

Problems With Libertarianism

Some years ago, I discovered that Libertarianism.org had webbed a [video](#) of a talk I gave in 1981; I found it interesting enough to be worth including here. What follows is a lightly edited transcript, starting with an entertaining introduction by my friend — now but not yet then — Jeff Hummel, and ending with some questions from the audience and my responses.

Think of it as a snapshot of the libertarian movement as of some thirty years ago.

Introduction

By Jeff Hummel

Our next speaker is David Friedman, who you met already. I'm going to break my rule about short introductions because I have some interesting stories I can tell about David, and also because David's talk is the last one today and that leaves a lot of leeway in terms of running over.

I met David over ten years ago, although he doesn't remember it, and in fact I've bumped into him at libertarian functions off and on over these ten years and he hasn't remembered any of them. So what I've done is I've secretly designed this conference so that in the future he will never forget me. And for instance, just one part of my plot, it wasn't it wasn't George, it wasn't Mike Grossberg, it was me. I was the one that switched the debate topic on David from the less interesting strategic question to the more interesting fundamental question.¹

The first time I met David was at an SIL conference — they were holding them in Philadelphia — this was around the time of the split in Young Americans for Freedom. This was the time before Roy Childs sported a beard and before Roy Childs had gotten quite so rotund and was giving his speeches about big business and the rise of the American statism. When Durk Pearson was going under the name of Skye d'Aureous and recommending that the best way to spread libertarianism was to give acid to 3rd graders.

At the conference that David spoke at, he was quite a sight. At this time he had much longer hair than he has now, out quite a bit further. He had this huge medallion, it must have weighed a ton, that he wore around his neck, and I'm not sure what the medallion said.² He looked outrageous. He got up to begin his speech, said something to the effect that it was going to be a short speech because he preferred question and answers, they were more fun, and then got up on top of the counter and sat cross-legged and gave his talk.



The interesting thing about that talk was that Von Mises was in the audience at the same time and I don't know whether it was David's appearance or what David ended up saying during the talk, but Von Mises walked out, much to the disconcert of Don Ernsberger and Dave Walters who had arranged for Mises to speak at the event. In one of the two talks I heard at this conference, David was making an economic point, and he started to draw on the board a demand and supply diagram, and then he turned to the audience and he said "Which axis is demand and which axis is supply."

¹ The debate is in Chapter XXX. The title I originally agreed to was, something like "Defending Libertarianism: Ethics vs Economics." Jeff had switched it to "The Foundations of Libertarianism: Ethics vs Economics."

² As you can see, I still have the medallion, in somewhat dilapidated condition. It shows the torch of liberty sitting on the central T of "Tanstaaf" with a "don't tread on me" snake wrapped around it, burning through a ball and chain — a collection of all the libertarian symbols I could think of at the time. It weighs about 14 ounces.

At the time he says “I've never read any economics books” or “I've never taken any economics courses,” but it was a good talk anyway on monopoly.

The other talk he gave during that conference was entitled “Problems with Libertarianism.” Ten years ago. I still have it on tape. That's the title of David's talk tonight and I'm hoping that in the intervening ten years David has come up with some solutions and some new problems and we'll find out.

[End of Jeff's introduction, beginning of my talk]

Jeff, somebody should tell you that the two axes on that diagram are called “price” and “quantity.” Supply curves and demand curves are relations between price and quantity.

I started arguing libertarianism well over 20 years ago, when I was in high school. At the time, everything seemed very clear and neat; I made all sorts of great desert island arguments about who had the right to this and that. A few years later my best friend in high school, who I spent all of my study halls arguing these things with, told me he had become a libertarian, which was very satisfactory.

At the time it seemed to me that the economic argument was reasonably clear; if you were only a little bit cleverer you could prove the government was of no use for anything at all. Over the years the arguments have seemed to me to grow more and more complicated and the results less and less clear. One result is that I find it disturbing to discover that a large fraction of the population of libertarians believes that everything is very easy, that we really have all the answers, that it starts out with $A=A$ or some similar axiom and then, with a few simple steps that any intelligent person could see if only he wasn't blinded by his statist preconceptions, we end up with the answers to all problems in the world.

Another thing that makes me unhappy with this is that I have for the last few years been a professional economist, despite never having taken an economics course for credit, and I have discovered that there are quite a lot of bright people out there who have thought more about economics than, let us say, 99.8% of libertarians, don't agree with us about everything, and have legitimate reasons for disagreeing with some of our conclusions.

I think the world is a complicated place and it is a good experience for libertarians simply to be told about some problems with libertarianism.

This is essentially the same speech that I gave 10 years ago; I am glad somebody's still remembers it. The speech will not contain any answers. If you come to hear my talk at Denver you will get some fragmentary beginnings of answers to some of the questions, but not much more than that, because they are hard questions. I think George should get some credit for having spent the last hour trying to deal with one, count it one, hard question, one which most of us like to ignore because it is too hard.

