

1979

Anarchism: Nomos XIX, by J. Roland Pennock and John W. Chapman

Allan C. Hutchinson

Osgoode Hall Law School of York University, ahutchinson@osgoode.yorku.ca

Source Publication:

Canadian Bar Review. Volume 57, Number 1 (1979), p. 189-194.

Follow this and additional works at: https://digitalcommons.osgoode.yorku.ca/scholarly_works



Part of the [Law Commons](#)

Recommended Citation

Hutchinson, Allan C. "Anarchism: Nomos XIX, by J. Roland Pennock and John W. Chapman." *Canadian Bar Review* 57.1 (1979): 189-194.

This Book Review is brought to you for free and open access by the Faculty Scholarship at Osgoode Digital Commons. It has been accepted for inclusion in Articles & Book Chapters by an authorized administrator of Osgoode Digital Commons.

Anarchism: Nomos XIX. By J. ROLAND PENNOCK and JOHN W. CHAPMAN. New York: New York University Press. 1978. Pp. 375. (\$17.50 U.S.)

This collection of eighteen essays attempts to bring some academic respectability to an unfairly neglected and discredited strand of political thought. In place of the popular image of the anarchist as a hirsute fanatic committed to the propagation and glorification of chaos and terror, the volume strives to present anarchism as a responsible and rich body of rational thought. Despite the fact that

¹ P.105.

* L. C. Green, University Professor, University of Alberta, Edmonton, Alberta.

the anarchists claim to offer a genuine and viable alternative to the present structure of society and provide a direct challenge to the need for law and related institutions, legal theorists have consistently refused to treat such arguments seriously. Not being presented in the sober and dispassionate tradition to which lawyers are accustomed, they have felt able to dismiss anarchism as some form of heretical aberration. Against such a backcloth, this selection of essays seeks to present a learned and suitably restrained analysis of the anarchist viewpoint and its implications for today's world.

Many of the problems of the anarchist, of course, are of their own making. Along with their historical association with all shades of violent disapproval, a strong vein of anti-intellectualism runs through the movement. Moreover, there is no real consensus on what being an anarchist actually means for there are "as many forms of anarchism as there are anarchists".¹ To their credit, the editors recognise this and one of the main attractions of the publication is the richness and mixture of arguments that it contains. In short, the structure of anarchist thought consists of a variety of delicate and equally-stressed tensions: individualism and communalism; rationality and spontaneity; romanticism and realism; violence and pacifism. Most standpoints are represented in the volume from the uncompromising rejection of all forms of organised activity to the equivocal reliance on so-called "ordered anarchy".²

The volume is divided into five sections with each section exploring a particular aspect of anarchist thought. Part I is given over to different perspectives on anarchism in general. In a compact essay, John P. Clark argues that "any definition which reduces anarchism to a single dimension . . . must be judged seriously inadequate".³ He proceeds to build up a working definition which is capable of meeting the demands of theory and practice, ancient and modern:⁴

In order for a political theory to be called "anarchism" in a complete sense, it must contain: (1) a view of an ideal, noncoercive, nonauthoritarian society; (2) a criticism of existing society and its institutions, based on this antiauthoritarian ideal; (3) a view of human nature that justifies the hope for significant progress toward the ideal; and (4) a strategy for change, involving immediate institution of noncoercive, nonauthoritarian, and decentralist alternatives.

The beauty of this definition is that it embraces anarchism in a strong and a weak sense. However, despite the suggestiveness of this definition, Clark takes a naive view of man's potential for rationality and sociality, relying on his unestablishable ability to act benevolently and to co-operate willingly.

A different perspective is taken by James M. Buchanan who, eschewing the possibility of a conceptualised ideal society, adopts a broadly constitutionalist-contractarian position. In truth, he sits on

¹ Jean Baechler, *Revolution*, trans. Joan Vickers (1975), p. 115.

² P. 41. ³ P. 6. ⁴ P. 13.

the theoretical fence. He holds that to abandon all laws entirely would lead to unmitigated chaos and, therefore, proposes to retain those rules and principles which "reflect consensus of the citizenry".⁵ His essay culminates in an incomprehensible plea for "ordered anarchy".⁶ In a similar vein, Eric Mack believes that, while some institutional process is needed to protect the basic Lockean rights, the notion of the "nightwatchman state", as popularised by Robert Nozick,⁷ is unacceptable and goes on to present a searching critique of it. Finally, Richard Falk's essay pioneers an attempt to examine the implications and insights anarchism may hold for questions of global order. Interpreting anarchism as an illuminating posture rather than a politically viable possibility, he recognizes that, as with socialism, for there to be a successful revolution anywhere, there must be one everywhere. Moreover, he astutely points out that violence is for the anarchist, like the dentist, a necessary, though incidental feature of his position.

