

## **“Ten Common Objections to Market Anarchy”**

Market Anarchy Zine Series #28 • March 2012

In this lecture from 2004, left-libertarian philosopher Roderick Long takes on 10 of the most common objections to Market Anarchism and makes the argument for a free and flourishing stateless social order. Long tackles statist fallacies from the philosophical tradition and from modern economists, including:

1. “Government is not a coercive monopoly!”
2. “Government is necessary for cooperation!”
3. Locke’s three “inconveniences” of anarchy
4. “Private protection agencies will battle!”
5. “There’s no final arbiter of disputes!”
6. “Property rights cannot emerge from the market!”
7. “Organized crime will take over!”
8. “The rich will take over!”
9. “The masses will demand bad laws!”
10. “Private protection agencies will become a *de facto* government!”

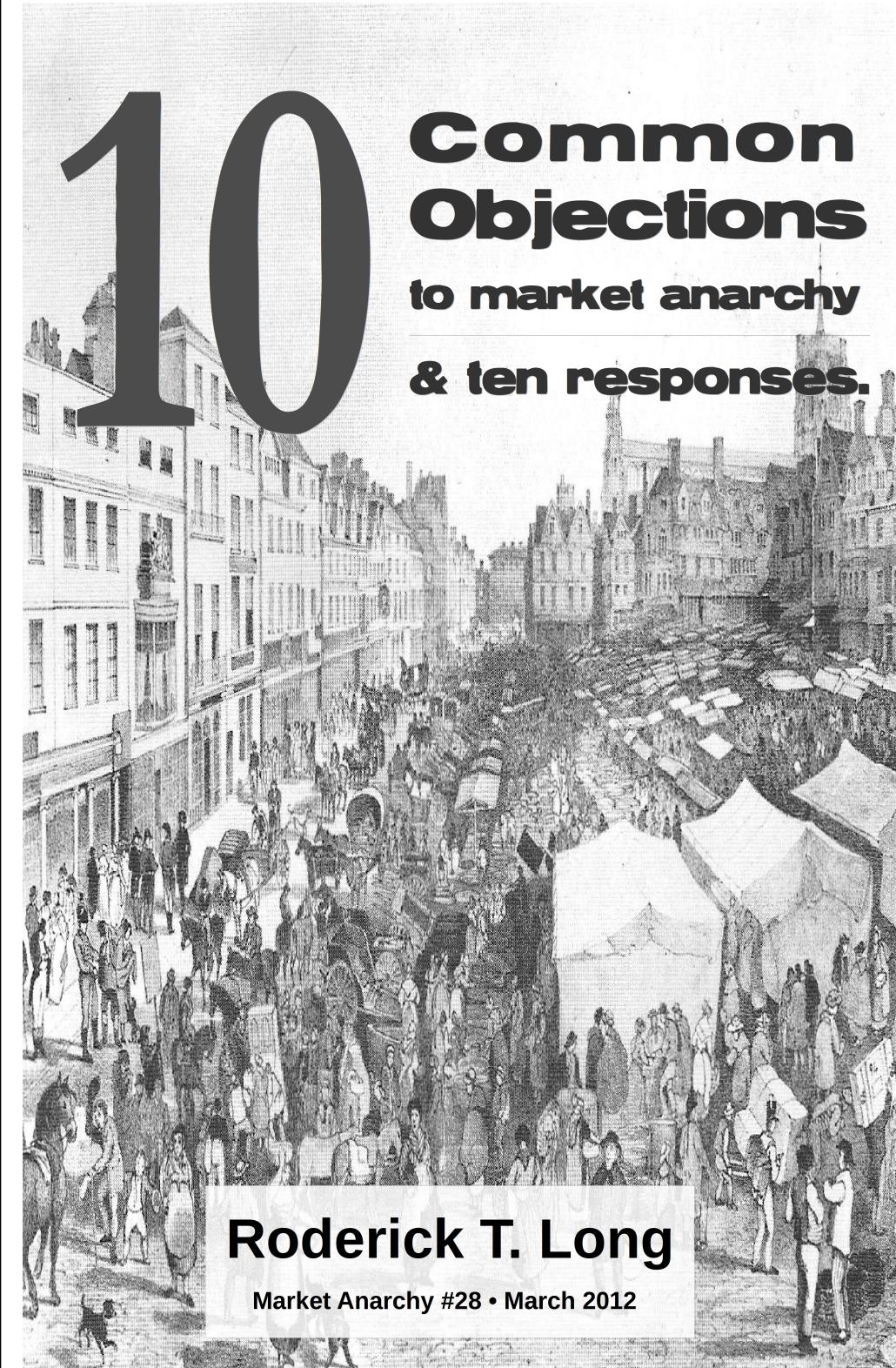
The transcript of the lecture appears here along with the discussion from the Question & Answer period, in which Long discusses division of labor, how to prevent private protection agencies from becoming a protection racket, and what best explains the origins of the State. . . .

The “Market Anarchy Zine Series” was created to republish & showcase articles that highlight our relation to the revolutionary left and explain Market Anarchist theory in general terms.

