

Natural Right in the Political Philosophy of Pierre-Joseph Proudhon

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When Professor Georges Gurvitch, the highly esteemed occupant of the chair of philosophy at the University of Strausbourg before World War II and the author of a series of brilliant studies in the pluralist philosophy of law, referred to Pierre-Joseph Proudhon as the central figure in the development of modern social and judicial philosophy, the basis of his highly flattering judgment was the philosophy of law that serves as the basis of Proudhon's mutualism, a socio-legal conceptualization that had not only greatly influenced Gurvitch's own thinking but which had exerted tremendous influence as well over the thought of such outstanding social theorists as Herzen, Tolstoi, and Kropotkin.¹ To state, therefore, that Proudhon was not only the first to call himself an anarchist but also "the most important" anarchist thinker of the modern period,² is to establish his right to be heard. We are not entitled to skip lightly over his conception of law and justice as past generations have done. After outlining Proudhon's legal theory and his conception of natural right, this paper will attempt to demonstrate that Proudhon's thinking on law is an outstanding contribution to modern political theory. It is not too much to say, in fact, that his philosophy of law and natural right stands as a highly suggestive antidote to the hopeless confusion in contemporary political theory, a confusion that stems not only from the cloudy conception of justice posited by the social contract theorists but from the defective conception of justice advanced by the advocates of state socialism as well.

To understand Proudhon's philosophy of law, it is first necessary to focus more clearly on precisely what he meant by justice, a concept that colored all he wrote on social and political matters. In Proudhon's view of things, any political theory worthy of our attention must proceed from an adequate definition of justice rather than the vacuous one that even in his day was in general use in popular as well as academic circles. This was precisely the thought Proudhon wished to express when he wrote in his notorious essay, *What is Property?*: "I find everywhere only vain and puerile *entités*: nowhere do I discover an idea."³

It is important to make clear here the distinction Proudhon drew between an idea and an *entité*. An *entité*, as Proudhon defined it, is "a substance which the imagination grasps but which is incognizable by the senses and reason." In essence romanticized notions of reality which people cling to for want of a more sound perception of things, *entités* abound in popular democracies where mass culture is most prevalent. The *entité* is essentially a product of the modern political collective in which the individual is swallowed up by the popular majority without which he would have no existence or being in a political sense. Proudhon argues that the citizens of modern democratic states, unable through their own efforts to make themselves felt as individuals, ultimately subordinate their own individual wills to the will of the collective whole, thereby chaining themselves to the glittering ideological generalities that pass for truth and wisdom in mass political cultures. If Proudhon had contempt for the masses, it was because the citizens and proletariat of his society were content to echo secondhand ideological expressions rather than develop for themselves crisp social ideas addressed to the crucial problem of building a just social order. This was exactly why he admonished his contemporaries for drinking the heady spirit of parliamentary democracy to the point that giddy phrases such as "the sovereignty of the People" liberally spiced their incoherent babbling about freedom.

Rejecting the Lockean notion that justice is possible only where there is a highly developed system of courts and legal agencies, Proudhon argued that "justice is not the work of the law; on the contrary, the law is only a declaration and application of justice in all [those] circumstances where men are liable to come in contact" with one another. It followed for Proudhon, accordingly, that "if the idea that we form of justice and right is ill-defined, if it is imperfect or even false, it is clear that all our legislative applications will be wrong, our institutions vicious, our politics erroneous; and consequently there will be disorder and chaos."⁴ It was in an effort to avoid just such hopeless confusion in thought that Proudhon insisted that his contemporaries abandon the vacuous *entité* they held as to justice and replace it with a firm idea. As Proudhon put it: "I say that you need a clear, positive, and exact expression of your whole idea [of justice],—that is, an expression which states at once the principle, the means, and the end; and I add that that expression is *association*."

When Proudhon wrote that "Association is Justice," he put himself totally outside the bourgeois conception of authority and law laid upon modern society by Hobbes and Locke, neither of whom was capable of visualizing any legal reality outside the jurisdiction of the state. Unlike both Hobbes and Locke, who maintained that justice is impossible where there is no functioning legal establishment to give right credibility, Proudhon insisted that the proper basis of law is not the authority of a political constitution or

even the will of a sovereign majority but the essential social norms that are developed over time by social groups. The norms created by any particular group may ultimately take the form of statutes or merely remain widely accepted rules of conduct upheld by virtue of public understanding, but in either case the one thing essential to law is that the norms that underlie it should express the fundamental will of people organized within voluntary relationships which they create in the course of living their lives.

