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# Seeing the State through *For a New Liberty*

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**T**he central chapter of Murray Rothbard's *For a New Liberty* is "The State." The central moment of that chapter is when Rothbard tells us that "if you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band, and all of the libertarian attitudes will logically fall into place" (1994, 57). In other words, his focus is on exhorting the reader to see the state in a particular way: not as just another piece of social technology that we might pick up or put down, but as a parasitical enemy that imposes itself upon us and guides its actions by however it can best exploit us.

There are a couple strange things about that: First, if everything else Rothbard says in the book is right, then evaluating the state as a piece of social technology would be enough to judge it a pretty defective one. So, what's the point of this exercise? Second, it seems that any such judgment that the state is like a criminal organization would be the *conclusion* of the book's argument, not a premise somewhere in the early middle. Why put this before his discussions of different policy areas, and not after, perhaps as a grand finale?

The answer to both questions is that the picture we have of the state and our relationship to it will decide which normative and descriptive facts naturally strike us as salient. It is for this reason that he spends so much time painting a picture of his own.

Once you see it, you can't unsee it.

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## An Anatomy of “The State”

Rothbard has three basic aims in “The State.” The first is to overthrow our ordinary understanding of the state, wherein it is deflated and sanitized to simply “the word we use for the things we do together.” Against that false common sense, he makes visible both the state itself, as a distinct thing of its own, separate from those subjected to its rule, and the inherently antagonistic relationship between the state and its subjects. The second aim is to show further that the state, by its very nature, requires a standing exception to everyday morality, as its basic functions require acts we would in all other cases find unacceptable, and that as the scope of its power grows, so does the scope of that standing exception to everyday morality. This raises the question of how such a system could be sustained, which leads us to his third aim: showing that while states lack the morally significant consent of the governed, their power strictly depends on a socially descriptive assent of the governed. This makes sustaining that assent through the production of ideology one of the state’s most crucial tasks, bringing us back to the illusions by which we identify the state with its victims.

He opens by bridging the previous chapter, “Property and Exchange,” to all three points. There he laid out the core ideas of natural rights libertarianism: non-aggression, self-ownership, rights to external property through the use of unowned objects, and voluntary association through free contract and free trade. Yet, he tells us, all of that is not so special to libertarians, at least not on its own. Virtually everyone is against “the exercise of random violence against persons and property”; there is nothing special about condemning ordinary criminals (55). What distinguishes libertarians is that they apply these same principles to the state (56). When such an application is made, we see that “*all* States everywhere, whether democratic, dictatorial, or monarchical,” must be identified as “the best organized aggressor against the persons and property of the mass of the public” (56, emphasis in the original).

Before even making that proclamation, he makes an observation that might feel like an unnecessary tangent, but begins to suggest in favor of the picture he is about to paint. Although radical libertarians, he says, are no different in their condemnation of ordinary, interpersonal crime, they do differ in its prosecution. In his form of law-governed anarchy, “there would be no ‘district attorney,’ who prosecutes criminals in the name of a nonexistent ‘society,’ even against the wishes of the victim” (55). Instead, cases would be between the victim and their aggressor.<sup>1</sup>

This draws attention to something very odd about the criminal law as we know it. If I were to stand charged for attacking someone named Smith, the case would not be *Smith v. Byas*; it would be something more like *The State of Michigan v. Byas*. How strange: you would think that the party with the complaint against me would be Smith, rather than the State of Michigan. Not so.

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1. For recent defenses of a law-governed anarchy much like the one Rothbard defends, see Chartier (2013) and Huemer (2013). See also the essays collected in Stringham (2007).

In fact, because the party with the complaint against me is “the State of Michigan,” the prosecutor may charge me even if Smith profusely rejects my prosecution and pleads for those charges to be dropped. My crime, then, is not so much the attack on Smith itself, but my disobedience to the State of Michigan’s command that I not attack him. When claiming this right over Smith, the state does so in the name of the people, and indeed, the prosecutor may even repeatedly refer to themselves as “the people.” Yet in a case where Smith pleads against my prosecution, and in which I stand to be punished with no benefit to Smith, it is hard to see where we find ourselves among this “people” who makes this case to the judge for the resolution of our quarrel against our will.<sup>2</sup>

The answer Rothbard wants us to reach is “nowhere.” Despite the pretensions of prosecutors, the state is a particular organization with a particular set of interests, external to those it rules. That organization, for Rothbard, is distinguished by two features: a unique right to fuel its activities with nonconsensual takings of property and wealth, and a unique right to make demands that it will back up with initiated violence (57). To secure supremacy on both fronts, it claims an uncheckable monopoly on the provision of security and the settling of disputes (58). That supremacy is not challenged by separation of powers, since that separation still keeps powers within the state. Although the state can guard us against private criminals, Rothbard asks, “Who can guard us against the State itself?” answering, “No one” (58).