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**Roderick T. Long**

Market Anarchy #28 • March 2012



And then they think, well, if we take all their stuff, then they won't have enough seed corn to grow it, or they won't have any incentive to grow it — they'll just run away or something — so we won't take everything. And finally, they think: we don't have to keep going away and coming back. We can just move in. And then gradually, over time, you get a ruling class and a ruled class. At first, the ruling class and the ruled class may be ethnically different because they were these different tribes. But even if, over time, the tribes intermarry and there's no longer any difference in the compositions, they still have got the same structure of a ruling group and a ruled group.

So that was one popular theory of the origin of the state, or at least the origin of many states.

I think another origin you can see of some states or state-like things is in the same sort of situation but in cases where they succeed in fending off the invaders. Some local group within the invaded group says: we're going to specialize in defense — we're going to specialize in defending the rest of you guys against these invaders. And they succeed. If you look at the history of England, I think this is what happens with the English monarchy. Before the Norman conquest, the earliest English monarchs were war leaders whose main job was national defense. They had very little to do within the country. They were primarily directed against foreign invaders. But it was a monopoly. (Now, the question is how they got that monopoly. I'm not so sure.) But once they got it, they gradually started getting involved more and more in domestic control as well.



**Q5 [Walter Block].** — IN YOUR ANSWER TO THE first question, where you said you were appointing him as your guide — does this mean you take my side on alienability?

**RL:** No, no. That's why I said he was the employee rather than the owner. I believe in inalienable rights.

**Q5:** He's an employee, yet you can't fire him . . . .

**RL:** No, I can fire him. He's my advisor, I always will follow him — but I haven't given up my right to fire him.



RODERICK LONG (2004)

## Libertarian Anarchism: Responses to Ten Objections.

I WANT TO TALK ABOUT SOME of the main objections that have been given to libertarian anarchism and my attempts to answer them. But before I start giving objections and trying to answer them, there is no point in trying to answer objections to a view unless you have given some positive reason to hold the view in the first place. So, I just want to say briefly what I think the positive case is for it before going on to defend it against objections.



Roderick Long (b. 1964)



### The Case for Libertarian Anarchism

#### PROBLEMS WITH FORCED MONOPOLY

Think about it this way. What's wrong with a shoe monopoly? Suppose that I and my gang are the only ones that are legally allowed to manufacture and sell shoes — my gang and anyone else that I authorize, but nobody else. What's wrong with it? Well, first of all, from a moral point of view, the question is: why us? What's so special about us? Now in this case, because I've chosen *me*, it is more plausible that I ought to have that kind of monopoly, so maybe I should pick a different example! But still, you might wonder, where do I and my gang get off claiming this right to make and sell something that no one else has the right to make and sell, to provide a good or service no one else has the right to provide. At least as far as you know, I'm just another mortal, another human like unto yourselves (more or less). So, from a moral standpoint I have no more right to do it than anyone else.

Then, of course, from a pragmatic, consequentialist standpoint — well, first of all, what is the likely result of my and my gang having a monopoly on shoes? Well, first of all, there are incentive problems. If I'm the only person who has the right to

make and sell shoes, you're probably not going to get the shoes from me very cheaply. I can charge as much as I want, as long as I don't charge so much that you just can't afford them at all or you decide you're happier just not having the shoes. But as long as you're willing and able, I'll charge the highest price that I can get out of you — because you've got no competition, nowhere else to go. You also probably shouldn't expect the shoes to be of particularly high quality, because, after all, as long as they're barely serviceable, and you still prefer them to going barefoot — then you have to buy them from me.

In addition to the likelihood that the shoes are going to be expensive and not very good, there's also the fact that my ability to be the only person who makes and sells shoes gives me a certain leverage over you. Suppose that I don't like you. Suppose you've offended me in some way. Well, maybe you just don't get shoes for a while. So, there's also abuse-of-power issues.

But, it's just not the incentive problem, because, after all, suppose that I'm a perfect saint and I will make the best shoes I possibly can for you, and I'll charge the lowest price I possibly can charge, and I won't abuse my power at all. Suppose I'm utterly trustworthy. I'm a prince among men (not in Machiavelli's sense). There is still a problem, which is: how do I know exactly that I'm doing the best job I can with these shoes? After all, there's no competition. I guess I could poll people to try to find out what kind of shoes they seem to want. But there are lots of different ways I could make shoes. Some of them are more expensive ways of making them, and some are less expensive. How do I know, given that there's no market, and there's really not much I can do in the way of profit and loss accounting? I just have to make guesses. So even if I'm doing my best, the quantity I make, the quality I make may not be best suited to satisfy people's preferences, and I have a hard time finding these things out.

#### GOVERNMENT IS FORCED MONOPOLY

So those are all reasons not to have a monopoly on the making and selling of shoes. Now, *prima facie* at least, it seems as though those are all good reasons for anyone not to have a monopoly in the provision of services of adjudicating disputes, and protecting rights, and all the things that are involved in what you might broadly call the enterprise of law. First of all there's the moral question: why does one gang of people get the right to be the

particular Mafia group, they'll take an interest in that as long as you're providing your cut. If they're not cooperating, the Mafia will act as something kind of court-like and police-like. They're sort of cops for criminals.



