



REVIEW ESSAY ON JOHN TOMASI'S: "FREE MARKET FAIRNESS"

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Abstract

Free market fairness is a book written by a brilliant philosopher from Brown University, one of the most prestigious institution of higher learning on the planet. He sets for himself a task worthy of his own and his school's reputation: setting up a new philosophy, called "market democracy." It is to be an amalgam of classical liberalism, which he deems to be of the right, and what he characterizes as "high liberalism," or social justice, or progressivism, or Rawlsianism which is properly categorized as on the left. Does he succeed in this endeavor? I cannot believe that he does. But, he makes a valiant effort in this direction, which is replete with numerous insights in political economic philosophy. However, his efforts are also marred by what I am unhappy to report as many fallacies, some even very basic. This is a good read, although it will be infuriating to Rothbardian (purist) libertarians, such as the present author.

Keywords: *Free market fairness, libertarians, libertarianism, liberalism, economics*

1 INTRODUCTION

This is an interesting book. It is an important one. If the criterion for success in a volume is biting off more than you can chew; scaling Mount Olympus,¹ valiantly trying to square the circle; then

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this publication must be considered a roaring success. But if the litmus test for political philosophical tracts is to attain the goal set out by its author, then it is a dismal failure.

What task does Tomasi set for himself? It is no less than reconciling the irreconcilable. He wishes to promote common cause between libertarianism and leftist, Rawlsian, socialist, liberalism.² This

¹ According to Aristophanes (1953), the penalty for trying to do so is being split in half.

² It is difficult to know how to describe critics of free market capitalism, as they keep changing the appellations by which they seek to be known. Libertarians, too, employ a wide variety of nomenclature: free enterprise, anarcho-capitalism, laissez faire, classical liberal, libertarian, etc. The difference is that these descriptions are used, merely,

as synonyms. In contrast, left liberals keep adding and dropping names as they wear out old ones due to public and widespread revulsion. For example, these people at the time of this writing (2016) are in the process of jettisoning "liberal" (which they shamelessly stole from classical liberals) and taking up "progressives." If this process continues, they will soon enough begin departing from that one and taking up yet different nomenclature. Here are some suggestions for their next iteration: social justicians, goodie goodies, egalitarians,

simply cannot be done. For the essence of libertarianism³ is that one may not initiate violence against innocent people, or trespass against their rightfully owned property. In very sharp contrast, the defining characteristic of the philosophy of our friends on the left is that it is entirely justified to compel persons to do what they would not otherwise do, provided that the goal⁴ is to promote egalitarianism, or social justice, or political correctness or combating racism or sexism or prejudice or bigotry or a whole host of other non-invasive behavior, or whatever is their cause du jour such as unionism or environmentalism.⁵

Is this book, then, a total failure? No. For one thing, there is always something admirable about tilting at windmills. And then too is it instructive to witness a gifted scholar twisting and turning, striving to do the impossible. Another benefit of *Free Market Fairness* is the numerous insights Tomasi offers regarding two of the three ends of the political spectrum.⁶ It is just too bad he never comes to the realization that they are incompatible.

According to Tyler Cowen, this is “one of the best philosophical treatments of libertarian thought, ever.”⁷ I was at first tempted to rate this book in the very opposite manner, substituting my “worst” for Cowen’s “best.” This would have rendered my version of Cowen’s statement as: this is “one of

the worst philosophical treatments of libertarian thought, ever.” I think my version is more accurate than that of Cowen, but, still, it would be a bit too harsh. There are, indeed, worse treatments of libertarianism than this one,⁸ but Tomasi (2012) is no better than it should have been, and, certainly, not a very good analysis of the libertarian philosophy, Cowen to the contrary notwithstanding.

Why so negative? First of all, Tomasi⁹ takes, of all people, Hayek, gulp, as his main exemplar of free enterprise. In my view, Hayek barely passes muster as a libertarian. If he does so at all, it is barely by the skin of his teeth.¹⁰ Here is the way I see the ball players in this little game. The essence of libertarianism is its non-aggression principle (NAP), coupled with adherence to a private property rights system based on homesteading.¹¹ This logically implies that anarcho-capitalism is the perspective most compatible with libertarianism.¹² Give this viewpoint an “A” in liberty.¹³ Second are the minarchists, or minimal government libertarians, who claim that the sole function of the state is to promote the NAP, by protecting person and rightfully owned property from violence or the threat thereof. In this view, the only legitimate institutions to this end are armies, police and courts.¹⁴ Give them a grade of “B.” In third place

political correctarians, distributors of other people’s money, smarmists, smaritarians. In contrast, libertarians do not renounce any of the self-descriptions they employ. They are all continuously embraced, and employed simultaneously.

³ See on this Anderson and Hill, 1979; Benson, 1989, 1990; Block, 2007, 2010, 2011A; Casey, 2010; DiLorenzo, 2010; Gregory, 2011; Guillory & Tinsley, 2009; Hasnas, 1995; Heinrich, 2010; Higgs, 2009, 2012; Hoppe, 2008, 2011B; Huebert, 2010; King, 2010; Kinsella, 2009A, 2009C; Long, 2004; McConkey, 2013; Molyneux, 2008; Murphy, 2005; Paul, undated; Rockwell, 2013; Rothbard, 1973, 1975, 1977B, 1998; Spooner, 1870; Stringham, 2007; Tannehill, 1984; Tinsley, 1998-1999; Wenzel, 2013; Woods, 2014.

⁴ Not necessarily the end result

⁵ The latest one appears to be fighting micro-aggression. See on this Sowell (2015).

⁶ This is not a typographical error. Yes, most commentators see the political spectrum in a single dimension between left and right. But this is mistaken, see below.

⁷ This statement appears as a blurb on the front cover of Tomasi, 2012.

⁸ Please do not ask me to mention any.

⁹ Unless otherwise specified, all mentions of this author will refer to this one book of his, only.

¹⁰ See on this Barnett and Block, 2006; Block, 1996, 1999A; Block and Garschina, 1996; Friedman and Block, 2006; Hamowy, 1961; Rothbard, 1998 (pp. 219-229), 2014.

¹¹ Block, 1990, 2002A, 2002B; Block and Edelstein, 2012; Block and Yeatts, 1999-2000; Block vs Epstein, 2005; Bylund, 2005, 2012; Grotius, 1625; Hoppe, 1993, 2011A; Kinsella, 2003, 2006, 2009B; Locke, 1948; Paul, 1987; Pufendorf, 1673; Rothbard, 1973, 32; Rozeff, 2005; Watner, 1982

¹² Why? This is because the state necessarily violates the NAP by taxing people who have not agreed to be mulcted in this manner (Spooner, 1870). As well, the government necessarily demands a monopoly of initiatory violence within “its” geographical area and initiates violence toward this end, also a violation of the NAP.

¹³ The high profile leader of this viewpoint is Murray Rothbard.