According to Rothbard, the purpose of this power hoarding is a steady supply of wealth to the state from its subjects. Drawing on writers as diverse as the German sociologist and self-described liberal socialist Franz Oppenheimer, the antebellum Southern political theorist and slavery-expansionist vice president John C. Calhoun, and the Boston anarchist and slavery-abolitionist lawyer Lysander Spooner, Rothbard defends a class theory in which the state exists to move wealth from those relying upon “the productive means” of free exchange to those able to make use of the “political means” of state confiscation (60–66). Although Rothbard does condemn the tyranny of the majority, he is quick to insist that even that description of democracy is an illusion, because “the normal and continuing condition of the State is *oligarchic* rule,” by and for those who have “managed to gain control of the State machinery” (60–61, emphasis in the original).<sup>3</sup> It could be no other way, at least not for long,

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2. For an illuminating discussion of this peculiar, now ubiquitous variety of law, its authoritarian structure, cases in which it has emerged from something closer to Rothbard’s anarchist alternative, and how such an alternative might work today, see Benson (1990). See also Christie (1977)’s classic discussion of how the state “steals conflicts” through the criminal law.

3. For a collection of historical and contemporary writings that describe something similar to Rothbard’s libertarian class theory, see Hart et al. (2018). Two excellent recent discussions are Lemke (2015) and Holcombe (2018). Lemke’s paper works to square a libertarian-amenable class theory with methodological individualism, and presents one that well captures its less straightforwardly economic dimensions. Holcombe determines individuals’ class position by how high their transaction costs are for making use of the political means.

since the profits of this plunder must be divided among a relatively small group, lest they quickly divide to nothing (61).

By its very nature, then, the state requires a standing exception to the rules of everyday morality, which forbid nonconsensual takings as theft, and acts of violence such as assault and battery to back up arbitrary commands. By that same nature, it will require further exceptions, as when it kills on an incredible scale to protect its territory and often forces its subjects to do that killing.

As Rothbard memorably describes the historical record,

For centuries the State has committed mass murder and called it “war.” . . . For centuries the State has enslaved people into its armed battalions and called it “conscriptio[n]” in the “national service.” For centuries the State has robbed people at bayonet point and called it “taxation.” (56–57)

It is at the end of this string of claims that Rothbard says, “If you wish to know how libertarians regard the State and any of its acts, simply think of the State as a criminal band, and all of the libertarian attitudes will logically fall into place.”

Yet now there is the question: If the state is simply a criminal band, sapping wealth from the rest of us, how can its power persist? While Rothbard cites Hume, the answer he gives dates back to Étienne de La Boétie’s 1577 essay “The Discourse on Voluntary Servitude”: each and every state must rest on the assent of the governed, through a combination of “eager and enthusiastic approval” from its true believers and a “passive acquiescence and resignation” from those who see or instinctively feel its injustice (66). Otherwise, its taxes would not be paid, its commands could not be meaningfully policed, and its wars could not be fought.

In turn, the state must invest heavily in securing that assent through ideology, sometimes sanctifying state rule, and sometimes merely insisting on its inevitability. Other times, it is merely by creating a habit of obedience so strong that the state fades into the background and reflection never occurs (68, 72, 85). Among the ideas Rothbard highlights are claims to divine mandate or even outright deification (67–69, 73), which in the modern era shift to scaffolding layers of complicated scientific expertise (73–76), the Hobbesian specter of chaos (71), nationalism (71), affixing guilt to individualistic pursuits (71), and more. Often, these are inversions of initially state-critical ideals—even the divine right of kings was initially intended as a limiting principle, in which kings needed to stay within the confines of God’s law, but this eventually evolved into the absolutism we remember (79–80). It is easy to see the importance of ideology for the functioning of a state when we consider how much more stable tradition-rich hereditary monarchies and clerical theocracies have been over open military juntas, even though all of these might be formally described as dictatorships.

