

**LIBERTARIANS AND LIBERALISM: ESSAYS IN HONOUR
OF GERARD RADNITZKY, EDITED BY HARDY BOUILLON.
AVEBURY: ALDERSHOT, 1996**

This *Festschrift* is dedicated to one of the outstanding champions of liberty in Germany. For most of his scientific life, Gerard Radnitzky has been known as a philosopher of science in the tradition of Karl Popper. In recent years, however, he has won a reputation as a staunch defender of individual liberty through many publications in books and scholarly journals like *Aufklärung und Kritik*. Most notably, with his disciple Hardy Bouillon, he edited the three-volume *Values and the Social Order*, which contributed significantly to the spreading of Austrian ideas about society, economy, and government.

This emphasis is reflected both in the title of the *Festschrift* and in the contributing authors. The book is organized in three sections. Section 1 features articles dealing with the links and lapses of libertarians and liberalism. Section 2 centers around a critical analysis of social choice-democracy, and section 3 examines the future of freedom. Most of the authors are either American scholars like Walter Block, Hans-Hermann Hoppe, and Hans F. Sennholz, or German scholars like Gerd Habermann, Hardy Bouillon, Roland Baader, Herbert Giersch, Manfred Streit, and Detmar Doering. Among the other contributors are Prime Minister Václav Klaus from the Czech Republic, Arthur Seldon, and Angelo M. Petroni. Although most of the articles merit careful study, my remarks will focus on the articles by Habermann, Bouillon, and Doering, which appear to be particularly interesting from a theoretical point of view.

In *Libertarians and Liberalism*, Gerd Habermann critically examines the premises and tenets of Rothbardian anarcho-capitalism. In his conclusion he defends classical liberalism, although recognizing many merits of libertarian political philosophy. States Habermann: "Every liberal will gain much from an intensive study of this current of thought, but its limits should be equally clear to him, limits also known by all forms of constructivism" (pp. 72f). Habermann's main argument for the rejection of anarcho-capitalism is that it is a "generalization of the free-market model and economic motivation" (p. 72). Therefore,

anarchist capitalism fails to find application in areas of society where market forces are not at work. . . . Its theory hinders appreciation of the value of communities founded on real fellowship and of their claims in a world in which groups compete with one another. (p. 73)

This statement will certainly surprise readers acquainted with the work of Murray N. Rothbard. Rothbard conceived of anarcho-capitalism as the economic

aspect of a society built on natural law. He argued that markets cannot work without a natural-law legal framework. Therefore, economic science is a corollary, and not the basis, of political philosophy. Habermann seems to confuse Rothbard's views with the arguments of David Friedman. He contends: "Contemporary libertarian anarchism, as forwarded by Rothbard, David Friedman, and others, is characterized by its bolstering of traditional individualist-anarchist positions with a modern economic foundation" (p. 51). Similarly, Habermann notes that the "same subject comes up for discussion with insistent monotony: the individual and his property. Discussion is limited to economic questions" (p. 65). Habermann seems to imply that private property is merely the basis for *market* transactions.

Nothing could be further from the truth, though, as even the most insensitive reader will grasp from a short glance at Rothbard's *Ethics of Liberty*. For it is precisely in this important work that Rothbard demonstrates that private property is the basis of *all* kinds of non-aggressive human interaction—and not only of market behavior. Rothbardians need not assume, as Habermann stipulates, an "anarchist ideal of the lonely gunfighter 'going it alone'" (p. 72), or the "fiction of an autonomous individual who creates his individuality *ex nihilo*" (p. 71). Rather, from the point of view of Rothbard's argumentation, it is entirely irrelevant whether people act alone or in concert. A free society is not characterized by isolated individuals but by individuals who, in all manner of social bonds, respect the property of their fellows.¹ Of all this, Habermann has grasped nothing. Instead he builds up and bashes his own straw men. *Voilà*, one of the pictures that Habermann attacks:

Everything that the individual does not freely choose and agree to is regarded [by the libertarians] as an arbitrary, oppressive burden. Individuals have no attachment to society, are literally free and independent, themselves the only ones to create and shape their own lives without criteria, unaided by collective norms and standards. (p. 71)

No doubt, such a theory hinders appreciation of the value of communities founded on real fellowship. But what has this to do with Rothbard's political philosophy? The reader of Habermann's article is struck with astonishment. How can one explain such a serious misunderstanding? I am tempted to believe that Habermann is not acquainted with *The Ethics of Liberty*, as one finds in his references no mention of this book. Of course, this is a grave omission considering the purpose of Habermann's article and the conclusions he derives from it. The omission can be excused only by the fact that the book is for a long time out of print and—especially in Germany—practically not available.²

¹This point has been stated lucidly by Walter Block in his article "Libertarian Perspective on Political Economy," in the book under review.

²The author of this review can attest to the difficulties of accessing Rothbard's work through German public libraries. In the biggest libraries of Berlin, for example, only Rothbard's economics books are available. Fortunately, *The Ethics of Liberty* will be reprinted again in 1998, by New York University Press, in cooperation with the Mises Institute and the Center for Libertarian Studies. There is also a French translation, published by *Les belles lettres, édition laissez-faire*.

It would be vain to speculate further about the question of whether Habermann misunderstands Rothbard's libertarianism to such an extent. The fact is that he *does* misunderstand it, and consistently so. Thus, according to Habermann, an "important premise" of libertarianism is that in a free society "non-domination and non-aggression are the rule" (p. 52). If this were the case, then libertarianism would indeed be a philosophy for nirvana and meaningless for human life. But this alleged premise is, of course, immaterial for libertarianism. Rather, libertarians assert that, no matter how much violence exists in any given society, violent producers of security (governments) merely increase this level. Therefore, they should be abolished in favor of non-violent producers of security.

But what would be different and what would be gained, Habermann asks, if the private security agencies turned into violent ones and made their clients into "private subjects" (p. 68)? Habermann does not see that, even if nothing was different and nothing was gained in such a case (which is not true), this possibility could not be an argument in favor of government. For this would imply the somewhat weird logic that the mere possibility that someone might exercise violence *in the future* justifies another person or group to exercise violence *right now*.

It is regrettable that Habermann does not abstain from using the most ridiculous of all charges against the libertarians: their "constructivism." According to Habermann, this kind of thinking "assumes that all relevant facts can be known to an individual and that it should be possible for the individual to derive from the knowledge thus gained a definitely 'right' and eternally valid social order" (p. 64). Yet, what is wrong with constructivism in this sense? Does Habermann not share these very assumptions when he claims that libertarianism is the wrong, and democratic government the right, social order? He would probably retort that it does not "detract from the value of a purely normative principle to admit that it is inherently subjective" (ibid). In other words, there is no such thing as justice and natural law: "The claim that an individualistic natural law, as interpreted in Western countries, is universally applicable is simple presumption" (ibid). Well roared, lion! Yet, before one makes such a general statement one should try to refute the existing counter-arguments. This holds true especially in the present case, since there exists a private-property ethic that claims universal validity, that is, Hoppe's libertarian argumentation ethic. But again, Habermann shows astounding *lacunae*. He makes no attempt to refute Hoppe's tenets, nor does he even mention Hoppe's *Theory of Socialism and Capitalism* in his article. Thus, Habermann's denial of natural law is mere assertion. Here as in all the other topics he raises, he fails to make one valid point against the libertarian social philosophy of the Rothbardian brand.

