

In Defense of the State (II)

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In the first part of this essay, I argued that the “free market” and the “minimal state,” as understood by such antistate theorists as Milton Friedman and Robert Nozick, as well as their intellectual progeny who now contend for control over the U.S. government, are in fact primarily instruments for the maintenance of inequality and privilege.

The obvious line of defense of those instrumentalities against such an argument is familiar. First, it is claimed that the rights of property protected by the free market and the minimal state are fundamental. Second, it is claimed that the free market and the minimal state are in any event primarily democratic institutions—institutions, that is, such as would be created or have been created by “the people,” as opposed to welfarist institutions that are created by “government bureaucrats.” In the second part of this essay I shall address both aspects of that defense. We shall see that the free market and the minimal state protect only a very special class of property rights, rather than any kind of right we can reasonably think of as belonging by nature to all people; and that the activities of the minimal or any other (capitalist) state consist to a great degree of coercion exercised by that state on behalf of the rights of a minority and against those of the majority.

Democrats should be especially grateful to Robert Nozick. In his development of what he calls the “entitlement theory of justice”—i.e., the theory of the rights of private property—he has shown more clearly than anyone before him (more clearly even than John Locke, who maintained a careful ambiguity on the origins and rights of entitlement) just how historically empty, though ideologically replete, that theory is. Since the common understanding of what the owners of great agglomerations of capital consider to be their right to their prop-

erty is very similar to Nozick's, we can learn much about the ways in which we should or should not use the notion of property rights from a close attention to his argument.

An individual is entitled to a property holding, Nozick claims, if it was originally acquired in accordance with what seemed at the time to be just principles, and has been subsequently transferred by procedurally just means. Alternatively, an individual is entitled to a holding, even if it was originally acquired by unjust means, if its transfer was intended as a rectification of past injustice in the original acquisition (and intermediate transfers), and was accomplished by procedurally just means. However, because state action, except for the minimal "nightwatchman" function of police protection, is always coercive—if all people could agree on such an action, no state would be needed to accomplish it—no "procedurally just means" of property acquisition, transfer, or its rectification is legitimately to be accomplished by public intervention. Any such intervention is unjust; and therefore we are able to distinguish the legitimate protection of freely gotten acquisition of property from the illegitimate rectification of inequalities.

All of this, however, has nothing to do with the world we live in. In that world, little property of note has been acquired "justly," and no one ever agreed to the rules of the transfer of property presently in force. On the whole, people did not enter the modern "social contract" willingly, but rather were dragged into it by force, kicking and screaming. We do not expect abstract political philosophy to tell a true historical tale, but we do have a right to expect it to be based on more than sheer fantasy. The moral rules that underpin capitalist economy—the modern reign of inequality in the economic realm—specify that the means of production of goods for the use of all are rightfully and for practical purposes best left in the hands of persons with no accountable public position; that the production process can always be thought of as decomposable into the separate acts of the individuals who make it up, rather than being necessarily a cooperative effort; that human labor is a commodity and therefore ought to be sold by unattached individuals rather than carried on jointly by families, neighborhood groups, or other communities; and that trade and production are good in and of themselves, regardless of the value of or the need for the products made and traded. If we ask how these rules came to be thought of by most people as legitimate, the answer is perfectly obvious, though it is the obverse of Nozick's answer. Private property in the means of production, the "free" labor market, the workplace as an arena of individual strangers ("commodities"), and the unfettered expansion of production and trade came into being with the help, and only with the help, of massive force and violence both instituted and supported by the Leviathan state. If there is anywhere a fortune or a large-scale productive enter-

prise that has not been built up by means of the coercive intervention of the state on someone's behalf to the detriment of someone else, we will have to search long and hard for it. Whether we look at the history of wealth and the development of industry and agriculture in the United States, the history of land tenure in France, of monopolies in Germany, of the "great houses" in Japan (which at times have been almost inseparable from the state); whether we look at the peculiar development of the law of corporations in Anglo-Saxon and continental jurisdictions, or at the legal theory of subsoil rights in the United States, we find, *always and only*, the state, with its laws, tariffs, subsidies, licenses, grants, and armies, where Nozick speaks of "just" entitlements. Only in the offshoots of the British Empire among contemporary capitalist societies was it even a partially democratic state that helped to create early capitalism; not that that makes any difference to Nozick or Friedman, both of whom emphasize quite rightly that the (partially) democratic state can be every bit as coercive and unfair to individuals and groups as any other kind; as indeed it was when it distributed legally protected land or capital to individuals, e.g., railroad barons in the United States.