In arguing that "Justice is Association," Proudhon meant to establish the principle that "justice always exists objectively in the nature of the relationship" that individuals voluntarily enter. From this it follows that his mutualist theory was pluralistic, justice and law being defined over and over again in the daily activity of society as it broke down into functioning associations of one kind or another operating according to the social principle of reciprocity. And since individuals create justice by virtue of their own actions in these reciprocal relationships, according to Proudhon, it is beyond the jurisdiction of any court or governmental agency to decree what justice is; only the individual, answering to the court of his own conscience or group norms, can find himself guilty of injustice, or, conversely, determine what is right social conduct. Proudhon, obviously, was a thoroughgoing pluralist in his thinking about law, as all anarchists basically must be. Unfortunately, throughout history all too many who have thought of themselves as legal pluralists, lacking Proudhon's willingness to go straight to the roots of the political problem, have been unwilling to divest the state of its monopoly of force. Hence many political scientists, overwhelmed by the fragility of human nature, are content to argue that "the state in some form, whatever may be said in criticism of its mistakes, its inefficiency, its abuse of power, is and always will be an absolute necessity among civilized men."⁵ But as one eminent philosopher long ago argued in retort to this kind of thinking, "so long as the locus of force remains untouched, political pluralism is hardly more than an assertion of the importance of group authority . . . , and an appeal for modest deference to those and other authorities on the part of governments."⁶ And it is just this kind of philosophical bombast, (i.e., *entité*) as Proudhon so frequently pointed out, that prevents society from overcoming its basic problem in organization.

Nowhere is Proudhon's legal pluralism more pronounced than in his view of ethics. Holding that "the essence of justice is respect," Proudhon, who had read deeply in Kant's moral philosophy in his younger years, maintained that the basis of any workable system of justice must be derived exclusively from the social sentiments and feelings of the individual as they are experienced firsthand living and laboring in direct reciprocity with other members of his face-to-face community. "Turned to myself, the respect for human dignity forms what I call my right," Proudhon held; "turned to my fellows, it

becomes my duty.”⁷ Morality, therefore, Proudhon insisted, is nothing less than the application of the principle of “equal and mutual respect of human dignity in all human relations;” and, accordingly, all pronouncements concerning law or right issued by jurists or legislators were so much gibberish insofar as they extended to acts of persons other than themselves. It was just this sort of rigorous adherence to Kantian ethics that has prompted one political theorist to think of anarchists of the stripe of Proudhon as “so unrealistic that it is not possible to take them quite seriously,” and to hold that the basic assumptions anarchists make regarding human behavior can be applicable only “for a few saints.”⁸ It is to be noted, however, that the late Professor Leo Strauss was in essential accord with Proudhon’s argument that the individual is fully equipped by virtue of his basic social nature to grasp the outline of natural right without assistance from church or state or any other outside structure. As Strauss put it, “*It is man’s natural sociality that is the basis of natural right in the narrow or strict sense of right. Because man is by nature social, the perfection of his nature includes the social virtue par excellence, justice; justice and right are natural.*”⁹ When anarchists express a total disregard for legal systems, it is not because they oppose law and order that they do so but because, like Strauss and Proudhon, they believe that law and order are generated by the individual as he perfects his social nature in small communities in which he—and he alone—is responsible for observing right. Where men have turned this task over to the state, justice becomes a chimera.

To establish proper foundations for the better social order of the future, Proudhon maintained, these foundations must be patterned after the theory of *commutative justice* rather than the theory of distributive justice that is universally practiced in the modern world. Commutative justice, as Proudhon outlined its basic form, is radically different from the schemes of liberty advanced by advocates of conventional social contract theory such as Hobbes, Locke, and especially, Rousseau. The difficulty with the version of social contract which all three of these theorists posited was that the contract ultimately bound the individual in one way or another to the state, obligating him in various instances to lay aside his own particular will or desires to abide by the general rules of the sovereign power that regulates everyone. Aside from the fact that conventional social contract theory is based upon a myth structure so vague and ethically faulty that only the weak-minded can take it seriously, Proudhon maintained, it is further flawed by the circumstance that within a society regulated by conventional contract, the citizens do not deal directly with one another in important matters but are constrained to go through a third party, the government. If one is cheated by a merchant or injured by a neighbor, an agent of the police is called to settle matters legally rather than allowing the individuals concerned to work

things out on their own. Needless to say, people who are habituated to deal with one another in this impersonal way soon place little trust in their neighbors and all their hopes on the functionaries of government. If social relations among people have deteriorated frighteningly, Proudhon argued, we have the conventional social contract to thank, for why otherwise would the normal social bonds that hold people together have weakened?