So all I will be doing is giving you problems. Some are problems where, as far as I can see, libertarian ideas as current libertarians understand them give us no answer at all to an important question. Some are ones where libertarian ideas as libertarians understand them seem to give us a clear answer, but one that none of us is willing to accept. Others are cases where there appears to be a serious conflict between the libertarian answer and other things we value and where it is not at all clear what the right way of resolving that conflict is. Others are problems with the foundations of our libertarian argument on which everything else is built.

After I talk about that I will talk a little bit about how to avoid thinking about hard problems. My full title should probably have been “hard problems and how to avoid them.”

I start with one of the ones to which I think we do not have any answer, or at least most of us don't — come to Denver — and that is the question of what rights you have against a criminal. Someone comes into your house and steals your television set. All libertarians agree that you are entitled to take the television set back — Bob Lafevre would presumably say only very gently — but essentially all of us agree that you can take the television set back.

It requires only a very elementary consideration of the incentives in that situation to realize that if all you ever do is take the television set back, theft is going to be a rather attractive profession: Sometimes you catch the thief and take the television set back and sometimes you don't catch the thief and don't take the television set back. Heads he wins, tails he breaks even. That is a pretty good gamble for the thief, which suggests that it might be nice to do something to him beyond taking the television back.

How much are you entitled to do to him? Very few of us feel that if you steal a nickel from me I am entitled to enslave you for the rest of your life and yet, short of that, how in principle do we decide what the appropriate punishment is?

Some people would say “that's easy. The appropriate punishment is whatever is necessary to deter thieves.” But an economist will point out that it isn't a matter of everyone deterred or nobody deterred. The higher the punishment, the more thieves will be deterred, the less time and trouble you will have to take guarding your property.

Other people think that you can get the answer by waving your hands. Ten years ago, as Jeff may remember, a member of the audience who is a disciple of one of the more prominent libertarian thinkers came up and said “Oh, that's an easy problem. Murray solved that years ago: You get to punish him with exactly the amount he's taking. If he takes \$100 from you, you take \$100 and then another hundred dollars back,” to which my answer was, “well, two is a nice number. So is three, so is one and a half. Saying you can invent an answer doesn't give me any reason to believe it.” Besides, what if you only catch a tenth of the thieves? Stealing \$100 with one chance in ten of having to give \$200 back is still a pretty good deal.

That is one example of what seems to me to be a hard and interesting problem. You can think of it either as a moral problem or an economic problem. Ultimately it's a problem in rights: When somebody violates somebody else's rights what claim does the victim have against him?

It is worth remembering that violation of rights is not something only done by terrible evil wicked people. It is something that any of us might do by mistake, that any of us might do when we believe the circumstances are one thing and they are another. The same question then arises. You might say, of course, that if I have only violated your rights by mistake, if I took your television set because I thought it was my television set, all you have to do is take the television set back. But, as any economist could tell you, how much trouble I go to in order to avoid making mistakes may have something to do with whether or not I receive some punishment when I make them.

Let me give you another problem in the same general ballpark, this time illustrated by a simple story — I think I heard it on television — a story about a man who was sitting at home waiting to hear who had been stealing his firewood.

That's the punchline. The rest of the story was that he had a pile of firewood and it had been disappearing. He had tried keeping an eye out for whoever was stealing it but did not manage to

catch the guy. Maybe he put a fence around it or something and that didn't work. So eventually he decided on a simple and elegant solution to the problem. He took a stick of firewood, drilled a hole in it, and put a stick of dynamite in the hole. He put the stick of firewood back on his woodpile. The next day it disappeared. Then he sat at home waiting to hear who had been stealing his firewood. It is a clever solution, but some of us may feel that capital punishment is a little extreme for petty theft.

That raises the same sort of question. Given that you are entitled to defend your rights, just what are you entitled to do for the purpose? Are you entitled to machine-gun people for trespassing on your lawn? Most of us would say no. Are you not entitled to hurt people at all? That would seem to leave you pretty nearly defenseless. What are you entitled to do? How do you find out? Do you just wave your hands and say "I can invent an answer to that. I am entitled to do as much damage to him as he was going to do to me?" In that case the dynamite is out, but so is practically any serious defense. That's a second problem for you to think about.

Let me give you a third one, one related to this. It's an old puzzle for people who like moral arguments, but of some current relevance. It's called the human shield problem. The bad guy grabs an innocent victim, pulls out a gun, points it at you, and starts shooting at you or asking for your money or whatever. You have a gun, but if you shoot back you might kill the innocent shield. Are you entitled to do it?

There is a form of that problem which is closely involved with arguments about foreign policy, in particular nuclear deterrence. Suppose it is the case that there is no practical way of preventing somebody from blowing you up with nuclear weapons except by threatening to blow him up. Now maybe it's not the case, but I don't see anything in the nature of reality that makes it impossible, so let's think about that hypothesis.

We will suppose that the somebody who wants to blow you up is the government of the Soviet Union and you are an American who is a libertarian and wants to do the right thing. To avoid a bunch of irrelevant issues, assume we don't have an American government, we have a private protection agency in America financed by voluntary contributions. Should it use those contributions to buy nuclear missiles and aim them at Moscow? I will suppose, for the sake of argument, that there is no viable alternative. If the Russians come and fight you in the streets they will win because they can blow up with their nuclear weapons anything they want to. They will use that threat to make all the other Americans turn against you, since the other Americans don't want to be blown up.