According to Rothbard, it is because of the state’s heavy demand for ideology that it seeks to supply it through an alliance with intellectuals, a post-Enlightenment

“Throne and Altar” (67). In turn, intellectuals are given greater social status and power, along with the comfort of being able to make a living exploring ideas, which might otherwise be hard to come by (74–75). Here Rothbard does not mean to suggest something so crass as an open, explicit exchange on these terms, but rather that the habits of an intellectual’s employment and its fruits will incline them to rationalize that same position, and then so too the rest of the institutional framework it depends on (74–77). Insurgent intellectuals, more willing to challenge the assumptions the state depends on, are most likely to emerge when there is “an independent property base . . . separate from the apparatus of the State,” especially with “decentralized foci of power” (77).

### **Political Philosophy When Its Subject Is Organized Crime**

That’s the picture Rothbard paints. A critic might ask: What’s the point? Giving us a story about how the state works need not itself establish any conclusion about its legitimacy, let alone the feasibility of doing without it, or its efficacy in one or another domain. Functional critiques of this kind will often sound like mere rants, at least to unsympathetic ears.<sup>4</sup>

As I read Rothbard, the point in helping us to see this picture is that we already have a picture, and the one we already have will block from view everything else that he wants us to see. Even if we are not yet persuaded by his story in “The State,” it gives us a new pair of lenses to try on. While trying them on, things might look different, and the story itself might become more persuasive as it makes sense of much that might not have made sense before.

To explain this further, consider the alternative of considering the state as just a piece of social technology, without having a story like Rothbard’s in hand. If so, the ultimate conclusion Rothbard wants us to reach, that the state should be abolished, or even much weaker conclusions that it should be restrained to some minimal sphere, will be fighting an uphill battle.

After all, the state is an utterly familiar piece of social technology, pervasive in its reach. We’ve gone to its schools, driven on its roads, eaten food and taken drugs stamped with its seals of approval, perhaps called its police or firefighters for assistance in the security of our person or property, or relied upon one of its social programs as a safety net in times of desperate need, and even taken filling out its forms year after year as part of what it means to be an adult. Frequently, others will take the

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4. For an illuminating criticism of functional critiques, see chapter 3 of Shelby (2022), which examines left-wing functional critiques of prisons and criminal punishment. Although I am more sympathetic to functional critiques than Shelby, his discussion is well worth reading for thinking about the general form of arguments like Rothbard’s in “The State.”

documents it keeps as the final answer of who we really are.<sup>5</sup> Even outside its grasp, world history classes usually begin with the state's birth and divide time by stages of its development. Considered as a piece of technology, evaluating the state will strike us as something like evaluating the wheel.

If we find ourselves in a public goods problem, we know that we can just plug in the state to take care of it. If there is some kind of injustice, we will yearn for the state, specifically, to make things right. It may well be that someone could provide plausible story after plausible story for how all of these problems could be solved without the state. It may be that they could do the same for showing us how ordinary state actions are unjust. Yet these arguments, given our everyday experience, will strike us as kind of wacky.

So too could someone go through explaining how everything we use wheels for could be done differently, but why bother? The most successful philosophical objections to core state actions like imposing taxes or preserving its monopoly on force might feel like ancient Eleatic arguments that motion never occurs: even if we can't find what's wrong with it, we won't be moved. We might regard it as an interesting puzzle for someone to work through later, but do so without ever seriously entertaining that the conclusion is *actually true*.

This is the very problem of ideology that Rothbard talks about in "The State," though perhaps a bit subtler than he describes, and even more serious because of that subtlety. Whether we are intellectuals or not, the ideas likely to occur to us will be statist ones because we live in a state-ordered world. Its familiarity feels warm, and its durability feels permanent. Accordingly, the picture in which it is both benevolent and inevitable comes to us pre-programmed. If we are to seriously consider the dramatic reductions or even elimination of its power that libertarianism requires, we will need to see another picture.<sup>6</sup>

If Rothbard can get us to see his alternative picture, in which the state is "a criminal band," then "all of the libertarian attitudes will logically fall into place" (57). To see how this is so, consider how it might reframe a common philosophical argument about the state and its authority.