"Capital," as Marx said at the end of his history of primitive accumulation, wherever it is found, comes into the world "dripping from head to foot, from every pore, with blood and dirt." In a recent study, an economic historian describes the history of the English economy since Hastings as a tale of pure and simple looting. They both exaggerate, but only just, for effect.¹ Where blood and dirt and loot have been absent, capital has dripped subsidies, grants, bribes, the manipulation of courts to create new legal principles, and all the other familiar public paraphernalia of "private" enterprise. That essential point has always been plain to serious students of society. Hobbes and Locke writing on the state of nature, Rousseau writing on the origins of inequality, Hegel writing on the absence of justice among families, tribes, or even in civil society, Weber writing on the foundations of economy and state: all were aware that in the given order of things the appropriation and development of capital inevitably took place with the help either of force, fraud, or theft, or (chiefly) with the help of the monopolistic coercive powers of the state. There is no other way for capital to be appropriated, except for the unlikely discovery of newfound land. Nozick himself seems to recognize this when he writes, "past injustices might be so great as to make necessary *in the short run* a more extensive state in order to rectify them"² [my emphasis]. But all he accomplishes in this passage is to show that his familiarity with the technical language of ethics does not extend to a familiarity with real politics. States don't rectify injustice except when *people* who've previously been excluded from the state seize and use its powers. The state, in other words,

¹ See Marx, *Capital*, vol. 1 (Chicago: Charles H. Kerr, 1926), parts 7 and 8; W. G. Hoskins, *The Age of Plunder: The England of Henry VIII, 1500-1547* (London: Longman, Green, 1976).

² Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 231.

is not a neutral bestower of rewards to the just, but rather an arena in which class and group conflict takes place, and it will not “wither away” before classes and groups do.

When we turn from the question of the original acquisition of property to that of “just transfers,” the ideology of the minimal state fares no better. According to Nozick, the proper mode for making “just transfers” of property is the free market—not the coercive powers of the state. But the most important aspect of the free market, without which fortunes could never have been built up and giant corporations could not exist, is the free market for *labor*. Free labor, and the concomitant workplace organization with which we are familiar, is the absolute *sine qua non* of free capital’s productivity, since capitalists are people who do not do their own work. The labor market—the institution that treats workers as commodities rather than as trained people with skills, education, and professional dignity—separates the class life-styles of capitalists and their professional servants from those of workers. But far from being a natural development instituted by popular demand, the free labor market and the associated notion (which Friedman and F.A. Hayek make into the foundation stone of capitalism) that reward for work is properly distributed on the basis of individual commodity contracts, have been around for only a small portion of human history, and they have not always or even often been welcomed by most people. People had to be disciplined to become what we nowadays call “workers”; they had, by what Max Weber described as “a long and arduous process of education,” to be broken loose from their traditional moorings. “In the past,” he adds, “this was in every case an extremely difficult problem.”³ Nor did Weber mean to suggest, with the term “education,” the comparatively painless disciplines of compulsory public schooling, a very late development in the flowering of capitalism (though it too has usually been put to the service of worker “education”). The ways in which potential workers were “educated” to accept and endorse their new fate included—in addition to the authoritative, virtually coercive pressures of state-supported churches—new laws of vagrancy, vagabondage, and debt, the establishment of workhouses, prisons, and sanatoria, the destruction of housing for the sake of “development” and its replacement by “company” housing, the outlawing of workers’ combinations and strikes, the forcible introduction of intense specialization of labor despite steadfast worker resistance, and the occasional bloody massacre. None of this had to do with the “natural” protection of property, but rather with enabling one (small) group of people to make property of another (larger) group. Labor as a commodity now exists only because the allegedly dreaded state put its armed forces entirely at the disposal of private entrepreneurs for a period that in some nations lasted more than a century.

³ Max Weber, *The Protestant Ethic and The Spirit of Capitalism*, trans. Talcott Parsons (New York: Charles Scribner’s Sons, 1958), p. 62.

Market capitalism, in short, is an episode in the history of international and civil violence; its Enabling Acts were acts of war, revolution, the restructuring of political institutions, and other events in the natural history of the struggle for political power, and for the "monopoly of the legitimate use of physical force within a given territory."

That is not accidental: labor had to be tamed for capitalism to exist. Workers had to be inured to the idea that for better or worse, like it or not, their kind of life was going to be different from, and inferior to, that of other classes of people—and necessarily so. Without the now familiar distinctions among owners, professionals, and workers, capitalism could not exist—the accumulation of capital in private hands could not take place, as there would be no assurance of security for it, no assurance of a ready supply of wage workers, no assured loyalty from the middle class.

To deal with this problem in Nozick's own terms, we must consider his and Friedman's argument that the appropriate means for rectifying an undesired state of affairs (in a "free society") is "compensation" arranged by the market, rather than interventionist public action. Capitalism can exist only when labor is treated as an individually interchangeable, nonhuman commodity to be sold freely on the market—and as a lesser social class. (We have only to compare the way General Motors hires a sales manager with the way it hires a welder, or the way it pays them for their work, or the way their work time is supervised, to understand "labor" as a deliberately designed system of inferiority.) But what form of compensation can be paid for being a victim of this system of enforced deprivation; for belonging to the social class of "wage worker"? The only form of compensation the market can arrange, the worker already receives in the form of wages. Organized bargaining (which is anyhow considered an interference with the free market so beloved of the antistatists) can produce better wages and fringe benefits. But these forms of compensation cannot change the comparative disadvantage of the way of life of the man or woman who remains a wage worker. The compensation that workers really want is to not be a member of the working class, that is, a disposable commodity—and the very principle of the free market for labor ensures that *that* kind of compensation never will nor ever can be offered to workers. It can be offered to individuals, of course, in the form of upward social mobility for themselves or their children; but they will have to be replaced by others who will take over their previous class position. As to that, the working class as a whole can be diminished in proportion to the other classes by technological change, but it cannot be eliminated in a capitalist society. Capitalism provides only market rather than communal incentives to work, and since the market incentives for wage labor are clearly unsatisfactory to most people, the market is cleared only because there are millions of available people who are *driven* to work at labor by their material circumstances. If everyone could choose his or her field of endeavor the way the average college or professional-school

