

## REJOINDER TO HOLCOMBE ON THE INEVITABILITY OF GOVERNMENT

WALTER BLOCK

HOLCOMBE (2004) ARGUED THAT government was inevitable. In Block (2005) I maintained that this institution was not unavoidable. Holcombe (2007) takes issue with that response of mine to his earlier paper, and the present essay is, in turn, a response to his latest mis-sive in this conversation.<sup>1</sup> In section I, I deal with what I can consider an anomaly in Holcombe's argument. Section II is devoted to a consideration of his dismissal of my paper on grounds of "fallacy of composition." The burden of section III is to consider Holcombe's supposed refutation of my views on the basis of his comments about the price ceiling; in section IV, I comment on the examples offered by this author, and in section V, I examine his claim that he is not actually supporting government. I conclude in section VI.

### I. ANOMALY

Holcombe (2007) starts off on what can only be called a strange foot. He states (p. 41): "Block (2005) argues that the arguments I make fall short of logically proving that government is inevitable. On that point I completely agree with Block." But this, splutter, splutter, pretty much gives away the entire game. What I ask, are we debating about, if he "completely agree[s]" with me? We really are not arguing about anything other than what he has just conceded to me:

According to Holcombe (2004) government is inevitable. That being the case, it behooves us the men of good will to set one up for ourselves, in attempt to ward off a worse one which is sure to come about if we do not. The present article criticizes this view on two

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WALTER BLOCK is professor of economics and the Harold E. Wirth Eminent Scholar Endowed Chair at Loyola University, New Orleans.

<sup>1</sup>All citations to Holcombe will be, unless otherwise noted, to Holcombe (2007).

grounds. First, it calls into question this author's claim of inevitability. Secondly, it maintains that *even if* government is unavoidable, we are still required as moral agents to do what we can to squelch this necessarily evil institution.<sup>2</sup>

But this author will not allow the fact that we disagree on the central aspect of his thesis. As it happens, he is entirely correct to do so, for, contrary to his statement above, we really do *not* at all agree on these matters.

## II. FALLACY OF COMPOSITION

Before getting into the gist of his argument against me, Holcombe wishes to dispose of what he considers as a side order issue:

But first, some of the arguments that Block uses to attack my logic are logically flawed themselves. For example, in several places Block (2005, pp. 71–72, 77–78, 80), argues that if my claim that government is inevitable is true, my line of reasoning also implies that a single world government is inevitable. Because we never have had world government, it is apparent that world government is not inevitable; therefore, national governments also are not inevitable. Block's argument commits the logical fallacy of composition. He argues that what is true for a subset (e.g., an individual state) is also true for the whole (e.g., the entire world). Block employs a logical fallacy to try to show that my argument is logically flawed. (Holcombe 2007, pp. 41–42)

I find fault with this criticism on several grounds. First of all, Holcombe (2004) never, ever, not even once, limits his thesis to *national* government. For him, at least in this publication, it is *government*, any kind of government, that is inevitable. As far as I am concerned, this includes world government, state government, city

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<sup>2</sup>Nor is this an aberration, dismissed, perhaps, as a slip of the pen, or, rather, keyboard. Later on in his paper, he again explicitly agrees with me that his thesis is incorrect:

Block is correct that as a matter of simple logic, I have not proven that government is inevitable, because people do have free will, and as a matter of simple logic, I cannot prove that people would not choose to eliminate government. Social science is not like physics. Objects always obey physical laws, but people can choose their own actions. (Holcombe 2007, pp. 42–43)

And again (p. 43): "I am not arguing, then, that as a matter of simple logic, it can be proven that government is inevitable." Perhaps Holcombe does not know the meaning of the word "inevitable."

government, town government, country government; there are simply *no* exceptions in his claim.<sup>3</sup> He may well have had only national government in mind, but it is still problematic for him to object to my testing his thesis to any kind of government I wish, given that he did not specifically rule this out.

Second, I am not at all guilty of the fallacy of composition. This line of argument generalizes from the individual to the group. Block (2005), however, argued in exactly the *opposite* direction, from the group to the individual, or from the whole to the parts. I maintained that since world government is not inevitable,<sup>4</sup> neither is national government. But, surely, the world is the entire group, while each nation is but one part of this larger entity. If I am guilty of anything, it is the *reverse*, or *inverse* of this fallacy, not the fallacy itself.

Third, this author is himself in error regarding the fallacy of composition. Even were I guilty of employing the form of compositional argument with which he charges me (from the individual to the group), it still would not be fallacious.

To be sure, upon occasion it is invalid to ascribe what is true of the parts to the whole. But there are exceptions. *Sometimes* this constitutes a valid argument. In order to show this, I take the liberty of quoting extensively from a discussion of the fallacy of composition on that matter:

The fallacy of Composition is committed when a conclusion is drawn about a whole based on the features of its constituents when, in fact, no justification is provided for the inference. There are actually two types of this fallacy, both of which are known by the same name (because of the high degree of similarity).

The first type of fallacy of Composition arises when a person reasons from the characteristics of individual members of a class or group to a conclusion regarding the characteristics of the entire class or group (taken as a whole). More formally, the “reasoning” would look something like this.

1. Individual F things have characteristics A, B, C, etc.
2. Therefore, the (whole) class of F things has characteristics A, B, C, etc.

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<sup>3</sup>What about student government at a university? This, too, is included, provided it is a public or publicly subsidized institution of higher learning. For then this type of government, too, would have an element of coercion in common with all its other statist counterparts.

<sup>4</sup>How could it be? It does not exist.

This line of reasoning is fallacious because the mere fact that individuals have certain characteristics does not, in itself, guarantee that the class (taken as a whole) has those characteristics.

It is important to note that drawing an inference about the characteristics of a class based on the characteristics of its individual members is not always fallacious. In some cases, sufficient justification can be provided to warrant the conclusion. For example, it is true that an individual rich person has more wealth than an individual poor person. In some nations (such as the US) it is true that the class of wealthy people has more wealth as a whole than does the class of poor people. In this case, the evidence used would warrant the inference and the fallacy of Composition would not be committed.

The second type of fallacy of Composition is committed when it is concluded that what is true of the parts of a whole must be true of the whole without there being adequate justification for the claim. More formally, the line of "reasoning" would be as follows:

1. The parts of the whole X have characteristics A, B, C, etc.
2. Therefore the whole X must have characteristics A, B, C.

That this sort of reasoning is fallacious because it cannot be inferred that simply because the parts of a complex whole have (or lack) certain properties that the whole that they are parts of has those properties. This is especially clear in math: The numbers 1 and 3 are both odd. 1 and 3 are parts of 4. Therefore, the number 4 is odd.

It must be noted that reasoning from the properties of the parts to the properties of the whole is not always fallacious. If there is justification for the inference from parts to whole, then the reasoning is not fallacious. For example, if every part of the human body is made of matter, then it would not be an error in reasoning to conclude that the whole human body is made of matter. Similarly, if every part of a structure is made of brick, there is no fallacy committed when one concludes that the whole structure is made of brick.

#### Examples of Composition

1. A main battle tank uses more fuel than a car. Therefore, the main battle tanks use up more of the available fuel in the world than do all the cars.
2. A tiger eats more food than a human being. Therefore, tigers, as a group, eat more food than do all the humans on the earth.
3. Atoms are colorless. Cats are made of atoms, so cats are colorless.

4. “Every player on the team is a superstar and a great player, so the team is a great team.” This is fallacious since the superstars might not be able to play together very well and hence they could be a lousy team.

5. “Each part of the show, from the special effects to the acting is a masterpiece. So, the whole show is a masterpiece.” This is fallacious since a show could have great acting, great special effects and such, yet still fail to “come together” to make a masterpiece.

6. “Come on, you like beef, potatoes, and green beans, so you will like this beef, potato, and green bean casserole.” This is fallacious for the same reason that the following is fallacious: “You like eggs, ice cream, pizza, cake, fish, jello, chicken, taco sauce, soda, oranges, milk, egg rolls, and yogurt so you must like this yummy dish made out of all of them.”

7. Sodium and Chloride are both dangerous to humans. Therefore any combination of sodium and chloride will be dangerous to humans.<sup>5</sup>

Suppose, then, that Block (2005) had argued in the way Holcombe (2007) claims, namely, from the individual to the group, from the part to the whole. Still, it is by no means obvious that to do so would have been an error. Holcombe’s charge of “fallacy of composition” against me has to be interpreted in a nuanced way. Is my generalization from the individual to the group, from the part to the whole,<sup>6</sup> fallacious or not? It all depends if this argument would have been of the form: “The numbers 1 and 3 are both odd. 1 and 3 are parts of 4. Therefore, the number 4 is odd,” or of the form: “if every part of the human body is made of matter, then . . . the whole human body is made of matter.” There is a relevant difference between odd and even numbers. There is no such distinction to be drawn between matter in the entire human body or in any part of it; it all consists of matter. So, the relevant question is, Is there any relevant difference between a world government and a national government? If Holcombe wishes to show that this argument (that Block, 2005 did *not* make) is fallacious he is logically compelled to show a relevant difference between national and world government. Holcombe (2007) did not even *try* to do so. He did not so much as recognize the need to do so. Let us do so for him. Is there a relevant difference between the two levels of government? No. For relevance, here, is

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<sup>5</sup><http://www.nizkor.org/features/fallacies/composition.html>.

<sup>6</sup>I am still stipulating that I engaged in this train of thought, even though, as I maintain above, I did not.

concerned, solely, with the question of whether coercion occurs or not. And, it is clear to see that it does at the national and would at the world level.

