

Libertarian Sympathies: Heart and Mind

by Joseph S. Fulda

Two questions invariably asked of me by those unacquainted with libertarian thought and surprised at many of the arguments and observations I put forth are “Why are you so committed a libertarian?” and “What are some of the difficulties with the philosophy—where is it somewhat strained?”

This essay, then, is my attempt to answer these questions about the attractions and difficulties with the philosophy so many of us have embraced.

Libertarianism appeals to both heart and mind. For many of us, especially the young, libertarianism arises as a natural consequence of a free-spirited personality: yearning to enjoy life, with as few encumbrances as possible, and to answer to no one but ourselves and (for some of us) God.

For many of us, also, libertarianism arises from deep-seated philosophical convictions about the nature and dignity of man and the way the world works. These convictions are variations on three themes.

The first is the spiritual case for liberty: that men are naturally born with free will and that it is, therefore, both their right and their duty—their unique destiny—to use this God-given capacity to choose among alternatives, for good or for bad, for happiness or for unhappiness—provided, of course, that in so doing they in no way remove others’ free will.

The second is the moral case for liberty: that

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the use of force, except in self-defense—individual or collective—is simply wrong. This understanding of the inviolable nature of the rights of man arises directly from a conception of his dignity.

The third is the empirical case for liberty: that a free society promises the greatest good of the greatest number, that freedom truly works. Unlike the spiritual and moral premises, which to many are self-evident, the way the marketplace works to our benefit is often subtle. It is, for example, not obvious that the benefits of productive advances are greatest for the poor,¹ that distribution-of-income figures do *not* show a permanent underclass in capitalist society,² that we benefit most from the liberty of *others* and in ways we can barely imagine,³ that government programs are *necessarily* wasteful,⁴ that the market is *self-regulating* if given the chance,⁵ and that the beneficiaries of state action are so often visible and well-organized, while those who lose as a result of state action are either not visible or are so diffuse a group as to make it difficult and unprofitable to organize.⁶

Because of these and other subtleties, it is usually necessary for those who espouse the freedom philosophy to make a separate, empirical case against each existing or proposed government program or regulation. This can be not only exasperating, but also particularly difficult for functions government assumed long ago, because it is hard to know just how the market—coordinating the spontaneous responses of many millions of people—would today handle

these functions. Thus a grounding in economic history, as well as in economic theory, is needed to provide much of the empirical case for private schools, privately owned streets, voluntary charity and relief, privately provided economic security, privately coined money, bank notes, and the like.

Nevertheless, given enough such examples, the individualist convinced of both the spiritual and moral case for liberty will accept the empirical case as well. In so doing, he will add to the claim that liberty is a virtue, the further claim that liberty is a blessing which promotes human happiness. These three philosophical themes taken together both support and are supported by the primal appeal of freedom that is basic to so much of our personalities.

There is a great danger, though, when the primal appeal of liberty is not accompanied by philosophical conviction. For then the temptation arises to use government to expand liberty, rather than to destroy it. Of course, the use of force cannot—by definition—expand liberty, but there are a great many with libertarian sympathies, perhaps including most Americans, but without a sufficient grounding in theory, who think that it can. We might call them social libertarians and their idea, oxymoronic as it is, socialized libertarianism.

To them, as to Lord Acton and philosopher-economist John Stuart Mill, liberty means freedom not just from coercion, but also from the opinions, customs, and traditions of the many. To gain such freedom from the valuations of others, a social libertarian may well be tempted to advocate state coercion not seeing, for the moment, that, as Hayek so beautifully exposts in *The Constitution of Liberty*, the empirical case for freedom holds true of the very opinions, customs, and traditions he feels (but is not coercively) bound by⁷ and that, in any case, state action violates the spiritual and moral constraints on coercion he normally accepts.

This blind spot is particularly notable and noticeable in the case of invidious discrimination against members of a minority group. Even those, such as the American Civil Liberties Union, who normally make a very strong case for the freedoms of association (which include the freedom not to associate)

and the right to privacy (which includes the right to scrutiny-free relationships) are tempted to make a major exception where invidious discrimination is concerned.⁸ The philosophical libertarian, in contrast, distinguishes carefully between persecution and discrimination and while prohibiting the former with all the force of the law and the state, leaves the latter subject to moral opprobrium by the citizenry and to the powerful rectifying institutions of the marketplace.⁹

Social libertarians also might advocate that employers not be allowed to test employees for drugs or truthfulness and that landlords not be allowed to prohibit cohabitation, kids, pets, or washing machines. Both landlords and employers, they advocate, should be required to act neutrally to any attribute of tenants or employees, respectively, that is not relevant to tenancy and employment, respectively.

