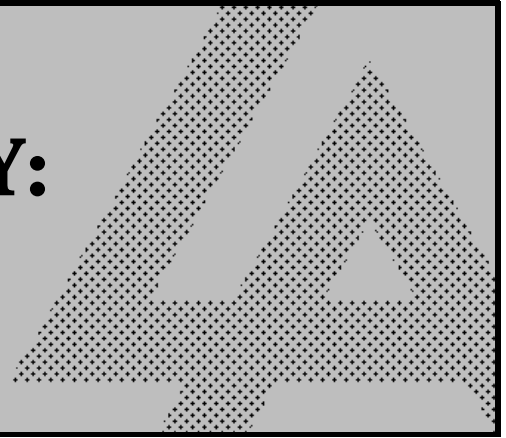


TAKING THE GREENS SERIOUSLY:

A LIBERTARIAN RESPONSE TO ENVIRONMENTALISM

CHRIS COOPER



Our world is changing. People's green areas are warming up. Vast quantities of warm feeling generated by the ecological industry of the developed world are beginning to melt the cold scepticism that does so much to keep our world stable. The increasing output of hot air is making the ocean of legislation expand, threatening to inundate hitherto free and prosperous lands. Ultragreen waves are flooding through the vast holes that have appeared in the cultural stratosphere, causing malignant outbursts in the unprotected millions beneath — skin-deep, but deadly nonetheless.

FREE TO SNOOZE

It seems that libertarians will be the last to yield. They are defending themselves with a principled apathy. It's just another lefty scare, they say: it comes from the same people who've prophesied global collapse so often before. It comes from the anti-industrialists, the anti-capitalists, the enemies of freedom.

Other libertarians, accepting the possibility that global warming and ozone depletion are real, say that somebody will invent something to fix them. And anyway, industry can take the strain of emission controls and compulsory energy conservation and prohibitions of this and that.

I think the environmentalists' challenge is too serious to be shrugged off like this. The gains that recent years have seen in free-market, pro-industrial sentiment within every country are now at risk on the international scene. In Europe the same voters who have put anti-socialist governments in at home are now voting Green in staggering numbers in EC elections. International bodies everywhere are drawing up their recommendations and demands. The laws are being passed. Politicians of all shades are inserting environmentalist titbits into their manifestos. While libertarians fantasize about rolling back government, the international eco-logical movement is building another storey of world government.

LOSING THE BATTLES AND WINNING THE WAR

Those who are complacent about the environmentalists' advance know that such fashions are usually forgotten with the passing of the

years, both for good reasons and for bad. Supposed oil shortages were forgotten as the OPEC cartel collapsed into ineffectiveness. Predictions of other resource shortages were forgotten as the market coped and no crisis came to pass. Nuclear winters seemed less serious as the US and the USSR made small symbolic gestures in arms reduction. The present greenhouse scare, promoted by the US drought of 1988, could fade if there is a run of cold summers, and if we have some second thoughts about the benefits that a global warming could bring.

But people who count on this happening forget that the greens didn't get where they are today by being rational and right. To date their lovingly painted scenarios of global collapse have been completely wrong: yet in the eyes of the world they have won the argument overwhelmingly.

Besides, libertarianism has to be able to cope with the possibility that this time the doomsayers are right. Not only because that possibility exists but because, even if they're wrong on this one, they'll soon have another crisis ready for us. Those who close their eyes tight when threatened with ecological doom secretly concede that, yes, world government with unlimited powers probably *would* be quite a good idea under the threatened circumstances. If we're to convince others that a free-market order could cope with global-scale problems, we have to convince ourselves first.

OWNING UP

A moderate first step on which all libertarians can agree is that everything ownable should be owned — rivers, seas, forests, whales, elephants, the lot. Sources of private wealth are not squandered as are those that are 'publicly owned' (for which read "governmentally owned", for which read "unowned"). Privately owned natural resources would then be exploited sustainably. The future of the whales would be as assured as the existence of our dairy herds. The tropical forests would be nursed so that they yielded their timber as reliably as the plantations of the temperate zones. Rivers would be cared for by their owners.

