

## Minarchism

By Jan Narveson

Abstract:

This essay addresses the on-going controversy between supporters of *minimal* government, or *minarchists*, and supporters of *no* government, or *anarchists*. Both lay claim to the *Libertarian* principle, which holds that the only justification for the use of force is to deal with aggressive force initiated by someone else. Both agree that force *is* justified in dealing with aggressors. The only question is, who wields it, and how? The essays explains, briefly, the role of private property in all this. Private property is really just the operation of the liberty principle in the area of the use of things outside ourselves: those who initiate use of such things will have their activities subject to continual invasion unless property is recognized, and so property is the natural outcome of liberty, taken seriously. But the trouble is, states are monopolies, and maintain themselves at public expense, by taxation. This inevitably means interference with private property rights. And so, if we deal with aggressors via the state, we turn into partial aggressors ourselves, it seems. The essay points out that and why both minarchism and anarchism are virtually impossible in contemporary circumstances, but at the level of basic theory, at any rate, the anarchist appears to have the better of it.

## The Question

How much of a state should we have? The libertarian is committed to the general answer "very little - at most!" He agrees with Henry David Thoreau: "that government is best which governs least." The question is whether he also agrees with Thoreau's further suggestion - "That government is best which governs not at all!"<sup>1</sup> On that point, libertarians are deeply divided. The purpose of the present essay is to explain why both sides in this debate have the appeal they do, and to suggest that the theoretical appeal lies with the Anarchist side, while the practical appeal draws libertarians to the minarchist side. None of this will be surprising, I would guess, to the reader. But a clear

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<sup>1</sup> These are the opening sentences in his famous essay "Civil Disobedience." There are innumerable reprintings of the essay; this one happens to be found in *Selected Writings of Henry Thoreau*, ed. by Lewis Leary, Crofts Classics - Appleton-Century-Crofts, New York, 1958, p. 9.

explanation of this superior theoretical appeal, as I see it, of anarchism will, I think, be of some use to some readers, and perhaps even to the writer.

## What Libertarians Agree On

All libertarians, in the by now fairly well understood contemporary sense of the term, espouse the Liberty Principle, which can be variously stated as a principle of *rights* or, as many of us would insist, equivalently as a principle about *duties*. The statement in terms of rights will say some such thing as this: that *everyone has a fundamental, general right to liberty, limited only by the like right of all others*. The other way of stating it will be some such as this: *We are morally forbidden to initiate force or fraud against our fellows*. The two formulations may be argued to be equivalent because a right is nothing more than a status such that others have a duty to refrain from interfering with one's doing of the thing to which one has the right. What gives us that status is an interesting question, and an important one. However, most libertarians do not have a useful answer to that question.<sup>2</sup> "Because we are free", say, or "born free," or some such is unhelpful, since as a matter of fact many of us are, in any useful appraisal of the situation, not free in many of the respects in which libertarians think they ought to be so, and yet that fact doesn't keep us from saying that they ought to be.

What matters is this: the liberty principle is in substance a principle about when it is permissible to *deprive* people of freedom. What is unique about our view is not that we think that the fact Jones is trying to murder Smith *does* give us good reason for applying force, as much as needs be, to prevent Jones from doing this - one would hope

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<sup>2</sup> See, for example, Murray Rothbard's justly famous *For a New Liberty*, which begins by citing the foundations of libertarianism as the "nonaggression axiom." The axiom in question really just is the libertarian principle, and if it is asked why we should accept this as an "axiom" Rothbard appears to have no answer. Robert Nozick's *Anarchy, State and Utopia*, another classic source for libertarians, is similarly bereft of such discussion. The exception here is my own *The Libertarian Idea* [Peterborough, Ontario, Canada: Broadview Press, 2001 - earlier published by Temple University Press, 1988] in which I propose game-theoretic foundations. Attempting that is a difficult matter.

that any sane theory would say that. Rather, it is that we don't allow any *other* kind of consideration to justify such application than that one person is, or is in the way of, planning to, etc., use force or fraud against others - apart from the one kind of case where the individual against whom he proposes to use it is himself using it against someone else who, in turn, is not doing so to someone still else. Sorry for the prolixity of the latter statement, but part of the point of doing so is that to be precise about this is no easy matter.

