

Why anarcho-capitalism is a non-starter

By Geoffrey Sampson

The Libertarian Alliance, to judge from its introductory leaflet and from what I know of the organisers, has begun life heavily influenced by Murray Rothbard's political theory of 'anarcho-capitalism'. I hope that the Rothbard link is not allowed to dominate the thought of the Alliance as it develops; Britain badly needs political pressure-groups dedicated to Libertarian ideals, but Rothbard's version of Libertarianism seems so ill-thought-out and easy to refute that in practice it just offers the Left the chance of scoring easy intellectual points against us.

What follows is a brief and not very scholarly critique of Rothbard (based on the two books of his that I have read, namely *Power and Market* (1970), and *For a New Liberty* (1973)), designed to persuade fellow-libertarians not to dissipate their energies in pursuing an impossible ideal. (If the reader asks what version of libertarianism I would advocate in place of Rothbard's, I would suggest that we will not go far wrong if we stick to the gospel according to Hayek.)

My first objection to Rothbard may seem frivolous to some readers, but not to me: I refer to his persistent abuse of the English language. It is true that what is said in a book matters more than how it is said; nevertheless, sloppy writing is a symptom of sloppy thinking, and the hysterical tone, clumsy style, and often-shaky grammar of Rothbard's prose is a very poor advertisement for Libertarian views.

Rothbard's error

Turning to more substantial matters, Rothbard's key error seems to me to lie in taking the proposition that states exert a monopoly of coercion to be an *empirical fact*, when in actuality it is a mere *definitional truth* - what we mean by 'state' is something like "agency which more or less successfully enforces a monopoly of

coercion over a given territory". Rothbard begins, as it were with the true premises that coercion is bad; he goes on to observe that states are the things that do most of it; and he concludes that if we changed our societies by removing the elements in them called "states" we would be much better off.

This is rather like saying: "Potholes in roads are a bad thing; a pothole is essentially defined by the boundary between the metal of the road and the space inside the hole; so we ought to dig away the edges which create the potholes, and we'd end up with better roads." In reality, we'd end up with bigger potholes.

What would happen in practice, if the institution called the "state" were magically to disappear from Great Britain tonight? What would happen would be that, within a few days, various individuals with a taste for bullying their fellow men (and all of us have some of this in our personality) would start coercing their neighbours in ways which the state apparatus had previously made impossible or at least imprudent; small bullies would acknowledge the suzerainty of bigger bullies, and quite soon the territory of Britain would be systematically parcelled up into a set of states, in each of which the degree of coercion of the average inhabitant would, at a guess, be very much higher than it is at present.

Rothbard writes as if the Mafia organizations that would arise in this sort of situation would be less worrying than states as we know them now because their lack of legitimacy would be obvious to all and so they would find it much harder to gain people's loyalty than do contemporary states, with their advantages of mythologized history, heraldic trappings, etc. But a gang of Soho protection racketeers only seems undignified because they are so 'small-time' by contrast to the Queen in Parliament; if the Soho racketeers were all the authority there was, they would soon attract people's loyalty, the racketeers' preferred way of dressing would come to seem the most dignified way to dress, and so on. Is it not true that many Italians who obey the Mafia do not merely fear the result of disobedience but feel that they ought to obey!

It is just a fact of life that many people like coercing their fellow men. It would be nice if that were not so, but Rothbard (unlike the socialists) knows that human nature is not perfectible, and that implies that coercion can be restrained only coercively. The minimum possible level of coercion in a society is greater than zero; so a sensible Libertarian ought to aim to bring about a society containing as little coercion as possible. The traditional liberal view, against which Rothbard offers no serious argument, is that the recipe for achieving this is to provide society with an organ which practises just enough coercion to enforce a monopoly of coercion: a 'night-watchman state' which prevents or punishes aggression against the persons or property rights of its subjects (by other subjects or by outsiders) and forces its subjects to pay just enough in taxes to enable it to carry out these functions. If you are unwilling to grant legitimacy to a state of this kind, e.g. because you object to paying any taxes involuntarily, then (however much you spout about anarchist ideals) in practice you are favouring a greater-than-minimum level of coercion in society, which for a Libertarian seems odd.