Part II concerns anarchism's attitude to authority. Construing anarchism as "a timely antidote to political and moral complacency",⁸ Richard T. DeGeorge puts forward the view that, as all legal theories are an attempt to justify law and as logical justification in such matters is unattainable, all legal theories are "deliberate or unconscious ideological rationalisations of the status quo".⁹ In spite of such a questionable foundational premise, DeGeorge succeeds in mounting a most persuasive argument for the proposition that anarchism is not opposed to rules and organisation as such, but only to their imposition. With a strong Kantian flavour, he claims that personal moral autonomy is not a license for disorder, but, on the contrary, carries with it the implied demand for deep respect for any agreement or promise entered into. Consequently, an anarchist society can be legitimately built around the twin pillars of organisation and administration. Sadly, the remaining three essays in Part II are an uninspiring and unsatisfactory attempt to qualify DeGeorge's account of philosophical anarchism.

Part III makes a critical examination of the anarchist's attitude to the traditionally revered rule of law. In the most articulate and compelling contribution to the whole collection, Lester J. Mazor maintains, with a true sense of paradox, that responsible and reasoned civil disobedience is not only preferable to "mere mindless daily conformity"¹⁰ to law, but can actually enhance and strengthen respect for law. In a masterly exposure of the ignorance and fear pervading people's view of anarchism, Mazor draws out the fundamental opposition of anarchism to law:¹¹

Law claims to be . . . the glue that holds society together, the language of human interaction, the expression of social solidarity, the objectification of

⁵ P. 37. ⁶ P. 41. ⁷ *Anarchy, State and Utopia* (1974). ⁸ P. 107. ⁹ P. 93.

¹⁰ P. 145. ¹¹ P. 147.

social relations. Yet those who embrace anarchy say that law cannot lead to justice, cannot establish order. Law, in their experience, only denies freedom, represses individuality, and maintains that greatest of all thieveries—property. Law cannot create; at best it can clear a path for creativity. Yet each obstacle it removes appears on closer examination to be but something that law itself had placed in the way, and somehow the work of removal, arduous as it is, only serves to establish a new set of legal barriers. “No cure for law but more law”.¹² Law may win a battle, but the ultimate victory of justice and order is always over the hill.

Laying blame at the feet of the legal profession, the police and the legal process, Mazor concludes that, although there is ample evidence to demonstrate that the law is becoming increasingly incapable of commanding respect, the continuance of its authority is a result of the simple need to shore up the state and secure the institutions of private property: “In the pursuit of liberation, the rejection of all forms of rule, and the acceptance of eternal change as the only constant in experience lies the oft-hidden promise of anarchy and the source of disrespect for law”.¹³

The other two essays in Part III attempt to qualify and stabilise the contagion of Mazor’s essay. Lisa Newton seeks to demonstrate that while Mazor levels his attack against the rule of law, he is in fact, only opposed to abuse of law. Newton argues he is making a call for a re-establishment of the rule of law rather than a move to an anarchist society. Although filled with solid good-sense and down-to-earth realism, Newton’s arguments are unable to stem the full power and force of Mazor’s central contentions. Taking a slightly different tack, Alan Wertheimer recognizes that universal disrespect for the law is only one aspect of the anarchist dilemma. For him, the key problem is what is to take the place of law. With suitable philosophic resignation, he reluctantly concludes that law appears necessary if the good life is to be achieved. Suffice it to say that what amounts to “the good life” is one of the central problems in the anarchist debate.

Part IV is devoted to so-called anarchist theories of justice, that is, attempts to explore the possible framework within which an anarchist society might function. In an imaginative contribution, Murray N. Rothbard takes man to be a spicy mixture of good and evil. Accordingly, justice demands that the structure of society “maximises the opportunities for the good and minimises the channels for the bad”.¹⁴ Equating goodness with the dubious virtues of the capitalist ethic, Rothbard suggests that such a state of affairs could be “satisfactorily and efficiently”¹⁵ maintained by participants in a free market. In the event of disputes, they will be resolved by self-determination or voluntary submission to arbitration. In effect, a sophisticated and natural system of arbitration would take the place of the existing and state-run legal apparatus. Leaving aside

¹² K. Llewellyn, *The Bramble Bush* (1951), p. 106.

¹³ Pp. 155-157. ¹⁴ P. 194. ¹⁵ *Ibid.*

the in-built inequality of the so-called "free market", Rothbard's arguments are at best flimsy and do not warrant the excessively optimistic conclusions that he rests upon them. Whatever we would like to believe it is folly to imagine that social ostracism and convention will be as effective as the coercive force of the law in persuading people to comply with arbitration awards.

