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Liberalism

IN THIS ESSAY I shall propose a theory about what liberalism is. But I face an immediate problem. My project supposes that there is such a thing as liberalism, and the opinion is suddenly popular that there is not. Sometime before the Vietnam war, politicians who called themselves "liberals" held certain positions that could be identified as a group. Liberals were for greater economic equality, for internationalism, for freedom of speech and against censorship, for greater equality between the races and against segregation, for a sharp separation of church and state, for greater procedural protection for accused criminals, for decriminalization of "morals" offenses, particularly drug offenses and consensual sexual offenses involving only adults, and for an aggressive use of central government power to achieve all these goals. These were, in the familiar phrase, liberal "causes," and those who promoted these causes could be distinguished from another large party of political opinion that could usefully be called "conservative." Conservatives tended to hold the contrary position to each of the classical liberal causes.

But a series of developments in the 1960s and 1970s called into question whether liberalism was a distinct political theory after all. One of these was the war. John F. Kennedy and his men called themselves liberals; so did Johnson, who retained the Kennedy men and added liberals of his own. But the war was inhumane and discredited the idea that liberalism was the party of humanity. It would have been possible to argue, of course, that the Bundys and McNamaras and Rostows were false liberals, who sacrificed liberal principles for the sake of personal power, or incompetent liberals, who did not understand that liberal principles prohibited what they did. But many critics drew the different conclusion that the war had exposed hidden connections between liberalism and exploitation. Once these supposed connections were exposed, they were seen to include domestic as well as external exploitation, and the line between liberalism and conservatism was then thought to be sham.

debatably elements of the liberal package, like support for military intervention in Vietnam, or the present campaign in support of human rights in Communist countries, or concern for more local participation in government, or for consumer protection against manufacturers, or for the environment. I have also omitted debatable extension of liberal doctrines, like busing and quotas that discriminate in favor of minorities in education and employment. I shall assume that the positions that are uncontroversially liberal positions are the core of the liberal settlement. If my claim is right, that a particular conception of equality can be shown to be constitutive for that core of positions, we shall have, in that conception, a device for stating and testing the claim that some debatable position is also "really" liberal.

IS THERE a thread of principle that runs through the core liberal positions, and that distinguishes these from the corresponding conservative positions? There is a familiar answer to this question that is mistaken, but mistaken in an illuminating way. The politics of democracies, according to this answer, recognizes several independent constitutive political ideals, the most important of which are the ideals of liberty and equality. Unfortunately, liberty and equality often conflict: sometimes the only effective means to promote equality require some limitation of liberty, and sometimes the consequences of promoting liberty are detrimental to equality. In these cases, good government consists in the best compromise between the competing ideals, but different politicians and citizens will make that compromise differently. Liberals tend relatively to favor equality more and liberty less than conservatives do, and the core set of liberal positions I described is the result of striking the balance that way.

This account offers a theory about what liberalism is. Liberalism shares the same constitutive principles with many other political theories, including conservatism, but is distinguished from these by attaching different relative importance to different principles. The theory therefore leaves room, on the spectrum it describes, for the radical who cares even more for equality and less for liberty than the liberal, and therefore stands even farther away from the extreme conservative. The liberal becomes the man in the middle, which explains why liberalism is so often now considered wishy-washy, an untenable compromise between two more forthright positions.

No doubt this description of American politics could be made more sophisticated. It might make room for other independent constitutive ideals shared by liberalism and its opponents, like stability or security, so that the compromises involved in particular decisions are made out to be more complex. But if the nerve of the theory remains the competition between liberty and equality as constitutive ideals, then the theory cannot succeed. In the first place, it does not satisfy condition (2) in the catalog of conditions

I set out. It seems to apply, at best, to only a limited number of the political controversies it tries to explain. It is designed for economic controversies, but is either irrelevant or misleading in the case of censorship and pornography, and indeed, in the criminal law generally.

But there is a much more important defect in this explanation. It assumes that liberty is measurable so that, if two political decisions each invades the liberty of a citizen, we can sensibly say that one decision takes more liberty away from him than the other. That assumption is necessary, because otherwise the postulate, that liberty is a constitutive ideal of both the liberal and conservative political structures, cannot be maintained. Even firm conservatives are content that their liberty to drive as they wish (for example, to drive uptown on Lexington Avenue) may be invaded for the sake, not of some important competing political ideal, but only for marginal gains in convenience or orderly traffic patterns. But since traffic regulation plainly involves some loss of liberty, the conservative cannot be said to value liberty as such unless he is able to show that, for some reason, less liberty is lost by traffic regulation than by restrictions on, for example, free speech, or the liberty to sell for prices others are willing to pay, or whatever other liberty he takes to be fundamental.

