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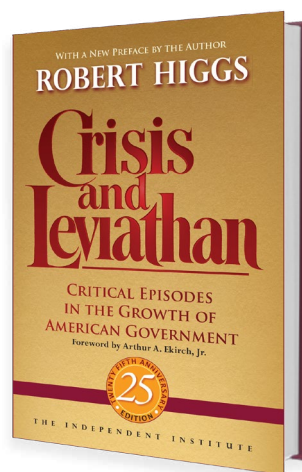
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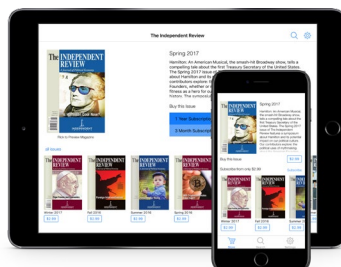
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TRIBUTE

Anthony de Jasay
A Life in the Service of Liberty

— ◆ —
GERARD RADNITZKY

Anthony de Jasay is one of the most significant social philosophers of our age. He began his scholarship in economics, and in his writings he has focused on the relationships among the economy, the state, and the individual. He has never been identified with any distinct school of thought, and that independence of mind, along with his originality, may explain his relative lack of a following. In my opinion, he is the most important political philosopher of the twentieth century because his oeuvre permits us to make decisive cognitive progress and for the first time to discern the essential features of an alternative to the modern state. In the intellectual field, very few have done more for the cause of liberty than de Jasay.

In his adult life, he has passed through two major stages: a refugee from Soviet-occupied Hungary, he spent the first half of his life establishing a position of personal independence; then, during the second half, he has used the personal liberty he acquired earlier to serve the cause of liberty in general.

Much of de Jasay's individualism springs from what is a characteristic life history in twentieth-century central Europe. Born in Hungary in 1925, he escaped over the closed border to the (relatively) Free World in 1948. After two years in Austria, he emigrated to Australia. He completed his studies in Perth while working in small jobs. A scholarship took him to Oxford. For a number of years he taught at Nuffield College and published articles in learned journals. In 1962, he switched from academia to finance, settling in Paris and working first as an executive and then on his own

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account. He speculated so successfully that in 1979 he could retire to the country in Normandy and devote himself wholly to scholarship, having become a *Privatgelehrter*. He comments on the subsequent near-total loss of his considerable fortune without bitterness—"I have made fortunes, I have lost fortunes"—accepting it as one more of the many accidents that have shaped his life.

His objective throughout has been twofold: first, to fight with the weapons of logic the socialist and soft-left ideologies that represent submission to the state as the result of a voluntarily accepted social contract and that justify the imposed redistribution of income and wealth as a means of enhancing the "common good"; and second, to develop a coherent, closely reasoned modern version of liberal doctrine possessing the intellectual force to match and eventually to prevail over the hybrid currents of thought that dominate the social sciences today and lead public opinion in a statist direction.

De Jasay's first major work in political philosophy, *The State* (Oxford: Basil Blackwell, 1985), is now considered a classic. James Buchanan, in his review, praised its "flint-hard" analysis. The book develops a dynamic theory of why government cannot remain limited and is by its very nature destined to expand. De Jasay treats the state much as economists treat the firm—namely, as a purposive actor. Whereas the firm maximizes profit, de Jasay's state maximizes discretionary power, the proximate aim that enables it to pursue any ultimate aims it may seek. Like the firm that dissipates profit in competition, the state becomes a "redistributive drudge"; and like the firm that seeks a monopoly position, the state strives toward totalitarian attributes. This analysis reaches by rigorous logic the result that more ad hoc theories of government obtain only by imputing wickedness or hunger for power to politicians.

In *Social Contract, Free Ride: A Study of the Public Goods Problem* (Oxford: Oxford University Press, 1989), de Jasay refutes the received wisdom that coercive action by the state is indispensable if public goods are to be produced in optimal quantities (or indeed at all). The notorious "public-goods problem," an alleged market failure, has potential voluntary solutions even under conditions of general "selfishness." That enormously important insight so far has not received the attention it deserves, given the enormous role that tax-financed goods and services play in our lives. De Jasay's analysis of the problem and his proposed solution apply even to the provision of national defense (as argued also by, among others, contributors to *The Myth of National Defense*, edited by Hans-Hermann Hoppe [Auburn, Ala.: Ludwig von Mises Institute, 2003]).

Choice, Contract, Consent: A Restatement of Liberalism (London: Institute of Economic Affairs, 1991) is de Jasay's first attempt to restate liberalism on a solid logical basis devoid of all rhetoric and sentiment—with the goal to replace the "loose" doctrine of liberalism whose "immune system" is failing with a "strict" doctrine whose immune system can resist infection by alien ideas. De Jasay's liberalism rests on several axioms of choice (the key one being that only individuals can act and hence choose) and on certain enabling conditions of human coexistence.

The most important of these conditions is the presumption of liberty, property, and innocence, which is grounded on an argument that relies solely on logic: the presumption that all individuals have the freedom to act as they see fit so long as others raise no valid objections (that is, valid in a particular society during the relevant period of time). When someone says, "I shall undertake action A," an objector may respond, "No! There is a valid objection." Then lawmakers and arbitrators have to decide on whom to place the burden of proof as to the validity of the objection.