I don't want to get into a long thing on foreign policy, I just want to set up my hypothetical case. Somebody points out to you that if you have nuclear missiles aimed at Moscow and ever use them you are going to be killing a couple of million Russian civilians who are totally innocent, who are far more victims of the Soviet government than you are, and who merely have the misfortune to live next to where the Soviet rulers live. If you use your nuclear missiles to blow up Russian missile silos that radiation will kill another hundred thousand innocent Russian civilians who are in no way responsible for the aggression of their government even if we suppose their government is going to commit aggression.

You are then left with the interesting problem: Do you say "I'm sorry about it, but I have got to defend my freedom, the only way to do it is by using these missiles, and therefore if necessary — I hope it won't come to that but if necessary — I will kill the human shields. I will blow up Moscow if that's the only way of defending myself.

Or do you say “No, that's an immoral act, the ends never justify the means, those individuals have a right not to be aggressed against, unfortunately that means we have to surrender to the Soviet Union.” That’s an unpleasant choice. I can't say I like either alternative. For anybody who does like one of the alternatives, maybe I should expand a bit on why they shouldn't like whichever alternative they think they like. The alternative of surrendering to the Soviets is obviously unattractive, so let’s consider the other one.

Suppose you say “Well, I don't like the idea of killing these people, but it is a human shield problem and this is the only way I can defend myself. I am not trying to aggress against them, they just happen to be in the line of fire.”

Then the next question I ask is, if you are entitled to violate other people's rights to defend yourself when that is the only way of doing it, suppose you are fighting a tank war and there is a farm in the way. The owner, for his own reasons, says “sorry, I know that you would like to move your army across my land, in fact you have to do that in order to stop the bad guys over there, but I don't give you permission.”

Now it happens that the bad guys are not libertarians so don't have to worry about this problem. They can maneuver their army wherever they like but you keep on being stopped every time you run into a no trespassing sign. So you lose the war. That convinces you even more clearly that human shields have to be pushed out of the way.

But let's keep going. Somebody tells you “Look. In order to defend the US we need taxes. It’s true that collecting taxes may seem to violate the rights of the other people who are sharing North America with you, but if it's the only way of defending your rights... well, we already established that it's all right to blow people up with nuclear bombs if they are in your way when you are trying to defend your rights. Taking a thousand or two a year from your fellow Americans is much less serious than blowing people up with nuclear bombs, so that's all right too.”

Next let us suppose, just to be hypothetical, that somebody argued persuasively, as in some circumstances you can argue persuasively, that a draft is a very important and necessary thing for national defense. Of course you wouldn't want to violate the rights of those people we will be drafting, but if it is the only way of defending your rights ...

My point in raising these things is not to say that therefore we should have a draft. It is to make you a little less sure that the arguments you use against people who want a draft or who want taxation or who want whatever it is, are all that absolutely clear and cut-and-dry. I have a feeling that a lot of your confidence comes from the fact that you believe, as I believe, that we don't face this problem, that you believe as I believe that in fact the US can be defended without a draft. But think about the problem if you believed the contrary. Suppose you really had to face the choice: Do I aggress against other people or do I surrender to a totalitarian dictatorship. Then you have a hard problem.

I will leave you with that and go on to the next. So far I have been talking about areas where it seems to me that libertarian theory does not give us a clear answer. Now let me talk about a subject I raised briefly last night,³ areas where it seems to me that libertarian theory as most of us understand it does give us a clear answer — unfortunately. I will take a particular part of libertarian theory, the idea of absolute property rights. Almost all of us believe in absolute property rights. We feel that I own something, it's mine. You are not entitled to say to me “well, you don't really

³ In the debate in Chapter XXX.

need it so I'll take it." You are not even entitled to say to me "I'll take it and pay you fair compensation for it.

One argument we use for that is that there is no way of finding out how valuable something is to somebody, in order to pay him fair compensation, other than his willingness to sell it. If I have a piece of land and the government wants to use it to build a highway on, the argument goes, "If the government can get me to sell it to them, that's fine, that demonstrates that it is worth more to them than to me. But if I am not willing to sell, there is no way they can find out how much it is worth to me, there is no way of judging values externally. It is my property, so they just have to accept my judgment that it is more valuable to me. That is a very popular argument, probably most of us who do much arguing have made it from time to time.

We now come to my trespassing photons, the issue that I raised last night. I have a piece of property and you have a piece of property five miles away. I inform you that you do not have my permission to turn on your lights. You say "why do I need your permission to turn on my lights?" and I say "Well, you know I've got that piece of property. I don't live there, I don't use any lights there, I just own it. Every time you turn on your lights some of that light gets onto my property. I could demonstrate with a telescope and a camera that some photons from your light bulbs are straying onto my property."