Perhaps the most famous argument over the fallacy of composition in economics is between the Keynesians who claim that when all individuals in a society raise their rate of saving, the group as a whole will not succeed, and the Austrians who deny this. Holcombe to the contrary notwithstanding, this debate cannot be settled by merely resorting to the “fallacy of composition.” Rather, it takes a more nuanced approach. It turns on issues such as which model is a more accurate depiction of reality, the Keynesian or the Austrian.

### III. THE PRICE CEILING AND *CETERIS PARIBUS*

Nor can I see my way clear to agreeing with yet another interpretation. He states:

For example, economists will argue that if a price ceiling is placed on a good that holds its price below the market equilibrium price, a shortage will result. Does this mean that a shortage is a logical implication of the price ceiling? Following Block’s argument quoted above: No. People could choose to consume less after the price control is put into place; suppliers could choose to supply more. Conceivably, news about the price control could cause consumers to want to avoid purchasing the price-controlled good. Block (2005, p. 60) would argue that to say that a shortage “is inevitable is to denigrate free will.” The quotation of Block here is completely within the context of the argument he makes. My argument that government is inevitable is made in the same way that an economist would argue that a price ceiling holding a price below the market equilibrium price will inevitably lead to a shortage. It is based upon widely-accepted assumptions about human behavior, but they are assumptions, and they are simplified depictions of more complex human action. (Holcombe 2007, p. 43)

Where Holcombe sees analogy, I see disanalogy. A price ceiling *necessarily* causes a shortage because we are implicitly assuming *ceteris paribus* conditions when we make analyses of this sort. This has nothing at all to do with free will. In sharp contrast, free will does indeed obviate the *necessity* that there always be a government to (mis)rule over us. The “free will” argument can only take one so far; it is fine for questions such as whether or not we will always be exploited by government, but can have no effect on matters of praxeology. Take another case: I claim it as a synthetic *a priori* statement that whenever voluntary trade occurs, both parties gain, and gain necessarily, at least in the *ex ante* sense. All the free will in the world

cannot gainsay that claim. Holcombe is guilty of a category mistake in this regard. His statement (2007, p. 44): “The point is that following Block’s own argument about free will—that I agree with—no outcome that turns on human behavior is logically inevitable” is thus erroneous.

#### IV. EXAMPLES

Before we consider the examples Holcombe employs, let us take a moment to consider precisely what kind of entity is government. In my view the state necessarily initiates violence against nonaggressors. It does so in at least one of two ways, and in all real-world situations, both. One aspect is that it levies coercive taxes on people who have not first agreed to pay.<sup>7</sup> Another is that it declares a monopoly of coercive force against all other institutions such as private courts, defense forces, etc. (Rothbard 1982), that attempt to operate in “its” claimed geographical area. That is, it will initiate violence against those it sees as competitors. But the same can be said for every two-bit rapist, murderer, robber, carjacker, kidnapper, thief, etc., whether operating on his own or as part of a small gang. Wherein, then, lies the difference between denizens of this ilk and government? In a word, legitimacy. If large numbers of people see the gang as legitimate, then it is a government. If none or only a few do so, then it is an ordinary criminal organization (Rothbard 1961). There is no continuum between coercion and noncoercion; an act is either one of initiatory violence, or it is not.<sup>8</sup> However, matters are different with regard to legitimacy. Given that this characteristic turns upon how many people in a given society view a criminal robber band as somehow legitimate, then there can be almost an infinitesimal gradation between gang and government. For example, the criminals now running countries such as the U.S., Canada, France, Japan, are certainly governments. Jack the Ripper and the Son of Sam were undoubtedly nongovernmental criminals. No one thought they had even a shred of

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<sup>7</sup>Schumpeter (1942, p. 198) states: “The theory which construes taxes on the analogy of club dues or of the purchase of the services of, say, a doctor only proves how far removed this part of the social science is from scientific habits of mind.”

<sup>8</sup>There are of course grey areas lying between these extremes in the sense that there are libertarians, even eminent ones, who debate either side of the issue of whether abortion or immigration restrictions, for example, are instances of violations of the proper legal code. But this is a completely different matter.

legitimacy. But what are we to say of Hamas, the Mafia, the Crips, the Bloods, Al Qaeda? All of these groups promote some version of law and order, give food to the poor on a regularized basis, etc. It cannot be denied that at least *some* people view these organizations as “legitimate.” In my view, these groups fall into a continuum which has at one end government, and at the other, ordinary criminals.

With this introduction, let us consider Holcombe’s views on the issue:

In Holcombe (2004, p. 333) I cite Bosnia, Somalia, and Afghanistan in the 1990s as the best real-world examples of places without a **central** government, but I note that despite the absence of government they fell short of the ideals of anarcho-capitalism. Block (2005, p. 85) says, “But these are *not* cases in point. Here, there most certainly were bands of thugs and warlords on the loose. Are these not governments? Anyone who denies this must show a relevant difference between these marauders and the *governments* of such worthies as Stalin, Hitler, Pol Pot, and their ilk.” If one accepts Block’s argument that these are governments, this appears to be evidence for my argument, not his. For in all cases, a **central** government was displaced and the vacuum of power was rapidly filled by new bands of thugs that established themselves as what Block refers to as governments. At least as I argued it, these were places of anarchy, where there was still a chance that anarcho-capitalism could displace Hobbesian anarchy. As Block sees these examples, the extinguishing of one government rapidly leads thugs to replace it with another, just as the article he objects to argues would happen. (2007, p. 44, bold emphasis added)

There are problems here. First of all, note the equivocation between “government” and “**central** government.” In Holcombe (2004, p. 333, fn. 3) he talks about plain old vanilla “government,” with no modifier at all. But, now, in Holcombe (2007, p. 44) he mistakenly quotes, or better, paraphrases, his own previous (2004) work as referring to “**central** government.” Now, it is one thing to misquote or mischaracterize someone else’s publication. But to do so with regard to your own work? Nor is this to be construed as the mere slip of the tongue, a minor error that has no substantive implication. On the contrary, our dispute on this matter turns to an important degree on this one word. Yes, I readily admit that, at one time, Bosnia, Somalia, and Afghanistan had **central** governments, and no longer do so; instead, they have decentralized governments, warlord thugs. For Holcombe (2004), in contrast, once the **central** government is gone, there is anarchy. That is, he considers the thuggish war lord scenario to be what I am advocating, and does not much like it. Well, neither do I. It would take us too far afield to compare the two situations, war lord governments with **central** governments; but, suffice it to say, I

do not consider either of them exactly the model of the anarcho-capitalism I advocate.

Second, my assertion that the various war lords of Bosnia, Somalia, and Afghanistan constitute governments is hardly evidence for his argument, not mine, as he claims. Remember, he is asserting the *inevitability* of government. The fact that there are still governments—of whatever type or variety—in these places does not at all show they are inevitable.

Third, I see problems with his “the extinguishing of one government rapidly leads thugs to replace it with another.” This way of putting matters deemphasizes the role of free will in human affairs. It comes awkwardly from an eminent Austrian economist such as Holcombe. Surely, a better way to characterize the phenomenon under discussion would be: “in Bosnia, Somalia, and Afghanistan in the 1990s, decisions were made by such and such people so that a central government was replaced by a more decentralized governmental system.” Further, Holcombe concedes my point when he correctly refers to the replacement institutions as “government.” According to his own views, he ought to have said, instead, “the extinguishing of one government rapidly leads thugs to replace it, not with another government, but rather with anarchism.”

Holcombe then denies my (2005, p. 84) claim that the “foul breath of the state hardly exists at all” in places such as “the oceans and Antarctica.” He does so on the grounds that there are agreements between nations, such as the Law of the Sea Treaty. But, I did not say that statism totally did not exist on the high seas and at the poles of the planet. There are, after all, governmental navies, submarines, battle cruisers, etc., floating around all over the place. But statist power is certainly greatly attenuated in places like this, plus some vast deserts, compared to what prevails on most of the land mass. And happily so.

#### V. ARGUMENT FOR GOVERNMENT?

Holcombe (2007, p. 45) begins this section as follows: “To argue that government is inevitable is not an argument in support of government.” Fair enough. After all, the first is a positive claim and the second a normative one, and never the twain shall meet. But from this premise he invalidly argues that he does not favor government. He is, in effect, an anarchist, he would have us believe. I find this hard to reconcile with what he has written.

I fully well recognize that there are better governments and worse governments, even though I for one oppose them all. Hoppe

(2001) did a magnificent job in demonstrating precisely that some states are vastly preferable to others. And Holcombe is to be congratulated for recognizing this crucial point. But he claims that his

argument is not that we should establish governments in places where there are none—because no such places exist—but rather that if we really want to reduce the impact of government in our lives, the best libertarian strategy is to design and promote ways to curtail the power of the governments that now exert their power over us rather than arguing the merits of anarcho-capitalism. (Holcombe 2007, p. 46)

I find fault with this statement on several grounds. There are most certainly “places” where the evil hand of government has not so far touched: the moon and Mars. These are both at least potentially inhabitable areas, at least with new technology of the sort we can anticipate over the next few decades.<sup>9</sup> Space, too, is so vast, that despite a few rocket launches, government in effect rules very, very little of it. Suppose then, as a contrary to fact conditional if need be, that there are now no governments on the moon or Mars, and that there will soon be people settling in both places. It is hard to resist the notion, based on Holcombe’s writings (2004; 2007), that he would advocate that a government be set up, forthwith, a “good one” that is, in order to preclude the arrival of a later worse one. If this is his taste, well and good; *de gustibus non disputandum*, after all. But it is exceedingly difficult to reconcile this with his claim that he does not favor government. If he opposes government so much, why does he continue to advocate that this institution be set up, not merely that it is “inevitable” and that this will be done in any case? Why the sneer that I am “arguing the merits of anarcho-capitalism” while Rome is in effect burning?