graduate does, few people would choose to do the really productive work of society. Only in some different system, in which informal class barriers had been eliminated or attenuated, and entry into any career line whatsoever truly was by equal, free choice, would the principle of market compensation work: dangerous work would be paid more, wearily responsible work compensated for by extended summer vacations, workers given more civic rights than nonworkers, etc. Then people might actually sort themselves into job categories according to their personal tastes, and the productive work could still get done. But that is to say that for the principle of compensation to function correctly, capitalism has to be abolished!⁴

Moreover, it is also true that a "free market for labor," even leaving aside the question of its historical origins and the impossibility of subjecting it to the principle of compensation, cannot be managed without a good deal of coercion by the state. Again, that is because of the nature of social classes in a capitalist system. Let us suppose, for example, that laborers working for a manufacturer think that they are being underpaid, or overworked, or overexposed to carcinogenic substances. If they were sellers of a good (that is, a manufactured thing) they could withhold their product from the market until its price was met, and if their belief that the product was underpriced was correct they would clear the market at the higher price. Thus the market gives aid and comfort to mistreated sellers of goods: price rises or cutbacks in production or both are available to capitalists as a means of getting compensation from consumers who, for example, have insisted on some costly environmental reform but refuse to pay for it. As a last resort, furthermore, capitalists confronted by consumers who continue to refuse to pay the market price for a good can declare themselves unable to make a profit and shut down; society may go without a desired good, but one rarely hears of major shareholders in large corporate enterprises who suffer personally when the enterprise goes out of business (usually, in reality, closes a subsidiary). The capital remains in the owner's hands, and there is always someone else to sell it to, and then premature retirement to be enjoyed at a healthy standard of living. The ability of well-cushioned owners to withdraw their services without challenge is one of the most inalienable of the "rights of property."⁵

This is not true of workers. Their withdrawal of services is the strike; but without having some means of legal coercion available to them they will be un-

4 The relationship between the division of labor and equality is discussed at greater length in chapter 4 of my book *The Pursuit of Inequality* (New York: Pantheon, 1981).

5 Throughout Western Europe, social democratic legislation has modified and limited the "right" of corporations to close down plants, move operations, lay off workers, etc. The United States remains what Nozick and Friedman might call a "free society" in this regard—i.e., the right to do injury to other people remains unlimited if you have the power to do it.

able to make their strikes effective in a minimal (nonwelfare) state. If workers walk off a job, they will be replaced by other workers willing to work in dangerous conditions, or at a speeded-up rate, or for what the strikers think to be low wages. The difference between their situation and that of the employer is immense. The workers, living off the proceeds of labor that are (per capita) much less rewarding than those of capital, will be in no position to withdraw from the economy for even a short while, as can the employer. They cannot simply quit work, but must force the employer to rehire them. Furthermore, the employer has available a pool of unemployed labor, or the putative support of private lending institutions to finance a period of technological improvement after which the strikers' labor will be unnecessary, or both. Thus the rationalization of class divisions that ideologues like Friedman and Nozick engage in creates a version of "Catch 22." Unlike owners who are legally free to withdraw their services, or managers and professionals who hardly ever need to do so, wage workers, by the very definition of labor as a commodity rather than as a profession (and because of the conditions of supply and demand attached to that definition), often will have to use force and violence if their withdrawal of labor is to be effective. In a nonminimal state, such as the antistatists decry, they might have informal government support in the form of unemployment compensation or welfare payments (where those are available to strikers), or strike funds of the kind that only the most gigantic unions are able to build up (though usually but a pittance compared to what employers of the same size have available to tide them over). But in the minimal, or purely capitalist state, only coercion will help striking workers. That is because effective withdrawal of labor entails preventing others from taking your place, keeping the workplace shut, etc. But then the workers will be attacking the property the minimal state was set up to protect. They too will have discovered the iron fist in the velvet glove of the minimal state.

Let us suppose, for example, that in pursuance of Nozick's principles the Reagan administration were to engage (as some of its spokesmen have promised it will) in a budgetary or programmatic decimation of the Occupational Safety and Health Administration, thus "releasing" workers to deal with their working conditions themselves. Let us then suppose, more imaginatively, that the employees of an asbestos plant demand complete authority to restructure working conditions so as to make themselves the guarantors of their own health and safety.