#### Q3.—WHAT WILL PREVENT PROTECTION COMPANIES FROM BECOMING A PROTECTION RACKET?

**RL:** Well, other protection companies. If it succeeds in doing it, then it's become a government. But during the time it's trying to do it, it hasn't yet become a government, so we assume there are still other agencies around, and it's in those other agencies' interest to make sure that this doesn't happen. Could it become a protection racket? In principle, could protection agencies evolve into government? Some could. I think probably historically some have. But the question is: is that a likely or inevitable result? I don't think so because there is a check-and-balance against it. Checks-and-balances can fail in anarchy just like they can fail under constitutions. But there is a check-and-balance against it which is the possibility of calling in other protection agencies or someone starting another protection agency before this thing has yet had a chance to acquire that kind of power.



#### Q4.—WHO BEST EXPLAINS THE ORIGIN OF THE STATE?

**RL:** Well, there's a popular nineteenth-century theory of the origin of the state that you find in a number of different forms. It's in Herbert Spencer, it's in Oppenheimer, and you find it in some of the French liberals like Comte and Dunoyer, and Molinari. This theory — they had different versions of it, but it's all pretty similar — was that what happens is that one group conquers another group. Often the theory was that a sort of hunter-marauder group conquers an agricultural group.

In Molinari's version of it what happens is: first, they just go and kill people and grab their stuff. And then gradually they figure out: well, maybe we should wait and not kill them because we want them to grow more stuff next time we come back. So instead, we'll just come and grab their stuff and not kill them, and then they'll grow some more stuff, and next year we'll be back.

follow very religiously. But, ruling implies ruling people without their consent. That the division of labor is beneficial to everyone involved doesn't seem to apply in cases where one group is forcing the other to accept its services.

And on the question of why we don't see any industrialized country that has anarchy — of course, we also don't see any industrialized country that has monarchy. But then industrialized countries haven't been around all that long. There was a time when people said every civilized country (or just about every civilized country) is a monarchy. You find people in the seventeenth and eighteenth centuries saying: look, all the civilized countries are monarchies; democracy would never work. And by saying democracy would never work, they meant not just that it would have these various bad results in the long run; they just thought it would completely fall apart into chaos in a matter of months. Whatever you may think of democracy, it was more viable than they predicted. It could last longer, at any rate, than they predicted. So, things are in flux. There was a time when it was all monarchies. Now it's all semi-oligarchical democracies. The night is young.



**Q**2.—I WAS GOING TO BOLSTER THE POINT YOU made about the Randian objection that market transactions require some sort of legal background to them. The fact that there are black markets belies this. If you're a cocaine dealer and you get ripped off by your middle-man, you certainly can't go to a court and say "Go arrest him, he didn't give me the cocaine he was supposed to." Now, of course, this very easily can lead to violence, but don't forget that there are people actively trying to stop you, not just that they're not letting you arbitrate, they're actively stopping you from doing it.

**RL:** David Friedman makes the argument that one of the main functions of the Mafia is to serve as something like a court system for criminals. That's not all it does, but the Mafia takes an interest in what sorts of criminal goings-on are going on in its territory — because it wants its cut, but it also doesn't want gangs having shoot-outs with each other in its territory. If you've got a conflict, you agreed to some kind of criminal deal with someone and they cheated you, and it happened in the jurisdiction of some

only ones in a given territory who can offer certain kinds of legal services or enforce certain kinds of things? And then there are these economic questions: what are the incentives going to be? Once again, it's a monopoly. It seems likely that with a captive customer base they're going to charge higher prices than they otherwise would and offer lower quality. There might even be the occasional abuse of power. And then, even if you manage to avoid all those problems, and you get all the saintly types into the government, there's still the problem of how do they know that the particular way that they're providing legal services, the particular mix of legal services they're offering, the particular ways they do it are really the best ones? They just try to figure out what will work. Since there's no competition, they don't have much way of knowing whether what they're doing is the most successful thing they could be doing.

So, the purpose of those considerations is to put the burden of proof on the opponent. So this is the point, then, when the opponent of competition in legal services has to raise some objections.



## Ten Objections to Libertarian Anarchism

### 1. GOVERNMENT IS NOT A COERCIVE MONOPOLY



**N**ow, one objection that's sometimes raised isn't so much an objection to anarchism as an objection to the moral argument for anarchism: well, look, it's not really a *coercive* monopoly. It's not as though people haven't consented to this because there's a certain sense in which people have consented to the existing system — by living within the borders of a particular territory, by accepting the benefits the government offers, and so forth, they have, in effect, consented. Just as if you walk into a restaurant and sit down and say, "I'll have a steak," you don't have to explicitly mention that you are agreeing to pay for it; it's just sort of understood. By sitting down in the restaurant and asking for the steak, you are agreeing to pay for it. Likewise, the argument goes, if you sit down in the territory of this given state, and you accept benefits of police protection or something, then you've implicitly agreed to abide by its requirements. Now, notice that even if this argument works, it doesn't settle the

pragmatic question of whether this is the best working system.