While it is not easy, there is what libertarians take to be an implication of our view that turns out to be of crucial importance for the present inquiry - and a great many other inquiries as well. Namely, we take it that what we usually call "robbery" is itself an example of the sort of condition we want to disallow, and take to constitute reason justifying counteraction. In other words, we think that Liberty implies Property. And since the present subject is hardly even discussable without some such principle, it is best to pause, once again, to explain why we think this is so - and this time my explanation is far from pleonastic or embarrassingly obvious.

In most cases where we claim to be the "owners" of something, our claim is grounded on a previous transaction, or set of them, with some other persons. I walk to the store, select a pair of shoes, hand the man my money or credit card, sign the chit, and I emerge with my shoes, and he with what used to be my \$100 or whatever. Two points distinguish this little story. The first is that the exchange itself is wholly voluntary. The man in the shop didn't *have* to be in that business; he presumably *chose* to (OK: maybe his wife insisted he get a job, but we hope, at least, that his marriage is voluntary!) And second, the legitimacy of this as a justificatory account of why, as of now, the shoes are said to be "mine" and the money "his" depends rather importantly on the situation *ex ante*. The money, prior to the transaction, was *mine*, the shoes were *his* (that is, the store's). But how came that to be so? We will point to previous voluntary transactions, for several rounds. Eventually, though, we will exit entirely from the realm of two-or-n-person transactions and find ourselves - where? The erstwhile theoretician now welcomes us to the "state of nature." In this condition, things are different. Something

comes to belong to Jones *without* the help of a previous transaction with Smith. And how is this to work? Briefly, we suppose that Jones perhaps *made* something or *found* it, and that this fact is what *made* it *his*. OK: but why does it do so? Especially if we got back to a real, honest-to-goodness "state of nature" there will, of course, be no published rules, no courts or police - as we might say, "no anything" in the way of political organization.

Some among those who would say this latter will claim that if we are out of the law, we are just out of it, and nothing useful can be said. Those who say that cannot be libertarians. For libertarians think that if there are courts and laws, *we* know what *they* should say, and if they don't say it, we want to throw them in the dustbin and start over. In short, we don't think these arrangements stem from *that* kind of human "institution." What we do think, though, is this: If indeed someone has literally *made* something, then insofar as that's how it came to be, it "belongs" to him - the one who made it. Or if he *found* it, then we want to know whether he found it in such a way that nobody else had any prior claim on it. Now, some theorists think there is no such case: that everybody in the world automatically has a "natural" claim to natural resources at large. To make this particular story short, I am going to advise everyone tempted to say this to think again. The correct story, in short, is that *nobody* has *any* claim on it, in the absence of someone's finding it and undertaking to do something with it - in short, to take it into his life and invest, as it were, some of himself in it; and once that person does do that, then anyone else coming later who proceeds to help himself to the use of that item without so much as a by-your-leave would be *assaulting* the maker or finder. In short, he would be violating our liberty principle, for he would be using what amounts to force against someone who was trying to continue on in a series of actions undertaken by himself, which actions were wholly benign.

The leftist will insist they are *not* "wholly benign", no doubt - but where is his argument? He appeals to the "principle" that nature just naturally belongs to everyone, but why on earth should anyone think that? Mind you, even John Locke thought with the "leftists" on that point. His idea here is religious, and doesn't offer much help to the

would-be leftist: God, it seems, gave everything to us all in common, you see!<sup>3</sup> Of course there are some questions about this. Like, how did he know *that*? What if God gave it to somebody else – the Hindus, say, or those so-and-so’s, the \_\_\_\_\_’s! Of course Locke would claim that he *must* have done the right thing and given it to the good guys - thus illustrating once again the total uselessness of religious appeals in morals.

Anyway, Locke supposed he had an argument to get around this common-ownership problem, one that would nevertheless shore up our claims to the fruits of our own efforts. It is not clear how well Locke would have succeeded in this if the starting premise had been right. But after all, it's not. The obvious way to go is to point out that stuff is just stuff – it isn't yours or mine or everybody's, it's *unowned*. Thus, nobody at all has any claims on it, unless and until somebody gets in there and does something with it, such as turn it into a motel. <sup>4</sup>

In short, the coast is, so to say, clear in the State of Nature, and thus, the argument just given is definitive - if, that is to say, we accept the liberty principle itself as our guide. But that is what we are presumptively doing here - though I for one refuse to say that it is a “self-evident” principle or that it expresses a "natural right" in any other sense than that it is the right rule to use, and is so independently of what any government or institution may tell us. (I want to say that we must defend these basic principles via the right version of the "social contract" but to spell that out would take us much too far afield for present purposes. I do try to make some headway in several other places. <sup>5</sup> )

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<sup>3</sup> John Locke, *Second Treatise of Civil Government*, sect. 34: God gave the World to Men in Common...”

