

Reason, Neutrality and the Free Market

GARY NORTH

THE DEBATE between traditionalists and libertarians within the American Right has been going on for the last decade. This division, which was implicit from the beginnings of Young Americans for Freedom (YAF) and Intercollegiate Studies Institute (ISI), has now broken out into open institutional warfare with the formation of the Libertarian Alliance during the summer of 1969. Like so much of the current intellectual strife in America, the Vietnam war issue served as a catalyst. Pacifist libertarians who are opposed to conscription could no longer tolerate the implications of what they regard as the new American imperialism. Cold War conservatives who long ago abandoned the earlier isolationist heritage of traditional American conservatism have not been willing to sacrifice the struggle against international Communism merely for the sake of lower national budgets and libertarian ideology. An anti-Communism that is based on the concept of military superiority cannot easily be conformed to the older goal of a limited state; the technology of warfare demands too much money and too much centralized planning.

The war is not the focus of my discussion here, however. I am more concerned with more fundamental intellectual issues that serve as points of division between traditional conservatives and libertarian anarcho-capitalists. As I see it, the essential questions are these: what are the limits of toleration, both personal and social, and what role does autonomous human reason play in discovering these limits? In the "pure type" (to use Max Weber's terminology) of each position, we discover irreconcilable opposition. The libertarian denies that society can use force to impose limits on the actions of others which do not interfere with the voluntary activities of their fellows. The conservative denies the existence of anything resembling an all-encompassing neutral human reason; to one extent or another, he rejects any hypothesis based on the idea of the autonomous individual or autonomous human reason.¹

The traditional conservative tends to value human freedom because he has very little faith in human nature. This may seem incongruous, but it can be explained. Be-

cause human nature is corrupt, the traditionalist resists the concentration of power in any single institution or person. No one institution should be regarded as sovereign outside of its own legitimate, but strictly limited, sphere. Society in this perspective is a matrix of competing sovereignties, each with certain claims on men, but none with total claims in all areas. Almost without exception, traditional conservative apologetics rests on the institution of the family as being primary to society. Any law or institutional arrangement which threatens the integrity of the family faces very serious opposition from conservatives: guilt is presumed until innocence is proven without a shadow of a doubt. Other institutions—churches, local governments, schools, voluntary societies of all types—act as buffers against centralized political power. Atomize men, Hannah Arendt and Robert Nisbet both argue, and you create the framework necessary for the exercise of totalitarian power.² Reduce men to individuals who are not protected by institutions that possess limited but legitimate sovereignty, and the state will centralize and concentrate power with a vengeance. Man does not live by autonomy alone, in short. The individual is therefore not the starting-point of social analysis in a conservative framework; the family is. The conservative is therefore a defender of a pluralistic community, with each institution able to enforce a limited sovereignty over members of the community.³ The alternative to this is tyranny. As A. A. Berle puts it in his recent study, *Power*: "Power invariably fills any vacuum in human organization. As between chaos and power, the latter always prevails."⁴

How is it possible that libertarians have been able to cooperate with traditional conservatives for as long as they have? In the second issue of the *New Individualist Review* (Summer, 1961), Edward C. Facey offered this explanation:

Still, individualists merge with the conservatives in urging a strict adherence to the Constitution in the United States. This is a tactical maneuver. It is the strategy of individualists to work a Fabianism in reverse until one by one the parts of the political structure, beginning with the most absurd, are upended and continuing until nothing is left. The Constitution, strictly interpreted, aids in this process.

That was the perspective of a libertarian a decade ago. Since that time a noticeable shift in tactics has taken place. The Vietnam war issue has convinced many libertarians of the New Right that they are more closely alligned in principle with the anarchist wing of the New Left. As one libertarian speaker put it at a conference sponsored by a local YAF chapter in Southern California in April 1969, freedom today is threatened more by conservative Republicans than by anarchists in America.⁵ If this is not the prevailing view of a majority of libertarians, it is the direction in which many are moving at the present time.

The pure anarchist has little difficulty in establishing his definition of freedom: where the state is, freedom is not. This does not mean, of course, that libertarians do not quarrel among themselves. A classic example of an operationally irreconcilable intellectual division within the libertarian camp is the one which divides Murray Rothbard and Robert LeFevre. Rothbard follows John Locke and argues that the original claim of a man to the right of free exercise of property is limited by the amount of property which he can actually utilize through his power to labor.⁶ LeFevre argues that a man's original claim extends to as much property as he wants; boundary disputes are to be settled by a system of voluntary arbitration.⁷ Each sees the other's position as inoperative and/or irrational. Both men, however, would reject the con-

servative's belief in the legitimacy of state power to settle such arguments by force, if force is necessary.