¹⁴ The first for defense against foreign enemies, not to export “democracy” or anything else. The second for

are the U.S. constitutionalists, who equate liberty with this document. They are only awarded a "C" since the Constitution grants more powers to government than do the minarchists.¹⁵ In fourth place, lagging the field by a wide margin are those who I categorize, merely, as classical liberals. Most famous of these are Friedrich Hayek, Milton Friedman and Charles Murray. All members of this classification, to be sure, favor free markets, but make so many and serious exceptions to the NAP that they can be counted as libertarians by courtesy only. They deserve no grade higher than a "D."¹⁶ And, yet, it is precisely this group of scholars, particularly Hayek, fastened upon by Tomasi as "libertarians" with the support of Cowen, who really should know better.¹⁷

My second misgiving about this book is an almost unfair one to articulate, since it focusses on Tomasi's motivation for writing it, not on what he actually says. And what, pray tell, is this? He explains as follows: "Some of my best friends are libertarians... However, I am a professional academic working in the shadow of the twentieth century. This means that most of my friends are not libertarians. Most of my professional friends and colleagues, by far, are left liberals.... My simultaneous attraction to libertarian ideas and to left-liberal ones often makes things awkward for me. Thinkers I admire reject each other's core commitments... In this book, I introduce a liberal research program that I call market democracy. Market democracy is a deliberative form of liberalism that is sensitive to the moral insights of libertarianism. Market democracy combines the four ideas I just mentioned: (1) capitalistic economic freedoms as vital aspects of liberty, (2) society as a spontaneous order, (3) just and legitimate political institutions as acceptable to all who make their lives among them, (4) social

protecting innocent people against local criminals, not from victimless crimes. And the third to determine innocence or guilt. The most famous advocates of this system are Ayn Rand and Robert Nozick.

¹⁵ This perspective is most closely associated with Congressman Ron Paul.

¹⁶ For example, they all favor robbing from the rich and giving the stolen wealth to the poor.

¹⁷ I full well realize that the function of a blurb is to say something nice about the author's book, but, surely, this could have been done in a more accurate and less fraudulent manner?

justice as the ultimate standard of political evaluation. Here is a simple way to begin thinking about this view: market democracy affirms capitalistic economic liberties as first-order requirements of social justice" (pp. xi, xiii, xiv, xv).¹⁸ In other words, this author is trying to combine the uncombinable. He is attempting to please two different sets of friends who are bitter philosophical enemies of each other. Tomasi is in effect standing on two different horses, one foot on each, and they are diverging. Yes, he can ride them both, and he does as good a job of this as can be done. But, to do so, he takes the least libertarian as representative of libertarianism, and seeks to amalgamate them, mainly Hayek, with the left liberals. Tomasi's success, such as it is, stems to a great degree from the fact that Hayek barely deserves this honorific, libertarianism, if he does at all.¹⁹

How does Tomasi introduce his own perspective, this amalgamation of leftism and libertarianism? He does so mainly by attempting to use free enterprise as a means of promoting forced egalitarianism. For a magnificent critique of a variant of this idea, see Rothbard (1961). Continues our author (xxi): "Market democracy encourages scholars to seek ... to combine these 'un-combinables' – private economic freedom and social justice – too." Lots of luck says this reviewer.

In section II of this review we discuss some of the many errors committed by this author. We conclude in section III.

2 ERRORS

With this introduction, let us now proceed to comment on Tomasi's struggles to find common ground between socialism (communism) and

¹⁸ "These four points are a good summary of his entire treatment of his "market democracy."

¹⁹ States Rothbard (1982, p. 227): "It is no wonder that ... Hayek comes to endorse a long list of government actions clearly invasive of the rights and liberties of the individual citizen." But these interferences threaten to place Hayek in the camp of the democratic socialists, not the libertarians. If so, then, Tomasi's attempt to reconcile Hayekian "libertarianism" with democratic socialism would appear to be not that much of an accomplishment.

libertarianism.²⁰ Unhappily, our author starts off on the wrong foot. He asserts (xi): "I use the term *libertarianism* here in the popular colloquial sense, meaning that cluster of political views associated with the 'right wing' of liberal democratic politics." It cannot be denied that most scholars associate libertarianism with the right side of the political spectrum; so, Tomasi is in if not good company, at least he has numerous supporters. However, nothing could be further from the truth. A more accurate depiction of political economic reality is that it resembles not a straight line but a three legged stool, with each of the three, left, right and libertarian, equidistant from the other two; from *both* of them. The left might be slightly more congruent with libertarianism on personal liberties, and the right on economic freedom. Both are despicable insofar as foreign policy is concerned, although there are of course exceptions in all three realms.

Libertarians are not on the right, nor of the right. We all saw how the conservatives booed and hissed at Ron Paul during the Republican debate of 2012 in South Carolina. The left right spectrum is as misleading as anything in all of political economy. A simple example will dispose of it. Hitler is on the far right, Stalin is on the far left. Are they polar opposites? Of course not. At most, there is dime's worth of difference between them. On the other hand, Murray Rothbard and Hitler are both located on the far right by those ignorant of political theory, and these two could not represent more disparate viewpoints. No. The correct way to map political economy is in terms of a triangle, an equilateral one. The conservatives are slightly more libertarian oriented on economic issues than are the left "progressives" and the opposite obtains with regard to personal liberties and

victimless crimes. Each is worse than the other on foreign policy. With but a few honorable exceptions²¹ they are all imperialist war-mongers. Only a philosophical ignoramus would place libertarians on the right.²²

Our author is quite correct to emphasize the connection between libertarianism and property rights. He states (xi): "For me, the main attraction of this broad libertarian tradition is its emphasis on property rights. All liberals value the civil and political rights of individuals: the right to a fair trial, freedom of expression, political participation, personal autonomy, and so on."

These other aspects are unobjectionable. But "political participation" is entirely a different matter. Under anarcho-capitalism, the purest form of libertarianism, there would be no political process at all. At present, when we are very far removed from such a happy state of affairs, there is a furious debate²³ amongst libertarians in good standing as to whether participation in such a process is even compatible with the essence of this philosophy.

Tomasi (xiv) is surely in error when he asserts "Anarcho-capitalists such as Murray Rothbard argue that state institutions are justified only if they gain the literal consent of every person subject to them." No, no, no. For, if an institution gained "the literal consent of every person subject to them" it would not be a state at all. Rather, it would be an ordinary hum drum aspect of the free market. Under laissez faire capitalism and only laissez faire capitalism, this is literally true of all rentals, purchases, sales, loans, barter, etc. It would appear that Tomasi has indeed read some of Rothbard, but not that he fully understands him.

²⁰ Tomasi's doomed quest is eerily familiar to, and can be seen as the moral and intellectual equivalent of, attempts to promote "fusion" between libertarians and right wing conservatives, e.g., fascists. States Rothbard (1981) on this attempt: "At the heart of the dispute between the traditionalists and the libertarians is the question of freedom and virtue: Should virtuous action (however we define it) be compelled, or should it be left up to the free and voluntary choice of the individual? Here only two answers are possible; any fusionist attempt to find a Third Way, a synthesis of the two, would simply be impossible and violate the law of the excluded middle." Precisely. It is my contention that Rothbard's analysis applies equally well to Tomasi's

attempt at a similar type of "fusionism." On the other hand, Tomasi (xix) explicitly rejects "fusionism" but seeks a "genuine hybrid."

