

THE RIGHT AND WRONG OF
COMPULSION BY THE STATE,
AND OTHER ESSAYS

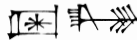


Auberon Herbert

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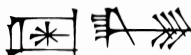
AUBERON HERBERT

*Edited and with an
Introduction by Eric Mack*



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The cuneiform inscription that serves as our logo and as the design motif for our endpapers is the earliest-known written appearance of the word “freedom” (*ama-gi*), or “liberty.” It is taken from a clay document written about 2300 B.C. in the Sumerian city-state of Lagash.

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For my parents
—E.M.

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INTRODUCTION

by Eric Mack

This collection of essays makes available the major and representative writings in political philosophy of one of the distinctive figures in the profound and wide-ranging intellectual debate which took place during the late Victorian age. It was during this period, in the intellectual and social ferment of the 1880s and 1890s, that Auberon Herbert (1838–1906) formulated and expounded voluntaryism, his system of “thorough” individualism. Carrying natural rights theory to its logical limits, Herbert demanded complete social and economic freedom for all noncoercive individuals and the radical restriction of the use of force to the role of protecting those freedoms—including the freedom of peaceful persons to withhold support from any or all state activities. All cooperative activity, he argued, must be founded upon the free agreement of all those parties whose rightful possessions are involved.

Auberon Herbert was by birth and marriage a well-

placed member of the British aristocracy. He was educated at Eton and at St. John's College, Oxford. As a young man he held commissions in the army for several years and served briefly with the Seventh Hussars in India (1860). On his return to Oxford he formed several Conservative debating societies, was elected a Fellow of St. John's, and lectured occasionally in history and jurisprudence. In 1865, as a Conservative, he unsuccessfully sought a seat in the House of Commons. By 1868, however, he was seeking a parliamentary seat, again unsuccessfully, as a Liberal. Finally, in 1870, Herbert successfully contested a by-election and entered the Commons as a Liberal representing Nottingham. Most notably, during his time in the House of Commons, Herbert joined Sir Charles Dilke in declaring his republicanism and Herbert supported Joseph Arch's attempts to form an agricultural laborer's union. Although, through hindsight, many of Herbert's actions and words during the sixties and early seventies can be read as harbingers of his later consistent libertarianism, he actually lacked, throughout this period, any consistent set of political principles. During this period, for instance, he supported compulsory state education—albeit with strong insistence on its being religiously neutral.

In late 1873 Herbert met and was much impressed by Herbert Spencer. As he recounts in "Mr. Spencer and the Great Machine," a study of Spencer led to the insight that

thinking and acting for others had always hindered, not helped, the real progress; that all forms of compulsion deadened the living forces in a nation; that every evil vio-

lently stamped out still persisted, almost always in a worse form, when driven out of sight, and festered under the surface. I no longer believed that the handful of us—however well-intentioned we might be—spending our nights in the House, could manufacture the life of a nation, could endow it out of hand with happiness, wisdom, and prosperity, and clothe it in all the virtues.¹

However, it was even before this intellectual transformation that Herbert had decided, perhaps out of disgust with party politics or uncertainty about his own convictions, not to stand for reelection in 1874. Later, in 1879, he again sought Liberal support to regain a seat from Nottingham. But at that point his uncompromising individualist radicalism was not acceptable to the majority of the Central Council of the Liberal Union of Nottingham. In the interim, in 1877, he had organized the Personal Rights and Self-Help Association. And in 1878 he had been one of the chief organizers of the antijingoism rallies in Hyde Park against war with Russia. Along with other consistent classical liberals, Herbert repeatedly took anti-imperialist stands. He called for Irish self-determination. He opposed British intervention in Egypt and later opposed the Boer War.

In 1880, following his rejection by the Liberals of Nottingham, Herbert turned to the publication of addresses, essays, and books in defense of consistent individualism and against all forms of political regimentation.

¹ Auberon Herbert, "Mr. Spencer and the Great Machine," p. 260. For additional bibliographic information see the bibliography. Page citations for material reproduced here are to pages in this volume. All other page citations refer to items listed in the bibliography.