Aside from the fact that his French origins made him naturally more conversant with the political philosophy concocted by the famous citizen from Geneva than with the ideas of Hobbes and Locke, Proudhon directed his attention primarily at Rousseau because he saw him as the one chiefly responsible for leading the modern age back to an infantile dependence upon governmental paternalism, thereby negating the tremendous forward strides made by humanity under the influence of the political philosophy of the eighteenth-century Enlightenment. The clearheaded libertarian thinkers of the previous century turned away from the state, Proudhon held, because they recognized that human freedom can come about only where men, rather than their governments, are made responsible for the entire range of their private and public acts. Unfortunately, according to Proudhon, "Rousseau, whose authority has ruled us for almost a century," understood very little about structuring a free society, for in spite of all the philosophical legerdemain he employed to obfuscate his real intentions, it is the state that remains sovereign, not the individual citizen, at the end of his convoluted argument.¹⁰ Rousseau, in promising the individual both liberty and equality in exchange for subordinating his private will to the greater demands of the general will, according to Proudhon, appears at first as an enthusiastic advocate of the theory that men are indeed capable of governing themselves without outside interference and thus as a friend of liberty. But on closer examination it becomes clear that Rousseau does not have any real trust in the individual as a responsible, free agent capable of functioning autonomously in a system of unrestrained self-government. After enunciating the brilliant theory that the social contract renders the people sovereign and therefore completely capable of representing themselves, this "master of oratorical jugglery" slyly substitutes the will of the majority for the general, collective, indivisible will; then, under pretext that it is not possible for a whole nation to be occupied from morning to night with public affairs, he gets back, by way of elections, to the nomination of representatives or proxies, "who shall do the law making in the name of the people, and whose decrees shall have the force of laws."¹¹ In the end, not only has Rousseau denied the capacity of the people for self-government but he turns the idea of association into a device for destroying any effort of people to freely join with one another for social purposes of their own. In Rousseau's version "of a well-ordered Republic," Proudhon charged, "no association or special

meeting of citizens can be permitted, because it would be a State within a State, a government within a government." Completely isolated from one another and totally beholden to political authority for any comradeship they might enjoy as a collectivity, the denizens of Rousseau's ideal society are controlled subjects rather than free citizens capable of conducting their own affairs in open reciprocity with their fellowmen. Since the people, in Rousseau's formulation, are a "fictitious being" ultimately incapable of any real action or deliberation, it falls upon the prince, who is their "natural and visible representative," to give them unity and direction. And thus, Proudhon carped, Rousseau finally admits that "government is not within a society, but outside of it," and that "democracy has never existed, and never will exist."

And this is not at all the whole of Rousseau's infidelity to liberty, according to Proudhon, for the formula by which he promises to protect the persons and goods of all those who give up their individual sovereignty in order to become a part of the general will turns out to be something akin to the charitable handouts the poor enjoyed under the principle of *noblesse oblige* as practiced by the *ancien regime*. Rousseau in his writings is vehement enough in his condemnation of the abuses of the "Capitalist and Mercantile Tyranny" but when it comes to spelling out the economic rights and privileges of the working men and women of society, he utterly fails to make the crucial distinction between distributive and commutative justice.

