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Criteria for Justice

By CHRISTOPHER P. MOONEY*

ABSTRACT. Six different but common criteria for describing the meaning of *distributive justice* are examined. The six are (1) to each the same thing; (2) to each according to his or her *merit* or achievement; (3) to each according to his or her *work* or contribution; (4) to each according to his or her *need* or requirements; (5) to each according to his or her *status* or position; and (6) to each according to his or her *contract* or agreements. An attempt is made to show how these six can be viewed compatibly and how all support the right of equal *access to land* and the duty to pay to the community which created it the full *economic rent* on the *site*.

I

VARIOUS CRITERIA have been proposed to establish some standard whereby distributive justice may be measured. It is clear that the benefits and burdens of living together in society need to be fairly spread so that each person is rendered what is due. Of course, not all things need be borne by everyone: punishment is something that comes under a special category. However, general membership in a community should involve participation of all members in the opportunity to share the goods of society. Someone may waive his right regarding potential benefits, of course, but any measure should impose burdens according to the formal principle of justice that like cases be treated alike. Especially in the case of fundamental rights it is important to insure that any criterion chosen has the ability to sort out in a reasonable fashion the likely possibilities and consequences of widespread application.

The tendency has been to think that only one criterion is necessary or useful, and this has resulted in lopsided theses wherein every form of distributive justice is measured by the same rule. Formal simplicity is a valuable ideal and can be useful in many areas, but justice is not mathematics, *no matter how much proportioning may be involved on occasion*. Different rights and duties demand different measures. It should be remembered, though, that whatever criterion is chosen, the formal principle of justice must be also present.

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Here then is a composite list of a wide variety of suggestions:

- (1) To each the same thing
- (2) To each according to his or her merit or achievement
- (3) To each according to his or her work or contribution
- (4) To each according to his or her need or requirements
- (5) To each according to his or her status or position
- (6) To each according to his or her contracts or agreements¹

Each one of the criteria can easily be seen to have some immediate and unquestioned application. Let us see what they are.

II

THE DOCTRINE of natural rights demands equal consideration and respect in certain fundamental matters. So, (1) "To each the same thing" deserves hearing in regard to certain basic human rights.² In terms of humanity no distinctions can be drawn among individuals. Young or old, Black or White, male or female distribution of select benefits and burdens, rights and duties, must be equal unless we wish to say that "some persons are more equal than others" in regard to self-preservation or dignity.

But it should be noted that this does not mean the youngest child or the most ignorant old man must be given the same quantity of goods or property. It only, though unequivocally, means that the same *opportunity*—that is, the same bundle of real rights and duties—is granted to each, *no matter whether this reduces the previous opportunities of others or not*.³ If a society's population grows, it is unjust to deny opportunities to the new members while continuing them for the others *in matters of fundamental importance*. This does not mean that certain privileges, such as pension rights, may not be curtailed for newcomers, but it does mean freedom of movement or belief cannot be lessened for one and not the other. Realizing the implications of this point takes some thought, and often it seems that those who do find the results so staggering that equality in any real sense is rejected as unattainable. This may be why no other single criterion seems to receive so much lipservice and so little application.⁴

There may be situations wherein strict equality would be self-defeating. For instance, if a boat starts sinking and there are only enough places in the lifeboats for half the passengers, then some other criterion must be applied, but *in extremis* conditions are not ordinary and those who argue that equality is wrong because *in extremis* it does not work are being disingenuous. Additionally, there are the questions which arise concerning international responsibilities toward one's fellows.

Starvation, dire poverty, and extreme misfortune are not hard to find. Does the principle of equality of concern and respect require the well-to-do to sacrifice their surplus or lower their standard of living in order to act justly to all men?⁵ This is a very complicated issue and we cannot enter into it here: but—and this is important—it does seem that the more a given society or community strives to render every one his due within its own border, the more likely it will be in a position and mood to consider non-members. The rule (1) “To each the same” must be understood in relation to rule (5) “To each according to his status or position” which embodies the notion of communal membership, just as in the case of the sinking boat it makes no sense for none to man the lifeboat because all shall not fit.

We may conclude this brief examination of equality with the observation that the conditions or arrangements of the community necessarily establish ‘second order’ advantages due to the presence of cooperation and mutual orientation. These may be rights and liberties or goods and services (some examples are: freedom from fear, increased productive possibilities, money and credit, cultural and artistic opportunities) which cannot be attributed to any one individual but are truly communal contributions. As such they need to be made available equally to all, though again not necessarily in the same quantity but in the same way.

