

# If Men Were Angels

*Written by Robert Higgs.*

In *The Federalist No. 51*, arguably the most important one of all, James Madison wrote in defense of a proposed national constitution that would establish a structure of “checks and balances between the different departments” of the government and, as a result, constrain the government’s oppression of the public. In making his argument, Madison penned the following paragraph, which comes close to being a short course in political science:

[T]he great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defence must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. ([1788] n.d., 337)

The passage that refers to the angels is a rhetorical masterpiece, so memorable that it has become almost a cliché. In Madison’s argument, however, it does more than emphasize that human nature is something less than angelic. It also serves as a springboard that propels Madison directly into a consideration of “framing a government which is to be administered by men over men,” which is “but the greatest of all reflections on human nature.” In short, it moves Madison directly to a consideration of government as we have known it for the past several thousand years—a monopoly operating ultimately by threat or actual use of violence, making rules for and extracting tribute from the residents of the territory it controls. Henceforth, for clarity, I refer to this all-too-familiar type of organization as “the state.”

Perhaps everyone will agree that if we were all angels, no state would be necessary, and if angels were the governors, they would require neither internal nor external constraints to ensure that they governed justly. In terms of figure 1, we would be indifferent between the

two cells in the first row.

Figure 1

### Madison's Model

	<u>No State</u>	<u>State</u>
Men are angels	OK	OK
Men are not angels	Not conceivable	Best conceivable

In Madison's mind, the no-state option was inconceivable, for reasons he expressed obliquely when he wrote: "In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful" ([1788] n.d., 340). Thus, Madison, apparently following Locke, believed that individuals would not choose to remain in a stateless condition and would submit to the authority of a state in order to attain greater security of person and property. Countless other thinkers over the years have reasoned likewise, as Mancur Olson did in his final book when he concluded: "If a population acts to serve its common interest, it will never choose anarchy" (2000, 65).

### Disorder, Liberty, and the State

Nothing is more common than the assumption that without a state, a society will fall necessarily and immediately into violent disorder; indeed, anarchy and chaos are often used as synonyms. The *Random House Dictionary* gives the following four definitions for anarchy:

1. a state of society without government or law
2. political and social disorder due to absence of governmental control.
3. a theory that regards the absence of all direct or coercive government as a political ideal and that proposes the cooperative and voluntary association of individuals and groups as the principal mode of organized society.
4. confusion; chaos; disorder.

Suppose, however, that the situation described by the third definition were not merely an ideal, but a genuine possibility, perhaps even a historically instantiated condition.

Locke, Madison, Olson, and nearly everybody else, of course, have concluded from their theoretical deliberations that the stateless option cannot exist—at least, not for long—because its deficiencies make it so manifestly inferior to life in a society under a state. The alleged absence of significant historical examples of large, stateless societies during the past several thousand years buttresses these theory-based conclusions: just as “the poor we have always with us,” so except among primitive peoples, society and the state are taken to have always coexisted.

One need not spend much time, however, to find theoretical arguments—some of them worked out in great detail and at considerable length (for example, Rothbard 1978, Friedman 1989)—about why and how a stateless society *could* work successfully. Moreover, researchers have adduced historical examples of large stateless societies, ranging from the ancient Harappan civilization of the Indus Valley (Thompson 2006) to Somalia during the greater part of the past decade and a half (Higgs 2004, 374, 376; Kim 2006). Given the enormous literature that has accumulated on stateless societies in theory and in actual operation, we may conclude that, if nothing else, such societies are conceivable (for a far-reaching compendium on the entire subject, see Stringham 2007).

In this light, both cells in the second row of Madison’s model must be seen as live options, whose most likely outcomes are, I suggest, as indicated in the More Realistic Model shown in figure 2:

Figure 2

**More Realistic Model**

	No State	State
Men are angels	OK	OK
Men are not angels	Bad situation	Worse situation

Although I admit that the outcome in a stateless society will be bad, because not only are people not angels, but many of them are irredeemably vicious in the extreme, I conjecture that the outcome in a society under a state will be worse, indeed much worse, because, first, the most vicious people in society will tend to gain control of the state (Hayek 1944, 134-52; Bailey 1988; Higgs 2004, 33-56) and, second, by virtue of this control over the state’s powerful engines of death and destruction, they will wreak vastly more harm than they ever could have caused outside the state (Higgs 2004, 101-05). It is unfortunate that some individuals commit crimes, but it is stunningly worse when such criminally inclined individuals wield state powers.

