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LIBERALISM AND CAPITALISM

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CONTENTS

INTRODUCTION

What are the core values of liberalism, and how can they best be promoted? Liberals in the classical tradition championed individual freedom, limited government, and a capitalist economic system with strong rights to private property. Contemporary liberals, in contrast, embrace more egalitarian values and allow for a far more prominent role for government intervention in the market to reduce inequality, redistribute wealth, and regulate economic activity. What accounts for these very disparate liberal views of property rights and economic freedom? How should we understand the transition from the classical view of liberalism to its more egalitarian modern version? And what, ideally, should the relationship be between the central values of liberalism and the economic institutions of capitalism?

The eleven essays in this volume address these questions and examine related issues. Some of them look at the shift from classical to modern liberalism, analyzing the influence of transitional figures such as John Stuart Mill, or focusing on the differences between the political philosophy of the American founding generation and the Progressive Movement of the early twentieth century. Some essays consider the right to private property, asking how it can best be justified, or tracing its historical development in U.S. constitutional law. Other essays explore the relationship between government and its citizens in a liberal society: they seek to determine the proper role of the state in regulating financial institutions, providing access to medical care, or redistributing wealth. Still other essays examine the influence of socialist ideals on contemporary liberals, asking whether socialist values can be achieved under free-market institutions, or looking at the similarities between modern welfare liberalism in the United States and social democracy in Europe.

The collection opens with three essays that explore the differences between classical and modern liberalism. In "The Paradox of John Stuart Mill," Alan Charles Kors looks at the role Mill plays as a transitional figure between nineteenth-century liberalism, with its emphasis on the creative power of free individuals unfettered by government or social interventions, and twentieth-century liberalism, with its combination of individual choice in matters of belief and lifestyle (on the one hand) and collective control of the distribution of wealth through the welfare state (on the other). Kors begins with a discussion of Mill's *On Liberty* (1859) and *The Subjection of Women* (1869), which offer a utilitarian defense of individual freedom, self-sovereignty, and voluntary association. Indeed, although *On Liberty* is often read primarily as a defense of freedom of belief and expression, Mill held that its arguments also applied to the freedom to choose one's way of life, one's preferences, and one's use of one's time. As Kors notes, Mill appears to extend this freedom explicitly to the economic sphere when he argues that individuals should be free to carry their ideas into practice at their own cost, provided they do not directly harm others. Nonetheless, there is a separate strand of Mill's thought, put forward in his *Principles of Political Economy* (first published in 1848 and later revised through seven editions), which undermines the case for economic freedom and opens the door to governmental redistribution of wealth. Kors goes on to show how Mill's distinction in the *Principles* between the production and the distribution of wealth sets the stage for the modern welfare state. On Mill's view, the distribution of wealth is entirely a matter of convention: once wealth has been produced, a society is free to distribute it as it sees fit. Kors concludes with a brief discussion of Mill's posthumously published *Chapters on Socialism* (1879) and argues that while Mill rejected many of the socialists' central claims, he nonetheless favored an active and interventionist state that would use political power to improve the condition of workers.

In "Capitalism in the Classical and High Liberal Traditions," Samuel Freeman discusses the distinguishing features of two major liberal traditions and their respective positions regarding capitalism as an economic and social system. The first of these traditions, classical liberalism, evolved from the works of Adam Smith and the classical utilitarian economists; its major twentieth-century representatives include Friedrich Hayek and Milton Friedman. The second—which Freeman calls the high liberal tradition—developed from John Stuart Mill's works, and its major philosophical representatives in the twentieth century were John Dewey and, later, John Rawls. As Freeman notes, both traditions hold that legitimate political power is limited and is to be impartially exercised, only for the public good. Liberals of both traditions assign political priority to maintaining certain basic liberties and equality of opportunity. They advocate an essential role for markets in economic activity, and they recognize government's crucial role in correcting market breakdowns and providing public goods. While acknowledging these commonalities, Freeman's essay focuses on the differences between the two traditions, specifically with respect to economic freedom. Classical liberals regard economic liberties and rights of private property in productive resources to be nearly as important as basic liberties. They consider capitalist markets and the price system as essential not only to the allocation of productive resources, but also as the fundamental criterion for the just distribution of income, wealth, and economic powers. High liberals, by contrast, regard the economic liberties as subordinate to the exercise of personal and civil liberties. They are prepared to regulate and restrict economic liberties to achieve greater equality of opportunity, to reduce inequalities of economic power, and to promote a broad conception of the public good. Moreover, while high liberals endorse markets and the price system as essential to the allocation of productive resources, they do not regard markets as the fundamental criterion for assessing just distributions of income, wealth, and positions of responsibility within the social order. Freeman concludes his essay with some reflections on the role that dissimilar conceptions of persons and society play in grounding the different positions on economic justice that classical liberals and high liberals advocate.

