LIBERTY AND EQUALITY*  
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Abstract. The traditional characterization of a libertarian society is that it is one which minimizes uncontracted enforceable restrictions on individual conduct. It is argued that, due to (i) the fact of necessarily finite natural resources, and (ii) the fact that human societies are composed of persons who are not exact contemporaries, i.e. of generations, this libertarian requirement can only be satisfied in a society which embodies at least one important conception of socialism.

This article is concerned with the perennial claim that liberty and equality are incompatible and, hence, that any attempt to reduce substantive inequality promises to diminish individual liberty in society. Agreement on this familiar proposition is widespread among social and political philosophers, and is by no means confined to the ranks of those with classical liberal or libertarian commitments. The modes of argument deployed to refute this claim are equally familiar. Characteristically, they have recourse to various re-definitions of the concept of liberty that have the consequence of rendering equality compatible with—and even a necessary condition of—individuals being free or maximally free. I shall have little to say about such arguments, beyond the observation that they are not very compelling. And I shall thus presume that a person is unfree to do an action if, and only if, someone else would prevent his doing it. It is this conception of liberty with which those who have libertarian commitments, of one sort or another, have been concerned. And it is the essence of such a commitment that most, if not all, of the restrictions on his liberty to which an individual is subject, should be restrictions which he has contractually incurred. This requirement is held to be incompatible—or at least very unlikely to be compatible—with what would be necessary to secure any sort of substantive equality among all individuals in a society. I shall argue that this contention is mistaken and that one sort of substantive equality is not only compatible with, but is necessary for, the satisfaction of this libertarian requirement. My argument chiefly consists of four reasonably brief parables.

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Text

On a warm autumn day sometime in the year 1984, the hundred-odd members of the Central Committee of the Communist Party of the Soviet Union assemble, in a more than usually gloomy mood, to hold one of their periodic meetings. Their mood is more than usually gloomy for a variety of reasons, among which are the following: various reports which have crossed their desks over the previous month indicate that the shortfall in this year's grain harvest will be more than usually severe, that queues for essential consumer goods are more than usually long while stocks of less urgently needed commodities are more than usually excessive, that black-market operations in foreign currency and other goods have been more than usually profitable, and that—as in previous years—the only sector of the economy to display a consistent growth in output is the one producing paper forms to be completed in triplicate.

However, these are not the only things troubling the members of the Central Committee. For over the past few months they have each begun, at first reluctantly and against their better judgement, to read the works of Von Mises, Hayek, Friedman, Rothbard, Buchanan and other contributors to the swelling stream of persuasive libertarian economic literature with which we are all becoming familiar. And their reading has led each of them to see what others already know: namely, that if recurrent and wasteful disasters are to be avoided and, more generally, if the long-hoped-for advancement in the quality of life is to be attained, it will be necessary to abolish the massive structure of regulations and restrictions on individual liberty currently prevailing in the Soviet Union. All the laws prohibiting freedom of contract, all enforced systems of price control, all the legal restrictions on free movement and expression, all the statutory encumbrances on dealings with persons outside the Soviet Union, all the laws against victimless crimes, indeed, all the impediments to securing fair and impartial treatment within the legal system itself—all these and more will have to go. In their place, a much narrower set of state functions will be established—functions confined to protecting persons and their property and to enforcing contractual obligations.

Presently the meeting of the Central Committee is called to order and, in the course of a seemingly interminable discussion reviewing the dismal state of affairs in the country, it gradually becomes apparent to each member that his colleagues have all been reading the same heretical literature as he has, and have all come to much the same conclusion. So, pausing only briefly for the customary verbal genuflection to Marx, Engels, Lenin and the pantheon of other revolutionary heroes and statesmen, the Committee unanimously resolves that, henceforth, state policy shall be governed solely by classical laissez-faire principles. And to that end they decide, again unanimously, (i) to dismantle completely the aforesaid structure of restrictions on personal liberty, and (ii) to assign severally to themselves private titles to all the various objects of property in the Soviet Union—property, the ownership of which their misguided, albeit well-intentioned, predecessors had corporately vested in the state.
Commentary