<sup>4</sup> The author has investigated that claim pretty thoroughly in "Property Rights: Original Acquisition and Lockean Provisos" in *Public Affairs Quarterly* vol. 13 #3, July 1999, pp. 205-227. Also as Ch. 8 in my book, *Respecting Persons in Theory and Practice* (Lanham, Md: Rowman and Littlefield, 2002)

<sup>5</sup> See Narveson, *The Libertarian Idea*. See also “Contracting for Liberty,” in Tibor Machan and Douglas B. Rasmussen, eds., *Liberty for the 21st Century* (Lanham, Md: Rowman and Littlefield, 1995). A relevant further article is “The Anarchist’s Case,” in Narveson, *Respecting Persons in Theory and Practice* (Lanham, Md: Rowman and

If everything has to be voluntary to pass moral muster, and if property rights come into it in the way I have sketched, then let us notice that the size of the group of persons with whom one does voluntary business is irrelevant, as is the technical side of things - how one produces what one sells, and so on. Then the Property Principle, as we might call it, being a "theorem" of the Liberty Principle, taking the latter to be a sort of "axiom," is very strong indeed. And if it is, we are then edging up toward presenting a huge problem for what is usually known as The State.

### **The State**

What we mean by 'the state' is this: an agency, whose membership is an identifiably smallish proper subset of all the people there are in the community or society over which this state rules, which has (approximately, as may be) *enough political power to make rules ["laws"] which apply to all, and which those people may be coerced into compliance with*. Or in short, as many of us say, the state has a "monopoly of coercion" in the society in question. The trouble is, that's *too* short, for in any society, at any given time, some people will be coercing others without the state's preventing this, or even being able to do so. However, those private coercers do not claim to have got into their positions by virtue of holding *political* power - and if they do, then they are agents of the state and we don't have a counter example. But of course, that raises the question, "when is power political power?" Again, a satisfactory discussion of that would also take us too far afield. However, there is one proposed answer, or part of an answer that we will of course need to reject straight off: that political power is *legitimate* power over others. We, and Thoreau, aren't going to accept that this agency really *has* genuinely *legitimate* power. So we're going to have to say, lamely, that somehow it *has* the ability to use coercion and "get away with it"; that is, the people over whom they use it will not complain, or at the least, nobody will stride in and try to prevent the agents of the government from coercing the person in question in the way in question. The ship of state sails on a sea of passive acquiescence by its people. I shall assume that in

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Littlefield, 2002), Ch. 11. (Originally in John T. Sanders and Jan Narveson, eds., *For and Against the State* (Lanham, Md: Rowman and Littlefield, 1996)

some such way, we can arrive at a wholly "neutral" analysis of the notion of political power and hence of The State.

It is easy to see why the libertarian is going to have a problem with The State, on the face of it. After all, the state gets its way by compelling people to do what it wants them to do, and it takes no back-talk. Under what circumstances could it get away with *that*, if we are right? To this there is a perhaps promising answer: it could "get away with it" in our eyes *if* it used its coercive power *only* to deal with what we would agree are miscreants: murderers, rapists, robbers, defrauders. In short, as Locke proposed, the state would be in the business of *enforcing the Law of Nature*, otherwise known as our Liberty Principle. Or - oops, wait a minute! - more precisely, the state would be an agency which was created for the purpose of doing *a better job of that than we could do on our own*. Locke thinks that if we go it alone, there will be inevitable and interminable arguments about who owns what, how much so-and-so is to be punished for violating the LN in such-and-such a way or how seriously, and so on. He proposes to fix all this with a set of uniform laws for all, a judiciary that will impartially settle controversies, and a police force/etc. that will apply the law uniformly to all.<sup>6</sup> Or - oops, wait a minute! - more precisely, the state would be an agency which was created for the purpose of doing *a better job of that than we could do on our own*. Locke thinks that if we go it alone, there will be inevitable and interminable arguments about who owns what, how much so-and-so is to be punished for violating the LN in such-and-such a way or how seriously, and so on. He proposes to fix all this with a set of uniform laws for all, a judiciary that will impartially settle controversies, and a police force/etc. that will apply the law uniformly to all.

