical Individualism* (Princeton: Princeton University Press, 1976), in which he discusses community as a "complementarity of excellences." Loren Lomasky, in his *Persons, Rights, and the Moral Community* (Oxford: Oxford University Press, 1987), also lays a foundation for moral community in the recognition of individuality and the meshing of "personal projects." The interrelationships between friendship, individuality, community, and liberty offer a topic worthy of serious reflection by students of moral philosophy.◆

Policy and Principles (continued from page 11)

> ment; and we feel that we are acting under obligations not confined to the limits of our own society. It is impossible not to be sensible that we are acting for all mankind; that circumstances denied to others, but indulged to us, have imposed on us the duty of proving what is the degree of freedom and self-government in which a society may venture to leave it's [sic] individual members.

One would search in vain in the writings of Hamilton, or virtually any other Federalist leader, for so positive an expression of "the interesting experiment of self-government" as a governing principle.[5]

The Republican conception of "self-government" has implications ranging far beyond matters of economic policy; the concept suggests views of human nature, of social and political philosophy, and of law and constitutionalism that differed profoundly from those held by the Federalists, and particularly Hamilton. As just one example, one may consider Jefferson's famous description of the Hamiltonians as "an Anglican monarchical aristocratical party...whose avowed object is to draw over us the substance, as they have already done the forms, of the British government."[6] This description suggests that, to Jefferson's mind at least, the differences that divided him and Hamilton were not merely differences in economic policy. Jefferson's concerns over Hamilton's pro-British, pro-monarchist tendencies were not illusory; as Nelson notes, Hamilton never ceased believing that the Constitution was a "frail and worthless fabric" and that someday "it will probably be found expedient to go into the British form" (p. 28).[7]

Nelson's book, despite its frequent allusions to the "Republican triumvirate," is more effective as a study of the political economy of Albert Gallatin alone.

Had Nelson more fully taken into account the ideological differences between the Federalists and the Republicans, the result would have been a much more persuasive, if not definitive, study of Jeffersonian political economy. As the work stands, however, it must be read in conjunction not only with Drew McCoy's book but also with a broad array of scholarly literature on the political and ideological aspects of Republicanism, in order for the reader to fully understand what differentiated Jefferson, Madison, and Gallatin from Hamilton.

An additional serious problem with Nelson's study is that, in focusing wholly on policy, it tends to overlook, or at least to trivialize, important differences among Jefferson, Madison, and Gallatin. Nelson is quite aware that such differences existed; he notes, for example, Gallatin's observation in his "Autobiographic Sketch" of 1849 that on questions of constitutional construction, he was not "quite so orthodox" as his "Virginia friends" (p. 168). Jefferson may have acquiesced in the continued existence of the First Bank of the United States, but he never ceased disliking the Bank; in contrast, Madison joined Gallatin in supporting the recharter of the Bank after the War of 1812. Similarly, although Gallatin thought the approbation of Congress sufficient, both Madison and Jefferson held genuine constitutional scruples about internal-improvement legislation without an amendment to the Constitution expressly granting Congress such powers; Madison actually vetoed an internal improvements bill in 1816 because of this problem.

These differences are far more important than Nelson suggests; indeed, the split in the Republican triumvirate helps illustrate the nature of the intraparty schisms that first emerged during Jefferson's presidency and that ultimately gave way to the party divisions of the decades before the Civil War. Nelson's book, despite its frequent allusions to the "Republican triumvirate," is more effective as a study of the political economy of Albert Gallatin alone.

Other, less-important problems mar the book. Nelson's apparent lack of familiarity with several important recent works in the secondary literature makes his book seem dated in certain odd ways. For example, while he cites the recent studies of Joyce Appleby, whom he credits with "having gone far to restoring political economy and liberal republicanism to a central place in the founders' intellectual heritage" (note 15, p. 189), he ignores the substance of her work, particularly her emphasis on the influence of the French antimercantilist Destutt de Tracy on Jefferson's mature economic thought. Nelson also improperly cites (note 1, p. 198) Dumas Malone's standard multivolume biography, *Jefferson and His Time*, as a four-volume work completed in 1970, when it is actually a six-volume work completed in 1981. The objection is not trivial since Nelson should have been aware of Malone's sixth volume, *The Sage of Monticello*, which contains a chapter devoted to Jefferson's political economy. Finally, considering the plethora of books and articles devoted to the themes of classical republicanism, liberalism, and early American political ideology, Nelson's brief overviews of Anglo-American political and economic liberalism, centered respectively on David Hume and Adam Smith (pp. 2-7, 117-121), are embarrassingly simplistic.[8] The explanation for these problems, as for the more serious flaws in Nelson's book, again seems to be his focus exclusively on policy, disregarding ideology.

These problems should not detract from the real contributions that Nelson's book makes to the scholarship of America in the early national period. The importance of the contributions is underscored by the quagmire created for students by the artificial and misleading debate over civic humanism. Thankfully, recent scholarship has begun to move toward a far more sophisticated understanding of American politics and political thought during this critical period. *Liberty and Property* helps fill some important gaps in the existing scholarship and should inspire additional studies that would give Jeffersonian Republicanism its full credit.

