

Humane Studies Review

Volume 4, Number 3

Summer 1987

Inside HSR:

- ◆ What new potion is being brewed by the mixture of welfare economics and political philosophy? Economist Tyler Cowen reviews the literature.
- ◆ What was the role of liberal thought in the early American Republic? Were the Jeffersonians simply "agrarians," or were they opposed to state capitalism? Historian Rick Vernier examines the issues and the evidence.
- ◆ Are there natural rights? What ground could they have? Fred D. Miller, Jr. and Patrick Steinbauer examine philosopher Henry Veatch's ambitious and original contribution to the debate.

Current Issues In History

Interpreting the American Republic: Civic Humanism vs. Liberalism *by Richard Vernier*

There is a great deal of literature produced by historians of early America that should be of interest to scholars of liberalism. In particular, a debate among historians over the character of early American political ideologies offers an opportunity to explore the sources of the American liberal social order, while reflecting on the meaning of the liberal social vision when it was clearly something fresh, new, and vibrant. An effort by some historians to dismiss liberalism as an irrelevant anomaly in the early modern era and an overrated force in political thought ironically may have precipitated opportunities for those interested in rehabilitating both liberalism's past and its fortunes.

Those with an interest in the history of political thought in the modern era will at some point encounter the work of a group of historians that over the last two decades has effected nothing less than a revolution in our understanding of modern political and social theory. These historians have all taken as their theme the elucidation of the "classical republican" or "civic humanist" paradigm, which maintains that the
(continued on page 6)

Bibliographic Essay

Political Philosophy and Welfare Economics *by Tyler Cowen*

Ever since the pioneering work of Robert Nozick and John Rawls, the field of overlap between political economy and political philosophy has been one of the fastest growing and most exciting areas in the social sciences. Many of the world's leading economists and philosophers have exchanged ideas on the nature of the good society and its justification.

Before the initiation of these debates in the early 1970s both political philosophy and welfare economics were in a relatively stagnant state. The period between Sidgwick and Rawls yielded little of significance in political philosophy, perhaps due to the influence of positivism. Likewise, the "new welfare economics" dating from the 1930s had developed into a super-refined mathematical structure that was largely irrelevant to many interesting normative questions.

Developments in the 1970s and 1980s can be interpreted as a rediscovery of the aims of political philosophy as it was developed in the post-Renaissance period by such figures as Hobbes, Locke, Rousseau, and Kant. Normative inquiry should be directed at obtaining useful knowledge about the structure and nature of available alternatives, rather than the analysis of linguistic propositions or refining the art of model-building for its own sake.

The novelty in recent work is that old questions in political philosophy are combined with new methods, specifically rational choice theory and economic science. These tools allow a more advanced and clearly defined analysis of political theories. Rawls, for instance, used an integration of choice theory and economics in his *Theory of Justice* (Cambridge: Harvard University Press, 1971) to help determine what rational individuals would choose from behind a veil of ignorance. Robert Nozick's *Anarchy, State and Utopia* (New York: Basic Books, 1974) also uses economic analysis to outline the evolution of the minimal nightwatchman state as well as to puncture holes in alternate theories.

For an introduction to the entire field, the reader is advised to start with two collections of essays, *The Limits of Utilitarianism*, edited by Harlan Miller and William Williams (Minneapolis: University of Minnesota Press, 1982) and *Utilitarianism and Beyond*, edited by Amartya
(continued on page 2)

IHS The Institute for Humane Studies
at George Mason University

Political Philosophy (continued from page 1)

Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982). Both books are based on conference proceedings and provide an overview of many of the critical issues in this field.

Nozick and Rawls are examples of philosophers who have been influenced by economics. Such influences have also run from political philosophy to economics. Many economists, such as Sen, have been inspired by political philosophy to demand that welfare economics compare different conceptions of well-being, as well as examine important normative questions such as the nature of rights, the importance of nonutilitarian considerations, possible conflicts between rights theories and utilitarianism, endogenous preferences, and optimal population theory.

I shall examine a number of topics in the areas of overlap between political philosophy, rational choice theory, and welfare economics.

Consequentialism

Perhaps the single most important question in moral philosophy is whether different states of affairs ought to be ranked on the basis of outcome (their consequences) or whether they should be evaluated according to "agent-relative" considerations. Under consequentialism, outcomes are evaluated on the basis of their objective consequences apart from the intention of any specific agent. Nonconsequentialist theories claim that we can (or should) only ask whether an action is good or bad based on the formal characteristics of the agent's choice.

Utilitarianism is the best-known form of consequentialism, as it evaluates outcomes on the basis of total utility. Consequentialism, however, is broader than utilitarianism and may encompass rights considerations. A rights-consequentialist theory, for example, would assert that we ought to prefer the outcome that contains the smallest number of rights violations. The important feature for the ranking is the consequence (how many rights were violated?) and not what need be done to minimize the number of rights violations.

In contrast, nonconsequentialist or agent-relative theories claim that the rightness or wrongness of an action results from moral constraints we place on the behavior of agents. These moral constraints prescribe rightness or wrongness regardless of whether the agent's action may lead to good or bad consequences. These consequences may include the violation of process values, which imply that certain ways of treating others have intrinsic value.

For example, a consequentialist theory (under *ceteris paribus* conditions) might recommend murdering one innocent man to prevent a madman from murdering five other innocent people. An agent-relative approach, on the other hand, would not call for summing up either consequences or the violation of process values from an agent-neutral point of view. It is wrong for an individual to kill an innocent person, regardless of how good the consequences of such an act may be or even if it entails a maximization of certain process values (for example, nonaggression).

Rights theories have traditionally been agent-relative, but this is quite different from relativism. Instead, they consist of objectively valid rules which stipulate that individuals must respect the sphere of rights possessed by others. These rules, however, are adopted for reasons other than the fact that they may have good consequences. Such rules cannot be abandoned when they lead to bad consequences or even to a net increase in the number of rights violations (as in the madman example above).

Nonconsequentialist or agent-relative theories claim that the rightness or wrongness of an action results from moral constraints we place on the behavior of agents.

The classic defense of agent-relative theories can be found in Bernard Williams's "A Critique of Utilitarianism," (in *Utilitarianism: For and Against*, edited by Williams and J. Smart, [Cambridge: Cambridge University Press, 1973]). Williams argues that individual lives cannot have integrity or continuity unless we allow agents to give priority to their own values and plans. Consequentialist theories are not compatible with individuals having meaningful lives, since such theories force individuals to abandon their personal plans any time they are capable of producing good consequences for others. For instance, this might require individuals to devote their entire lives to charitable work.

The most powerful critique of agent-relative theories to date can be found in Sidney Scheffler's *Rejection of Consequentialism* (Oxford: Oxford University Press, 1982). Although Scheffler is sympathetic to agent-relative theories, he finds them hard to justify. If we assert that one agent ought not to violate the rights of others, this implies that rights violations are in some sense bad. Scheffler presents a lengthy argument that this tends to collapse into arguing that we should minimize rights violations, a form of consequentialism.

A defense of agent-relative theories can be found in Sen's article "Rights and Agency," (*Philosophy and Public Affairs* Winter 1982) and in his exchange with Donald Regan in the Spring 1983 issue of the same journal. In a collection of his essays, Sen also criticizes Paretian theory at length for its inability to accommodate nonutility and nonconsequentialist criteria (*Choice, Welfare and Measurement* [Cambridge: MIT Press, 1984]). Y. K. Ng responds to Sen in the 1979 issue of *Economic Journal* ("Welfarism: A Defence Against Sen's Attack").

Another significant contribution to the debate between consequentialist and nonconsequentialist theories is provided by Derek Parfit's brilliant *Reasons and Persons* (Oxford: Oxford University Press, 1984). In the first section of this book, Parfit argues that consequentialist and nonconsequentialist views are not necessarily incompatible. To be coherent, both need to be formulated in a manner that is not collectively self-defeating. A simple example of a collectively self-defeating theory

(continued on page 13)

Reviews**A New Defense of Natural Rights**
by Fred D. Miller Jr. and Patrick Steinbauer

Human Rights: Fact or Fancy?
by Henry Veatch (Baton Rouge: Louisiana State University Press, 1985)

Three streams of thought have gained prominence in philosophy during the past decade. First and most generally, normative ethics and political philosophy have regained a central place among academic philosophers. Many earlier twentieth-century philosophers had maintained that statements concerning what things are good and what a person ought to do were cognitively meaningless and incapable of rational justification. But these assumptions, common to positivism and analytic philosophy, have been widely called into question, and the publication of John Rawls's *Theory of Justice* (Cambridge: Harvard University Press, 1971) ushered in a period of intense interest in ethical and political theory, and the application of such theory to questions of public policy. During the past few years, moreover, the concept of rights, long in disrepute, has become a focus of philosophical inquiry. Second, a genuine renaissance in the study of Greek philosophy began in the 1960s, practiced by scholars with finely honed interpretive and critical skills, who take the arguments and theories of Plato, Aristotle, and others very seriously. Since the appearance of John Cooper's *Reason and Human Good in Aristotle* (Cambridge: Harvard University Press, 1975), philosophers have been increasingly persuaded of the importance of Aristotle's ethics and politics. Third, after a long period of obscurity, what may be called "classical liberalism," "libertarianism," or "individualism," has emerged as a force to be reckoned with, especially following the publication of Robert Nozick's *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

These three streams converge in a recent book by the philosopher Henry Veatch, *Human Rights: Fact or Fancy?* Veatch has himself been in the forefront of the first two developments. In *For an Ontology of Morals: A*

Humane Studies Review is published three times during the academic year by the Institute for Humane Studies at George Mason University, 4400 University Drive, Fairfax, VA 22030; (703) 323-1055. Typed, double-spaced manuscripts are welcome.