Arguments similar to those made about employers and landlords were made, and were almost totally successful, about the stewardship function of colleges and universities toward their students, and for such public accommodations as mass transit, restaurants, and the like.

In each of the above cases, although freedom of choice is clearly contracted, the choices available to the advocates of state action have equally clearly been substantially expanded, albeit at the expense of those whose freedom of choice has been contracted. This point is one which causes some anguish for the consistent proponent of liberty, for it is undoubtedly true that in many instances we are prevented from acting as we like or required to act in ways we do not like, even though no coercion is involved.

Yet both the employer's terms and the landlord's terms, as irrational, onerous, or even immoral as they may be, and as little as we wish to defend them, are tacitly accepted by the employee and the tenant in staying on at the job or in the apartment. What social libertarians would do, in essence, is replace the criterion of liberty with one of relevance and reasonableness. If there are not good and sufficient reasons for the conditions attached to the job or the tenancy, they advocate that it must not be allowed to stand.

Furthermore, social libertarians argue, if so-

cialized libertarianism is rejected on the ground that continuance in a position is tacit acceptance, why not try the principle one step further and respond that the coercive powers of the state are also tacitly accepted by anyone continuing to live within its borders?

If there is a weakness with philosophical libertarianism, the social libertarian continues, it is the narrowness of the definition of coercion. In their view, the employer or the landlord does exercise a form of coercion and one which is best prevented by coercion from the state.¹⁰

These are serious objections which must be addressed and which present difficulties for anyone who has ever held a job or a tenancy with irrelevant conditions (who has not?) or who has been denied a job or a tenancy for irrelevant reasons.

The best response, though, is a simple question: "Irrelevant to whom?" Or, "Reasons not thought good and sufficient by whom?" Obviously not to the employer or the landlord whose liberty it is proposed to limit and whose property it is proposed to regulate. Furthermore, if the employer or landlord is wrong about the relevance of his conditions, as is sometimes surely the case, the market will exact penalties in higher salaries, lower rents, and the like.¹¹ Moreover, such an analysis does not even consider all the harmful side effects of the state's entering the picture, including the often-realized potential for the state to become the final arbiter of what constitutes good and sufficient reasons and what is or is not relevant to what, thus placing the state in effective control over housing and employment, an inevitable outcome that a social libertarian would surely deplore.¹²

Finally, the tacit acceptance of a property owner's conditions—whether the ownership is of a corporation or of rental housing—is not akin to the state's claim over its resident citizens. The state does have sovereignty—a monopoly on the retaliatory use of force within its borders—but it lacks, or should lack, owner-

ship—a monopoly on the control and use of the property within its borders. Ownership arises by what Harvard philosopher Robert Nozick has called "the entitlement theory,"¹³ which dates back to John Locke.¹⁴ Sovereignty does not properly confer ownership, and in those polities where it is taken to include ownership, there is and can be no liberty.¹⁵ And that is a tragedy which should convince the proponent of socialized libertarianism to acquire a taste for philosophical libertarianism and, despite the temptation, not to compromise so sacred a principle as liberty for an expanded notion of freedom that must diminish the very liberty in whose name it is promoted. □

1. See, for example, Joseph Fulda, "Productive Advances: Who Benefits Most?" in *The Freeman* 37(July 1987): 251.

2. See, for example, George Gilder, "The Economy of Frustration," *Wealth and Poverty* (New York: Basic Books, 1981), pp. 9-20.

3. See, for example, Friedrich A. Hayek, "Freedom as Opportunity for the Unknown Few," *The Constitution of Liberty* (South Bend, Indiana: Gateway Editions, 1972), Chapter 2, section 5, pp. 30-32.

4. See, for example, Milton Friedman and Rose Friedman, *Free to Choose* (New York: Harcourt Brace Jovanovich, 1980), pp. 115-119.