But I think there is something dubious about this argument. It's certainly true that if I go onto someone else's property, then it seems like there's an expectation that as long as I'm on their property I have to do as they say. I have to follow their rules. If I don't want to follow their rules, then I've got to leave. So, I invite you over to my house, and when you come in I say, "You have to wear the funny hat." And you say, "What's this?" And I say, "Well, that's the way it works in my house. Everyone has to wear the funny hat. Those are my rules." Well, you can't say, "I won't wear the hat but I'm staying anyway." These are my rules — they may be dumb rules, but I can do it.

Now suppose that you're at home having dinner, and I'm your next-door-neighbor, and I come and knock on your door. You open the door, and I come in and I say, "You have to wear the funny hat." And you say, "Why is this?" And I say, "Well, you moved in next door to me, didn't you? By doing that, you sort of agreed." And you say, "Well, wait a second! When did I agree to this?"

I think that the person who makes this argument is already assuming that the government has some legitimate jurisdiction over this territory. And then they say, well, now, anyone who is in the territory is therefore agreeing to the prevailing rules. But they're assuming the very thing they're trying to prove — namely that this jurisdiction over the territory is legitimate. If it's not, then the government is just one more group of people living in this broad general geographical territory. But I've got my property, and exactly what their arrangements are I don't know, but here I am in my property and they don't own it — at least they haven't given me any argument that they do — and so, the fact that I am living in "this country" means I am living in a certain geographical region that they have certain pretensions over — but the question is whether those pretensions are legitimate. You can't assume it as a means to proving it.

Another thing is, one of the problems with these implicit social contract arguments is that it's not clear what the contract is. In the case of ordering food in a restaurant, everyone pretty much knows what the contract is. So you could run an implicit consent argument there. But no one would suggest that you could buy a house the same way. There are all these rules and things like that. When it's something complicated no one says, "You just sort of

everyone) in the cartel are so committed to upholding the cartel that they just won't deal with the person. Is that possible? Yes. But, if we assume that they formed the cartel out of their own economic self-interest, then the economic self-interest is precisely what leads to the undermining because it's in their interest to deal with the person, just as it's always in your interest to engage in mutually beneficial trade.



Anyway, those are some of the objections and some of my replies, and I'll open it up.

## Question Period



**Q1.—MY CHIEF CONCERN ABOUT ANARCHISM IS: why can't you say that government is just another division of labor?** Because it could be that some people are better or possess natural capabilities that are more suited to ruling over others. I'm not saying anarchy cannot work, but solely from empirical evidence, the fact that none of the industrialized regions in the world are in a state of anarchy, nor have they ever been for long in a state of anarchy says something about perhaps the stability or viability of complex human societies in the present state. And also, going back to what I said earlier, you can conceive of the relationship between the ruler and the ruled as just another common division of labor. Some people possess leadership abilities that are better able to organize people than others. Some people lack that.

**RL.** On the division-of-labor point, to the extent the division of labor is voluntary — if you're better at something-or-other than I am, and so you do it, and then I buy the services from you — as long as it's voluntary, that's fine. But when we're talking about division of labor and some people are better at ruling than other people — well, if I consent to your ruling me — maybe I'm hiring you as my advisor because I think you're better at making decisions than I am, so I make one last decision which is to hire you as my advisor, and from then on I do what you say — that's not government; you're my employee, you're an employee that I

of what will happen if they fight. But I've already talked about what happens if they fight, so I'll talk about the third option. What if they don't fight? Then he says, if instead they agree to these mutual arbitration contracts and so forth, then basically this whole thing just turns into a government. And then Tyler Cowen has pushed this argument farther. He said what happens is that basically this forms into a cartel, and it's going to be in the interest of this cartel to sort of turn itself into a government. And any new agency that comes along, they can just boycott it.

Just as it's in your interest if you come along with a new ATM card that it be compatible with everyone else's machines, so if you come along with a brand new protection agency, it is in your interest that you get to be part of this system of contracts and arbitration and so forth that the existing ones have. Consumers aren't going to come to you if they find out that you don't have any agreements as to what happens if you're in a conflict with these other agencies. And so, this cartel will be able to freeze everyone out.

Well, could that happen? Sure. All kinds of things could happen. Half the country could commit suicide tomorrow. But, is it likely? Is this cartel likely to be able to abuse its power in this way? The problem is cartels are unstable for all the usual reasons. That doesn't mean that it's impossible that a cartel succeed. After all, people have free will. But it's unlikely because the very incentives that lead you to form the cartel also lead you to cheat on it — because it's always in the interest of anyone to make agreements outside the cartel once they are in it.

Bryan Caplan makes a distinction between self-enforcing boycotts and non-self-enforcing boycotts. Self-enforcing boycotts are ones where the boycott is pretty stable because it's a boycott against, for example, doing business with people who cheat their business partners. Now, you don't have to have some iron resolve of moral commitment in order to avoid doing business with people who cheat their business partners. You have a perfectly self-interested reason not to do business with those people.