But there are, as is surely familiar to all readers, two problems with this. One of them is big, and the other one is absolutely crucial, though subtler than the other. The Big problem is, of course, the old

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<sup>6</sup> Locke, *2nd Treatise on Civil Government*, sections 3, 6, 21, 87-89, 95-99, 123-131. 135-138. Some have doubted that Locke's law is precisely what I have proposed as general formulations of the Liberty Principle. I think they are wrong, but this is no place to discuss the matter.

"who guards the guardians?" issue: How do we devise one of these things without it getting out of hand and coming up with all kinds of silly laws having no justification at all from the Law of Nature? How can we be so sure these institutions will indeed *be* fair, impartial, etc. - after all, the fact that that's what we *wanted* when we made the thing hardly assures us that it will *be that way* in fact (and of course no end of history suggests that pessimism of a fairly tall order is called for on this point). That's the big problem. Locke's own solution, such as it is, is to call for democracy (more or less), and that remains the popular solution to this very day and, apparently, for some time to come the inevitable wave of the future. As we are slowly beginning to appreciate, though, democracy, far from being a real solution to these problems, shows every sign of being likely to exacerbate the original condition, virtually without limit.<sup>7</sup>

From this point of view, a potentially anarchist objection to government is: government can't work, in precisely the way it was called in to work. There's no way around it, and we'll do better without it. The potentially minarchic response is: Well, there's no real alternative, so let's just get to work and try to fix it so it works at least tolerably well. If we put the matter in those terms, it is clear that there is much work to do. The anarchist has to show that his idea is even *possible* - that it even *makes sense* to suppose that we could have civil peace, order, and prosperity without the restraining hand of government. The minarchist, on the other hand, has to convince us that there is a real prospect of containing government, once it's let loose on us.

We'll return to those issues, if too briefly, below. But meanwhile, this now brings us to the heart of the matter. We can put this "heart of the matter" in two sets of terms, though I think they'll really end up equivalent. One way is to delve back into Locke himself and focus on an interesting restriction he proposes: "*Thirdly, The Supreme Power cannot take from any Man any part of his Property without his own*

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<sup>7</sup> See the unforgettable chapter, "Demokteusis" in Robert Nozick's *Anarchy, State, and Utopia* (New York: Basic Books, 1974), especially pp. 280-292. See also a minor contribution of my own: "Fixing Democracy" - Chapter 10 in *Respecting persons* (*op. cit.*).

*consent.*"<sup>8</sup> I suppose many readers of Locke are more or less asleep by the time they get to that passage, it being on the next-last page or so. But in fact, it's a wake-up call, clarion and fortissimo: for if indeed we take it literally, it is very difficult to see how we could have government *at all*. After all, government as we know it gets its income from taxes. Locke and the minarchists after him want government to *do* something, for sure. But neither Locke nor we are unrealistic enough to think that people can be got to do all those things - some, after all, rather dangerous! - for *nothing*. Where is the money to come from? And suppose that this or that man objects to paying the bill that the State hands him for its fairly extensive (even on a minarchist rendering of it) services? Well, according to Locke, he can just say No, and that's that.

And worse yet, it certainly looks as though he's right! After all, our Principle says that nobody can impose a net harm, a worsening, of someone else's situation. The robber is wrong because he leaves you worse off, and leaves you no real choice in the matter either. The government - well, it too, in our experience, leaves you worse off with no real choice in the matter - *doesn't it?* And doesn't it do this even on the best account of what it does - that is, the minarchist account? Even if the government doesn't go outlawing the sale of sausages less than 20 cm. long<sup>9</sup> or requiring that we refrain from smoking pot, it *still* looks as though it is going to be taking money from some people who don't want to spend it for that purpose, even if it's the jolly good purpose of apprehending gangsters.

Just to keep the point from getting sidetracked, here's an example of the state at work, concerning a certain social club in Edmonton, Alberta (Canada) whose laudable purpose is to provide a social outlet for ex-alcoholics. So no alcoholic beverages were served, but otherwise they drank soft drinks, played billiards, smoked and chatted. Trouble is, the state doesn't allow smoking in most public places: to do this, you have to get a liquor permit. And the liquor board says that you can only get a liquor permit if you actually serve liquor. So either the club closes or it sells booze, thus defeating the

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<sup>8</sup> Locke, *2nd Treatise*, #138.

<sup>9</sup> This wonderful example is, I am told, from the E.U.

entire point. That's the state at work, folks; multiply by a zillion or so, and you get the point. Keeping the State to the straight and narrow is evidently going to be at least very near to impossible, and has never in fact happened. The basic problem is simple: give a kid a match, and what can you expect, especially if the people who watch over him to keep him in line are - more kids!