The approach taken by the Central Committee toward satisfying the libertarian requirement is a fairly familiar one. Like the mainstream of *laissez-faire* advocacy in the nineteenth century (and its present descendants), they propose to minimize the number of uncontracted enforcible obligations prevailing in society by reducing—to three—the kinds of action which will count as legal offences: the three are violations of personal (bodily) integrity, violations of property rights and violations of contract. Under the new dispensation, any activity which is not of these three kinds is to be legally permissible. In this sense, everyone is to be free to do anything (except murder, injure, steal, damage, default, etc.) in so far as others, including the state, may not forcibly prevent him from doing anything and the state must forcibly prevent others from forcibly interfering with his doing anything. The only kinds of action—apart from the three types named—which he may be restricted from doing, are thus ones which he has contractually undertaken not to do. Again, like their nineteenth-century predecessors, the Committee apparently believes that this regime will maximize aggregate social wellbeing and is principally to be justified on those grounds. Perhaps this is why they and their intellectual forbears are less concerned with, and possibly oblivious to, the purely distributive question of how the stipulated allocation of property rights—and its set of correlative obligations—is to be justified. For these latter obligations, which are enforcible, are none the less to be uncontracted

SECOND PARABLE

Text

Seven persons materialize from out of nowhere on an otherwise depopulated Earth. Before them stands a vast department store. They are addressed by a booming voice which emanates from everywhere. The voice announces:

Henceforth, enforced conduct shall be governed by, and only by, one principle: *You own what you earn.* To own something is to be entitled to the non-interference of others with any use to which you choose to put that thing. To earn something is either (i) to be the first possessor of that thing, or (ii) to be someone to whom the owner of that thing has chosen to transfer the ownership of it, or (iii) to be the owner of all the things which, when synthesized, produced that thing. Neither first possession nor transference nor production count as earning when performance of these activities is secured by interference with others or with what they own.

The Voice continues:

Any object, the acquisition of which is attempted by means other than earning, will immediately be rendered physically unusable for its would-be acquirer alone.

The Voice concludes:

You see before you a vast department store. In it are housed the title deeds for each and every object in the world. To be the first to acquire the title deed to an object is to be its first possessor. Upon completion of the sentence I am now uttering, the doors of the store will unlock and you may enter the store and divide up these deeds.

— An earlier version of this parable appeared as 'The Distribution Game', *Analysis*, 38 (1978), 61–2.
The Voice stops speaking, the doors unlock, the seven persons enter and, between them, establish their ownership of each and every object in the world.

The next day, seven more persons materialize from out of nowhere on an Earth now populated by the seven persons who preceded them. They are addressed by the Voice which again announces the principle mentioned previously, explicates it, and informs them of the manner in which it is enforced. The Voice does not, however, add the concluding remarks which it addressed to the new arrivals' predecessors. It does not do so because, although they too are standing before the same department store, both it and the ground they are standing on—as well as everything else in the world—are now owned by one or another of the original seven. And indeed, even before the Voice has finished speaking, the new arrivals experience rapidly mounting difficulty in standing on that ground and in breathing the surrounding air. But just as they are about to succumb to the fatal effects of these natural enforcement agencies, they see a person (the owner of the land and air-space they are occupying) approaching them with a pen in one hand and a set of labour contracts in the other.

Commentary

The Voice evidently scores higher than the Central Committee on the libertarian scale. It espouses the sort of natural rights doctrine most commonly associated with John Locke and, more recently, with Robert Nozick. Provisionally we might say that, like them, it endorses the view that not only can there be no uncontracted enforcible restrictions on any kinds of personal conduct (apart from murder, etc.), but also that the restrictions implicit in obligations correlative to others' property rights must themselves be capable of contractual justification: distribution matters. Although, strictly speaking, neither Locke nor Nozick requires that these latter obligations be actually contracted—indeed, they both deny any such need—the burden of their argument suggests that they may be viewed as hypothetically contracted, inasmuch as the right to initial acquisition is so designed as to afford no one grounds for claiming that he has been relatively disadvantaged by another's appropriation. (And all other property rights are derived from those to initial acquisitions.)