But think instead of a commitment not to do business with someone because you don't like their religion or something like that, or they're a member of the wrong protection agency, one that your fellow protection agencies told you not to deal with — well, the boycott might work. Maybe enough people (and maybe

agreed by nodding your head at some point," or something. You have to find out what it is that's actually in the contract; what are you agreeing to? It's not clear if no one knows what exactly the details of the contract are. It's not that persuasive.

Okay, well, most of the arguments I'm going to talk about are pragmatic, or a mixture of moral and pragmatic.

## 2. HOBBS: GOVERNMENT IS NECESSARY FOR COOPERATION



Probably the most famous argument against anarchy is Hobbes. Hobbes' argument is: well, look, human cooperation, social cooperation, requires a structure of law in the background. The reason we can trust each other to cooperate is because we know that there are legal forces that will punish us if we violate each other's rights. I know that they'll punish me if I violate your rights, but they'll also punish you if you violate my rights. And so I can trust you because I don't have to rely on your own personal character. I just have to rely on the fact that you'll be intimidated by the law. So, social cooperation requires this legal framework backed up by force of the state.

Well, Hobbes is assuming several things at once here. First he's assuming that there can't be any social cooperation without law. Second, he's assuming that there can't be any law unless it's enforced by physical force. And third, he's assuming you can't have law enforced by physical force unless it's done by a monopoly state.

But all those assumptions are false. It's certainly true that cooperation can and does emerge, maybe not as efficiently as it would with law, but without law. There's Robert Ellickson's book *Order Without Law* where he talks about how neighbors manage to resolve disputes. He offers all these examples about what happens if one farmer's cow wanders onto another farmer's territory and they solve it through some mutual customary agreements and so forth, and there's no legal framework for resolving it. Maybe that's not enough for a complex economy, but it certainly shows that you can have some kind of cooperation without an actual legal framework.

Second, you can have a legal framework that isn't backed up by force. An example would be the Law Merchant in the late Middle Ages: a system of commercial law that was backed up by threats of boycott. Boycott isn't an act of force. But still, you've

got merchants making all these contracts, and if you don't abide by the contract, then the court just publicizes to everyone: "this person didn't abide by the contract; take that into account if you're going to make another contract with them."

And third, you can have formal legal systems that do use force that are not monopolistic. Since Hobbes doesn't even consider that possibility, he doesn't really give any argument against it. But you can certainly see examples in history. The history of medieval Iceland, for example, where there was no one center of enforcement. Although there was something that you might perhaps call a government, it had no executive arm at all. It had no police, no soldiers, no nothing. It had a sort of a competitive court system. But then enforcement was just up to whoever. And there were systems that evolved for taking care of that.

### 3. LOCKE: THREE "INCONVENIENCES" OF ANARCHY



Okay, well, more interesting arguments are from Locke. Locke argues that anarchy involves three things he calls "inconveniences." And "inconvenience" has a somewhat more weighty sound in 17<sup>th</sup> century English than it does in modern English, but still his point in calling it "inconveniences," which still is a bit weaker, was that Locke thought that social cooperation could exist somewhat under anarchy. He was more optimistic than Hobbes was. He thought, on the basis of moral sympathies on the one hand and self-interest on the other, cooperation could emerge.

He thought there were three problems. One problem, he said, was that there wouldn't be a general body of law that was generally known, and agreed on, and understood. People could grasp certain basic principles of the law of nature. But their applications and precise detail were always going to be controversial. Even libertarians don't agree. They can agree on general things, but we're always arguing with each other about various points of fine detail. So, even in a society of peaceful, cooperative libertarians, there are going to be disagreements about details. And so, unless there's some general body of law that everyone knows about so that they can know what they can count on being able to do and what not, it's not going to work. So that was Locke's first argument. There has to be a generally known universal body of law

ever they want? That's great when it's refrigerators and cars and so forth. But surely that's not a good thing when it's *laws*. Because, after all, the masses are a bunch of ignorant, intolerant fools, and if they just get whatever laws they want, who knows what horrible things they will make.

Of course, the difference between economic democracy of the Mises sort and political democracy is: well, yeah, they get whatever they want, but they're going to have to pay for it. Now, it's perfectly true that if you have people who are fanatical enough about wanting to impose some wretched thing on other people, if you've got a large enough group of people who are fanatical enough about this, then anarchy might not lead to libertarian results.

If you live in California, you've got enough people who are absolutely fanatical about banning smoking, or maybe if you're in Alabama, and it's homosexuality instead of smoking they want to ban (neither one would ban the other, I think) — in that case, it might happen that they're so fanatical about it that they would ban it. But remember that they are going to have to be paying for this. So when you get your monthly premium, you see: well, here's your basic service — protecting you against aggression; oh, and then here's also your extended service, and the extra fee for that — peering in your neighbors' windows to make sure that they're not — either the tobacco or the homosexuality or whatever it is you're worried about. Now the really fanatical people will say, "Yes, I'm going to shell out the extra money for this." (Of course, if they're that fanatical, they're probably going to be trouble under minarchy, too.) But if they're not that fanatical, they'll say, "Well, if all I have to do is go into a voting booth and vote for these laws restricting other people's freedom, well, heck, I'd go in, it's pretty easy to go in and vote for it." But if they actually have to *pay* for it — "Gee, I don't know. Maybe I can reconcile myself to this."

