

More generally, critics of this approach have argued that the economists' touchstone of efficiency has no normative content. Posner argues, on the other hand, that if the law is to achieve its ostensible goal of modifying behavior, then considerations of efficiency will lead us to adopt what is usually considered the normative notion of "due process." He thus suggests that whether or not efficiency itself may have any normative content, it may lead us to compatible results.

Armed with the Pareto Optimality and the other tools of modern, empirical economics, the economist is prepared to essay such grand tasks as the explanation—and, where necessary, the reordering—of human laws and institutions.

Economic analysis of the law first became widely used in anti-trust and regulatory affairs, fields in which the results were agreeable to libertarian sensibilities. Here was produced some of the most intellectually influential work bolstering the free market case. This work is associated with such well-known scholars as Milton Friedman, George Stigler, Ronald Coase, Aaron Director, Armen Alchian, Harold Demsetz, Henry Manne, and that bete noir of the environmentalists, Bernard Siegan.

While the earlier work, usually identified with the name "Chicago School," provided analysis of particular laws (e.g., the Robinson-Patman Act, rent control, zoning), later works, Tullock's in particular, seek to apply it to the institution of law itself and are, in fact, more works of jurisprudence than of economics.

Of the two reviewed here, Posner's is the more detailed. His table of contents reads like a law school syllabus. He takes property, torts, taxation, monopolies, corporations, distributive justice, due process, federalism, the adversary system, racial discrimination, et cetera, and shows how an economist, applying the tools of his trade, would ex-

plain or criticize their development and content. One of his more controversial conclusions from this work is that judges, including the old common law judges, "thought economically" and their decisions are explainable not as ethical but as economic resolutions.

In contrast to Posner's highly particularized application, Tullock seeks to go back to the roots of the problem and "think about law" in a radically different way. Observing, perhaps correctly, that we are probably no further along in our knowledge of ethics than were Aristotle or Epictetus, Tullock proposes that we first discover what good law would be, and then adopt a system of ethics which would support that law.

In an appendix to *Logic of the Law*, Tullock makes the interesting suggestion that pacifists and anarchists should be allowed to withdraw from the coercive society and abstain from both paying taxes for and receiving the benefits of the State. He believes that the presence of this choice will make those who remain subject to the State content because they will realize that their burden of obedience is self-chosen. He also suggests that this choice will provide a useful experiment to test the viability of pacifism and anarchism outside the free-rider protection they presently receive from the police and courts of the coercive regime they purportedly reject. Tullock's suspicion seems to be that they won't last very long.

Posner and Tullock are actually writing for different audiences.

~~Posner's book is the more consciously academic and has as its intended audience students in either law or economics, or perhaps combined programs. Tullock's, in contrast, is intended for the wider audience of persons who, while not necessarily lawyers, are interested in the problems posed by law. Tullock has succeeded in producing an interesting and imaginative attempt to "think about law" in a new way.~~ Reviewed by Davis E. Keeler / *Legal & Political Philosophy* / *Logic of the Law* / Basic, 1971 / \$8.95 / *Economic Analysis of Law* / Little-Brown, 1973 / \$10

THE CASE FOR LEGALIZING HARD DRUGS

By Roy Childs

Every generation seems to have its own peculiar myths, its own unique irrationalities, and its own despised minority. In turn, Jews, Catholics, Chinese, Irish, Japanese, and Negroes have been stereotyped, discriminated against, and harassed by the State. Gradually the stereotypes have been dispelled, the discrimination ameliorated, the legal sanctions eliminated. Now religious, ethnic, and racial tolerance are all but taken for granted as social standards, if not as complete social realities. However, irrational intolerance itself has not disappeared but merely been redirected. In 1975 America there is a new stereotyped and oppressed class: the drug users.

In his brilliant speech, *The Case for Legalizing Hard Drugs*, Roy Childs demonstrates that virtually every belief held about opiate users is false. Using extensive medical and historical evidence, Childs shows exactly why drug use is mounting and exactly how that use is a social problem. While Childs does not deny health and crime problems associated with drugs, Childs does question that those problems are caused by drug use *per se*. Rather he demonstrates that all of those problems are the product of the legal sanctions against drugs.

Speaking principally of the opiates, Childs begins his discussion by pointing out that what "the drug problem" is depends upon who is defining it. Further, he points out that legal sanctions as a method of dealing with "the problem" are at best ineffectual: Since 1960 drug laws have become much more severe, but opiate (mainly heroin) users have increased from 54,000 to an estimated 300,000-500,000 today in the United States. Childs then goes on to establish his thesis that: "There is no political drug problem, except that which is created by the law. The only way to solve the problem then is to abolish the drug laws."