We can safely predict that their demand will be refused, on the grounds that any such surrender of authority would invade managerial prerogatives and betray the corporation's obligations to its stockholders. We can with equal assurance predict that any court would uphold that refusal against a lawsuit brought by the workers, since the refusal would merely restate the common law of capitalism, which protects employers, in the name of the rights of private property, from having to accede to such demands. That law, of course, is precisely the law of Nozick's minimal state: the "mere" protection of "private property."

If the workers were then to go on strike, they would probably lose a prolonged strike, for again in keeping with the philosophy of the minimal state American public law forbids such interferences with the rights of private property as mass picketing, secondary boycotts, and all the other tactics that might give the workers at least a small chance of overcoming their lack of accumulated capital. And let us suppose, finally, that having lost their strike, the workers then decided to sit in, to seize the plant until working conditions in it were made more safe. The state, and most especially any state controlled by ideologues (such as President Reagan) who really believe in the virtue of the minimal state and the free market, would send in armed forces to remove the workers. To paraphrase a remark of Marshall Berman's: We may stop making demands on the state, but it will not stop making demands on us. And the more "minimal" the state, the more exigently it will make this kind of demand.

The oneness of the free market is revealed: it helps the sellers and (under certain conditions in which unlimited free competition would really be possible) even the buyers of goods, but not the seller of labor. The only freedom most individuals gain from the free market is the freedom to be either rewarded or injured, willy-nilly, as the fates dictate. Chief among the "fates" included are the possessors of capital who, though themselves limited as everyone is by historical chance, are much less limited in the social and political choices available to them than are the mere possessors of personal labor power. That disparity is necessarily the greater, the more minimal the state, and the more unmitigated the conditions of capitalism.

The ideologues of inegalitarianism, it is true, deny that class distinctions under capitalism are based ultimately on the kind of "might makes right" model I have described here. However, since no moral theory other than "might makes right" can explain why merely the possession of a certain kind of property should entitle some people to dominate others against their will, the inegalitarians must look elsewhere than to property rights alone for their justification. Rather, they purport to rest their case on an argument about moral desert, as in the phrase, "Jane Doe has worked hard and *deserves* an appropriate reward." Everyone will agree to *that* formulation, of course, but it remains unexplained why the rewards of hard work of *one particular kind* (i.e., managing the deployment of capital goods) must include the appropriation of power over the lives of others.

The prerogatives and powers of ownership, as opposed to mere possession, are a purely social construct: there is nothing "natural" about them, any more than there is about IQ scores, or political aggressiveness. Nothing in the "natural order of things" (Locke's or anyone else's) allocates property and its rights in such a way that one person can have it without being required to work on it, or that one person can unilaterally set the conditions for others who do work on it and then have that settlement enforced by armed might in the name of contracts. Classes are made, not given. There is nothing inherent in the nature of steel mak-

ing that requires that someone who makes steel in his own backyard has thereby a "natural" right to a different class position from someone else who works with his own tools at a mill owned by some third person. Hard work is hard work wherever and however it is done; people only get divided into social classes when the state, through either its legislative or judicial bodies, enforces the rule that voters of stock in an enterprise don't have to work, and workers don't get to vote on the conduct of the enterprise. Property, in other words, is only an issue at all because, with the help of the state, it's been distributed so that not everybody owns some, let alone equal amounts. We need only remember that once most land in Europe was either owned by feudal lords or was held in common; now hardly any is held in either way, and the existence of a powerful, centralizing state antedated the new distribution. Furthermore, property is an issue because power over the rights of others—the taming of labor—has accrued to it in its corporate form, and these powers too have been given by, and could only have been given by, the powerful, centralizing state. People have never become wage laborers voluntarily; it is hard to believe that they ever will.

The redistributive and regulatory efforts of the welfare state, though they do little more than soften the harsh edges of inequality, are thus the necessary consequences of capitalism itself—the mild price that the owners of capital and their professional servants must pay for being allowed to benefit from the incredible disparities in power and wealth that have been created on their behalf. The accomplishments of the welfare state (most often of the workers and their representatives who fought for them) may often be inadequate, but they are accomplishments nonetheless. Chief among them have been acceptance of the strength of organized labor, which carries with it some job security, and a capacity to bargain successfully with or strike against corporations. In the society Nozick and Friedman see as just, even those accomplishments would disappear; for although the antistatists do not propose outlawing unions, they do propose outlawing the closed or union shop, which is the one form of organization that has enabled unions to build up marketplace power, and reasonable strike funds, over time.

To take another example: At one time, as the history of the "fellow servant" rule in Anglo-Saxon common law makes brilliantly clear, people could be denied legal redress for injuries obtained merely because they had been injured through the bad graces of an "owner." More generally, not only in the United States but elsewhere as well, the property rights of owners (usually corporations, of course) were held by courts or other protective institutions to override the people's potentially sovereign legislative power to regulate private property. That time is largely past in advanced capitalist societies (though the continual successes of

drug and chemical companies in avoiding serious punishment for negligently or even knowingly poisoning their workers and customers illustrates one limit on the progress of the welfare state). The emergence of the positive state, which writers like Nozick and Friedman manage to distort into a kind of enslavement, has been a moment of liberation, however gradual and tenuous, for most people.