THE GREEN LIFE

If the rainforests were privately owned, it will be asked, would not vast areas be destroyed for the sake of the profits to be gained from building, cattle ranching or intensive agriculture? Why, yes. When I am told that we must "save the rainforests", I wonder *how much* we should save.

What is wrong is not that areas of the rainforests should be levelled for cattle ranching but that this should be done at a trivial cost - because some vested interests have their hands on the levers of government that determine who gets the land. If conservationists were in a market with all the competing potential users of the forest, they would be able to win a portion of it for their preferred uses. A large portion, for the conservation-minded are the world's wealthy people.

But conservationists want to *conserve* — they would like the whole of Amazonia to stand untouched from this moment, just as they want industry and tourism wholly excluded from Antarctica. The darkest greens want mankind to revert to some imagined condition of harmony with the Earth, of 'sustainable' agriculture and industry.

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FOR LIFE, LIBERTY AND PROPERTY

But that is what they cannot and should not have. They cannot preserve the whole Earth in the condition they favour — as first and foremost a wilderness, in which a few unobtrusive cities and farms are scattered. People who wish to commune with the Earth must be free to do so. But they can only have a *bit* of it for their wilderness. Only part of Amazonia can remain as a paradise for David Attenborough. That is the part that can be financed for that purpose by the citizens of the wealthy world.

The financing will be done in various ways. In the first place people will give a certain amount charitably because they like the idea of the rainforest. They will donate by modern industrialized means of giving — the affiliation cards, the globally televised pop concerts, the mass fun runs, the telethons.

In the second place they will pay for their TV programmes and magazine articles on wildlife, and part of the proceeds will go to the forest owners as the price of the rights to film and photograph.

Third, consumers will pay for the products of 'sustainable' forest industries, ecologically approved ones in which the hand of man does not show up too obtrusively.

Fourth, they will buy the products of applied research and contribute to the trusts that fund basic research. These too will have to pay their fees for access to the forests.

But most of all they will support the rainforests by paying to visit them. The rainforests of the very near future will be made accessible to the paying public with the aid of car parks, holiday villages, hotels, interpretation centres and signposted footpaths.

MANAGING THE WILDERNESS

This will not do for the dark greens. A children's book on ecology tells me: "The holistic view looks at the natural world as an interconnected whole — the web of life — rather than a collection of many different parts. If we destroy separate strands of this web, we will end up destroying the web itself. If we do that, then we destroy ourselves." On this view the libertarian programme must lead to disaster when pursued on a global scale. For libertarianism requires that people have their separate spaces in which to pursue incompatible ways of life — incompatible, among other things, in their attitude to the exploitation of nature — whereas the holistic view requires that everyone everywhere be actively interfered with by global management committees. There is no possibility of compromise between these two world views. If the libertarian view prevails the dark greens will have to confine their holism to their own pieces of wilderness. And of course, partial holism is no holism at all.

PRIVATIZING THE RAINFORESTS

In order to start a market in the rainforests going, I favour giving them back in the first instance to the people who live there. It's theirs, they were there first. The greens, by contrast, insist that the forest is a common heritage and want to *reserve* it for the tribal people's use. But we know what happens to people who are put on reservations. Deprived of their most important form of wealth, the tradeable value of their land, and forced to stay tied to it generation after generation, they are thrown into poverty and despair.

Of course, private ownership of a wilderness will mean that the forest is not frozen in the state that the greens want. Owned land can be rapidly transferred to the most profitable use, while the former owners take the proceeds and move on to new lives.