Lest anyone protest that the state’s true “function” or “duty” or “end” is, as Locke, Madison, and countless others have argued, to protect individuals’ rights to life, liberty, and

property, the evidence of history clearly shows that, as a rule, real states do not behave accordingly. The idea that states actually function along such lines or that they strive to carry out such a duty or to achieve such an end resides in the realm of wishful thinking. Although *some* states in their own self-interest may at *some* times protect *some* residents of their territories (other than the state's own functionaries), such protection is at best highly unreliable and all too often nothing but a solemn farce. Moreover, it is invariably mixed with crimes against the very people the state purports to protect, because the state cannot even exist without committing the crimes of extortion and robbery, which states call taxation (Nock 1939), and as a rule, this existential state crime is but the merest beginning of its assaults on the lives, liberties, and property of its resident population.

In the United States, for example, the state at one time or another during recent decades has confined millions of persons in dreadful steel cages because they had the temerity to engage in the wholly voluntary buying and selling or the mere possession of officially disapproved products. Compounding these state crimes (of kidnapping and unjust confinement) with impudence, state officials brazenly claim credit for their assaults on the victims of their so-called War on Drugs. State functionaries have yet to explain how their rampant unprovoked crimes comport with the archetype described and justified in Locke's *Second Treatise of Government*. In vain do many of us yearn for relief from the state's duplicitous cruelty: Where is the state of nature when we really need it?

### **An Application of the Precautionary Principle**

In pondering the suitability of the More Realistic Model, we might well apply the *precautionary principle*, which has been much discussed (and nearly always misapplied) in recent years in relation to environmental policy. This principle holds that if an action or policy might cause great irreparable harm, then, notwithstanding a lack of scientific consensus, those who support the action or policy should shoulder the burden of proof. In applying this principle to the state's establishment and operation, the state's supporters would appear to stagger under a burden of proof they cannot support with either logic or evidence. Everyone can see the immense harm the state causes day in and day out, not to mention its periodic orgies of mass death and destruction. In the past century alone, states caused hundreds of millions of deaths, not to the combatants on both sides of the many wars they launched, whose casualties loom large enough, but to "their own" populations, whom they have chosen to shoot, bomb, shell, hack, stab, beat, gas, starve, work to death, and otherwise obliterate in ways too grotesque to contemplate calmly. (R. J. Rummel's latest estimate of twentieth-century democide stands at 262 million persons; the details are available at his Web site.)

Yet, almost incomprehensively, people fear that without the state's supposedly all-important protection, society will lapse into disorder and people will suffer grave harm. Even an analyst so astute as Olson, who speaks frankly of "governments and all the good

and bad things they do,” proceeds immediately to contrast “the horrible anarchies that emerge in their absence” (2000, 66, emphasis added), although he gives no examples or citations to support his characterization of anarchy. But the state’s harms—“the bad things they do”—are here and now, undeniable, immense, and horrifying, whereas the harms allegedly to be suffered without the state are specters of the mind and almost entirely conjectural.

This debate would not appear to be evenly matched. Defending the continued existence of the state, despite having absolute certainty of a corresponding continuation of its intrinsic engagement in robbery, destruction, murder, and countless other crimes, requires that one imagine nonstate chaos, disorder, and death on a scale that nonstate actors seem incapable of causing. Nor, to my knowledge, does any historical example attest to such large-scale nonstate mayhem. With regard to large-scale death and destruction, no person, group, or private organization can even begin to compare to the state, which is easily the greatest instrument of destruction known to man. All nonstate threats to life, liberty, and property appear to be relatively petty, and therefore can be dealt with. Only states can pose truly massive threats, and sooner or later the horrors with which they menace mankind invariably come to pass.

The lesson of the precautionary principle is plain: because people are vile and corruptible, the state, which holds by far the greatest potential for harm and tends to be captured by the worst of the worst, is much too risky for anyone to justify its continuation. To tolerate it is not simply to play with fire, but to chance the total destruction of the human race.

### Dynamic Considerations

In thinking about the social disorder that so many people have been led to fear, we can organize our thoughts with reference to table 3, which shows the degree of disorder and the scope for liberties with and without the state over time:

Figure 3

#### Disorder, Liberties, and the State

	No State	State
Degree of disorder	D-NS(0) D-NS(1) D-NS(2) etc.	D-S(0) D-S(1) D-S(2) etc.
Scope of liberties	L-NS(0) L-NS(1) L-NS(2) etc.	L-S(0) L-S(1) L-S(2) etc.