To find the roots of the modern theory of distributive justice under which governments appoint themselves the economic guardians of their peoples, Proudhon maintained, we must go far back in history to the time when the family, under the direction of the paternal power, served as the agency for the just dispersal of the economic goods which all members of the social unit collectively produced under the spirit of communism. So long as this social unit remained small and was composed of kinsmen united by ties of common ancestry and religious faith, the fundamental principle of distributive justice (i.e., the rule that those at the top of the political hierarchy hold sole authority to reign over the dispersal of economic goods) was workable, for social justice is indeed possible within a tightly-knit, integrated family structure. But in advanced industrial society, Proudhon pointed out, the family is swallowed up by the state and the bureaucracy that supports it. Accordingly, it falls to the state to regulate the distribution of goods under the system of jurisprudence that is essential to all that the state undertakes. And consequently, the end effect of any system of distributive justice, as Proudhon viewed the situation, was that of "a SUPERIOR granting to *Inferiors* what is coming to each one."¹² In a society organized according to the principle of distributive justice, the working man or woman is asked to join a huge, impersonal quasi-spiritual organization to contribute the pro-

duct of his or her labor to the general store of goods that is to be passed out by the state. In forming such an association, the individual unsuspectingly enters a civic entanglement that is tantamount to the binding commitment one makes when taking a religious vow. Although the act is performed in mere words, its consequences extend to the depth of the soul, coloring the entire character and personality of that individual for the rest of his or her life. For, according to Proudhon, association is a dogma which can only end in a "SYSTEM," as the utopian ideas of Fourier, Robert Owen, Cabet, Pierre Leroux, Baboeuf, and Louis Blanc ended in systems. And political systems based as they are upon dogma are not to be taken lightly. "Whoever talks of association," Proudhon argued, "necessarily implies obligation, common responsibility, fusion of rights and duties in relation to outsiders."¹³

If we are perfectly serious in our desire to establish justice in society rather than merely pay lip service to the idea, according to Proudhon, we must totally revise our thinking with regard to the relationships that people have to one another as well as to the state. And to do this we must locate the point at which political developments in the modern era first went wrong. In Proudhon's view of things, it was the ultimate political settlement that emerged from the Revolution in France that is primarily the cause of the modern age's crisis in organization. For when, in the aftermath of the Revolution of 1789, the Committee of Public Safety chose to honor the principle of political centralization rather than the principle of social order springing spontaneously from the natural social rhythms of people, Proudhon held, the Jacobin dogma of rule through terror was forged, later to be transmitted to the Empire and the governments that succeeded it. "When the Revolution proclaimed liberty of the people, equality before the law, the sovereignty of the people, the subordination of power to the country, it set up two incompatible things, society and government; and it is this incompatibility which has been the cause or the pretext of this overwhelming, liberty-destroying concentration, called CENTRALIZATION, which the parliamentary democracy admires and praises, because it is its nature to tend toward despotism."¹⁴ Politics thus dominating everyone's mind to the exclusion of any social thought that might possibly have led toward freedom, "it necessarily followed that the new society, scarcely conceived, should remain in embryo; that instead of developing according to economic or social laws, it should languish in constitutionalism . . . , and should find itself continually in the position of fighting with the people and the people in continual need of attacking power."¹⁵ And thus the social order that should have been created by the Revolution was stillborn and the modern age was consequently hobbled in its quest for freedom and justice by the doctrine of statism that has prevailed everywhere since. And this has been as true of the socialists as it has been of the capitalists, Proudhon maintained.

In *What Is Property?*, the work that first brought him notoriety, Proudhon shocked the majority of his contemporaries with his bold statement that "property is theft," but won Marx's respect with the very same breath. Writing to Marx some time later with regard to the fledgling socialist movement they were attempting to get off the ground, Proudhon now expressed the conviction that "it is the duty of all socialists to maintain . . . an almost absolute economic anti-dogmatism,"¹⁶ by which he apparently meant to suggest that social reformers such as themselves ought *not* to form a political party for the advancement of their particular economic interests but instead ought to be primarily concerned with effecting justice for all people in society regardless of class affiliation. Marx, unfortunately, chose to interpret Proudhon's attempt to achieve intellectual moderation and a broad toleration of all social groups as political apostasy, and it was not long after this that the two parted the worst of friends to soon become each other's greatest enemy. But was Proudhon's mutualism actually an abandonment of the basic principles of socialism, as Marx believed, or was it a brilliant scheme for the erection of a genuinely libertarian society, a social order that would enable the human beings who make up the work force of society to realize their full potential for human solidarity without losing their cherished claim to individuality?