## VI. CONCLUSION

States Holcombe:

I am not arguing, then, that as a matter of simple logic, it can be proven that government is inevitable. Rather, I am arguing that based on commonly accepted assumptions about human behavior, if somehow an anarcho-capitalist society were to come into existence today, anarchy would erode into a society ruled by government. (2007, p. 43)

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<sup>9</sup>Provided of course that free enterprise is allowed to play a large role in their development.

I agree entirely with both claims. Let us consider each in turn. As to the first, Holcombe (2004) can only be properly interpreted as claiming that as a matter of simple logic, it *can* be proven that government is inevitable. I am glad that he has (seemingly) changed his mind on this matter, and thus in effect renounced his 2004 publication. As to the second, again he is correct. Given that the hearts and minds of the populace are today so wedded<sup>10</sup> to the idea of the legitimacy of government, it would be astounding if ordered anarchy could function in the modern climate.

Holcombe (2007) maintains that the

major line of reasoning libertarian anarchists have used to support anarcho-capitalism has been that government is unnecessary because market institutions can replace all of the activities undertaken by governments. This argument is insufficient to make the case for libertarian anarchy. I argued that while it is true that government is unnecessary, this falls short of making the case for libertarian anarchy because even though government is unnecessary, it still is inevitable. Block (2005) argues that there are logical flaws in my argument, but even if he is correct, this still does not show that government is not inevitable.<sup>11</sup> (p. 46)

Ordinarily, all one can do in a rejoinder is point out errors in the original paper. It is typically impossible to prove a negative. But in this case, since Holcombe's case stands in logical contradiction to human free will, which he embraces, this indeed does demonstrate that government is not and logically cannot be inevitable. However, let us proceed *arguendo*. Stipulate, then, that the state is inevitable. From this Holcombe draws the conclusion that the case for libertarian anarchy cannot be made. But if we posit that government is inevitable, then we must do so for crime, slavery, rape, murder, etc. However, this will not and should not stop us from making the case that crime, slavery, rape, murder, are illegitimate, and should be stopped.

Given the human condition, a temporary absence of crime, slavery, rape, murder, cannot be "self-sustaining" (Holcombe n.d., p. 6). So what. These activities are still illicit, and, had we the power to do so, we should stop them. I certainly agree with Hummel (2001) and Leeson and Stringham (2005) that once established, an

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<sup>10</sup>Borrowing nomenclature from our friends the sociobiologists, we can say, "hard-wired."

<sup>11</sup>He also complains that "Block's (2005) comment does not address the major point I was trying to make in my original article." All I can say is that if true, Holcombe is guilty of this, too.

anarcho-capitalist society would thereby be strengthened. Does that mean there will never again be any crime? No revisiting of criminal government? Not at all. The human condition will probably always rear its ugly head in such a manner. And, I reiterate my argument, Holcombe's comments regarding the fallacy of composition to the contrary notwithstanding, that the absence of a world government has demonstrated, so far in any case, that there is at least one version of government that is not "inevitable."

I certainly join with Holcombe (2007, p. 47) that apart from matters discussed in this dialogue, we "share the same libertarian agenda of reducing the scope and power of government." However, I do not at all agree that analysis of, and, yes, advocacy of anarcho-capitalism, will "distract good minds from the pursuit of a more productive libertarian agenda." Marxism did not have as good a run as it had by pulling its punches and becoming moderate. Nor is the left-wing environmental movement known for its restraint. Purely as a matter of strategy, putting forth the most principled and radical version of libertarianism will also maximize its chances of ultimate acceptance.

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ANARCHISM AND MINARCHISM;  
NO RAPPROCHEMENT POSSIBLE:  
REPLY TO TIBOR MACHAN

WALTER BLOCK

THERE HAS BEEN FOR MANY years a tension between the anarcho-capitalist or free-market anarchist, and the limited government or minarchist wings of the libertarian movement. This dispute has both enriched debate within such institutions as the Libertarian Party, the International Society of Individual Liberty, the Ludwig von Mises Institute, and the Cato Institute, and magazines such as *Liberty* and *Reason*, and has engendered greater insights as to the core of the overall philosophy shared by both.<sup>1</sup> While this intralibertarian debate has had its staunch supporters on either side, for many participants it has not been a pressing issue. After all, modern society resembles neither vision, and present governments will have to be radically reduced in scope and orientation before the divisions between these two alternatives will become a matter of practical interest. Thus many have agreed that this debate, except as a matter of intellectual curiosity, will have no practical relevance until that happy day when present governments are reduced to, say, 5 percent of their present size and influence.<sup>2</sup>

But intellectual curiosity and political philosophy are integral parts of libertarianism. Accordingly, analysis of government can

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WALTER BLOCK is professor of economics and the Harold E. Wirth Eminent Scholar Endowed Chair at Loyola University, New Orleans.

<sup>1</sup>In contrast, the *Freeman/Ideas on Liberty* has presented almost entirely the latter perspective and the *Journal of Libertarian Studies* the former.

<sup>2</sup>In the Dallas Accord (<http://www.rationalreview.com/archive/tknapp/tknapp010303.html>) libertarians on both sides of this issue agreed to put aside their differences in order to focus on what they had in common: a thoroughgoing reduction in the size and scope of present-day states.

never disappear too far off the radar screens of its adherents. The latest entry in this literature is Machan (2002a), a valiant but I shall argue mistaken attempt to paper over the differences between right-wing anarchism<sup>3</sup> and the classical *laissez-faire* limited government libertarian position.<sup>4</sup> Ostensibly, this author argues for reconciliation between the two positions; that they are in effect merely opposite sides of the same coin. But, as a long time partisan of the latter perspective, I do not have to read too deeply in between the lines to see that his so-called compromise is based on an antianarchist world view.

In contrast, I shall maintain, one, that anarcho-capitalism and minarchism are logically incompatible, and thus no reconciliation between them is possible, and, two, that only the former, not the latter, is correct. Let us consider the second point first.

The essence of libertarianism is private property rights based on homesteading and the nonaggression axiom. It is on the basis of these two postulates that both sides of the present altercation can characterize themselves as libertarian. Yet even a superficial analysis demonstrates that while the former is fully compatible with this basic set of principles, the latter is not.

What are the necessary characteristics of government? One sufficient and ~~arguably~~ necessary condition is taxation. But this is a *compulsory* levy; if you do not pay, coercion is utilized against you. Some have denied this, attempting to model a nation on the basis of a voluntary club, and therefore taxes as akin to club dues. The differences between them, however, should be obvious. The chess, gardening, or bowling clubs are formed by accord. The government, no matter how it is constituted, must either compel payments for its "services"<sup>5</sup> and/or forcibly preclude competition with itself, at least on "its" territory.

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<sup>3</sup>See on this Anderson and Hill (1979), Benson (1986, 1988, 1989, 1990, 1991, 1992, 1993), Block and DiLorenzo (2000), De Jasay (1985), Friedman (1979, 1989), Hoppe (1989, 1993, 2001), McElroy (1984), Osterfeld (1989), Peden (1977), Rothbard (1973, 1978, 1998), Sechrest (1999), Spooner (1966), Stringham (1998–1999), Tannehill and Tannehill (1984), Tinsley (1998–1999), Woolridge (1970).

<sup>4</sup>See on this Bidinotto (1994a, 1994b), Epstein (1995), Machan (1989, 1990, 1995, 2002), Nozick (1974). I include many fewer references in this category since virtually *all* publications addressed to this issue favor the minarchist side of the debate.

<sup>5</sup>Scare quotes around "services" because unless there is mutual agreement, there is no warrant to categorize anything given by a hold up man to his

On the other hand, if you *agree* to trade all your money in return for the item I give you, then it is not robbery.<sup>6</sup> For, if it is a mutually agreeable commercial enterprise we are engaged in, I am no longer a thug, and you are not a victim. Similarly, if there is unanimous agreement<sup>7</sup> then, by gum and by golly, what might appear to a superficial observer as an illicit government<sup>8</sup> becomes not a legitimate government, because there is and can be no such thing, but a private protection service agency. In other words, either an entity provides such services under compulsion, and is a government, or it does so on a completely voluntary basis, in which case it is part of the free market. There is no third option.

There are two arguments, totally devastating to the minarchist position, which its advocates have not even acknowledged, let alone dealt with. One is the argument from world government. If individuals in a given country are so woebegone, if markets for defense, adjudication, etc., are so impossible, that a government with compulsory monopoly powers is required to offset these failures, then this state of affairs applies, as well, to the international situation. That is, if a man in Montana and one in Louisiana cannot relate to each other contractually for *all* their needs, including private defense firms compatible with anarchism, then this applies as well to men in Vancouver and Moscow. In other words, if national governments are justified, why/when, so is world government, and for the same reason. If anarchism *within* a country is unacceptable, then so, too, is *global* anarchism; e.g., lack of a world government.

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victim in any such manner. I approach you with a gun aimed at your head and demand your money. You hand it over. But you protest that this is a forced taking, and is illicit. A philosophical robber, I am willing to bandy words with you, and to prove you wrong. So I hand over to you a rubber band or a paper clip. You respond that you are unwilling to part with all your money in exchange for so paltry a return. But that is the whole point. I rob you under threat of a bullet in the head, and any “services” I give you are totally irrelevant.