5. See, for example, Joseph Fulda, "The Market and Scarce Resources" in *The Freeman* 34(August 1984): 497; Joseph Fulda, "Product Information on the Market" in *The Freeman* 36(January 1986): 29-33.

6. The classical example here is the tariff, although the principle holds true for virtually all government interventions.

7. Friedrich A. Hayek, "Custom and Tradition," *The Constitution of Liberty* (South Bend, Indiana: Gateway Editions, 1972), Chapter 4, esp. section 5, pp. 61-62.

8. For a clear statement of this, see George F. Will, *Statecraft as Soulcraft* (New York: Simon and Schuster, 1983), pp. 86-87.

9. See, for example, Milton Friedman, "Capitalism and Discrimination," *Capitalism and Freedom* (Chicago: The University of Chicago Press, 1962), pp. 108-118.

10. Friedrich A. Hayek deals with this stubborn issue head-on in "Coercion and the State," *The Constitution of Liberty* (South Bend, Indiana: Gateway Editions, 1972), Chapter 9, pp. 133-147. Space considerations prevent our recapitulating Hayek's discussion; nevertheless, his insight is essential for the philosophical libertarian concerned with the essential principles of liberty, which, with Hayek, we take as "the absence of coercion."

11. See note 9.

12. As an example of this usurpation, the state now regularly decides whether, and to what degree, gender is a relevant criterion in social and economic activity.

13. Robert Nozick, "The Entitlement Theory," *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 150-153.

14. John Locke, "Of Property," *Two Treatises of Government* (Cambridge: Cambridge University Press, 1967), II:5:25-51.

15. See, for example, Joseph Fulda, "Liberty and Property," in *The Freeman* 37(May 1987): 175-178.

The Minimum Wage— Good Intentions, Bad Results

by Roger Koopman

Ideas have consequences, Richard Weaver once wrote. They pace the course of human history—both good ideas and bad. And while intentions may be honorable, the passing of time has proven that, in the long term, you can't get good results from bad ideas.

The minimum wage is a classic example of a good intention and a bad idea. The idea behind minimum wage legislation is that government, by simple decree, can increase the earning power of all marginal workers. Implicit in this idea is the notion that employment is an exploitive relationship and that business owners will never voluntarily raise the wages of their workers. Businesses, we are told, must be coerced into paying workers what they deserve, and only politicians know what this is.

Not only does this line of thinking run contrary to the most basic economic principles of a free society, but it is also patently illogical. If government could raise the real wages of millions of Americans by merely passing a law announcing that fact, then why stop at \$3.35 per hour, or \$4.65, or even \$10? Isn't \$500 per hour more compassionate than \$50? Absurd, you say, and I would agree. But the "logic" is perfectly consistent with the *idea* of a minimum wage, once you have accepted the premise that political decrees can raise wages.

What does make wages rise? It is most certainly *not* government edicts that simply rearrange and redistribute existing wealth. Wages rise in response to the creation of new wealth through greater productivity. The more that a society produces per capita, the more there is to distribute through the marketplace in the form

of higher wages, better benefits, and lower prices.

The "bigger economic pie" concept is not complicated in the least, and yet it is a principle that seems to elude us time and again in matters of public policy. We know instinctively that government cannot create or produce anything. It regulates, confiscates, and consumes, all at the expense of the private economy. And yet we still believe that government can wave its magic wand with laws like the minimum wage, and we all will be better off.

Politicians engage in this deception to buy political favor from special interest groups. We keep falling for these political deceptions because our focus is on short-term personal gains rather than on the long-term consequences to the entire nation. We see the apparent benefit of having our own wages increased. But we don't consider the nameless victims of the minimum wage hike who will lose their jobs because the government has priced them out of the labor market. (It is precisely because minimum wage laws eliminate low-skilled workers from competing in the job market that organized labor lobbies Congress for massive minimum wage hikes.)

Commenting on the minimum wage, economist Henry Hazlitt put it succinctly:

You cannot make a man worth a given amount by making it illegal for anyone to offer him less. You merely deprive him of the right to earn the amount that his abilities and situation would permit him to earn, while you deprive the community even of the moderate services that he is capable of rendering. In brief, for a low wage you substitute unemployment. You do harm all around, with no comparable compensation.¹

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