Fair play accounts of political obligation tell us that the state is a kind of cooperative project. When you receive the benefits of such a project, you thereby take on obligations when it comes time to do your part. Thus, these arguments conclude, it is unfair to disobey the state's commands.<sup>7</sup> As A. John Simmons argues, the main problem with these arguments is that such obligations of fair play only seem to kick

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5. For critical discussions of this phenomenon with respect to gender, see Spade (2008) and Novak (2015). See also many similar themes with respect to race in Fields and Fields (2012) and Bernstein (2022).

6. For a classic discussion of ideology and its role in the growth and maintenance of state power, see Higgs (1987) and further comments in Higgs (2008). For a discussion of ideology in general, especially in how it is intimately bound up with social practices and habits, see Haslanger (2017).

7. For the classic statements of this argument, see Hart (1955) and Rawls (1964).

in when the benefits you've accepted were ones that you could have easily avoided accepting, and this is not true for the benefits needed to ground obligations to the state (1979, chap. 5).

I don't want to get into the details of this debate, but instead to step back and make something of a metatheoretical observation about it. A point like Simmons's is significantly more likely to occur to you if you have the picture Rothbard paints in hand. In fact, the argument will already be on the wrong foot with its first step of assuming that the state is *a cooperative project*.

Organized crime may in many instances provide genuine protection, and even invest heavily in hospitals or other community services. Yet no one would describe this as a cooperative project of the kind to which we owe obligations of fair play. Rather, we would see it as a fundamentally parasitic relationship, with these genuine benefits largely created to preserve the parasitism. When we hold Rothbard's picture up to fair play accounts of political obligation, we see the same mistake. Such arguments have things the wrong way around: coming to collect is primary, the benefits received are just an after-the-fact rationalization to keep things going smoothly. To then accept that rationalization as something generating real obligations will strike us as perverse.

That same basic feature of the state, that the predation is primary and the benefits are largely there to sustain the predation, will also lead you to expect that the state's pervasive role in our lives is the cause of much social dysfunction. After all, we should expect the shape of its services to tilt toward whatever is necessary to secure the assent of the governed, rather than satisfying the needs of the governed *per se*. Although those two things will often correlate, they need not, especially as the state will impose itself well beyond wherever it is the best or even a good solution, given that simply being able to *present itself as a solution* will do the job it's really after. Rothbard effectively makes this point in the next short chapter, "The Problems," by listing several problems likely on the minds of his readers, and observing that there is "a 'red thread' marking and uniting them all: the thread of government" (95).

Having given you a reason to expect that the state will continually impose itself even when doing so is destructive, and that this destruction will be rendered invisible, he then spends the rest of the book trying to make that destruction visible. The picture provided in "The State" makes these accounts of destruction more plausible and is in turn made more plausible by them.

## Problems for Rothbard's Picture

Now that we can see the purpose of Rothbard's picture, and its power for achieving that purpose, it is worth mentioning three ways in which that picture might mislead or remain incomplete. None of these are fatal to the picture, but each can be dangerous if left unchecked.

The first is that Rothbard's emphasis on the state as a means of political exploitation can, ironically, lead to losing focus on the state. This is because deep familiarity with the state and the particular set of people who happen to command its machinery at any given time, along with how they have used the state for personal gain, can lead to conflating the state and its continuing structure with the then-current crop of elites. The political strategy following from this conflation will be a populist one of "throwing the bums out" without doing much to the fundamental structure, forgetting that the possession of this power predictably will reshape whoever holds it into its image. Worse still, forgetting this can lead to a naiveté about those who seek to overthrow existing elites, even when they have incredibly illiberal aims and have made those aims explicit.

On the one hand, this problem seems easily avoidable, since its errors are in direct contradiction with Rothbard's picture, properly understood. On the other hand, this is demonstrably not enough to quell its temptation. Rothbard's own laser focus on the American state and its elite class of managerial liberals led to a glowing eulogy of Che Guevara in 1967. In 1992, this same readiness to overlook the illiberalism of those who oppose existing elites led to an enthusiastic approval of David Duke's failed gubernatorial campaign.<sup>8</sup>

A second, perhaps related issue is that Rothbard's picture is reductive in its understanding of power. Against social anarchists, Rothbard explicitly disclaims any objection to hierarchy beyond that of the state (57), and affirms the iron law of oligarchy as a rule of human association, on the basis that some personalities are better attuned to leadership than others (61).

