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Afterword

by Stephan Kinsella

The book you hold in your hands—or that resides in memory bits on your digital device—provides a perfect illustration of the power of Austro-libertarian ideas. Brainpower and genius alone are not enough to provide sound social analysis. One also needs a coherent understanding of economics, in particular of Misesian-Austrian praxeology-based economics. And one needs a coherent and realistic understanding of politics and the state—which is to say, anti-state libertarianism.

We all encounter and learn from brilliant thinkers, but there is often something missing. This is usually because they are insufficiently aware of the true predatorial nature of the state and the role it has played in the history of human society. Or there are, to put it kindly, gaps in their knowledge of economics. How many times have you read a brilliant thinker only to see them err on a crucial issue because of some mainstream economic or statist assumption? It is a frustrating experience.

So genius is not enough. But it helps. After all, the problems and issues at hand are not easy. Great intellect, combined with a realistic, sober view of politics and economics, and with a passion for truth, can achieve great things: a clarifying vision of the nature of the institutions of society. Dr. Hoppe was perfectly placed by the currents of fate to become today's leading libertarian social theorist, which is to say: today's leading social theorist.

Professor Hoppe's genius is evident in the razor-sharp clarity and precision of his words and arguments, and his command of philosophy and economics and related fields such as history, sociology, and the philosophy of science. His formal education originated in his studies at the University

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of Saarland in Saarbrücken, the Johann Wolfgang Goethe University in Frankfurt am Main, and at the University of Michigan in Ann Arbor, which included a PhD in philosophy under the famous European philosopher Jürgen Habermas and a prestigious “Habilitation” degree on the Foundations of Sociology and Economics.

But Professor Hoppe’s *real* education was autodidactic. First, as a mainstream left-winger, his eyes were opened by the Austrian economist Eugen von Böhm-Bawerk’s critique of Marxism. Later, after encountering and then rejecting the logical positivism of Milton Friedman and the Chicago school, he discovered Mises and his unique approach. As he wrote in an interview in the *Austrian Economics Newsletter*:

Independently, I had concluded that economic laws were a priori and discoverable through deduction. Then I stumbled on Mises’s *Human Action*. That was the first time I found someone who had the same view; not only that, he had already worked out the entire system. From that point on, I was a Misesian.¹

And then, naturally, he discovered the work of Murray N. Rothbard (1926–1995), the most prominent American student of Mises and the fountainhead of the modern libertarian movement. (See also the discussion of these matters in ch. 30 of the current volume, “My Path to Austrian Economics,” pp. 545–54). In the mid-1980s Hoppe moved to the United States to study under, collaborate, and work with Rothbard. Since these days he has produced a cornucopia of political and economic insights, contained in his books: *Handeln und Erkennen* (1976), *Kritik der kausalwissenschaftlichen Sozialforschung* (1983), *Eigentum, Anarchie, und Staat* (1987), his magnum opus *A Theory of Socialism and Capitalism* (1989), *The Economics and Ethics of Private Property* (1993, enlarged 2nd edition 2006), *Democracy: The God that Failed* (2001), and *The Myth of National Defense* (editor, 2003). His works have been translated into at least 23 languages, not counting English.²

But the point here is not to provide an encomium to the contributions of a single man. That has been done already, in the *Festschrift Property, Freedom, and Society: Essays in Honor of Hans-Hermann Hoppe* (Mises Institute, 2009).

1. “Austrians and the Private-Property Society: An Interview With Hans-Hermann Hoppe,” *The Austrian Economics Newsletter* 18, no. 1 (Spring 1998).

2. See www.hanshoppe.com/translations.

Rather, it is to recognize the power of the anarcho-Austrian-libertarian intellectual framework, which we see realized in the work of Professor Hoppe.

Many scholars influenced by Mises and Austrian economics give praxeology—Mises's *a priori* logic of action—lip service. But more so than any other living thinker, Hoppe actually *applies* praxeology, one of the most powerful modes of scientific analysis yet discovered. It permeates his writing. His reasoning is rooted in it. Hoppe swims in the plasma of praxeology.³ It informs all aspects of his theoretical edifice: not only economic theory and applications, but political theory, ethics, and epistemology.

The power of the Austro-libertarian framework is that it opens up new vistas of understanding in the social sciences. It permits clarity and understanding where before there was muddy water. Professor Hoppe is the best exemplar to date of this methodological approach; his system improves upon that even of his masters, Mises and Rothbard, if only because he has stood on their shoulders. But still. Read this book, and others, like *A Theory of Socialism and Capitalism (TSC)* and *The Economics and Ethics of Private Property (EEPP)*, and you will see something special about Hoppe's work. It is crystal clear, for one thing; what he means is never in doubt. It is rigorous, and systematic, and integrated. It is based on a coherent, realistic, and rational view of the world and of human interpersonal relations. It is obviously motivated by a passion for truth and justice.