<sup>6</sup>On the condition, also, that we can expunge from this scenario my initial threat against you with my weapon.

<sup>7</sup>Not quasi, semi, demi, or any other kind of partial agreement, or any other such obfuscation bellowed by the Public Choice theoreticians, for this is still consistent with victimization of those (few) who do *not* consent. See on this Rothbard (1997), Block and DiLorenzo (2000, 2001), DiLorenzo and Block (2001).

<sup>8</sup>They collect fees, not taxes, in return for armies, police, roads, courts, etc.

To put this in another way, consider the following equation:<sup>9</sup>

$$\frac{\text{National government}}{\text{National citizens}} = \frac{\text{World government}}{\text{Various countries}}$$

National government is to “its” citizens as world government is to “its” countries. The government of the U.S. stands in precisely the same relationship to its citizens of Montana and Louisiana, or, indeed, to these two states in their entirety, as does a world government relate to citizens of Canada and Russia, or to these two countries in their entireties, as well as to all human beings on earth and all nations. If someone favors national government, then he must, upon pain of logical contradiction, also prefer world government. Yet, no libertarian minarchist, certainly not Machan, has supported any such entity. Indeed, one would expect them to recoil in horror from it.

The second fatal flaw in the limited government libertarian viewpoint concerns secession. The essence of libertarianism, based on private property rights and the nonaggression axiom, is the law of free association: no one should be forced to associate with anyone else against his will. The logical implication of this is that if someone is associated with someone else and wishes to break that tie, then the party of the first part should be able to separate himself from the party of the second part.<sup>10</sup>

<sup>9</sup>Who says that Austrian economists such as the present writer do not avail themselves of mathematical equations? It is a lie.

<sup>10</sup>We assume for argument’s sake that the two have not signed a contract with each other that compels them to live together; e.g., as citizens of the same country. For the argument that governments, as a matter of historical fact are not based on contract, but rather on compulsion, see Spooner (1966). Then there is the contention that secession is proper even if a contract precluding it has been signed, since this would call for specific performance. To do full justice to this viewpoint would take us too far afield from present concerns. But see on this Radin (1987); Kronman (1983); Kuflik (1984, 1986); Barnett (1986, 1998); Rothbard (1998); Smith (1996, 1997); Kinsella 1998–1999). It is not necessarily germane to the present case since it could be maintained that such a contract would not constitute a coercive government since it at least came about as a matter of choice. Those who maintain that rights are inalienable (Kinsella 1998–1999) would have to take the position that such a contract, even though it started out as a voluntary contract for a private defense agency, *would become* statist if people were not allowed to later opt out of it; those who maintain the position that freedoms are alienable (Block, forthcoming, 1999, 2001; Nozick, 1974) could logically hold that

Let us stipulate that a natural human right, for libertarians, includes that of free association. This implies free-market anarchism, and thus a rejection of minarchism, since with the right of secession, anyone can depart from a government he no longer wishes to be part of and set up another one on his own (this is still compatible with limited government libertarianism), or *none at all*. This applies to the state, county, city, borough, town, village, family, or even *individual* level. That is, the state can secede from the federal government, the county from the state, and each individual can have his own "country."

Nor need we contemplate any nonsense of the sort: "If you don't like our government you may leave, but your land stays here with us, and is and must always remain an irrevocable part of our political territory." According to the contractual theory of government, we come into the government arrangement at the outset *already* owning our property. Why, then, may we not take it out of the governmental pool when we depart? The entire ethos of voluntary government (a contradiction in terms) is that we the people set it up (Hobbes 1943). We were here first, *then* came the state. We are the master, it the servant. But if we can set it up, in order to (supposedly) better protect our rights, then we can rend it asunder, if we think our precious liberties can better be secured by other institutional arrangements. So, when we secede, we bring our property along with us; we are not forced to depart as penniless beggars, or limited to what we can carry on our backs.

Nor should we be distracted with the facile equation of secession and pro-slavery sentiment in the so-called "Civil War" of the U.S. in 1861.<sup>11</sup> It cannot be denied that the Confederate states in 1861 featured slavery.<sup>12</sup> But so did the north at that epoch. We must conceptually

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secession could properly be abrogated if and only if a valid contract was first signed. However, even in this latter interpretation, once the signatories to the contract passed away, their heirs would be free to secede from the defense agency contract, since the dead hand of the past cannot abrogate the choices of the living.

<sup>11</sup>Strictly speaking, a "civil war" refers to the case where there are two contending parties, each struggling to attain the reins of statehood, and with them to rule over the entire society, their enemies very much included. Cases in point include the Spanish Civil War of 1936, between Franco and the Communists. The War Between the States (DiLorenzo 2002; Hummel 1996) was very different. The South did not wish to rule the entire U.S. It wished, merely, to go its own way. A more proper name for this conflagration would thus be "War of Secession," or, radically, "The War of Northern Aggression," or even more radically, "The First War of Southern Secession."

<sup>12</sup>Coercive slavery, that is. For the case on behalf of *voluntary* slavery, see (Block 1969).

distinguish between the two situations, lest we be forced into taking the position that whenever any member of a seceding province commits any crime whatsoever, this nullifies what would otherwise be its right to depart. That would be a recipe which would in effect ban all secessions, since any large number of people who wish to politically separate would likely contain at least *some* criminal elements, of which slave holding is of course one of the most serious. In any case, all this is pretty much beside the point, for the first group of people who wished to secede from the U.S. were not from the South but rather Massachusetts (DiLorenzo 2002). They decided upon this path of action as an *antislavery* measure. The abolitionists of this state wished to end slavery totally, and to separate themselves from those in the Confederacy, and in the North as well, who were taking a different path. Surely, there were some criminals in Massachusetts at the time. But that colony should not have been prevented from seceding on that ground, or, indeed, any other. Rather, if their deeds were heinous enough, they should have been allowed to secede, and then have war declared upon them.<sup>13</sup>

The bottom line for this matter is that if secession down to the *individual* is allowed, this is logically equivalent to anarchism. If such secession is *not* allowed, it is a violation of the libertarian law of freedom of association. The libertarian who fully embraces freedom of association must also support secession, and therefore anarchism.

#### CRITIQUE OF MACHAN

With this introduction to the issue, we are now ready to consider Machan's (2002a) attempt to square the circle, i.e., to reconcile libertarian anarcho-capitalism with libertarian minarchism, or the limited government philosophy. Although there are other contenders, it is no exaggeration to say that Professor Tibor Machan is now *the* leading libertarian advocate of minarchism, as against free-market anarchism. Even the briefest perusal of his many publications and accomplishments lends support to this contention.<sup>14</sup> Moreover, his article cannot help but have great influence over the thinking of the libertarian community. In my view, this would be unfortunate, since

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<sup>13</sup>For a debate over this issue between the present author and the one under discussion, see Block (7/9/2002) and Machan (6/1/2002b).

<sup>14</sup>See on this [www.Tibormachan.com](http://www.Tibormachan.com) [Documents] <http://www.blogger.com/blog.pyra?blogid=5137833>.

I am convinced that the article is misleading and even fallacious; it supports limited government on a libertarian basis, which I regard, strictly speaking, as a contradiction in terms. Therefore, I shall in the following treatment attempt a meticulous refutation of it, citing widely from this article, and then critically commenting upon it.

### 1. *Argument from Authority*

Machan (2002a, p. 570) starts off on the wrong foot with what, if I understand him correctly, is no more than an argument from authority. He states, quite correctly, that commentators such as Ayn Rand, David Kelley, himself, John Hospers, Douglas Den Uyl, and Douglas Rasmussen have "denied that the free society would need to abolish government." Yes, these worthies have indeed made that claim. So what. They were all mistaken.

### 2. *Bodyguard*

Second, Machan (2002a, p. 570, n. 4) likens a corrupt government to a bodyguard who has "become a bully," i.e., unjustifiably turned against his employers, I can only presume. The implication, here, is that just as there are good and bad bodyguards, so must there be good and bad governments. Even if, all during the history of mankind, we have been faced with the latter, the former must still exist, even if only as an ideal, in Machan's view. This is incorrect. As we have seen, government must of *necessity* be invasive of individual and property rights. If it is not, it is not really a government, but rather a private defense agency, however much of a superficial relationship between it and a voluntary business firm there is.

### 3. *Market Protection Agencies Lack Training*

Here is Machan's (2002a, p. 570) third fallacy:

When living in communities, government, rightly understood, is the institution that specializes in proper protection of individual rights, thus it would be ethical to establish government instead of leaving the task of rights-protection to individuals and businesses that lack the training to protect rights properly, that is, via due process, without violating rights in the process of this protection.

There are grave difficulties here. If it is indeed true that private firms "lack the training," *vis à vis* government, to protect persons and their property, this is merely a contingent fact, not a necessary one. That is, with a little practice, markets would be able to surpass governments in the provision of this vital service, just as they have with regard to every other good known to man. There is a name for those who deny this postulate, namely, for those who claim that governments are in general superior to markets; they are called

about: govt ≠ indivs & biz  
 govt > indivs & biz  
 what more

tax, money?

socialists. While such a stance might well warm the cockles of the hearts of people such as John Kenneth Galbraith, Gunnar Myrdal, and Ted Kennedy, it is more than passing curious to find a supposed libertarian such as Machan allying himself with such an argument.