At the very least, Nelson's book should help dissuade students of the early national period in American history from viewing the Federalist-Republican political party struggle in terms of capitalism versus agrarianism, or even civic humanism versus liberalism. The real issue that divided the parties in the 1790s more closely approximated the issue of, as Joyce Appleby has expressed it, "whether American growth should be controlled at the center through the manipulation of public credit or should move in response to the private bargaining of ordinary men."[9] The great challenge that faces students of American history is to show more fully how this debate over Hamilton's policies set the stage for the controversies that constituted the political drama of later generations.

Notes

[1] Nelson here cites Peterson's *Thomas Jefferson and the New Nation* (New York: Oxford University Press, 1970), pp. 514-15. Although, as Peterson notes (pp. 940-41), Jefferson never did quite overcome his preference for agriculture over manufacturing, the War of 1812 and his reading of Destutt de Tracy's treatise on political economy helped eventually to reconcile Jefferson to manufactures. See Noble Cunningham's *In Pursuit of Reason: The Life of Thomas Jefferson* (Baton Rouge, La.: LSU Press, 1987), pp. 328-29, and Joyce Appleby's "What is Still American in the Political Philosophy of Thomas Jefferson?" *William and Mary Quarterly* (April 1982).

[2] Summarizing the differences between Coxe's draft and Hamilton's final report, Nelson observes (pp. 46-47) the following: Hamilton rejected Coxe's proposals to abolish duties on coastal trade and to aid manufactures directly through government loans and land grants; he advocated bounties, which Coxe rejected as more appropriate to exports than to manufactures for domestic consumption; he declined to eliminate duties on raw materials if such duties contributed significantly to government revenues; he demurred from efforts to foster government construction of an internal transportation system; and he proposed tariff changes that were of little protective value and were primarily revenue measures.

[3] Nelson further notes that "[i]t was not the Republicans who became more 'Federalist' after 1800 but the Federalists who became more Republican under John Adams after 1796." This perceptive observation gives new significance to Manning J. Dauer's older study of the split in the Federalist party, *The Adams Federalists* (Baltimore: John Hopkins Press, 1953).

[4] Nelson cites Madison's letter to William Eustis of May 22, 1823.

[5] Jefferson to Dr. Joseph Priestley, June 19, 1802, in *The Writings of Thomas Jefferson*, Paul L. Ford, ed. (New York: G. P. Putnam's Sons, 1892-99, 10 vols.), vol 8, pp. 158-59.

[6] Jefferson to Phillip Mazzei, April 24, 1796, in*Writings*, Ford, ed., vol. 7, pp. 75-76.

[7] Nelson cites Hamilton's letter to Jefferson of August 13, 1791; the text quoted is actually from Jefferson's notes on a conversation he had with Hamilton on that date. See *The Papers of Thomas Jefferson*, Charles T. Cullen, ed., vol. 22 (Princeton: Princeton University Press, 1986), p. 38.

[8] Nelson does observe (note 1, pp. 187-88) that his sketch of Anglo-American liberalism, focused as it is on Hume, "is not intended to identify specific intellectual influences on particular founders," but he clearly views Hume as the archetypal exponent of the "liberal world view." Citing the work of William D. Grampp, Nelson similarly points to Smith as "embodiment and exemplar" of economic liberalism, distinguishing it from laissez faire (note 10, pp. 205-206). While Nelson himself may regard Hume and Smith as exemplars of the liberal tradition, it is far from clear that the thought of these two men should be regarded as appropriate models for the thought of Jeffersonian Republicans. Jefferson, in particular, had little regard for Hume and, later in life, expressed clear preferences for Jean-Baptiste Say and Destutt de Tracy over Smith.

[9] Appleby, "What is Still American," p. 308.

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Morality and Rights (continued from page 2)

Welfare (Oxford: Basil Blackwell, 1986), and in his essay "Labour, Property and the Morality of Markets," in B. L. Anderson and A.J.H. Latham, eds., *The Market in History* (London: Croom Helm, 1986). Sugden gives a game-theoretic treatment of the emergence of cooperation, drawing on Thomas Schelling's insight (*The Strategy of Conflict* [Cambridge, Mass.: Harvard University Press, 1960]) that "prominent" facts or features of situations can serve as nodes around which conventions can emerge spontaneously. One obvious and prominent fact is the fact of self-possession, which serves as a strong foundation for the emergence of cooperation in the real world, regardless of the demands of moral theorists. Sugden's account is less a moral defense of self-ownership than an account of how and why we have many of the moral conventions we do have.

Richard Epstein, in his much-discussed *Takings* (Cambridge, Mass.: Harvard University Press, 1985), offers a different justification of Lockean property theory; he is much more sympathetic to utilitarianism than are Nozick and Sugden. Rolf Sartorious's above-mentioned essay, "Persons and Property," offers a Lockean theory of property rights that is anti-utilitarian and that dispenses with Locke's rather shaky theory of economic value.