It must be said that Nozick, unlike most other free-market theorists (including Friedman), is aware that there is a problem here: that the capitalist class contributed at least as much if not more to the development of the Leviathan state than did the working class. Though he never confronts this issue directly, he does remark at one point that:

Economically well-off persons desire greater political power, in a nonminimal state, because they can use this power to give themselves differential economic benefits. Where a locus of such power exists, it is not surprising that people attempt to use it for their own ends. The illegitimate use of a state by economic interests for their own ends is based upon a preexisting illegitimate power of the state to enrich some persons at the expense of others. Eliminate *that* illegitimate power of giving differential economic benefits and you eliminate or drastically restrict the motive for wanting political influence.⁶

Nozick's implication that it is possible to imagine a minimal yet capitalist state is clearly intended to suggest that the historical connection between capitalism and Leviathan is accidental; he implies that thinking systematically will enable us to sever that connection, at least in theory. Unfortunately, the connection is not accidental, and an analysis that cannot possibly have any meaning for the actual world might as well not exist. The connection is not accidental because capitalism itself, in order to distribute and to maintain the distribution of property, and in order to contain potential laborers in their novel status as human commodities, *demand*s the more-than-minimal state, and cannot exist without it. Indeed, the whole point of social contract theory is to explain how a state is "created" by people coming together to protect their property. If the people in the "state of nature" have roughly equal amounts of property, capitalism will never develop, since no one would need to give up his property to go to work as a wage laborer for someone else. Thus we cannot imagine capitalism's having come into existence in the first place except on the basis of an antecedent unequal distribution of property. This being the case, it is impossible to imagine (if we pursue this hypothetical story) that the property-rich, who are sure to be the most exigent seekers after statehood, should voluntarily agree to forego the most tangible benefit they can derive from it—"the illegitimate use of the state by economic interests for their own ends." Especially so as they will be able to pay the

6 Nozick, *Anarchy*, p. 272.

protective agency that Nozick describes as the prototype of the minimal state more than will the property-poor, and thus they will be able to "bribe" it to dispense unequal justice. Thus the only reason government exists in a capitalist economy is to "enrich some persons at the expense of others," and it is utterly pointless and misleading to call governmental actions "illegitimate" when they are the very actions the government was instituted to implement. Whether we think of the hypothetical state of social contract theory or the real state of modern history, the bonds between property and power are indissoluble. Rousseau's account of the passage from the state of nature to modern society, though equally false to actual history, is a lot more believable than Nozick's:

The rich above all must soon have felt how disadvantageous to them was a perpetual war in which they alone paid all the costs, and in which the risk of life was common to all while the risk of goods was theirs alone. . . . All ran to meet their chains thinking they secured their freedom, for although they had enough reason to feel the advantages of a political establishment, they did not have enough experience to foresee its dangers. Those most capable of anticipating the abuses were precisely those who counted on profiting from them. . . .⁷

The reanalysis of Nozick's model enables us to see that the so-called trade-off between "liberty" and "equality" is an ideological invention. Liberty for all is unattainable unless all have equal access to control over productive property. Throughout this discussion I have proceeded from an assumption no more radical than that the enjoyment of property and the ability to improve our lives that possessing it gives us is a good thing—the very assumption, that is, upon which the ideologues of capitalism have founded their defense. And pursuing only the implications of this assumption, we have discovered that unfettered private property ownership of the means of production is the enemy not only of stable community, but even of each individual's equal right, apotheosized by liberal individualism, to pursue life, liberty, and property. Until their power to dominate society, by deploying their legal rights over the disposition of the surplus realized by productive capital, is taken away from owners and their nominees, so that the rights of disposition become instead more equally available to all who work, then corporate liberty, and individual or communal liberty, cannot coexist. "It is not individuals who are made free by 'free enterprise,'" wrote Marx, "rather it is Capital that is made free."

⁷ Jean-Jacques Rousseau, "Discourse on the Origin and Foundations of Inequality" in Rousseau, *The First and Second Discourses*, ed. Roger D. Masters (New York: St. Martin's Press, 1964), p. 159–60.