Hardy Bouillon recently published a book entitled *Freiheit, Liberalismus und Wohlfahrtsstaat* (Baden-Baden: Nomos, 1996) in which he developed a new definition of liberty. His article in the *estschrift* "Defining Libertarian Liberty" is a short, English-language exposition of the main thesis of his book. Starting from a critique of the Hayekian definition of liberty, he distinguishes between two levels of decision: "object-decisions" and "meta-decisions." On the basis of this distinction, he arrives at the following definition of liberty: "Freedom is the absence of artificial

interference in the private sphere of another that would mean artificial costs to him if he opted for a negative meta-decision" (p. 102).³

Hayek's concept of liberty has in the past been the subject of several thorough refutations.⁴ Therefore, I shall concentrate my discussion on Bouillon's own proposal. The most original aspect of his definition is the distinction of decision levels. What are, then, object-decisions and meta-decisions? According to Bouillon, an object-decision "is characterised by the fact that it constitutes a decision among different objects. . . . The number of objects does not influence the character of an object-decision" (p. 101). As an example, he gives the choice between apples, oranges, or bananas when buying at a merchant's shop. By contrast, a meta-decision "is a decision between staying to [one's] original plan or deviating from it, hence an 'either-or-choice'. Having these two, and only these two, alternatives is a constitutional character of a meta-decision" (ibid). Having established these definitions, Bouillon proceeds to illustrate their usefulness for the distinction between liberty and coercion:

Suppose, you liked to keep your money and your life. Suppose also, an armed robber asked for your "Money or your life!" That would be a clear case of what we used to call coercion.

Suppose now, that, *ceteris paribus*, the same person would be unarmed and obviously unable to threaten or extort from you in any possible way, and suppose, that very person would kindly ask you to give him either your money or your life. Then we would not say that he coerces you.

Now, let us separate the meta-decision from the object-decision. With regard to the object-decision, the two cases (A and B) do not differ. In both cases you have the choice either to give your money or your life. Hence, in both cases the costs of your object-decision will be the same.

With regard to the possible meta-decisions, we notice a difference. The costs of a positive meta-decision (i.e., to consider the offer of the person), however huge, are the same in both cases. Nonetheless, the costs of a negative meta-decision (i.e., to ignore the offer of the person) differ decisively. In the first case you have to expect additional costs imposed by the person (e.g., being shot or hurt). In the second case you do *not* have to expect such costs. Hence, under the above mentioned preconditions, the difference between a case of coercion and a case of free choice is in the artificial costs that are to be expected in a case of a negative meta-decision (pp. 101f).

From this discussion he derives the definition of liberty that we have quoted above. Now, let us first of all examine the validity of Bouillon's distinction between object-decisions and meta-decisions. I venture to deny this validity for three related

³Bouillon defines "artificial interference" as "intentional interference in the private property of another person, sufficient to produce the intended effect" (p. 102). "Artificial costs" are costs that "must be intended and sufficiently caused by that person in question" (p. 103, n. 13).

⁴See, for example, Murray N. Rothbard, "F.A. Hayek and the Concept of Coercion," in idem, *The Ethics of Liberty* (Atlantic Highlands, N.J.: University Press of America, 1982), pp. 219ff; Hans-Hermann Hoppe, "F.A. Hayek on Government and Social Evolution: A Critique," *Review of Austrian Economics* 7, no. 1 (1994): 67–93.

reasons. First, a meta-decision does not merely concern the choice between staying to the original plan and deviating from it. For each deviation from a plan implies, *ipso facto*, adherence to another plan. Therefore, a meta-decision is a choice between two plans. Second, there is no such thing as a meta-decision that does not, *ipso facto*, imply a decision about objects. For example, if I cling to my plan not to buy apples from the merchant, then this implies that I keep my money and do not have his apples. Third, there is no such thing as an object-decision that does not, *ipso facto*, imply a meta-decision. For either the choice of the object is part of my original plan or it is not. There is no third possibility. Hence, Bouillon errs when he states that the two decision levels “might” coincide chronologically (p. 101). In fact, they always do. Each meta-decision is also an object-decision.