That is precisely what he cannot show, because we do not have a concept of liberty that is quantifiable in the way that demonstration would require. He cannot say, for example, that traffic regulations interfere less with what most men and women want to do than would a law forbidding them to speak out in favor of Communism, or a law requiring them not to fix their prices as they think best. Most people care more about driving than speaking for Communism, and have no occasion to fix prices even if they want to. I do not mean that we can make no sense of the idea of fundamental liberties, like freedom of speech. But we cannot argue in their favor by showing that they protect more liberty, taken to be an even roughly measurable commodity, than does the right to drive as we wish; the fundamental liberties are important because we value something else that they protect. But if that is so, then we cannot explain the difference between liberal and conservative political positions by supposing that the latter protect the commodity of liberty, valued for its own sake, more effectively than the former.²

It might now be said, however, that the other half of the liberty-equality explanation may be salvaged. Even if we cannot say that conservatives value liberty, as such, more than liberals, we can still say that they value equality less, and that the different political positions may be explained in that way. Conservatives tend to discount the importance of equality when set beside other goals, like general prosperity or even security; while liberals value equality relatively more, and radicals more still. Once again, it is apparent that this explanation is tailored to the economic controversies,

and fits poorly with the noneconomic controversies. Once again, however, its defects are more general and more important. We must identify more clearly the sense in which equality could be a constitutive ideal for either liberals or conservatives. Once we do so, we shall see that it is misleading to say that the conservative values equality, in that sense, less than the liberal. We shall want to say, instead, that he has a different conception of what equality requires.

We must distinguish between two different principles that take equality to be a political ideal.³ The first requires that the government treat all those in its charge *as equals*, that is, as entitled to its equal concern and respect. That is not an empty requirement: most of us do not suppose that we must, as individuals, treat our neighbor's children with the same concern as our own, or treat everyone we meet with the same respect. It is nevertheless plausible to think that any government should treat all its citizens as equals in that way. The second principle requires that the government treat all those in its charge *equally* in the distribution of some resource of opportunity, or at least work to secure the state of affairs in which they all are equal or more nearly equal in that respect. It is conceded by everyone that the government cannot make everyone equal in every respect, but people do disagree about how far government should try to secure equality in some particular resource, for example, in monetary wealth.

If we look only at the economic-political controversies, then we might well be justified in saying that liberals want more equality in the sense of the second principle than conservatives do. But it would be a mistake to conclude that they value equality in the sense of the first and more fundamental principle any more highly. I say that the first principle is more fundamental because I assume that, for both liberals and conservatives, the first is constitutive and the second derivative. Sometimes treating people equally is the only way to treat them as equals; but sometimes not. Suppose a limited amount of emergency relief is available for two equally populous areas injured by floods; treating the citizens of both areas as equals requires giving more aid to the more seriously devastated area rather than splitting the available funds equally. The conservative believes that in many other, less apparent, cases treating citizens equally amounts to not treating them as equals. He might concede, for example, that positive discrimination in university admissions will work to make the two races more nearly equal in wealth, but nevertheless maintain that such programs do not treat black and white university applicants as equals. If he is a utilitarian, he will have a similar, though much more general, argument against any redistribution of wealth that reduces economic efficiency. He will say that the only way to treat people as equals is to maximize the average welfare of all members of community, counting gains and losses to all in the same scales, and that a free market is the only, or best, instrument for achieving that goal. This is not (I think) a good argument, but if the conservative who makes it is sin-

cere, he cannot be said to have discounted the importance of treating all citizens as equals.

So we must reject the simple idea that liberalism consists in a distinctive weighting between constitutive principles of equality and liberty. But our discussion of the idea of equality suggests a more fruitful line. I assume (as I said) that there is broad agreement within modern politics that the government must treat all its citizens with equal concern and respect. I do not mean to deny the great power of prejudice in, for example, American politics. But few citizens, and even fewer politicians, would now admit to political convictions that contradict the abstract principle of equal concern and respect. Different people hold, however, as our discussion made plain, very different conceptions of what that abstract principle requires in particular cases.

WHAT DOES it mean for the government to treat its citizens as equals? That is, I think, the same question as the question of what it means for the government to treat all its citizens as free, or as independent, or with equal dignity. In any case, it is a question that has been central to political theory at least since Kant.

It may be answered in two fundamentally different ways. The first supposes that government must be neutral on what might be called the question of the good life. The second supposes that government cannot be neutral on that question, because it cannot treat its citizens as equal human beings without a theory of what human beings ought to be. I must explain that distinction further. Each person follows a more-or-less articulate conception of what gives value to life. The scholar who values a life of contemplation has such a conception; so does the television-watching, beer-drinking citizen who is fond of saying "This is the life," though he has thought less about the issue and is less able to describe or defend his conception.