However, this can only be a provisional assessment and, in the event, a misleading one. For like Locke and, in the final analysis, Nozick as well, the Voice suffers from a certain lack of philosophical foresight. Specifically, it overlooks the problem posed by the fact of a necessarily indefinite number of human generations (and their necessarily indefinite size). This problem is the one of how to design a legal order so as to ensure that the enforcement of obligations on members of one generation, only if they contract them, is extended to members of subsequent generations only if they, in turn, contract them—whether actually or hypothetically. It is plain that the enforcible obligations of each of the first seven persons in the parable, to respect one another's property rights, are consistent with the libertarian requirement. But

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1 The necessary incalculability of the number of future persons renders meaningless Locke's 'as much and as good' limitation on appropriation, as well as Nozick's adaptation of it, by denying us the divisor required to compute the prescribed quotient. Cf. H. Steiner, 'The Natural Right to the Means of Production', Philosophical Quarterly, 27 (1977), 41–9, p. 46.
conscientious libertarians must be dismayed and indignant at the Voice's discreet (and embarrassed?) silence as these same obligations are enforced on the second seven and all subsequent arrivals. Its valiant attempt to improve on the Central Committee's libertarian rating, by reducing the number of non-contractually prohibited activities from three to two—violations of personal (bodily) integrity and violations of contract—is only partially, because temporarily, successful.

THIRD PARABLE

Text

Red, White, and Blue sit down to play a game of Monopoly. Within a short space of time every property on the board has been acquired by one or another of the three players. At this point, Black appears on the scene and is invited to join in the game. He agrees and is promptly supplied with the same amount of cash as was originally assigned to each of the others. However, being a somewhat litigious fellow, Black immediately protests that the terms of this arrangement are inequitable. He contends that he will be unfairly disadvantaged in having to make the required rental payment whenever he lands on another's property. To this, the others politely reply that they too are subject to the same obligation, and that no greater payment will be demanded of him for occupying any property than is extracted from each of them in similar circumstances. But Black impatiently rejoins that nearly every move he can make will result in his having to pay rent to either Red, White, or Blue, whereas this is not the case for each of them. Moreover, he complains, in the initial stage of the game and prior to his arrival, they were each frequently at liberty to 'squat' on these properties without paying any rent at all, since many of them were as yet unowned.

At this juncture, Red, White, and Blue begin to become somewhat annoyed with Black's churlish attitude and proceed to point out to him, in no uncertain terms, that the rents he will owe them represent nothing less than well-deserved compensation for the services they are providing him and the sacrifices they have hitherto made. Blue reminds him that they only acquired these properties through purchase. And White and Red hasten to add that rents reflect the cost to them—and the convenience to him—of having houses and hotels to stay in while occupying these delightful spots.

Black peevishly acknowledges that some payment for the use of these facilities, where they have been installed, would be justified. But he grumbles that he cannot see why he should have to pay Blue as much as £35 to occupy Park Lane while paying White a mere £4 to stay in Whitechapel Road, when both of these unimproved sites offer no such amenities. Predictably, White's facetious offer to raise his rent to parity with Blue's succeeds only in evoking a murderous glare from Black, who humourlessly denounces the differential as entirely unjustified. Whereupon Blue, on a more conciliatory note, suggests that the difference in rents can be entirely explained—and justified—by reference to the difference (£145) between the original purchase prices of the two properties: 'If I were to charge only the same rent as White', he ruefully

* Except those which involve the good or ill fortune of landing on Go, Chance, Community Chest, Free Parking, Go to Jail, and Tax.
confides, 'I should soon be had up before the Bankruptcy Court'. But Black is unmoved. He gracelessly retorts that he, unlike the rest of them, never even had a chance to purchase Park Lane—or any other property for that matter—and cannot accept that he should now be obliged to respect Blue's title and pay him rent.

Red, who had lapsed into a reflective silence during this exchange, now ventures a suggestion. 'Suppose we were to amend the rules of the game in such a way as to deprive the three of us who started it of any advantage we thereby enjoy over Black. Blue reasonably feels that the price he paid for Park Lane entitles him to charge a high rent on its occupancy. Suppose that Blue, and White and myself as well, were to be reimbursed with the purchase prices of all our properties. This would deprive us of any justifiable grounds for charging rent on our unimproved sites. But it would be entirely justified to demand payment from anyone occupying a property to which we, through sacrifice and effort, had made some improvement.'

'Not good enough,' replies Black, sensing that he is getting the upper hand and being by nature disinclined to demur from pressing a possible advantage to the full. 'For it would still be the case that you three had and have a chance, denied to me, to make profitable improvements to the unimproved sites you had completely acquired before I came on the scene. Blue could continue to extort £190 more for the rent of his Mayfair house than White can get for exactly similar accommodation in the Old Kent Road. That may have to be acceptable to Red and White, since they originally had some chance of acquiring Mayfair themselves. But I didn't. Hence Red's proposal fails to eliminate the disadvantage of a later start, and no late starter could rationally consent to this distribution of property.'