Likewise for the ownership of whales. When they are privately owned some will doubtless be herded and penned. Others will be allowed to live wild — from sentiment and for their spectator value. Elephant poaching will be suppressed when the elephants are owned - for then the owners will *have* to suppress it, or lose their precious profits. At present, the safety of the elephants is in the hands of ministers of wildlife and tourism. These dignitaries find that the more the threats to the elephants grow, the more interesting their own positions become — wooed as they are by the international ecological fund-givers, bribed by Hong Kong ivory dealers and home-based poachers, wafted from one wildlife crisis conference to

another, from this TV studio to the next. They become deeply addicted to the problem they are charged with solving. Under a regime of private ownership an executive's failure to deal with poachers would be punished, not rewarded with further aid.

THE UNOWNABLE

Things that cannot be owned, such as the air, can be protected by only one thing — public sentiment, operating through private and government action. But which of these will be more effective?

It is claimed that private action cannot be effective. Consumers will continue to buy environmentally damaging products if they think that refraining from doing so will make no noticeable difference. This is true. But it is also true that they will refrain from thinking and choosing if they believe that the work has been done for them by government action. How many environmentally conscious people are buying products that are CFC-releasing or are made in CFC-producing ways because they believe that government is about to ban or regulate them and there's no point in bothering until then?

Just as many, I suspect, as are lulled by the unintelligible lists of contents and additives on food packaging. "It must be safe — they wouldn't let it be sold otherwise." If there were no compulsory labelling of the ingredients of food products, public demand for it would have to be met by a variety of competing voluntary schemes and more alert pressure groups that directed their energies at public education instead of trying to manipulate political processes. More meaningful labelling and a more alert public would result.

Similarly we are now waiting for governments to ban, tax, and label products that are supposedly environmentally harmful. But even in advance of this the American public has compelled McDonald's to turn away from CFC-using packaging, and to declare that it doesn't buy its meat from cattle farms created from rainforest. That same public opinion persuaded banks and other companies to disengage from South Africa. It doesn't matter in this context whether the latter action was sensible: it was undeniably legitimate, being done by the voluntary weapon of boycott, or threats of boycott.

Whether boycott and consumer conscience can work on the enormous scale required to rein in CO₂ production or CFC emission depends entirely on the resourcefulness of the conscience-pricking industry — and whether it is diverted by the juicy target of government power and largesse. We are frequently told that private "charity" is not equal to this or that task — that only government action can be on the necessary scale. But it's the ready availability of government action that makes private 'charity' go on holiday.

DESPAIR AMONG THE LIBERTARIANS

It certainly isn't necessary for libertarians to wring their hands in the manner of John Hospers (*Liberty*, November 1988 and January 1989). It is to Hospers' credit that he does not react as complacently as most libertarians to the global doom evangelists. But he sees problems where we can reasonably be sure that a free market order *could* handle things better than governments do.

Hospers cites, for example, the cutting down of the Nepalese forests and its effect in aggravating problems of flooding in Bangladesh. But these forests are wastefully cut down because they lie on common land, and because of technical ignorance on the part of local farmers. Already they are being taught new conservation techniques by aid workers. And the impetus to preserve the trees would be far greater if they were in private ownership. (This case is different from that of the rainforests: though we would gain by private ownership of the latter, we must face the fact that they nevertheless have competing economic uses that might make it beneficial to cut parts of them down.)

Again, Hospers speaks of game vanishing from privately owned or common land in Africa while it survives in government game parks. But I would like some questions answered about this example. What's stopping these people from acting as owners of the game on their lands? Might they be declared poachers, perhaps? Poachers can't put up fences, conserve their herds and become game farmers. And what's the effect on potential game farmers of the existence of

the national game parks, offered to tourists at subsidized prices because of the foreign currency the tourists bring in? Perhaps the national parks make private game management into an expensive luxury. Which is the effect our own state education and health services have on private education and medicine.

THE POPULATION BOGEY

Hospers thinks the root of our problems is overpopulation. It's because of population pressures that tourist resorts swell, wildernesses are overrun, pollution increases. And far from the individual having an interest in reducing the problem by having fewer children, he has the opposite incentive to have more children as an insurance policy for old age.