Editor: Tom G. Palmer

Managing Editor: Sheldon L. Richman

Contributing Editors: Walter E. Grinder, Leonard P.

Liggio, Ralph Raico

Art Director: Margo Reeves

Critique of Contemporary Ethical Theory (Evanston, Illinois: Northwestern University Press, 1971) he defended traditional normative ethics against its leading twentieth-century critics, and in *Aristotle: A Contemporary Appreciation* (Bloomington: Indiana University Press, 1974) he argued for the relevance of Aristotelian thought to a whole range of modern philosophical issues. More recently, he has come to appreciate the force of classical liberal thought. Although he parts company in important ways with classical liberals, he has also been influenced by them.

In chapter one Veatch surveys four types of ethical theory — state of nature, social contract, teleology, and deontology — and contends that each fails to provide an adequate justification for the law.

Natural laws are analogous to the rules of skill appropriate to a particular art or technique

In chapter two Veatch lays the foundations for his own ethical theory, following the tradition of Aristotle, Thomas Aquinas, and Richard Hooker, for whom ethical truths are ultimately based on "natural laws." These laws are different from the laws of nature (for example, gravity), according to which natural processes occur in the same way in the same circumstances. Rather, natural laws are analogous to the rules of skill appropriate to a particular art or technique: for example, the rules of the medical art enable the doctor to promote the end or objective of health. But whereas rules of skill promote specific ends that people pursue as a result of preference or whim, natural laws are needed for a human being to attain his natural end, that is, "the end or goal or fulfillment of human life as a whole." Because this end is "set and determined by nature, or by man's very nature as a human being," we can say that "nature prescribes [natural laws] as being necessary to follow if one's natural human end is to be achieved." Hence, Veatch has an objective conception of the good: "What is the good of a thing if not its full being, or its fulfillment or perfection, toward which it is ordered by nature or by its own nature." He embraces Aristotle's characterization of natural human perfection as *eudaimonia*, that is, happiness or flourishing. He relies on Aristotle's own justification of this theory of the good, recapitulating Aristotle's "criteria for determining just what the good for man — his natural end or *telos* — must consist of": activity and exercise of human capacities; practical use of reason; choice and moral virtue, and personal freedom and autonomy in the living of one's life. (Veatch concedes that the latter is not mentioned explicitly by Aristotle, but contends that it is "implicit in nearly all that he says.")

In chapter three Veatch derives his theory of the common good and human rights. For Veatch the common good is a system or institutional arrangement for procuring the so-called goods of life that human

(continued on page 4)

Natural Rights (continued from page 3)

individuals need and want if they are to attain their full life or their natural perfection. Borrowing a leaf from Aristotle, he argues that such a notion of the common good is consistent with the particular ends because each individual human being is a "political animal" — implying an integrated structure of ends, with the common good permeating the individual's good.

Veatch next embarks on his own derivation and analysis of rights. This is the real philosophical core of the book, and his most ambitious and original contribution. Veatch claims that all previous attempts to provide a justification of individual rights have failed, including traditional theories like John Locke's and more recent efforts such as Robert Nozick's and Alan Gewirth's.

To appreciate the problem of deriving individual rights, it is necessary to appreciate their peculiar moral force. The moral "bite" of rights claims is found in their correlative duties. In the simple case of a debt, if Smith has a right against Jones to be paid ten dollars, then Jones has a duty to Smith to pay him ten dollars. More generally, if Smith has a right to freedom of action, then everyone else has a duty to respect Smith's freedom of action. The problem is how to justify the ascription of such rights to individuals without arguing in a circle or committing a *non sequitur*. For example, to derive rights from the undefended assumption that individuals have duties towards each other would be to beg the question.

The key move in Veatch's argument is the claim that the rights of individuals are based on *self-regarding duties* derived from their natural ends. "For given the notion of an end or goal or perfection of human life that is determined by man's nature, it follows that the business of living, for a human being, must consist of an ongoing enterprise of trying to become and be simply what one ought to be. That is, because man's natural end is determined for him by nature, that end will be obligatory, and in consequence a person's every action and his entire behavior will need to be governed by a regard for his duties toward himself." Further, from the fact that Smith is under an obligation to do *X*, Veatch infers that Smith has a right not to be interfered with or prevented from discharging this obligation. Veatch suggests that this inference involves a variant of the principle that "ought" implies "can."

Veatch next considers whether people have merely *negative* rights to life, liberty, and property, which are rights against the initiation of force by others, or whether they also have *positive* rights to be provided with various goods and services that they need but are unable to procure by themselves. This is a serious problem for Veatch since he understands human rights in terms of "our human needs — that is, what is necessary to us if we are to acquit ourselves of our responsibilities as rational and political animals." This might seem to open the floodgates for a "veritable torrent of rights," namely welfare rights, including rights to food, clothing, housing, employment, etc. Veatch finds such rights problematic because it appears that "there is no way a government can acquit itself of this supposed obligation

to guarantee men their positive rights without the government's at the same time, and almost inevitably, having to violate some of men's negative rights in order to do so."

To appreciate the problem of deriving individual rights, it is necessary to appreciate their peculiar moral force. The moral 'bite' of rights claims is found in their correlative duties.

Veatch argues that he can make a reasoned distinction between negative and positive rights: "we might be said already to possess such things as are said to be ours by negative right and . . . for this reason we are not to be deprived of them, at least not rightfully"; whereas "all of the so-called positive rights are those that human beings who are said to have a right to them do not possess, and therefore it is claimed that they have a right to become possessed of them." The fundamental difference between them is "the difference between claiming a right to what is already ours, either by nature or by dint of our own labor, and claiming a right to what is not yet ours but what we want to be ours." As for benefits such as food, clothing, shelter, education, health care, a minimum wage, etc., he says, "We are not initially entitled to these things because we are obligated to work for and provide ourselves with them." Veatch's partiality toward negative rights is supported by his conception of flourishing or the good life as essentially "a do-it-yourself job," as opposed to the mere satisfaction or gratification of needs.

Veatch thus agrees with classical liberals in construing rights as essentially negative rather than as positive "welfare rights." But he proceeds to construe the common good so broadly as to "vouchsafe" to individuals living in a political community "many of the substantive elements in so-called positive rights," for example, providing educational facilities, health care, transportation systems, etc.

In chapter four Veatch discusses the possible underpinnings of his natural law ethics. He has said from the beginning of the book that a natural right should somehow be grounded in reality and it is in this chapter that he tries to make some room for this assertion. Veatch addresses a dilemma posed by Leo Strauss: the justification of natural rights and natural law presupposes a "teleological conception of the universe," but modern science has determined that the universe can be better explained nonteleologically. Nevertheless, Veatch offers cogent reasons why the natural philosopher need not surrender a teleological view of nature.

From the foregoing summary, it should be evident that Veatch's book is a rich and stimulating work. His argument gives rise to many questions and should be a stimulus to further research in several directions. We can only briefly indicate a few of them here.

In the first place, while Veatch grounds his ethical theory on an Aristotelian conception of the human good

as objective, involving the natural end of happiness or flourishing, this sort of theory has been criticized relentlessly in the modern philosophical literature. For example, Alasdair MacIntyre in *After Virtue: A Study in Moral Theory* (South Bend, Indiana: University of Notre Dame Press, 1981) argues that the theory is based on Aristotle's teleological theory, according to which living things belong to eternal species and behave according to final causes or purposes, and that this theory has been superseded by modern evolutionary biology; thus, "any adequate generally Aristotelian account must supply a teleological account which can replace Aristotle's metaphysical biology." The elaboration of such an account, if possible at all, poses a powerful challenge.