Now, Locke is famous for his theory of "implicit consent." The idea is - Hey, we get all these benefits from the State and so *of course* we won't object to paying our share, right?! Err ... well -- wait a minute - not so fast! Who *says* we're getting our money's worth? Not, usually, the taxpayer himself; indeed, he is rarely asked, and he can be forgiven for not expecting much attention to be paid to his answer. And what if Locke, or his government, puts the question to him - will they stay for an answer? You can just bet that the answer, in practice at the least, will be in the negative.

### **The Problem Stated in terms of Rights**

We need to generalize this, and it is best, I think, to do so by shifting to another vocabulary. The *right* to liberty which we all have if the libertarian theory is correct is what we have come to call a "negative" right. Such a right imposes on others the duty *not* to do something, the duty to *refrain* from intervening to prevent the rightholder from doing as he would like, thus *allowing* him to do that. (That indeed is all that "allowing", "permitting", etc., come to.)

Now, as the terminology suggests, we can also define another idea of rights: "Positive" rights. If a negative right imposes negative duties, duties *not* to do something, then the idea of a positive right, as we would expect, is to impose *positive* duties, that is, duties *to do* something. You can satisfy a negative right, insofar forth, by pulling up your cot and going right to sleep: that way, you murder no one, you cheat no one, you rob no one. But if there are positive rights, that's a different story altogether. Positive rights say, "get off your tail, chaps, there's work to do! Get with it! Save this life! Feed that starveling! Help this innocent lady unhand that villain!" Etc.

It is sometimes supposed that the positive/negative distinction is the same as the liberty/welfare distinction. But that is a mistake, even though those who make it usually make it in a way that doesn't look at though it's going to matter all that much. However, it also *can* matter "all that much" and the present case is the *locus classicus* for such mattering. For consider now the Right to Liberty itself. If it's negative, then, as we would hope, it says to others, "as long as you *refrain* from molesting, assaulting, etc., you're OK, we won't bother you!" But what if it's *positive*? Then things may be a lot different. If Smith over there has a positive right to liberty, then suppose that he's in real trouble - that horrible person Jones is enslaving him. Now what do the rest of us do? Well, if we mean it about positive rights, then it seems we have to *go and help free Smith*. We *must* - that is, we may be *compelled* to help, *coerced* into helping, should we be inclined to put up a snit about it. And so this fussy little question of whether the basic right to liberty is negative or positive turns out to be not so fussy and little after all.

It is also, I take it, obvious, when you think of it, *which version is basically right* - namely, the *negative* version. The Principle of Liberty says that the *only* reason justifying compulsion over you or me or anybody is to prevent our coercing somebody *else*, or perhaps to punish us for some previous coercion we are guilty of. Well, our Ordinary Law-Abiding Citizen, we will suppose, is guilty of no such thing. So how, now, can the State come along and say, "Pay up, or else!"? Clearly, it can't. Anything along that line violates his liberty right. The internal content of the liberty principle rules out interpreting it as implying basic positive rights. (*Non-basic* positive rights are another matter. By our own agreements, we often bind ourselves to do this or that positive act. Most of economic life would be impossible were it not so. But the point is that these bindings are self-imposed. And our question is whether any such can be imposed by *others at large*. That is what, it appears, we must answer in the negative.)

Maybe you think that person A is guilty of some crime and that A deserves to be apprehended and punished, and maybe you're willing to join a posse and help round him up, or to pay something to somebody else for doing so. Yes - but then again, maybe you're not.

And if you aren't, then what? The answer appears to be: it's game over for the State. It appears that on Locke's own principles, there simply is no way to have a state, however Lockean.