You say "they are not doing any damage, are they?" and I say "damage? That's for me to decide. There is no way of determining how much I value not having photons on my property except by what I say. After all, the argument all you libertarians are used to using for absolute property rights is that it is not a matter of whether it does damage or not. It belongs to me, so I get to decide what does damage. I get to decide how my land is used. Just as most of us would say that you can't trespass across my land and then explain that you didn't harm anything, I should be able to say the same thing to photons. And it's not just photons. When you breathe you exhale carbon dioxide. It just so happens that I don't like having carbon dioxide straying on my land. I don't mind your breathing — in.

I should say that there might be a very practical reason for my taking this position, because of course, as a reasonable man, I would be willing to sell you the right to breathe out. We seem to be in a position where the arguments that we were fond of using in other contexts lead to the conclusion that you cannot breathe out without permission from every landowner on the planet. Maybe just the continent.

That's not a conclusion that any of us believe in or like, and yet it would seem to follow from the kind of arguments that we think are nice clear watertight arguments when they lead to places that we want to go.

I'll give you another one of the same sort. The same situation except instead of a small effect make it a small probability of a large effect. Most of us would say that I am not entitled to smash your window even if I am willing to pay for it. Am I entitled to fly an airplane? When I take off in my airplane I know there is some very small probability that I will crash. There is a very small probability that I will depart from my flight plan unintentionally and go 200 miles in the wrong direction and then crash. I am inflicting, without permission, a risk of injury on everybody within 200 miles of the airport I take off from. I'm assuming an airplane with a cruising range of only 200 miles, which is modest. Does that mean I can't take off? Does it mean I can take no action at all which inflicts any risk on anybody else?

Now you may say “Oh but that's not the same thing as deliberately throwing a ball through someone's window” and I say “I don't see the difference. It's true that in one case I am certain of the consequence and in the other I'm not, but in each case I am getting a benefit, being able to fly from here to New Orleans or wherever, at a cost to you. I am forcibly imposing on you a rather small chance of having an airplane fall through your roof. I'm doing that without your permission. I am aggressing against you. Why is there a fundamental moral difference between aggressing against you with a 90% chance and aggressing against you with .0001% chance? Isn't the principle the same? And as we are representatives of the party of principle, shouldn't we immediately enjoin all airport flights?”

I was reminded of this when I heard John Goffman arguing, with regard to nuclear power, that it didn't really matter how much radiation reactors put out. Any radiation at all was trespass, any radiation at all was the initiation of coercion, and therefore as libertarians we had to be opposed to reactors. I was a little disturbed when later on in the same speech, in the question period, somebody asked him if it wasn't true that burning coal created more radiation than nuclear plants when you allow for this and that. And he said no, that wasn't true, that coal created substantially less radiation than nuclear plants. It didn't seem to occur to him that the question of whether it was more or less was irrelevant if he really believed what he had just been saying twenty minutes before and that, indeed, if he really believed that, there was a strong case for saying that he had to stop breathing.

All right, so that gives you a second category of problems to worry about. George got disturbed some time ago by my using the term catastrophic for these problems. He apparently believed I meant that these problems posed a catastrophic threat to moral philosophy, which was of course a very threatening thing to say to George. I did not mean that at all. I just meant that I thought not being allowed to breathe out was sort of a serious problem.

Let me now go on to some problems with the foundations of libertarian argument. The foundations, at least as usually stated, have a good deal to do with property. When I forbade you from letting those photons trespass, it was because I claimed that I owned this piece of land. The business about flying an airplane had something to do with crashing onto your property, although crashing into you could also be a problem.

Where do we get all this property? The libertarians say that's easy. We get property by creating things. We take the primal stuff of the universe and mold it with our hands. Yes, but there's only a certain amount of that primal stuff and the kind called land we didn't create. It was just there. One of the most important kinds of property, property in land, cannot be justified on what we all sort of intuitively feel is the ultimate justification for property rights, namely that I own myself and my labor and that which proceeds from my labor is mine. The land doesn't proceed from my labor.

So we cook up all sorts of stories: You mixed your labor with the land, or you were the first guy to draw a boundary around it, or you were the first guy to look down and say “mine,” or somehow you got ownership of it. I don't mind telling pretty stories, they are better than not doing anything at all, but I would like to point out that if you are going to claim strong moral conclusions, you had better have something more than a story that could be told in any of seventy three different ways, because those different ways might lead to different conclusions. You might discover that, according to some of the theories of initial acquisition of property rights, your house wasn't yours, it belonged to somebody else and you were the trespasser.

Let me expand a little more on that. Aside from the first problem of how we can get to own land, there is a second problem, that a very large part of the land in the world is stolen property. Probably most of it.

Let's take England as perhaps a clearer case than the U.S. In the case of England, presumably, most of the more attractive pieces of real estate we're settled by 1066. In 1066 there was a rather abrupt readjustment of property titles. Similar readjustments occurred from time to time during the next nine hundred years.

You are sitting in a house in England which you, an American tourist, rented from some Englishman. A guy breaks in the door. You pull out your gun, because you are an American and you know how to defend yourself and you are a libertarian. You say "you are violating my property rights" and he says, "Really? Why is this property yours?" "I rented it." "And who did you rent it from?" "Mr. Smith, the guy who owns it." "Why does he own it?" "He bought it from someone who owned it." "Well, how did he get it?"