G. A. Cohen, a Marxist political theorist and professor at All Souls College, Oxford, has objected vigorously to the Lockean principle of property acquisition. He notes that no Lockean principle logically follows from the principle of self-ownership ("Self Ownership, World Ownership and Equality," Part II, *Social Philosophy and Policy* [3] Spring 1986, pp. 77-96). Further, it does not even follow from the self-ownership principle that property starts off in an unowned state. For all that self-ownership requires, property might from the beginning be collectively owned. If so, no room is left for Lockean acquisition of property, even granted the self-ownership principle.

But what if Cohen is right to reject the Lockean principle of property acquisition? The most plausible system of property ownership that remains consistent with self-ownership is that of equal distribution of property among all members of society.

We cannot enter into the details of Cohen's argument: this is after all a bibliographic survey, not a synopsis of liberal theory. Yet it is worth noting that most defenders of the view Cohen criticizes would enter a demurrer to Cohen's charge. They do not contend either that it is logically necessary that property be originally unowned or that this is deducible from the axiom of self-ownership. Instead, they consider the theory that resources are originally unowned self-evidently true.

But what if Cohen is right to reject the Lockean principle

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Morality and Rights (continued from page 17)

of property acquisition? The most plausible system of property ownership that remains consistent with self-ownership is that of equal distribution of property among all members of society. This system received the strong support of Herbert Spencer. (See, for example, his *Social Statics* [1851, reprinted, New York: Robert Schalkenbach Foundation].) Spencer's most mature statement of his political philosophy, *Principles of Ethics* (1892-1893, Indianapolis: Liberty Classics, 1978), does not in theory abandon the principle of equal liberty of everyone to use land. But in practice, Spencer held, individual land-ownership had for the nonce to be retained. This stance earned Spencer a sharp-tongued condemnation from the American single-tax advocate Henry George, in his book *A Perplexed Philosopher* (New York: Appleton, 1895). George charged Spencer with betrayal, quoting in the frontispiece to his book Browning's reproach to Wordsworth, "The Lost Leader": "Just for a handful of silver he left us, / Just for a riband to stick in his coat."

The Spencerian position on land ownership retains currency in some quarters in spite of its general unpopularity among liberals. Hillel Steiner, a political philosopher at the University of Manchester, has in an important series of papers defended a version of common land-ownership. Steiner remains unsure whether the preferred system ought to be a division of property resources into equal shares or an auction of property based on the assumption of original common ownership. From a nonlibertarian perspective, Steiner's views resemble the position favored by Ronald Dworkin, "What Is Equality?" (Pt. I, "Equality of Welfare," in *Philosophy and Public Affairs* [10] Summer 1981, pp. 185-246; Pt. II, "Equality of Resources" [10] Fall 1981, pp. 283-345). Steiner's position is readily available in his "The Natural Right to the Means of Production" (*Philosophical Quarterly* [27] January 1977, pp. 41-49) and "The Structure of a Set of Compossible Rights" (*Journal of Philosophy* [74] December 1977, pp. 767-775). The theory will be elaborated in Steiner's forthcoming *An Essay on Rights* (Oxford: Basil Blackwell). This promises to be a major contribution to political theory. It should be noted that Steiner's views appear immune to the criticism (John Roemer, "Equality of Talents," *Economics and Philosophy* [1] No. 2, October 1985, pp. 151-187) directed at Dworkin, namely, that his system of equality of resources collapses into utilitarianism. Steiner's position, unlike that of Dworkin, rests on a conceptual analysis of rights, not a striving toward equality of welfare. Dworkin's view would be severely damaged if Roemer's claim is true. Although he has not worked out a fully developed theory of rights, Dworkin thinks of them as nonutilitarian constraints that limit the operation of a system that is otherwise a variant of utilitarianism. Without rights, the entire basis of his position, presented in *Taking Rights Seriously* (Cambridge, Mass: Harvard University Press, 1978), *A Matter of Principle* (Cambridge, Mass: Harvard University Press, 1985) and *Law's Empire* (Cambridge, Mass: Harvard University Press, 1986) would be seriously weakened.

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So far our discussion contains a glaring lacuna. We are attempting a survey of rights, yet we have so far confined our attention to classical liberal and libertarian rights. This defect we shall shortly remedy; but the best way of doing so is, paradoxically, to remain for awhile within the confines of that system. By doing so, we will be able gradually to exit into a more general discussion of ethics.

Why Self-Ownership?

What I have in mind is the following: So far we have just assumed the validity of the self-ownership axiom and tried to see what, if anything, can be derived from it. But why ought one to accept this axiom?