The explanation, however, is simple. Minarchists such as this author are libertarians with regard to all goods and services *except* those they arbitrarily label as “governmental.” Regarding those, they are socialists pure and simple, conceptually indistinguishable from their fellow socialists, in this one arena.<sup>15</sup>

It is not at all that private firms “lack the training” requisite to providing services. Instead, the fact that we have governments is due to the fact that the masses of the people are convinced they are necessary.

#### 4. Government Unique

But Machan would not accept any such argument. Instead, he replies:

Indeed, this institution, government, is unique in human communities because protecting individual rights isn't like other tasks (like producing and selling bread) because its genesis isn't peaceful interaction but the initiation of force and the required response. This is why politics cannot be reduced, without remainder, to commerce, contrary to what individualist anarchists maintain. (2002a, pp. 570–71)

Very much to the contrary, there is no anarcho-capitalist worth his salt who asserts that politics *can* be reduced to economics. There is indeed “a remainder” when one tries. And this “remainder” is that the political sphere, where governments run riot, is an orgy of coercion. It is similar to the “remainder” when one compares Stalin and Mother Teresa. The difference is viciousness.

If we are discussing real live governments, as opposed to fictitious entities that exist only in the minds of the minarchists, government is a cruel vicious institution, which engages in mass murder. Rummel (1994, table 1.2) calculates the total number of noncombatants killed by their own governments during the twentieth century as 169,198,000. This is totally apart from the continued outbreaks of massive wars which seem to be their wont. According to the statistical

<sup>15</sup>There is *no* good or service: army, court, police, lighthouse, etc., that has not, at times, been provided by private markets. See on this Woolridge (1970) and Rothbard (1998).

*misconception that government is engaged in vicious coercion*

consensus of the historians (Courtois et. al., 1999; Rummel 1992, 1994, 1997; Conquest 1986, 1990), the main murderers were the following: Mao, leading the pack, with some 60 million to his "credit," Stalin who clocks in at a more modest 20 million, that piker, and Hitler, who accounted for "only" 11 million (some six million Jews and some five million others). To Pol Pot's government, which killed a "mere" two million goes the "honor" of having murdered the highest proportion of the citizenry of that country. Nor are "good" and "democratic" countries untouched by these horror statistics, albeit they are responsible for mass deaths on a much smaller scale. At Ruby Ridge, the U.S. government murdered several innocents and several dozen more at Waco. On the other hand, some 35,000 people lose their lives on that nation's highways, due to road socialism (Block 1996). If all but 5,000 are attributed to government monopolization of this essentially private industry, then the U.S. government unjustifiably kills some 30,000 people per year, or 300,000 per decade, if we can extrapolate. We do not, yet, approach Stalin or Mao or Hitler's records (these dictators, also, in addition to their explicit murders, engaged in highway and street socialism) but at least we are doing quite "respectably" in these death statistics.

Machan might be accused of giving the game away when he states that the governmental institution he favors "isn't like . . . selling bread," in that it requires "the initiation of force." There are two ways to interpret this rather ambiguous statement: one, that the government itself requires "the initiation of force," and two, that "the initiation of force" takes place on the part of the criminal, only, and that the government is merely responding to this outrage, without it, itself, engaging in any such activity. The former would be a *fatal* concession. Were Machan interpreted as actually accepting an institution that engages in such activities, that would go a long way toward placing him outside the realm of libertarianism entirely. It might bar him from advocating even limited government,<sup>16</sup> let alone anarcho-capitalism. However, it is possible to give a more sympathetic interpretation to these words, the second one. Here, when Machan mentions "the initiation of force" he is referring *not* to the government's role, but rather to the criminal, against whom the government is acting. This still leaves open, however, the question as to the manner in

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<sup>16</sup>This depends upon whether minarchists admit that their government must necessarily initiate violence against innocents. Machan would deny this, but many minarchists would admit it.

which the state obtains the money with which to react to the prior initiation of force on the part of the criminal (through voluntary means in which case it is part of the market, or through coercive ones in which case it is not), and also the issue of whether it prohibits competition from others (competing private defense agencies) that wish to play the same role the government claims in quelling crime but without demanding tax revenues, and without prohibiting yet other groups from performing the same functions.

The second problem with the cited quotation above is that Machan is supposedly attempting to *reconcile* libertarian anarchism with limited government libertarianism. The very title of his article bears eloquent testimony to this claim. What, then, is he doing with the statement “politics *cannot* be reduced . . . to commerce, contrary to what individualist anarchists maintain?” If Machan were intent on bashing free-market anarchism and elevating limited government (as I am, in the opposite direction) then his statement would make sense. After all, the former do, indeed, take the position that politics not only *can* be reduced to commerce, but that it is an imperative that it *should* be. To deny this, especially in the straightforward manner that Machan has, is to *take sides* in this debate. It cannot be interpreted as (an attempt at) rapprochement.

### 5. Squabble?

I agree with Machan when he (2002a, p. 571) states that the debate between fully consistent and semi-consistent libertarianism is not merely “an intra-libertarian squabble,” but for different reasons than he offers. In his view this intellectual altercation has important implications for whether or not the welfare state (e.g., based on the claim that there are positive obligations to help the poor, and it is therefore licit to force the rich to do so) is justified. But as both participants in this debate oppose the communitarian welfare state and concomitant positive obligations, it is difficult to see how this can be the case. In my view, this debate is important<sup>17</sup> because it helps us shed light on the bedrock essence of libertarianism. It demonstrates, from my perspective, that to be a truly consistent libertarian (defined as adherence to private property rights

<sup>17</sup>The intralibertarian squabbling elements of it have long ago been reconciled by the “Dallas Accord” (see note 2 above) which states that both sides will agree, insofar as participation in the Libertarian Party is concerned, that each will work with and not discriminate against the other. For the duration of presently excessive government, anarchists and minarchists will work together only for those goals they hold in common.

and the nonaggression axiom) one must be an individualist anarchist and must, in the end, eschew minarchism.<sup>18</sup>

#### 6. *No Court of Last Resort*

Machan makes a grave error, too, when he states:

[Anarcho-capitalism] would in principle be chaotic and (in)decisive. . . . This is because dissatisfied parties could always seek yet another trial court, employ yet another police department, switch to yet another appellate court, etc., so there would be no “court of last resort” so as to issue a genuinely final or decisive judgment. (2002a, p. 572)

But this objection has already been addressed by Rothbard (1998) and Friedman (1989). The argument, in short, is there will be two kinds of courts in the free market: those who anticipate that their findings will sometimes conflict with others, and contractually obligate themselves to take their differences to an agreed upon different court as the final arbiter, and those who either do not make this forecast, and/or refuse to be bound by any third court. The former will only have to resort to the use of physical force when they are on opposite sides of a judicial finding from the latter. The latter, in contrast, will have to fight *all* court-police departments, since they refuse to make such prior agreements with anyone. Fighting is more expensive than negotiating. Therefore, the anticipatory courts will have a competitive advantage *vis à vis* their counterparts, and will tend to drive them into bankruptcy. Thus, to respond to Machan’s objection, there will indeed tend to be a court of last resort, the one that the two disagreeing courts select to settle their differences. The fact that Machan would be unaware of this rejoinder indicates that his reading of the individualist<sup>19</sup> anarchist literature has been less than complete.

#### 7. *Implicit Agreement?*

States Machan:

If the provision of legal services is to be just, the (anarcho-capitalist) argument goes, government must enjoy the full consent of (all)

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<sup>18</sup>Machan (2002, p. 571) also errs when he states “all libertarians agree . . . that all individuals have inalienable rights to life, liberty and property.” Unbeknownst to that author, there is a debate taking place within libertarian circles on that very issue. See on this note 10, above.

<sup>19</sup>As a matter of fact, all nonindividualist anarchists have opposed economic freedom, private enterprise, and free markets, and thus are far removed from our present debates. However, it is theoretically *possible* for there to be a socialist anarchist who could also be a libertarian. All he need do is advocate the socialist part of his anarchism on a voluntary basis. That is, he could eschew money, profit, private property rights, much as a libertarian could

the governed, not just the majority of those being served by it. (That consent may be explicit or, some have argued, implicit—based not only on overt but tacit agreement implied by one's actions). (2002a, p. 573)

"Some" libertarians may have argued that consent may be implicit, but if they have they are not libertarian anarchists. Machan does not cite any of them, so it is impossible to further delve into this question. However, Spooner (1966), one of the fathers of libertarian anarchism,<sup>20</sup> argues convincingly that implicit agreement to the creation of a government is no agreement at all. The "actions" that a man could perform that the minarchist might label "tacit agreement" are, preeminently, paying taxes and voting. But the first, Spooner demonstrates, is paid under duress and the second might well be a defensive maneuver, not an implicit agreement. Certainly, an unsigned ballot marking cannot serve in the stead of a signed contract.

Machan offers this interesting case:

I hire a bodyguard who consents to become my defender against all aggressors. Some person then attacks me and my bodyguard defends me from this attack, a course of conduct that may become violent toward the aggressor. Now, does it matter that the aggressor did not give consent to my bodyguard defending me? No. The aggressor in effect gives consent by taking an action that has as its natural, rationally-to-be-expected result, my defending myself either personally or through an agent. So, does it matter that a government that acts purely defensively isn't consented to by, say, criminals or foreign aggressors? (2002a, p. 573, n. 7)

But a government that acts "purely defensively" is not a government at all. Rather, it is a private market defense agency. The rejection of implicit agreement as the genesis of government applies only to innocent victims (so called citizens) of a state; it does not at all pertain to "criminals and foreign aggressors." Very much to the contrary, criminals commit state-like acts; e.g., they engage in the threat and/or initiation of violence against innocent persons.<sup>21</sup> However,

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personally oppose drug taking or deviant sexual practices, but renounce any initiatory use of violence to prevent others from so acting.