Faced with the loutish obstinacy of this barrack-room lawyer, Red, White, and Blue hold a quick conference and come up with what is to be their final offer. They suggest that the saleable value of each property (including its improvements) be determined by a mock auction; that a similar valuation be made of its improvements alone; that the latter figure be subtracted from the former; that this difference be calculated as a proportion of the former; and that this proportion be deducted from all rents paid, and divided equally among all the players. This procedure, it is claimed, would eliminate the alleged advantage enjoyed by the original three, inasmuch as it would 'nationalize' the pure rent element of their property incomes and leave them with only those revenues which are due compensation for their productive efforts. (Thus the rate of tax on rents for unimproved sites would be 100 per cent.) Since compensation commensurate with the value of one's services to others is the most that any person can reasonably expect from them, and since this procedure would satisfy that expectation, there could be no reason for claiming that the original acquisition of property rights—when they have been thus encumbered—would confer any unfair advantage on their owners.

For the sake of simplicity, I here implicitly depart from what is, in any case, a groundless and unrealistic feature of the actual game of Monopoly: namely, that the stipulated cost of erecting the same building is greater on more expensive than on less expensive sites. It is true that this feature of the game might be taken to weaken the basis of Black's grievance. But, as will be shown, it does not destroy it.
'Hence', Red, White, and Blue conclude, 'you should respect our property rights, and pay our rents, under these conditions.' Black, surly as ever, ponders this proposal, grudgingly concedes its merit, and joins in the game.

Commentary

Red, White, and Blue are wise and just men. They have studied the teachings not only of John Locke, but also of Henry George and the early Herbert Spencer. Like many turn-of-the-century Liberal members of Parliament, as well as some of their socialist colleagues (a preponderant number of whom reportedly claimed to have been influenced more by George than by Marx), they locate the source of contemporary social injustice not in the dire poverty which the current allocation of property permits, nor even particularly in the rigours of a competitive economy. Rather, it is to be found in the cumulatively compounded effects of an inequitable distribution of original property rights, that is, rights to natural resources. According to George, it is the historical transmission of these rights to finite and non-reproducible objects, and their correlative obligations—as ramified through the price system—that both accounts for the greater proportion of prevailing social inequality and retards economic growth, by conferring monopolistic power on resource owners who are insulated against competitive pressures to put their resources to more productive use. Nor, however, would he have allowed that a contractual distribution of original property rights, along the lines indicated in the second parable, could overcome this difficulty—for the reasons set out in the preceding commentary. Advancing what he considered to be the logical conclusion of Lockean natural rights premisses, George argued that a distribution which is just (as well as efficient) must be one which rewards people proportionately to their productive contribution, and that this is only possible within a structure of property rights which are entirely contractually derived. The remedy for distributive injustice is not to restrict freedom of contract and the consequent scope of economic competition. On the contrary, it is to extend them and, in particular, to establish the obligations correlative to property rights in natural resources—from which all other property rights ought contractually to derive—upon a contractual foundation.

George was thus led to confront the problem side-stepped by the Voice: how to constitute a set of property rights and obligations upon a foundation that could be construed as contractually underwritten by members of later generations as well as initial appropriators. Given the non-contemporaneity of all these persons, such a contractual construct might have to be only hypothetical in character. But, for the reasons offered to Black by Red, White, and Blue, this would not detract from its status as a remedy for injustice, in so far as injustice is held to consist (among other things) in forcibly depriving a person of any of the value of his services to others. The early Herbert Spencer, strongly influenced by Thomas Hodgskin and indirectly by the writings of the land reform radicals, of Ricardo on rent and of John Stuart Mill on what came to be known as the 'land question', had previously been exercised by this same

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* I owe this piece of information to David Howell.
problem and had proposed land nationalization as its solution. Indeed, one of the clearest statements of the problem in terms of natural rights theory is to be found in George’s telling attack on Spencer’s later recantation of this proposal.

Yet, as the parable suggests, George himself did not favour nationalization of natural resources as the appropriate remedy. A hypothetically contractual basis for resource ownership seemed to him an equally just, administratively simpler, and substantially less disruptive means of securing what Spencer had sought to achieve by actual contract (in the form of state leasing of natural resources). The ‘Single Tax’ would extract the pure rent element from resource owners’ property and return it equally to each member of society (i.e. inasmuch as it would be mediated through democratic political institutions), who could thereby have no reason to believe his lot to be prejudiced by original appropriation or the set of property rights contractually derived from it.