It is to be noted here that under the theory of commutative justice which Proudhon offered as an alternative to the system of distributive justice practiced by capitalist and socialist states alike, there is a firm commitment to the libertarian principle that it is the individual who is sovereign, not the state. For under the system of jurisprudence sketched out by Proudhon, the state as third party to all contracts entered into by individuals is completely excluded and all contracts are essentially free agreements of individual with individual: agreements, as Proudhon put it, "which would result in society."¹⁷ The essential characteristic of contract correctly defined, as Proudhon envisioned the phenomenon, "is an act whereby two or several individuals agree to organize among themselves for a definite purpose and time, that industrial power which we have called exchange; and in consequence have obligated themselves to each other, and reciprocally guaranteed a certain amount of services, products, advantages, duties, etc. which they are in a position to obtain and give to each other; recognizing that they are otherwise perfectly independent, whether for consumption or production." Dealing directly with one another according to this principle of free exchange, individuals are completely responsible, bound only by whatever natural forces exist in nature. Responding spontaneously to the laws of social economy and moral right which are independent of any man or legislative power, Proudhon argued, man is free, for "it is the individual's privilege to recognize these laws, his honor to obey them." Obviously, Proudhon be-

longs to that school of natural right which holds that there is an order implicit in nature that is greater in wisdom and compassion than any man-made institution or system of justice can ever hope to be, and that a viable social order, therefore, can only be established where the basis of that order springs from man's "natural constitution" rather than an artificial order dependent upon some political charter.

What Proudhon has in effect proposed here is a theory of *laissez faire* that is faithful to the spirit of that theory as presented by Adam Smith and other eighteenth-century thinkers of the Enlightenment. Convinced that man is *a social as well as an economic being*, and that men therefore have the capacity of settling their differences equitably without help from outside, the Enlightenment stood ready to discard the institution of the state and rely wholly upon the social instincts of men for the purposes of self-government. The inevitable consequence of a society organized after the principle of *laissez faire* is bound to be serendipitous, according to Proudhon, because it draws upon the full range of human potentiality for social progress. Where commerce as well as social relations is established on a principle of free exchange determined only by the felt sentiments and reactions of the human beings directly concerned, the most reasonable choice open to each individual party to any contract is likely to be one that reflects the quality of reciprocity. That is, each individual, drawing upon his own personal feelings, is in a position to know what the other party to the contract is experiencing, and hence the possibility of a mutual settlement that will reconcile the individual interests of both parties. As Proudhon attempted to explain in the last of his writings, "Reciprocity, in creation, is the principle of existence. In the social order, reciprocity is the principle of social reality, the formula of justice."¹⁸ In short, when economic activity takes place within the context of a social structure where the forces of nature are sovereign, men will perforce recognize each other in terms of mutual accord. For they will be compelled, in the absence of the state and its highly centralized structure of legal order, to organize themselves within communities devised for agreed-upon social ends. Without an established system of legal obligation to rely upon, every individual will be compelled to look inside himself for resources necessary to live in reciprocity with his neighbors. And since man is basically a social being with an unfathomed capacity for further development and growth, it is not unreasonable to expect that men will perfect a pattern of free social relationships that equate with the demands of individual liberty, provided that the right kind of economic machinery exists to make this possible. But what kind of economic means need we adopt that can guarantee reciprocity in the exchange of goods and services?

Unfortunately, the circumlocutory style that characterizes everything that Proudhon wrote does not at once give his reader a definitive answer to this

question. But those who read more deeply in his voluminous writings discover that Proudhon was quite clear in his own mind that the economic means necessary for the establishment of a libertarian society must permit the individual to use his creative power and initiative to the full, while remaining true to his social instincts for cooperation with his fellowman. In short, Proudhon insisted that before man could become free, he must first reconcile the philosophies of individualism and socialism, which is to say, correct the errors in the political thought of both Rousseau and Marx.

In attacking the leading figures in nineteenth-century socialism, Proudhon rested his condemnation on the charge that they had been unfaithful to the one action that could conceivably bring progress to mankind, the elevation of the principle of justice to the very top of any plan for revamping the structure of industrial relations. Wary of those socialists who reinterpreted the Revolution to mean that an equal share of the gross national product was equivalent to justice, or that the state might grant men eternal bliss simply by passing a law to that effect, Proudhon singled out Louis Blanc for special condemnation. "Equality!" Proudhon exclaimed. "I had always thought that it was the natural fruit of Liberty, which has no need of theory nor of constraint." But equalitarians of the stripe of Louis Blanc, he complained, have changed all this. Blanc "no longer says, as everybody else says, . . . 'Liberty, Equality, Fraternity'; he says 'Equality, Fraternity, Liberty'." If Blanc were to have his way, Proudhon asserted, "we must take equality for our first term; upon it we must build a new structure of the Revolution. As for Liberty, that is deduced from Fraternity. Louis Blanc promises liberty after association, as the priests promise paradise after death."¹⁹