The first theory of equality supposes that political decisions must be, so far as is possible, independent of any particular conception of the good life, or of what gives value to life. Since the citizens of a society differ in their conceptions, the government does not treat them as equals if it prefers one conception to another, either because the officials believe that one is intrinsically superior, or because one is held by the more numerous or more powerful group. The second theory argues, on the contrary, that the content of equal treatment cannot be independent of some theory about the good for man or the good of life, because treating a person as an equal means treating him the way the good or truly wise person would wish to be treated. Good government consists in fostering or at least recognizing good lives; treatment as an equal consists in treating each person as if he were desirous of leading the life that is in fact good, at least so far as this is possible.

This distinction is very abstract, but it is also very important. I shall now argue that liberalism takes, as its constitutive political morality, the first conception of equality. I shall try to support that claim in this way. In the next section of this essay I shall show how it is plausible, and even likely, that a thoughtful person who accepted the first conception of equality would, given the economic and political circumstances of the United States in the last several decades, reach the positions I identified as the familiar core of liberal positions. If so, then the hypothesis satisfies the second of the conditions I described for a successful theory. I shall later try to satisfy the third condition by showing how it is plausible and even likely that someone who held a particular version of the second theory of equality would reach what are normally regarded as the core of American conservative positions. I say "a particular version of" because American conservatism does not follow automatically from rejecting the liberal theory of equality. The second (or nonliberal) theory of equality holds merely that the treatment government owes citizens is at least partly determined by some conception of the good life. Many political theories share that thesis, including theories as far apart as, for example, American conservatism and various forms of socialism or Marxism, though these differ in the conception of the good life they adopt, and hence in the political institutions and decisions they endorse. In this respect, liberalism is decidedly not some compromise or halfway house between more forceful positions, but stands on one side of an important line that distinguishes it from all competitors taken as a group.

I shall not provide arguments in this essay that my theory of liberalism meets the first condition I described—that the theory must provide a political morality that it makes sense to suppose people in our culture hold—though I think it plain that the theory does meet this condition. The fourth condition requires that a theory be as abstract and general as the first three conditions allow. I doubt there will be objections to my theory on that account.

I NOW DEFINE a liberal as someone who holds the first, or liberal, theory of what equality requires. Suppose that a liberal is asked to found a new state. He is required to dictate its constitution and fundamental institutions. He must propose a general theory of political distribution, that is, a theory of how whatever the community has to assign, by way of goods or resources or opportunities, should be assigned. He will arrive initially at something like this principle of rough equality: resources and opportunities should be distributed, so far as possible, equally, so that roughly the same share of whatever is available is devoted to satisfying the ambitions of each. Any other general aim of distribution will assume either that the fate of some people should be of greater concern than that of others, or that the ambitions or

talents of some are more worthy, and should be supported more generously on that account.

Someone may object that this principle of rough equality is unfair because it ignores the fact that people have different tastes, and that some of these are more expensive to satisfy than others, so that, for example, the man who prefers champagne will need more funds if he is not to be frustrated than the man satisfied with beer. But the liberal may reply that tastes as to which people differ are, by and large, not afflictions, like diseases, but are rather cultivated, in accordance with each person's theory of what his life should be like.⁴ The most effective neutrality, therefore, requires that the same share be devoted to each, so that the choice between expensive and less expensive tastes can be made by each person for himself, with no sense that his overall share will be enlarged by choosing a more expensive life, or that, whatever he chooses, his choice will subsidize those who have chosen more expensively.⁵

But what does the principle of rough equality of distribution require in practice? If all resources were distributed directly by the government through grants of food, housing, and so forth; if every opportunity citizens have were provided directly by the government through the provisions of civil and criminal law; if every citizen had exactly the same talents; if every citizen started his life with no more than what any other citizen had at the start; and if every citizen had exactly the same theory of the good life and hence exactly the same scheme of preferences as every other citizen, including preferences between productive activity of different forms and leisure, then the principle of rough equality of treatment could be satisfied simply by equal distributions of everything to be distributed and by civil and criminal laws of universal application. Government would arrange for production that maximized the mix of goods, including jobs and leisure, that everyone favored, distributing the product equally.