<sup>20</sup>Whom Machan neglects to cite. Another lacuna is Machan's failure to come to grips with any of Hoppe's work on this subject.

<sup>21</sup>The *only* difference between a government and a robber gang is that the former, but not the latter, by dint of buying up the intellectual classes, has managed to (falsely) convince the masses of its legitimacy: that its taxes are not theft but instead voluntary payments; that its draft is not slavery.

implicit agreement *does* apply to the criminal (Kinsella 1992, 1996a, 1996b, 1997, 1998–1999).

Second, libertarian anarchists do not worry about consent of the criminal. Rather, what concerns us is the consent of the *customer*. In Machan's example, he "hired" the bodyguard, so we can infer his consent. But suppose the bodyguard came to Machan (as does the government) and said to him: "I am going to protect you, and charge you for that service, whether or not you agree to it." Then, hopefully, Machan the consumer would take a very different view of this, even though this would appear beyond the ability of Machan the philosopher to do. Machan is directing his attention to the wrong person. The focus should be on the consent of the customer, not the criminal.

### 8. Benign Monopoly

Asks Machan (2002a, p. 574): "might government be a monopoly of the benign sort . . . even a barber shop has a monopoly at the exact place where it is located."

There is a clear and obvious answer. If a "government" collects no taxes, and does not use coercion to preclude the competition of other "governments" in "its" geographical area, then it is not a government at all, but rather a private defense-insurance agency, very much a part of the legitimate marketplace.

Further, at least for Austrian economists, a "benign monopoly" such as that characterized by our author for the barber shop should by no means be considered a monopoly, benign or not. The term "monopoly"<sup>22</sup> is reserved for those instances where *coercion*<sup>23</sup> is utilized to protect coercive special privileges given to the monopolist, e.g., the right to throw competitors in jail, or otherwise do violence to them. This applies to the U.S. Post Office, unions, the medallioned taxicab, and even to government itself. In sharp contrast, if McDonalds one day takes over the entire fast food industry, let alone that part of it focusing on hamburgers, it will *not* be a monopolist, provided only that the means through which it expanded were purely commercial and thus voluntary; e.g., better product, lower price, more interesting advertising, greater access and convenience, etc. Of course, if the way it attains its takeover of the industry is by firebombing Wendy's and Burger King, etc., or, much the same thing, by getting a law passed which handicaps or, worse, precludes these

<sup>22</sup>For Austrian monopoly theory, see Armentano (1991), Block (1977, 1994), High (1984–1985), Rothbard (1970).

<sup>23</sup>A term, the importance of which escapes minarchists in their attempted justification of this system.

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again

others from competition, then it *will* be a monopolist, no matter what share of the market it “controls.”

9. *Law Enforcement Presupposed*

✓ Tiboo sent answer

Machan (2002a, p. 576), with the help of Kelley (1974) and Lee (whom he does not cite) maintains that economic institutions “presuppose a background of some kind of law enforcement,” and charges that “anarcho-libertarians rarely discuss” this. There is good and sufficient reason for free-market anarchists to ignore this argument: it is not very telling against the system of economic freedom, and it commits one of the most basic fallacies in all of economics.<sup>24</sup>

It is not a serious criticism because while commerce and trade do indeed depend upon law enforcement, upholding of contracts, the sanctity of property rights, etc., they depend upon other things as well. For example, food; if we had no food, no food whatsoever, we could scarcely have an economy, for we would all be dead. Note that Machan’s argument is of the following sort:

1. The market depends upon a functioning legal system.
2. Only government can supply a legal system.
3. Therefore, government is a precondition for the market (and thus the anarcho-capitalist case is fallacious).

With our new insight as to food, however, we can argue as follows:

1. The market depends upon the existence of food.
2. Only government can supply food.
3. Therefore, government is a precondition for the market (and thus the argument that the market can create its own food is fallacious).

When the matter is put in so stark a manner, it is easy to see the fallacy of the argument. Line 2 in each case is false. It is simply not true that only government can supply a legal system, and it is simply not true that only government can supply food. We know the latter from the fact that in the U.S., with a relatively<sup>25</sup> free agricultural

<sup>24</sup>Another problem with this train of thought is that it is an attack on free-market anarchism by a limited government libertarian; as such, it is incompatible with Machan’s supposed attempt to *reconcile* these two views, not launch a criticism of the one on the basis of the other. Where is the rapprochement?

<sup>25</sup>Although far from perfectly.

industry, food is in relative abundance, while in the bad old Soviet Union, with an almost totally<sup>26</sup> unfree farming sector, starvation and near starvation was the norm. We know the former from the fact that the community of nations has no world government, perched above them all, supplying law. If only the apparatus of the state could supply law, from whence springs international trade, in the absence of world government? More specifically, the law merchant<sup>27</sup> provided for a *private* legal system, used during and since medieval days, to facilitate trade between citizens, often of different nations, without benefit of government. There is nowhere in Machan's philosophy, it would appear, for cognizance of this phenomenon.

What is the economic fallacy? It is a confusion of the concepts of marginal and total. Yes, of course, if we had absolutely none of a good, zero, nada, whether of food or law, we would be in dire straits. But markets do not typically work in any such fashion. Machan's mistake is in thinking that just because free enterprise law courts might not supply *as much* law as governments, they would supply none at all. This was precisely the error committed by Adam Smith when he failed to solve the diamond-water paradox: why is that the former product has such high value in trade, but such low value in use, while for the latter the opposite obtains? That is, were *all* of either of these items to disappear tomorrow, life would go on pretty much as now if it were diamonds, whereas if it were water, all life would soon cease. How to reconcile this undeniable truth with the equally undeniable fact that a cup full of water is at present virtually valueless, while an equal quantity of diamonds is worth a fortune? Simple; no one is ever in a position to choose between *all* diamonds and *all* water. Were this the choice facing us, the latter would be worth far, far more than the former. Rather, man chooses between small amounts of each, and, based upon our evaluation of the *marginal* diamond, with present wants assumed given, the diamonds are of much great value than the water. Similarly, it is not an all or none situation with law either.

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<sup>26</sup>In the U.S.S.R., 97 percent of the land was owned by the public sector, on which some 75 percent of the crops were grown. About 3 percent of the land was owned privately, mainly in the form of gardens surrounding the workers' homes, and this accounted for approximately 25 percent of the agricultural produce. See on this Gregory and Stuart (1980) and Wadekin (1973).

<sup>27</sup>See on this Baker (1986), Benson (1990), Berman (1983), Burdick (1902) Ewart (1903), Milgrom, North and Weingast (1990) and Trakman (1983).

10. *Coercion*

Machan misunderstands the concept of coercion, and its relationship to governments and markets, in his condemnation of right-wing anarchism for conflating politics and economics. He states:

the distinctive aspects of politics concern, in part, the need for using force against unwilling persons who have, however, implicitly asked for it<sup>[28]</sup> by way of their criminal conduct. . . . Unlike addressing market interactions, politics, at its base, addresses the organization of dealing with involuntary or coerced human interactions. (2002a, p. 576)

But this is completely untrue. While it cannot be denied that the political sphere interfaces with law breaking, economics, too, deals with criminals. Private guards, fences, dogs, detectives, police, etc., are all part of the armament of the profit making business firm. The difference between the two is that the market, not government, *limits* itself to noncoercive ways of addressing the criminal population, while state bureaucratic police *initiate* coercion in so doing. That is, when a restaurant, shopping mall or playground (e.g., Disney World) hires a guard to protect its premises and customers from malefactors, they do so with their *own* money. When the government undertakes such responsibility, in sharp contrast, it does so with money forcibly mulcted from others, i.e., the taxpayers. In other words, only the market, *not* the government, can noncoercively deal with criminals. Both use force against the offender; neither coerces him. That is because we reserve the word “coercion” for cases of the unjustified use of force, and it is a paradigm case of the just use of force to use it against he who first utilized it against an innocent person. Where the two institutions differ, however, is in the *financing* of the just use of violence against lawbreakers. The state must of necessity raise such funds through coercion; the market cannot. If any ostensibly private business firm did so, it would cease at that moment to be part of the market and would automatically become a state-like enterprise.

But Machan is not without a response to this reply. According to him (2002a, p. 576, emphasis added): “it may be replied that even today there are arbitrations agencies that carry on with the provision of legal services, so clearly it must be possible to do so. Yet all such

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<sup>28</sup>See Kinsella (1992, 1996a, 1996b, 1997, 1998–1999) for support of the idea that criminals deserve violence perpetrated against them in that they have done such things to others in the first place, and in effect have *agreed* to this by their actions.

agencies *are* still subject to legal scrutiny by governments.” I added emphasis to the word “are” to indicate that the fact to which our author resorts is merely a matter of “*history* . . . (and this) is not decisive as to the *nature and morality* of government.” This was precisely the argument Machan (2002a, p. 575) correctly used against Sanders (1996), but in the present case, unfortunately for Machan, we find him on the wrong side of it. The point is, to return to the matter concerning private arbitration firms being as a matter of fact under the rule of governments, just because this is a historical fact does not mean that it is proper, or necessary. Machan is now making the same sort of philosophical category mistake of which he accuses Sanders.<sup>29</sup>

### 11. *Private Supply*

Another unjustified Machanian castigation of the anarcho-libertarian position is as follows:

why should an ordinary business enterprise not expand its activities, perhaps to providing social security services, unemployment compensation, and wildlife preservation? . . . As far as I understand, this pretty much puts these anarcho-libertarians in the camp of those who do, in fact, defend some form of government, albeit one that’s supposedly free of the flaws of governments. (2002a, pp. 576–77)

Here, our author reveals himself as unable to distinguish between a government supplying services on the basis of coercion, and a private firm supplying those same services *without* the use of coercion.