Rather than beginning his case with ethical arguments well known

to libertarians, Childs instead begins with and spends the bulk of his time presenting medical and historical evidence on the effects of drug use and drug criminalization. At the outset, Childs explains, in the nineteenth century there were no drug laws (drugs were then easily purchasable at pharmacies, grocery stores, or through the mail) and there was no drug problem. "The drug problem"—including everything from physical deterioration of addicts, the involvement of organized crime, a drug subculture, the commission of crimes by addicts to support their habits, and the destruction of families through drug use—is coincident with criminal sanction against drugs. Childs goes on to show exactly why this is the case, discussing in the process a host of relevant issues, including: the history of American drug laws, the effect of opiates on intellectual performance, why authorities are helpless to prevent smuggling of opiates, harmful effects of drug laws upon foreign policy, prominent Americans who were opiate users and the effects upon them, the real reason why the medical profession turned against opiates, astronomical price increases (up to 225,000%!) caused by criminalization of drug use, and ways in which anti-drug laws encourage drug use.

Childs concludes his speech with a passionate ethical statement on the right of self-medication and the implications of the ability of the state to prohibit drug use.

This is a brilliant, meticulously reasoned speech. It deserves to be heard by every libertarian who is interested in defending the right of self-medication, as well as by every conservative who is intent upon saving drug users from themselves. I sincerely hope that *The Case for Legalizing Hard Drugs* reaches the wide audience that it deserves. Reviewed by Jarret B. Wollstein / Cassette Tape 336 (40 min.) / \$9.95 / Order from Audio-Forum, 410 First St., SE, Washington, DC 20003



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AN INTRODUCTION TO IMAGINATIVE LITERATURE

By Jeff Rigenbach

PART III: FICTION—THE NOVEL

If the first great short story in English is a verse narrative, so is the first great novel. I am speaking of John Milton's *Paradise Lost*, the most universally celebrated literary treatment of one of the world's great myths (the fall of Satan and, subsequently, of Adam and Eve). The English language takes on an incomparable beauty (I am tempted to say "an incomparable majesty" and, with Oscar Wilde's Lord Henry Wotton, I believe the only way to get rid of a temptation is to yield to it) when it is cast into iambs. And only Shakespeare can approach or surpass Milton at this style of composition.

In fact, there is good reason to argue that until nearly two hundred years later no book-length fictional narrative in English involved *Paradise Lost* in any serious rivalry. The ensuing pair of centuries saw publication of some notable novels, to be sure: Swift's *Gulliver's Travels*, Stern's *Tristram Shandy*, Emily Brontë's *Wuthering Heights*, Herman Melville's *Moby Dick* (and, some would say, not without justice, *Pierre*, *The Confidence-Man* and the shorter *Bartleby the Scrivener*), Nathaniel Hawthorne's *The Scarlet Letter* and *The House of the Seven Gables*—these are only among the more interesting products of the period (I omit Jane Austen from the company because, though her novels are almost universally admired—I admire them myself—I find her unreadable). But it was not until the 1860s and the later novels of Charles Dickens (especially *A Tale of Two Cities* and *Great Expectations*) that the English novel—this time in prose—again attained the artistic stature of *Paradise Lost*. Where Milton's mastery is most noticeable in his style, however, Dickens's is most noticeable in his character and plot writing. Like no novelist before him (and few since) Dickens grasped the importance of unifying each character and of exhibiting each character's essence as concretely and sensuously as possible without sacrifice of psychological complexity (read Miss Havisham in *Great Expectations*, and you will have experienced self-destructive spite of so intense and fully realized a variety it may literally leave you emotionally drained).



And Miss Havisham's essential nature, as that of each character in *Great Expectations*, is delineated by the intricately interwoven events of the novel. Dickens' later plots were all like this—complex, elaborately detailed, perfectly integrated around the characters of the fictional people who acted them out. And Dickens had the younger novelist Wilkie Collins to thank for pretty well teaching him to do it. Collins's own best novel, *The Moonstone*, is variously credited with being the first detective novel, the most objective detective novel (most faithful to the rule that all the facts on which the detective bases his retrodution are introduced in the text so that the clever reader may, if he is clever enough, beat the detective to the solution) and the most perfectly plotted novel in English. It deserves every bit of that credit. Collins' novels are not much read anymore. In the case of *The Moonstone* (and perhaps of *The Woman in White*) this is unfortunate, but it would have been more unfortunate still had Dickens (basically the better artist of the two) not fallen under Collins' influence.