3. Here I am borrowing from a vivid metaphor from Shael Herman, "Detrimental Reliance in Louisiana Law—Past, Present, and Future (?): The Code Drafter's Perspective," *Tulane Law Review* 58:3 (1984), pp. 707–57, at 708–09, which observes that legal principles staked out by articles of a civil code embody a "plasma that bathes and nourishes an entire code and its institutions. The obligations articles are traditionally rich in analogies, making them, in Portalis' famous phrase, 'fertile in effects.'" See also idem, "Minor Risks and Major Rewards: Civilian Codification in North America on the Eve of the Twenty-First Century," *Tulane Eur. & Civ. L. Forum* 8 (1993), 63, at 67 n. 11; idem, *The Louisiana Civil Code: A European Legacy for the United States* (Louisiana Bar Foundation, 1993). From note 6 of Herman's Detrimental Reliance article: "Professor J.L. Baudouin applied this term to the Civil Code as a whole. 'A code is apparently complete in itself, but it is drafted in such a way that, in spite of its separation or division into books, chapters, and sections, there is a plasma that permeates it totally.' [Citing Louis Baudouin, *The Influence of the Code Napoleon*, *Tulane Law Review* 33: 21, at 22 (1958).] My argument here is that the provisions on obligations are more like plasma than those on other subjects because obligations provisions generally express legal relations at their most abstract level. On the role of obligations provisions in civil codes of Roman derivation, see generally [Shael Herman & David Hoskins, "Perspectives on Code Structure: Historical Experience, Modern Formats, and Policy Considerations," 54 *Tulane Law Review* 987, 1022–41 (1980)].

And we see this in *The Great Fiction*, a magnificent collection of essays informed by this same spirit and approach. This book contains some of my favorite Hoppean essays, for example, “The Ethics and Economics of Private Property” (ch. 2), “Of Common, Public, and Private Property and the Rationale for Total Privatization” (ch. 5, first published in my journal *Libertarian Papers*), “On Certainty and Uncertainty” (ch. 16), “The Private Production of Defense” (ch. 14), “In Defense of Extreme Rationalism” (ch. 18, a good counterpart to Rothbard’s classic “In Defense of ‘Extreme Apriorism’”),⁴ and “Property, Causality, and Liability” (ch. 20, which I saw Hoppe present at the symposium on Reinach and Rothbard at the Mises Institute in March 2001). The current, expanded edition contains **five** additional chapters with a treasure trove of material such as the delicious skewering of Steven Pinker in ch. 25, “The Libertarian Quest for a Grand Historical Narrative” (itself somewhat reminiscent of Hoppe’s biting criticism of Robert Nozick’s “razzle-dazzle,” in comparison to Rothbard’s systematic and elaborated arguments approach to political philosophy).⁵

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Let me highlight a few examples of Professor Hoppe’s application of Austrian praxeology and the libertarian-realist understanding of the state to various issues, in *The Great Fiction* and in his other writings. We may note first his careful attention to rigorous, essentialist definitions. For example, Hoppe recognizes that while socialism typically refers to state or collective ownership of the means of production, its essence is the “institutionalized interference with or aggression against private property and private property claims” (*TSC*, 2). In other words, any public or institutionalized aggression is inherently socialistic, and gives rise to the problems that accompany standard central planning. Indeed, as Hoppe elsewhere notes, “Societies are not simply capitalist or socialist. Indeed, all existing societies are socialist to some extent.” (*TSC*, 10) The state is always socialistic, and socialism always implies a state.

As a counterpart to his essentialist definition of socialism, Hoppe’s definition of the state gets straight to the heart of the matter:

4. Published in Murray N. Rothbard, *The Logic of Action One* (Edward Elgar, 1997), pp. 100–108.

5. Hans-Hermann Hoppe, “Murray N. Rothbard and the Ethics of Liberty,” Introduction to Murray N. Rothbard, *The Ethics of Liberty* (New York: New York University Press, 1998).

Let me begin with the definition of a state. What must an agent be able to do to qualify as a state? This agent must be able to insist that all conflicts among the inhabitants of a given territory be brought to him for ultimate decision-making or be subject to his final review. In particular, this agent must be able to insist that all conflicts involving him be adjudicated by *him* or his agent. And implied in the power to exclude all others from acting as ultimate judge, as the second defining characteristic of a state, is the agent's power to tax: to unilaterally determine the price that justice seekers must pay for his services.

Based on this definition of a state, it is easy to understand why a desire to control a state might exist. For whoever is a monopolist of final arbitration within a given territory can make laws. And he who can *legislate* can also *tax*. Surely, this is an enviable position. [p. 3]

Once you see the state in these clear terms, its nature becomes clear. As Hoppe elaborates in *TGF*, the state has to coopt the intellectuals to maintain the illusion—the fiction—that it is necessary and good.

Among Professor Hoppe's signal contributions to political theory is his recognition of the crucial importance of *scarcity* in political philosophy. Without scarcity, there would be no social or economic problem to solve. "A conflict is only possible if goods are scarce. Only then will there arise the need to formulate rules that make orderly—conflict-free—social cooperation possible." (p. 9; ch. 19 *et pass.*) This also gives rise to his crucial insight that property rights are rights to control *physical* resources, and thus are rights only to the physical integrity of these goods—not to the "value" of these resources. As he writes:

property ownership means the exclusive control of a particular person over specific *physical* objects and spaces. Conversely, property rights invasion means the uninvited *physical* damage or diminution of things and territories owned by other persons. In contrast, a widely held view holds that the damage or diminution of the *value* (or price) of someone's property also constitutes a punishable offense. [p. 15]

The significance of this insight can hardly be overstated, as the fallacious view of property rights in "value" underpins a host of confused ideas, including intellectual property, which Hoppe also rightly, and explicitly, rejects (p. 509).