Rothbard's 'cheating'

The two principal functions of the traditional 'night-watchman' state are defence and justice. Rothbard's discussion of how the former would be managed in his anarcho-capitalist utopia seems to me to cheat a bit by suggesting that we ought to consider the practicality of anarcho-capitalism in a world in which even Russia had been converted to that ideal. Clearly, if there are no illiberal regimes overseas, then the defence function of the State does indeed become redundant; but that has never historically been the situation facing societies which have managed to achieve a measure of Liberalism, and I am sure it would not be the situation facing Britain or the USA if our populations were converted to a liberalism more full-blooded than what they now enjoy. It is more interesting to see what Rothbard has to say about the justice function, since here there is no question of him 'cheating' by suggesting that individuals will cease to practise aggression on one another; Rothbard is very clear that there will still be offenders in his utopia, and that they must be brought to book. This will be done,

he argues, by private-enterprise justice-dispensing firms that will compete for individuals' custom.

But, if a court which decides against a given individual, say Brown, is not an organ of a coercion-monopolising state, why should Brown take any notice of its decision? Rothbard replies to this obvious objection by saying that Brown may indeed appeal the decision to the justice-firm which he himself patronises, and that if the two courts disagree they can take the case 'higher' to a private-enterprise court of appeal. But this misses the point: why would Brown bother to do any appealing? Why would he not just thumb his nose at the original court, much as I would if some court in a foreign country were to convict me in my absence of some crime which I regarded as no crime? I could afford to thumb my nose only provided I were outside the relevant jurisdiction; but, in a world without states, it seems that every legal decision would have the status which, in our world, attaches to decisions concerning individuals outside the jurisdiction.

Who makes anarchist law?

Rothbard makes some vague remarks about "the legal code" of his libertarian society determining which court decisions can be appealed and how: "it seems most sensible for the legal code to declare" that if any two courts agree in their verdict the appeal process shall cease (*New Liberty*, p. 234). But what is this "legal code"? Who works it out in detail, and how is it enforced on society at large?

The legal framework envisaged by Rothbard is really thoroughly mysterious; at one point (the discussion of the engineer who contracts to work for three years in Saudi Arabia and then changes his mind, *New Liberty*, pp. 89-90) it seems that not even freely-negotiated contracts are necessarily to be enforceable against reneges. Rothbard's legal code, insofar as it is made clear, does not strike me as one that would win my own allegiance by virtue of its intrinsic fairness and appropriateness; and if, when I visit Rothbardland, I find that men with weapons *force* me to respect that code, I shall greet them as agents of a state.

Public goods and bads

The other chief problem about Rothbard's politics is that he virtually ignores the issue of public goods and public bads. Traditionally, one kind of extension of State power beyond the 'night-watchman' minimum that many people on the liberal side of the political spectrum have felt to be justified is taxation to pay for goods such as lighthouses, which are 'public goods' in the sense that their benefits could not be denied to individuals who opt not to pay for them (so that it is impossible for free enterprise to provide them as a profit-making undertaking), and coercion to limit things such as pollution of air or water, which because of their dispersed nature cannot be the subject of contracts between individual polluters and individual sufferers from pollution (So that if their incidence is determined purely by market mechanisms there will be far more of these 'bads' than people would agree to accept if they *could* be subjected to contractual arrangements).