Ronald J. Pestritto examines the transformation that took place in American liberalism during the Progressive era in his contribution to this volume, "Founding Liberalism, Progressive Liberalism, and the Rights of Property." He notes that the Progressive Movement of the early twentieth century represented a rejection of the eighteenth-century understanding of equality and natural rights embodied in the American Declaration of Independence. The Declaration's statement that "all men are created equal" meant that no individual could claim a natural right to rule another; rather, each individual had an equal right to preserve his own life and liberty, and to pursue his own happiness. In the view of the founding generation, the purpose of government was to secure these rights. Pestritto goes on to observe that the American founders understood property as essential to the pursuit of happiness, and thus held that government had an obligation to protect citizens' rights to the property they earned through their labor. In the remainder of the essay, Pestritto shows how the Progressives rejected this view of property rights in theory and in practice. Progressive theorists such as John Dewey and Woodrow Wilson maintained that the founding generation's view of rights and the role of government needed to be understood as a product of its historical context. In this way, the Progressives were able to argue that while strong protections for property rights might have been appropriate at the time of the American founding, they were no longer appropriate in the twentieth century, given the different circumstances and challenges faced by modern society. Pestritto concludes with a discussion of how Progressive political leaders, including Theodore Roosevelt, sought to employ the power of government to regulate the use of private property in ways that they believed would promote equality and improve the lives of ordinary working people.

The question of how to define and justify property rights within a liberal society is also the subject of the next two essays in this collection. In "The Property Equilibrium in a Liberal Social Order (or How to Correct Our Moral Vision)," Gerald Gaus notes that over the last four decades—following the publication of John Rawls's *A Theory of Justice* in 1971—political philosophers have put forward a variety of proposals seeking to show that philosophical reflection leads to the demonstrable truth of almost every conceivable view of the justice of property rights. Indeed, the method of rational reflection that Rawls developed has been used to justify unregulated capitalist markets (on the one hand) and the most extreme forms of egalitarianism (on the other). On Gaus's view, this trend represents an intrusion of ideology into the realm of political theory, as political philosophers devise elaborate arguments designed to show that their personal convictions concerning the proper organization of society are, in fact, supported by impartial reasoning. In practice, this leads to a politicization of private morality, as each individual theorist comes to believe that social institutions should be designed or altered to conform with his own moral intuitions or the dictates of his private conscience. As an alternative, Gaus seeks to use the tools of game theory to sketch a nonideological approach to the justification of social institutions—in particular, the institution of property. According to this approach, the primary aim of political philosophy is to reflect on whether our social rules of property are within what he calls the "optimal eligible set" of rules acceptable to all. If we follow this approach, Gaus argues, we will not seek to construct a system of morality from scratch; rather, we will seek to determine whether our existing rules and institutions fall within the optimal eligible set. That is, we will attempt to discover whether well-informed and good-willed individuals have reasons to endorse these rules and institutions. If we follow this approach, he concludes, we are likely to discover that more than one system of property rules may fall within the optimal eligible set.

In "Judicial Liberalism and Capitalism: Justice Field Reconsidered," Michael P. Zuckert explores a theory of judicial interpretation that is often thought to be especially friendly to the protection of property rights and economic liberties. This theory—known as substantive due process—holds that there are substantive (and not merely procedural) limits on what government may do under the due process clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution. Zuckert proceeds by examining the judicial thought of one of this theory's strongest proponents, Justice Stephen J. Field, who served on the U.S. Supreme Court from 1863 to 1897. While critics of Field have contended that his jurisprudence was influenced by laissez-faire economic theory or by his sympathy for business interests, Zuckert sets out to show that it was in fact based on a philosophy of natural rights, which Field understood to be grounded in the Constitution. Field's belief in individual rights to liberty, property, and freedom of contract led him to embrace a strong presumption in favor of individual autonomy and freedom from governmental regulation. On his view, it was possible for the state to overcome this presumption, but to do so the state had the burden of demonstrating that it was exercising its power for legitimate ends, and that the means it employed were congruent with the achievement of those ends. In order to illustrate Field's judicial philosophy, Zuckert discusses a number of prominent Supreme Court cases concerning how government may regulate the use of private property. He argues that Field's opinions in these cases make it clear that he believed the state could legitimately take private property for genuinely public uses, could levy taxes on property for the support of government, and could limit uses of property that would violate the rights of others. At the same time, Field held that government action that went beyond these purposes (e.g., the regulation of prices) was illegitimate. Zuckert concludes that Field's judicial philosophy was not as unambiguously friendly to laissez-faire capitalism as some scholars have maintained, but that it was nonetheless far friendlier than many of the constitutional theories that have prevailed since Field's day.