Of course, none of these conditions of similarity holds. But the moral relevance of different sorts of diversity are very different, as may be shown by the following exercise. Suppose all the conditions of similarity I mentioned did hold except the last: citizens have different theories of the good and hence different preferences. They therefore disagree about what product the raw materials and labor and savings of the community should be used to produce, and about which activities should be prohibited or regulated so as to make others possible or easier. The liberal, as lawgiver, now needs mechanisms to satisfy the principles of equal treatment in spite of these disagreements. He will decide that there are no better mechanisms available, as general political institutions, than the two main institutions of our own political economy: the economic market, for decisions about what goods shall be produced and how they shall be distributed, and representative democracy, for collective decisions about what conduct shall be prohibited or

regulated so that other conduct might be made possible or convenient. Each of these familiar institutions may be expected to provide a more egalitarian division than any other general arrangement. The market, if it can be made to function efficiently, will determine for each product a price that reflects the cost in resources of material, labor, and capital that might have been applied to produce something different that someone else wants. That cost determines, for anyone who consumes that product, how much his account should be charged in computing the egalitarian division of social resources. It provides a measure of how much more his account should be charged for a house than a book, and for one book rather than another. The market will also provide, for the laborer, a measure of how much should be credited to his account for his choice of productive activity over leisure, and for one activity rather than another. It will tell us, through the price it puts on his labor, how much he should gain or lose by his decision to pursue one career rather than another. These measurements make a citizen's own distribution a function of the personal preferences of others as well as of his own, and it is the sum of these personal preferences that fixes the true cost to the community of meeting his own preferences for goods and activities. The egalitarian distribution, which requires that the cost of satisfying one person's preferences should as far as is possible be equal to the cost of satisfying another's, cannot be enforced unless those measurements are made.

We are familiar with the anti-egalitarian consequences of free enterprise in practice; it may therefore seem paradoxical that the liberal as lawgiver should choose a market economy for reasons of equality rather than efficiency. But, under the special condition that people differ only in preferences for goods and activities, the market is more egalitarian than any alternative of comparable generality. The most plausible alternative would be to allow decisions of production, investment, price, and wage to be made by elected officials in a socialist economy. But what principles should officials use in making those decisions? The liberal might tell them to mimic the decisions that a market would make if it was working efficiently under proper competition and full knowledge. This mimicry would be, in practice, much less efficient than an actual market would be. In any case, unless the liberal had reason to think it would be much more efficient, he would have good reason to reject it. Any minimally efficient mimicking of a hypothetical market would require invasions of privacy to determine what decisions individuals would make if forced actually to pay for their investment, consumption, and employment decisions at market rates, and this information gathering would be, in many other ways, much more expensive than an actual market. Inevitably, moreover, the assumptions officials make about how people would behave in a hypothetical market reflect the officials' own beliefs about how people should behave. So there would be, for the liberal,

little to gain and much to lose in a socialist economy in which officials were asked to mimic a hypothetical market.

But any other instructions would be a direct violation of the liberal theory of what equality requires, because if a decision is made to produce and sell goods at a price below the price a market would fix, then those who prefer those goods are, *pro tanto*, receiving more than an equal share of the resources of the community at the expense of those who would prefer some other use of the resources. Suppose the limited demand for books, matched against the demand for competing uses for wood pulp, would fix the price of books at a point higher than the socialist managers of the economy will charge; those who want books are having less charged to their account than the egalitarian principle would require. It might be said that in a socialist economy books are simply valued more, because they are inherently more worthy uses of social resources, quite apart from the popular demand for books. But the liberal theory of equality rules out that appeal to the inherent value of one theory of what is good in life.

In a society in which people differed only in preferences, then, a market would be favored for its egalitarian consequences. Inequality of monetary wealth would be the consequence only of the fact that some preferences are more expensive than others, including the preference for leisure time rather than the most lucrative productive activity. But we must now return to the real world. In the actual society for which the liberal must construct political institutions, there are all the other differences. Talents are not distributed equally, so the decision of one person to work in a factory rather than a law firm, or not to work at all, will be governed in large part by his abilities rather than his preferences for work or between work and leisure. The institutions of wealth, which allow people to dispose of what they receive by gift, means that children of the successful will start with more wealth than the children of the unsuccessful. Some people have special needs, because they are handicapped; their handicap will not only disable them from the most productive and lucrative employment, but will incapacitate them from using the proceeds of whatever employment they find as efficiently, so that they will need more than those who are not handicapped to satisfy identical ambitions.

These inequalities will have great, often catastrophic, effects on the distribution that a market economy will provide. But, unlike differences in preferences, the differences these inequalities make are indefensible according to the liberal conception of equality. It is obviously obnoxious to the liberal conception, for example, that someone should have more of what the community as a whole has to distribute because he or his father had superior skill or luck. The liberal lawgiver therefore faces a difficult task. His conception of equality requires an economic system that produces certain inequalities (those that reflect the true differential costs of goods and oppor-

tunities) but not others (those that follow from differences in ability, inheritance, and so on). The market produces both the required and the forbidden inequalities, and there is no alternative system that can be relied upon to produce the former without the latter.