²¹ Noam Chomsky, Bernie Sanders, Robert Taft, Donald Trump

²² The Nolan chart (<https://www.theadvocates.org/quiz/quiz.php>) is a vast improvement over the left right spectrum. Its lacunae is that it ignore foreign policy.

²³ Pro: Block, 2012; Block and Fryzek, 2015; Rothbard, 1972; con: McElroy, 2013; Watner, 2000

One of the greatest flaws in Tomasi's attempt to combine the uncombinable, or reconcile the irreconcilable, is that he is very short on specifics. "The devil is in the details" and this author provides precious few of them. For example, he discusses voluntary slavery on several occasions (xvi, 48, 50, 284, n65), and yet the reader is left unclear as to whether or not his "market democracy" supports such contracts. A similar situation pertains to the "transfer of vital bodily organs" (xvi). Enquiring minds wish to know if free enterprise would be allowed to prevail, e.g., allowing a free market in this realm by "market democracy" but are uninformed. Our author mentions (197) "Medicare, Medicaid and Social Security" but it is far from clear whether "market democracy" would allow or prohibit such socialistic ventures.

On the other hand, we are clearly told (xvii) "... market democracy does not seek to please everyone in the free market tradition." Well and good. But how then can this be reconciled with libertarianism?

Tomasi's favorite libertarian is clearly Nozick (46-47): "Before Rawls, the best defenses of left liberalism rested either on a precarious utilitarianism or a jumble of intuitions. Before Nozick, the advocates of market society were in a similar conundrum. While certainly not the first libertarian, Nozick offered a philosophical clarification of earlier expressions of that view. According to Samuel Fleischacker: 'Nozick is to the libertarians that preceded him somewhat as Rawls is to the advocates of distributive justice who preceded him: the first person to provide a clear articulation of the position at stake and its implications.'"

This unwarranted elevation of Nozick makes quite a bit of sense from Tomasi's point of view. If you want to reconcile libertarianism and leftism, you might as well choose an advocate of the former who compromises with the philosophy he

supposedly represents. Better to select someone like that²⁴ than an uncompromising libertarian such as Rothbard. And, better to ignore the utter evisceration Nozick (1974) has suffered at the hands of the latter and several of his followers (Barnett, 1977; Block, 2002D; Childs, 1977; Evers, 1977; Rothbard, 1977A; Sanders, 1977). Nor is it the case that Tomasi is totally ignorant of "Mr. Libertarian" Murray Rothbard.²⁵ On the very same page (47) he avers: "Compared to classical liberalism, libertarianism has an axiomatic or deductive character. According to Murray Rothbard, 'The right of self-ownership and the right to homestead establish the complete set of principles of the libertarian system. The entire libertarian doctrine then becomes a spinning out and application of all the implications of this central doctrine.' For Nozick and Rothbard, self-ownership trips the first domino and makes the rest run." Yes, indeed, libertarianism is a deductive system. But "Nozick and Rothbard?" It should be the other way around: "Rothbard and Nozick."²⁶

Now that I have registered my two main criticisms of this book, I mention a whole host of other disagreements. According to Tomasi (p. xii) "There seems to be a special connection between libertarianism and the aspirations of ordinary Americans." If so, why has the Libertarian Party never won an election? Why do they typically garner only 1% of the vote? Why as Ron Paul treated so shabbily by all and sundry?

And again: "Anarcho-capitalists such as Murray Rothbard argue that state institutions are justified only if they gain the literal consent of every person subject to them" (p. xiv). Rothbard never said or wrote any such thing. Rather, his view is almost the exact opposite of what Tomasi attributes to him. The Rothbard perspective²⁷ is that the state is *not* justified because it has *not* obtained unanimous consent. Indeed, if a government-like institution ever garnered that, it would be the literal

²⁴ On the other hand, Nozick was a far more consistent libertarian than Hayek, at least while the former still held those views. He gave them up in Nozick (1981)

²⁵ Nozick has never been called "Mr. Libertarian." He was too much of a dilettante for that. In contrast if you google "Mr. Libertarian" you will get this (https://www.google.com/?gws_rd=ssl#q=%E2%80%99CMr.+Libertarian%E2%80%9D+) which mentions Rothbard in this context scores of times.

²⁶ It matters not at all that Tomasi (47) is entirely correct when he says "Nozick's theory, by contrast, is presented as a logical deduction from a set of natural property rights... these rights are grounded in a moral ideal of persons as self-owners."

²⁷ In his view "On page 162 of *The Ethics of Liberty*, Rothbard writes: "Taxation is theft, purely and simply, even though it is theft on a grand and colossal scale which no acknowledged criminals could hope to match."

opposite of the state; it would be a free market defense agency.

Once more: "In Rawls elegant phrase, justice requires that citizens 'share on another's fate'" (p. xiv). Tomasi looks upon with favor Rawls' notion that "citizens" share one another's fate." But the author of the book presently under discussion does not ask if this is done on a voluntary or coercive basis. If the former, this goal is certainly compatible with libertarianism; if not, then not. For Rawls and Tomasi, evidently, it matters not one whit whether or not this sharing is coerced or not. For the libertarian, in sharp contrast, this makes all the difference in the world. In this latter philosophy, "sharing" is all fine and dandy if people agree to it. If it is compelled, the very opposite holds true.

Further, contrary to Tomasi, social justice (e.g. a combination of coercive socialism and economic fascism) is the veritable polar opposite of laissez faire capitalism. They are oil and water; yes and no; freedom and slavery. He seeks to place them both in one package, courtesy of this very inventive author. He also equates "market democracy" with "a robustly substantive conception of equality as a requirement of liberal justice" (p. xv). But markets are not "democratic" in the sense that majority rules. Rather, free enterprise consists of nothing but *unanimous* agreements. In each and every market transaction - buying, selling, lending, borrowing, renting, bartering - there are two (or more) parties involved, *all* of whom agree to the transaction. Otherwise it simply would not take place. What either markets, defined in this way, or democracy, interpreted as majority rule, have to do with equality is not specified. Indeed, it cannot be, since neither of the first two are in any way associated with the latter. It would appear that Tomasi is trying to smuggle in the horrors that accompany market democracy, so as to uphold his desiderata, income or wealth equality. It is up to those of us who treasure accurate language to not allow him to get away with this obfuscation.

It the view of Tomasi, "Property rights, while basic, are not moral absolutes. The right to free speech does not empower theater-goers to shout 'Fire!'"