The collection continues with four essays that consider the proper role of government in a liberal state. In "Liberty After Lehman Brothers," Loren E. Lomasky addresses the role of government in financial regulation, especially in the aftermath of the global financial crisis of 2008. He notes that theorists on both the left and the right have used the crisis to confirm their own long-held beliefs. Voices on the left have claimed that the crisis heralds the end of laissez-faire economic policy and that only careful governmental regulation of financial institutions can rein in the excesses of unchecked capitalism. Voices on the right have countered that existing regulations played a key role in provoking the crisis—pointing, for example, to the political and regulatory pressures that drove Fannie Mae and Freddie Mac to extend housing loans to less creditworthy borrowers. Lomasky believes that each of these explanations is too easy. In order to come to a better understanding, he discusses a series of paradoxes that help illuminate the causes of the 2008 crisis. The paradox of efficient markets states that if participants in the economy believe markets are efficient, they will assume that assets are priced accurately, rather than investing in research to assess the real value of the assets in which they invest; but as more and more participants forgo such research, markets become less efficient. The paradox of reduced risk states that if financial institutions believe they have reduced their level of risk (e.g., by diversifying their investments), they will conclude that it is safe to take on higher levels of debt; but as many interconnected institutions follow the same strategy, the level of risk in the marketplace increases dramatically. The paradox of hard-won knowledge states that as economists and regulators learn more about financial crises and how best to deal with them, they may become overconfident; if they assume that future crises will resemble those of the past, they may be slow to recognize and respond to novel circumstances. After discussing each of these paradoxes in detail, Lomasky concludes by setting out his own recommendations for preventing financial meltdowns. These include increasing capital reserve requirements for banks and financial firms and placing limits on the size of some financial institutions.

Daniel M. Hausman looks at the role of the state in the provision of medical care in his essay, "A Lockean Argument for Universal Access to Health Care." Although libertarian admirers of the political thought of John Locke typically oppose government involvement in health care provision, Hausman seeks to defend the counterintuitive claim that there is a good case to be made from a Lockean perspective for government action to guarantee access to health care. He begins by sketching what he takes to be the central values of the Lockean view, namely, the protection of life and property and the protection of individual freedom, understood in terms of independence and self-determination. While libertarian followers of Locke identify the protection of freedom with the protection of a right to be free from the interference of others, Hausman argues that the Lockean position is consistent with a broader role for government. On his interpretation of Locke's view, government may legitimately take action to secure any objective that is essential to citizen's independence and self-determination, provided that people are unable to secure the objective on their own, and provided that the government's action does not itself undermine the protection of life, property, and freedom. Hausman argues that government action to secure citizens' access to medical care satisfies each of these conditions. In the course of his essay, he compares his approach with the defense of universal health care proposed by Norman Daniels, which rests on a principle of fair equality of opportunity. Hausman points out a number of difficulties that Daniels's argument faces, and shows how the Lockean approach avoids these difficulties. Hausman concludes that a strong Lockean argument can be made in favor of the proposition that, just as government legitimately acts to protect citizens from crime and foreign invasion, it may also legitimately act to secure their access to basic health care.

In "Euvoluntary or Not, Exchange Is Just," Michael C. Munger explores the role of government in the regulation of commercial transactions and the redistribution of wealth. He begins by noting a feature of free-market exchange that many observers find troubling: namely, the fact that a series of voluntary exchanges that leave both parties better off can lead to large inequalities of wealth that critics of capitalism view as unjust. Faced with this fact, critics of the market may argue that seemingly voluntary transactions are not genuinely voluntary, since they take place between parties (e.g., employers and employees) who exercise sharply unequal bargaining power. Moreover, such critics may use this inequality to justify government intervention in the market to prevent the exploitation of the disadvantaged, and to redistribute the wealth created by market exchange. Munger contends that critics who embrace this sort of government intervention are relying on a mistaken conception of market exchange—and that allowing genuinely voluntary exchange actually tends to ameliorate the social injustices that critics find troubling. Munger introduces the term "euvoluntary exchange" to indicate exchanges characterized by an absence of both regret and coercion—that is, exchanges in which (1) both parties receive value that is at least as great as they anticipated prior to making the exchange, and (2) neither party is forced to exchange, either by the threat of violence or by the prospect of suffering some harm (e.g., starvation) if the exchange doesn't go through. He goes on to argue that all euvoluntary exchanges should be permitted and that there is no justification for redistributive policies if disparities in wealth result only from euvoluntary exchanges. In addition, he discusses a number of examples of transactions that are not euvoluntary, such as situations in which merchants take advantage of desperate people by charging higher than normal prices for essential supplies in the aftermath of a hurricane or some other natural disaster. Even in these cases, Munger concludes, exchanges should generally be permitted, because access to market exchange may be the only means by which people in desperate circumstances can improve their position.