One common approach is the "ethical egoist" approach associated, for example, with the novelist Ayn Rand. This has been elaborated at great length in Tibor Machan's book *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975). It is also defended in *The Philosophical Thought of Ayn Rand*, Douglas Rasmussen and Douglas Den Uyl, eds. (Champaign: University of Illinois Press, 1984). Many people are inclined to recoil in horror from Rand's seeming justification of selfish behavior. Is not selfishness, far from being a virtue, the very quintessence of unethical behavior? But closer examination will show that Rand actually supports an approach to the foundation of ethics ultimately stemming from Aristotle; she is not a supporter of selfishness in the crude, pejorative sense of that term.

Instead, supporters of ethical egoism follow a train of thought that answers in a distinctive way the question: Why should I be moral? The answer, as they conceive it, must appeal to the interest of the individual on whom moral demands are made; unless it can be shown that I benefit from observing the precepts of morality, I have no obligation to do so. This view is discussed in Plato's *Republic* (Book I, 344e 1-3 and 345 a2-7; see the discussion in David Sachs, "A Fallacy in Plato's Republic," *Philosophical Review* [72] 1963, pp. 141-158) and has been powerfully advocated among contemporary philosophers by Philippa Foot, in *Virtues and Vices* (Berkeley: University of California Press, 1978). Several papers by the philosopher Eric Mack are also notable in this regard (see the anthology by Machan previously cited).

The demands of ethics on this view, then, must be derived from self-interest. But how exactly do its supporters attempt to derive a classical liberal system, in particular one based on self-ownership, from this requirement? Advocates of this view do so by claiming that for a person to flourish while living a rational life (the natural end of human beings) a society must be established in which each person has an extensive sphere of liberty in which he can develop his personality along the lines favored by egoism; should someone not wish to do so, however, he cannot be coerced onto the preferred path of growth. This system of rights receives minute critical attention from Robert Nozick in "On the Randian Argument," a piece that Rasmussen and Den Uyl rebut in "Nozick on the Randian Argument." Both essays are conveniently available in *Reading Nozick*, Jeffrey Paul, ed. (Totowa, N. J.: Roman and Littlefield, 1981).

The Randian system depends on the view that man has an essence or nature. Many would condemn this assumption as an outmoded piece of medieval metaphysics, some going so far as Ortega y Gasset: "Man has no nature, only history." Among the critics of the assumption of a fixed human nature as elaborated classically in Aquinas's theory of natural law is Hans Kelsen, in his *The Pure Theory of Law* (Berkeley: University of California Press, 1967). Natural law has been defended, although with considerable ambiguity, in Leo Strauss's *Natural Right and History* (Chicago: University of Chicago Press, 1953) and more forthrightly in John Finnis's *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980). More directly related to the liberal attempt to ground rights in man's natural end is Henry Veatch's *Human Rights: Fact or Fancy*? (Baton Rouge: Louisiana State University Press, 1985; see the review by Fred D. Miller, Jr., and Patrick Steinbauer in *Humane Studies Review* [4] No. 3, Summer 1987). Although not a libertarian, Veatch is highly sympathetic to classical liberalism and in his vigorously written tome he attempts a derivation of rights explicitly based on the assumption of human essence. Veatch responds in the last section of his book to the charge that modern science has rendered an appeal to essence obsolete. A criticism of the entire "human flourishing" approach to ethics is found in Gilbert Harmon's "Human Flourishing, Ethics, and Liberty" (*Philosophy and Public Affairs*, Fall 1983).

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Those who base rights on self-interest often find it hard to believe that some ethical theorists see no need to found ethics on this basis. Regardless of what one thinks of the plausibility of a non-egoist approach, however, it cannot be denied that most philosophers look at ethical foundation quite differently from egoists.

I now propose to review some of the main foundational schools; these include Kantian rationalism, contractarianism, and intuitionism. Another class of theorists adopts a more radical approach, rejecting the presence of rights as foundational in morality. These are the consequentialists, utilitarianism being probably the most popular position among the adherents of this approach. Before taking leave of the self-interest school, however, it should be noted that not everyone who sympathizes with an egoist approach to the foundations of morality derives libertarian conclusions from it. Philippa Foot in particular does not; neither does G.E.M. Anscombe. (See in particular Anscombe's influential essay "Modern Moral Philosophy" in her *Collected Philosophical Papers*, Vol. III [Minneapolis: University of Minnesota Press, 1981].) Also, Alasdair MacIntyre, in his book *After Virtue* (South Bend: University of Notre Dame, 1981), though sympathetic to the Aristotelian tradition, holds that it rests on a degree of cultural unity that no longer exists.

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Rationalism and Rights

If rights are not to be justified on an egoist basis, what does justify them? How can it be rational for someone to adhere to a system of restrictions on his behavior that has not been shown to be to his advantage? One answer, classically advocated by Immanuel Kant in the *Foundations of the Metaphysics of Morals* [1785], appeals directly to the demands of reason. Just as, after grasping the proof of a mathematical theorem, one does not ask why one ought to believe the theorem, the followers of the Kantian approach contend that certain rights are deducible as a requirement of reason. One of the most influential contemporary proponents of this position has been Alan Gewirth, for many years a professor at the University of Chicago; his principal work is *Reason and Morality* (Chicago: University of Chicago Press, 1978). He holds that from the concept of action each person, by a "dialectically necessary" process, must rationally acknowledge a system of rights. These rights include not only the right to liberty but also "welfare rights"; his later work *Human Rights* (Chicago: University of Chicago Press, 1982) makes even clearer that Gewirth is no libertarian.