The Aristotelian argument has been subjected to internal criticism as well. Aristotle states that "we are looking for the function peculiar to man," and concludes that it is "the practical life of man as possessing reason." But Bernard Williams has objected: "If one approached without preconceptions the question of finding characteristics which differentiate men from other animals, one could as well . . . end up with a morality which exhorted men to spend as much time as possible in making fire; or developing peculiarly human physical characteristics; or having sexual intercourse without regard to season; . . . or killing things for fun." (*Morality: An Introduction to Ethics* [New York: Harper and Row, 1972]). Recent commentators have argued that Aristotle himself recognizes (some of the time, at any rate) that human beings have an irreducible plurality of ends, including at least theoretical contemplation and political activity. Some followers of Aristotle suggest that the natural end can accommodate such a plurality of ends, understood as fitting together into a harmonious whole. Against this, Bernard Williams in *Ethics and the Limits of Philosophy* (Cambridge: Harvard University Press, 1985) and Stuart Hampshire in *Freedom of Mind* (Princeton: Princeton University Press, 1971) have suggested that it may be impossible to resolve the conflicting demands between the different components of human flourishing. One might of course try to rank these components, but it could then be objected that the attempt to advance one component of flourishing ahead of another implicitly assumes another set of unjustified values, and consequently that the theory of flourishing would lose its

The crucial move in Veatch's derivation is his insistence that since an individual has a duty to pursue his natural end, he has a right to do so.

putative status as an objective ethic, reducing itself to a version of moral relativism. (This sort of objection is offered in Gilbert Harman, "Human Flourishing, Ethics, and Liberty," *Philosophy & Public Affairs* 12 [1983], 307-322; for a reply see David L. Norton, *Reason Papers* 10 [1985], 101-105.) Finally, John Gray (*Liberalism* [Minneapolis: University of Minnesota Press, 1986]) has raised a powerful objection against the natural law

argument by posing a thought-experiment. "Let us suppose we are in a position (one we may well occupy in the middle future, given the possibilities of genetic engineering) to alter the content of man's nature or essence: how could the natural law ethic of realizing man's distinctive powers help us here?" Because the natural law theory simply takes it for granted that humans have the capacities they do, it could provide us with no ethical guidance as to whether humans ought to continue to have all of these capacities or whether they should cease to have some and acquire others.

A second area of concern is the justification of individual rights. The crucial move in Veatch's derivation is his inference that since an individual has a duty to pursue his natural end, he has a right to do so. As mentioned, Veatch thinks that this inference involves a variant of the principle that "ought" implies "can." "Just as it is acknowledged that one can hardly be said to have an obligation to perform any action that one is totally incapable of performing, might it not be a logical inverse of this that, granting that I do indeed have a duty or obligation to perform a certain action, then to render me incapable or unable to perform the action would surely be a violation of my right?"

Let us unpack this argument a bit. We grant the point that Smith has a natural end *E*, which requires that Smith perform as a means some type of action *M*. This yields the premise:

1. Smith ought to do *M*.

So far this is strictly a self-regarding duty, that is, a duty that Smith has to himself, as opposed, say, to a duty to Jones. Now, according to the "ought" implies "can" principle,

2. If Smith ought to do *M*, then Smith can do *M*.

From (1) and (2) it follows that

3. Smith can do *M*.

What is the "logical inverse" that Veatch needs for his argument? Suppose Jones interferes with Smith's flourishing, using coercion to prevent Smith from acting. The "ought" implies "can" principle does suggest that it would be unreasonable in such a case to insist that Smith ought to do *M* and to blame Smith for failing to do it, when Jones was making it impossible for Smith to do so. This suggests the following argument:

4. Jones brings it about that it is not the case that Smith can do *M*.

5. If Jones brings it about that it is not the case that Smith can do *M*, then Jones brings it about that it is not the case that Smith ought to do *M*.

6. Therefore, Jones brings it about that it is not the case that Smith ought to do *M*.

Here (5) can plausibly be characterized as a sort of "inverse" of (2). Unfortunately, (6) is a far cry from what we need in order to infer that Jones is violating Smith's rights if Jones prevents Smith from doing *M*. That, of course, would imply that *Jones* has a duty to Smith. But all that Veatch's premises establish is that *Smith* has a duty to *Smith*. To establish the conclusion he wants, Veatch needs a premise stronger than the logical inverse of "ought" implies "can." The following might do the trick:

(continued on page 6)

Natural Rights (continued from page 5)

7. Nobody ought to bring it about that another person cannot discharge self-regarding duties. From this it would follow that Jones ought not to prevent Smith from doing *M*, from which one might infer that Smith has a right against Jones not to be interfered with. But such a derivation would depend on the unjustified assumption of interpersonal duties, a type of derivation that Veatch eschews as circular. Hence, it remains to provide a suitable bridge between self-regarding duties and other-regarding rights.

Another objection (which Veatch considers) is that he has charged government with two incompatible duties: to promote the common good and to protect individual citizens in their rights. To meet this objection, Veatch argues that natural rights are not absolute, although they are inalienable. He explains his use of the term "absolute" by contrasting it with "derivative and dependent" and with "limited." These uses are related: because rights for Veatch are derived from our natural, self-regarding duties, they are also limited by these ends to what is needed "if an individual is to live his life as a responsible rational and political individual." Veatch is willing to concede that the promotion of the common good should be constrained by individual rights: the individual can be compelled to contribute to the common good "provided always that what is being demanded of him is not sacrifice of such life, liberty, or property as are essential and necessary to his being truly human. In this regard, and with respect to these truly inalienable rights of an individual, as Nozick rightly remarks, there can be 'no justified sacrifice of some of us for others.'"

Even this qualified position, however, raises serious questions. There is a disconcerting vagueness in the implication that one may be deprived of such life, liberty, or property as are *not* "essential and necessary to his being truly human." Just *how much* is one entitled to have on Veatch's account? The suggestion that this will be decided by "the courts" is not altogether reassuring, in view of the penchant of today's courts for massive redistribution of property. Moreover, the implication that this limit can be determined for a person by a governmental authority seems inconsistent with Veatch's thesis that flourishing is a "do-it-yourself job" and that it is up to individuals to determine what form their flourishing should take. Finally, in giving the state extensive powers to redistribute wealth, Veatch might be accused of compromising on his commitment to freedom and autonomy as an essential criterion of human flourishing.

Veatch offers an important addition to the literature on human rights. His book includes an original and suggestive justification of individual rights and their proper place in public policy deliberations. He is a remarkably clear author, easily accessible to the nonspecialist, with a writing style that is elegant yet unpretentious, drawing freely on literary as well as philosophical sources. As an academic philosopher, Veatch is remarkable for his open-mindedness, his willingness to argue with, and to draw insights from, philosophers of widely different perspectives. As a result

of this, the reader is introduced to a wide range of thinkers who appear on the scene as active participants in the current debate about human rights, rather than in a dull historical succession. As in his other works, Henry Veatch argues in a decidedly Socratic manner. And like the interlocutors of Socrates in Plato's dialogues, the reader may expect to be informed, entertained, and — above all — provoked into further inquiry by Veatch's arguments.

Fred D. Miller Jr. is professor of philosophy and executive director of the Social Philosophy and Policy Center at Bowling Green State University, Bowling Green, Ohio. Patrick Steinbauer is a research assistant at the Center.

Civic Humanism vs. Liberalism (continued from page 1)

individualist, interest-bound, capitalist-road liberalism hitherto imagined to dominate Anglo-American political theory from the late seventeenth century on, was, in fact, unimportant in comparison to the corporatist and largely anticommunist constellation of ideas rooted in the values of the ancient republics, variously described as classical republicanism, civic humanism, or "country party" ideology. Drawing on themes of classical political thought, these ideas stressed man's collective identity as a member of a political community, along with a cyclical view of history.

J. G. A. Pocock enunciated this interpretation most clearly in his book, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975), and his essay, "The Machiavellian Moment Revisited: A Study in History and Ideology," (*Journal of Modern History*, 1981). The outstanding historiographical reviews of this literature are Robert Shalhope's "Toward a Republican Synthesis: The Emergence of Republicanism in American Historiography" (*William and Mary Quarterly*, January 1972) and "Republicanism and Early American Historiography" (*William and Mary Quarterly*, April 1982).

Because classical republicanism lauded the virtue of the selfless servant of the *polis*, the development of a commercial society of self-interested actors could not help but be seen as a portent of decline and corruption. Thus, rather than justifying a social order of liberal individualism, Anglo-American thinkers in the eighteenth century were concerned with protecting a community of virtue against the forces of degeneration and decline that capitalism and commerce signaled.¹

Notwithstanding the considerable value of such scholarship in enriching our view of the past, and in uncovering a neglected form of political discourse, one suspects that a great deal of this hypothesis's appeal lies in its promise to provide an alternative, nonliberal, communitarian basis for those institutions attacked by Marxists as being based on a shallow individualism and crass commercialism. Classical republicanism can be seen as a dodge to critical

jabs at the Western political tradition, and a ready communitarian alternative to the individualism of liberal theory, an alternative that concedes nothing to Marx. Evidence for this interpretation can be found in two essays by Pocock, in which he argued that conservative and Marxist critics of the Western polity "converge . . . in perpetuating a distortion of history, which consists of vastly exaggerating the role of liberalism . . . within it" in a self-serving effort to show that a "monolithic paradigm of liberalism, or bourgeois ideology, or possessive individualism, . . . reigned undisturbed until they came to challenge it." This, says Pocock, is the fantasy he has helped dispel, for the "Myth of Liberalism is itself a myth. In its philosophical and in its public writings, the Age of Reason was an Age of Virtue"²

Following Pocock's description of the American Revolution as "the last act of the civic humanism of the Renaissance," many scholars have seen an ambivalence about commercial society and republican virtue in the struggle between Federalists and Republicans, as well as anxiety about the inevitable decline of republican government and a peculiar conception of the historical process, all having their roots in the same classical republicanism that is said to have animated the Revolution. Notable in this regard are Gordon Wood's treatment of the American Revolution, *The Creation of the American Republic* (Chapel Hill: University of North Carolina Press, 1969) and the work of Lance Banning on Thomas Jefferson, especially *The Jeffersonian Persuasion: Evolution of a Party Ideology* (Ithaca: Cornell University Press, 1978), "Republican Ideology and the Triumph of the Constitution, 1789-1793" (*William and Mary Quarterly*, 1974), and "Jeffersonian Ideology Revisited: Liberal and Classical Ideas in the New American Republic" (*William and Mary Quarterly*, January 1986).