In "Rule Consequentialism Makes Sense After All," Tyler Cowen considers the merits of rule consequentialism as it relates to the justification of specific social policies and the justification of a liberal social order in general. He notes that free-market advocates such as F. A. Hayek and James Buchanan have linked their arguments for a free society to the validity of a rule-based perspective. On their view, we should look for rules that best define the scope of government rather than evaluating each government policy on a case-by-case basis. As Cowen observes, however, rule consequentialism is commonly held to be vulnerable to the objection that it can be reduced to act consequentialism. The rule consequentialist holds that we should guide our conduct by those rules whose observance leads to the best consequences overall; yet in specific situations we may be able to achieve a better outcome by violating the rule. In such situations, the act consequentialist can object that if we really care about consequences, we should follow rules only when doing so leads to the best consequences; thus, rule consequentialism collapses into act consequentialism. But Cowen suggests that this line of argument is less powerful than has been supposed, because it makes certain (implicit) assumptions that turn out to be implausible. These assumptions have to do with the constraints under which we make choices. The rule consequentialist seeks to choose a policy today that will be applied in subsequent time periods by many different agents, while the act consequentialist seeks to choose an action for a single individual at one point in time. In the former case, the focus is on a "bundle" of choices; in the latter, the focus is on a single choice. Cowen argues that treating a bundle of choices as the relevant variable is no less defensible than treating a single act as the relevant variable. He concludes that rule consequentialism and other rule-based approaches to policymaking are stronger than their critics would have us believe.

The collection's final two essays examine the relationship between modern liberalism and socialism. In "Liberalism, Capitalism, and 'Socialist' Principles," Richard J. Arneson asks whether free-market institutions are compatible with the fulfillment of socialist ideals. He takes as his starting-point an argument put forward by the political philosopher G. A. Cohen, who held that the two are strongly incompatible. In order to illustrate the socialist principles he had in mind, Cohen offered the example of a group of friends organizing a camping trip. He imagined that for the duration of the trip, the members of the group treat their camping gear as common property; they approach the trip in a spirit of fellowship, dividing chores fairly and efficiently; and they commit themselves to ensuring that everyone enjoys the trip and is (roughly) equally fulfilled by the experience. Cohen argued that the camping trip model embodies principles of community and equal opportunity that are at once ethically attractive and incompatible with capitalism, and he added that if it is possible for a society to organize its economy according to this model, it ought to do so. In response, Arneson observes that Cohen failed to show that his socialist principles could not be promoted within a free-market economic system, using the familiar devices of taxation and redistribution (for instance) to advance equality of opportunity. More importantly, Arneson argues that Cohen's principles are, in fact, not attractive, and that they ought to be rejected. The socialist principle of community, for example, requires that those who are better off must work to improve the lot of those who are worse off, even if the latter are worse off through their own fault or choice. Arneson goes on to criticize Cohen's principle of equality of opportunity in detail and to reject the notion that equality of distribution (of opportunities or resources) is desirable in itself. Instead, Arneson concludes that our attitudes toward values like equality and freedom should depend on whether these values promote or hinder the advancement of people's welfare.

In "Are Modern American Liberals Socialists or Social Democrats?" N. Scott Arnold examines the extent to which contemporary liberals have embraced the values and ideals of socialism and social democracy. Arnold divides his essay into two main parts, with the first arguing that contemporary liberals are socialists, and the second arguing that they are also social democrats. The primary feature of a socialist system is collective ownership of the means of production, and although such collective ownership does not exist formally in the United States, Arnold maintains that the U.S. government has effectively taken control of the incidents of ownership (i.e., the bundle of rights and privileges that comprise ownership)—and has done so with the full support of modern American liberals. Though the ownership of property remains nominally in private hands, the state exercises extensive control over property in two ways: through its taxing and spending authority, the state has a kind of priority of ownership with respect to the income and wealth associated with private property; and, through its power to regulate, it is free to impose wide-ranging (and uncompensated) burdens on property owners. Arnold goes on to contend that modern American liberals, in striving to reduce levels of inequality in the U.S., have endorsed a set of institutions that, in effect, replicate the institutions of social democracy. These institutions are, at their core, forms of compulsory social insurance: they include unemployment insurance and workers' compensation (both with mandatory contributions by employers), Social Security, and the restructuring of the American health-care system with the stated aim of guaranteeing universal access. The foundation underlying all these institutions is the assumption—shared by American liberals and social democrats—that the market is not to be trusted and that it must be subordinated to politics so that it can serve the interests of society. Thus, Arnold concludes that contemporary American liberals have accepted the values of both socialism and social democracy, and in so doing have strayed from the original liberal ideals of the American founding generation.

Liberalism has a rich tradition as a political theory, from its classical version to its contemporary egalitarian and welfarist variants. The essays in this volume offer important insights into the nature of liberal values and the relationship between liberal government and capitalist economic institutions.

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