To be sure, the real historical situation has not been that simple. Millions of individuals have been and still are repressed in the name of the rights of property. But the original ideals that justified the liberation of capital were also phrased, however hollowly, so as to justify the liberation of people, and could not in the long run be freed from that linkage. Similarly, "The advance of industry . . . [replaced] the isolation of the labourers, due to competition by their revolutionary combination, due to association."⁸ "Combination" may not have been revolutionary, but it has certainly changed the face and the prospects of capitalism. Trade unions and working-class parties, class solidarity, "working to rule," calling on public power for protection against private rule, are not some lingering remnants of traditionalism but are of the very essence of advanced capitalism itself—and thus of free enterprise in its real historical development. If it is a natural right to be treated as a freely contracting, independent individual at one's place of work, it is a right that has somehow failed to commend itself to most workers. Individualism may be an effective myth of capitalism, an ideology that justifies hierarchical reward systems to those who accept their legitimacy as the price of liberty. But *cooperation* is the reality of the industrial labor process, as even most employers have come to appreciate. Most workers have always known that cooperation, not individualism, produces their liberty. The contemporary version of individualism or antistatism, then, is truly of the ivory tower—the product of men who have never worked to make their living, as most people do, in concert with others. Like the worst of the "bourgeois economists" whom Marx castigated, Nozick, on behalf of antistatism, analyzes a fantasy world of his own creation in order to philosophize about the real social world that is wholly unlike it. Again the phantasm replaces the real thing: Crusoe without Friday becomes the hypothesized rational actor in an economy in which he could not actually survive for a month without the very unindividualist institutions of modern welfare capitalist societies.

The following relationship emerges, then: The incipient capitalist class spoke the language of free enterprise and political liberty, but practiced instead a restrictionist political economy, class cooperation, and the forceful suppression of personal liberties to garner and protect its capital. The many who saw themselves as victims of capitalism, and even some of those with a more hopeful view of it, experienced and understood the reality of restrictionism, state aid to capital, and corporate cooperation: they also took seriously the potentially helpful language of political liberty and scorned the obviously ideological and hypocritical language of free enterprise. At the end of the 1970s, for example, a French government dedicated to freeing the market attempted to rationalize the nation's sagging steel industry by cutting off all state subsidies, thus forcing the closure

⁸ Marx, "The Communist Manifesto" in *Karl Marx and Frederick Engels: Selected Works*, vol. 1 (Moscow: Foreign Languages Publishing House, 1962), p. 43.

of a great many uneconomic steel mills. But the plan did not work, because it proved as expensive to provide unemployed workers with the retraining and re-employment they demanded as it had been to provide the original subsidies. The state was out of one business, but deeply into another, equally expensive business. And that was because a significant proportion of the French people, for whom liberty and rights are supposed to exist, had no interest in the Friedmanian version of that liberty and those rights. For practical purposes, antistatism is an exercise in futility in any capitalist society, except insofar as it accomplishes the ideological task of short-circuiting progress toward greater equality by persuading some people that public action must always consist of isolated and inefficient stopgap measures, rather than any programmatic attempt at social change.

The truth about capitalism leads us in quite a different direction. In the last quarter of the twentieth century the majority of people in the capitalist democracies are not free from repression and mistreatment at the hands of governmental or corporate bureaucracies. But they are much freer from such repression and mistreatment than they were at the turn of the century, or at the turn of the nineteenth century. There *has* been a significant extension of individual liberty during that period, and it has usually been a result of the struggle *against* market capitalism, and *for* unionization, government regulation of business and working conditions, and the provision of fundamental social security. There has been a battle for power and the state has been the necessary battleground. After a century and a half of struggle, the capitalist welfare state is certainly much too far out of control, but it is not nearly as out of control of the average citizen as was the capitalist state of 1850.

Once we have seen that liberty and equality ought to be conceived of as similar rather than as opposed conceptions, moreover, a certain anomaly in the "libertarianism" of these "libertarians" becomes more comprehensible. In the definition of the powers of government with which we began this discussion in my first essay, it may be remembered, Friedman carefully distinguishes between the function of preserving "law and order" and the function of "protecting our freedom . . . from our fellow citizens." That distinction makes no sense except on the chilling understanding that what Friedman has in mind as the domestic enemies of freedom are *political* subversives. The whole phraseology thus reeks of the star chamber, the witch-hunt, the repressive apparatus of loyalty-security programs, and the secret police with their "Red Squads." Despite Friedman's self-proclaimed credentials as a friend of liberty, it is hard to see his aim here as anything but the intellectual prevention of socialism on the one hand, and the forcible protection of corporate property against direct action by workers on the other. It is a very convenient definition of "rights" that makes it legitimate to suppress both intellectual opposition and class conflict.

Critics have wondered how Friedman could have allowed himself even briefly to be consulted by one of the most barbaric regimes of the century; and some

have also found it ironic that Nozick's work was talked about with great enthusiasm by the inhabitants of the most repressive White House in American history. But Pinochet and the Nixonmen may have understood Friedman and Nozick better than Friedman and Nozick understand themselves. They understood that those so-called rights of property, which are really privileges, can be defended quite adequately without any reference at all to traditional civil liberties or rights of disobedience (which may be why those real rights receive not a single mention in either *Capitalism and Freedom* or *Anarchy, State, and Utopia*). The first thing men of violence do after they have established a repressive regime is to find some philosopher to explain that any attempt to bring their powers under control—to establish both majority rule *and* rights for excluded or oppressed minorities—constitutes an invasion of individual liberty. As these words are being written, for example, a war is being fought in northern Brazil to determine who shall own the resource-rich land that is likely to be developed there during the next century. Indian tribes are being wiped out; armed bands of "settlers" maraud against each other; murder is the order of the day. In the absence of a Brazilian revolution, before the next century is halfway over, a Brazilian political economist will be explaining that any attempts to redistribute the ownership and control of those resources are against natural justice, an unparalleled invasion of the free market, a violation of individual rights, etc. He could reasonably quote Friedman and Nozick.