John Murrin's highly regarded essay (see footnote 1) is one of the more sophisticated statements of this approach to the early national period. Drawing heavily on the work of Pocock and Banning, Murrin sees American politics in terms of the conflict between the "court" and "country" ideological positions that developed in post-1688 British politics. The court position was "intensely statist," said Murrin, while their opposition had a "strong suspicion of government power." Yet it was the "financial revolution" — the creation of a huge funded national debt and the Bank of England — that generated the most vociferous debate, pitting agrarian "country" interests against the new commercialism of the court. What was really being debated was modernity itself. Here in America, Murrin claimed, the "country" ideology was already firmly established, having animated the Revolution. But the creation of the Constitution created a "splendid opportunity to attempt traditional court politics on a Continental scale," forcing "opponents to gather behind proven Country defenses." Driven by traditional country faith in balanced government as the only foil of degeneration and decline, Jefferson (a "country ideologue" enamored of "virtuous yeomen") saw the prospects for creating a virtuous society receding before Hamilton's "court" policies. Republicans, said Murrin, "like the English opposition . . . idealized the past more

than the future and feared significant change, especially major economic change, as corruption and degeneration." While Jefferson was not strictly agrarian, Murrin acknowledges, he favored commerce only as a civilizing force that preserved the virtuous farmer. Likewise, Madison's economics must be seen as animated by a desire to "postpone the evil day in the name of Republican virtue" when huge cities and manufactures would appear.

Classical republicanism can be seen as a dodge to critical jabs at the Western political tradition, and a ready communitarian alternative to the individualism of liberal theory, an alternative that concedes nothing to Marx.

Drew McCoy's monograph, *The Elusive Republic: Political Economy in Jeffersonian Virginia* (New York: Norton, 1980), offers a sophisticated and valuable refinement of the classical republican portrayal of Jeffersonian theory championed by Banning. An ambitious and erudite effort to trace the origins and development of Republican ideology, McCoy's essay stated that "the Jeffersonian vision grew out of an attempt to reconcile classical republicanism with more modern social realities and American conditions." McCoy's exploration of eighteenth-century social thought unearthed a powerful current of historicism, the notion that society develops in stages according to an inexorable historical process. This current is especially notable in the thought of the Scottish Enlightenment thinkers, especially Hutcheson, Reid, Ferguson, Hume, and Adam Smith. These thinkers were divided over the issue of how to regard the emergence of commercial society, which, McCoy argues, threatened the classical values that inspired so much of their thought. With a few exceptions, like Hume, they were left profoundly uneasy by commerce, emergent industrialism, and the political structures that accompanied modernity. The Jeffersonians, similarly imbued with an historicist outlook, yet committed to classical values, says McCoy, were forced by events into transforming their ideology and embracing agricultural commerce as the only way to stave off American advance into the final stage of historical growth, that stage represented by cities, manufactures, corruption, and the end of virtue. Republican policy (particularly in territorial acquisition and trade policy) is therefore seen as shaped by this concern to keep America "forever young." Opponents like Hamilton (an enthusiast of Hume), by contrast, "stepped confidently and unequivocally into modernity . . . and wanted to use [the] government to push the United States as rapidly as possible into a higher stage of development, for he interpreted this stage as progress, not decay Hamilton had an unabashedly positive sense of development through time."

(continued on page 10)

Crosscurrents

Communist Economies Examined

Students of Eastern Bloc economies can now turn to a valuable new source of research and sound economic analysis. The Centre for Research into Communist Economies (% 2 Lord North Street, London SW1P 3LB, England) is producing an ongoing series of monographs on socialist economic systems by noted scholars in both the West and the Eastern Bloc. The latest addition to the series, *The System versus Progress: Soviet Economic Problems* by Gertrude Schroeder of the University of Virginia (1986), provides a wealth of data on Soviet economic performance, as well as a thoughtful look at the "reforms" currently being discussed. ♦

New Directions in Welfare Economics, Game Theory

Welfare economics, the subject of Tyler Cowen's bibliographical review essay in this issue of *Humane Studies Review*, has long been in need of serious revamping. Its formulation has been almost solely in static terms, terms incapable of fully comprehending the actual world of processes.

The Economics of Rights, Co-operation, and Welfare (New York: Blackwell, 1986) by Robert Sugden points in the direction of a new welfare economics, one based on spontaneous order theory and a process-based, game-theoretic approach. As Sugden shows, the normal formulation of welfare economics has traditionally taken the form of "questions that would be faced by a benevolent and all-powerful government of the kind that the economist imagines himself to be advising." In place of such a formulation, Sugden argues that "there is another viewpoint from which an individual can make moral judgements: his own viewpoint. Individuals living together in a state of anarchy . . . tend to evolve conventions or codes of conduct that reduce the extent of interpersonal conflict: this is spontaneous order . . . A society that conducts its affairs in accordance with such standards of justice may not maximize its welfare in any sense that would be recognized by an impartial observer. To put it the other way around, a benevolent government may find that it cannot maximize social welfare, evaluated from some impartial viewpoint, without violating conventions that its citizens regard as principles of justice."

Sugden's work shows how the market can be the source of its own ordering institutions, thus perhaps dispensing with the necessity of an external ordering force. Significantly, *The Economics of Rights, Co-operation, and Welfare* provides a sound theoretical basis for the legal/historical study of the spontaneous emergence of law, as exemplified by the masterful work of Bruno Leoni (especially his *Freedom and the Law* [Los Angeles: Nash Publishing, 1972]) and Leon Trakman (especially his *The Law Merchant and the Evolution of Common Law* [Colorado: Fred B. Rothman, 1983]). Sugden's book could also be read profitably in conjunction with the path-

breaking study by Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984).

Sugden's work should prove useful to students in philosophy, law, sociology, political science, economics, and social theory. ♦

Phenomenology of Moral Action, History

Practical reason, or *phronesis* (as it was known to Aristotle), is a central feature of the social theory of such contemporary classical liberals as F. A. Hayek and Michael Polanyi. A new book by a noted scholar working in the phenomenological tradition established by Edmund Husserl seeks to "develop the categorialities proper to practical thinking, the categorialities that make up *phronesis*." *Moral Action: A Phenomenological Study* (Bloomington: Indiana University Press, 1985) by Robert Sokolowski uses the Husserlian idea of the intentionality of consciousness to critically and painstakingly unfold such components of moral action as desire, choice, and deliberation. Of special interest is his examination of the way in which the emergence of the market economy deepens the possibilities of choice: "The presence of choice is thus sharpened by the possibility of exchanges. What we do can become chosen in view of what we can get for it, and not done for what it is in itself . . . [E]xchange opens up the possibility of a special kind of universal purpose . . . one that can transform almost any activity from being simply voluntary into being something chosen." Students of moral philosophy are likely to find this book a stimulating source of insight into their subject.

Another book from the same publisher, *Time, Narrative, and History* (1986) by David Carr, examines the structure of historical narrative, grounding it not in the activity of the historian but in the narrative structure of human life itself (what Husserl called "internal time consciousness"). ♦

Scottish Enlightenment Bibliography

Church and University in the Scottish Enlightenment: The Moderate Literati of Edinburgh by Robert B. Sher (Princeton: Princeton University Press, 1985) is a careful and very specialized study of moderate churchmen in the Scottish Enlightenment, including Adam Ferguson and William Robertson. While recommended for specialists in Scottish Enlightenment studies, the more broadly useful feature of the book is a remarkable annotated general bibliography on the Scottish Enlightenment. This bibliographical guide thoroughly reviews the literature on every major subject of interest in the Scottish Enlightenment and will prove useful to students of political philosophy, legal history, American and British political history, social philosophy and history, economic history, and intellectual history. ♦

Resources in Latin American Studies

The recent resurgence of interest in classical liberalism in Latin America offers new resources to students of this region, with new universities and other centers of liberal thought established in many Latin American nations. Among the notable new institutes is the *Instituto Libertad Y Democracia* (Benavides 881, Casilla Postal 18-1420,

Peru), directed by Dr. Hernando de Soto. De Soto is the author of a recently published book that is selling briskly throughout the continent, *El Otro Sendero (The Other Path)*, a play on the name of the brutal Peruvian Marxist group, Sendero Luminoso, or "Shining Path"). The book includes a preface by world-renowned novelist Mario Vargas Llosa (translated into English and published as "In Defense of the Black Market," *New York Times Magazine*, February 22, 1987). De Soto's work is based on extensive studies of Peru's black markets and of the bureaucracies, rules, and regulations that stifle enterprise, wealth creation, and social mobility.