The Georgist diagnosis and prescription are interesting, and not only to antiquarians. In the first place, his analysis constitutes the culmination of an important and unduly neglected theme in political and intellectual history that has its roots in at least the eighteenth century and arguably much earlier. But second, it represents an approach to the problem of social injustice that has much in common with Marxist and other socialist accounts. (George was often accused of being a socialist.) For it seeks to show that the specific form of injustice which we call exploitation can exist even in a society in which—unlike those sustaining slavery or serfdom—individuals’ economic interactions appear to be entirely governed by their own contractual undertakings. George’s point, of course, is that this appearance is misleading. Persons do not receive the full value of their services because the property rights framework, within which they strike their bargains, possesses significant non-contractual elements emanating from the unencumbered (or inappropriately encumbered) character of natural resource ownership. Like Marx, but in a considerably more perspicuous fashion, George reaches his conclusions through a synthesis of ethical and economic reasoning.

And his prescription, when compared to other proposals for the elimination of exploitation, is a thing of such elegant simplicity as to be intellectually beautiful.

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10 In his Preface to Progress and Poverty George declares: ‘What I have done in this book, if I have correctly solved the great problem I have sought to investigate, is, to unite the truth perceived by the school of Smith and Ricardo to the truth perceived by the school of Proudhon and Lassalle: to show that laissez-faire (in its full true meaning) opens the way to a realisation of the noble dreams of socialism; to identify social law with moral law, and to disprove ideas which in the minds of many cloud grand and elevating perceptions’.
And yet, it is ultimately flawed. Its inadequacy as a just corrective of the prevailing set of property rights, lies in the fact that the resource valuation it requires, being based on market prices, renders the remedial tax a mathematical function of that prevailing set of rights. Since market prices are *distribution-relative*, they cannot consistently be treated as parametric for determining the extent to which that distribution is unjust. In the case of the present parable, the respective preference schedules of Red, White, and Blue would exert greater determinative influence on the mock auction valuations than would Black’s, because they already possess property and he does not. The Georgist theory thus displays both the attractions and the limitations of using a *valuationally-based* concept of exploitation and, by implication, of hypothetically contractual rights and obligations. Hence, the terms on which Black has agreed to join the game of Monopoly are not ones which represent an unambiguous advance on the Voice in satisfying the libertarian requirement.

**FOURTH PARABLE**

Text

Following a shipwreck, ten persons find themselves on an otherwise deserted island from which escape is physically impossible. Their natural captivity is, however, somewhat alleviated by the fact that the island is endowed with fresh running water, some animal life, a sandy beach, some vegetation and reasonably fertile soil. Nevertheless, difficulties soon arise. One of the group is, it seems, a dedicated nudist who loses no time in taking advantage of the sunny weather and sandy beach to pursue his avocation. When reproached by several of his more scandalized companions, he is quick to point out that they have no authority to require him to do otherwise—to which they rejoin that the beach is not his personal property to use as he pleases. His reply to them is, of course, to precisely the same effect. In the meantime, three other members of the group set about to cut down some of the island’s larger trees in order to build a shelter for themselves. To this, all the remaining members take great exception, variously arguing that such a move would severely detract from the island’s beauty, contribute to the erosion of fertile soil, and critically reduce the amount of natural shade available to all. Again, their arguments soon become ones about property rights. Even a proposal, that the island’s fruit be rationed in proportion to the size of individuals’ appetites, fails to command the universal agreement confidently expected by its proponents. For it appears that, while none wish entirely to forgo eating fruit, some members prefer to employ at least a portion of the available fruit as fodder for the animals they hope to domesticate, while one or two others profess to find the sight of naturally decaying fruit aesthetically attractive. So, as in the other cases, arguments gradually turn from the relative desirability of alternative uses of available resources—about which agreement is difficult—to questions of property rights.