It is easy to see why Rothbard takes this line, as excessively blurring the distinction between the state and other forms of power can invite the solution to fight those other forms of power through the state. That thought is the birth of the statist liberalism Herbert Spencer (1885) bemoaned as a "new Toryism." So too does it bring even more authoritarian left-wing movements, which Rothbard himself categorized as confused "middle-of-the road... [attempts]... to achieve Liberal ends by the use of Conservative means" (1965, 7) having in mind the enlightenment liberal vision of a prosperous society of equal authority against the old order, pre-Burkean forms of European conservatism that valorized power for its own sake.

Yet it is not plausible that power is objectionable or dangerous only when it is the state's, and indeed even recognizing that those liberal ends are something that one might mistakenly see as potentially achievable through statist means suggests Rothbard understood this. Just as a distinction might be made between law and the state, so a distinction might be made between mere leadership and true social power in the sense of *domination*, in which the holder possesses some means of socially

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8. For his favorable eulogy of Guevara, see Rothbard (1967). For his praise of Duke's campaign, see Rothbard (1992).



compelling others to obey their arbitrary will. The latter might be objectionable even where the former is both inevitable and actively useful.

Most significantly, a reductive picture of power can obscure our understanding of even those parts of power to which it reduces the rest. For example, Calhoun's class theory specifically divided exploiters and exploited in terms of "taxpayers and tax consumers" (Calhoun, 1851). This is fine as far as it goes, as surely persistent wealth transfers are part of the story behind who is at which end of the state's parasitism. The business models of military contractors depend on the state spending the money it takes from others in a given way. So too do the interests of those represented by police and prison guard unions. It is no shock that these groups play a massive role in crafting policy. Nor is it odd that the resulting policies are often opposed to taxpayer interests, as those policies are born from maximizing on a process fundamentally opposed to taxpayer interests. However, Calhoun's framework is notably incomplete.

As the editors of *Social Class and State Power* observe in their introduction, identifying the ruling class simply through narrow fiscal benefits feels perfectly carved to place Calhoun and the slaveholding aristocracy in the "exploited" rather than "exploiter" category (Hart et al. 2018, xvii–xviii). Yet even there, any account of fiscal exploitation alone in nineteenth-century America that does not include slavery and the incredible legal apparatus required to sustain it is missing something.<sup>9</sup> So too does a failure to see domination beyond the state, its direct aggression, and the immediate material benefits secured from that process cloud our understanding of it. Ideological acceptance of the state is in many ways tied to ideological acceptance of other forms of power, and it is much easier to establish and maintain a state when there is a preexisting power inequality from which to build.<sup>10</sup>

Finally, although seeing the state requires an understanding of how it is propped up by ideology, it is important not to let this awareness warp into an overly dismissive suspicion of all ideas that seem difficult for libertarianism. For instance, it is true that the concept of public goods has been abused and overapplied to rationalize state action and growth. Yet this does not mean that there are no public goods problems, nor that they are easy to solve. Libertarians gain nothing from insistently ignoring problems, nor with responding only by casting an air of suspicion on anyone who raises them.

This third issue is especially salient when we consider what I think is the most serious challenge to anarchism, which is a kind of *tragic conservatism* left logically open by the picture Rothbard paints in "The State." In short, such a view would go something like this: "Yes, the state is just an especially successful criminal band,

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9. I do not think Rothbard's use of Calhoun falls into this problem. Rather, he seems to use Calhoun's framework to describe more than narrowly fiscal flows; hence his ability to integrate Calhoun's arguments with those of Oppenheimer and Spooner.