Even in 1877 he had been disturbed by “a constant undertone of cynicism” in the writings of his mentor, Herbert Spencer, and had resolved to do full justice to “the moral side” of the case for a society of fully free and voluntarily cooperative individuals.² And while Spencer grew more and more crusty, conservative, and pessimistic during the last decades of the nineteenth century, Herbert, who continued to think of himself as Spencer’s disciple, remained idealistic, radical, and hopeful. And though he refused to join, he willingly addressed such organizations as the Liberty and Property Defense League which he felt to be “a little more warmly attached to the fair sister Property than . . . to the fair sister Liberty.”³ Similarly, Herbert held himself separate from the Personal Rights Association, whose chief mover, J. H. Levy, favored compulsory taxation for the funding of state protective activities. With the exception of the individualistic “reasonable anarchists,” Herbert thought of himself as occupying the left wing of the individualist camp, that is, the wing most willing to carry liberty furthest.⁴

In 1885 Herbert sought to establish the Party of Individual Liberty and under this rubric gave addresses across England. The title essay for this collection, *The Right and Wrong of Compulsion by the State*, was written as a statement of the basis for, the character of, and the implications of, the principles of this party. Again with

² S. Hutchinson Harris, *Auberon Herbert: Crusader for Liberty*, p. 248.

³ Auberon Herbert, “The Rights of Property,” p. 7.

⁴ *Ibid.*, p. 39.

the aim of advancing libertarian opinion, Herbert published the weekly (later changed to monthly) paper *Free Life*, "The Organ of Voluntary Taxation and the Voluntary State," from 1890 to 1901. *Free Life* was devoted to "One Fight More—The Best and the Last," the fight against the aggressive use of force which is "a mere survival of barbarism, a mere perpetuation of slavery under new names, against which the reason and moral sense of the civilized world have to be called into rebellion."⁵ Also during the 1890s, Herbert engaged in lengthy published exchanges with two prominent socialists of his day, E. Belfort Bax and J. A. Hobson. Herbert continued to write and speak into this century, and two of his best essays, "Mr. Spencer and the Great Machine" and "A Plea for Voluntaryism," were written in 1906, the last year of his life.

In all his mature writings Auberon Herbert defended a Lockean-Spencerian conception of natural rights according to which each person has a right to his own person, his mind and body, and hence to his own labor. Furthermore, each person has a right to the products of the productive employment of his labor and faculties. Since each person has these rights, each is under a moral obligation to respect these rights in all others. In virtue of each person's sovereignty over himself, each individual must consent to any activity which directly affects his person or property before any such activity can be morally legitimate. Specifically, each must forgo the use of

⁵ S. Hutchinson Harris, "Auberon Herbert," pp. 700-701.

force and fraud. Each has a right to live and produce in peace and in voluntary consort with others, and all are obligated to respect this peace.

In *The Right and Wrong of Compulsion by the State*, Herbert is anxious to point out that there is a potentially dangerous confusion between “two meanings which belong to the word force.”⁶ Direct force is employed when person A, without his consent, is deprived, or threatened with the deprivation, of something to which he has a right—for example, some portion of his life, liberty, or property. Anyone subject to such a deprivation or threat is, in his own eyes, the worse for it. His interaction with the wielder of force (or fraud) is something to be regretted, something to which he does not consent. In contrast, if B induces A to act by threatening (so-called) merely to withhold something that B rightfully owns and A values, then, according to Herbert, we can say that B has used “indirect force” upon A. But such indirect force is radically different from direct force. In the case of indirect force, A does not act under a genuine threat. For he is not faced with being deprived of something rightfully his (his arm or his life). Instead he is bribed, coaxed, induced into acting by the *lure* of B’s offer of something which is rightfully B’s. No action endangering rights plays any role in motivating A. A may, of course, wish that B had offered even more. But in accepting B’s offer, whatever it may be, A indicates that on the whole he consents to the exchange with B. He indicates that he values this interchange with B over the status quo. He

⁶ Herbert, *The Right and Wrong of Compulsion by the State*. p. 144.

indicates that he sees it as beneficial—unlike all interactions involving direct force.

The employer may be indirectly forced to accept the workman's offer, or the workman may be indirectly forced to accept the employer's offer; but before either does so, it is necessary that they should consent, as far as their own selves are concerned, to the act that is in question. And this distinction is of the most vital kind, since the world can and will get rid of direct compulsion; but it can never of indirect compulsion. . . .⁷

Besides, Herbert argues, any attempt to rid the world of indirect force must proceed by expanding the role of direct force. And "when you do so, you at once destroy the immense safeguard that exists so long as [each man] . . . must give his consent to every action that he does."⁸ The believer in strong government cannot claim, says Herbert, that in proposing to regulate the terms by which individuals may associate, he is merely seeking to diminish the use of force in the world.