11 See for example, P. Newman, *The Theory of Exchange* (Englewood Cliffs, N.J., Prentice-Hall, 1965), p. 50: ‘prices are not given exogenously in the exchange situation, from the outside so to say, but are intrinsic to the problem embedded in the individuals’... preferences and *initial endowments* of goods’ (emphasis added).
It is at this point that one of the group's members—a lawyer by training or, perhaps, a political philosopher—volunteers the following insight into the vexing issues confronting them. He observes that, while each person has views about what sorts of conduct should or should not be permitted in this society, none possesses the authority to impose those views on the rest. Furthermore, it is clear that issues about permissible conduct invariably resolve themselves into issues about who may use what without suffering interference from others. But no one is immediately prepared to assign the unencumbered use of anything to anyone else.

'We are', the lawyer observes, 'each treating one another as though the island were our own personal property. It would therefore appear that a correct description of our situation is that we are each shareholders in the island which is thus a jointly owned asset and that we each consider our shares to entitle us to exercise a veto against any assignment of our assets of which we do not approve.' The members of the group immediately recognize this characterization of their situation as an accurate one, but are at a loss to see how it can in any way assist them in getting on with the various things they each want to do. Again the lawyer: 'I suggest that we formally constitute ourselves as a decision-making body, and entertain proposals from those of our members who wish—either individually or in some combination—to make some use of the island's resources. Since each of us is armed with a veto, the various assignments eventually decided upon by this body must be presumed to command the assent of all and, therefore, any interference by anyone with what has been assigned to another would have to be viewed as a violation of contract. Of course, we must expect a lot of hard bargaining to occur before any such allocation can be made. But this way of looking at our situation, and this way of proceeding, appear to be the only ones which promise protection of each person's liberty inasmuch as no one will be obliged to submit to restrictions which he has not contracted.'

The members of the group ponder this suggestion and eventually, though perhaps with some reluctance, come to accept it. But just as negotiations are about to commence, one of them speaks out. 'Haven't we overlooked a rather important consideration?' he asks. 'Surely we are forgetting the lesson of the second and third parables. Suppose that, in twenty years' time, we have amongst us several new members who are the offspring of present members and who have attained adulthood in the interval. Will they not consider that any obligation they might have to respect the property of others could only arise, as in our own cases, from its having been contractually undertaken? If we, as shareholders, now proceed to make permanent private allocations to each of ourselves, then presumably this has the effect of dissolving our joint ownership and there will be nothing for our children to be shareholders of. I do not think it will do to say that an offspring's property rights are a matter of concern only to his parents. For this in no way implies an obligation on his part to respect the property of others. And in any case, there is no reason why the rights of these offspring—who will, as it were, be persons in their own right—should be determined by what their parents (who may have been utterly profligate) may or may not have done with what was originally assigned to them.'

This intervention in the proceedings immediately throws the group into
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complete consternation. But once again, the lawyer comes to the rescue. 'It is true', he concedes, 'that my proposal in its initial form fails to take account of the problem posed by later arrivals in our midst. I therefore recommend the following modification. The shareholders’ body will not dissolve after making its set of allocations. Later arrivals, when and if there are any, will become shareholders as they reach the age of majority when they would normally assume the burdens and benefits of full legal responsibility. Since any prevailing set of allocations is contractually entitled to the respect of all—and only—those who were shareholders when that allocation was made, it follows that the only way in which the obligation to respect others’ property can be said to be contractually incurred by more recent shareholders who were not parties to that earlier allocative decision, is if prevailing allocations are subject to their approval. Current shareholders would thus be well-advised, though by no means obliged, to take this consideration into account when making their decisions about who should get what and what should be done with it. The contracts into which the shareholding body enters would thereby assume the character of a lease for an unspecified term. And all shareholders would thereby be bound to respect the agreed rights of leaseholders and to impose upon them no restrictions other than those contractually agreed to.' The members of the group grimly contemplate this new proposal, which they finally accept, and then sit down to engage in some very hard bargaining.

Commentary

The lawyer succeeds where the Voice and Henry George failed. He devises a formula for the universal and perpetual reduction—to two—in the number of non-contractually prohibited activities: violations of personal (bodily) integrity and violations of contract. And he achieves this theoretical result by providing all property rights with a foundation in the contractual undertakings of all existing persons. Once an individual becomes contractually entitled to an object, he may do with it—and only with it—what he pleases, subject to the terms of the contract. He is at liberty (a forcibly protected liberty) to transform it, exchange it, invest it, consume it, give it away, etc. The different distributions which may eventuate from persons exercising their liberties and using their contractual allocations in these ways are themselves contractually underwritten. It is true that later shareholders can revoke the set of titles prevailing when they first appear on the scene. Indeed, it is their having such a right that ensures the contractual status of their obligations to respect those allocations which are not revoked, as well as those re-allocations which may be (unanimously) agreed upon. For although revocation is a prerogative solely of new arrivals, allocation is the right of each and every person. That is, and as the lawyer says, each shareholder’s right includes the power to veto.