The liberal must be tempted, therefore, to a reform of the market through a scheme of redistribution that leaves its pricing system relatively intact but sharply limits, at least, the inequalities in welfare that his initial principle prohibits. No solution will seem perfect. The liberal may find the best answer in a scheme of welfare rights financed through redistributive income and inheritance taxes of the conventional sort, which redistributes just to the Rawlsian point, that is, to the point at which the worst-off group would be harmed rather than benefited by further transfers. In that case, he will remain a reluctant capitalist, believing that a market economy so reformed is superior, from the standpoint of his conception of equality, to any practical socialist alternative. Or he may believe that the redistribution that is possible in a capitalist economy will be so inadequate, or will be purchased at the cost of such inefficiency, that it is better to proceed in a more radical way, by substituting socialist for market decisions over a large part of the economy, and then relying on the political process to insure that prices are set in a manner at least roughly consistent with his conception of equality. In that case he will be a reluctant socialist, who acknowledges the egalitarian defects of socialism but counts them as less severe than the practical alternatives. In either case, he chooses a mixed economic system—either redistributive capitalism or limited socialism—not in order to compromise antagonistic ideals of efficiency and equality, but to achieve the best practical realization of the demands of equality itself.

Let us assume that in this manner the liberal either refines or partially retracts his original selection of a market economy. He must now consider the second of the two familiar institutions he first selected, which is representative democracy. Democracy is justified because it enforces the right of each person to respect and concern as an individual; but in practice the decisions of a democratic majority may often violate that right, according to the liberal theory of what the right requires. Suppose a legislature elected by a majority decides to make criminal some act (like speaking in favor of an unpopular political position, or participating in eccentric sexual practices), not because the act deprives others of opportunities they want, but because the majority disapproves of those views or that sexual morality. The political decision, in other words, reflects not just some accommodation of the *personal* preferences of everyone, in such a way as to make the opportunities of all as nearly equal as may be, but the domination of one set of *external* preferences, that is, preferences people have about what others shall do or have.⁶ The decision invades rather than enforces the right of citizens to be treated as equals.

How can the liberal protect citizens against that sort of violation of their fundamental right? It will not do for the liberal simply to instruct legislators, in some constitutional exhortation, to disregard the external preferences of their constituents. Citizens will vote these preferences in electing their representatives, and a legislator who chooses to ignore them will not survive. In any case, it is sometimes impossible to distinguish, even by introspection, the external and personal components of a political position: this is the case, for example, with associational preferences, which are the preferences some people have for opportunities, like the opportunity to attend public schools—but only with others of the same “background.”

The liberal, therefore, needs a scheme of civil rights whose effect will be to determine those political decisions that are antecedently likely to reflect strong external preferences and to remove those decisions from majoritarian political institutions altogether. The scheme of rights necessary to do this will depend on general facts about the prejudices and other external preferences of the majority at any given time, and different liberals will disagree about what is needed at any particular time.⁷ But the rights encoded in the Bill of Rights of the United States Constitution, as interpreted (on the whole) by the Supreme Court, are those that a substantial number of liberals would think reasonably well suited to what the United States now requires (though most would think that the protection of the individual in certain important areas, including sexual publication and practice, are much too weak).

The main parts of the criminal law, however, present a special problem not easily met by a scheme of civil rights that disable the legislature from taking certain political decisions. The liberal knows that many of the most important decisions required by an effective criminal law are not made by legislators at all, but by prosecutors deciding whom to prosecute for what crime, and by juries and judges deciding whom to convict and what sentences to impose. He also knows that these decisions are antecedently very likely to be corrupted by the external preferences of those who make these decisions because those they judge, typically, have attitudes and ways of life very different from their own. The liberal does not have available, as protection against these decisions, any strategy comparable to the strategy of civil rights that merely remove a decision from an institution. Decisions to prosecute, convict, and sentence must be made by someone. But he has available, in the notion of procedural rights, a different device to protect equality in a different way. He will insist that criminal procedure be structured to achieve a margin of safety in decisions, so that the process is biased strongly against the conviction of the innocent. It would be a mistake to suppose that the liberal thinks that these procedural rights will improve the *accuracy* of the criminal process, that is, the probability that any particular decision about guilt or innocence will be the right one. Procedural rights

intervene in the process, even at the cost of inaccuracy, to compensate in a rough way for the antecedent risk that a criminal process, especially if it is largely administered by one class against another, will be corrupted by the impact of external preferences that cannot be eliminated directly. This is only the briefest sketch of how various substantive and procedural civil rights follow from the liberal's initial conception of equality; it is meant to suggest, rather than demonstrate, the more precise argument that would be available for more particular rights.