If the preoccupation of Dickens and Collins was with character and its effect upon action, the preoccupation of George Meredith was with character and its effect upon thought. And while the first preoccupation led Dickens and Collins to write novels of eccentric people engaged in complicated, interconnected sequences of actions, the second preoccupation led Meredith to write novels of eccentric people engaged in the sorts of psychological actions—thought, emotion, remembrance, creative intuition—which result in essential character change. And given his preoccupation with the mind and the symbols which formulate its processes, it is hardly extraordinary that Meredith concentrated much of his attention on the development of one of the most carefully disciplined and eloquent styles in all of English literature. This style is present in his work from beginning to end, whether in the form of the self-consciously musical and sensuous word-magic of his first novel, *The Shaving of Shagpat*,

or in the form of the self-consciously involuted and parenthetical description of his later (and probably best) novel, *The Egoist*.

Reading the later Meredith is probably the best preparation one could possibly seek for reading Henry James. And, even if one begins with such a more accessible work as *The Turn of the Screw*, there is little doubt that some preparation is nearly essential to enjoying James' fiction. The reason is simply that James—like every major innovator—thought in (to most persons) unfamiliar ways and about (for most persons) unfamiliar subjects. His later novels, the ones for which he is most revered, are almost entirely psychological in their significant action (*The Ambassadors*, for example, is entirely about a man's change of heart and the scenes and settings he observes—in an almost completely passive fashion—on his way to that change), and they are written in the elaborate prose of a thinker whose thoughts are individually complex and extensively interconnected with dozens or hundreds of other individually complex ideas. James is difficult to read, and his imaginary worlds are of importance in thinking about the real one only to the extent the reader shares James' enthusiasm for exhaustive observation of mental states.



Of more general aesthetic "utility" in this sense are the novels of Robert Louis Stevenson; his best is the famous *Strange Case of Dr. Jekyll and Mr. Hyde*. A superficially similar novel of the same period is Oscar Wilde's *Picture of Dorian Gray*. Wilde was brilliantly clever at everything he chose to write—and brilliantly artistic as well, though perhaps more brilliantly clever than brilliantly artistic. It is time Wilde's position as leading novelist of the art-for-art's-sake movement was challenged. His contemporary George Moore, though his best novels were published a quarter of a century later, was as fully an exemplar of the '90s spirit as Wilde, and his novels, especially *Hélöise* and *Abélard* are significantly better.

There remain three novelists of the late nineteenth and early twentieth centuries whose reputations loom large in the literary marketplace at the moment, but whose novels I at least have nearly always found too uninteresting even to finish: I speak of George Eliot, Joseph Conrad, and Thomas Hardy (though, to be fair, I should admit that Hardy is a not inconsiderable writer—he happens also to be one who hardly appeals to me). Another major writer of this sort a few decades later is D.H. Lawrence, whose work seems to me one of the most eloquent of testimonials to the consequences of writing with one's gut instead of one's mind. The basic, violent, animal urges which Lawrence thought so natural and beautiful may well be so, and they may well (if obeyed as Lawrence advocated) do much for the vitality and intensity of life. But they cannot, except by chance, write good novels. Lawrence's contemporary and temperamental opposite, Aldous Huxley, though his most brilliant literary work was done in the medium of the essay, was the author of at least one novel of major importance, *Point Counter Point* (aside to music lovers: this novel's structure—the course of its plot—was patterned after Bach's Suite no. 2 in B Minor for Orchestra).



Other significant novels of the period (more than significant, of course, but so much must be left out—the past hundred years has been the greatest period artistically in all of English literary history) were Carl Vam Vechten's *Peter Whiffle*, James Branch Cabell's *Figures of Earth* and *Jurgen*, Virginia Woolf's *Orlando*, Horace McCoy's *They Shoot Horses, Don't They?* (certainly the best of the many currently fashionable Hollywood novels of the thirties—and a great improvement on the work of the currently very fashionable Nathaniel West), Somerset Maugham's *Cakes and Ale* (I agree with Maugham in preferring this one to some of his more celebrated others), John Steinbeck's *Tortilla Flat*, William Faulkner's *Light in August* (I especially regret having only a few words to devote to this

(Continued on page 4)