Is this implausible? Arguments in political philosophy characteristically contain some premisses which are normative propositions and some which state conceptual truths. The lawyer’s case rests not only on the libertarian normative view that violations of personal integrity and of contract should be the only activities which are non-contractually prohibited. It also relies upon

the conceptual truth that a property right is a right in rem, that is, a right against the world. As such, it entails enforcible obligations on the part of all persons who are not the holder of that right. This necessary truth, taken in conjunction with the normative proposition just stated, implies that such obligations must be contractually incurred by all those to whom they are ascribed, i.e. everyone.

Even if theoretically plausible, is not the lawyer's proposal highly impracticable? Such questions invariably trade on a pivotal ambiguity. Impracticable for whom? If revocation of some or all prevailing titles were universally disadvantageous, it would presumably not be undertaken. In this respect the lawyer's remark, that current shareholders would be well-advised (though not obliged) to consider later shareholders' interests in making their current contractual arrangements, is highly apposite. There is no reason to suppose that later shareholders would enjoy greater immunity from the disruptive and destabilizing effects of revocation. Nor would they be unaware of the fact that any subsequent re-allocation must enjoy the consent of all, including those whom they have dispossessed. But if, on balance, some—or even one—of the later shareholders considered revocation to be less disadvantageous, upon what grounds could it nevertheless be pronounced impracticable? If, as one writer has suggested, 'rights are trumps', and if trumps override all other kinds of practical consideration, the grounds for judging as impracticable someone's exercise of his right of revocation can ultimately only lie in an ethical commitment which asserts the normative superiority of other practical considerations (e.g. maximizing social utility) over the demands of respecting individuals' rights. Such a commitment is, of course, plausible enough, though not itself entirely free from theoretical ambiguities and counter-intuitive consequences. But it is, in any event, a distinctly different kind of commitment from the libertarian one explored in this paper. And its connection with the requirement of minimizing uncontracted enforcible obligations is, at most, a contingent and largely historical one, as the first parable indicates.

REVIEW AND CONCLUSION

Libertarians characteristically think of themselves as favouring a free society, a society in which individual liberty is maximized. But understandable as this characterization may seem, it is not quite accurate. For state officials in our society enjoy a considerable amount of individual liberty—as do legislators—and their liberty increases every time the government takes on a new function or nationalizes another industry. Each such move—as libertarians have not failed to point out—increases the scope for such officials to exercise their personal choice and to give effect to their preferences. Libertarianism is, therefore, not a demand for greater individual liberty in society: such a demand, I would contend, is without meaning. It is, rather, a

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14 I assume here that a set of rights, to be defensible at all, must at least be possible, i.e. its members must be compossible, and hence that violation of some rights cannot be a condition of respect for others; cf. Steiner, 'Compossible Rights'.
demand for equal liberty amongst all members of society. The libertarian injunction is not properly understood as one to maximize individual liberty. What it prescribes is the minimization of uncontracted enforcible restrictions on individual conduct. And this prescription is not translatable into one enjoining the maximization of anything. What the Central Committee, the Voice, Henry George and the lawyer have all understood is that a society in which uncontracted enforcible restrictions are minimized must be one in which everyone has certain basic rights. What only the Voice, Henry George and the lawyer have understood is that these basic rights are property rights. What only Henry George and the lawyer have understood is that they must be original property rights. And what the lawyer alone has understood is that, for the incidence of these original property rights to be universal, they cannot be interpreted in a purely genetic fashion as applying to the ownership solely of those objects which are the physically original constituents (i.e. natural resources) of all other objects to which persons may be entitled.

There is another way of putting this same point. The libertarian is vitally concerned to secure a society in which the enforcible obligations to which any individual is subject—apart from his obligation to refrain from overt violence against the persons of others—are all obligations which he has personally contracted. And they correctly see the vast structure of regulations and prohibitions to be found in most modern societies, and many earlier ones, as entailing obligations and liabilities which are in no sense consistent with this requirement. But for reasons which are not at all obvious, they have often paid insufficient attention to the fact that each and every property title imposes obligations on all persons who are not the holders of that title—obligations which can be said to have been contractually incurred, at most, only by previous holders of that title or of the titles from which it derives. For the rest, these ubiquitous obligations are uncontracted but none the less enforcible restrictions on their conduct.