10. This last point is made compellingly by Roderick Long (1998, 334–41). See also Massimino (2020) for a general discussion of Rothbard on points like this.

it continues to fleece the public, and it exists for the purpose of fleecing the public. Nevertheless, we're just stuck with it. If not this one, another will take its place. Given what we've seen before, that next one is very likely to be worse, and the chaotic power vacuum between here and there would be bad enough on its own. And all that complicated stuff about security firms and arbitration agencies? Sure, that would work if you got them up and running. But you're not going to get them up and running. We're just too far along the path-dependent road from Rome and other ancient empires. Even though we would expect an ideology of inevitability even if the state were dispensable, it is in fact true."<sup>11</sup>

I don't think this is right.<sup>12</sup> Even if it were, it is worth remembering that the situation would indeed be *tragic*, not something to shrug off or even come to accept. It would be a reason to constantly keep looking for ways that new social, economic, or technological developments might have changed things such that we might yet escape that tragedy. All the same, the possibility is left logically open by the fact of the state being a criminal band whose purpose is to continue exploiting us. It is incumbent upon those who seek a world better than that to take seriously the challenge of finding it, and that challenge requires an attitude of intellectual openness in political economy. A constant danger for any radical movement is that taking seriously the problem of prevailing ideology can lead to quick dismissals of criticism offered in good faith, and so this should always be guarded against.

## Conclusion

There is no shortage of books purporting to be “manifestos” for some new, radical political movement. Those with a surviving readership fifty years into the future generally persist only as objects of historical curiosity, sometimes as grainy scans

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11. For an interesting discussion along these lines, see Holcombe (2004), the reply from Leeson and Stringham (2005), and the rejoinder in Holcombe (2005).

12. Why isn't it right? A full answer here would require an essay of its own—or more plausibly, a doorstopper book of its own. To condense that into a footnote, I will just refer readers to Leeson and Stringham's discussion (2005) and make a brief observation not mentioned there. Even among *anarchist* libertarians, political action has operated on the assumption that the best routes toward political change will ultimately involve engaging the state directly, either through reform or revolution. I have argued elsewhere that this is far from the only option, and that there is good sense in the alternative historically popular among social anarchists of “building a new world in the shell of the old,” or seeking to build institutions that displace the state and decrease our reliance upon it (Byas and Christmas 2020). Incidentally, I have also argued with specific reference to Rothbard's own political pitfalls that this strategy is less prone to moral error than direct state engagement, and that perhaps it is necessary *even in principle* that whatever path could get to a world like the one Rothbard envisions would have to go this way (Byas 2019). To put that last point succinctly: Even if it wanted to, the state could not legislate into existence a world in which laws emerge from the interaction of many competing forms of dispute resolution rather than being legislated from any single source. Indeed, such a system itself requires emergence from the interaction of many competing forms of dispute resolution, not legislation from a single source. So, we should not declare the state inevitable before expending much more time and effort on the one kind of strategy with any hope of success. Unpersuaded readers will no doubt remain unpersuaded by this response, but to make another point that will be just as unpersuasive to them, that unpersuasiveness is to be expected given our habituation into statist ideology.

from someone's out-of-print find somewhere deep in a back corner of a cramped used bookstore. Every year, there are countless popular-audience books ready to give you the basics of some political outlook and what those who hold it have to say on ten or so matters of pressing public concern. These sell tremendously for their few years of relevance, and then they're forgotten, replenished by the newest comprehensive application of that same outlook. *For a New Liberty* could be described as both of those things, yet it would be an understatement to say that it is still in print. Indeed, it still receives active discussion.

What makes it different? The book still reads fresh because it is grounded in a radical vision, a new way of seeing the world that departs from how we are likely to take it on first glance. The diagnoses found in 1973's problems do not apply perfectly to those of 2024, but the key points still ring true because the same "red thread" of government runs through each of those domains. As a manifesto, it still inspires, because the core principles it defends are still compelling, as is the basic account of persistent state predation in violation of those principles. Once those dynamics are visible through Rothbard's discussion of then-current events, we can better diagnose today's problems because we can now see "the State as the supreme, the eternal, the best organized aggressor against the persons and property of the mass of the public" (56).

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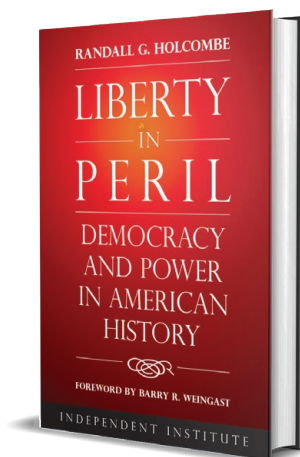
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