Gewirth's complex argument has aroused great critical attention. Many of the most important articles have been collected in *Gewirth's Ethical Rationalism*, Edward Regis, ed. (Chicago: University of Chicago Press, 1984). Most of the contributors think that Gewirth's derivation fails, especially the step that moves from "Each person must claim prudential rights to liberty and well-being against everyone

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else" to "Each person must grant that everyone has the rights to freedom and well-being."

Gewirth's system is by no means the only rationalist derivation of rights. Jürgen Habermas, the leading contemporary light of the Frankfurt School and a student of Theodor Adorno, has come up with another. Habermas, principally in his massive *Theory of Communicative Action* (Boston: Beacon Press, Vol. I, 1984; Vol. II, 1987) argues that rationality presupposes openness to communication. Someone who makes an assertion claiming to be true is in effect placing his contention before a community of rational inquirers. From this fact, Habermas thinks a system of rights may be developed. In this contention he has been joined by Karl Otto Apel, notably in *Towards a Transformation of Philosophy* (Boston: Routledge Kegan Paul, 1984). The notion of a community of rational inquirers has a Peircian ring to it; it is hardly surprising then that Apel, an expert on the philosophy of Charles Peirce, enthusiastically backs this strategy.

Another approach, explicitly formulated in Kantian terms as a "transcendental argument for Robert Nozick's principle of freedom as a side-constraint," is contained in the introductory chapters of H. Tristam Englehardt, Jr.'s *The Foundations of Bioethics* (Oxford: Oxford University Press, 1986). A similar approach, based on the "demands of reasonableness," is found in Frank Van Dun's essay "Economics and the Limits of Value-Free Science" (*Reason Papers* [11] Spring 1986). Van Dun argues from "dialogue rights" to "property rights," since "goods and services too incorporate ideas and theories."

Also in the rationalist camp, the argument of Thomas Nagel, *The Possibility of Altruism* (Oxford: Oxford University Press, 1969), should be consulted. Nagel argues that concern for the rights of others follows if one cares about one's own future. Nagel makes it clear, however, in his more recent *The View from Nowhere* (Oxford: Oxford University Press, 1986) that he does not consider all morality to be rationally derivable.

Contractarianism

Many ethical theorists take a more skeptical line than the proponents of self-interest and rationalism we have discussed. Those we have now to consider deny that reason or self-interest dictates a unique standard of ethics. Must ethics be then given up to skeptics and relativists, as was notoriously the result of the emotivism prominent in the 1930s and 1940s? Not at all, say the contractarians: Instead of asking what reason demands, we can ask what self-interested people would rationally accept.

But how can this solve the problem of the foundation of rights? Aren't we faced in the actual world with rational self-interested people who precisely have failed to come to agreement on the requirements of ethics? Indeed, it is this very situation of disagreement that has been a principal cause of the search for a solid bedrock on which one can erect an ethics that will consist of "knowledge, rightly so-called."

The contractarians see the solution to this conundrum in imposing certain plausible conditions under which agreement takes place. It is not any agreement that establishes morality, but only a very carefully specified contract. In particular, the most famous of all contractarian theorists, John Rawls, specifies an elaborate set of restrictions on the agreement that in his view underlies justice. These are to be found in his long and learned *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971). Rational self-interested persons operating behind a "veil of ignorance," which denies them knowledge of their abilities, interests, views of the good, and position in society, would establish a system based on the fullest equal liberty consistent with liberty for all. The principle of equal opportunity would prevail, and inequalities would operate to the advantage of the worst-off class in society. (The last clause states the much-controverted "difference principle.")

The freedom to establish the foundations of justice that Rawls with one hand extends he withdraws with the other. He has set up his "contract" in such a way as to eventuate in just the principles he has antecedently decided are correct.

Rawls's system has resulted in extensive controversy. Many of the most important responses are available in *Reading Rawls*, Norman Daniels, ed. (Oxford: Basil Blackwell, 1975). Probably the best critical analysis of Rawls is contained in Nozick's *Anarchy, State, and Utopia* , Ch. 7, Section II. John Lucas, in his *On Justice* (Oxford: Oxford University Press, 1980) also offers a notable treatment of Rawls's theory. Perhaps in response to the diverse criticism his book has received, Rawls in his essay "Justice as Fairness: Political Not Metaphysical" (*Philosophy and Public Affairs* [14] Summer 1985, pp. 223-251) has stated that his system is supposed to apply only to contemporary democratic societies without a moral consensus.

