

Anarchists, Realists, and the Right

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Selfish Libertarians and Socialist Conservatives?
The Foundation of the Libertarian-Conservative Debate
By Nathan W. Schlueter and Nikolai G. Wenzel
(Stanford University Press, 2017)

The debate between conservatism and libertarianism is of both enduring and immediate interest to students of American politics. It is of enduring interest because the modern American right, as we have always known it (and probably in any future form we can conceive of it), depends on the harmonization of these different modes of thought and the cooperation of the people disposed to them.

The alliance has been persistent but uneasy. It persists because of the threat posed by the common enemy of conservatism and libertarianism: a contemporary liberalism that is prone to statist management, and even to the reengineering of society. It is uneasy because conservatives and libertarians do not entirely agree on the positive good they are defending against statist liberalism. Libertarians view this liberalism as a threat to individual liberty, while conservatives see it as more of a threat to the common culture and way of life we have inherited and which, they believe, we are obliged to preserve.

The conservative-libertarian debate is of immediate interest because the election of Donald Trump to the presidency raises a question about the continuing relevance

of the right as we have known it. Trump is neither a conservative nor a libertarian but something else—a populist nationalist. The relative ease with which he commandeered the Republican Party and then won the Electoral College invites conservative and libertarian members of the old coalition on the right to return to philosophical and political fundamentals, to ask once again what they are defending and how it can be defended in the present state of our society.

Readers should therefore welcome the publication of Nathan W. Schlueter and Nikolai G. Wenzel's *Selfish Libertarians and Socialist Conservatives?: The Foundations of the Libertarian-Conservative Debate*. Schlueter and Wenzel clearly and methodically lay out the areas of agreement and disagreement between contemporary American libertarians and conservatives. The key themes of their book—liberty, good government, and the threat to both posed by extreme rationalism and unrealistic expectations from politics—are particularly relevant at the present time and will continue to be relevant for a long time to come.

The book is a bit quirky, both in form and in substance, but nonetheless enlighten-

ing for that. In terms of format, one might have expected either a single-author work by a scholar who has studied both libertarianism and conservatism, or else a collection of essays by a number of libertarian and conservative contributors. Schlueter and Wenzel offer something refreshingly different: a book in the form of a debate, with each author defending one of the key positions. Schlueter, a conservative political scientist, explains conservatism and critiques libertarianism. Wenzel, a libertarian economist, does the opposite.

The structure of the book forces them to engage each other directly instead of talking past each other and to develop their ideas in relation to public policy questions, not just at the level of philosophical abstraction. Each author gets a full chapter in which to make the case for his position, another in which to critique his opponent's, and yet another in which to offer a conclusion. Each also gets a chapter in which to apply his perspective to three important issues. Thus the reader encounters two chapters that explain the conservative and libertarian approaches to education, marriage, and immigration.

In terms of substance, the book is quirky because each author ends up staking out a position that is not the only, or even the most mainstream, version of conservatism or libertarianism. Schlueter's conservatism is in fact the "natural law liberalism" defended by political scientist Christopher Wolfe in his book of the same name. This conception is, in turn, a development of the "new natural law" theory most famously associated with the legal philosopher John Finnis. For his part, Wenzel defends "minarchy," the view that government should do nothing but defend individual rights, or that coercion may be employed only to prevent coercion.

Here again, however, the book's somewhat unusual character does nothing to impede its effectiveness as an introduction to the larger debate. Both authors take care to contrast their positions to, and thus to explain, more

familiar versions of conservatism and libertarianism. Schlueter presents his natural law liberalism as a defense of the conservatism of the American founding and the best synthesis of the libertarian, traditionalist, and neoconservative strands of the modern right. Each of these strands, he argues, emphasizes a key principle—individual freedom, tradition, or reason—that nevertheless needs to be moderated by the legitimate concerns of the other strands. Wenzel presents minarchy as a mean between anarcho-capitalism, which rejects government entirely, and classical liberalism, which agrees with minarchy that government's primary purpose is to protect rights, but also sees a role for it in providing public goods and correcting market failures. For Wenzel, both anarcho-capitalism and classical liberalism contribute important insights but also have defects that minarchy avoids.

In their jointly authored introduction, Schlueter and Wenzel admit that neither of them has a slam-dunk argument that can demonstrate the superiority of his own position. For them, it seems, an enlightening mutual critique is possible between conservatism and libertarianism, but a definitive refutation of one by the other is not. Their posture thus bespeaks a welcome spirit of moderation and humility at a time when too much political argument is characterized on all sides by dogmatic certitude. Nevertheless, by framing their book as a debate, they invite their readers to choose between their positions. For me, the weight of the argument favors Schlueter's conservatism over Wenzel's libertarianism.