Now, the Minarchist, in principle, would appear to have no choice but to admit taxes for the sole purpose of defending liberty as a justifiable *incursion* on people's rightful liberty. But putting it that way should make him uncomfortable. Let's pause a moment to appreciate just *how* uncomfortable he should be. *How much* of this sort of incursion is allowed? And *how* extensive should be the set of persons whom our non-volunteer must be expected to help with this de-tyrannization program? Of course, once we have a state set up, the answer presumably will be: all the other folks inside that circle, your fellow citizens. Oh? Well, but wait a minute! Plenty of people outside that circle are also, we may imagine, in big trouble and could use some liberating. Why does the buck, as it were, stop at the borders of this state? For after all, the state is *artificial*; its boundaries are determined, we must suppose, by whatever political principles led to its existence - and in our case, remember, it was supposed to be the Libertarian Principle. But that principle says that *everybody* is entitled to general liberty, not just the particular n thousands or millions who happen to be *there* (pointing at the map of Lichtenstein or Canada, say). Well, you see the difficulty. When we turn contemptuously to those absurd Leftists of whom we like to make fun, one of the things we say to *them* is: so why aren't you contributing 95% of *your* income to help the poor in Bangladesh (etc.)? Now, liberating people from political oppression may seem, as it were, "easier" than feeding them, but if we bear in mind, as our sample case, the cost of the current (as I write) war in Iraq to the Americans, it will perhaps not be so obvious that promoting general liberty around the world is going to be the least bit cheaper than feeding the billions. You get the idea.

We would want, ideally, a *principled* answer to this question, and what we've got is pretty lame. Or at least, it is unless the defender of the State, however minimal, can come up with some nice elegant way of picking out *just* the set of people such that we have to be ready to help *them* become free, but are off the hook regarding all the rest. Note, by the way, that we are *never* "off the hook" so far as negative

liberty is concerned. But there you see the advantage of the Liberty idea: we can live up to the requirements of (negatively construed) liberty without lifting a finger – a pretty comfortable “hook,” really. No such thing, though, with positive liberty - until such time as we live in a perfectly libertarian world, right? Uh, huh ....

### **Can we Justify the State?**

So we turn, briefly, to this interesting question, which really amounts to a request for justifying the State. And once you start in on this, you'll find, if you do your homework carefully, that, as the boys say, it Ain't Easy! Remember, we are now persuaded that "negative" liberty is where it's at. Now, negative liberty, to be sure, allows you to impose obligations on yourself if you want. It allows you, in particular, to take on duties and obligations in the course of voluntary arrangements with others - the duties are part of the arrangements, in a lot of cases. So one thought is to buy into the Lockean Social Contract, as it were, and hold hands with a certain set of thirty million or so people and agree with all and only *those* people that we will jolly well help protect *their* rights, provided they agree to protect ours, too. Even if we do this, let it be pointed out, it is not obvious that we as yet have a state. And anyway, suppose that seventy-three people excuse themselves from this little ceremony - as is their right, remember? *Now* what? Well, on the face of it, you can't touch those folks (that is to say, you can't touch them for the taxes which you're all agreeing to impose on each other). Which precisely means, though, that those are *not* taxes as we understand the term. What to do?

We can take the view that those folks are being unreasonable, and we'll just march over and "explain" to them - in the spirit of the traffic cop "explaining" why you are about to get the ticket - that, you see, you are, as you evidently failed to realize, getting a good deal here and so you've jolly well got to help pay up... Better, though, would be to just stuff it and just take their money and be off - as is familiar to all of us taxpayers, right? But – gosh! - I think I just lost sight of Libertarianism, you know?

So now what? I can think of two and *only* two suggestions. One is to lay down a really reasonable criterion for when we may do what looks

a lot like imposing on somebody but maybe isn't really, after all, in the end. And the other is to bite the bullet and admit that the state just isn't legitimate, but considering how they come about, well, OK ...

So, let's look at each.

### **The State as a Good Deal**

Since Hobbes those of us in the know on these matters will be aware that there is basically just one way of justifying the State.

How, you may ask, is the state justified? Well, the same way that anything is justified: by demonstrating that it is, from the point of view of the persons involved, better than alternatives. In the case of the State, the persons involved are, of course, *everyone* in its borders. It doesn't really matter much what those borders are for this purpose, though. If you could really establish that an institution for a State of respectable size would have the property in question, it would be hard to quibble with the claim that that institution was justified. Right. But ... can we do this?

In rather abstractly general terms, let us say that S (the institution we're talking about) is justified if and only if S is better for all concerned. The state is coercive and affects nonconsenting parties, so what we're asking in the case of the state is for a demonstration that, by gum, *even taking into account its coercive properties* the state is a good deal from all points of view. Now, is this crazy, or what? Well, not quite. For we can perhaps imagine that we have some sort of a problem such that the only way to get us all to act the way we need to act to solve it is to be coercive about it. Yet each person might find that acceptable, perhaps. Let's see how.