It follows that those differences between the above cases A and B, that Bouillon identifies on the meta-level, must be accompanied by corresponding differences on the object-level. This is indeed so. The object-decisions in the cases A and B *do* differ. For the choice in case B is not, as Bouillon suggests, to give one’s life or to give one’s money. There is also a third option, that is, to keep one’s life and one’s money. It is therefore impossible to distinguish between free and coerced choice on the basis of meta-decisions alone. The distinction between meta-decisions and object-decisions is *useless* for the definition of liberty. Bouillon’s definition loses its ground.

However, let us grant Bouillon’s distinction between object-decisions and meta-decisions for the sake of argument. Then, still, the definition of freedom he derives from it would not be valid. The reason is his futile attempt to take cost as a criterion for this definition, for cost is always subjective. It is the value of the next most important alternative foregone by the choice of the most important one. Thus, if the absence of “artificial cost” is the criterion for freedom, then we must invariably identify all kinds of peaceful action as coercion. Let us illustrate this with the following example:

Suppose, you liked to reserve your kisses for your wife and to be married to her. Suppose also, a wealthy lady urged you “kiss me or marry me—otherwise you won’t get my money.”

Suppose now, that, *ceteris paribus*, the same person would be poor and obviously unable to help or subsidize you in any possible way, and suppose, that very person would kindly ask you to either kiss or marry her.

Obviously, the costs of a “negative meta-decision” differ decisively. In the first case, you have to expect more costs than in the second case. Do we therefore have to infer that either case is a case of coercion? This would lead to a strange conception of liberty. However, this is not all there is to it. Bouillon focuses entirely on the point of view of the criminal’s *victim*. What about the criminal himself? Where will Bouillon’s cost analysis lead if we take the criminal’s point of view? Let us use another illustration:

Suppose, you liked to rob other people. Suppose also, an armed victim told you “stay away or run away—otherwise I shoot you!”

Suppose now, that, *ceteris paribus*, the same person would be weak and obviously unable to defend himself or hinder you in any possible way, and suppose, that very person would kindly ask you to either stay away or run away.

Clearly, the costs of a "negative meta-decision" differ decisively. In the first case, you have to expect more costs than in the second case. Do we therefore have to infer that you—the would-be victim—are coerced in either case? Again, Bouillon's analysis would fail by all common-sense standards.

Bouillon might object that in my first example the rich lady in no case violated my property (a term that Bouillon accepts, see p. 99) and that, in the second example, the criminal violates property in both cases. This objection would lead us to the insight that *property*, not the cost of negative meta-decisions, is the correct criterion to distinguish liberty from coercion. What are Bouillon's objections to the to the Rothbardian definition of coercion as invasion of justly acquired private property rights without permission of the owner? He thinks that this definition would imply circular reasoning in certain cases. Suppose that I voluntarily give other people permission to invade my property. Their invasion would then not be counted as aggression. But the term "voluntarily" suggests the very freedom that Bouillon ventures to define (p. 100). Therefore, he rejects this definition. However, it seems that Bouillon has fallen prey to a semantic confusion between "freedom to choose" and "liberty in society." In fact, a definition of liberty, that is, of a free society, does not consist in a definition of freedom to choose. (On the one hand, in *all* forms of human interaction one is in a way free to choose and, on the other hand, *anyone* might claim that he "involuntarily" accepts the use that other persons make of their bodies.) Rather a definition of a free society must delimit the *proper* exercise of one's choice in society. And in order to define which actions are proper in society one does not have to refer to terms like "voluntary," "free will," and not even to the term liberty, but to property. Thus there is no circle at all involved. All actions performed with one's own property are just and constitutive of a free society, and all actions performed with the property of other persons, who do not consent, is unjust and coercive.

In "A Dog's Choice: Which Constitution is the Best?" Detmar Doering sets himself the truly Herculean task of a comparison of various constitutional choices in 16 pages. Yet his synthesis is clearly worked out, and any reader will enjoy his wit and excellent style.