The conservative argues that the market is a mechanism which can provide a zone of human freedom. Obviously, some conservatives favor tariffs, or "emergency" price controls, but I do not wish to deal with these proposals, since they tend to be special interest oriented in too many cases, rather than theoretically serious proposals. In the case of pure theory, the conservative is never willing to give the market full autonomy. There is a reason for this. The conservative is perfectly willing to admit that the unhampered market is the most efficient mechanism for the distribution and production of scarce economic resources. That is why he refuses to give it full autonomy. There are some things he does not wish to see accomplished in an efficient manner. The following are obvious examples (obvious, that is, to conservatives): the production and distribution of heroin, especially into the hands of minors; the open, unchecked, and thoroughly voluntary exchange of sexual favors for money; the unrestricted sale of pornography, especially to minors; the sale of military secrets to the highest bidder; the right to build a noisy factory in the midst of a residential district without compensation to local owners who refuse to sell their property. A conservative would also support the enforcement of quarantine procedures on members of the community who carry contagious diseases that pose a threat to the very operation of the community, especially in congested urban areas. Without all of these openly coercive powers, the state could not protect the society from forces that would destroy the very fabric of society. The conservative believes that men will live under any system except anarchy, so it is wiser in the long run to permit the state to exercise some power. If this is not done, men may

choose to live under the rule of totalitarian power. If society does not provide coercive institutional arrangements that preserve *pockets of limited intolerance*, it cannot defend itself from forces that would lead to the intolerance of totalitarian regimes.⁸

Hayek's now famous essay, "Why I am not a Conservative," which first appeared in his *Constitution of Liberty* (1960), makes an important observation:

Conservatism proper is a legitimate, probably necessary, and certainly widespread attitude of opposition to drastic change. It has, since the French Revolution, for a century and a half played an important role in European politics. Until the rise of socialism its opposite was liberalism. There is nothing corresponding to this conflict in the history of the United States, because what in Europe was called "liberalism" was here the common tradition on which American polity had been built: thus the defender of the American tradition was a liberal in the European sense.

American constitutionalism prior to the Civil War was pluralistic, decentralist, and essentially liberal. J. Allen Smith, writing in his study, *The Growth and Decadence of Constitutional Government* (1939), makes the following distinction:

The basic conception of the old political order was not the divine right of kings, but the sovereignty of God. The assumed divine right of the temporal ruler was not an essential part of this doctrine. Divine sovereignty, as envisaged in the Christian theory of the world, was simply a conception of God as the ultimate source of authority. Direct human intermediaries, such as pope or king, were purely adventitious features of this belief.

Thus, Smith concludes, the "ultimate sovereignty of God precluded the idea that any human sovereignty could be unlimited." For

America, this was doubly true, for its tradition after 1776 was Protestant, dissenting, and anti-monarchical. Law was founded in terms of a higher law—a religious law, a historical fact which stands as the central thesis of Rushdoony's important revisionist work, *This Independent Republic* (1964).

The American constitutionalists operated within the framework of a culture which was predominantly Christian, although some of them, like John Adams and Jefferson, held moderately unitarian or deist ideas in their private lives. All of them saw that civil society without law is inoperable, and all law, they realized, is ultimately founded on unneutral religious and moral presuppositions.⁹ The appeal made by libertarians to a neutral, universal human reason conservatives regard as invalid. There can be no system of civil society that can satisfy the substantively (ethically) rational demands of a socialist and the formally rational (legally predictable) organization of the free market which the libertarian desires. The formal rationality of the market is a means to ends established by the participants; substantively rational economic systems see economic policies as ethical goals in themselves, e.g., the redistribution of wealth. Half a century ago Max Weber argued that the two forms of rationalism are in perpetual tension, and little has taken place since then to indicate that he was incorrect.¹⁰ There is no single rationalism.

Jacob Viner, in his review of Hayek's *Constitution of Liberty*, brings out a crucial point:

Hayek, incidentally, does not even include as a final value that freedom from coercion by other men for which this book is a massive plea. It is a means to value, as an instrumental value, not as a value in itself, that Hayek presents his case for freedom. . . . Men, however, often support as a means what in fact commands their full loyalty as

an end, and I feel fairly confident that freedom from coercion by other individuals is for Hayek, as for me, a goddess in her own right, as well as a serving angel.¹¹

Not so for the conservative. Other ethical goals are placed before the full autonomy of the individual: the glory of God, the obedience to certain moral demands, the preservation of the community in the face of moral anarchy. The market is only one means among many to human fulfillment; it is not a "goddess in her own right."

Thus, the conservative is forced to conclude that Murray Rothbard's proposal to establish a system of profit-seeking law courts and private police forces in place of political courts would reduce our legal system to the level of the Chinese war lord system of government.¹² As Mises himself once stated, such a plan would destroy a thousand years of Western civilization.¹³ There is room for such voluntary courts of arbitration in a pluralistic society, but not as the *sole* source of judicial administration.