As people search for political and economic forms beyond and more truly democratic than the welfare state, the antipublic ideologues offer only to preserve the inequalities that favor the already privileged, and to maintain individual liberty in such a form that most people can never have it. "Individuals have rights," Nozick asserts, but does not seem to care that most people in recent history have not thought they would benefit from the strict understanding of rights with which he is concerned. As though anticipating these arguments he adds, without telling us who or what is his authority, "and there are things no person or group may do to them (without violating their rights)."⁹ In his hands, therefore, the tragedy of social life becomes a conspiratorial and incomprehensible melodrama: incomprehensible in that, like all bad melodramatists, he gives us no explanation for the wicked behavior of his characters (for him, depriving individuals of their rights) other than, apparently, sheer perversity. But this wicked and perverse violation of rights is the very behavior that all real people find necessary from time to time, in the defense of what *they* view as their own rights. Thus Nozick is for "individuals" in the abstract; but against the actual exercise of their liberty by real people.

To look at the total impact of the free market, then—and this is the way most people have instinctively looked at it when not persuaded otherwise by its

⁹ Nozick, *Anarchy*, p. ix.

propagandists—is to see it as a useful, practical tool for finding out the real private costs of products, but as a pernicious and destructive institution when taken as the basis for an overarching social philosophy. The operation of the free market is destructive, that is, of all chances of achieving political equality. The appropriation of the social surplus by a (relative) handful of people, and the maintenance of a commodity market for human labor—even to the somewhat limited extent that these modes of production still exist in modern capitalist economies, let alone what they would be like in Nozick's uncontrolled version—together operate to create and maintain two classes of political citizenship, and thus, by definition, unequal liberties.

To be sure, it would be politically disastrous if discredited rationales of Big Government were to be resurrected in opposition to the ideology of anti-statism. But a coherent understanding of the history of capitalism can prevent us from making that mistake. Aside from the national defense sector, the bloated centralized state with which we are all too familiar is the outgrowth of attempts at economic planning and control, and of the provision of welfare. Both these modes of government intervention are intrinsic to the operation of capitalism (whether private or state capitalism); intrinsic to that system that “has pitilessly torn asunder the motley feudal ties that bound man to his ‘natural superiors,’ and has left no other nexus between man and man than naked self-interest, than callous ‘cash payment.’”¹⁰ The free market can provide neither material nor moral civilization; only the existence of some kind of public authority and spirit of community can do that. If the real thing cannot be sustained, repressed as it is by the strenuous efforts of the business class to promote the kind of asocial individualism represented by Friedman and Nozick, then we have to make do, for the moment at least, with the ersatz statist version. Although in principle there might be some other imaginable focus than public agencies for the energies we wish to devote to social action, in historical fact there is no other (at least not for the energies of mass movements). Labor-market anarchy permits, or rather encourages, vast disparities in income that place millions of people at a subsistence level of income, or lower; government must then step in to rectify the situation, for no one else will. Private enterprise, uncontrolled by either workers or consumers, wreaks the havoc that economists call “externalities,” and government must then step in to prevent the deterioration of the human and physical environment—for how can unrelated “consumers,” an abstract and derivative collectivity to begin with, enforce standards on multibillion-dollar corporations without institutionalized assistance? Thus, though the free-market ideologues often

¹⁰ Marx, “Communist Manifesto,” p. 36.

try to sound as though they were simply proposing that we remove social welfare activities of various kinds to the private sector, they are actually proposing that we give them up altogether; they propose not that we do away with the coercive state, but rather that we give up the weapon of mass collective action—the only weapon that people have to counter the collective action engaged in by corporate managers meeting together in exclusive clubs to construct marketing, pricing, and labor-market policies. What individual action will repair the ravages these absentee-owned corporations create as they move their operations about the nation or the world like pieces on a checkerboard? What voluntary, individual actions can we take to restrain the fiscal ruthlessness of the medical sector, which in the United States has so far proven impervious to pressure from consumers and governments alike? (Are we, in the minimal state, to institute a boycott of our own health care?) It is thus embarrassing but necessary to argue against the view, so prevalent in the United States, that government compulsion and government spending stifle initiative, whereas cutbacks in Big Government would release it. In simple fact, of course, it is not true that the size of the public sector is inversely related to the efficiency of the productive forces. The Federal Republic of Germany, for example, with a considerably larger public sector than the United States (that is, a larger proportion of the national product taxed away), and with considerable institutionalized worker “interference” in the conduct of business enterprise, is now a considerably more productive society than the United States. Similarly, Japan, usually taken as a model of free enterprise because of the relatively small size of its public sector, actually has an entire welfare state apparatus built into the organization of private industry, so that far from being unmitigatedly capitalist, the social structure is virtually feudal; moreover, Japanese industrial planning is directed very decisively from above so as to ensure a proper national balance between exports and imports—though again, the postfeudal psychology of decision making and obedience makes unnecessary the kind of overt, coercive mechanisms that we think of as planning.