As Llosa points out, "One of the most widely accepted myths about Latin America is that our backwardness results from the principle of economic *laissez-faire* adopted in almost all our constitutions when we achieved independence . . . According to this myth, the opening of our economies to market forces made us easy prey to imperialists, whose voracious business practices brought about the inequities between rich and poor. After their exhaustive study of Peru's black market, Hernando de Soto and his institute conclude that Peru — as well as other Latin American countries and probably the majority of third-world nations — never had a market economy. The economic freedom guaranteed by our constitution is as much a fiction as political freedom."

A sampling of similar institutes includes the *Centro de Estudios Sobre la Libertad* (Paseo Colon 823, Piso 7, 1063 Buenos Aires, Argentina), directed by Dr. Alberto Benegas Lynch (also director of an important university in Buenos Aires, *ESEADE*); the *Centro de Estudios Publicos* (Monsenor Sotero Sanz 175, Santiago, Chile), directed by Dr. Arturo Fontaine; the *Universidad Francisco Marroquin* (6A. Avenida 0-28, Zona 10, Guatemala, Central America; Dr. Manuel F. Ayau, Rector); and the *Instituto Liberal* (Av Presidente Wilson, 231-27° andar, 20030 Rio de Janeiro), directed by Donald Stewart. ♦

Leggett, Intellectual Journalist, Reexamined

A brilliant example of thoughtful and informed journalism at its best is to be found in William Leggett, editor of the *New York Evening Post* during the 1830s. As IHS Fellow Lawrence H. White ("William Leggett: Jacksonian Editor as Classical Liberal Political Economist," *History of Political Economy*, 1986 [18:2]), carefully and systematically demonstrates: "Leggett was not primarily a repackager of others' ideas. He was instead a creative and systematic thinker who refined and extended the doctrines of classical liberalism in imaginative ways."

White presents Leggett's thinking on moral philosophy, monopolies, free banking, the business cycle, slavery and abolitionism, class theory, international trade, and the price system. White's essay provides a good introduction to Leggett's thought, as well as a useful bibliography. The essay will be especially helpful to students of journalism, American history, and banking history. (For a good sampling of Leggett's writings, see the collection edited by White, *Democratick Editorials: Essays in Jacksonian Political Economy* [Indianapolis: Liberty Press, 1984]). ♦

Eminent Domain Criticized, Right to Property Defended

Property Rights and Eminent Domain by Ellen Paul (New Brunswick, New Jersey: Transaction Books, 1987) reorients the debate over the "takings issue" in terms of the fundamental issues at stake, rather than the peripheral question of "when does a police power regulation become so onerous that its purpose could be constitutionally accomplished only by the exercise of the eminent domain power." In a careful legal/political/economic/moral study of the dispute over the right to property vs. government control or confiscation, Paul focuses on the nature of eminent domain and the government's police powers, seeking to illuminate such matters as their origins, justifications, and limits, as well as the nature of property rights and their interaction with these state powers. *Private Property and Eminent Domain* joins Richard Epstein's *Takings: Private Property and the Power of Eminent Domain* (Cambridge: Harvard University Press, 1985) as an important classical liberal work and can be read profitably in conjunction with Epstein's book. It is a welcome addition to the debate over property and the limits of government powers, and will prove useful to students of law, political science, resource economics, and political philosophy. ♦

Notes on Constitutional Debate Republished

The bicentennial of the U.S. Constitution has happily led to the republication of James Madison's reports of the debates at the constitutional convention of 1787 (*The Debates in the Federal Convention of 1787 Which Framed the Constitution of the United States of America* [Buffalo, New York: Prometheus Books, 1987]). The edition is a reprint of the 1920 version edited by Gaillard Hunt and James Scott Brown, with a new preface by Robert S. Alley of the University of Richmond. Published in two volumes, the work includes prefatory material on the convention (including copies of the Articles of Confederation and other documents, and a list of delegates to the convention), followed by Madison's unfinished sketch for a preface and his day-by-day notes of the convention. The volume concludes with an appendix containing documents relating to ratification and a useful index. The work is available from Prometheus Books, 700 East Amherst Street, Buffalo, NY 14215 (cloth, \$59.95). ♦

Internship Available

The Institute for Humane Studies is offering an internship during the academic year 1987-1988 for qualified students, preferably those who plan to take time off between undergraduate studies and graduate school. The position entails assisting the staff of the Institute in carrying out its mission, working on the publication of *Humane Studies Review*, and other duties. Some writing (for *HSR* or for the Institute's op-ed column program) is involved. Applications will be accepted for the entire school year, the school year plus the following summer, or individual semesters. Send a letter of application plus a transcript, resume, and references to: Internship Director, Institute for Humane Studies, George Mason University, 4400 University Drive, Fairfax, VA 22030. ♦

Civic Humanism vs. Liberalism (continued from page 7)

Yet for all its impressive scholarship and attention to the subtleties of Republican thought, McCoy's book repeatedly uncovers issues that suggest that something other than historicism and concern with virtue was central to Republican ideology, indeed, that a strikingly liberal set of concerns informs many supposedly nonliberal attitudes. For example, Franklin's disgust at British society turned on his belief that, as McCoy quotes him, its "social pathology [was] exacerbated by the operation of its government . . . its predicament was aggravated by a misguided political system," and he frequently linked the corruption, waste, and entrenched privilege of British politics with its social problems. Likewise, McCoy shows that the Republican distaste for "manufactures" owed much to the fact that in the eighteenth-century context these were chiefly state-run or chartered workhouses for the poor, or heavily subsidized monopoly institutions for the production of luxury goods for ruling elites. This point is also strongly made by Joyce Appleby in her *Capitalism and a New Social Order: The Jeffersonian Vision of the 1790s* (New York: NYU Press, 1984). The role of state power in commercial development both here and in England raised criticism from sources wholly distinct from those with antimodern or anticommercial views. This obfuscation of liberal criticisms of commercial policy seems itself to reflect an historicist bias, for it construes the particular uses of political power that accompanied the growth of the economy and emergence of industrialism as being themselves constitutive of "modernity," and opposition to or support for such uses of political power as growing out of an attitude toward modernity. A more accurate and less contorted account focuses on the debates over the proper use of coercive governmental power. Underlying these debates over power and its use are moral values, visions of man and society, rather than hidden pro- or antimodernist agendas.

The role of state power in commercial development both here and in England raised criticism from sources wholly distinct from those with antimodern or anticommercial views.

Appleby has responded to the classical-republican description of the Jeffersonians by demonstrating in several works that the Jeffersonian vision owes more to Lockean liberalism, as transmitted by Paine and others, than to the civic humanist background now in vogue. Republicanism, cautions Appleby, was a venerable designation to be fought over; its disputed content divided the classical republican Federalists from the liberal Jeffersonian Republicans. Moreover, argues Appleby, the competing social visions of Jeffersonians and Federalists differed fundamentally on the degree to which social life was spontaneous, self-regulating, and best left free.

Appleby captures the sense of liberalism as a fresh, invigorating, liberating body of ideals: a popular radicalism that was capable of stirring both men's fears and their enthusiasms. Appleby's recent exchange with Banning, "Republicanism in Old and New Contexts" (*William and Mary Quarterly*, January 1986), illuminates many of the key distinctions between the two approaches.

Appleby's work in general reveals a fascination with the human confrontation with novelty and the imaginative responses it can produce. This is seen most clearly in her studies of the emergence of the new form of society that attended the rise of the market in Britain and America, especially *Economic Thought and Ideology in Seventeenth-Century England* (Princeton: Princeton University Press, 1978) and "The Social Origins of American Revolutionary Ideology" (*Journal of American History*, 1978). The political struggles of the 1790s in America are noteworthy, in her view, because their outcome augured the end of the old politics in America and the triumph of the new. "The old" in this instance was the political vision of the Federalists, who insisted that the ever-fragile polity required a steady hand at the helm, to be found among those elites whose wealth, wisdom, and selfless devotion to the common weal

Appleby captures the sense of liberalism as a fresh, invigorating, liberating body of ideas: a popular radicalism that was capable of stirring both men's fears and their enthusiasms.

marked them as natural rulers. "The new" was the vision of the Jeffersonian Republicans, predicated on an enthusiasm for the possibilities of a social order without coercion, a vision born of the increasing role of the market in men's lives and thinking, and their imaginative vision of an entire social order similar to the voluntary associations of the market.