What, then, may be done when the violation of rights threatens? So strong is Herbert's critique of force that, especially in his early writings, he is uncomfortable about affirming the propriety of even defensive force. Thus, in "A Politician in Sight of Haven" the emphasis is on the fact that the initiator of force places his victim "outside the moral-relation" and into "the force-relation." Force, even by a defender, is not "moral." The defender's only justification is the necessity of dealing with the aggressor as one would with "a wild beast." Indeed, so pressed is

⁷ Ibid., pp. 144–45.

⁸ Ibid., pp. 145–46.

Herbert in his search for some justification that he says, in justification of his defense of *himself*, "The act on my part was so far a moral one, inasmuch as I obeyed the derived moral command to help *my neighbor*."⁹

In *The Right and Wrong of Compulsion by the State*, Herbert starts by identifying the task of finding moral authority for any use of force and the task of finding moral authority for any government. He declares that no "perfect" foundation for such authority can be found, that all such authority is a usurpation—though "when *confined within certain exact limits . . .* a justifiable usurpation."¹⁰

In his later writings, Herbert seems to have fully overcome his hesitancy about defensive force. Possibly his most forceful statement appears in the essay "A Voluntarist Appeal":

If you ask us why force should be used to defend the rights of self-ownership, and not for any other purpose, we reply by reminding you that the rights of self-ownership are . . . supreme moral rights, of higher rank than all other human interests or institutions; and therefore force may be employed on behalf of these rights, but not in opposition to them. All social and political arrangements, all employments of force, are subordinate to these universal rights, and must receive just such character and form as are required in the interest of these rights.¹¹

According to Herbert, each person's absolute right to what he has peacefully acquired through the exercise of

⁹ Herbert, "Politician," p. 101. Italics added.

¹⁰ Herbert, *Right and Wrong*, p. 141.

¹¹ Herbert, "A Voluntarist Appeal," p. 317.

his faculties requires the abolition of compulsory taxation. The demand for “voluntary taxation” only is a simple instance of the demand for freedom in all human interaction. An individual does not place himself outside the moral relation by merely retaining his property, by not donating it for some other person’s conception of a worthy project. Such a peaceful individual is not a criminal and is not properly subject to the punishment of having a portion of his property confiscated. Herbert particularly urged those in the individualist camp to reject compulsory taxation.

I deny that A and B can go to C and force him to form a state and extract from him certain payments and services in the name of such state; and I go on to maintain that if you act in this manner, you at once justify state socialism. The only difference between the tax-compelling individualist and the state socialist is that while they both have vested ownership of C in A and B, the tax-compelling individualist proposes to use the powers of ownership in a very limited fashion, the socialist in a very complete fashion. I object to the ownership in any fashion.¹²

It is compulsory taxation which generates and sustains the corrupt game of politics—the game in which all participants strive to further their aims with resources forcefully extracted from those who do not share their aims. Compulsory taxation breaks the link between the preferences of the producers and peaceful holders of resources with respect to how those resources (their property, their

¹² J. H. Levy, ed., *Taxation and Anarchism*, p. 3. For a discussion of the views of J. H. Levy, Herbert’s antagonist in the exchange reprinted as *Taxation and Anarchism*, see *Liberty*, vol. 7, no. 14, p. 4.

faculties, their minds and bodies) should be used, and the actual use of those resources. For instance, compulsory taxation

gives great and undue facility for engaging a whole nation in war. If it were necessary to raise the sum required from those who individually agreed in the necessity of war, we should have the strongest guarantee for the preservation of peace. . . . Compulsory taxation means everywhere the persistent probability of a war made by the ambitions or passions of politicians.¹³

Herbert's demand for a "voluntary state," that is, a state devoted solely to the protection of Lockean-Spencerian rights and funded voluntarily, combined with his continual condemnation of existing state activities led to Herbert's being commonly perceived as an anarchist. Often these perceptions were based on hostility and ignorance, but Herbert was also regarded as an anarchist by serious and reasonably well-informed prostate critics like J. A. Hobson and T. H. Huxley. Similarly, J. H. Levy thought that to reject the compulsory state was to reject the state as such. And while, for these men, Herbert's purported anarchism was a fault, the individualist anarchist Benjamin Tucker always insisted that, to his credit, Auberon Herbert was a true anarchist.¹⁴

¹³ Herbert, "The Principles of Voluntaryism and Free Life," p. 398.