Private firms already provide these services, and have done so throughout history. Insurance companies provide social security services and unemployment compensation, for those who are willing to pay the premiums. Wildlife preservation is provided by private game farms, when allowed to do so by government.<sup>30</sup>

But the more important reply in the present context is that just because a private firm provides a good or service associated in the common mind with government does not make *it* a government. The

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<sup>29</sup>Despite his other error, Sanders (1996, p. 286) is entirely correct in maintaining that Machan uses the term “government” idiosyncratically, since in the latter’s words he, Machan (2002, p. 575) “proposes that one can have such an institution (as government) without any measure of coercion.”

<sup>30</sup>The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) makes it illegal for entrepreneurs to preserve species on the verge of becoming extinct. See on this <http://environment.harvard.edu/guides/intenvpol/indexes/treaties/CITES.html>.

essence of this institution, as we have seen, is the initiation of coercion against nonaggressing people. Take the Post Office as an example. When *government* engages in provision of this service, as it has in the U.S. since its inception, it does so with money forcibly taken from the taxpayer; and, typically, it outlaws, again through the use of unjustified force, or coercion, any competition. Does this mean that when private post offices are in operation, such as Wells Fargo, the Pony Express, Fed-Ex and other market courier services, that they take on a statist aspect? To believe this, as it appears that Machan does, is obviously a grave error. For when market participants engage in these activities, they do so with their own money, without necessarily engaging in coercion; when undertaken by the state, this is not at all the case. There is nothing *intrinsic* in postal delivery (or schooling, or roads and highways, or libraries, or parks) that renders them governmental; it is only the admixture of them with coercion that makes it so.

#### 12. Microsoft

Machan supplies us with further evidence that he cannot distinguish between coercion and noncoercion, the source of his confusion between the state apparatus which necessarily involves this concept and the market which necessarily does not:

A monopoly . . . is not coercive if it exists by virtue of overwhelming customer support—for example, Microsoft's dominance in the software industry is not coercive although it could reach the level of monopoly, namely, being the sole provider of the relevant goods and services. (2002a, p. 577)

One difficulty with the foregoing is that his example is inept. A far better one would have been Alcoa or IBM several decades back in the last century. But the major problem is that Machan is here stating in effect that if Microsoft continues to do the good job it has done in the past of satisfying customers, and even, markedly, improves upon this record,<sup>31</sup> then it will turn, magically as it were, into something that it never was before; namely, it will move from being a noncoercive entity, to a coercive one; from a private company to a state-like entity. No. The *only* way this transition could occur is if Microsoft adds to its repertoire explicit coercion; that is, it must *add* to its present practice of continually being the first to come out with newer and better products: it must now, in addition, go out and firebomb the premises of Sun Microsystems; it must kidnap IBM executives, and

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<sup>31</sup>Full disclosure here: my son, the genius, works for this company, so the prognostication in the text is a virtual certainty.

make high ransom demands for their return; it must bulldoze, in the dead of the night, the premises of Linux; it must sneak in to the premises (e.g., trespass), and steal the secrets of its competitors, or it must get a law passed that handcuffs other members of this industry. Then and only then will it succeed in changing its essential character from that of a business firm to a monopoly. If Machan had adopted the Austrian practice of reserving the word “monopoly” for a single seller firm with a government grant of privilege against all potential competitors, and the phrase “single seller” for a firm which had cornered the market in a given item *without* any such advantage, instead of the mainstream practice of conflating these two very different concepts, it is possible that he would not have led himself into this error.

Machan (2002a, p. 578) acknowledges the truth of this when he says: “customers . . . have every chance of seeking out actual or potential competitors . . . the apparent coercive monopoly is not in fact such even if and when it is the sole provider of the service.” But on the basis of this correct understanding, he launches into his next fallacy.

### 13. *Citizenship*

[B]ecoming a citizen of a country amounts to consenting to such long-term provisions of rights protection from a given government that provides services in a reasonably homogeneous region so as to make access to citizen-clients convenient and swift. (Machan 2002a, p. 578)

We cannot address the substance of this statement without first objecting to that linguistic abomination “citizen-clients.” If I am a client of a doctor or lawyer, I can *fire* him at will. I can seek alternative representation, without having to relinquish my property as a precondition for so doing. As a citizen, I can do none of these things regarding the government. As a citizen, then, I am a *ward* of the state; I must obey its dictates, upon pain of having my rights violated through coercive means. It is only philosophical carelessness that could lead Machan to conflate these two very different relationships.

A more basic difficulty with Machan’s view is that there are many other possible explanations for accepting this status, other than voluntary “consent.” It may be coercive consent, as when I “consent” to hand over my wallet to the gunman who threatens: “Your money or your life.”<sup>32</sup> It may be coercive “consent” in that this

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<sup>32</sup>When these words were uttered to Jack Benny, the notorious skinflint comedian, he paused, and paused, and paused . . .

is the only way I can have access to my own land, property I (or my forefathers) homesteaded even before the creation of the government (Spooner 1966).

Take another scenario. I buy a house and move into Harlem, since housing prices are cheap. I am robbed every day. According to Machan's "logic," these acts were consensual, and therefore not really robbery, since I knew in advance that this was a dangerous crime-ridden area. Not so, not so. Nor is there any disanalogy between the robber gang and the government. In both cases I "consent" to their depredations, once as a "citizen," the other time as homeowner in Harlem. In each case I do so in the full knowledge that a portion of my money will be taken from me against my will. Yet in *neither* case is there any real voluntary consent.

#### 14. *Travel Analogy*

Machan attempts another analogy in order to shed a positive light on a diabolical institution:

dealing with travel providers is often frustrating in nearly identical ways to dealing with government agencies; once one is on board or has signed up, changing carriers is very cumbersome and given one's plans, nearly impossible and financially prohibitive. (2002a, p. 578, n. 23)

There is a gigantic disanalogy, of course. An individual is just as free to purchase an airline ticket and board it as he is to refrain from so doing; he is not at all at liberty to pick and choose regarding the matter of taxation. Of course, when the plane is in the air, it would take an emergency to get the captain to land it before arriving at its destination; an individual would have to be suffering from a heart attack or some such, to achieve the interruption of the flight. In contrast, the state makes *no* exceptions to its rule. It is in the very nature of air flights that it is difficult to interrupt them. All passengers surely know this when they agree to take part in such commercial transactions. No one points a gun at their heads and forces them to buy a ticket.

But this example is really a red herring. The lack of flexibility in the market is by no means limited to air flights, or taxi cabs, also mentioned by Machan. It occurs in each and every market transaction! I buy a newspaper for one dollar. I walk away. I come back five minutes later and ask that my money be returned, and offer to return the reading material. The vendor refuses, as is his right, since he sold it to me on a no return basis. This, too, is "frustrating" to me. But should it in all seriousness be compared to the "frustration" that

people experience when they deal with a robber or government? To ask this question is to answer it.

### 15. Secession

Claims Machan:

[G]overnments could be, in principle, free of flaws, including such policies as taxation. . . . Even banning secession need not be a part of government. (The right of secession is but the right of exit and may be exercised. (2002a, p. 579)<sup>33</sup>

The errors, here, are legion. If there is no taxation, and no prevention of competition by other government-like agencies, then these government-like agencies are not governments but are rather private defense companies. No matter how he twists and wiggles, Machan cannot escape from this conclusion. The only possible reply is to evade this undeniable point. One could do so, as Machan does, by entering into a needless verbal dispute. He chooses to *define* as a government a market firm that provides armies, schools, post offices, police, courts, etc. Fine, let him do precisely that. But then there are really two kinds of "governments." The first, call it government I, is the ordinary government that provides these services under compulsion, and precludes competition with itself. The second, call it government II, is a very different kind of "government." It, too, provides these services, but entirely without the initiation of force against non-aggressors. Anarchism, then, is ruled out of the court of intellectual opinion by this verbal legerdemain. To join with Machan in this fraud, we would all then eschew anarcho-capitalism. But we would then take up a defense of "government II ism," and continue to insist upon the fact that there is all the world of difference between these two very different visions of "government." Is it not simpler, and more in accord with the precepts of Ockham's Razor, to leave off this government I and II business, and stick to government vs. anarchism?

Machan is mistaken, too, in his contention that "The right of secession is but the right of exit." Very much to the contrary, the right of exit amounts to no more than the right of *emigration*. With the exception of the U.S.S.R., East Germany, Cuba and a very few others, no countries have ever prohibited their citizens from physically departing. What is at stake here is the right to get out from under the authority of a government *without* leaving your land. When the abolitionists in the 1830s wanted Massachusetts to secede from the

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<sup>33</sup>Here, Machan lists a number of provisos, the discussion of which would take us too far afield.

United States (on the ground that they wanted to have nothing to do with a country that allowed slavery) they did not want to *depart* and, perhaps, go back to England. No, they wished to stay right where they were, in that State, and set up an alternative government, separate from that of the U.S. If Machan were to seriously contemplate *this* sort of action, and more, embrace it as a right not only of an entire state, but also of a city, town, village, borough, and, yes, of an *individual*, then he would at one fell swoop embrace the libertarian version of anarchism.