The Jeffersonians' embrace of the market and of voluntary society represents a sea change in political thinking, according to Appleby, for this amounted to a repudiation of older communitarian concepts of liberty as emerging from the public realm, and the substitution of a radically new vision, which saw the achievement of the separate ends of equal and rational individuals in the private realm, without any public direction, as the meaning of liberty and the goal of politics. A society of hierarchy and regulation, in which a wise elite served as the brain for the social organism, found a powerful justification in the precariousness of life in an era of periodic famine, Appleby argues, but the congruent emergence of a national market in Britain in the seventeenth century, the breakdown of Tudor economic regulations under the strain of the political crises of the English Revolutions, and the new abundance of foodstuffs all served to undermine older beliefs and focus attention on grappling with this new phenomenon of "the market" or "the economy." The uniformities of market

phenomena suggested a uniform source, and thus seventeenth-century writers were led to endorse the belief in a uniform human nature of rational, purposive individuals. Economists like Nicolas Barbon and Charles Davenant turned to the elucidation of mechanisms of economic cause and effect, and the articulation of

The Jeffersonians' embrace of the market and of voluntary society represents a sea change in political thinking

economic laws that governed the market, just as the universe itself was seen to operate with lawful regularity. A corollary to the rational actor of the economists could be found in the autonomous agents of Locke's and Hobbes's political theories, and some theorists even took issue with the claim that there was a common good greater than that of its constituent elements.³

We must not be misled by the equation of capitalism with an industrial economy, which many historians have made, says Appleby, for the first "capitalists" were farmers and landlords. Thus, she shows in *Capitalism and a New Social Order* that by the last half of the eighteenth century rising European demand for American foodstuffs drew an increasing number of American farmers into commercial agriculture, especially in the mid-Atlantic region, and fostered the attitude that the commerce in food was "exemplary of the harmony of free economic relations." It was in the newly rich, fast-growing areas of the country that the Jeffersonians were to be found. Here were the partisans of a social philosophy that explicitly repudiated the notion of a republic of orders and the necessity of wise hands at the helm, and embraced the classless vision of a society of "informal, voluntary political life open to all."

The notion of a natural economic order so central to Appleby's description of Jeffersonian social thought became a paradigm case of "natural social life" for many thinkers of the period. Thus Locke, who invoked the natural economic order to denounce the disruption that would accompany efforts to control interest rates, in like manner (in his *Letter on Toleration*) pointed to the disharmony in the religious sphere when the state attempted to enforce orthodoxy: "just and moderate governments are everywhere quiet, everywhere safe, but when men are oppressed . . . they are everywhere recalcitrant." Remove the cause of such disturbances, and the natural social harmony that accompanies civil liberty would appear.

The natural social order was a fundamental precept of Paine's social and political philosophy, grounding his distinction between "society" and "government." In *Common Sense* Paine noted that though society was in every state a blessing, government even in its best state was but a necessary evil. Observing that society formed of "necessity, as if by a gravitating power" he pointed to a "mutual and natural" support borne of mutuality of interest. Indeed, he later averred that "so far is it from being true, as has been pretended, that the abolition of

any formal government is the dissolution of society, that it acts by a contrary impulse, and brings the latter closer," pointing to the order and harmony of the American colonies during the period of *de facto* anarchy of the Revolution.

It was from this body of ideas, which stressed the chances for progress and spontaneous social cooperation through the free actions of individuals, that many Jeffersonian Republicans drew their core ideas. In Jefferson's vision, what was necessary was the freeing-up of mankind's natural capacity for advancement: as he stated in his First Inaugural Address, what was sought was "a wise and frugal government which shall restrain men from injuring one another, which shall otherwise leave them free to regulate their own pursuits of industry and improvement." As Appleby notes, "Instead of regarding the public arena as the locus of human fulfillment where men rose above their self-interest to serve the common good, Jefferson wanted government to offer protection to the personal realm where men might freely exercise their faculties" ("What is Still American in the Political Thought of Thomas Jefferson," *William and Mary Quarterly*, 1982). It was the notion of market as social paradigm, in fact, that lay at the heart of Destutt de Tracy's *Treatise on Political Economy* (1817; New Jersey: Augustus M. Kelley, 1970), the translation of which was edited by Jefferson himself. Jefferson stated in his Preface, "By diffusing sound principles of Political Economy, it [de Tracy's work] will protect the public industry from the parasite institutions now consuming it" As de Tracy saw it, the mutual gain of trade is the essence of a contract, and society is "nothing but a succession of exchanges." De Tracy even explicitly addressed the central claim of the classical republican tradition, that social benefits derive from a disinterested concern with virtue: "I do not pretend to say that men never render gratuitous services . . . but I say it is not on this that all the progress of society reposes . . . and if we wish, as we ought, to take in all the extent of its signification, we may say with justice that a benefit is still an exchange" The source of mischief in society was the creation of obstacles to free social life by the erecting of special privileges; and the removal of obstacles and the protection of justly acquired property rights was the path to social harmony and prosperity. De Tracy was an enthusiast of the economic theory of Adam Smith and Jean Baptiste Say, as was Jefferson, who

As de Tracy saw it, the mutual gain of trade is the essence of a contract, and society is 'nothing but a succession of exchanges.'

corresponded with Say and recommended *The Wealth of Nations* and Say's *Treatise on Political Economy* as "the best works" on the subject of political economy.⁴ De Tracy's *Commentary and Review of Montesquieu's Spirit of Laws* (1811; New York: Burt Franklin, 1969), a criticism of the preeminent work in the classical (continued on page 12)

Civic Humanism vs. Liberalism (continued from page 11)

republican tradition, was recommended by Jefferson as the "elementary book of instruction in the principles of civil government." As Appleby notes, this endorsement of so strong a criticism of Montesquieu casts into doubt the construal of Jefferson in the classical republican mold.

Contrary to Murrin's depiction of Jefferson as an American Bolingbroke, Jefferson himself averred that "the Gothic idea that we are to look backwards instead of forward for the improvement of the human mind, and to recur to the annals of our ancestors for what is most perfect in government, in religion & in learning, is worthy of those bigots in religion and government by whom it has been recommended, and whose purposes it would answer."⁵

Jefferson's colleague, John Taylor of Caroline, a leader of the Southern Republicans, displays this same preoccupation with "natural society," from which was derived a theory both of government and of social conflict. Since the state was designed to protect individual natural rights and liberty, the key to their preservation in the face of the human tendency to aggrandize power was to divide even such limited power as one delegated to the state, so as to prevent anyone from being able to cow either others in the government or the people themselves. Thus Taylor contrasted Adams's version of Federalism with the "democratic" principle: "Our policy divides power and unites the nation in one interest; Mr. Adams divides a nation into several interests and unites power."⁶

Taylor's belief was that the threat to the nation's unity and harmony came from the improper exercise of political power, and thus rather than attempt to mitigate the effects of factional struggle, Taylor sought to remove its causes: a privileged aristocracy of "paper and patronage," of "monopoly exploitation" supported by "modern taxes and frauds to collect money" whose insidious effect was to "destroy the unity of interests between the government and the nation" and "infallibly produce oppression and hatred." Taylor's oft-cited championing of agrarianism was related at least in part to his distrust of power, pelf, and privilege, and his identification of these with monopoly finance and tariff-protected manufacturing. One can only speculate whether Taylor's agrarianism would have been as rigorous if economic diversification had taken place without subsidies, privileges, and protection.

To describe American politics in the early national period in terms of the court/country dispute among the British ruling class obscures the radical and progressive character of American antistatist doctrine. The presumed antinomy between enthusiasm for both republican and liberal authors, not being apparent to early Americans, might perhaps be replaced with consideration of a more fundamental cleavage of intellectual traditions. F. A. Hayek has called attention to a fundamental issue in modern Western thought, what he calls "constructivist rationalism," the view that human society is best ordered according to conscious planning and deliberate construction.⁷ As Descartes illustrated the

notion, "People who . . . became civilized little by little, making their laws as the inconveniences of crimes and quarrels obliged them, cannot be as well constituted as those who, since they have assembled, have been obeying the constitutions of some wise legislator." The antithesis of this position was voiced, significantly, by Adam Ferguson, not often seen as a liberal fountainhead: "the forms of society are derived from an obscure and distant origin . . . Every step and every movement of the multitude, even in what are termed enlightened ages, are made with equal blindness to the future; and nations stumble upon establishments, which are indeed the product of human action, but not of human design."⁸

As an interpretive tool, this dichotomy of visions also helps to explain later American political history, for example, the divisions between the Whigs and Democrats in the 1820s and beyond. A gulf between expressions of proper government powers separated the social visions of the two parties, and within the parties as well, but to a lesser extent. The Whigs, who favored a vigorous program of government intervention to foster economic growth (in the form of tariffs, subsidies, a national bank, and so on), have been described by Daniel Howe (*The Political Culture of the American Whigs* [Chicago: University of Chicago Press, 1979]) as expressing a coherent philosophy predicated on the need for conscious and deliberate control of life. Just as the Whig ideologists' explorations of faculty psychology and the means for "controlling the passions" bespoke an abiding concern with issues of self-mastery, so too did their economic policies display an underlying unity: "For them, real progress was not likely to occur automatically; it required careful, purposeful planning. Social progress took place much as the education of the individual did through the careful cultivation of what was valued, and rigorous suppression of that which was not . . . Running through Whig political appeals was the concept of consciously arranged order. This was characteristic of their reliance on government planning rather than the invisible forces of the marketplace."