The remaining two essays in Part IV explore the implications and feasibility of Rothbard's suggestions. Surprisingly, Christopher D. Stone gives general approval to his arguments but is concerned that Rothbard may have compromised to such an extent as to fall outside the mainstream of the anarchist credo. In truth, both Rothbard and Stone, in espousing such a brand of anarcho-capitalism, succeed in taking a stance that alienates both anarchists and legalists. Such a view is taken up by David Wieck. In a perspicacious piece, he dismantles Rothbard's contribution and exposes his work as being an attempt to "manufacture one or more bourgeois ideology".¹⁶ Interpreting anarchism as an attempt "to realize a *human* liberation from every power structure"¹⁷, Wieck holds society to be not an economic structure of rights and liberties, but a "functioning network of voluntary co-operation".¹⁸ Unfortunately, a promising essay trails off into a sketchy vision of a future anarchist society based on mutual agreement and aid which owes more to the utopian romanticism of the seventeenth century than the cold, yet real demands of the twentieth century.

Part V, the final section, contains four essays of a very disappointing and esoteric quality. They are loosely grouped together under the off-putting title, "The Moral Psychology of Anarchism". With aggravating pomposity, Donald McIntosh offers "an examination of what it is to be an anarchist who thinks straight".¹⁹ Claiming to give "a critical, multidimensional analysis of anarchism",²⁰ he arrives at the conclusion that anarchy is government without politics and adumbrates the four basic principles of anarchic government: minimal government; unanimous governmental decisions; the obligatoriness and enforceability of such decisions; and no role differentiation in the governmental process.²¹ It is not difficult to see that this resembles a watered-down version of liberal republicanism rather than anarchism. The contributions of Patrick Riley and Grenville Wall are of a technical nature and challenge R. P. Wolff's Kantian thesis²² that, as the primary obligation of man is moral autonomy and as this is logically incompatible with the concept of *de jure* authority, the responsible individual is bound to refuse to acknowledge the legitimacy of the state. Whereas Wall relies upon the doubtful premise that moral authorisation of action cannot lie with individual judgment alone and

¹⁶ P. 228. ¹⁷ P. 230 ¹⁸ *Ibid.*

¹⁹ P. 239. ²⁰ *Ibid.* ²¹ P. 268. ²² In Defense of Anarchism (1970).

must depend upon "public criteria of correctness",²³ Riley maintains that Wolff's arguments for anarchism make a unacceptable distortion of Kant's writings.

The final essay of the collection is written by April Carter. In the light of her previous work,²⁴ this investigation into the anarchist attitude to violence is something of a disappointment. Admitting that attitudes are always complex and often contradictory, she jumps from examining the proposition that, as anarchism is committed to revolution, it must by implication condone violence to the assertion that violence is an anathema to the utopianism of anarchism. In doing this, she offers no real guidance on the validity or acceptability of their respective claims. For such an accomplished writer on anarchism, this missed opportunity is to be regretted. The volume is brought to an end by an accomplished and much-needed bibliography on anarchism compiled by Robert A. Kogis.

While this publication makes a significant advance in the dissemination of anarchist ideas, it is not without weakness. Apart from the frailty of certain individual contributions, there is an infuriating failure to distinguish between anarchy, as a state of affairs, and anarchism, as a body of thought. Further, due to the rigorous and technical philosophic approach adopted by some essayists, the volume cannot be recommended without reservation for the general legal reader. The collection is not intended as an introductory manual,²⁵ but as a serious attempt to re-work and enhance the appreciation of the central issues in the anarchist debate. Notwithstanding this, there is no question that the essays by Mazor and De George offer fresh and stimulating insights on legal theory and provide an articulate counter-point to the popularly accepted view put forward by legal theorists, such as J. C. Smith, that "law is one of the greatest institutions and social practices ever developed by man".²⁶

In conclusion, this volume of essays represents a valuable and welcome addition to the library of contemporary legal thought. It is a pointed reminder to the legal fraternity that the challenge and arguments of anarchism warrant respect and must be treated seriously. It gives a timely prod to the pervading complacency of many lawyers. However, it must be remembered that, like Marxism, the lure of anarchism, as an appeal to human aspirations and freedom, cannot be defined by logical and rational argument alone.

ALLAN C. HUTCHINSON*

²³ P. 284.

²⁴ *The Political Theory of Anarchism* (1971) and *Direct Action and Liberal Democracy* (1973).

²⁵ For such purposes, see G. Woodcock, *Anarchism* (1962) and *The Anarchist Reader* (1977); James Joll, *The Anarchists* (1964); and Irving L. Hotowitz, *The Anarchists* (1964).

²⁶ *Legal Obligation* (1976), p. vii.

* Allan C. Hutchinson, of Osgoode Hall Law School, York University, Toronto.