Hoppe's notion of scarcity, interpersonal conflict, and the need for property allocation norms builds on Mises's praxeological understanding of human action as employing necessarily scarce means to causally achieve one's

chosen ends. The ends one chooses and the means one decides to employ to causally bring about one's ends are guided by one's knowledge; scarce means are employed that are causally believed to help accomplish the desired goal. The means, being scarce, rivalrous, can only be used by one agent and thus, property norms are necessary to permit social cooperation. But the information or ideas that guide the actor's selection of ends and knowledge of causal laws to permit him to determine what means to choose, need not be owned—indeed, cannot be owned—as information is nonscarce.

...[T]he idea of intellectual property rights is not just wrong and confused but dangerous. And I have already touched upon why this is so. Ideas—recipes, formulas, statements, arguments, algorithms, theorems, melodies, patterns, rhythms, images, etc.—are certainly goods (insofar as they are good, not bad, recipes, etc.), but they are not scarce goods. Once thought and expressed, they are free, inexhaustible goods. I whistle a melody or write down a poem, you hear the melody or read the poem and reproduce or copy it. In doing so you have not taken anything away from me. I can whistle and write as before. In fact, the entire world can copy me and yet nothing is taken from me. (If I didn't want anyone to copy my ideas I only have to keep them to myself and never express them.)

Now imagine I had been granted a property right in my melody or poem such that I could prohibit you from copying it or demanding a royalty from you if you do. First: Doesn't that imply, absurdly, that I, in turn, must pay royalties to the person (or his heirs) who invented whistling and writing, and further on to those, who invented sound-making and language, and so on? Second: In preventing you from or making you pay for whistling my melody or reciting my poem, I am actually made a (partial) owner of *you*: of your physical body, your vocal chords, your paper, your pencil, etc. because you did not use anything but your own property when you copied me. If you can no longer copy me, then, this means that I, the intellectual property owner, have expropriated you and your "real" property. Which shows: intellectual property rights and real property rights are incompatible, and the promotion of intellectual property must be seen as a most dangerous attack on the idea of "real" property (in scarce goods). [p. 509]

This passage provides a sparkling example of the power of a consistent application of Misesian praxeology and Hoppe's insights into the crucial role of scarcity in the institution of property in addressing the social problem of

conflict. By an almost pure application of praxeological reasoning, Hoppe realized as far back as 1988, before the Internet, before so-called “intellectual property” was on the libertarian radar, that IP was incompatible with the property rights that were aimed at solving the problem of conflict among actors in the use of scarce resources.⁶ This is a brilliant demonstration of the power of praxeologically informed social analysis.

By focusing on human action, Hoppe is able to see that the scarce means employed in action need to be owned, but that the very nature of this need implies a Lockean-style property assignment rule is the only one that can be justified. First, any property norm must always answer the question of who *now* may use a given item. The norm cannot depend on some future event, for otherwise the resource may not be used or there would be no conflict-avoiding norm for the present. As Hoppe explains:

What is the purpose of norms? The avoidance of conflict regarding the use of scarce physical things. Conflict-generating norms contradict the very purpose of norms. Yet with regard to the purpose of conflict avoidance, no alternative to private property and original appropriation exists. In the absence of prestabilized harmony among actors, conflict can only be prevented if all goods are always in the private ownership of specific individuals and it is always clear who owns what and who does not. Also, conflicts can only be avoided from the very beginning of mankind if private property is acquired by acts of original appropriation (instead of by mere declarations or words of latecomers). [p. 15]

The emphasis on *latecomers* seems trivial but it is of immense significance. For if a latecomer has a better or equal claim to a given resource than someone who had it earlier, no property is secure, and we are in a might-makes-right situation, not one in which there are applicable norms designed to permit productive, conflict-free use of scarce means. This leads Hoppe to emphasize the importance of the *prior-later distinction*: that it matters, as between two claimants for a given resource, who had it first: “every property right has a *history* (temporal genesis)” [p. 17]. By an almost Misesian monetary-regression-theorem-like analysis, Hoppe uses these insights to validate the central insight of Lockean libertarian homesteading: that the first user of a resource has a better claim than anyone else:

6. See my blog post, Hoppe on Intellectual Property, C4SIF Blog (Dec. 27, 2010), <http://c4sif.org/2010/12/hoppe-on-intellectual-property/>.

All property must go back, then, directly or indirectly, through a chain of mutually beneficial and hence likewise conflict-free property-title transfers, to original appropriators and acts of original appropriation. [p. 87]

The above provides only a sampling of the profound insights and understanding that are possible with an Austro-libertarian foundation—especially when combined with the searing and honest intellect of a thinker like Professor Hoppe.