By contrast, many Jacksonian Democrats, who declared themselves the true heirs of Jeffersonian Republicanism, were exponents of a strident liberalism. John O'Sullivan, editor of the *United States Magazine and Democratic Review*, recapitulated the liberal vision again in 1837: "The best government is that which governs least. No human depositories can, with safety, be trusted with the power of legislation upon the general interests of society, so as to operate directly . . . on the industry and property of the community." Reiterating a theme of Paine's, O'Sullivan said, "Legislation has been the fruitful parent of nine-tenths of all the evil, moral and physical, by which mankind . . . since the creation of the world . . . has been self degraded, fettered, and oppressed . . . Its domestic action should be confined to the administration of justice, for the protection of the natural equal rights of the citizen, and the preservation of the social order. In all other respects, the voluntary principle, the principle of freedom . . . affords the true golden rule. The natural laws which will establish themselves and find their own level are the best laws . . . This is the fundamental principle of the philosophy

of democracy, to furnish a system of the administration of justice, and then to leave all the business and interests of society to themselves, to free competition and association — in a word, to the *voluntary principle*."⁹



This voluntary principle, so important for understanding the workings of a society more extensive than one mind can grasp, is especially important for understanding the early history of the American republic, for it was this principle that defined the terms of political conflict. The rehabilitation of liberalism's past, and the simultaneous illumination of the central role of the struggle between liberty and power, is a task deserving of the greatest efforts, one demanding the highest standards of critical thought and scholarship.

Notes

¹See Daniel Howe's reviews of the literature on post-Revolutionary thought, "Virtue and Commerce in Jeffersonian America" (*Reviews in American History* September 1981) and "European Sources of Political Thought in Jeffersonian America" (*Reviews in American History*, December 1982). See also John Murrin's "The Great Inversion or Court versus Country: A Comparison of the Revolutionary Settlements in England (1688-1714) and America (1776-1816)" in J. G. A. Pocock, ed., *Three English Revolutions* (Princeton: Princeton University Press, 1979) for authorities cited by him, and Dorothy Ross, "The Liberal Tradition Revisited and the Republican Tradition Addressed" in John Higam and Paul Conkin, eds., *New Directions in American Intellectual History* (Baltimore: Johns Hopkins University Press, 1979).

²J. G. A. Pocock, "John Locke and the Myth of Liberalism" in Pocock and Richard Ashcraft, *John Locke* (Los Angeles: William Clark Memorial Library, 1980) and "Authority and Property: The Question of Liberal Origins" in Barbara Malment, ed., *After the Reformation* (London, 1980).

³See also Appleby, "The Social Origins of American Revolutionary Ideology" (*Journal of American History* 1978) and E. K. Bramsted and K. J. Melhuish, eds., *Western Liberalism: A History in Documents from Locke to Croce* (London: Longman, 1978), pp. 122-126, 135-145.

⁴Jefferson, "Letter to Say," *Writings* (ed. by Merrill Peterson, New York: Library of America, 1985).

⁵Jefferson, "Letter to Munford," *Writings*.

⁶Cited in Gillis Harp, "Taylor, Calhoun, and the Decline of a Theory of Political Disharmony" (*Journal of the History of Ideas*, January 1985). Grant McConnell, "John Taylor and the Democratic Tradition" (*Western Political Quarterly*, March 1951). See also Jefferson, "Letter to Taylor," *Writings*: "You [Taylor] have successfully and completely pulverized Mr. Adams' system of orders, and his opening the mantle of republicanism to every government of laws, whether consistent or not with natural right."

⁷Cf. Karl Popper, *The Open Society and its Enemies*, 2 vol. (Princeton: Princeton University Press, 1966); F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1964) and "Kinds of Rationalism" and "The Results of Human Action but not of Human Design" in *Studies in Philosophy, Politics and Economics* (New York: Simon and Schuster, 1967).

⁸Descartes, "Discourse on Method," in *The Essential Descartes* (ed. by Margaret Wilson, New York: Mentor, 1969, pp. 114); Adam Ferguson, *An Essay on the History of Civil Society* (ed. by Duncan Forbes, Cambridge: Cambridge University Press, 1969, p. 56).

⁹Cited in Arieli, *Individualism and Nationalism* (Perigine Books: 1964), p. 153. See also Sidney Fine, *Laissez-Faire and the General Welfare State: A Study of Conflict in American Thought, 1865-1901* (Ann Arbor: University of Michigan Press, 1964).

Richard Vernier is a graduate student in history at UCLA.

Political Philosophy (continued from page 2)

would be the stipulation that everyone seek his self-interest without constraint. Collectively applied, this would likely make everyone worse off, just as in the classical prisoners' dilemma game.

I attempt to show that an individual's adoption of a nonconsequentialist moral code can often be justified on consequentialist grounds even when we abstract from its effects on the well-being of other individuals.

Parfit believes that if both consequentialist and nonconsequentialist theories were properly formulated in nonself-defeating fashion there would be no conflict. Parfit's ingenious attempts do not succeed in producing such a theory, however, as is noted by several commentators in the Parfit symposium in the June 1986 issue of *Ethics*. The conflict between consequentialist and nonconsequentialist theories is a real one and cannot be ignored or explained away by arguing for a general harmony between the recommendations of both approaches.

At the 1986 general meeting of the Mont Pelerin Society in St. Vincent, Italy, Roland Vaubel and Hannes Gissurarson debated whether the defense of a liberal order should be based on a consequentialist or an agent-relative theory. While Vaubel attempts to reconcile consequentialist and "procedural" justifications of a free society, he insists that procedural considerations are grounded on a consequentialist foundation, and that, "To be viable, morals have to be consequentialist and be concerned with the well-being of a group." Gissurarson raises the questions of "What consequences are to be considered in judging an ethical or political system?" and "Which consequences are to be considered beneficial?" While Gissurarson also sees no necessary contradiction between consequentialist and nonconsequentialist ethics, he perceives nonconsequentialist considerations underneath consequentialism itself, notably in the historical "experience of individuality or the acquisition of the disposition and ability to make choices." For reasons that cannot be adequately set forth in this essay, my own leanings are toward consequentialism. Nonetheless, like Parfit, I believe that when consequentialism is properly formulated it possesses a considerable degree of harmony with many habits and tendencies that may appear irrational or bad when viewed in terms of the "common good." In one of the chapters of my dissertation ("Dynamic Inconsistency and the Theory of Consumer Choice," in *Essays in the Theory of Welfare Economics*, Harvard University, 1987), I attempt to show that an individual's adoption of a nonconsequentialist moral code can often be justified on consequentialist grounds even when we abstract from its effects on the well-being of other individuals.

(continued on page 14)

*Political Philosophy (continued from page 13)***Formulating Moral Codes**

A related body of literature examines whether it is possible to formulate a moral theory that is not collectively self-defeating. As evidenced by the work of Regan (*Utilitarianism and Cooperation* [Oxford: Oxford University Press, 1980]) and of Parfit, this is a formidable task. While most of this discussion has been within a utilitarian framework, the structure of the arguments could apply to many other moral theories as well, including rights theories. Critics often charge, however, that such theories are in principle incapable of determining or defining when a rights violation has taken place. This challenges defenders of the "reasonable man" approach to provide a consistent definition of reasonableness.

From the Hayekian perspective, moral codes are the product of evolution, classic instances of phenomena that are 'the result of human action but not of human design.'

One problem in formulating a viable moral theory is the relevant "unit of choice." For example, specifying that individuals should take account only of the marginal impact of their actions can generate situations where the combination of a large number of marginally insignificant actions produces a significantly bad result. Automobile pollution may be one example. Even altruists who maximized the welfare of others on the basis of the marginal increment of their actions could generate a result that would make everyone worse off. Increasing returns to scale in bad effects can make the sum of marginal products worse than their constituent elements.

On the other hand, specifying that individuals take account of the average product of their actions also encounters problems. It could imply a waste of resources in any situation where marginal and average products were not equal. Blood donations may have a high average product (the first set of donations are important) but if the value of my marginal donation is very low, should I necessarily give my blood?

Regan has attempted to circumvent such problems in *Utilitarianism and Cooperation* by developing a theory of rational cooperation. Such questions, along with the closely related issue of rule- versus act-utilitarianism, are debated in the October 1985 issue of *Ethics* by Regan, Allan Gibbard, John Harsanyi, Jon Elster, and Brian Barry.