¹⁴ See J. A. Hobson, "Rich Man's Anarchism"; T. H. Huxley, "Anarchy or Regimentation"; Levy, ed., *Taxation and Anarchism*, p. 7; and Tucker's announcement of Herbert's death in *Liberty* (vol. 15, no. 6, p. 16)—"Auberon Herbert is dead. He was a true anarchist in everything but name. How much better (and how much rarer) to be an anarchist in everything but name than to be an anarchist in name only!"

Of course, there can be no question of whether Auberon Herbert was an anarchist of the coercive collectivizing or terrorist sort. Nothing could be further from his own position. For as Herbert points out in his "The Ethics of Dynamite," coercion, systematic or random, is nothing but a celebration of the principles on which the coercive state rests. Whether Herbert was an anarchist of the individualist, private property, free market sort is another and far more complex question. Herbert himself continually rejected the label; and although he maintained cordial relationships with men like Benjamin Tucker and Wordsworth Donisthorpe, he insisted that his views were sufficiently different from theirs in important respects to place him outside the camp of "reasonable" anarchists.

In what ways did Herbert's views differ from those of the individualist anarchists as represented by Tucker? Tucker had tied himself to a labor theory of value. It followed for him that such activities as lending money and renting property were not genuinely productive and that those who gained by such activities advanced themselves improperly at the expense of less-proprietyed people. Thus, Tucker took the laboring class to be an exploited class, exploited by the holders of capital. And he duly sympathized with, and often shared the rhetoric of, others who were announced champions of the proletariat against the capitalist class. Herbert did not accept this sort of economic analysis. He saw interest as a natural market phenomenon, not, as Tucker did, as the product of state-enforced monopolization of credit. And Herbert saw rent as legitimate because he believed, contrary to Tucker, that one did not have to be continually using an object

in order to retain just title to it and therefore morally charge others for their use of that object.¹⁵

I suspect it was these differences—differences not actually relevant to the issue of Herbert's anarchism—along with Herbert's desire not to grant the political idiots of his day the verbal advantage of tagging him an anarchist, that sustained Herbert's insistence that what he favored was, in fact, a type of state. But other factors and nuances entered in. Herbert argued that a voluntarily supported state would do a better job at defining and enforcing property rights than would the cooperative associations which anarchists saw as taking the place of the state and protecting individual liberty and property. Unfortunately, in his exchanges with Tucker on this matter, the question of what sort of institution or legal structure was needed for, or consistent with, the protection of individual life, liberty, and property tended to be conflated with the question of the genuine basis for particular claims to property.¹⁶ Finally, Herbert's considered judgment was that individualistic supporters of liberty and property who, like Tucker, favored the free establishment of defensive associations and juridical institutions were simply making a verbal error in calling themselves anarchists. They were not for no government, Herbert thought, but for decentralized, scattered, fragmented government. Her-

¹⁵ Whereas Herbert grounded his views in a belief in moral rights and obligations, Tucker came to espouse a purportedly postmoralistic egoism, and whereas Herbert was at least sympathetic to theism, Tucker was aggressively antireligious. But these differences seem never to have been factors in their disputes.

¹⁶ *Liberty*, vol. 7, no. 6, p. 5.

bert's position was that, although it would be better to have many governments within a given territory (a republican one for republicans, a monarchical one for monarchists, etc.) than to compel everyone to support a single state,¹⁷ individuals, if given the choice, would converge on a single government as their common judge and defender within a given territory.¹⁸ How we ultimately classify Herbert depends upon our answers to these two questions: (1) Does the fact that Herbert would allow individuals to withhold support from "the state" and to form their own alternative rights-respecting associations, show him to be an anarchist? (2) Does the fact that Herbert thought that it would be unwise for individuals to form such splinter associations, and unlikely that they would form them, show that the central institution which he favored was a state?¹⁹

No sketch of Herbert's views could be complete, even as a sketch, without some mention of Herbert's multi-dimensional analysis of power—"the sorrow and the curse of the world."²⁰ Following Spencer's distinction between industrial and militant societies, Herbert continually emphasized the differences between two basic modes of interpersonal coordination. There is the "way

¹⁷ See Levy, ed., *Taxation and Anarchism*, pp. 3–4.

¹⁸ Herbert, "A Voluntarist Appeal," p. 329, and "Principles," p. 383.

¹⁹ See *Liberty*, vol. 10, no. 12, p. 3. For a portion of the contemporary version of this dispute, see Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), Tibor Machan, *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975), and the essays by Eric Mack and Murray Rothbard in *Anarchism*, ed. J. W. Chapman and J. R. Pennock (New York: New York University Press, 1978).

²⁰ Herbert, "A Plea for Voluntarism," p. 316.