### 10. ROBERT NOZICK & TYLER COWEN: PRIVATE PROTECTION AGENCIES WILL BECOME A DE FACTO GOVERNMENT



This is a question that originally was raised by Robert Nozick and has since been pushed farther by Tyler Cowen. Nozick said: Suppose you have anarchy. One of three things will happen. Either the agencies will fight — and he gives two different scenarios

asking him to do it with his own money, I couldn't get him to spend a million dollars by bribing him any less than a million. It would have to be at least a million dollars and one cent. But people who control tax money that they don't themselves personally own, and therefore can't do whatever they want with, the bureaucrat can't just pocket the million and go home (although it can get surprisingly close to that). All I have to do is bribe him a few thousand, and he can direct this million dollars in tax money to my favorite project or whatever, and thus the power of my bribe money is multiplied.

Whereas, if you were the head of some private protection agency and I'm trying to get you to do something that costs a million dollars, I'd have to bribe you more than a million. So, the power of the rich is actually less under this system. And, of course, any court that got the reputation of discriminating in favor of millionaires against poor people would also presumably have the reputation of discriminating for billionaires against millionaires. So, the millionaires would not want to deal with it all of the time. They'd only want to deal with it when they're dealing with people poorer, not people richer. The reputation effects — I don't think this would be too popular an outfit.

Worries about poor victims who can't afford legal services, or victims who die without heirs (again, the Randians are very worried about victims dying without heirs) — in the case of poor victims, you can do what they did in Medieval Iceland. You're too poor to purchase legal services, but still, if someone has harmed you, you have a claim to compensation from that person. You can sell that claim, part of the claim or all of the claim, to someone else. Actually, it's kind of like hiring a lawyer on a contingency fee basis. You can sell to someone who is in a position to enforce your claim. Or, if you die without heirs, in a sense, one of the goods you left behind was your claim to compensation, and that can be homesteaded.

#### 9. ROBERT BIDINOTTO: THE MASSES WILL DEMAND BAD LAWS



**A**nother worry that Bidinotto has — and this is sort of the opposite of the worry that the rich will rule — is: well, look, isn't Mises right, that the market is like a big democracy, where there is consumer sovereignty, and the masses get what-

that applies to everyone that everyone knows about ahead of time.

Second, there is a power-of-enforcement problem. He thought that without a government you don't have sufficiently unified power to enforce. You just have individuals enforcing things on their own, and they're just too weak, they're not organized enough, they could be overrun by a gang of bandits or something.

Third, Locke said the problem is that people can't be trusted to be judges in their own case. If two people have a disagreement, and one of them says, "Well, I know what the law of nature is and I'm going to enforce it on you," well, people tend to be biased, and they're going to find most plausible the interpretation of the law of nature that favors their own case. So, he thought that you can't trust people to be judges in their own case; therefore, they should be morally required to submit their disputes to an arbitrator. Maybe in cases of emergency they can still defend themselves on-the-spot, but for other cases where it's not a matter of immediate self-defense, they need to delegate this to an arbitrator, a third party — and that's the state.

So Locke thinks that these are three problems you have under anarchy, and that you wouldn't have them under government or at least under the right kind of government. But I think that it's actually exactly the other way around. I think that anarchy can solve all three of those problems, and that the state, by its very nature, cannot possibly solve them.

So let's first take the case of universality, or having a universally known body of law that people can know ahead of time and count on. Now, can that emerge in a non-state system? Well, in fact, it did emerge in the Law Merchant precisely because the states were not providing it. One of the things that helped to bring about the emergence of the Law Merchant is the individual states in Europe each had different sets of laws governing merchants. They were all different. And a court in France wouldn't uphold a contract made in England under the laws of England, and vice versa. And so, the merchants' ability to engage in international trade was hampered by the fact that there wasn't any uniform system of commercial law for all of Europe. So the merchants got together and said, "Well, let's just make some of our own. The courts are coming up with these crazy rules, and they're all different, and they won't respect each other's decisions, so we'll just ignore them and we'll set up our own system." So this is a

case in which uniformity and predictability were produced by the market and not by the state. And you can see why that's not surprising. It's in the interest of those who are providing a private system to make it uniform and predictable if that's what the customers need.

It's for the same reason that you don't find any triangular ATM cards. As far as I know, there's no law saying that you can't have a triangular ATM card, but if anyone tried to market them, they just wouldn't be very popular because they wouldn't fit into the existing machines. When what people need is diversity, when what people need is different systems for different people, the market provides that. But there are some things where uniformity is better. Your ATM card is more valuable to you if everyone else is using the same kind as well or a kind compatible with it so that you can all use the machines wherever you go; and therefore, the merchants, if they want to make a profit, they're going to provide uniformity. So the market has an incentive to provide uniformity in a way that government doesn't necessarily.