A very different perspective on many of these problems is provided by the work by Friedrich Hayek (see, for instance, his three-volume set *Law, Legislation and Liberty* [Chicago: University of Chicago Press, 1973, 1976, 1979]). Hayek has emphasized the impossibility of a fully rational and articulable moral code, a theme which will be further developed in his forthcoming book, *The Fatal Conceit*. The problems dealt with in the literature on formulating moral codes,

discussed here, can be interpreted as a rigorous proof of Hayek's claim.

From the Hayekian perspective, moral codes are the product of evolution, classic instances of phenomena that are "the result of human action but not of human design." Rather than being interpreted as impossibility theorems, some of the problems and paradoxes discussed above may simply be indications that some of the thinkers have misinterpreted the results they have generated. The analyses of the paradoxes and problems have been important and illuminating because we have obtained considerable insight into the structure of certain types of moral propositions. This sort of rigorous structural analysis, however, should not be expected to provide definitive answers to moral questions.

The Hayekian tradition suggests that moral codes cannot and should not be given perfectly articulable, rationalist foundations. This would imply interpreting Hayek within the philosophical framework provided by Willard Quine (*Word and Object* [Cambridge: Harvard University Press, 1958]) and Richard Rorty (*Philosophy and the Mirror of Nature* [Princeton: Princeton University Press, 1979]). Moral codes are a set or "web" of propositions that possess a certain amount of internal coherence and external practicality. This web cannot be given rigorously derived foundations and should instead be judged on the basis of its usefulness and in accordance with certain of our moral intuitions. Such a Hayekian research program, however, remains in its infancy and requires considerable development before it could be considered a serious contender with the other approaches discussed above.

Thomas Schelling's *Strategy of Conflict* (Cambridge: Harvard University Press, 1960) is a classic work in game theory whose connections with Hayekian themes have not been sufficiently developed. Schelling demonstrates how game-theoretic problems in the moral sphere require a spontaneous-order solution that cannot be fully articulated or even defined apart from the process of their emergence. Some of the relations between the work of Hayek, Schelling, and David Hume have been analyzed in Robert Sugden's excellent book, *The Economics of Rights, Cooperation and Welfare* (Oxford: Basil Blackwell, 1986.)

Recognizing the endogeneity of individual preferences creates difficulties for both utilitarian and rights theories.

Self-Management and Endogenous Preferences

Another set of interesting questions can be found in the literature that analyzes problems involving preference formation, self-management, and possible conflicts of interest among different preferences in the same person. The seminal essay in this area is Robert Strotz's "Myopia and Inconsistency in Dynamic Utility Maximization" (*Review of Economic Studies*, 1955-56). It was not until the work of Elster and Schelling, however, that the implications of Strotz's insights were fleshed out (*Ulysses*

and the Sirens [Cambridge: Cambridge University Press, 1979] and *Choice and Consequence* [Cambridge: Harvard University Press, 1984], respectively).

Recognizing the endogeneity of individual preferences creates difficulties for both utilitarian and rights theories. Some of the problems for utilitarianism are pointed out in

An effective critique of paternalism requires a theory of the spontaneous order of the self, just as Hayek has developed a theory of the spontaneous order of the market.

Elster's "Sour Grapes — Utilitarianism and the Genesis of Wants," an essay in the above-cited Sen and Williams collection, *Utilitarianism and Beyond*. Since social systems are a significant factor in shaping individual preferences, the ability of a system to satisfy the preferences it generates cannot be regarded as a decisive argument in favor of that system. We also need to ask if desirable preferences have been generated.

The notion of "coercion" required by a rights theory is very difficult to define in any situation where conflicting impulses exist within the individual. What appears to be paternalism may actually be satisfying an individual's higher-order preference. Many cigarette smokers, for instance, might consider themselves better off if smoking were to be outlawed, even if they know that they will feel "coerced" when the addictive element of their personality goes to light up a cigarette. This theme has been developed in the Schelling book, *Paternalism* (Minneapolis: University of Minnesota Press, 1984), edited by Rolf Sartorius, also contains several relevant essays, both pro and con.

Because of issues springing from the literature on self-management and endogenous preferences, I do not think that the "demonstrated preference" critique of paternalism (see Rothbard's *Toward a Reconstruction of Utility and Welfare Economics* [New York: Center for Libertarian Studies, 1977]) is sufficient, whether from a utilitarian or rights framework. Individuals may demonstrate conflicting and/or inconsistent preferences. Instead, an effective critique of paternalism requires a theory of the spontaneous order of the self, just as Hayek has developed a theory of the spontaneous order of the market. This critique would be based on the knowledge problem, that is, the inability of a central authority to have sufficient knowledge to effectively plan the course of an individual's self-development. Making an explicit connection between the theory of spontaneous order and this form of government intervention would be an extension of the approach taken by the great classical liberal Wilhelm von Humboldt in his 1798 classic, *The Limits of State Action* (translated and reprinted, Cambridge: Cambridge University Press, 1969). A similar approach is taken in an important essay by James M. Buchanan, "Natural and Artificial Man" (*What Should Economists Do?* [Indianapolis: Liberty Press, 1979]).

Population Theory

Most political philosophers would agree that part four of Parfit's *Reasons and Persons* has been both the beginning and the end of modern normative population theory. Parfit argues that we do not yet have a rational normative theory of population that avoids counterintuitive and repugnant conclusions.

Existing rights theories are unable to handle the issue of future generations. Unborn individuals presumably do not have rights until they are born, but this implies that we can damage the interests of future generations without limit, provided that we do so before they are born (ruining the environment would be an example). Another difficulty is what Parfit calls the Non-Identity Problem. If our harmful actions also change the identities of future generations (through changing the procreation of present generations), we can even say that everyone is made better off by the policy. An irresponsible nuclear-waste disposal policy may result in the birth of a large number of crippled or deformed children. These same children, however, if given the choice would not object to such policies — with a different policy they would not even have had the opportunity to be born.

Utilitarianism does not do much better — maximizing the sum of utilities can give rise to what Parfit labels the Repugnant Conclusion. This implies that the ideal society might contain very large numbers of people with the smallest possible imaginable unit of positive utility, that is, the smallest amount of utility at which life is still worth living. If the numbers of people are large enough, this world would receive a higher ranking than other more reasonable-sounding alternatives. Asserting that such large numbers are impossible is not a valid objection. Would we prefer them if they were possible? Since the principle of total utility can lead to this Repugnant Conclusion, Parfit suggests that the principle fails. Other forms of utilitarianism are examined by Parfit but they do not fare much better.

Population dilemmas remain a puzzle. In a chapter ("Normative Population Theory") of my dissertation I have attempted to formulate a version of the contractarian approach that would avoid the problems discussed above. Population alternatives can be evaluated by asking which would be preferred if an individual had to live out or experience every life in the world he chooses. This approach, however, encounters serious difficulties with aggregating different sets of preferences.



The resurgence of normative moral and political philosophy in recent decades owes much to the cross-fertilization of two hitherto independent fields of thought. The new political economy emerging from this development offers many exciting opportunities for classical liberal scholarship.

Tyler Cowen has just completed his doctorate in economics at Harvard University and is currently a postdoctoral fellow at the Center for the Study of Market Processes at George Mason University.

Institute for Humane Studies

will award
PRIZES IN JURISPRUDENCE

of up to

\$4,000

in honor of outstanding original,
unpublished papers on jurisprudence.

LON L. FULLER PRIZES IN JURISPRUDENCE

Eligibility Criteria

This competition is open to both faculty and graduate students. Papers should treat such issues as the rule of law; rights-based theories of justice; the philosophical basis of the private law categories of property, contract

and torts; the historical development of these ideas, and other topics of related interest. Applicants should submit three copies of their paper and a current vita. Awards will be announced during the summer of 1987.

DEADLINE FOR PAPERS: MAY 15, 1987

Prizes of \$4,000, \$2,000, and \$1,000 will be awarded. Winning papers may be included in a legal philosophy symposium to be published in the *Harvard Journal of Law and Public Policy* in the winter of 1987.

Acceptance of a prize will give the Institute right of first refusal to publish the recipient's paper. Awards will not be made for papers that have been submitted elsewhere for publication. Should a winning paper be accepted for publication by the Institute, part of the prize may be withheld pending completion of the editorial process. We encourage citations that conform to *A Uniform System of Citations* distributed by the Harvard Law

Review Association.

If entries do not meet the Institute's standards, it may decide not to award a prize or prizes. The opinion of the Institute will be final. Each applicant will be notified of the outcome of the competition by mail.

Apply to:

Professor Randy E. Barnett, Director
IHS Law and Philosophy Program
Illinois Inst. of Technology
Chicago-Kent College of Law
77 S. Wacker Drive
Chicago, IL 60606

IHS The Institute for Humane Studies

at George Mason University

IHS

Institute
for Humane
Studies

George Mason
University

4400 University Drive
Fairfax, Virginia 22030

NON-PROFIT ORG.

U.S. POSTAGE

PAID

Permit No. 391

Fairfax, VA

Mr. David Boaz
Cato Institute
224 Second Street, SE
Washington, DC 20003