You trace it back about 15 times. "Oh, he got it from somebody who stole it." I think you ought to worry about it a little bit.

Next we get to America and the question of whether we should give the land back to the Indians. That's an interesting question, but I've got enough other problems to deal with so will skip that one for the moment, but I do want to make the point of why it matters.

Again, we're claiming rights. Most of us would claim that when the thief breaks into your house, if there's no other way of dealing with him you're entitled to shoot him. You're certainly entitled hit him over the head. Well, I could think of some plausible versions of a libertarian derivation of property rights in which you're not. After all, I say to the thief, "Look, the reason this land is mine is that I put value into it, I or the guy I bought it from cleared the trees and built the house and so forth." And the thief says — he's actually not a thief, or at least I don't know if he's a thief — he says "Look, you're perfectly right. I am not entitled to use your roof to keep the rain off and I'm not entitled to use your land to grow grain on because those are all things which are the result of your labor and your labor belongs to you. But at the moment all I am using this land for is to walk across. Now it's true I'm walking on your floor, but I'd much rather the floor weren't there because then I wouldn't have had to climb up the steps. So that insofar as your labor has done anything to me, it has simply made things a little more inconvenient for me. All I am doing is taking a shortcut across your land. I could have done that before you cleared the forest, before you built the house, therefor the use I'm making of that property does not owe a single thing to your labor and what are you doing pointing that gun at me?" I would suggest that if you believe you are entitled to point a gun at a thief, even if the thief won't be a libertarian moral philosopher and therefore won't make all these arguments, you ought to think about whether you really have a firm foundation for your belief that you own that house or the land or anything else other than yourself — most of us feel comfortable with that. We can make arguments about that too, but let's not.

Let me go on to another fairly broad category. It's one which economists are very concerned about and other libertarians don't seem to worry about very much. It is what is called the public good problem.

The reason the public good problem is important is that economists in general and libertarian economists in particular believe that there are strong arguments for believing that, as a rule, if something is desirable, then under a free-market it will happen. if I value an automobile, somebody

will build me an automobile. If I value food, someone will grow food. We therefore feel comfortable saying that if we have an unhindered free market with no government intervention, we will have a well-functioning Society. We won't starve to death, we won't go naked due to no clothes being made, and so forth.

The public good problem involves a particular sort of good for which the normal arguments that lead to this conclusion don't hold. What is a public good? A public good does not mean a good that is produced by government; there are lots of public goods that are produced privately and there are lots of private goods that are produced by governments. Economists use slightly different definitions among themselves, so I will give you the version I use; it won't be quite identical to what Samuelson uses. A public good is a good such that, if it is produced, it will become available to the members of a pre-existing group of people. In other words, it is a good such that the producer cannot control who gets it. I don't mean shouldn't control, I mean can't control.

I can give you a very simple example, starting with a public good that happens to be provided privately — a radio broadcast. Normally when we produce goods we can say to individuals “If you want it, pay for it. If you don't pay for it you don't get it.” If I make a radio broadcast it is impractical, at least has been impractical up to very recently, for me to control who hears it, and therefore I have to find some other way of selling it.

That is a particularly interesting case because there turned out to be a clever market solution to providing that public good, one which would never have occurred to me if I had had to dream it up. You combine a public good which has a positive value to the customers and a positive cost of production with another public good which has a negative value to the customers and a negative cost of production, namely advertising. You tie them together in a package, and that's how you pay for it. That is an ad hoc solution that works in that particular case.

Another public good, one that I think libertarians should be more seriously worried about, is national defense. I should say, for those people who might say that we don't need a national defense because, once we abolish the government, we won't have a nation anymore, that my definition of national defense is defense against nations. That problem is still going to exist after we get rid of ours.

It so happens that there are serious technical difficulties. when a nuclear warhead is going through space on route from Moscow to here, to finding out whose name is on it. There is not any very good way of saying “A, B and C have paid for protection so all warheads aimed at them will get shot down, and D, E and F who are their neighbors haven't, so warheads aimed at them we will let go by. Due to these difficulties, national defense is a public good. Now I do not want to assert that public goods can't be produced on the market. On the contrary, there are quite a number of ways they can be. What I do assert, however, is that the strong arguments which make us confident that if something is worth producing it will be produced do not hold for public goods. With regard to an ordinary private good, one can say with some confidence that if it's worth producing it will be produced. With a public good you can only say “Maybe.”

Let us suppose then that there exists some particular public good where you are convinced that the answer to the “maybe” is “No.” Let us suppose, to take what I think is the most serious problem for libertarians, that national defense is such a public good. That is, suppose that it can't be provided except by using the government to steal money from your fellow citizens and use that to pay for defense. The assertion I would make as an economist is that we have no grounds for being confident that that hypothetical cannot occur. We have no grounds for being confident that we can

defend ourselves without government. We may have grounds for thinking we can do so. It may be worth doing a lot of thinking about that. I devote a chapter of my book to that subject. But we don't have ground for being confident that we can do it.