On the question of having sufficient power for organizing for defense — well, there's no reason you can't have organization under anarchy. Anarchy doesn't mean that each person makes their own shoes. The alternative to government providing all the shoes is not that each person makes their own shoes. So, likewise, the alternative to government providing all the legal services is not that each person has to be their own independent policeman. There's no reason that they can't organize in various ways. In fact, if you're worried about not having sufficient force to resist an aggressor, well, a monopoly government is a much more dangerous aggressor than just some gang of bandits or other because it's unified all this power in just one point in the whole society.

But I think, most interestingly, the argument about being a judge in your own case really boomerangs against Locke's argument here. Because first of all, it's not a good argument for a monopoly because it's a fallacy to argue from *everyone should submit their disputes to a third party* to *there should be a third party that everyone submits their disputes to*. That's like arguing from *everyone likes at least one TV show* to *there's at least one TV show that everyone likes*. It just doesn't follow. You can have everyone submitting their disputes to third parties without there being some one third party that every one submits their disputes

President, he just said, "Well, they've made their decision, let them enforce it." The Constitution doesn't say whether the way Jackson did it was the right way. The way we do it now is the way that's emerged through custom. Maybe you're for it, maybe you're against it — whatever it is, it was never codified in law.

## 7. ORGANIZED CRIME WILL TAKE OVER



**O**ne objection is that under anarchy organized crime will take over. Well, it might. But is it likely? Organized crime gets its power because it specializes in things that are illegal — things like drugs and prostitution and so forth. During the years when alcohol was prohibited, organized crime specialized in the alcohol trade. Nowadays, they're not so big in the alcohol trade. So the power of organized crime to a large extent depends on the power of government. It's sort of a parasite on government's activities. Governments by banning things create black markets. Black markets are dangerous things to be in because you have to worry both about the government and about other dodgy people who are going into the black market field. Organized crime specializes in that. So, organized crime I think would be weaker, not stronger, in a libertarian system.

## 8. THE RICH WILL RULE



**A**nother worry is that the rich would rule. After all, won't justice just go to the highest bidder in that case, if you turn legal services into an economic good? That's a common objection. Interestingly, it's a particularly common objection among Randians, who suddenly become very concerned about the poor impoverished masses. But under which system are the rich more powerful? Under the current system or under anarchy? Certainly, you've always got some sort of advantage if you're rich. It's good to be rich. You're always in a better position to bribe people if you're rich than if you're not; that's true. But, under the current system, the power of the rich is magnified. Suppose that I'm an evil rich person, and I want to get the government to do something-or-other that costs a million dollars. Do I have to bribe some bureaucrat a million dollars to get it done? No, because I'm not asking him to do it with his own money. Obviously, if I were

legal system together — then people begin their trading. These things arise together. Legal institutions and economic trade arise together in one and the same place, at one and the same time. The legal system is not something independent of the activity it constrains. After all, a legal system again is not a robot or a god or something separate from us. The existence of a legal system consists in people obeying it. If everyone ignored the legal system, it would have no power at all. So it's only because people generally go along with it that it survives. The legal system, too, depends on voluntary support.

I think one reason that a lot of people are scared of anarchy is they think that under government it's as though there's some kind of guarantee that's taken away under anarchy. That somehow there's this firm background we can always fall back on that under anarchy is just gone. But the firm background is just the product of people interacting with the incentives that they have. Likewise, when anarchists say people under anarchy would probably have the incentive to do this or that, and people say, "Well, that's not good enough! I don't just want it to be *likely* that they'll have the incentive to do this. I want the government to absolutely guarantee that they'll do it!" But the government is just people. And depending on what the constitutional structure of that government is, it's likely that they'll do this or that. You can't design a constitution that will guarantee that the people in the government will behave in any particular way. You can structure it in such a way so that they're more likely to do this or less likely to do this. And you can see anarchy as just an extension of checks-and-balances to a broader level.

For example, people say, "What guarantees that the different agencies will resolve things in any particular way?" Well, the U.S. Constitution says nothing about what happens if different branches of the government disagree about how to resolve things. It doesn't say what happens if the Supreme Court thinks something is unconstitutional but Congress thinks it doesn't, and wants to go ahead and do it anyway. Famously, it doesn't say what happens if there's a dispute between the states and the federal government. The current system where once the Supreme Court declares something unconstitutional, then the Congress and the President don't try to do it anymore (or at least not quite so much) — that didn't always exist. Remember when the Court declared what Andrew Jackson was doing unconstitutional, when he was

to. Suppose you've got three people on an island. A and B can submit their disputes to C, and A and C can submit their disputes to B, and B and C can submit their disputes to A. So you don't need a monopoly in order to embody this principle that people should submit their disputes to a third party.