The notation in the table indexes the degree of social disorder (D) and the scope of liberties (L) in a society with no state (NS) and in a society with a state (S) at successive points in time 0, 1, 2, etc.

Classic discussions of state versus nonstate societal outcomes usually involve static comparisons; they ignore the changes that occur systematically with the passage of time. Thus, for example, a Hobbesian or Lockean account stipulates that in a “state of nature,” which has no governing state, a great deal of disorder prevails, and adoption of a state brings about a more orderly condition: in terms of my notation,  $D\text{-NS}(0) > D\text{-S}(0)$ . Analysts recognize that the people sacrifice some of their liberties when they adopt a state—Hobbes goes so far as to suppose that the people sacrifice *all* their liberties to an omnipotent sovereign in exchange for his protection of their lives. Even if the trade-off is less severe, however,  $L\text{-NS}(0) > L\text{-S}(0)$  upon the establishment of a state. A ruler always assures his victims that their loss of liberties is the price they must pay for the additional security (order) he purports to establish.

Well might we question whether the ruler has either the intention or the capability to reduce the degree of social disorder. Plenty of evidence exhibits state-ridden societies boiling with disorder. In the United States, for example, a country brimming with official “protectors” of every imaginable stripe, the populace suffered in 2004, according to figures the government itself endorses, approximately 16,000 murders, 95,000 forcible rapes, 401,000 robberies, 855,000 aggravated assaults, 2,143,000 burglaries, 6,948,000 larcenies and thefts, and 1,237,000 motor vehicle thefts (U.S. Census Bureau 2007, 191). The governments of the United States have taken the people’s liberties—if you don’t think so, you need to spend more time reading *U.S. Statutes at Large* and the *Code of Federal Regulations*, not to mention your state and local laws and ordinances—but where’s the protective quid pro quo? They broke the egg of our liberties, without a doubt, but where’s the bloody omelet of personal protection and social order?

Suppose, if only for purposes of discussion, we conceded that the initial establishment of the state reduces the degree of social disorder. The obvious question, however seldom philosophers may have asked it, then becomes, What happens next? Does the degree of social disorder remain constant at  $D\text{-S}(0)$ ? Everything we have discovered in theory and by observation flies in the face of such constancy. In fact, the likely progression over time is:  $D\text{-S}(0) < D\text{-S}(1) < D\text{-S}(2)$ , and so forth. Under state domination, social disorder tends to increase.

This tendency exists because the state attempts in countless ways to compel people to act against their perceived self-interest, and the people respond by resorting to all sorts of evasions, black markets, and crimes. Consider, for example, what happened when the state ordered people not to make, sell, possess, or consume alcoholic beverages or certain narcotics—black markets and crime galore, including countless assaults and murders. Of

course, the state's orders to pay stipulated taxes or fees have given rise to manifold evasive measures, some of them carrying violence against persons or the destruction of property in their train. Perhaps equally important, the state's concentration of its police forces on tax collection, enforcement of victimless crimes, and other measures at odds with the people's perceived self-interest, diverts those forces from making any more than a token attempt to prevent such everyday crimes as murder, rape, robbery, and fraud, whose prevention the people actually value. Over time, the social misallocation of the state's "protective" resources grows, as the state itself shifts more and more resources toward the enforcement of laws adverse to the people's genuine interests and as the people make "moving targets" of themselves in ways that augment the degree of social disorder (on the "moving targets" of government economic policies, see Shultz and Dam 1977, 8-10).

If the degree of social disorder in a society under the state tends to increase, then, even if the initial establishment of the state did reduce disorder, a time ( $t$ ) will come when the degree of social disorder will exceed that of the society with no state: that is, in my notation,  $D-S(t) > D-NS(0)$ . If so, then—momentarily taking for granted the myth of a social contract—the initial bargain the people struck will come to be seen as a pact with the devil, a bargain that held, at best, advantages in the short term but proved to be a disappointing deal all-around in the longer term.