(p xvii). This is problematic. For private property rights most certainly do allow the (false) shouting of "Fire!" in the proverbial crowded theater. Suppose the movie house is run by and for sado-masochists whose greatest thrill in life is not to whip each other but to yell this word at the top of their lungs, and then to be crushed by hundreds of people at the exits.²⁸ Do these consenting adults not have the right to engage in such sport? Why is this not allowed in "mainstream" theaters? This is because such acts would be a violation of the *private property rights* of the owner. The latter makes an implicit (sometimes explicit) contract with his customers that such behavior will not be allowed. (Block, 1976)

We must also take issue with this statement of our author's: "For example, if a society *is* a spontaneous order, then it is sometimes claimed that whatever rules, norms, and distributions result from spontaneous processes are justified by that very fact. There is no external standard by which the products of spontaneous forces might be evaluated" (p. xvii). What about suttee? This practice of tossing unwilling widows on their dead husbands' funeral pyres presumably resulted in India from a "spontaneous process." But was it just? The fact that we can even ask such a question without automatically being ruled irrational speaks volumes about the difficulties of his stance. Not even "market democrats" of the Tomasi persuasion, presumably, would agree with any such evaluation. Suttee is despicable, period, no matter how "spontaneous" its origins.

Tomasi (p. xviii) prefers that "workplaces be democratically controlled." Suppose I start a business with the savings I have put away from my previously hard-earned wages. I then hire ten employees. Our author's contention implies that six of my workers can overrule my entrepreneurial decisions; in effect, if they want to do so, they could steal all the capital I have placed in this business firm. Such an eventuality may be compatible with Tomasi's version of "social justice" but it hardly comports with plain old (libertarian) justice. This is shameful. Here, our author is in effect if not by intention advocating

²⁸ Don't knock it, you privileged, bigoted, one percenter, until you have tried it!

theft of the honestly earned money of the owner of the business.

What are we to make of this assertion of the Brown University Professor's?

"Liberalism has long been divided between a 'free market' tradition and a 'democratic' one: the former based on a concern for private economic liberty, the latter on a concern for social justice. Market democracy is erected atop footings sunk deep in each tradition. Because it is built up from those footings, it may seem market democracy aims to bridge – and thereby close – that historical divide. I do not think of market democracy this way. It is not a compromise, or middle place, between the left-liberal tradition and the libertarian one. It is not animated by an ambition to bring together or somehow reconcile these two traditions – for example, by somehow dissolving the differences between them. Nor, certainly, is it an attempt to co-opt the ideals of one tradition to advance the agenda of the other. Instead, market democracy is a genuine hybrid. It results from a sincere attempt to combine appealing ideas from two great liberal traditions. Market democracy is a view that stands on its own and that, I hope, will prove attractive in its own right. Its attractions endure whether or not it induces any partisan to 'switch sides'" (p. xix).

What I make of it is that it is not entirely accurate. Au contraire, this is precisely what our author is attempting: to combine the uncombineable. Whether anyone is thereby converted to a different philosophical position is beside the point. The clear fact is that Tomasi attempts to combine the weakest most unprincipled version of libertarianism (the Hayekian) with the most pragmatic version of "progressivism" he can unearth. He is free to call this philosophical monstrosity whatever he wants, an "elephant" if he so desires. But this will not change the underlying reality in the slightest.²⁹ If this book is not an attempt to "combine the uncombinable" then nothing is.

The author of *Free Market Fairness* inverts the prevailing definitions of "thick" and "thin"

libertarianism. Traditionally, the latter refers to the view that the NAP combined with private property rights are the be all and end all of libertarianism. There is no more, nothing else, nada, to this philosophy than the NAP and logical implications thereof. In contrast, thick libertarianism goes further. Sometimes it even jettisons the NAP (Zwolinski, 2013A, 2013B).³⁰ But it always adds numerous requirements to it. The left wing version thereof mandates opposition to hierarchy, to bossism, to racial and sexual discrimination. The right wing thicksters almost render discrimination against such protected groups a requirement. However, in Tomasi's rendition, this is all turned around. For him, thick libertarianism takes on a the principled, narrow conception, whereas the thin version becomes a more compromised position.

Tomasi starts off his chapter 1 on a false note. He states (p.1):

"Liberalism has a complicated history. If asked to draw a quick sketch, however, most contemporary theorists would find the main lines of liberal thought easy enough to depict. Liberalism passed through two great, evolutionary stages. There was an early 'classical' stage that emphasized private property. It claimed that people are respected as equals if the law treats them all the same, regardless of material inequalities that might emerge between them. The classical view was eventually displaced by modern, 'high' liberalism. As the masterworks of the High Renaissance represent the culmination of a creative movement begun by early Renaissance artists, so high liberals see their political view as the fulfillment of a normative ideal first discussed, but only partially understood, by classical liberal thinkers: the ideal of political equality. Thus while classical liberalism was founded on a formal conception of equality, high liberalism develops the idea of equality into a substantive moral idea."

What is the fallacy here? It is that left liberals stole the word "liberal" from the classical liberals and made it their own. This act of blatant theft is totally ignored in his account. Moreover, Professor Tomasi sees this bit of philosophical hijacking as a "moral improvement." I interpret this in the very

²⁹ In contrast, for a true, principled, hybrid, see evictionism (Block, 2014) and immigration (Block, 2016).

³⁰ For a splendid refutation of Zwolinski on the NAP, see Gordon, 2013.

opposite manner. Meanwhile, the left liberals have run into the ground the very nomenclature they had pirated, so much so that they have been forced, to jettison it and embrace something completely different: "progressivism." One wonders whether or not after they have ruined what they have stolen from libertarians they will offer to return it back to us. Not bloody likely. Instead, they seem intent upon robbing from us yet more verbiage: the word "libertarian" itself.³¹

Our Ivy League professor asserts that "The invention of money amplifies the degree of inequality while increasing the productivity of labor" (p. 5). Certainly, the latter part of this claim is correct. It needs no explanation since we are all familiar with the fact that money increases the scope for specialization and the division of labor, and the latter can have no other effect on productivity than to increase it. But the former assertion is in need of buttressing, whether by citation or explanation, which is not vouchsafed to us, his readers. Suppose that the introduction of money raises everyone's productivity ten-fold. Will this increase, decrease or be irrelevant to the relative inequality of wealth and income?³² There seems to be no overwhelming reason to expect any of these three options, vis a vis either of the others.

In the view of Tomasi: "Smith saw productivity as a social good. It was this idea that led Smith to advocate the carefully bounded social welfare programs that have so long been part of the classical liberal tradition. Tax-supported schooling, especially for children of the laboring poor, was the most important of these. Smith advocated a variety of other programs—taxes on house rents and road taxes on luxury vehicles—designed, in part, to redistribute wealth from the rich to the poor" (p9). Naturally, our Ivey League professor sees these rights violations (stealing from the rich and giving their hard-earned money to the poor) as part and parcel of classical liberalism. Permit me to offer an alternative explanation: they are a retreat from, a violation of,

the anti-mercantilist pro private property rights tradition of classical liberalism. That is, to the extent that classical liberalism upholds the sanctity of private property rights, and, therefore, opposition to theft, even when contrived by government based on majority rule, this philosophy will reject coerced redistribution.

According to our Brown University professor "Most leaders in the American republic favored public support of education. The main debates concerned whether that public support should occur at the national or state level" (p. 14). True enough. But his support for this state of affairs, that is, ignoring the case against government involvement in education, is non-existent. Tomasi continues: "The Constitution, through its doctrine of enumerated powers, grants substantial power to the federal government in other economic areas as well: the power to ... regulate interstate commerce for certain purposes. Clearly, the framers did not regard property rights as moral absolutes" (p. 14). Again, true enough. No one says that the founders regarded property as a moral absolute, but, followers of John Locke as they were, this is much more nearly true than the very opposite viewpoint our author attributes to them. As for interstate commerce, the "certain purposes" are to ensure the colonies did not set up tariffs and quotas against each other's goods and services, not the regulations of business later imposed on a relatively free economy by a series of fascist³³ Supreme Courts.