It is obvious that Doering feels uncomfortable with any kind of institutional setting. He sees the institution of a state as being "always the second-best of all solutions," (p. 341) but he is also highly skeptical about the fortunes of anarchism. There are but two maxims that Doering ventures to advocate, although he does not pretend to derive them from principle: pluralism of government-types and decentralization. He does not believe it possible to reestablish a mixed government (*ibid*). The following discussion will critically examine the outlines of the argument he gives us.

In his discussion of anarchy he sees, by and large, the same problems as Habermann. Doering fears that private producers of security are, or could become, corrupt and establish a coercive power structure. No wise person denies that this possibility is ever present in human life. Only daydreamers look for guarantees. They think that other human beings can give them "security" if only they consent to bondage in exchange. Doering cites Professor Radnitzky as saying "there is no such

guarantee in any system" (p. 343). The real issue is whether one can *reduce* any degree of human corruptibility and fallibility by imposing a state. An advocate of any form of government would have to deliver such a proof. Doering, however, makes not even the slightest attempt to give us this kind of argument.

A very large part of Doering's article deals with Hans-Hermann Hoppe's comparative analysis of democratic and monarchical régimes. Hoppe has argued that since monarchs are private owners of their countries, they have a longer planning horizon, and thus a lower time preference than do democratic governments. Consequently, they will tend to exploit their countries less than do democrats.⁵ Doering sees "a fundamental flaw in this argument. . . . It would mean the loss of the individual's right to self-ownership and property for everybody except the monarch. No libertarian could possibly accept this" (p. 337). Does Doering imply that the lower time preference in monarchies is bought at the expense of higher exploitation? For the loss of the right to self-ownership is not limited to monarchies at all. There are many examples of past democracies that brought about the loss of this right; and without much exaggeration one could claim that modern democracies are not far from this, either. In other terms, Doering seems to overlook that Hoppe's argument—as any economic theorem—is valid only *ceteris paribus*. Assuming the same character structure of the rulers, the theorem goes, monarchs will exploit less than will democrats.

The same flaw underlies Doering's statement that monarchism "always found mercantilism to be the economic system appropriate for its purposes" (p. 338). Even if one neglects the question of whether Doering's observation is correct, one has to point out that Doering apparently does not grasp what a refutation of Hoppe's thesis would require. One would have to show that monarchism logically implies a higher propensity for the establishment of a mercantilist system. Doering does not even attempt to deliver such a proof. He quotes Gordon Tullock in his support, who claims that the "'granting of monopolies' is as much a feature of monarchy as is the appearance of 'friends of the ruler' whose 'enterprise' is to 'court' the ruler in hopes of getting . . . special privileges"; and Doering refers to David Hume "who observed . . . that even an absolute ruler has to act in a way to keep his 'mamelukes and praetorian bands' satisfied" (p. 338). These references are proofs of Doering's scholarly erudition, but not of his tenet. In both quotes one could replace the word "monarchy" with the word "democracy," and the word "ruler" with the words "federal government"—without changing the validity of the statements.

Let us emphasize again that Doering is no admirer of democracies. However, his reluctance to accept Hoppe's analysis—or to refute it by theoretical means—leads him to some otherwise inexplicable contentions. He believes that democracy "as a means of self-defence . . . is still the best thing we have," neglecting that democracy favors irresponsibility and thus breaks the neck of civil virtues. He further believes that this erroneous view has been "confirmed by history. It was a

⁵See Hans-Hermann Hoppe, "The Political Economy of Monarchy and Democracy, and the Idea of a Natural Order," *Journal of Libertarian Studies* 11, no. 2 (1995): 94ff.

democratic force that made American Independence after 1776; it was democratic force that brought down the Soviet Empire" (pp. 340f).

Although this review has been very selective, and mostly critical, the overall judgment is a positive one. *Libertarians and Liberalism* is a valuable contribution to the discussion of several important problems of political philosophy. It honors a man who has done much for libertarian thought. May he long continue to do so.

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