Believing in an overriding problem and a clearcut remedy prompts dreams of authoritarian solutions. The relationship between population and economic well-being is much more variable than this. There is no ordained limit on the numbers the Earth can support. Greater London today accommodates in prosperity and peacefulness a population greater than the continent of Europe could once support. But increasing populations will expand geographically if no one puts a real price on the land they expand into.

It is very questionable that greater population means a general drain on resources. On the contrary, people produce as well as consume and every increase in the standard of living has been accompanied by great increases in population — each doubtless contributing to the other.

I suppose it is possible that in an economically declining society men might reason thus: "Every year things get worse, so I'd better have plenty of children to grab the largest possible share of what's going and look after me when I'm old." But few societies are declining, and it's the poorest countries whose economies are growing fastest. So potential parents might well reason that they don't need so many children, and can save their wealth for their own betterment. In every society that has grown relatively prosperous, family size has eventually shrunk — 'demographic transition' is the time-honoured name for the switch.

Perhaps the truth is that there will be different responses in different circumstances, historical, cultural and economic. So much the more disastrous, then, would be any collectively imposed population policy. Government attempts to limit population are probably as harmful in their economic consequences as they are inhumane in their execution.

Hospers doesn't say that free markets cannot deal with the problems that bother him - he merely says we should acknowledge that they *are* problems. Very good. But these are the problems for which free-market solutions are strongest. What we need to worry about are the *global* problems, such as the greenhouse effect, which have a distinctive logic, much more intractable than any geographically localized pollution problem.

LICENSED TO POLLUTE

Anarchism isn't going to come tomorrow or the day after. Governments are going to handle the problems or fail to. We should see to it that whatever governmental action is taken against polluters is done in the most rational way, in the best approximation to the efficiency of a free market. If pollution limits are set, they should be by means of licences to pollute, fully tradeable so that the industries with the greatest need to pollute can get access to the right to do so, while overall levels are held down. Polluting products should have tariffs put on them that reflect the cost of controlling their results. Incentives to economize on the output of pollutants should be the watchword.

"LIBERTY IS NOT LICENSING"

But all of this is still much too mealy-mouthed for the most radical libertarians — those who claim to take a 'rights-based' approach.

No one, thunders Murray Rothbard (*For a New Liberty*, Collier, 1978) has a right to invade the life, property or wellbeing of another person — and so no one has the right to pollute someone else's

environment, with or without government permission. No argument of public benefit can outweigh any harm done to any individual, for no individual may be sacrificed to others, no matter how numerous. There can therefore be no question of any licence to pollute, however elegant a technique that may seem to the Adam Smith Institute, Milton Friedman, or Republican intellectuals.

Further, legal means must be available by which the polluter can be enjoined not to pollute. One or a few individuals should be able to band together to win a judgement in favour of a whole class of victims. And, the judgement won, the polluters must stop forthwith. They can do it. They can find cures. If they can't they must go under.

And here Rothbard goes astray. A class action cannot lead to a just outcome. It is a compromise, and should be recognized as such.

Leave aside the fact that government-appointed judges try these cases — nobody has freely contracted to have their disputes settled by these people, but it cannot be otherwise while governments monopolize the law courts. More radically: class actions cannot overcome the differences between individuals.

I would like to sue my neighbour, the London Brick Company, on account of the stench it inflicts on me on numerous days of the year. If I could do so at reasonable cost and with some chance of success, I would. But I would certainly be looking for the chance to come to some accommodation. There is some price I would be willing to accept and they to offer as the price of dumping this pollution on me. We could come to some acceptable accommodation out of court, avoiding either a ban on their activity or its continuation without compensation — both of which options would leave me worse off.

But a class action imposes a once-and-for-all settlement on all members of the class to which the plaintiff is deemed to belong. How can anyone take away from me my right to sue London Brick by undertaking their own action, purportedly in my name? Taking away this right is doing exactly what various American states have done, according to Rothbard, in limiting the scope of class action.