Tomasi avers "Hayek's commitment to formal equality leads him to reject all forms of 'social legislation' in pursuit of social or distributive justice." (p. 19). This is problematic. This writer contradicts himself on the very next page of his own book (p. 20) when he says: "Hayek thinks taxes may be imposed for the public support of education. Similarly, he argues for a social safety net for the unemployed—"an assured minimum income, a floor below which nobody need descend"—as well as public support for orphans and a range of other social service programs for

³¹ Chomsky, <https://www.youtube.com/watch?v=gbL3zRgZUBo>; <https://www.youtube.com/watch?v=NajQTN9qhXg>; accessed, 5/9/16

³² At this point in his book Tomasi footnotes primogeniture, but this is not related to the issue of money.

³³ In the economic sense of heavy regulations situated under a veneer of private property rights.

those who fall into extreme want.” Which is it? Is it Tomasi’s view that Hayek rejects or supports “social justice” of this sort? It is difficult to hold both positions.

Consider this statement of Tomasi’s: “Mill is best thought of as a mixed figure, one grounded in classical liberal principles who began a long slow turn of liberalism in a more collectivist economic direction” (p. 30). Let us focus on that one word “collectivist.” This is a misnomer. Collectivism is perfectly compatible with laissez faire capitalism, contrary to this author’s implication to the contrary, to the effect that only left-liberal progressives could embrace it. The key is to enquire whether this “collectivism” is voluntary or not. If it is, no libertarian need has any objection to it whatsoever. Indeed, as far as libertarianism is concerned, this philosophy is monumentally indifferent between collectivism and individualism. The former can refer to team sports, orchestras, firms with numerous owners (e.g., partnerships, corporations) as well as to the nunnery, convent, kibbutz, commune, collective, syndic, cooperative, monastery, abbey, priory, friary, religious community; even to the average family. The latter denotes individual sports, solo instrumentalists, one-man business firms, hermits and people who are anti-social. *Both* types are fully compatible with the NAP of libertarianism.

I have said above that the left liberals stole the latter of these two words from the “classical liberals.” Here is Tomasi’s attempt to paper over this linguistic territorial land grab (p. 33):

“The idea of social justice developed against this background. Instead of the classical ideal of free markets and formal legal equality, by the start of the twentieth century a group of new liberals advocated a government with wide economic powers to pursue a more substantive ideal of equality. One reason the idea of “substantive” equality has proven attractive is that it seems to evolve naturally from moral ideas that animated the classical liberal thinkers. Indeed, the same

reasoning that led classical liberals to reject the feudal idea of hierarchical inequality can be used to explain why new liberals affirm the ideal of substantive equality.”

“New liberals” indeed. “New” implies some sort of connection with the old version of whatever it is that is under discussion. But there was nothing “new” here. Rather, something virtually 180 degrees opposite of what went before was substituted in its stead. Before, under the old definition, “liberal” meant at least a vague support for free enterprise, if not enthusiasm for this system. Afterward, it came to mean advocacy of government ownership of scarce resources, income redistribution toward egalitarianism, and heavy regulation of business. Why did not the “new” liberals choose another name, one which more accurately reflected their philosophy and policies? That word would have been “socialism,” government ownership of the means of production or economic fascism, intensive statist regulation of the entire economy. Neither of these was looked upon positively³⁴ at the time, to say the least. So, instead, in a public relations move of pure genius, they latched upon the verbiage of “liberal” which was then highly regarded, and in an inspired act they filled it in with policies the almost exact opposite of what that word previously stood for.³⁵ Tomasi cannot be allowed to get away with this distortion of intellectual history.

Our author chose Nozick as the father of libertarianism, as it were. He avers (pp. 46-47):

“The emergence of libertarianism, especially as defended by Robert Nozick, helped fix the advocates of thick economic liberty and the advocates of social justice into their two irreconcilable camps. Before Rawls, the best defenses of left liberalism rested either on a precarious utilitarianism or a jumble of intuitions. Before Nozick, the advocates of market society were in a similar conundrum. While certainly not the first libertarian, Nozick offered a philosophical clarification of earlier expressions of that view...

³⁴ Thanks to the misbegotten efforts of Bernie Sanders, there has been a renewal of positive interest in socialism. For refutations of this system see Boettke, 2001; DiLorenzo, 2016; Ebeling, 1993; Hayek, 1948; Hoff, 1981; Hoppe, 1989; Mises, 1922, 1977.

³⁵ It was as if the word “checkers” was changed to refer to “chess” or vice versa. More analogous, changing

“true” to refer to “false” or the opposite, or switching meanings of “music” and “silence,” or “noise.” The mystery is how they were allowed to get away with this bit of linguistic fraud.

Nozick's book came to enjoy canonical status within the academy: courses that included units on free market liberalism invariably focused on Nozick."

I readily concede to Tomasi that this might seem correct to an academic philosopher whose first and perhaps only contact with libertarianism was through the intermediation of Nozick. But to say this would be akin to asserting the left liberalism started with someone such as Paul Krugman. Only a scholar with but superficial knowledge of his field would make either of these very fallacious claims. Who, then, in the libertarian firmament, came before Nozick? No list of names could be complete without at least mentioning Murray N. Rothbard (Mr. Libertarian), and also Lysander Spooner, Frederic Bastiat, John Cobden, John Bright and Ludwig von Mises.

Tomasi goes so far as to acquiesce in the notion that libertarianism resembles, of all things, feudalism. At least this author quotes (p. 50) Samuel Freeman³⁶ to this effect, without demur. It should not have to be said that these two are virtually polar opposites. No, wait, perhaps this does need to be said, since a scholar of Tomasi's eminence appears to have fallen for this fallacy. So, let us briefly mention the night and day differences between the two. Feudalism makes virtual slaves of the serfs. There is no parallel, none whatsoever, under the *laissez faire* capitalism of libertarianism.³⁷

Our Brown University professor of philosophy, politics and economic does a reasonably good job of depicting the similarities and differences between what he is pleased to call the classical liberals and the libertarians. However, I demur from his claim that the latter is but a special case of the former. I maintain they are each separate and distinct. But where Tomasi comes to the third segment of groups he sees as "liberal," the "high liberals," I must part company entirely with him. First of all, there is a great chasm between classical liberals and libertarians on the one hand,

and "high" liberals on the other. They do not even belong in the same table (he depicts them on p. 55) at all. Second, I must protest his claim (p. 54) that this third category of his represents a "morally evolved position." How can their goal of "social justice" be characterized as "evolved" when it features stealing money from the rich merely because they are wealthy, even if every penny of theirs was earned honestly?