I have, as everyone does, classified Rawls as a contractarian. Yet in one perhaps paradoxical sense, this most famous of modern contract theorists is not truly a contractarian. As characterized previously, contractarians, despairing of establishing a basis for morality on the grounds of pure reason, hand the matter over to "rational contractors." But does Rawls really do this? He seems, on the contrary, to know exactly what his contractors will decide. The freedom to establish the foundations of justice that Rawls with one hand extends he withdraws with the other. He has set up his "contract" in such a way as to eventuate in just the principles he has antecedently decided are correct.

The same criticism cannot be made of another contract theorist, T. M. Scanlon. In a noteworthy article, "Contractualism and Utilitarianism" in *Utilitarianism and Beyond*, Amartya Sen and Bernard Williams, eds. (Cambridge: Cambridge University Press, 1982), he adopts a different tactic from Rawls's veil of ignorance. He allows his contractors the gamut of information they possess in society. He requires that they agree to those principles that no one who wished to reach agreement with others yet also was motivated by self-interest would find it reasonable to refuse to accept. Scanlon's phrase is quite convoluted, and it is an open question whether his complex formulation actually generates any results. Are there principles that no one who met Scanlon's specifications could refuse? It is not clear that there are; and if there in fact are such, do they stem from Scanlon's process of agreement or do they merely reflect previously existing moral convictions?

Another variant of contractarianism has been promoted by James Buchanan, the 1986 Nobel Laureate in Economics, in his book *The Limits of Liberty* (Chicago: University of Chicago Press, 1975). Much more so even than most contractarians, the author has been heavily influenced by Thomas Hobbes. Buchanan asks not, on what would people who observed certain conventional moral restraints agree? Rather, he wishes to know at what rights-boundaries self-interested actors unconstrained by morality would arrive. He does not think the situation he sets forth would produce an unending "war of all against all." Quite the contrary, he envisions a strictly limited constitutional government arising from his amoral initial conditions. The resulting order would be largely, but not entirely, libertarian; some measure of coerced income equality would prevail. As a warning (or possibly an additional attraction) to those drawn to Buchanan's ingenious argument, one should note that he is the most explicit moral skeptic of the theorists considered in the present essay. Moral judgments to him merely express preferences, no more and no less.

A final type of contractarian approach has sparked a good deal of controversy recently. David Gauthier, in his *Morals by Agreement* (Oxford: Oxford University Press, 1987), has challenged a fundamental assumption of Rawls. For Rawls everything is "up for grabs": bargaining takes place over all rights and goods that exist in a given society. Gauthier asks why one should so proceed: should not bargaining be instead confined to the benefits of social cooperation? Otherwise, individuals who found the terms of cooperation too onerous, for example, the talented, who in a Rawlsian system were required to consider their abilities resources for society, would find it in their interest to withdraw from cooperation with the rest of society. Gauthier, using not only this principle but a detailed technical knowledge of game theory and decision theory, arrives at results that libertarians are likely to find very much to their liking. Notably, however, his system rests on a controversial bargaining principle.

A final group of rights theorists finds the way we have approached the problem of a basis for rights to be fundamentally misconceived. The writers we have so far discussed have asked: What is the basis of rights? But, intuitionists think, why assume that rights require any basis at all? Isn't it obvious that certain things are wrong to do to people—for example, torturing others for fun? Given a range of such cases, perhaps one can derive principles that will enable us to solve disputed cases. Robert Nozick proceeds in just this way in *Anarchy, State, and Utopia*. Given, for example, the "obvious" truth that it is wrong to enslave others, how can taxation be justified? Isn't it at the very least analogous to forced labor?

The most famous intuitionists of the present century have been the Oxford philosophers W. D. Ross, in *The Right and The Good* (Oxford: Oxford University Press, 1930) and *Foundations of Ethics* (Oxford: Oxford University Press, 1939), and his colleague H. A. Prichard, *in Moral Obligation* (1947; Oxford: Oxford University Press, 1968). Neither, however, wrote much about political theory, although Prichard wrote an excellent criticism of the "organic-self" favored by Thomas Hill Green. These writers were intuitionists in a rather stronger sense than the one specified above. Not only do they think it unnecessary to establish a basis for morality in order to have a reason to observe its precepts, they think no such basis exists. In his famous article "Does Moral Philosophy Rest on a Mistake?" (*Mind* [21] 1912, pp. 487-499, reprinted in *Moral Obligations*) Prichard claims that any attempt to find a basis for duty in something other than duty itself is to be untrue to the categorical demands of morality. In this stronger sense, it should be noted, Nozick is not an intuitionist. In his *Philosophical Explanations*, he tries to show that most values rest on what he calls organic unity.

In my opinion, the intuitionist procedure is a very promising and powerful one: but here I am in a decided minority. Most philosophers think that because of the many disagreements that exist on vital moral issues, appeals to intuition will not help very much toward their resolution. What to one person is a firm moral intuition will be non-obvious to another. Classical liberals, for example, tend to find it self-evident that the military draft is a form of slavery; yet many people support conscription as a bulwark of republican government.