In sum, the state, though indefensible, yet has to be defended. Or, rather, democratic, public control over the institutions that make a decent life for all possible has to be defended. The authority of the community over individual expressions of property right may in most cases be best expressed in other forums and by other means than the centralized, hierarchical state—but that authority, which is bound to appear to us now as public intervention, against the individual, must nevertheless be exercised. During the gas crisis in the summer of 1979, the Libertarian Party ran a full-page ad in *The New York Times*, the gist of which was that the administration should “get out of our way,” and let us deal with the energy problem “by ourselves.” By turning over the page on which that ad appeared, you could discover a somewhat smaller ad paid for by the Amway Corporation, promoting the very same message—except that in this case the “us” invoked was “private enterprise.” Both ads were correct in their claim that gov-

ernment intervention, that is, the system for allocating fuel oil and gas during shortages, had exacerbated those shortages in the first place. But that system existed only because both the general public and its sometime representatives in government had over the years learned the very realistic lesson that private suppliers of energy had not the faintest interest in resolving the energy problems of the public, if to do so would interfere with profits. And though most of "us" who were reading the *Times* that day had absolutely no input into either the private or the public system of decision making, we certainly all had and still have a much better chance of making our interests heard in the public system of decision making. That I as an individual have spent several winters with my home thermostat set at 60° Fahrenheit has not had the slightest impact on either the supply or the price of heating oil in New England; but my representative—the state, a small part of the system of public agency—has at least made the modest effort of listening to my complaints and taking them seriously.

Or again, the editor of an antistatist review recently opposed national health insurance on the grounds that "we" know how to spend "our" money better than "government" does; and he replied to an inquisitive reader that he couldn't think of a single way in which "bureaucracy" has helped us to obtain the means to a good life.¹¹ Even on the face of it, that is patent nonsense. As isolated pseudo-citizens, none of us has the faintest idea how to spend our money on public health, or mental hospitals, or penal institutions, or national defense, or the construction of dams, or the provision of mass transit or workplace safety; only trained people familiar with the specific problems and paid to devote time to them can do that. Nor does the absurdity of that assertion apply only to so-called public goods. Most of us of middle or low income have not the faintest idea how to go about allocating present income for only vaguely discerned future needs—which is precisely why the citizens of every industrial society find the whole bureaucratic apparatus of social security, unemployment insurance, and workmen's compensation so valuable a part of the "good life," even when that apparatus is staffed, as it occasionally must be (since humans are imperfect), by "arrogant, pointy-headed bureaucrats." No one can really believe that the elderly should be without Medicare, that the safety legislation that helps make West German mines the world's safest should be repealed, that American workers were better off before the institution of the National Labor Relations Board; no state, no matter how minimal and no matter who is in charge of it, will abolish these intrusions on the market. Or rather, no *people* will voluntarily do away with agencies to promote their own well-being. To the extent that the move for retrenchment has ideological support, rather than being merely the result of cost-consciousness in a savagely inflationary period, we must seek the reasons for that support

11 See *Inquiry*, September 4, 1978.

elsewhere than in the obviously false proposition that uncontrolled capital is thought to be desirable by a majority anywhere.

In the United States at least, those reasons are not hard to find. Most people are aware that something is badly wrong with the carrying out of what we now call government regulation and control: that it is coercive and authoritarian where it ought to be supportive and democratic. Fewer people, however, are aware of the ways in which the expansion of the obtrusiveness of government is directly related to the expansion of concentrated economic power, which at the same time creates a multitude of human casualties in its wake and counsels us to treat their travail as though it were their own fault—the alternative interpretation being so dangerous for the owners of concentrated wealth and their sympathetic functionaries in the state apparatus that they do everything possible to discourage its expression. Thus if in the U.S. many of us tend to think that the problem is the absence of an illusory freedom from interference rather than what it really is—the absence of political and economic democracy—that is not just because of our immersion in a liberal historical tradition but also because so many billions of dollars are spent every year to get us to think the one thought and be unaware of the other. The new free-market individualism—that is, the new corporate apologetic—is but a part of that expenditure. These new individualists misuse that language of political life in order to justify the special privileges of the minority to which they belong against the potential claims for more equality by popular majorities.

ERRATUM: The meaning of a passage in the first installment of Philip Green's article, "In Defense of the State," was inadvertently altered. Referring to John Stuart Mill, the text on page 12 of our April 1981 issue should read as follows:

He at last saw, one might say, that, given the sociology of capitalism, *On Liberty* was a utopian document; reducing the relations between people (as did the spirit of his age and as do the free-market ideologues of today) to those of economic exchange and noninterference could breed civility neither in those who benefited nor in those who suffered from that kind of political economy.

Beyond the question of education and civility, though, Mill saw that the problem for liberty was ultimately one of encouraging rather than discouraging the growth of communal moral sentiment. . . .