So then I ask you as libertarians, suppose we can't. Is the proper solution to say "Well, it's too bad we can't defend ourselves by moral means. We're moral people, we will send the surrender notice to the Soviets tomorrow." Or is the appropriate answer to say "We regret doing this friends, but we have just become the IRS. Fork over your money so we can pay for national defense.

I am not offering answers today, I am only offering problems, so I will let you stew in that one for a while while I go on to the part of the talk that you should be wanting to hear by now, which is how to avoid thinking about hard problems.

There are a number of ways to avoid thinking about hard problems that I have observed to be useful as I passed through libertarian society over the last twenty years. One of the most common ones is to assume, or argue, that the facts that create the problem don't exist. Thus, if I offer the problem I just offered, some people say "Oh no, we don't have to worry about that problem, the Soviets have no interest at all in attacking the US. They are purely defensive people. The only reason that they have all those thousands and thousands of tanks is that they are afraid we are going to invade them. So there is no problem."

One response could be for me to get sucked into an argument about the Soviet intentions, but I am not terribly interested in that at the moment. The right answer for me to make is "Maybe you are right, maybe the Soviets have no such intention. But suppose they did. If the reason you are opposed to taxing people is that you believe the Soviets are pussycats, then when you object to taxes you ought to say "I am against taxes because the Soviets are pussycats, we don't need them." If the reason you are against taxing people is because we are a party of principle and taxation is bad, taxation is theft, then you ought to be willing to say "Even if the Soviets are not pussycats, even if I accept all of these unpleasant hypotheses, I am still not willing to tax people." Well, maybe you're willing to say that. If you are, think about it for an hour and then say it. I am not saying that I have an answer to this question. I am only saying that I think the quick and easy answers are easy ones to make in a debating context but hard ones to live with.

One solution is to deny the facts. There is another solution which looks like this but isn't quite the same, and that is to say not merely that the facts don't happen to be that way but there is some logical reason why they can't be that way. A lot of libertarians are under the delusion that there exists somewhere buried in *Human Action* or *Capitalism the Unknown Ideal* or somewhere, a proof that the free market always solves all problems. I am sorry, maybe it's there, but I haven't found it. Lots of economists who were basically pro-free market have looked real hard for it and I don't think any of them found it. Von Mises didn't find it. Von Mises was in favor of the draft. I can show you where in *Human Action* he comes out in favor of the draft. Adam Smith didn't find it. Adam Smith was in favor of the Navigation Acts, which were acts that limited English Commerce to English ships. The reason he was in favor of them was not for economic reasons — he thought they were bad as far as England's economic welfare was concerned — but because in case of a war he wanted there to be lots of trained English sailors who would be willing to fight and it didn't do any good if they were all Dutch sailors. I'm sorry, but the hidden answer isn't there.

So one way of avoiding these problems is to say, "Well, the facts aren't the way you say, and therefore I don't have to think about the hard problems. Another way popular with certain segments of the libertarian society is to call these lifeboat problems and to say that since we don't live in

lifeboats we don't have to think about lifeboat problems. My response to that is that whether or not we live in a lifeboat is an empirical question — a lot of people think we live in a spaceship, after all. Suppose it turns out that we do live in a lifeboat, then what are you to do?

If you claim you have a system of ethics which tells you how to act, one of the things that it ought to tell you how to do is what to do in a lifeboat. For those of you who have not been part of the running argument on this that has been going on for the last twenty years, a lifeboat situation means that you and eight other people are in a lifeboat adrift on the Pacific Ocean. There's only a certain amount of food. You have a gun. Are you entitled to shoot some of the other people so there will be enough food for the rest of you? Does it depend on whom the lifeboat belongs to? On whom the gun belongs to? What if someone is trying to crawl in and he'll upset the boat, There are a whole bunch of variants, but they are all problems where you have very few alternatives, it's life-or-death, and it looks as though violating what you would normally describe as people's rights is the only way to live. I have sometimes suspected that what is really going on in the Objective Inner Circle is that they all believe that when you're in a lifeboat situation you do whatever is necessary to stay alive, but they would much rather not tell the rest of us that because we might be in a lifeboat with them someday.

One can expand that argument a little bit further. One of the problems with the objectivist derivation of ethics as I understand it is the person who says “Yes, I agree, most of the time I should respect rights, but once in a while I get a really good chance to steal and it serves my life qua life to steal under those circumstances.

Once in a while I get this sneaking suspicion that there is something that Ayn Rand just isn't telling us. Because it's perfectly clear that it's in your rational self interest to tell other people to respect rights all the time.

Calling it a lifeboat situation and saying that ethics doesn't have to deal with lifeboat situations is a second way of avoiding such problems. A third way of avoiding them is to say “Oh, that's the old is/ought dichotomy, and we know that there aren't any is/ought dichotomies.

Why aren't there? I can think of two reasons. One is that “is” always implies an “ought,” that if in order to serve your life you have to be willing to blow up Moscow in order to keep the Russians from conquering you, if in order to do that you've got to murder a bunch of Russians, then you ought to. If that's your view of ethics fine, but in that case I wish you would stop using all this ethical talk to hide the proposition that you want to do whatever serves your rational self-interest.