Freedom is necessary for the full flowering of mankind's capacities. Society, however, cannot exist if the market makes available the moral acids that would render social cohesion impossible. Man is not autonomous; he is a creature under law. The sovereignty of autonomous, acting man is as diabolical a goal as the sovereignty of the state. Neither man nor the state is divine.¹⁴ Both principles are antithetical to human freedom, for they would result either in the totalitarian state or the triumph of the war lords. The market cannot function without some degree of peace. It needs protection from its own warlike children, the profit-seeking armies and the profit-making courts. Let any human institution achieve full autonomy, and society will face either collapse or tyranny. Full sovereignty, like perfection, belongs only to God.

⁴Russell Kirk's account of Burke's view of the limited nature of human reason is relevant here: Kirk, *The Conservative Mind* (Chicago: Regnery, 1953), pp. 76 ff. Cf. R. J. Rushdoony, *By What Standard?* (Philadelphia: Presbyterian & Reformed, 1958).

⁵Robert A. Nisbet, *The Quest for Community* (New York: Oxford University Press, [1953] 1970); Nisbet, "Rousseau and the Political Community," *Tradition and Revolt* (New York: Vintage, 1969), ch. 1. Hannah Arendt's thesis is presented in her classic study, *The Origins of Totalitarianism* (New York: Harcourt, Brace & World, [1951] 1966).

⁶E. L. Hebdon Taylor, *The Christian Philosophy of Law, Politics and the State* (Nutley, New Jersey: Craig Press, 1966), ch. 9.

⁷Adolph A. Berle, *Power* (New York: Harcourt, Brace & World, 1969), p. 37.

⁸Early examples of the links between the New Left and the Anarchist Right are Murray N. Rothbard, "Liberty and the New Left," *Left and Right*, I (Autumn, 1965) and Ronald Hamowy, "Left and Right Meet," *New Republic* (March 12, 1966). Both authors emphasize the similarity of goals that both movements share.

⁹Murray N. Rothbard, *Man, Economy and State* (Princeton: Van Nostrand, 1962), I, pp. 78-79. Cf. Rothbard, "The Anatomy of the State," *Rampart Journal*, I (Summer, 1965), p. 3.

¹⁰Robert LeFevre, *Rampart Journal*, *ibid.*, pp. 51 ff., 76-77.

¹¹Benjamin E. Lippencott, whose interventionist economic perspective is opposed to both traditional conservatism and free market anarchism, has nevertheless provided a good survey of the problems posed to a free society by totalitarian political parties that claim their rights under the laws of free speech and assembly. Lippencott, *Democracy's Dilemma* (New York: Ronald Press, 1965).

¹²Conservatives from Aquinas to Burke believed in a universal "right reason" of Natural Law, but

this was in no way analogous to the rigid, secular *a priorism* of Enlightenment thinkers. Cf. Louis L. Bredvold, *The Brave New World of the Enlightenment* (Ann Arbor: University of Michigan Press, 1961). On the American view of reason, see Alice M. Baldwin, *The New England Clergy and the American Revolution* (New York: Ungar, [1928] 1958), ch. 2; Adrien Koch, "Pragmatic Wisdom and the American Enlightenment," *William & Mary Quarterly*, XVIII (1961), pp. 313-29, esp. concluding remarks.

¹³Max Weber, *The Theory of Social and Economic Organization* edited by Talcott Parsons (New York: Free Press, [1947] 1964), pp. 184, 212 ff. Cf. Weber, *On Law in Economy and Society*, edited by Max Rheinstein (New York: Simon & Schuster, [1954] 1967), pp. 228 ff., 279.

¹⁴Jacob Viner, "Hayek on Freedom and Coercion," *Southern Economic Journal* (Jan., 1961), p. 230.

¹⁵On Rothbard's proposal, see his review of Bruno Leoni's *Freedom and the Law* (1961) in *New Individualist Review*, I (Winter, 1962).

¹⁶Mises made the statement as a response to a question asking him of his opinion of Rothbard's proposal for private law courts and police forces. It occurred during a series of lectures delivered by Mises and sponsored by Joseph Galambos' Free Enterprise Institute in Los Angeles in the summer of 1962. Galambos commented to me after the evening lecture that he agreed with Rothbard rather than with Mises on this particular point.

¹⁷This was the issue which divided Christians from the Caesars. Cf. Ethelbert Stauffer, *Christ and the Caesars* (Philadelphia: Westminster Press, 1955); Charles N. Cochrane, *Christianity and Classical Culture* (New York: Oxford University Press, [1939] 1957), chs. 3-6. On the Christian Church's opposition to the ancient world's deification of the state, see R. J. Rushdoony, *The Foundations of Social Order: Studies in the Creeds and Councils of the Early Church* (Nutley, New Jersey: Craig Press, 1968).