Next, consider Tomasi's cultural critic. He writes (pp. 64-65): "Even as late as the 1970s, the corporate culture of IBM was based on hierarchy and a clean-shaven, blue-suited suppression of individuality. Just thirty years later, the workplace cultures of high-technology enterprises such as Apple Inc. or high-flying start-ups such as Google are famous for encouraging creativity and innovation." It cannot be denied that Apple, Google and Microsoft too are now more accepting of beards and jeans; dress codes have indeed changed over the years.³⁸ But hierarchy still exists in virtually all successful firms, and there is no reason why it should be thought incompatible with creativity and productivity. Our author certainly offers no defense of any such claim, while sneering at the former business style for no good reason.³⁹

Consider this quote: "...the high liberal objections to libertarianism—that it can provide no principled rationale for the provision of a social safety net, and that it requires the state to enforce contracts that alienate other basic liberties..." (p. 69). What is a social safety net? If it consists of private charity, libertarianism does indeed provide a "principled rationale" for it: this social safety net is compatible with libertarianism since it constitutes a "capitalist act between consenting adults" (Nozick, 1974, p. 163). On the other hand, if it is based on compulsory taxation (stealing from innocent people at the point of a statist gun), then of course libertarianism offers no "principled rationale" for it. Rather, libertarians adamantly oppose all such schemes. As for a state that "enforces contracts" this indeed is a philosophical

rights violations? Given the cultural Marxism that runs rampant on university campuses, this is by no means guaranteed.

³⁹ Well, perhaps, to ingratiate himself with the denizens of the Brown faculty club.

³⁶ For a critique of Freeman, see Block, 2011B.

³⁷ For a further elaboration of this distinction, see Henderson, 1980; Hoppe, 2004; Reisman, 2006; Rothbard, 1998, ch. 10, 2012;

³⁸ Surely, no one on the left would now claim that shirts and ties, and equivalent dress for women, are now

embarrassment for classical liberals and minimal government libertarians ("minarchists"). But this argument does not so much as lay a glove on anarchist libertarians, or anarcho-capitalists, who regard the state as an entirely illicit organization.⁴⁰ Thus, it is not incumbent upon them to "provide a principled rationale" for *anything* the government might undertake.⁴¹

Next consider this fallacious argument supported by Tomasi (pp. 69-70):

"Another way high liberals seek to undermine the importance of property rights is to claim that property is a legal convention. The economic liberty of ownership exists as a product of regulatory definitions, rules, and conventions. Now, the idea that property is a legal convention has been widely accepted by classical liberals at least since Hume. Critics of thick economic liberty, however, add a stinger to this idea. If property is a legal convention, this means that claims to ownership are conceptually posterior to the regulatory rules that define and constrain them. So property rights cannot serve as a basis for limiting those regulatory rules. As Liam Murphy and Thomas Nagel put it: 'Private property is a legal convention, defined in part by looking at the tax system; therefore, the tax system cannot be evaluated by looking at its impact on private property, conceived as something that has independent existence and validity.'

"Against the property-absolutist claims of some libertarians, Murphy and Nagel claim that the system of social rules that potentially impacts on property rights is logically prior to those property rights. Thus 'the logical order of priority between taxes and property rights is the reverse of that assumed by libertarians.'³⁷ Murphy and Nagel treat the 'everyday libertarian' convictions of ordinary citizens as on a par with the answers

such people give to the Birthday Problem: they are baseless, if understandable, confusions. No matter how deep and firmly fixed people's intuitions about the importance of property may be, those intuitions give political philosophers no reason to pause, much less rethink."

How did the all and ever-loving state form in the first place? Were there not people, there, first, before its formation? Of course there were. People created government, not the other way around. But, who owned those people, prior to the creation of the state? Surely, they owned themselves.⁴² How, pray tell, do we arrive at that conclusion? We do so through a process of elimination. There are only several other options. One, no one owns anyone. If so, then, if everyone wishes to be ethical we must all die, since no one would have the right to as much as breathe, let alone feed themselves. If we do not own ourselves, we have no right to do anything with our bodies. The only good result of such an option is that all our problems would end, forthwith, philosophical ones too. A second possibility is that one person or a group of people own everyone else. Say, Jones or the Joneses, or the Aryans, own the rest of humanity. Or whites own blacks, or blacks own whites. This is an improvement over the previous option, since at least the human race will not perish in its entirety. But there never has been put forth and valid philosophical justification for anyone owning anyone else.⁴³ A third option is that we all own $1/n$ of everyone, where n is the population size. Even a superficial examination of this scenario would show it would not work too well. We would have to organize too many committee meetings to decide what to do with ourselves. But even this is too generous to this possibility. For before anyone could even call for a meeting of all seven billion of us, he would have to reach for a telephone, or a computer. But what

⁴⁰ In the view of Rothbard (1973, p. 49): "if you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band, and all of the libertarian attitudes will logically fall into place."

⁴¹ Libertarians do "provide a principled rationale" for the NAP, however. On this see Hoppe, 1988A, 1988B, 1988C, 1988D, 1993, 1995.

⁴² Hobbes (1943) undoubtedly would say that none of them owned themselves in a state of nature. This means, presumably, they had no right to as much as scratch their noses. Happily, this author cannot be

counted as a libertarian. For critiques of Hobbes from a libertarian point of view, see Hoppe, 1999; De Jasay, 1985; Molinari, 1977.

⁴³ At least not against their will. For the case in favor of voluntary slavery, see Anderson, 2007; Block, 1969, 1979, 1988, 1999B, 2001, 2002C, 2003, 2004, 2005A, 2006, 2007A, 2007B, 2009A, 2009B; Frederick, 2014; Kershner, 2003; Lester, 2000; Mosquito, 2014, 2015; Nozick, 1974, pp. 58, 283, 331; Steiner, 1994, pp. 232; Thomson, 1990, pp. 283-84.

would give him the right to do that? After all, he owns only one seven billionth of himself⁴⁴ and thus has no right to bestir himself in any way without a majority of everyone else supporting him. This option is worse than the second, since everyone would be compelled to die, did they adhere to the rule that people may only act with property they own. We conclude that before the existence of the state, we were all self-owners.

Was any government set up unanimously? Of course not.⁴⁵ Therefore, for this reason alone, they are all illicit. For, some were forced, against their will, to join an organization they wanted no part of. This violated their rights of free association.

Before the advent of the state, how did people feed themselves? If they did in a legitimate manner, they absolutely had to avail themselves of land, seed corn, clothing, shelter, etc. If they utilized these goods without owning them, they were acting lawlessly. If they were proceeding according to libertarian law, they were the legitimate owners of these factors of production.

What precedes what? The state, which we have not yet even introduced, or the people who formed this entity? Of course, the latter. Each was a self-owner, over himself, along with land and physical property. They are "logically prior" to taxes and governments. Murphy and Nagel, and Tomasi along with them, are in grave error here.

The author of this book under consideration writes as follows (p. 75): "At base, high liberals are concerned to respect citizens as free and equal self-governing agents – that is, as members of a cooperative venture who nonetheless have their own lives to lead." A "cooperative venture" sounds good. Who, after all, can oppose voluntary cooperation? But, here is the rub. No state in all of recorded history has ever been formed in such a manner. Unless this occurs, the relationship of its citizens to each other can hardly be a "cooperative" one.