The idea so far can be put in terms of Public Goods theory. A Public Good, in the economist's technical sense, is one whose benefits "can't" be confined to those who produce it, that is, who pay the costs. There's spillover: some people get the good who didn't pay, some pay who don't get the goods. Problem! Now suppose that these are, not goods, but *bads* - only *public* bads. So the people who benefit from them don't pay (much of) the cost of production. Example: robbers, who cart off the money without paying for it, e.g. by working for it.

Instead, they free-ride on their victims. What's worse, it isn't just that those victims don't come out of it as well as they might, it's that they come out of it *worse off*, period. Very bad. Now, suppose that the citizen can deal effectively with such people by being compelled to help pay the police (or whatever): if the cost, even though involuntary (indeed, including the costs of its being involuntary), is less than the benefit, we're off and running.

Or at least, that's what Hobbes and all the other statist think. But they've failed to raise a rather important question: mightn't there be *further* options besides just the two – (a) involuntary payments to the state, and (2) being robbed? Answer: of course! The State cops are by no means the only way to protect yourself and your property. (In fact, it's becoming fairly well known that they actually aren't *nearly* as good, by any means, as privately hired police whose specific duty is precisely to protect you and your property.<sup>10</sup>) So what the argument *really* has to prove is that *no nongovernmental agency can equal the state on a cost-benefit analysis*. Now, that is indeed a tall order. So tall, indeed, that I think it fair to say that the present consensus is that - contrary to the blithe pronouncements of those who first started talking this way (such as the economist Paul Samuelson) - it's actually hopeless. Forget trying to "justify" the State, then.<sup>11</sup>

### **Or as the Inevitable Outcome of Anarchy**

Some probably want to see a word or two here about Nozick's rather intricate argument, that initial anarchy would lead to a minimal (or "ultra-minimal") state.<sup>12</sup> The argument is intricate, indeed, and almost defies summary. We start with anarchy. Various protective agencies spring up. But size is a natural advantage, in this peculiar biz - you're going to feel safer with a bigger firm, right? And in the end one firm

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<sup>10</sup> Everyone needs to be acquainted with the remarkable works of Bruce Benson on this matter. One is *The Entrprise of Law* (Pacific Research, 1990). The other is *To Serve and Protect: Privatization and Community in Criminal Justice*, (New York: New York University Press, 1998)

<sup>11</sup> To supplement this brief account, I recommend Leslie Green, *The Authority of the State* (Oxford: Clarendon, 1988), which argues that "the modern state claims an authority that cannot in general be justified" (p. vii) No one to my knowledge has dissected the standard arguments more meticulously; he find s thejm all wanting.

<sup>12</sup> Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974) Chapter 2.

will have a monopoly. For reasons that remain obscure, this firm will feel obliged to protect everybody while it's at it, and perhaps to compensate those who'd rather not but had no choice. One big trouble is that the premise is *highly* questionable. Apple Computers still exists alongside mighty Microsoft, and it is not at all obvious that little protection agencies won't flourish alongside big ones. In fact, come to think of it, *they do right now*. Modern nations are awash with little protection agencies working alongside the almighty state. Nozick's argument is, as one would expect from that writer, ingenious and induces head-scratching, but it doesn't produce much conviction. As an exercise in armchair social speculation, it's cool; as an argument for something we're interested in, though, it doesn't really make it.

### **The State as a Gang you Can't Get Rid Of**

There's quite a different way to look at the state, however, and on the face of it, a lot more plausible. On this view, we don't imagine that the state is "justified" - hah! But we ask instead, *is there any way to avoid it?* It isn't that the state is necessary for producing some good thing we'd all like to have - it isn't. It's that the social situation is such that there's always a sort of power vacuum that powerful and ambitious people will jump into, and there's just no practical way to prevent that. Therefore, what we should do is accept the state, but try to minimize the damage. Perhaps minarchy would be a sort of lower limit of such an effort.<sup>13</sup>

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<sup>13</sup> The remarkable and brilliant work by Jared Diamond, [Guns, Germs, and Steel](#) offers very broad-gauged explanations for the fact that it was Europeans, rather than someone else, who brought what we think of as the modern world into being. Many complex things enter into the overall explanation, but what distinguishes those explanations is their remarkable commonsensicality, given the facts unearthed. Among the explanatory factors is the rise of the state. This enables a large mass of people to act as one, to get things done not otherwise possible (good things and bad ones, one must hasten to add!) In the chapter "From Egalitarianism to Kleptocracy" Diamond outlines the ascent of social organization from mere bands of large-family size, through tribes, chiefdoms with perhaps as many as several thousand, to states with their populations in the millions. Even at the third stage, chiefdoms, we have "the dilemma fundamental to all centrally governed, nonegalitarian societies. At best, they do good by providing expensive services impossible to contract for on an individual basis. At worst, they function unabashedly as kleptocracies, transferring net wealth from commoners to

