Book Reviews

Political Philosophy, Clearly: Essays on Freedom and Fairness, Property and Equalities
Anthony de Jasay
Indianapolis: Liberty Fund, 2010, 360 pp.

Political Philosophy, Clearly, part of Liberty Fund's "Collected Papers of Anthony de Jasay" series, gathers nearly two dozen essays from the prominent economist and philosopher. From them emerges a fascinating overview of de Jasay's thought on the nature of order, justice, and the state.

A word about the title. The "clearly" in *Political Philosophy, Clearly* informs the text in a handful of ways, all refreshing. First, as someone who found de Jasay's book length work—*The State*, for instance—often rather opaque, the essays in this collection come off as decidedly clear, making for breezy, if heady, reads.

"Clearly" also represents an allergy on de Jasay's part to fuzzy terms and the fuzzy thinking they engender. He rails against ill-considered use of such words as "fairness," "social justice," and "rights." Much political pontification is decidedly not clear, with words used widely without consideration given to what they actually mean. De Jasay attacks such obscurity whenever he finds it. In a short essay on rights, for instance, de Jasay notes that "by unravelling the tangled thought that lies at the base of most rights talk, one can lay bare some simple truths." True to the form, he goes on to argue that "the word *right* is blithely employed to convey at least two different meanings, one that makes perfect sense and another that does not" (p. 152). Many of the essays in *Political Philosophy, Clearly* see

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de Jasay exploring just what "fairness" means, what "social justice" means, what "rights" means, and in just such straightforward fashion.

Taken as a whole, the essays offer a coherent philosophy centered on de Jasay's overriding conventionalism. A convention, as David Hume wrote in his *Enquiry Concerning Human Understanding* (and de Jasay endorses Hume enthusiastically and frequently), is "a sense of common interest; which sense each man feels in his own breast, which he remarks in his fellows, and which carries him, in concurrence with others into a general plan or system of actions, which tends to public utility." It is from these conventions, de Jasay argues, that justice and law emerge—and it is these conventions that organize and stabilize society.

Thus, order grows out of conventions, and the state grows out of order. Order does not grow out of the state. And if this is true, then the state, being a result *of* order, cannot be necessary *for* order. It's no surprise, then, when de Jasay writes that "the only type of organized society in which justice and freedom are not endangered, eroded, or perverted is ordered anarchy" (p. 100). Yet the urge will always be strong to institute a state under the misguided notion that this will lead to more efficient provision of public goods. This is particularly the case for rule enforcement.

Conventions produce order, but unless we follow the conventions, that order will inevitably deteriorate. The temptation is to grant monopoly enforcement power to the state. We must resist, de Jasay warns. "By dispossessing its subjects of the means of threatening or using force (except such tamed means as firearms licensed by the police) and by punishing unlicensed private enforcement (except under carefully defined restrictive conditions), the state ostensibly relieves its subjects of a burden. It also assumes a responsibility which it is intrinsically ill-suited to discharge" (p. 259). Once dispossessed, its subjects will see the state inevitably grow as it acts to prop up its own interests. De Jasay's ordered anarchy, on the other hand, allows for enforcement of conventions through private means: opprobrium, shame, refusal of future dealings, and so on. But what are these conventions?

Two de Jasay mentions frequently in *Political Philosophy, Clearly* are "first come, first served" and its offspring, "finders, keepers." De Jasay draws a distinction between arbitrary conventions—which side of the plate the fork goes on, for instance, or on which side of the road we drive—and those like the prior mentioned two, which, while

not *necessary*, are better (in terms of efficiency and stability) than the alternatives. He writes,

> Note that there is no rival convention that would stipulate some other distribution, such as "finders share the find with all who have also meant to search but were beaten to it by the finder" or "finders share it with mankind." If such a convention were in fact an equilibrium, it would be a vastly inferior one, if only because few would put themselves to great trouble to search and discoveries to share would be sparse [p. 76].

Recognizing this basic convention leads directly, de Jasay shows, to very nearly the whole of a robust private property regime and a thorough system of contract. But we must recognize them as means of following the convention, not free-standing goods themselves.

This focus on convention over grand theory places de Jasay in stark opposition to John Rawls and the high liberals, a role he eagerly plays in several essays. He has little patience for social contracts, social justice, or justice as fairness, and expresses that impatience by way of critiquing Rawls and broadly Rawlsian concepts. Responding to the popularity of social justice, for instance, de Jasay writes, "To say that civilization is a giant externality responsible for the production of all material wealth is to forge a metaphor, not to construct a theory" (p. 110).

I confess to being uncomfortable, though, with de Jasay's metaethics—namely, his rejection of moral rules outside of those that emerge through convention. Nonconvention-based rules are too fuzzy to be of any value he thinks, and disagreements between people on what should count as moral rules will remain forever irresolvable without the firm grounding conventions give. "The grim epistemological truth," de Jasay writes, "is that statements about man's essential nature and his natural rights are neither falsifiable nor verifiable. They are matters of belief, opinion, and sentiment and have no descriptive-ascertainable content." On the other hand, "Once we recognize the role of conventions in sorting out free acts from unfree ones, we have a firm, clearly ascertainable basis for the concept of freedom" (p. 184).

True, but only insofar as the "concept of freedom" that emerges once conventions have done their sorting resembles in any way the kind of freedom worth having. Emergent conventions need not be freedom promoting, after all. Conventions against education for

women or rights for gays still hold considerable sway in much of the world even though they are, by any meaningful account, immoral. The conventions de Jasay shows most interest in—regarding property, contract, and other distributional questions—may, without the meddling of the state, track well with "freedom" because conventions in those areas lean in the direction of efficiency and property rights and free markets are much more efficient than the alternatives.

But that can't be enough. There must be some way to challenge abhorrent conventions from *outside* convention. There must be some way to say, "This convention is *wrong*" and be *right* in saying so. That it's not easy to prove, once and for all, the content of true moral rules doesn't mean, as de Jasay counsels, we must abandon the quest.

Political Philosophy, Clearly is rich and wide-ranging. Its author deftly addresses the impossibility of the "bounded state," the problem of "rights" talk, the obviousness of the presumption of liberty, and the ways an anarchist system can provide public goods. The short collection evinces a scholar with much of considerable value to say on many topics.

Unfortunately, Anthony de Jasay appears at the end of his career. In an interview last year in *The Independent Review*, de Jasay told Aschwin de Wolf, "I have now pretty well stopped writing . . . because my eyesight is almost completely gone, and I do not have the force and patience to overcome the handicap of being unable to read, to reread some part of a draft, and to read others' work." This is sad news indeed, for de Jasay has much to contribute to our understanding of the role and structure of the state, as *Political Philosophy, Clearly* amply demonstrates.

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Collision Course: Ronald Reagan, the Air Traffic Controllers, and the Strike that Changed America
Joseph A. McCartin
New York: Oxford University Press, 2011, 504 pp.

President Ronald Reagan's firing of more than 12,000 illegally striking air traffic controllers in August 1981 is widely considered a defining moment both for Reagan's presidency and for American