Rothbard says (thinking of a factory polluting the air of a city), that it is "obviously impractical" for each of the thousands of victims to take the guilty party to court (*For a New Liberty*, p. 258). But it is manifestly practical for any *one* of those individuals to start proceedings, provided only that the legal system permits them to, and some rational way of funding lawyers, such as contingency fees, is available. Each victim has the right to do so and the right to win the best judgement possible for himself individually.

And this individual action *can* lead to redress for a large (and somewhat ill-defined) class of victims. For after a verdict in favour of the plaintiff the company will have to buy off as many other potential litigants as possible with an out-of-court offer or be destroyed by the cost of fighting so many actions.

Rothbard seems to think that outright banning of a polluter is the only just solution, which taken literally means the end of industrialism. He would thereby place himself alongside the zero-growth greens — except that he introduces a vital qualification. He speaks at one point of a "noise polluter" being prevented from inflicting "excessive" noise on others.

But it is clear that any noise at all — say the sound of a very distant, quiet plane heard in a park — is going to be too much for some people. *Really* too much, *really* an invasion of their rights. But Rothbard's judge is going to allow that invasion if he judges that it is not "excessive". So again the rights of the individual give way.

And that is how it has to be. It is absolutely inevitable that the market will deliver what works. The result may not conform to the requirements of a principled libertarianism. Rothbard pretends to be a consistent individualist but he tacitly concedes this reality.

In *The Machinery of Freedom* (Arlington House, 1978) David Friedman asks: "Would a market society be a libertarian one?" Right now I'm asking: "Can an industrial society be rights-based and libertarian?" I believe it can be so only in the sense outlined above: under the pressure of a general recognition of individual rights, oc-

asionally enforced in individual court cases, redress for victims of mass pollution must take the form of a *deal*, an out-of-court settlement — and a *mass deal*, moreover, a compromise that gives some people too much and others too little.

There are immense gains to be made by the overwhelming majority of the world's people who are willing to be polluted at a reasonable price. In a market system, they will prevail. But diehard opponents of industrial growth won't win judgements, even though their rights have genuinely been violated: the industrialists won't go to arbitration with implacable foes.

Rothbard's attitudinizing is a useful corrective to those who would take a merely cost-benefit approach to these issues. But a rights-based approach must be seen for what it is: merely a stimulus to finding a pragmatic compromise. (Some will say that's a good thing too - the first fire would never have been lit if those who were harmed by the atmospheric pollution had been able to prevent it.)

THE APPROACH TO JUSTICE

It is not fantastic to suppose that worldwide deals could be struck right now. I should be surprised if no US firm has yet been enjoined on behalf of some group of islanders or other. I can easily foresee American industrialists being required by the courts to take action to counteract supposed effects of their activities, an energy or greenhouse-gas emitter having to build a sea wall or provide development aid for some low-lying community whose case was sponsored by Greenpeace. The courts that have brought all new nuclear development in the US to a halt are capable of doing this. Those interfering US judges are noted for their contempt for contracts and their belief that any feature of the marketplace they deem undesirable can be wiped out by judicial fiat, at the expense of the business owners and no one else.

The crusaders will be able to target the big energy/CO₂ producers one by one, on behalf of specific groups. In the panic that ensues, the industrialists will come up with handsome offers of compensation for any future victims of their activities.

What is uncertain is whether American judges, once the bit is between their teeth, will accept any offers at all. They are likely to order outright bans and impose impossible conditions that will send the stock market into a dive until Congress steps in and makes some laws of its own.

In an anarchist world things would go so much more smoothly. The only possible procedure would be the best procedure: to permit individual suits to provide the impetus for settlements between polluters and groups of the wronged.

PICKING OFF THE POLLUTERS

I've heard it said that there could be no legal case against a polluter — on the grounds, say, that he was contributing to a rise in sea levels — because his contribution couldn't be picked out from the millions that were creating the effect.