But it was not against socialism *per se* that Proudhon railed but only against that kind of socialism that subscribes to a crass acceptance of the very same kind of hierarchical political power practiced by authoritarian regimes. Proudhon charged that those in the nineteenth century who were anxious for social reform and progress were forming themselves into workers' battalions and girding themselves for the coming class warfare with capitalism and the powerful national states that supported the economic establishment. In calling upon the workers of the world to unite and present a strong show of force to the great barons of industry, socialists made much of the idea of fraternity; if only workers everywhere would unite into one gigantic mass of humanity, the basic argument went (suspiciously reminiscent of the words and tune of the Marseillaise), the governments of the world which kept guard over capitalism would come tumbling down. "Why will they never understand," Proudhon exclaimed in reaction to this revolutionary rhetoric, "that fraternity can only be established by justice; that justice alone, the condition, means, and law of liberty and fraternity, must be the object of our study. . . ."²⁰ When Proudhon wrote that "social order is

established upon the basis of inexorable justice, and not at all upon the paradisiacal sentiments of fraternity, self-sacrifice, and love, to the exercise of which so many honorable socialists are endeavoring now to stimulate the people,"²¹ he recognized, as Marx did, that the technological forces unleashed within the industrial order basically determine the level of wages of the workers and the profits of the capitalists and not beautiful words preached at people by moralists. Marx, however, apparently felt that justice is a future reward which must wait until mankind has been reconditioned through socialism to the level of social development attainable under communism. Proudhon, on the other hand, envisioned justice not as mere imagery of the idyllic future state of existence after certain fundamental political reforms had been made, but as "an active agent, the characterizing principle, in present social progress."²²

Rousseau, too, advocated what in effect was a system of state socialism, an economy in which the final power to make economic decisions and determine the allocation of wealth and natural resources lay in the hands of those who control the state. Hence Proudhon lumped Rousseau in with the state socialists and condemned him vehemently. When Rousseau had "declared the necessity of what he called a civil religion if the people were to achieve total power and if the general will was to replace all traditional authorities in their lives,"²³ he in effect laid a heavy burden upon the state, viz., the superhuman task of awarding (or withholding) justice to all those people who fall within its jurisdiction. But if "the fundamental characteristic of association is binding union,"²⁴ as Proudhon held, a state that attempts to provide for the general welfare and social well-being of its citizens must necessarily exercise compulsion at many points over the lives and fortunes of those it is attempting to serve. It does not help to conceive of such regulatory actions by the state as forcing the individual to be free, for the individual who is compelled to do something against his own free will can in no sense be said to be free. If freedom is the *sine qua non* of political life, as political philosophy in the West has held since the ancient Greeks, the most urgent task before us is to find a form of political organization that eliminates coercion of one person over another as much as possible in human relations, even if it is not realistic to suppose that coercion might be done away with absolutely. Freedom, or liberty, as Proudhon and all anarchists use the term, means precisely what Professor F. A. Hayek means by it, that is, a relationship of men to each other that permits the individual the greatest possible room for privacy and initiative in all undertakings.²⁵ The primary thing that has limited individual freedom in all ages, according to both Proudhon and Hayek, is coercion exercised over the affairs of some men by their fellows who have succeeded in putting themselves in places of power. And since the state is the greatest source of the coercion that deprives people of their

liberty, according to Proudhon, we need a political theory that addresses itself directly to a solution of the problem of statism.