Another possibility is that you believe there are no is/ought problems because ultimately, as George said last night, and as I agreed, you can't get oughts from is's. No proposition about what is can ever give you a should. The statement that it is impossible to defend your liberty without violating the liberties of innocent Russian civilians doesn't tell you that you should violate those liberties.

That is perfectly true. You end up with the conclusion that you should do what you ought to do though the skies fall — *Fiat justitia ruat coelum* as they used to say in Latin, “Let Justice be done though the skies fall.” I have noticed very few people saying that who really believe the sky is going to fall when they do justice. Maybe there are few. If so then they are honorable people. That's a legitimate position I think to hold, but one which most of us are reluctant to take. There is a certain element of hypocrisy if you say to somebody who disagrees with you “I believe in *Fiat justitia ruat coelum*, and therefore you are immoral for being in favor of doing the immoral thing

— and by the way the skies aren't going to fall when you do the moral thing instead. That's pretending to a kind of a moral superiority you don't really have.

I think I have talked enough about problems. As Jeff remembered from the last time, I have a general doctrine that when you are answering a question you can be reasonably sure at least one person in the audience is interested in what you are talking about. So I will close by telling you what is probably the best way of avoiding dealing with these problems and the one you will find most useful if you don't want it to feel upset with the purity of your ideas: If any of these issues comes up, change the subject.

Questions

[in italics]

[Question about abortion from the audience]

I think abortion is a hard problem, but I am not sure it is a hard libertarian problem. The issue of what is or is not a human being, although an important and interesting issue for libertarians, is just as much an issue for everybody else. So my answer is that it's a hard problem, but one I left out on the grounds that I was trying to talk specifically about what I saw as problems for libertarians within the context of libertarian ideas. My view of the debate over abortion is that, among libertarians, each side has succeeded in convincing itself that libertarianism clearly supports their position on the issue and no one has done at all a good job of convincing anybody else.

One small solution to your first problem is to have a sliding scale, pay back on theft. Let's say the statistics are, out of ten thefts only one gets reported, the guy that gets reported and convicted pays ten times the rest. If that goes up the price goes up.

That is certainly an interesting idea. There are a couple of difficulties with it.

The idea, for those people who couldn't hear it clearly, was that the appropriate way of deciding on the punishment for a crime was that if you catch 10% of the people that steal television sets that the penalty then consists of ten times the value of a television set.

I would point out two things. One is that some people might argue that you are punishing the guy you caught for the offenses of the guys you didn't catch and that's unfair. Second, how many people you catch is not a thing given from above, it's a function of how much money you are willing to spend trying to catch them. Suppose you deliberately decide on the following policy: In order to save money on police we will go to very little trouble to catch criminals. The result is that we will only catch one criminal in ten thousand, and when we catch him we will boil him in oil, that being a penalty equivalent to ten thousand times the value of a television set. That seems rather unsatisfactory. And yet, if you don't say that, how do you decide how much you do or don't have to spend on catching criminals, which will itself determine the probabilities which will determine the level of the punishment?

I don't want to imply that your suggestion is not in the right direction but only that it is a more complicated problem than that answer suggests. It is one of the things that I may be talking about it in Denver

Regarding your reference to national defense as a public good, couldn't and wouldn't people voluntarily pool their money for a cause they support such as national defense?

The problem with that, the general public good problem, is that if something is worth a thousand dollars to me and if spending a thousand dollars means I get it and not spending a thousand dollars means I don't, then I will spend the thousand dollars. But suppose there is something that is worth a thousand dollars to me, but whether or not I spend a thousand dollars has only a very tiny effect on whether I get it — as is the case with national defense. If we are trying to raise a budget of ten billion, my thousand is a drop in the bucket. If they get enough to pay for the missiles I am going to be defended whether or not I spend money on it, if they don't I'm throwing my money away. So why bother?

Let me let me repeat the point in a different form. There are surely at least a hundred thousand people in the US who are libertarians, probably more than that, but say a hundred thousand. I would guess that, on average, those people believe that having a free society for themselves and their children is worth quite a lot more than a thousand dollars. Your argument seems to imply that Ed Clark could raise a hundred million dollars for his campaign. If there are a hundred thousand people each of whom values freedom at more than a thousand dollars, that you ought to be able to get a hundred million or so for some program which has a reasonable probability of bringing freedom.