None of you sold me my house. All of you are enforcibly obligated to refrain from setting up a betting-shop in my front parlour. Of course, if one of you had sold me my house, or if one of you had sold the house to the person who sold it to me, or if one of you had sold him the materials for constructing the house, your obligation would indeed be a contractual one. But it is quite clear that the overwhelming majority of enforcible obligations, to which each of us is subject in respect of others' property, was never incurred in this way. Such obligations are as inconsistent with the aforesaid libertarian requirement as are those imposed by Keynesian or welfare or mercantilist or any other form of meddlesome state.

Historical entitlement conceptions of property rights avoid the error correctly attributed to competing conceptions which 'treat objects as if they appeared from nowhere and out of nothing' and were not the products of personally owned labour. But historical entitlement conceptions attend insufficiently to the fact that natural resources are, precisely, objects which appeared from nowhere and out of nothing. And it is thus not surprising that the Achilles' heel of such conceptions can almost invariably (George is the exception) be located in their accounts of the right to initial appropriation.

10 Nozick, Anarchy, State and Utopia, p. 160.
from which all other historical entitlement-based property rights logically derive. Notoriously, such accounts ignore the fact that appropriative rights cannot be constituted by historical principles and must necessarily derive from end-state ones and, moreover, end-state principles the validity of which can logically extend to an indefinite number of human generations.¹⁷

Let me conclude with the following observations. Libertarians are surely on the right track in holding that the principles of distributive justice must contain significant historical (and unpatterned) elements. We do think that the deprivations forcibly imposed upon individuals should bear some close relation to what they have done.¹⁸ And it would therefore be peculiar and inconsistent were we to claim that the same criterion should have no application to their forcibly protected gains—that there can be a thoroughgoing asymmetry between the demands of distributive and retributive justice. Nozick rightly notes that, as against distributive theories which embody only end-state principles,

One traditional socialist view is that workers are entitled to the product and full fruits of their labour: they have earned it; a distribution is unjust if it does not give the workers what they are entitled to. Such entitlements are based upon some past history... This socialist rightly, in my view, holds onto the notions of earning, producing, entitlement, desert, and so forth, and he rejects current time-slice principles that look only to the structure of the resulting set of holdings.¹⁹

As was previously remarked, socialists and non-socialists share the same general conception of exploitation, which is held to consist in individuals not receiving the full value of their services to others because their economic interactions are not entirely governed by their own contractual undertakings. This is clearly true of slavery. What is more, non-socialists (as well as socialists) believe it to be also true of serfdom, and this despite the fact that the exchange of services between lord and vassal was contractually constituted. The basis for the charge of exploitation even in these circumstances lies in the fact that such contractual undertakings occurred within a wider structure of enforceable obligations which were not themselves contractually agreed by lords and vassals. And it is on these same grounds that Henry George and the lawyer indict the Voice for creating an exploitative set of arrangements in the second parable. That these arrangements embody an historical entitlement principle is a necessary, but not sufficient, condition for withdrawing this indictment.

The programme of laissez-faire and the free market is to secure the widest possible dispersal of economic decision making. And the object of natural rights doctrine, with its associated historical entitlement principle, is the widest possible dispersal of individual liberty. It is a statistical axiom that the widest possible dispersal of a variable over a population is its equal incidence in every member of that population. The lawyer's insight—and that of some conceptions of socialism—is that, in a normative social order, economic

¹⁸ Nozick, Anarchy, State and Utopia, p. 154.
¹⁹ Nozick, Anarchy, State and Utopia, pp. 154–5.
decision making and individual liberty are indissolubly linked through the institution of property rights. Each person's possession of a veto on the initial allocation of property eliminates the possibility of his being exploited, by minimizing the number of non-contractual enforceable obligations to which he is subject. Such an arrangement is, recognizably, a form of socialism. But it is also one which, from a libertarian perspective, incorporates the virtues of the first three parabolical societies while discarding their defects.

20 There are others. Thus Menger distinguishes two different and opposed socialist principles: one which determines personal entitlement on the basis of need, and one which determines it on the basis of productive contribution; A. Menger, The Right to the Whole Produce of Labour, intro. by H. S. Foxwell (London, Macmillan, 1899).