Holding that there are two possible forms of organization that human beings may utilize in their efforts to create social order, one relying primarily upon force administered by the state and the other upon voluntary consent socially induced, anarchists such as Proudhon are advocates of natural law rather than the positive law that has dominated political thought since the time of Hobbes. When Proudhon declared that "the legislative power belongs only to reason" and that "to attribute to any [other] power whatever the right to veto or of sanction is the last degree of tyranny,"²⁶ he spoke as a child of the Enlightenment, for like all the philosophers of that school of thought, he looked primarily to political economy for the foundations upon which a just social order must be built. Since it is the laws of "social economy, which, by their harmony or discord, produce all the good and ill of society," Proudhon insisted that any revolution of the future had to follow the dynamics of the kind of revolution called for by Adam Smith and other enlightened thinkers summed up by the idea of *laissez faire*. It must be emphasized, however, that when Proudhon spoke of *laissez faire*, the furthest thing from his mind was the antisocial conduct of modern corporate capitalism which, by virtue of the protection it enjoys through laws decreed by sympathetic legislative bodies, violates with impunity all natural laws of ethics and human decency. For Proudhon, as for all anarchists, the only acceptable economic system is one that does not in the least lean upon coercive mechanisms exercised over people by any kind of organization other than their own voluntary social groupings. Hence the end toward which all economic activity must aim, according to the anarchist view, must be one that reflects natural right. As one contemporary anarchist has put it, "Economy subordinated to ethics and not controlled by power—that is the anarchist formula."²⁷

When Proudhon wrote that "Liberty is anarchy, because it does not admit the government of will, but only the authority of law; that is, of necessity," he gave expression to the philosophy of law developed by the Enlightenment which rests on the dictum that the primary characteristic of law, properly defined, is that it "elicits compliance from people" without violating their right to free will. As Georges Gurvitch came to hold as a consequence of reading Proudhon's works, "It is only independently from and in opposition to all mechanisms of compulsion and subordination that law can be created, because compulsion and subordination do not express juridical relationships, but the very opposite; the intervention of external force in order to oblige the group to renounce its own nature and to realize aims which are not its aims but those of a foreign will."²⁸ Where rules of law must be backed by compulsion and force at the hands of formal government in order to

attain compliance, any order thus achieved is highly fragile in that compliance invariably ceases the very moment the threat of compulsion is withdrawn. And it goes without saying that people who do not freely recognize a particular rule or law as right will not attribute the quality of justice to that rule or law, thereby denying it legitimacy.

It is to be noted in this regard that the opposite of government is not, as so many critics of anarchism erroneously suppose, social disorder or chaos. Anarchism for Proudhon, as for all anarchists, "is not inconsistent with association, but only with enforced association; not to rule, but only to obligatory rule."²⁹ Where men are encouraged to follow their own unaided understanding of the social relations of which they find themselves an integral part, law and order is as natural to them as the seasons of the year are compelling to birds and trees. This is why Proudhon was so insistent that we must not allow the distinction between state and society to become blurred in our thinking. As Professor Franz Oppenheimer was to point out years after Proudhon, the state is primarily the sum of the "privileges and dominating positions which are brought into being by extra economic power" enforced by the power of government. In contrast to this, Oppenheimer, like Proudhon, defined society as "the totality of concepts of all purely natural relations and institutions between man and man, which will not be fully realized until the last remnant of the creations of the barbaric 'ages of conquest and migration' has been eliminated from community life."³⁰ In order to bring into actuality a libertarian social system, law must emerge from the free social relations of individuals who live in direct community rather than from decrees of formal legislative bodies. This is why the concept of decentralization looms so large in the thinking of all anarchists. As Strauss suggested, "A city is a community commensurate with man's natural powers of firsthand or direct knowledge. It is a community which can be taken in one view, or in which a mature man can find his bearings through his own observation in matters of vital importance."³¹ And until men live and work in cities that approximate the specifications outlined by Strauss, there is no hope that the lawlessness that characterizes the contemporary world can be overcome.

It has been argued that while Proudhon's mutualism may have succeeded in dealing with coercion of the individual at the hands of the state, people in his kind of society would still not be free because they would find themselves coerced by virtue of the social pressure exerted over them by the groups to which they belong as well as public opinion at large. As one of Proudhon's critics has charged, "Social pressures are better hidden, but this does not make them any the less coercive of either action or will."³² But this argument fails to take into consideration a reality recognized universally by libertarians, which is that only the state (which possesses a monopoly with respect to

coercion) can actually be said to be capable of depriving the individual of his freedom. Individuals may deprive other individuals of favors or otherwise seek to compel them to do or not do something, but so long as they do not hold a monopoly over the goods of society, genuine coercion can hardly be said to exist. "True coercion occurs," as Hayek puts it, "when armed bands of conquerors make the subject people toil for them, when organized gangsters extort a levy for 'protection,' and, of course, when the state threatens to inflict punishment and to employ physical force to make us obey its commands."³³ The suggestion that all pressures exerted over the individual are exactly the same, and that freedom, therefore, is an impossibility for human beings, is merely a ploy used by statist to defend state power.