I'm oversimplifying, but you can see the logic of the argument, which is that it's one thing to go to somebody with a car and say "You value this car. If you give me the money you get the car." It's a very different thing to go to him and say "Here is something you want. Whether you get it has almost nothing to do with what you do. Why don't you give me some money for it?" That's the problem with public goods in general, why they are a hard problem

Well David, I found your talk stimulating. I was going to ask a question that was pretty much the same as the lady just asked. I think you create a false problem with your talking about provision of defense as a public good

Suppose we have an anarchist society and you're saying suppose Russia poses a real threat to the people in the United States — not to the government because there is no government. Okay you say well we look around and we say "gee, this is a real problem and I don't want Russia ruling me so I am going to create a government here and we are going to tax everybody and that way we are going to pay for adequate defense." Well I think that betrays little understanding of state dynamics. First of all, if you had enough consensus in your society to create an IRS you wouldn't need to create an IRS to get the money anyway. I mean I really don't think you would. And second of all, I don't understand why you prefer being ruled by ... I mean okay, it's obvious you have a preference to be ruled by one set of rulers as opposed to another set of rulers, but I don't know what gives you that confidence that one set of rulers will ever turn out to be better than another.

We have a bit of evidence. I run into, from time to time, people who say "well, after all, one government's just like another government. So I want to ask you a very simple question. Suppose I was somehow able to believably offer you the following gamble. We flip a coin. If it turns up heads you spend the rest of your life in Russia as it now is as an average Russian. If it turns up tails you spend the rest of your life in the kind of libertarian America you'd like to live in. Alternatively, we don't flip a coin and you can go ahead with the way things are now. Would you take the coin flip?

Would I take the coin flip?

On those odds.

No, I bet that that I could do my best to change it

But you would not accept that flip? If you are saying that you wouldn't accept the coin flip

No I wouldn't

then you have just told me that the difference between America as it is now and the Soviet Union is greater than the difference between America as it is now and a free society

Right, but you are putting me in the position of being a hypothetical Russian so I'm already different.

Right now, you're standing here, and I say "I offer you the following gamble. I'm a magician somehow and I can make you believe it's real.

Either you live your life as you're now going to live it or we flip a coin and if it comes up heads you are instantly transported to the Soviet Union — we will let you speak Russian and things like that. If it comes up tails we have a libertarian revolution and you live the rest of your life in the kind of libertarian society you want. Would you accept that gamble?

what I told you before is I wouldn't and you said that betrays something but what I'm trying to tell you is that it's not so much what Soviet leaders want to do. In other words I have no faith in Reagan's intentions and what he wants to do because I believe he wants to get away with as much as he can get away with. What I put my faith in is the American people and how much they're willing to put up with. Now they're willing to put up with far too much according to my taste but however it seems that the Soviet people are willing to put up with a little more and that's the crucial difference not the leadership.

So the assertion you are making is that if the Soviet leadership conquered the US, the US would stay about as free as it was before the Soviet government conquered us.

We have got a little bit of experimental evidence on this proposition. Would you say for example that East Germany and West Germany — I presume that East Germans and West Germans have more or less identical willingness to put up with things, they were one country forty years ago — would you say that East Germany and West Germany are about equally free at the moment?

David no I wouldn't but I think I should be fair and let other people speak and we can talk about this later okay.

We can. But I would suggest that East Germany and West Germany are very strong evidence that the thesis you want to offer, which is that how much people get oppressed only depends on what they are willing to put up with, is false.

That is a rather interesting talk and you pretend all these problems and you came to the end with this what do we do, what happens now what we got all these problems to worry about, and you say ignore them. Now how is ignoring them a solution? How's it ignoring a problem a solution and do you think these problems will be solved and how with all these problems do you accept the libertarian party?

You remind me of the story about the preacher who preached on the text "The fool saith in his heart there is no God." At the end of the sermon one of his parishioners came up to him and said "You know, it is a pretty good sermon preacher, but I still think there might be a god."

In suggesting ways of avoiding thinking about problems I did not mean to recommend that that was what you should do. I meant to suggest that was what you shouldn't do and what people very frequently do do. I am certainly not suggesting that you should fail to think about such problems.

The answer to how I can still be a libertarian is that I know of no set of ideas or conclusions that I like more. I believe the world is a complicated place, that there aren't always simple straightforward easy answers to things. The libertarian answers to most questions appeal to me more than do those of any alternative ideology I have come across. I think you have to live with the fact that you may not have a simple straightforward axiomatic system, that you may make some mistakes, and that's not a reason for not being libertarian. But it is a reason for not being a libertarian who thinks that all non-libertarians are knaves or fools. That's the attitude I was attempting to attack.

I am curious as to why you didn't address the question of adopting property rights for new resources that previously had no value. I'm thinking in terms of mining the ocean floor and exploration of space.

That's an interesting question, and I guess the only reason was that I had enough other things to talk about. I will give you one form of it that people have thought about a little bit. I think most libertarians would agree that it is desirable to convert the airwaves into private property. There is a perfectly simple way of doing that practically — have the Government auction them off and whoever buys them owns them. The obvious objection to that, from a moral standpoint, is that if the government didn't own them in the first place how can it sell them? After I bought part of the airwaves in the Government auction, when you start broadcasting on my frequency what right do I have to stop you? That is a case of a new kind of property that came into existence in the last century where it is by no means clear how you should establish who is the legitimate owner. And yet it's clear that somebody ought to own it. From an economic standpoint it would be very desirable to have the airwaves be property.

I see that are few enough of us that this business of you standing over there and my standing over here and our yelling at each other is getting silly, so everybody who wants to talk come over and we'll forget about the microphone.