How we will do this is a nice question, when you think of it. The State is a monopoly, with all the benefits that brings to the governors - at the expense, of course, of the governed. Now, as Plato's character Thrasymachus assures us, the King, or for that matter the Members of Parliament - indeed, for that matter the lowliest Civil Servant - are basically in this thing to rob us as effectively as they can. But don't despair, folks! It has been noted that once a country goes to the dogs, there isn't much left for the king. Better, on reflection, to let the people make some money, and then - ta-dah! - you can skim a hefty bit off the top and if you've skimmed cleverly, you'll end up with a bigger income than if you tried to take it all! So we don't come out of it quite as badly as it may sound. (Well, yes - there are people like Idi Amin, Saddam Hussein, Stalin, etc... but the ones *in the know* are appreciating the superior long-term payoffs of good ol' take-em-for-all-you-can democracy, and that does leave us something. Indeed, democracy's innumerable friends seem to be deluded into thinking that we are actually wealthier *because* of our democracy. And, hey! What more can you ask than that your victim positively loves you for robbing him? I ask you, now!)

A further word on democracy might be relevant at this point. What's relevant about it is that democracy seems to be the Inevitable Wave of the Future. Gosh, who doesn't want a vote? So who wouldn't agree that we should all have the *right* to vote? Democracy *sells* - that's

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upper classes. These noble and selfish functions are inextricably linked, although some governments emphasize much more of one function than of the other..." (p 276 (Norton, 1997)

Big government especially involves much more scope for kleptocracy to flourish. The question is, how do they get people to put up with it? Diamond offers four answers. You can disarm the populace and arm the elite; you can appeal to the masses by redistributing some of the tribute in popular ways (bread and circuses, say); you can maintain public order and curb violence, this being hugely useful to all; or, finally, you can "construct an ideology or religion justifying kleptocracy", i.e. [as I am tempted to say], tell enough and the right kind of lies. Actual governments tend to use some of each, in a greatly variable mix.

Another fine article forcefully advancing the line that government is basically a gang of thieves which we are quite unlikely to be able to do anything about is by Randy Holcombe: "Government: Unnecessary but Inevitable," forthcoming (in 2004), in The Independent Review. By all means, read it when it comes out.

what it does. And this enables the minarchist's problem along this line to be put in a nutshell: try selling Libertarianism to the mob - to *hoi polloi*. See where *that* gets you! Democracy, remember, consists in putting the foxes in charge of the henhouse, where the henhouse is all of us and the foxes are a small majority of us. It won't have escaped the foxes' attention how easy it is to elect somebody who will set up an unnecessary Widget plant over in *this* area, or give "aid" to the poor so-and-sos over *there*, and so on until your tax bill is about 55% of your income. With incentives like that going for the governors, the prospect of minimizing government looks about equivalent to having a nice sunny seaside vacation in Antarctica. It isn't going to happen!

### **The Minarchist's Ultimate Problem**

The trouble, then, is that the smell of political power is irresistible to too many of the wrong people. If we're up against people like that - and we are, after all - then minimizing the state is basically a pipe dream. Or so it seems; and if it's true, then libertarians will just have to become thoroughly accustomed to doing what they do already - and pretty well, too - which is to sit around in coffee houses and bitch at the state. But as to actually getting rid of the sucker? - Forget it!

But if you do look at it that way, then we're back to the anarchists having the better of it. If neither of us has the remotest prayer of a chance of even seriously reducing the state, let alone eliminating it, then the question reverts to the abstract one of which better instantiates Liberty. And the answer to *that*, I believe, is that the anarchist arrangement does.

In short: the idea of minarchism is that the ideally good government would literally "govern least" in the sense that all and only the bad guys would be apprehended and dealt with in the right way, and the state wouldn't dream about stepping over that boundary. But it turns out that any institution that could both do that *and* do it without violating anybody's rights isn't the state anyway - it's a large or (more likely) a large set of small private protective agencies and insurance companies. So Thoreau is right: that government is best - indeed, the

only government that is fully acceptable on libertarian grounds - is the one that *doesn't govern at all*.