Though I am inclined to believe that this objection can be answered, this survey is not the time or place to do so. Rather, let us turn from intuitionism after noting two misconceptions. "Intuitions" are not held to be infallible: they are subject to discussion and revision. Further, moral intuitionists are not committed to the view that "good" or "right" is a non-natural property. Incidentally, G. E. Moore, who famously thought this of "good" in *Principia Ethica* (Cambridge: Cambridge University Press, 1903), did not support moral intuitionism: he was a utilitarian.

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Consequentialism

So far, we have considered various bases for rights, as well as the radical position that rights require no basis. But there is a position yet more radical still. This denies that people have moral rights. Not, I hasten to add, in the sense in which people living in totalitarian societies do not have rights. Generally, those who support the moral view we are about to discuss favor a legal system in which people do have standard civil liberties. The sense in which the adherents of the position in question deny rights is that they hold that rights are not part of the foundation or basic level of morality.

What then is the basic level of morality? According to consequentialism, the basis for judging moral claims is the

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consequences to which they give rise; the policy that ought to be adopted, on moral grounds, is the one that will have the best overall consequences. Although the position has so far been sketched out only in the briefest way, we can at once see why rights will not be part of the foundation of morality. A right, as stated at the beginning of this essay, is a moral claim on action or forbearance by its possessor against others. From the postulation of a right, we cannot tell whether its observance will always have the best consequences; this depends on circumstances. Thus for consequentialism, rights become at best tools to achieve certain consequences rather than building blocks on which to found a moral system.

Consequentialism tells us to aim at the best results overall. But an immediate problem arises: what is the criterion of "best results"? One famous variety of consequentialism answers that it is whatever best promotes each person's happiness, counting everyone equally. This system is of course utilitarianism, a term coined by John Stuart Mill to describe the doctrine of his one-time mentor Jeremy Bentham. In its modern form "happiness" is usually taken to mean maximizing the preferences of individuals. A strong defense of a robust version of utilitarianism is found in Richard Brandt's *A Theory of the Good and the Right* (Oxford: Oxford University Press, 1979). Into the various subclasses of utilitarianism, for example, act versus rule utilitarianism or direct versus indirect utilitarianism, I do not think it necessary to enter here. I shall confine myself to pointing out that many advocates of utilitarianism claim that their system is in practice fully compatible with a recognition of rights. R. M. Hare's "two-level" style of utilitarianism, expressed in greatest detail in his *Moral Thinking* (Oxford: Oxford University Press, 1981), stands as one of the most detailed proposals of this kind. The economist Henry Hazlitt, in his wide-ranging survey *The Foundations of Morality* (New York: Van Nostrand, 1969), supports a rule-utilitarian system (that is, a system that asks which *rules* will best maximize welfare rather than which *acts*). Hazlitt advocates not only a system of rights, but a system fully in accord with the tenets of classical liberalism.

The economist Leland Yeager, who has been influenced by Hazlitt, endorses a similar position. In his essay "Rights, Contracts, and Utility in Policy Espousal" (*Cato Journal* [5] Spring-Summer 1985, pp. 259-294) he presents a criticism from a consequentialist standpoint of both rights-based morality and contractarianism.

Although utilitarianism is the best developed consequentialist position, not all consequentialists are utilitarians. Two recent books, Joseph Raz's *The Morality of Freedom* (Oxford: Oxford University Press, 1986) and James Griffin's *Well-Being* (Oxford: Oxford University Press, 1986), favor complex doctrines that do not qualify as utilitarian in any standard sense though both are certainly consequentialists. The slightly earlier book by Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), should also be consulted. Parfit in general is sympathetic to a combination of common-sense morality and utilitarianism. The economist Amartya Sen has distinguished between elements in the utilitarian position, including "welfarism" ("requiring that the goodness of a state of affairs be a function only of the utility information regarding that state") and consequentialism. See his essay "Utilitarianism and Welfarism" (*Journal of Philosophy* [76], pp. 463-489) and his book *On Ethics and Economics* (Oxford: Basil Blackwell, 1987).

One severe problem exists for those who do not find consequentialism to their liking. If one rejects this system, isn't one saying in effect that one need not produce the best results possible? Samuel Scheffler, in *The Rejection of Consequentialism* (Oxford: Oxford University Press, 1983), has explored this topic in a fashion generally sympathetic to consequentialism.

But opponents of a results-oriented morality are not without their resources. Philippa Foot, in a notable recent article, "Utilitarianism and the Virtues" (*Mind* [94] April 1985, pp. 196-209), questions whether the idea of a best overall result always makes sense. Further, Bernard Williams in *Moral Luck* (Cambridge, Mass.: Harvard University Press, 1985) challenges the intensity of the demands that consequentialism threatens to impose on people. Individuals have projects of their own, whose value to them is personal and incommensurate with the values of other persons' projects. They cannot rightly be asked to sacrifice their own projects for the common good; or at least the extent of such sacrifice must be severely limited. Loren Lomasky, in his excellent *Persons, Rights and the Moral Community* (Oxford: Oxford University Press, 1987), has developed and extended Williams's point, using it as a basis for a full-fledged defense of classical liberalism. Lomasky also presents a truncated version of his thesis in his essay, "Personal Projects as the Foundation for Basic Rights," in *Human Rights*, Ellen

Persons, Rights and the Moral Community *is one of the most important contemporary books on moral theory and ought to be studied by everyone interested in the subject.*

Frankel Paul, Jeffrey Paul, and Fred D. Miller, Jr., eds. (Oxford: Basil Blackwell, 1984). In my opinion, *Persons, Rights and the Moral Community* is one of the most important contemporary books on moral theory and ought to be studied by everyone interested in the subject.