So the liberal, drawn to the economic market and to political democracy for distinctly egalitarian reasons, finds that these institutions will produce inegalitarian results unless he adds to his scheme different sorts of individual rights. These rights will function as trump cards held by individuals; they will enable individuals to resist particular decisions in spite of the fact that these decisions are or would be reached through the normal workings of general institutions that are not themselves challenged. The ultimate justification for these rights is that they are necessary to protect equal concern and respect; but they are not to be understood as representing equality in contrast to some other goal or principle served by democracy or the economic market. The familiar idea, for example, that rights of redistribution are justified by an ideal of equality that overrides the efficiency ideals of the market in certain cases, has no place in liberal theory. For the liberal, rights are justified, not by some principle in competition with an independent justification of the political and economic institutions they qualify, but in order to make more perfect the only justification on which these other institutions may themselves rely. If the liberal arguments for a particular right are sound, then the right is an unqualified improvement in political morality, not a necessary but regrettable compromise of some other independent goal, like economic efficiency.

I SAID THAT the conservative holds one among a number of possible alternatives to the liberal conception of equality. Each of these alternatives shares the opinion that treating a person with respect requires treating him as the good man would wish to be treated. The conservative supposes that the good man would wish to be treated in accordance with the principles of a special sort of society, which I shall call the virtuous society. A virtuous society has these general features. Its members share a sound conception of virtue, that is, of the qualities and dispositions people should strive to have and exhibit. They share this conception of virtue not only privately, as individuals, but publicly: they believe their community, in its social and political activity, exhibits virtues, and that they have a responsibility, as citizens, to promote these virtues. In that sense they treat the lives of other members of their community as part of their own lives. The conservative position is

not the only position that relies on this ideal of the virtuous society (some forms of socialism rely on it as well). But the conservative is distinct in believing that his own society, with its present institutions, is a virtuous society for the special reason that its history and common experience are better guides to sound virtue than any nonhistorical and therefore abstract deduction of virtue from first principles could provide.

Suppose a conservative is asked to draft a constitution for a society generally like ours, which he believes to be virtuous. Like the liberal, he will see great merit in the familiar institutions of political democracy and an economic market. The appeal of these institutions will be very different for the conservative, however. The economic market, in practice, assigns greater rewards to those who, because they have the virtues of talent and industry, supply more of what is wanted by the other members of the virtuous society; and that is, for the conservative, the paradigm of fairness in distribution. Political democracy distributes opportunities, through the provisions of the civil and criminal law, as the citizens of a virtuous society wish it to be distributed, and that process will provide more scope for virtuous activity and less for vice than any less democratic technique. Democracy has a further advantage, moreover, that no other technique could have. It allows the community to use the processes of legislation to reaffirm, as a community, its public conception of virtue.

The appeal of the familiar institutions to the conservative is, therefore, very different from their appeal to the liberal. Since the conservative and the liberal both find the familiar institutions useful, though for different reasons, the existence of these institutions, as institutions, will not necessarily be a point of controversy between them. But they will disagree sharply over which corrective devices, in the form of individual rights, are necessary in order to maintain justice, and the disagreement will not be a matter of degree. The liberal, as I said, finds the market defective principally because it allows morally irrelevant differences, like differences in talent, to affect distribution, and he therefore considers that those who have less talent, as the market judges talent, have a right to some form of redistribution in the name of justice. But the conservative prizes just the feature of the market that puts a premium on talents prized in the community, because these are, in a virtuous community, virtues. So he will find no genuine merit, but only expediency, in the idea of redistribution. He will allow room for the virtue of charity, for it is a virtue that is part of the public catalog; but he will prefer private charity to public, because it is a purer expression of that virtue. He may accept public charity as well, particularly when it seems necessary to retain the political allegiance of those who would otherwise suffer too much to tolerate a capitalist society at all. But public charity, justified either on grounds of virtue or expediency, will seem to the conservative a compromise with the primary justification of the market,

rather than, as redistribution seems to the liberal, an improvement in that primary justification.

Nor will the conservative find the same defects in representative democracy that the liberal finds there. The conservative will not aim to exclude moralistic or other external preferences from the democratic process by any scheme of civil rights; on the contrary, it is the pride of democracy, for him, that external preferences are legislated into a public morality. But the conservative will find different defects in democracy, and he will contemplate a different scheme of rights to diminish the injustice they work.