The assertion that all laws enacted by formal legislative bodies are illegitimate, as Proudhon and other anarchists would have it, not only sounds harsh to the ear of the average person but appears to be irresponsible as well, so habituated are people to looking to the state for the outline of justice. But as world events again and again have demonstrated in recent years, the ersatz systems of justice maintained by modern states are rapidly falling apart, and lawlessness and violence are becoming widespread as a consequence. If anarchists are correct in their assessment of the situation, there is no remedy short of a total revision of our attitude toward jurisprudence. So long as we follow the Hobbesian dictum that law primarily originates from the commands of sovereign states, this lawlessness must persist. When enough people finally recognize that the only proper basis of law is the free agreements arrived at by social groups acting in the spirit of voluntarism, federalism, and reciprocity, the foundations will have been laid for a genuine social order in which justice will be possible. If Proudhon's writings suddenly have become convincing to more and more people, it is because his philosophy of law offers a meaningful solution to the social problems we face with the breakdown of law and order.

NOTES

1. Nicola Chiaromonte, "Social Law After Proudhon," *Politics* 2 (January 1945):25.
2. James Joll, *The Anarchists* (Boston: Little, Brown & Co., 1964), p. 79.
3. Pierre-Joseph Proudhon, *What Is Property?*, trans. Benjamin R. Tucker (New York: Humbolt Publishing Co., 1840), p. 434.
4. *Ibid.*, pp. 26-27.
5. James Wilford Garner, *Political Science and Government* (New York: American Book Co., 1928), p. 450.
6. William Ernest Hocking, *Man and the State* (New Haven: Yale University Press, 1926), p. 93.

7. Quoted by Dorothy Douglas "Pierre-Joseph Proudhon: A Prophet of 1848," pt. I, *American Journal of Sociology* 24 (March 1929):792.
8. Lane Lancaster, *Masters of Political Thought*, III (Boston: Houghton Mifflin Co., 1959), p. 262.
9. Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), p. 129.
10. Proudhon, *General Idea of the Revolution of the Nineteenth Century*, trans. John Beverley Robinson (London: Freedom Press, 1923), p. 113.
11. *Ibid.*, p. 118.
12. *Ibid.*, p. 112.
13. *Ibid.*, p. 95.
14. *Ibid.*, p. 72.
15. *Ibid.*, p. 87.
16. Quoted in Henri de Lubac, *The Unmarxian Socialist*, trans. R. E. Scantlebury (New York: Sheed and Wand, 1948), p. 44.
17. Proudhon, *General Idea of the Revolution*, p. 112.
18. Proudhon, *Proudhon's Solution to the Social Problem* (New York: Vanguard Press, 1927), p. 48.
19. Proudhon, *General Idea of the Revolution*, p. 95.
20. Proudhon, "System of Economical Contradictions," in *The Works of P. J. Proudhon*, trans. Benjamin R. Tucker (Boston: Benjamin R. Tucker, 1888), p. 281.
21. *Ibid.*, p. 103.
22. Dorothy Douglas, "Pierre-Joseph Proudhon: A Prophet of 1848," pt. II, *American Journal of Sociology* 34 (July 1929):36.
23. Proudhon, *General Idea of the Revolution*, p. 147.
24. *Ibid.*, p. 85.
25. F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), *passim*.
26. Proudhon, *What Is Property?*, p. 278.
27. Giovanni Baldelli, *Social Anarchism* (Chicago: Aldine-Atherton, 1971), p. 6.
28. Chiaromonti, "Social Law After Proudhon," p. 25.
29. William MacIntire Salter, *Anarchy or Government: An Inquiry in Fundamental Politics* (New York: Thomas Y. Crowell and Co., 1895), p. 7.
30. Franz Oppenheimer, *The State: Its History and Development Viewed Sociologically* (New York: B. W. Huebsch, Inc., 1914), p. xiv.
31. Strauss, *Natural Right and History*, p. 131.
32. Alan Ritter, "Proudhon and the Problem of Community," *Review of Politics* 29 (October 1967):475.
33. Hayek, *Constitution of Liberty*, p. 139.