#### 16. No Competing Governments

Machan (2002a, p. 580) maintains that there cannot “be competition between governments” within a given geographical area. And here I fully agree with him. But this has nothing whatsoever to do with his spurious distinction between gated communities, apartment houses, or airlines while in flight on the one hand, and pizza delivery services on the other. Rather, it stems from the fact that if there were competition between governments (and none of them collected taxes, or in any other way violated the libertarian nonaggression axiom) then they would be “governments” no more; they would revert to private protection firms operating in markets.

But this evades the real question, which is not whether competition between governments, but, rather, whether competition between *competing market defense agencies* is compatible with libertarianism, as anarcho-capitalists maintain, or whether this vision is internally self-contradictory, confused, irrational, immoral, improper, and counter to the nonaggression axiom, as held by the minarchists?

Machan (2002a, p. 580) offers the following defense of his position: “This is because the type of service being provided involves a long term commitment to having one’s rights protected.” But this is hardly a reason why governments cannot compete in the same geographical territory; but if they did they would no longer be governments. Even in Machan’s own framework, this is contingent, not necessary,<sup>34</sup> as he concedes that after “the viability of transporter type machines familiar from *Star Track* [sic]” his objection would no longer apply.

A more serious criticism of the right-wing anarchist position is as follows:

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<sup>34</sup>Shades again of Machan’s proper critique of Sanders, above.

such a way of providing legal services runs the serious risk of generating *in principle irresolvable legal conflicts*. For example, a criminal could run off to a more favorable competing court after being convicted by one. Such a prospect would defeat the very point of law, namely, the resolution of a dispute. (Machan 2002a, p. 581)

But this bespeaks an ignorance of the very position he is attacking.<sup>35</sup> In this tradition, if there is only one court involved, then its decision is, by definition, final. But suppose that there are two courts involved; assume that A accuses B of theft. A goes to court X as a plaintiff, B goes to court Y to defend himself, and the two courts, X and Y disagree with one another as to B's guilt. If these two are both legitimate courts, they will have foreseen just such an eventuality, and have contracted with each other to take their disagreements to, say, court Z. That is the end of the matter. There is no "running off" of the criminal; there is no "irresolvable legal conflict."

### 17. Homogeneity

Perhaps Machan's strongest argument against anarcho-libertarianism concerns homogeneity. In his view, this system

rests on the [economic?] assumption of the universally agreed to utility of common standards. . . . Even if in time the various courts would see the utility of adhering to common standards, at any given time they may well not do so, and this would be an obstacle to justice that is supposed to be swift and efficient. (2002a, p. 581)

Let us put this "swift and efficient" business to one side. Markets need not excel too much in this direction to vastly outstrip their statist counterparts.<sup>36</sup> With regard to "common standards," let us assume that there are living in one locale Jews who wish to settle their disputes under the authority of a Bet-Din based on the law of Halacha, Muslims who opt for courts under the authority of Mullahs based on the law of Sharia, and a third group who would be most comfortable with present jurisprudence as practiced in the U.S. or western Europe. When people covered by any one of these faiths deal with each other, there will be no problem. Two Shi'ites in a dispute can find a court acceptable to both. And, probably, given that

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<sup>35</sup>I cannot be sure of this, because of ambiguity in the text. I do not know if Machan is here taking issue with the concept of private competing defense agency firms, or with competing governments. I now assume the former, since the latter is a contradiction in terms.

<sup>36</sup>Dickens's Jarndyce and Jarndyce is an all too accurate description of statist "justice."

each of these societies has disparate views on law, there would be a tendency for commerce to run along intrafaith lines. But what occurs when a disagreement arises between a Jew and a Muslim? One possibility is that the two respective courts agree to allow the secular court to settle the matter. No matter what the outcome, however, free market private courts are in no worse position *vis à vis* this question than are national governments when the disputants are engaged in international trade. For example, if an Israeli and an Iranian quarrel over a contract, precisely the same lack of legal homogeneity that complicated the intranational lawsuit will plague the international one. Thus, Machan's reasonably well founded objection to free-market anarchism applies equally well to his own minarchist system.

#### 18. *World Government?*

Machan (2002a, p. 584) complains about the chaos and disorder that now prevails in the adjudication of international law. Specifically, he cites the cases of Augusto Pinochet, Slobodan Milosevic, and the Bertrand Russell–Jean-Paul Sartre indictment of the U.S. government for war crimes in Vietnam. True, too true, none of these cases has come to a neat conclusion, at least of the sort that emanates from the Supreme Court of any one nation. Like their decision or not, at least their opinion settles matters.

And yes, if free-market anarchism were adopted, these less than fully neat processes that now obtain in the international scene would be replicated in the intranational one, much to Machan's dismay. The difficulty here, not recognized or at least not fully recognized by this author, is that in his inchoate yearning for order, World Government is the only logical stopping point. It is only on the basis of World Government, with a World Supreme Court, that the present lack of a clear conclusion in the Augusto Pinochet, Slobodan Milosevic, and Bertrand Russell–Jean-Paul Sartre cases could be avoided. But the flaws in World Government, particularly for the libertarian, are many and serious. For one thing, there is the threat that India and China together would run things, since these two countries have a disproportionate share of the global population. For another, with some 200 sovereign nations at present, exit is almost always an option. Forget about taking your property with you; at least you can leave.<sup>37</sup> Under world government, there is simply no place to run, absent the *Star Trek* scenario.

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<sup>37</sup>It is surely no accident that the Jews, who have been forced to leave more countries than many other ethnic groups, have specialized in the jewelry industry, where the property is highly mobile.

19. *A Disanalogy*

Machan notes a disanalogy between defense services and all other market transactions:

the customers of most other enterprises tend to be willing to deal when the important processes of the enterprise ensue, whereas in law half the customers—those accused of crimes—would usually not be accommodating at all. (2002a, p. 585)

There are several elementary economic mistakes incorporated in this statement. First, it is not that the customers of markets *tend* to “be willing to deal with” entrepreneurs in other fields of endeavor apart from defense. Rather, they *must necessarily do so*, or else they would not be considered “customers.” In other words, a customer is a person who voluntarily and willingly *agrees* to take part in a commercial transaction. If both sides were not in accord, no transaction would occur.

Second, there is mutual trade in *all* market transactions, protection certainly included. The contract is between a customer and a police-court company, *not* between the victim and the victimizer. For simplicity, let us consider those accused of crimes as all guilty. These criminals, then, are *not* customers. They are, indeed, the very opposite of a customer. For a customer is someone who respects the property rights of his business associates; he does not steal from them. Rather, he makes mutually beneficial (in the *ex ante* sense) trades with them.

A similar situation occurs in other more ordinary industries, such as the pizza delivery Machan discusses in his paper. Here, too, the disanalogy obtains that Machan thinks arises only for defense firms. To wit, consider not the customers of the pizza firm, but rather those who refuse to patronize it. These people, too, “would usually not be accommodating at all.” Then there are the competitors of the pizza company in question, who also “would usually not be accommodating at all.”

Closer to home, take as examples members of the industries that supply fences, locks, safes, burglar alarm systems. Their direct *customers*, those who deal directly with them, are very much “willing to deal with” them. There is mutual gain in the *ex ante* sense from all such transactions. But what of the criminals these fences, locks, safes, burglar alarm systems are attempting to foil? *They* “would usually not be accommodating at all.” Rather, they attempt to undermine, evade, bulldoze through, and otherwise overcome these fences, locks, safes, burglar alarm systems. According to the “logic” of the

Machanian analysis, these industries, too, could not be left to the tender mercies of the market, and must be nationalized.

### 20. *Rapprochement*

After attempting, unsuccessfully, to disparage libertarian anarchism and elevate minarchism, Machan (2002a, pp. 585–86) returns to his announced goal: *rapprochement*. Seemingly to this end, but really not, he reiterates his model of “government but with no coercive powers” and goes so far as to accuse anarcho-capitalists, in criticizing limited government advocates, of lending “no light, but only some heat.”

Disappointingly, Machan (2002a, p. 586) ends his presentation with the view that there really is no difference between free-market anarchists and limited-government libertarians; that we are engaged in a mere verbal dispute; we “deploy different terms to advance a basically identical solution to the problem of rights violations.”

Nothing could be further from the truth. Even though little of present practical importance rides on the distinction between the two philosophies, there is a wide unbridgeable chasm between them. Attempts to paper over this difference are fallacious.

## CONCLUSION

Why not proudly face facts, instead of attempting to hide behind obfuscations? Why not admit that the minarchist position involves coercion, but only in a few ways? Being a statist for only a few functions of government, as are the libertarian-limited-government advocates, is not so bad as these things go. It puts one, probably, in the top 1 percent of all libertarians in the world in terms of consistency with this viewpoint. Our society would be a far better place than at present, and far more consistent with libertarianism, did but these minarchists have their way. Their program is for the complete elimination of the state from *everything* except for armies, courts, and police. From the anarcho-capitalist point of view, this is not the complete goal, but it is a very, very good start.

Classical liberalism is something to take pride in. Philosophers in this tradition were and are responsible for great insights, and for moving society closer to the libertarian ideal, or keeping it from moving further away from it than would otherwise have occurred. This philosophy is no embarrassment. Just because it does not fully adhere to libertarian principles is no reason to be ashamed of it.

How else, however, can we interpret attempts to promote this viewpoint at the expense of anarcho-capitalism, a perspective that is even more congruent with libertarian theory?

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