The economic market distributes rewards for talents valued in the virtuous society, but since these talents are unequally distributed, wealth will be concentrated, and the wealthy will be at the mercy of an envious political majority anxious to take by law what it cannot take by talent. Justice requires some protection for the successful. The conservative will be (as historically he has been) anxious to hold some line against extensions of the vote to those groups most likely to be envious, but there is an apparent conflict between the ideals of abstract equality, even in the conservative conception, and disenfranchisement of large parts of the population. In any case, if conservatism is to be politically powerful, it must not threaten to exclude from political power those who would be asked to consent, formally or tacitly, to their own exclusion. The conservative will find more appeal in the different, and politically much more feasible, idea of rights to property.

These rights have the same force, though of course radically different content, as the liberal's civil rights. The liberal will, for his own purposes, accept some right to property, because he will count some sovereignty over a range of personal possessions essential to dignity. But the conservative will strive for rights to property of a very different order; he will want rights that protect, not some minimum dominion over a range of possessions independently shown to be desirable, but an unlimited dominion over whatever has been acquired through an institution that defines and rewards talent.

The conservative will not follow the liberal in the latter's concern for procedural rights in the criminal process. He will accept the basic institutions of criminal legislation and trial as proper; but he will see, in the possible acquittal of the guilty, not simply an inefficiency in the strategy of deterrence, but an affront to the basic principle that the censure of vice is indispensable to the honor of virtue. He will believe, therefore, that just criminal procedures are those that improve the antecedent probability that particular decisions of guilt or innocence will be accurate. He will support rights against interrogation or self-incrimination, for example, when such rights seem necessary to protect against torture or other means likely to elicit a confession from the innocent; but he will lose his concern for such rights when noncoercion can be guaranteed in other ways.

The fair-minded conservative will be concerned about racial discrimination, but his concern will differ from the concern of the liberal, and the remedies he will countenance will also be different. The distinction between equality of opportunity and equality of result is crucial to the conservative: the institutions of the economic market and representative democracy cannot achieve what he supposes they do unless each citizen has an equal opportunity to capitalize on his genuine talents and other virtues in the contest these institutions provide. But since the conservative knows that these virtues are unequally distributed, he also knows that equality of opportunity must have been denied if the outcome of the contest is equality of result.

The fair conservative must, therefore, attend to the charge that prejudice denies equality of opportunity between members of different races, and he must accept the justice of remedies designed to reinstate that equality, so far as this may be possible. But he will steadily oppose any form of "affirmative action" that offers special opportunities, like places in medical school or jobs, on criteria other than some proper conception of the virtue appropriate to the reward.

The issue of gun control, which I have thus far not mentioned, is an excellent illustration of the power of the conservative's constitutive political morality. He favors strict control of sexual publication and practice, but he opposes parallel control of the ownership or use of guns, though guns are more dangerous than sex. President Ford, in the second Carter-Ford debate, put the conservative position of gun control especially clearly. Sensible conservatives do not dispute that private and uncontrolled ownership of guns leads to violence, because it puts guns in circulation that bad men may use badly. But (President Ford said) if we meet that problem by not allowing good men to have guns, we are punishing the wrong people. It is, of course, distinctive to the conservative's position to regard regulation as condemnation and hence as punishment. But he must regard regulation that way, because he believes that opportunities should be distributed, in a virtuous society, so as to promote virtuous acts at the expense of vicious ones.

IN PLACE of a conclusion, I shall say something, though not much, about two of the many important questions raised by what I have said. The first is the question posed in the first section of this essay. Does the theory of liberalism I described answer the skeptical thesis? Does it explain our present uncertainty about what liberalism now requires, and whether it is a genuine and tenable political theory? A great part of that uncertainty can be traced, as I said, to doubts about the connections between liberalism and the suddenly unfashionable idea of economic growth. The opinion is popular that some form of utilitarianism, which does take growth to be a value in itself, is con-

stitutive of liberalism; but my arguments, if successful, show that this opinion is mistaken. Economic growth, as conventionally measured, was a derivative element in New Deal liberalism. It seemed to play a useful role in achieving the complex egalitarian distribution of resources that liberalism requires. If it now appears that economic growth injures more than it aids the liberal conception of equality, then the liberal is free to reject or curtail growth as a strategy. If the effect of growth is debatable, as I believe it is, then liberals will be uncertain, and appear to straddle the issue.