Moreover, for compelling reason, the inequality stated in the preceding can be generalized as follows:  $D-S(t) > D-NS(t)$ , for  $t$  sufficiently large. This more general condition will exist not only because with the state, social disorder tends systematically to increase, but also because without the state, social disorder tends systematically to decrease. The latter tendency reflects the progressive, mutually advantageous solution of social problems characteristic of a spontaneous order. We have had three centuries of instruction in the workings of the spontaneous order of a free society, stretching from Bernard de Mandeville, Adam Ferguson, and Adam Smith in the eighteenth century to Carl Menger in the nineteenth century to F. A. Hayek and Murray Rothbard in the twentieth century to their numerous followers in the early twenty-first century (Horwitz 2001). Unlike the forced exchanges and coerced arrangements enforced by the state, the protective and productive innovations of a spontaneous nonstate order can achieve acceptance only voluntarily, which is to say, only when all who participate in them expect them to produce net benefits. Consider, for example, the householder who keeps a watchful eye on his neighbor's property when the owner is away, just as the neighbor will watch his property when he is away, and contrast this simple, effective cooperative form of protection with the faux protection of the state's police officer, who occupies himself at great public expense driving about aimlessly, harassing citizens pointlessly, or loitering in the doughnut shop. Neighborliness spreads naturally and beneficially, whereas state "protection" spreads cancerously and harmfully. The one preserves liberties, the other destroys them.

Thus, reverting to the notation of table 3, we have ample grounds for statement of the following inequalities:

*D-NS(0) > D-NS(1) > D-NS(2), and so forth,*

*and*

*L-S(0) > L-S(1) > L-S(2), and so forth.*

The latter inequalities, of course, merely state in abstract symbols what Thomas Jefferson stated more eloquently in words when he wrote, "The natural progress of things [in society under a state] is for liberty to yield and government to gain ground." Thus, although the (mythical) people entering into a social contract might have considered their sacrifice of liberties to the state *at that time* a price they were willing to pay, they could scarcely have suspected that with the passage of time, their remaining liberties also would be "paid," one after another, notwithstanding that the social order they initially received from the state in return would systematically diminish.

### **Does Anarchy Entail Poverty?**

Arguments have been advanced, of course, that a society without a state must necessarily remain very poor, that, however gloriously free the people's life might be without the state, the opportunity cost of anarchy is unacceptably high. Thus, Olson (2000) advances the following propositions:

1. Some of the labor in an anarchic society will be devoted to taking or stealing rather than producing. (63)
2. The output forgone when less productive but theft-resistance forms of production are used is, of course, an implicit cost of anarchy. (64)
3. Anarchy not only involves loss of life but also increases the incentives to steal and to defend against theft, and thereby reduces the incentive to produce. (64)  
[Therefore]
4. If a population acts to serve its common interest, it will never choose anarchy. (65)

The character of these arguments is reminiscent of the character of those advanced by the "market-failure" school of neoclassical welfare economics: having identified flaws in the freely chosen arrangement, the analyst leaps immediately to the conclusion that a state-dominated arrangement must necessarily be superior. As Harold Demsetz famously characterized it, this sort of argumentation falls victim to the Nirvana Fallacy. It finds the free arrangement worse than an unattainable blackboard ideal that it assumes the government can implement perfectly and costlessly, but it does not compare the actual free arrangement with the actual government "solution."



Returning to Olson's list of anarchy's flaws, one has only to ask: does substitution of the state for anarchy avoid these flaws? The answer in every case is that not only does it not avoid them, but it actually exacerbates them and adds new problems on top of the old ones it purports to be solving.

So, considering Olson's first proposition, we may readily admit that without a state "some of the labor . . . will be devoted to taking or stealing rather than producing." Yet, one might argue, with a state almost *all* of the labor expended by state functionaries and *much* of the labor of other people also will be "devoted to taking or stealing rather than producing." Although the state may produce some goods and services of genuine value—absent an expression of voluntary individual choice, such as freely made purchases, we have no persuasive evidence of such value or of its magnitude—it seems perfectly obvious that a great deal of state "production" creates either nothing valuable at all or, worse, outputs that many taxpayers despise and would gladly pay to avoid. These obnoxious outputs are produced nonetheless because state functionaries and their cronies in the so-called private sector with whom they contract are, in effect, "taking or stealing rather than producing," owing to their exercise of the state's coercive power. Moreover, as Gordon Tullock and other public choice analysts have demonstrated repeatedly, the state encourages enormous social waste as real resources are committed to a competition for state privileges of all sorts: social waste incurred in the process of seeking what is itself wasteful for those from whom resources are extracted to prop up the state and all its schemes (Tullock 1967 is the article that launched a thousand papers about rent-seeking). In sum, Olson's first proposition about anarchy versus society under the state is almost ludicrously backwards.