But moreover, not only do you not need a government, but a government is precisely what doesn't satisfy that principle. Because if you have a dispute with the government, the government doesn't submit that dispute to a third party. If you have a dispute with the government, it'll be settled in a government court (if you're lucky — if you're unlucky, if you live under one of the more rough-and-ready governments, you won't ever even get as far as a court). Now, of course, it's better if the government is itself divided, checks-and-balances and so forth. That's a little bit better, that's closer to there being third parties, but still they are all part of the same system; the judges are paid by tax money and so forth. So, it's not as though you can't have better and worse approximations to this principle among different kinds of governments. Still, as long as it's a monopoly system, by its nature, it's in a certain sense lawless. It never ultimately submits its disputes to a third party.

#### 4. AYN RAND: PRIVATE PROTECTION AGENCIES WILL BATTLE



**P**robably the most popular argument against libertarian anarchy is: well, what happens if (and this is Ayn Rand's famous argument) I think you've violated my rights and you think you haven't, so I call up my protection agency, and you call up your protection agency — why won't they just do battle? What guarantees that they won't do battle? To which, of course, the answer is: well, nothing *guarantees* they won't do battle. Human beings have free will. They can do all kinds of crazy things. They might go to battle. Likewise, George Bush might decide to push the nuclear button tomorrow. They might do all sorts of things.

The question is: what's likely? Which is likelier to settle its disputes through violence: a government or a private protection agency? Well, the difference is that private protection agencies have to bear the costs of their own decisions to go to war. Going to war is expensive. If you have a choice between two

protection agencies, and one solves its disputes through violence most of the time, and the other one solves its disputes through arbitration most of the time — now, you might think, “I want the one that solves its disputes through violence — that’s sounds really cool!” But then you look at your monthly premiums. And you think, well, how committed are you to this Viking mentality? Now, you might be so committed to the Viking mentality that you’re willing to pay for it; but still, it is more expensive. A lot of customers are going to say, “I want to go to one that doesn’t charge all this extra amount for the violence.” Whereas, governments — first of all, they’ve got captive customers, they can’t go anywhere else — but since they’re taxing the customers anyway, and so the customers don’t have the option to switch to a different agency. And so, governments can externalize the costs of their going to war much more effectively than private agencies can.

## 5. ROBERT BIDINOTTO: NO FINAL ARBITER OF DISPUTES



**O**ne common objection — this is one you find, for example, in Robert Bidinotto, who’s a Randian who’s written a number of articles against anarchy (he and I have had sort of a running debate online about this) — his principal objection to anarchy is that under anarchy, there’s no final arbiter in disputes. Under government, some final arbiter at some point comes along and resolves the dispute one way or the other. Well, under anarchy, since there’s no one agency that has the right to settle things once and for all, there’s no final arbiter, and so disputes, in some sense, never end, they never get resolved, they always remain open-ended.

So what’s the answer to that? Well, I think that there’s an ambiguity to the concept here of a final arbiter. By “final arbiter,” you could mean the final arbiter in what I call the Platonic sense. That is to say, someone or something or some institution that somehow absolutely guarantees that the dispute is resolved forever; that absolutely guarantees the resolution. Or, instead, by “final arbiter” you could simply mean some person or process or institution or something-or-other that more or less reliably guarantees most of the time that these problems get resolved.

Now, it is true, that in the Platonic sense of an absolute guarantee of a final arbiter — in that sense, anarchy does not

provide one. But neither does any other system. Take a minarchist constitutional republic of the sort that Bidinotto favors. Is there a final arbiter under that system, in the sense of something that absolutely guarantees ending the process of dispute forever? Well, I sue you, or I’ve been sued, or I am accused of something, whatever — I’m in some kind of court case. I lose. I appeal it. I appeal it to the Supreme Court. They go against me. I lobby the Congress to change the laws to favor me. They don’t do it. So then I try to get a movement for a Constitutional Amendment going. That fails, so I try and get people together to vote in new people in Congress who will vote for it. In some sense it can go on forever. The dispute isn’t over.

But, as a matter of fact, most of the time most legal disputes eventually end. Someone finds it too costly to continue fighting. Likewise, under anarchy — of course there’s no guarantee that the conflict won’t go on forever. There are very few guarantees of that iron-clad sort. But that’s no reason not to expect it to work.

## 6. PROPERTY LAW CANNOT EMERGE FROM THE MARKET



**A**nother popular argument, also used often by the Randians, is that market exchanges presuppose a background of property law. You and I can’t be making exchanges of goods for services, or money for services, or whatever, unless there’s already a stable background of property law that ensures us the property titles that we have. And because the market, in order to function, presupposes existing background property law, therefore, that property law cannot itself be the product of the market. I don’t know exactly what property law emerges from — they must really think it must emerge out of an infallible robot or something — but, somehow, it can’t emerge from the market.

But their thinking this is sort of like: first, there’s this property law, and it’s all put in place, and no market transactions are happening — everyone is just waiting for the whole legal structure to be put in place. And then it’s in place — and now we can finally start trading back and forth. It certainly is true that you can’t have functioning markets without a functioning legal system; that’s true. But it’s not as though first the legal system is in place, and then on the last day they finally finish putting the