But the matter is more complicated than that analysis makes it seem, because economic growth may be deplored for many different reasons, some of which are plainly not available to the liberal. There is a powerful sentiment that a simpler way of life is better, in itself, than the life of consumption most Americans have recently preferred; this simpler life requires living in harmony with nature and is therefore disturbed when, for example, a beautiful mountainside is spoiled by strip mining for the coal that lies within it. Should the mountainside be saved, in order to protect a way of life that depends upon it, either by regulation that prohibits mining or by acquisition with taxpayers' money for a national park? May a liberal support such policies, consistently with his constitutive political morality? If he believes that government intervention is necessary to achieve a fair distribution of resources, on the ground that the market does not fairly reflect the preferences of those who want a park against those who want what the coal will produce, then he has a standard, egalitarian reason for supporting intervention. But suppose he does not believe that, but rather believes that those who want the park have a superior conception of what a truly worthwhile life is. A nonliberal may support conservation on that theory; but a liberal may not.

Suppose, however, that the liberal holds a different, more complex, belief about the importance of preserving natural resources. He believes that the conquest of unspoiled terrain by the consumer economy is self-fueling and irreversible, and that this process will make a way of life that has been desired and found satisfying in the past unavailable to future generations, and indeed to the future of those who now seem unaware of its appeal. He fears that this way of life will become unknown, so that the process is not neutral amongst competing ideas of the good life, but in fact destructive of the very possibility of some of these. In that case, the liberal has reasons for a program of conservation that are not only consistent with his constitutive morality, but sponsored by it.

I raise these possible lines of argument, not to provide the liberal with an easier path to a popular political position, but to illustrate the complexity of the issues that the new politics has provided. Liberalism seems precise and powerful when it is relatively clear what practical political positions are derivative from its fundamental constitutive morality; on these occasions poli-

tics allows what I called a liberal settlement of political positions. But such a settlement is fragile, and when it dissolves liberals must regroup, first through study and analysis, which will encourage a fresh and deeper understanding of what liberalism is, and then through the formation of a new and contemporary program for liberals. The study and theory are not yet in progress, and the new program is not yet in sight.

The second question I wish to mention, finally, is a question I have not touched at all. What is to be said in favor of liberalism? I do not suppose that I have made liberalism more attractive by arguing that its constitutive morality is a theory of equality that requires official neutrality amongst theories of what is valuable in life. That argument will provoke a variety of objections. It might be said that liberalism so conceived rests on skepticism about theories of the good, or that it is based on a mean view of human nature that assumes that human beings are atoms who can exist and find self-fulfillment apart from political community, or that it is self-contradictory because liberalism must itself be a theory of the good, or that it denies to political society its highest function and ultimate justification, which is that society must help its members to achieve what is in fact good. The first three of these objections need not concern us for long, because they are based on philosophical mistakes which I can quickly name if not refute. Liberalism cannot be based on skepticism. Its constitutive morality provides that human beings must be treated as equals by their government, not because there is no right and wrong in political morality, but because that is what is right. Liberalism does not rest on any special theory of personality, nor does it deny that most human beings will think that what is good for them is that they be active in society. Liberalism is not self-contradictory: the liberal conception of equality is a principle of political organization that is required by justice, not a way of life for individuals, and liberals, as such, are indifferent as to whether people choose to speak out on political matters, or to lead eccentric lives, or otherwise to behave as liberals are supposed to prefer.

But the fourth objection cannot so easily be set aside. There is no easy way to demonstrate the proper role of institutions that have a monopoly of power over the lives of others; reasonable and moral men will disagree. The issue is at bottom the issue I identified: what is the content of the respect that is necessary to dignity and independence?

That raises problems in moral philosophy and in the philosophy of mind that are fundamental for political theory though not discussed here; but this essay does bear on one issue sometimes thought to be relevant. It is sometimes said that liberalism must be wrong because it assumes that the opinions people have about the sort of lives they want are self-generated, whereas these opinions are actually the products of the economic system or other aspects of the society in which they live. That would be an objection

to liberalism if liberalism were based on some form of preference-utilitarianism which argued that justice in distribution consists in maximizing the extent to which people have what they happen to want. It is useful to point out, against that preference-utilitarianism, that since the preferences people have are formed by the system of distribution already in place, these preferences will tend to support that system, which is both circular and unfair. But liberalism, as I have described it, does not make the content of preferences the test of fairness in distribution. On the contrary, it is anxious to protect individuals whose needs are special or whose ambitions are eccentric from the fact that more popular preferences are institutionally and socially reinforced, for that is the effect and justification of the liberal's scheme of economic and political rights. Liberalism responds to the claim that preferences are caused by systems of distribution, with the sensible answer that in that case it is all the more important that distribution be fair in itself, not as tested by the preferences it produces.