To conclude, I shall suggest several research topics emerging from this essay that students may find of interest: Is morality a matter of common sense or does it require a deeper foundation? If the latter, are rights at the "bottom level"? To what extent must an adequate morality be consequentialist? How stringent are the demands of morality? Must moral values be shown to be either rationally required or in one's self-interest to justify their imposition? How are rights to property related to deeper "foundational" concerns? Students of moral and political philosophy have before them a rich literature from which to begin their investigations. As this is currently a field of considerable professional interest and activity, students of philosophy would do well to direct their reading, thinking, and writing toward these challenging problems.

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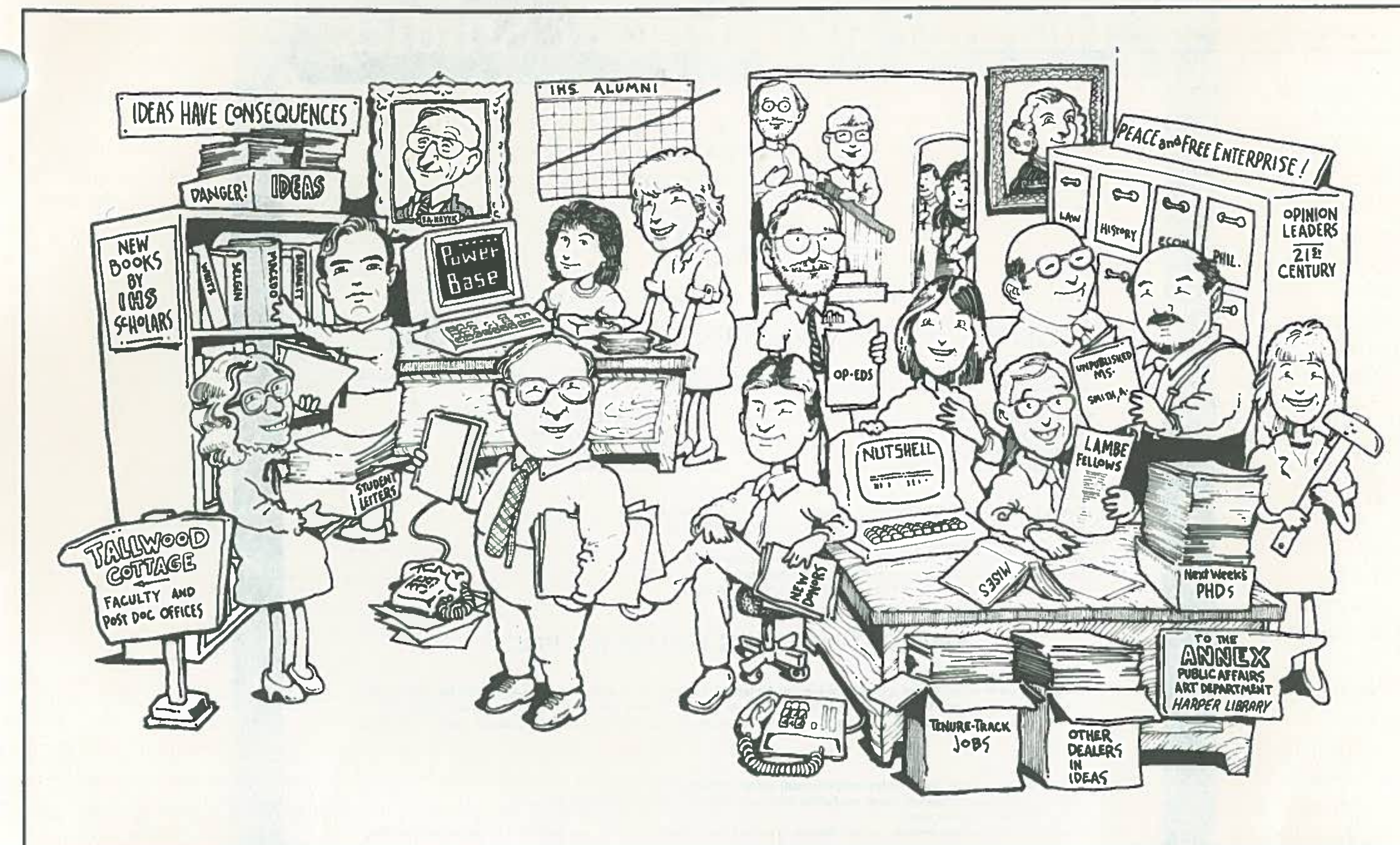

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