But I don't think the law is that much of an ass. If the police snatch one person from a mob that has stoned someone to death, it would be no defence that his contribution to the death was not distinguishable. Victimization selected offenders is a poor substitute for collaring the lot, but sometimes you have to make do with it.

Until a market order of society comes about, libertarians should support all steps in the right direction: the use of market mechanisms instead of regulation wherever possible, the expansion of property rights into areas where they don't presently exist, and the principle of an enforceable right not to be polluted.

And libertarians should combat the complacency of their fellows and of their provisional allies on the right: the global problems aren't unreal just because Lenin would have seized on them with delight.

A MORAL UNCERTAINTY

My discussion so far has assumed a great deal about the state of our scientific knowledge in the near future. I've assumed that we shall

be able to establish or refute the flesh-creeping speculations of the environmentalists, and that experts will soon be able to advise judges with certainty as to whether some human enterprise is really making the greenhouse effect worse, with what consequences and for whom. That is very doubtful: climatology is so much harder than, say, elementary particle physics. And even elementary particle physics could be made to seem a lot more controversial if the experts were called to argue over it in a court of law.

Climatology is a very uncertain field. Mrs Thatcher says as much, but it's true anyway. I'm waiting with pleasurable anticipation for the first news stories that tell us that our actions in restraining the greenhouse effect are hastening the coming of the next ice age.

And that ozone hole over the Antarctic — we have no idea whether it might not have been making its seasonal appearances for aeons, since we've only been looking at the ozone layer in recent years.

As for the link between CO₂ levels and the Earth's temperature: I haven't heard anyone explain why the earth, which removes 200 billion tonnes of carbon from the atmosphere each year, has failed to cope with the trifling 7 billion tonnes per year extra that our industry adds. While it's true, apparently that CO₂ levels and temperatures have kept rigidly in step for the last 150,000 years, through cycles of cooling and warming, it's possible that cause and effect are the reverse of what environmentalists assume - that temperature variations caused by external factors control the levels of CO₂ in the air. In fact CO₂ levels have lagged *behind* temperature in periods when the Earth was cooling.

This is why we must never let the environmentalists force their way through with the bullying argument that "we can't wait for more research - we know enough to be sure that action's needed." The reason they're so sure is that they think choking off industrial growth is cheap and easy. They wanted to do it long before they'd heard of the greenhouse effect — now they have the pretext they need.

And we had better make sure the balance sheet of costs and benefits is drawn accurately. I would like to see an estimate of the costs in years of life sacrificed for every one per cent knocked off the rate of industrial growth. I want to hear from the regions and interests that stand to benefit from a rise in global temperature. (I would even be delighted to hear someone put in a good word for increased UV exposure at ground level.)

A MARKET IN UNDERSTANDING

It's hard to get at the truth in complicated scientific matters. It needs a battle of the experts. When I switch on television, listen to the radio, or read any newspaper — even if I look in *Reader's Digest*, forsooth — I find a depressing environmentalist consensus. I am disconcerted, I am alarmed, as I am intended to be. But I am far from being persuaded. The preconceptions of the contenders are too obvious. The media, in a virtuous fit, have too obviously become blind and uncritical on this issue.

Global problems demand radical solutions, they tell us. They certainly do. We have seen that reform of the law is profoundly involved. So too is ownership of the media. Until the opening up of radio and TV frequencies to unrestricted private ownership, the preening self-righteousness and blandness of the British broadcasting oligopoly, now engaged in enlightening the masses with the consensus on which it has satisfied itself, will remain at an intolerable level. The day we see someone on TV passionately demanding that the Amazonian wilderness is a blot that should be erased from the earth, we shall have come a long way in freedom and improved our chances of getting at the truth.

But a free market in TV frequencies will not be enough. After all, our press is virtually free — yet the newspapers, quality and gutter alike, are unanimous on environmental questions, which they regard as ideal campaign issues, safe and seemingly beyond ideology. Environmentalism needs opposition, because truth demands conflict. And well-founded opposition will need a resurgence of pro-market sentiment.