Now consider this statement: "If the freedom to choose an occupation is essential to the

development of the moral powers, the freedom to sell, trade, and donate one's labor looks equally essential for the same reasons... Indeed, denied these fuller freedoms of labor, citizens would no longer *be* authors of their own lives." (p. 77). Yes, yes, tell it like it is, brother Tomasi. But how can citizens be authors of their own lives if they are compelled, against their will, to be citizens of the government in the first place? The point is, these considerations lead, logically, to the anarcho-capitalist position. However, this Brown University professor does not follow these premises to their logical conclusion, however eloquently he states them. He is too enmeshed in his attempt to reconcile the weakest form of libertarianism he can find with the views of his colleagues in the university faculty room, to realize the direction in which his views logically lead him. Ditto for this wise and eloquent statement of his (p. 84): "How can they think of themselves as esteemed by their fellow citizens if those citizens call on the coercive force of the law to impede them in deciding for themselves how much (or little) to save for retirement, the minimum wage they may find acceptable for various forms of work, or to dictate the parameters of the medical care that will be available to them?" However, how does he reconcile this valid viewpoint with what he is pleased to call "high liberalism"? He offers us no answer. But on the face of it, these two perspectives are irreconcilable. For his favorite political philosophy presumably includes a highly activist government, that is, in its train, compulsory social security, minimum wage laws and socialized medicine. None of these could possibly be accepted by any libertarian worthy of even a modicum of his salt.

Consider this perspective of Tomasi's "Basic rights and liberties in place, a set of institutions is just only if it works over time to improve the condition of the least well-off citizens. Indeed, to be fully just, those institutions must be affirmed because they are designed to offer greater benefits to the poor than any other alternative set of (rights-protecting) institutions" (p. 87). But

⁴⁴ Of course, he owns one seven billionth of everyone else too.

⁴⁵ The Public Choice School maintains the fiction of virtual unanimity, or theoretical unanimity. But this is nonsense on stilts. For a critique of this attempt to

escape the facts of the case, see Block, 2000; 2005B; Block and DiLorenzo, 2000, 2001; DiLorenzo, 1984, 1987, 1988, 1990, 2002; DiLorenzo and Block, 2001; Mackenzie, Unpublished; Pasour, 1986; Rothbard, 1997, 2011; Stringham, 2005.

suppose the poor, at least some of them, are lazy bums, unwilling to work, to save, to contribute in any way to their fellow citizens. Why should an economic system be judged wanting if the "condition" of derelicts of this sort does not "improve?" Once upon a time the distinction between the deserving and the undeserving poor was considered a valid one. Only the welfare of the former was considered a legitimate concern. Tomasi furnishes us with no reason to support this alteration. Does this Rawlsian claim satisfy that lacuna? "A set of institutional arrangements is just only if, after securing basic rights and liberties, any inequalities that emerge from the activities of citizens turn out to be advantageous even to those who have the smallest bundle of goods" (p. 89). In a word, No. Suppose there were a machine that could transfer IQ points from the productive members of society to dregs of this sort. Would our author voluntarily consent to such a transfer at his own expense? If not, we may well question his adherence to a society that elevates the well-being of the poverty stricken, who are, presumably, deficient in intelligence.

One drawback of Tomasi's treatment of economic justice is the lack of specifics he offers. But with this statement, he clarifies his position: "...according to market democracy, the basic economic liberties of individual citizens, such as their right to amass private property or to enter into economic contracts, may properly be regulated and limited in order to maintain other basic liberties. Economic liberties have a range of applications, and some parts of that range may be more essentially linked to self-authorship than other parts. The assertion that economic liberties of transacting should be given protection as constitutional rights, for example, might still allow the liberal state a role in regulating dangerous chemicals. The affirmation of a right to occupational choice is compatible with a regulatory framework that imposes workplace safety standards" (pp. 90-91).

But this is mere assertion. He offers us no example of the amassment of private property

interfering with "other basic liberties." This might well be true if the amassment took place via crony capitalism, through subsidies and bailouts for those "too big to fail." This would indeed reduce the liberties of those whose tax payments financed this nefarious environment. But suppose the wealth was earned honestly, via the voluntary market place. How could this possibly reduce the liberties of anyone else? Tomasi does not tell us. Nor does he vouchsafe to us any explanation as to why entrepreneurs, private property owners in the free enterprise system, cannot be relied upon to keep us safe from "dangerous chemicals" or to promote "workplace safety standards." Mere assertion such as this will not suffice. Yes, "Smith and Hayek" would indeed support Tomasi in this move in the direction of socialism and economic fascism, but is it too much to ask of an author that he at least recognize, and perhaps even attempt to refute, the powerful libertarian criticisms⁴⁶ launched against "Smith and Hayek"? No. And this goes for "Milton Friedman and Richard Epstein" (p. 91) too.

The difficulty I have with the foregoing is that this author contents himself with describing what is and does not mention in this regard his philosophy of "free market fairness." It is this, it is not that. It accords with these commentators, but not with those. Tomasi rarely, if ever, attempts to *justify* any of his views, let alone succeeds in doing so. This is most disappointing. At least if he had tried, even if he had failed, he would have pushed forward the envelope of political economic philosophy. Yes, "Milton Friedman, F.A. Hayek and Richard Epstein ... say that the liberal state should be given the power to provide a social minimum funded by a system of taxation" pp. 91-93. But Murray (1984) has shown these sorts of welfare programs are responsible for the break-up of the (especially black) family. No. It is actually worse. They have set up conditions such that these families do not form in the first place. And why is this so devastatingly important? It is because lack of family is causally correlated with

⁴⁶ "Dangerous chemicals" placed on others' property constitutes a trespass. See Rothbard (1982) for the libertarian treatment of such rights violations. There is no reason to "promote" workplace safety standards. Rather, the desiderata is the optimal amount of these

compensating differentials. As long as there is no fraud, the market, presumably, will lead us in the direction of supplying just those safety protections as the marginal bargainers wish, at least in equilibrium.

all sorts of debilitations: poverty, criminality, lack of education, unemployment, incarceration, etc.

In the view of Tomasi (p. 93): "The strict libertarian position generates clear lines that many find philosophically satisfying: economic liberties of holding, working, transacting, and using are moral absolutes; the state must enforce any contract that citizens freely devise; taxation to support social service programs is akin to theft." This is almost but not quite fully accurate. Rather the strict libertarian position would see taxes as indistinguishable from theft, not merely "akin" to it. This claim would be rejected by some on the ground that taxes are instead, in effect, the same as club dues. Only, in this case the citizen joins a voluntary organization, call the U.S. club. However, Schumpeter (1942, 198) put paid to any such notion: "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."

Tomasi (p. 91) attempts to claw Friedman and Hayek away from libertarianism and in the direction of his beloved "market democracy." He does so by use of Rawls, of all scholars. Yet, given the very few specifics offered by the author of this book, he need not invent "market democracy." Tomasi, it is fair to say, is already a libertarian of the Friedman, Hayek mold. I challenge Tomasi to distinguish himself from the views of these two classical liberals. There may be a dime's worth of difference between Tomasi's views and those of Friedman and Hayek, but not much more than that. His invention of "market democracy," out of the whole cloth, is thus almost entirely adventitious.