The decision depends on the relevant list of acceptable objections. If the list is explicit and finite, the acceptance of objections is a matter of efficiency. Assuming that the objector is rational and not frivolous, he will have specific and concrete reasons in mind and will be able to prove his claim easily by pointing to a particular item in the list of valid objections. The intending actor can falsify the objector's claim if he goes through the list and shows that there is no relevant objection. The time and effort needed to make these checks depend on the length of the list. The whole issue is one of efficiency.

In real life, however, an explicit list of valid objections practically never exists. Social life operates in relation to lists of objections, some of which are based on conventions and may not be explicit. In effect, normally the list is infinite. Therefore, an intending actor will find it logically impossible to falsify the objector's claim. Objectors then find it easy to frustrate other people's actions. Were legislators or judges to place the burden of proof on intending actors, they would be requesting something that, in principle, cannot be done; the demand would be unreasonable. Hence, the burden of proof must always rest with the objectors. People are not free if they must bear the burden of proof in justifying their intended actions or if they must make reference to a "right" declared in some bill of rights before they dare to act.

The other principles are "all property is private," "promises shall be kept," and "first come, first served." The social model that de Jasay derives from these principles comes close to anarchy.

Against Politics (London: Routledge, 1997) deals with collective choice and the alleged need for it to override individual choices. In this work, de Jasay seeks to demolish what he considers illusory notions about the benign powers of constitutions and the possibility of limited government. He shows how deep-rooted conventions with regard to torts, contracts, and property can do the work of coercive laws and maintain what amounts to ordered anarchy.

De Jasay's most recent book, *Justice and Its Surrounding* (Indianapolis: Liberty Fund, 2002), places at its center a theory of justice derived from freedoms, freely assumed obligations, and wrongs rejected by convention. In this theory, only unjust acts can produce injustice; and, in contrast to the claims made by the currently dominant "social justice" theorists, inequality of income and wealth is not unjust.

Besides his books, Jasay has published many learned papers in economics and political philosophy. Two recent and especially powerful ones merit mention. The seminal "Freedoms, 'Rights,' and Rights" (*Il Politico* [September–December 2001])

develops rigorous formulations of key concepts used in the author's *Justice and Its Surroundings* and exposes the incoherence of "rightsism." The critical paper "Property and Its Enemies" (*Philosophy* [January 2004]) deals with ownership as seen by Locke and by the "giant" Hume and with prominent modern writers' efforts to undermine these classic conceptions.

De Jasay's oeuvre also helps us to understand better the political history of our age and even to make some "pattern prediction" (à la Hayek) about the future. De Jasay draws a distinction between liberties and rights: roughly speaking, in the case of a liberty the objector to it has the burden of proof, whereas in the case of a right he who claims to have a certain right has the burden of proof. "Rights" often turn out to be claims that have been granted by the powers that be. The beneficiaries eventually experience these "rights" as something that is normal and natural. Hence, withdrawing them proves difficult, if not impossible. We observe a ratchet effect that often produces historic wave patterns: the welfare state is expanded until it becomes prohibitively expensive; reformers then try to roll it back (as did Thatcher and Reagan, to mention just two leading examples); the adjustment problems that then arise give interest groups, such as welfare recipients, an opportunity to reassert themselves, which ensures that the welfare state rebounds with a vengeance.

De Jasay's massive work is terse, free of jargon, and distinguished by its clarity and its reliance on logical argument. It is as close to a comprehensive intellectual defense of liberty as anything a single thinker is likely to produce. Remarkably, at least nine-tenths of the academic establishment is either hostile to it or studiously ignores it. Thus far, only a few leading thinkers have given it any recognition. One possible explanation is that de Jasay's politics is the polar opposite of that prevailing in most universities; another is that he is an independent rather than an academic scholar. Still another is that he is difficult to pigeonhole, and no school calls him its own. Although his influence may be established slowly, however, it is likely to last.

A Nugget of de Jasay's Thought¹

Empirical Evidence

Throughout its history, humanity has permanently displayed a physical condition classified in ordinary language as "illness" or "disease." There has always been what Hume would call a "constant conjunction" between human life and illness.

The Hobbesian hypothesis that illness is a necessary condition of the survival of the human species has strong empirical support. It has never been falsified.

1. This excerpt consists of chapter 5 (in its entirety) of de Jasay's *Justice and Its Surroundings*. It is reprinted here with the permission of Anthony de Jasay.

Throughout its history, humanity has permanently displayed a social condition classified in ordinary language as “the state” or “government.” There has always been what Hume would call a “constant conjunction” between human society and government.

The Hobbesian hypothesis that government is a necessary condition of social life has strong empirical support. It has never been falsified.

Arguments in favor of the prevention or eradication of disease are evidently misguided and may be dangerous. They are often put forward by naive persons with little understanding of reality.

Arguments in favor of fostering society’s capacity to evolve anarchic orders and live with less or no government are evidently misguided and may be dangerous. They are often put forward by naive persons with little understanding of reality.