Schlueter and Wenzel both admit that America has afforded its people a remarkable degree of freedom and has thereby made possible an impressive level of human flourishing. Whether one agrees with his theory or not, Schlueter's disposition toward this inheritance is practical, sensible, and just. His aim is to appreciate it, understand

it, preserve it, and transmit it to future generations. For Schlueter, the achievement of the American Founders is not perfect, but it is probably as good as human beings can practically expect to attain—something for which to be grateful, something that prudence counsels us to safeguard.

Wenzel, in contrast, is disposed to be severely critical of America's system of government as insufficiently protective of individual liberty. He decries—as would almost anybody—the American founding's most obvious failing in respect to liberty: the presence of slavery. He goes further, however, and denounces aspects of the Constitution that most people would find utterly unexceptionable, such as its provisions for protecting public safety in extraordinary emergencies, like suspension of habeas corpus and use of the militia to suppress insurrections, and the role it creates for the federal government in the national economy, such as the post office and the power to coin money.

Wenzel's theory requires him to be critical of the founding. After all, the American Founders were not minarchists. They believed that the protection of individual rights was a leading purpose of government but not its only purpose. They would not have agreed with Wenzel that the only legitimate function of government coercion is to prevent coercion by private actors. For example, they saw a role for government in upholding standards of public morality. Hence the "police powers" of the states implicitly acknowledged by the Tenth Amendment. They also saw a role for government in regulating foreign and domestic trade in the nation's interest. Hence the constitutional power of Congress to regulate commerce with foreign nations and among the several states.

On the one hand, one should praise Wenzel for his consistency and candor. Some libertarians argue as if the public philosophy of the American founding was libertarian and suggest that the Constitution is a libertarian

document. Wenzel is too clear-sighted to fall into this error. On the other hand, Wenzel's criticism of the founding places him in the strange position of finding fundamental fault with a decent, workable, and prosperous country because he and some other theorists think they see a way in which everything could be done better. Unlike Schlueter, Wenzel is not inclined to accept with gratitude what he has received, namely a political system that has permitted a degree of human liberty and flourishing unsurpassed in human history. Instead, he severely criticizes what he has received on the basis of theoretical standards that have never been realized in practice, either in America or anywhere else.

This brings us to the deep flaw in Wenzel's minarchist libertarianism: it is utopian. Wenzel recognizes that utopianism is an error. In the book's introduction, he and Schlueter note that a "sound public philosophy must take people as they are and not as we want or imagine them to be." Wenzel contends that his libertarianism is not utopian because it recognizes that human beings are fallible and admits that there has never been a perfectly libertarian society. Nevertheless, his libertarianism *is* utopian in the sense that it insists on judging existing—and in many cases highly successful—societies in light of principles that have never served as the foundation of any real society. We know of no government in human history that has been minarchical in Wenzel's sense. They have all dedicated themselves to some substantive conception of the common good beyond just protecting individual rights. Wenzel admits that we must take human beings as they are. But everything we know about human beings from the earliest history up to the present indicates that we are powerfully inclined to set up and submit to governments that do more than use coercion to prevent coercion.

Wenzel presses his utopianism further, insisting not only on judging but also transforming existing societies in light of his

theory of minarchy. Thus he contends, in his chapter dealing with public policy case studies, that government has no role to play in regulating marriage, in providing education, or in controlling immigration. Some government regulation of these matters, however, has been characteristic of every real free society that has existed. As far as we can know, such regulation may be necessary to sustaining the culture that permitted free societies to emerge in the first place. Nevertheless, Wenzel brushes these institutions aside as incompatible with a theory that he somehow finds more real and more valuable than the actual blessings of the existing civilization of which he is fortunate to be a member.

I hasten to add that this line of criticism is not intended to suggest that libertarianism, whether Wenzel's or any other version, has nothing positive to contribute to our think-

ing about political life. On the contrary, the libertarian disposition—its skepticism about government's ability to solve social problems, its warning that invocations of the common good are sometimes cover for selfish, rent-seeking behaviors—is necessary to any realistic approach to politics. But reasonable libertarian warnings about the dangers of government power should not be transformed into dogmatic libertarian claims about the proper functions of government. This is why Schlueter is wise to treat libertarianism as one strand of conservatism and not as its theoretical basis. We would be wise to follow him in this conclusion.

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From Ode to the Raptors

Timothy Murphy

Our Orchard Glen hosted three Great Horned Owls.
 Murders of crows attacked each woodland perch,
 no sanctuaries in our *pagan church*
 Over my head today one of them scowls
 atop a leafless elm,
 and I am at my helm
 cruising the Intracoastal Waterway,
 an osprey on my port
 fishing for food and sport,
 cousins in our profound love for our prey.
 I once wrote an osprey an elegy,
 dead on the forest floor
 when I was twenty-four,
 a good beginner's glimpse at poetry:

*Fellow pilot, hunter and fisherman,
 when you lie mantled in a robe of snow,
 too weak to fly or fight, what famished beast
 will strew the feathers at your funeral feast?*