Now, one may take the line that freedom is such a great good that it outweighs the desirability of having enough public goods and not too many public bads. I do not myself find this line persuasive, freedom is a great good, but there are others which must be balanced against it (though I certainly agree with Rothbard that in the twentieth century the balance, even in Britain and the USA, has swung far too far away from freedom, and we are not even getting the things in return for which we are urged to give up our freedom). But in any case this is not Rothbard's line: he just ignores the problem. 'Public good/bad', 'externality', 'free rider' (some of the terms that economists standardly use to discuss these issues) are not to be found in the indexes of his books. When he does approach the question, e.g., in his discussion of electronic metering systems in cars to make users of congested (private) roads pay more than users of empty (private) roads, Rothbard seems to hint that technology will enable public goods to become private, marketable goods. Sometimes, this will happen; probably nowadays one could even design a 'lighthouse' which emitted some sort of signal that could be received only by ships belonging to paying customers. But the question whether all the diverse goods and

bads in the world can be controlled by market mechanisms is a purely technological question, and there is no reason to expect the answer to be "yes" just because one has political principles with respect to which "yes" would be a very convenient answer.

Furthermore, it is certain that the answer is in fact "no", even for some of the particular cases Rothbard discusses. Thus, on p. 271ff. of *New Liberty* Rothbard writes about pollution of air by factory smoke, and suggests that this might be cured by allowing those who suffer to sue those who pollute. But one actual instance of such pollution in the contemporary world is that sulphur oxides emitted by English factories fall as harmful sulphuric-acid rain in Sweden, and quite obviously an individual Swede could not identify any particular English factories as the ones which have damaged his property. Rothbard's alternative suggestion (again he is not very explicit) is that an anarcho-capitalist society should prohibit any emission of 'public bads' by anyone (and encourage the scientists to find non-polluting alternatives to present technology). But this is strictly meaningless, as far as I can see; not only chemicals in factory smoke, but (as Rothbard notices) noise is a pollutant; indeed, so is light (an ugly house or hoarding is clearly a 'public bad'). I do not like the sound of some people's voices, or the sight of other people's faces. If we somehow arbitrarily fix a threshold below which they are absolutely forbidden, then we are acting in much the way that Rothbard complains about when contemporary states act that way (except that this system of pollution-control is far cruder than that practised by a real state - surely it is desirable from everyone's point of view to permit, e.g., noisier vehicles on motorways than one permits in residential areas at night?) If, on the other hand, we seriously try to ban all pollution then we ban all human life.

Problems of private roads

Let me illustrate the naivety of Rothbard's approach by referring to one very specific issue he discusses at some length: private ownership of roads, which are again something that traditional liberals have looked to the state to provide (on the grounds that roads are part of the machinery of the market-exchange system itself). I actually

think there is something to be said for Rothbard's contention that roads could be "privatised" with advantage. But Rothbard wholly fails to grasp the force of an obvious objection, which he considers on p. 205 of *New Liberty*: what if a street-owner decides, capriciously or for good reason, to deny access to a property-owner adjacent to his street, thus preventing him getting to or from his premises? Rothbard replies: "Everyone, in purchasing homes or street service in a libertarian society, would make sure that the purchase or lease contract provides full access..."

But the whole point is that, in Rothbardland, contracts cannot guarantee access because access is undefined when all roads are private. In England, if I buy a site lacking frontage onto a public road, I contract with a neighbour for access across his land, meaning access to the *Queen's highway*: if I am sure of that, I am all right. In Rothbardland, if a business competitor or private enemy wanted to starve me out, it would not be enough that I had contracted for access to and along the nearest street; he could buy, or make an arrangement with the owner of, the streets that that street connects to, and if I had had the foresight to contract for access to those streets then he could nobble the streets that they link with, and so on; I would never be safe. It may be that this is not in fact a serious problem; but Rothbard's failure even to consider it, in a passage which purports to answer an objection that is evoked by precisely the problem I have outlined, is to my mind symptomatic of the shallowness of Rothbard's thought.

There are many other ways in which I could attack Rothbard, but I have already written more than enough. Rothbardland is a mirage. And our society contains so much genuinely unnecessary and maleficent State coercion that I see little point in worrying about the bits of coercion that never can be eliminated. Let us concentrate on fighting the battles we can hope to win.