His second proposition fares no better. Yes, without a state, output is "forgone when less productive but theft-resistance forms of production are used," but in truth we may say the same thing about a society with a state. Obviously, people constantly adjust the form of their production to avoid taxes and regulations, that is, to avoid the state's robbery, oppression, and violation of their natural rights. Neoclassical economists have produced countless articles and books about how the state can "reshape behavior" by the appropriate design and enforcement of its taxes, subsidies, laws, and regulations. When people abandon their otherwise-most-valued forms of production in reaction to these state sanctions, socially valued outputs are lost. When the state comes to be engaged in the economy as pervasively as it is now in all of the economically advanced countries, we can scarcely avoid the conclusion that the scale of these losses must be immense, because people are being diverted from the socially most valued forms of production at nearly every turn. In sum, Olson's second proposition about anarchy versus society under the state is almost ludicrously backwards.

We can also readily agree with Olson's third proposition: "anarchy not only involves loss of

life but also increases [relative to the nirvana level] the incentives to steal and to defend against theft, and thereby reduces the incentive to produce.” But is the situation in these regards any better under the state? Certainly, as I have argued already, the loss of life must have been immensely greater with the state than without it. Since its maturation in the fifteenth and sixteenth centuries, the modern nation-state has functioned as a veritable killing machine. It defies reason to suppose that people left to their own individual devices would have killed hundreds of millions of people, as states did in the twentieth century alone. Following public choice analysis, we can make a similar statement about stealing and defending against theft. Because the state is a standing invitation to (legal) theft for all who can gain a grip on any of its many levers of power, it constitutes a constant menace against which one and all must devote time, energy, and resources in defense, lest they be subjected to utter spoliation. Unfortunately, once the stampede for control of state power gets under way widely in society, almost everybody comes to view his own attempt to engage in legal plunder as essentially defensive: the state is going to tax and regulate me no matter what I do; unless I get something back via state action, I will be a chump, a sucker, a net loser. The wonder is that under a state, people produce anything at all. Their production may eventually diminish, however, as state power continues its seemingly inexorable expansion—indeed, if the state is going to strip you naked, why produce at all? Any ship, even a magnificent economy, can be sunk if enough people continue to poke holes in it, even though each individual hole is a small one. In sum, Olson’s third proposition about anarchy versus society under the state is almost ludicrously backwards.

### **Concluding Thoughts**

In view of the foregoing arguments, we might well restate Olson’s ultimate economic conclusion on anarchy as follows: If a population acts to serve its common interest, it will never choose the state. In reaching this conclusion, we need not deny the countless problems that will plague the people living in a society without the state; any anarchical society, being peopled in normal proportion by vile and corruptible individuals, will have crimes and miseries aplenty. But everything that makes life without a state undesirable makes life with a state even more undesirable. The idea that the anti-social tendencies that afflict people in every society can be cured or even ameliorated by giving a few persons great discretionary power over all the others is, upon serious reflection, seen to be a wildly mistaken notion. Perhaps it is needless to add that the structural checks and balances on which Madison relied to restrain the government’s abuses have proven to be increasingly unavailing and, bearing in mind the expansive claims and actions under the present U.S. regime, are now almost wholly superseded by a form of executive caesarism in which the departments of government that were designed to check and balance each other have instead coalesced in a mutually supportive design to plunder the people and reduce them to absolute domination by the state.

My arguments in support of self-government, as opposed to society under a state, may have little point, of course: if people do not choose the state, but, as I think, simply have it imposed on them, then it makes no practical difference that the state is unnecessary to solve any particular kind of problem and that life without the state would be superior (Holcombe 2004). Life without cancer would be superior, too, but so far we have not found a way to get rid of it, and we have no guarantee that we ever will find a way, so we can only strive to make the best of a bad situation. We need also to consider the likely outcome if our society had no state but another society did, and that state had the capacity to harm us greatly and, for whatever reason, sought to do so. I am not convinced that this particular problem is insoluble, and indeed I believe that the state's defenders may have blown it out of proportion, but I do not dismiss it entirely. The Irish monks may have had the better argument, but it availed them little when Henry VIII decided to rip the roof off the monastery.

Here, however, I have tried only to show how we may think more clearly about the choice between a society under the state and a society composed of self-governing individuals. Assuming that we really had such a choice, the better option seems to me fairly obvious. If the reader takes anything away from my arguments here, however, I hope that it will be an appreciation of how highly warranted is an application of the precautionary principle in choosing between anarchy and the state. Fire has proven to be a magnificent aid to human beings, but a fire that cannot be contained portends our utter destruction, and the state is precisely such a fire.

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