Next consider this statement of Tomasi's (pp. 101-102):

"Consider the libertarian claim that people are self-owners and the liberal state should protect strong rights of private property and contract for that reason. High liberals reject this premise and conclusion. They ask: Who made the libertarians boss? Property rights are complex, socially elaborated concepts. Whatever scheme of property rights the state enforces, the high liberals say, must be acceptable to all persons making their lives within it. The libertarian's preferred

conception of economic liberty may be acceptable to the talented few, but not to the less talented ones against whom it is also to be enforced. High liberals therefore see the libertarian scheme as unjust and illegitimate.

"But the libertarian response to the high liberals follows a similar pattern. High liberals argue that the scope and nature of economic liberty should be determined by asking what framework might be acceptable to politically reasonable citizens. But libertarians such as Murray Rothbard ask, who authorized the high liberals to move away from consent to this hypothetical standard of "acceptability"? If people are self-owners, the state is limited to enforcing whatever agreements citizens voluntarily enter into with one another. To enforce a set of rules that limits people's freedom is to treat people and their labor as owned by others. Such a state, libertarians claim, is manifestly coercive and for that very reason unjust."

I take exception to Tomasi's "similar pattern." The two very disparate views are not all equivalent, as he would have it, nor in any need of the "ice breaking vessel ... of market democracy" (p. 102) to ameliorate issues dividing them. Rather, libertarians are all philosophically correct, and "high liberals" all wrong. Either people are self-owners or they are not. If not, they are slaves, something high liberals, presumably, would reject. But, no. According to Tomasi, high liberals "reject this premise" that individuals are self-owners. No truer words were ever said. For them, individuals should be forced, willy nilly, against their will, into schemes where the products of some people's labor is taken away from them and given to others, at the point of a gun. Tomasi's market democracy "ice-breaker" in effect tries to mediate between this sort of slavery, on the one hand, and freedom on the other. No mediation is required. One side of this debate is justified, the other, not.

State this writer, "Libertarians, for their part, might argue that the distributive branches of government favored by high liberals should be lopped off altogether. Only self-owning citizens, freely contracting with each other and devoting their own resources to whatever projects they deemed best, can create a society that is genuinely organic and true" (p. 107). Infuriatingly and not at all for the first time in this book Tomasi gives absolutely no

reason why he does and we should reject the libertarian position. There is simply no "might" about it; libertarians certainly favor this. Indeed, this is the libertarian view and no one who rejects it can be counted as a full supporter of this philosophy, at least not on this one point.

Tomasi (p. 108) objects to the prospect that "citizens find the stories of their lives being written by others, however benevolent or well-meaning those others might be." This is all well and good. Libertarians can make common cause with our author on this viewpoint of his. But then he takes it all back on the very next page (p. 109) when he also writes "In pursuit of equality of opportunity, market democracies include an antidiscrimination law."

But *everyone* discriminates. Male heterosexuals discriminate against half the human race in terms of love interests, bed partners, companions for numerous purposes. Horrid. Female heterosexuals discriminate against half the human race in terms of love interests, bed partners, companions for numerous purposes. Again horrid.⁴⁷ Male homosexuals discriminate against half the human race in terms of love interests, bed partners, companions for numerous purposes. This is not horrid, since I dare not say anything so critical about this protected group; however, I will content myself by saying this is not at all nice. And, similarly, female homosexuals discriminate against half the human race in terms of love interests, bed partners, companions for numerous purposes. This, too, is to be regretted, by those of us with political correctness. In fact, it is only bisexuals who do not discriminate against half the human race in terms of love interests, bed partners, companions for numerous purposes. Are we all, following Tomasi's insight, to convert to bisexuality? This would appear to be the gravamen of his analysis. But wait! Bi-sexuals, too,⁴⁸ discriminate: on the basis of beauty,⁴⁹ sense of humor, intelligence, athleticism, in short, with regard to characteristics that everyone else takes into account when choosing associates, lovers, friends, etc. According to Tomasi, then, we should

all be punished, since, there can be no doubt, we all, and continually so, violate antidiscrimination law. But if people are forced to associate with others against their will via this pernicious law, how can it be said that they are writing the stories of their own lives? Tomasi here is guilty of a logical contradiction.

Consider the views of "market democracy" in yet another context (pp. 109-110):

"...many workers and employers object to the one-size fits all approach of regulations setting minimum wages, limiting working hours, establishing elaborate requirements regarding workplace sanitation, systems of occupational licensure, and so on. Such policies are usually associated with the progressive thinking of the early twentieth century. Many such regulations were first proposed during the era of industrial capitalism. In that era, many citizens saw such measures as vitally important parts of a decent society. Until 1937, the Supreme Court read the Fifth Amendment and the contract clause of the written US Constitution as securing strong rights of economic liberty. To many, that traditional reading of the Constitution tied the hands of well-meaning legislators seeking to limit the number of working hours imposed on vulnerable workers. Within the system of industrial capitalism, workers at the bottom of the economic order, after all, are vulnerable to being exploited by their employers. Decisions individual workers might make to work in certain conditions, at certain wages and for certain hours, might not really be free if, as a matter of practical fact, the only option those citizens had was starvation (or a life of petty crime). Decency required a measure of economic paternalism.

"Market democracy is open to allowing legislative bodies to have some ability to regulate work hours/wages/conditions - at least in extreme cases. Workplace conditions that patently threaten the health or safety of workers (or other citizens) can properly be regulated - either under the government's normal police power or as a

⁴⁷ No trigger warnings need be issued when attacking male heterosexuals. They are the scourge of the earth. One need offer at least a slight trigger warning when female heterosexuals are criticized. But, now, I am about to do something really nefarious: criticize lesbians

and male homosexuals. So, beware. Read the next few sentences only if you have a cast iron stomach.

⁴⁸ I now issue yet another trigger warning

⁴⁹ Lookism

requirement that the state protect other basic (noneconomic) rights of citizens."

But the "economic paternalism" which Tomasi favors is incompatible with actual political democracy, another desiderata of this author's. If an adult citizen is so stupid as to need paternalistic measures supposedly in his behalf, how can we entrust him with the vote? And, if we do, this implies he does not need guidance from his betters. How can we trust stupid people to be smart enough to elect those wise enough to rule over him? There is a bit of pulling oneself up by one's bootstraps in all of this. Moreover, in what way can a worker be "exploited" by his employer, assuming there is no outright fraud⁵⁰ involved, concerning dangerous conditions?

3 CONCLUSION

It is now time to end this review essay. I think we can all be grateful to Tomasi for attempting to paper over the differences between his "high liberals" and the "classical liberals" of libertarianism. And, indeed, there are overlaps between the two them. Also, we owe a debt of gratitude to this author for his invention of "market democracy," something new under the philosophical sun, surely a rarity. But, I cannot say that he has succeeded in his attempt to undermine libertarianism, something which I would not welcome.

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