III

THE SECOND CRITERION “To each according to his or her merit or achievement” offers quite a different measure of distributive justice.⁶ Yet it is one that has always found favor. Indeed there is a great human need for recognition as Simone Weil points out. She writes:

Honor is a vital need of the human soul. The respect due to every human being as such, even if effectively accorded, is not sufficient to satisfy this need, for it is identical for every one and unchanging; whereas honor has to do with a human being considered not simply as such, but from the point of view of his social surroundings. This need is fully satisfied where each of the social organisms to which a human being belongs allows him to share in a noble tradition enshrined in its past history and given public acknowledgement.

For example, for the need of honor to be satisfied in professional life, every profession requires to have some association really capable of keeping alive the memory of all the store of nobility, heroism, probity, generosity, and genius spent in the exercise of that profession.⁷

There is great value in rendering each individual his or her due according to one’s merits. So long as we desire excellence, we must acknowledge it. That virtue was *arete*—excellence—for the Greeks is significant, as is the etymology of ‘aristocratic’: government by the best. Unfortunately, intrinsic worthiness of individuals is hard to discover. Thus it is that justice goes by appearances. And

so merit becomes achievement, individual deeds. This makes this criterion (2) close to the next (3) "To each according to his or her work or contribution," but we can distinguish the two if we think of achievements in terms of non-productive activities. Nobel Prize winners clearly fall into this category, as do fairly chosen occupants of Professorial Chairs and holders of Honorary Degrees. Military awards, but not rank, also should be given for achievement. A general, in fact, need not have more medals than a private, for talent as a strategist or commander does not require heroism so much as ability.

That achievement should merit economic benefits is not so certain. The difficulty arises from the very nature of achievement. Properly speaking it is something *extra* ordinary. It goes beyond the requirements of one's job or task. And though there may be many who work *for* recognition, recognition should be awarded only when special accomplishment is attained. Doing one's duty is self-rewarding and we destroy the value of "To each according to his or her merit or achievement" if honors are lightly given.

In the same light when the award is economic, then it becomes part of criterion (3) or perhaps a combination of (4) and (5). Achievement may merit status or position, such as a Professorial Chair or a research appointment, and they in turn probably demand different needs or requirements, *i.e.* leisure for study and research, library facilities and laboratories. But when this is all translated into a higher salary or some other economic benefit, confusion arises. Property rights to use and manage, rather than for possession and transmissibility, are appropriate rewards for achievement. The Life Peerage Act (1958) recognized the value of awarding honors to an individual without creating a perpetual privilege. A life peer can justly receive his reward for achievement without creating difficulties with criterion (5) "To each according to his or her status or position."⁸

IV

THE THIRD CRITERION "To each according to work or contribution" is of great importance in relation to distributive justice. The terms 'work' and 'contribution' are to be interpreted in their economic or productive aspects.⁹ Thus they may be physical or mental in form, but they must be productive in nature. In most cases productivity is relatively easy to measure. And this is one of the advantages of this criterion. Its objectivity and general quantifiability makes comparison between like cases a simple matter. As David Miller and others have noted, it is easier to formulate this criterion negatively than positively. That is, we can more easily say, those who contribute nothing deserve nothing in return, than we can say, "To each according to his work or contribution."

V

THE FOURTH CRITERION "To each according to his or her need or requirements" has a strong appeal, for it emphasizes the fact that there are certain minimum levels of livelihood that must be maintained if there is to be any society at all. It is not necessary to read this criterion as a form of charity or benevolence instead of a form of justice since there can be no charity without fulfilling the demands of justice first. This simple truth is sometimes forgotten. On the other hand, need cannot be the criterion for measuring certain distributions: Joel Feinberg offers the obvious example of grades on examination.¹⁰ What we must first settle is what needs or requirements are primary, and then we can determine if, and when, distribution should be based upon need.¹¹

In discovering people's fundamental needs, we find ourselves returning to the first criterion (1) "To each the same," for the formal principle of justice demands that we have no basis for treating individuals differently *as individuals*. We must take some other factor(s) into consideration in order to distinguish special individual needs. For instance, health is a fundamental human requirement, and all persons should be accorded the same right to medical services, but certainly we want to grant special privileges to those very ill or very poor. (Today, unfortunately, it often seems that we grant special privileges only to those who are very rich.) Certainly in special circumstances we want to help those in dire need, such as the very ill or indigent, without unnecessarily burdening the community with exorbitant costs. This requires that men and women be given the opportunity to earn a decent living so that they might provide for themselves in times of need or distress.

Equally, the right to personal security belongs to all men, but we will probably still give greater protection to famous or threatened individuals. (And, again, we often overlook the old or the poor or the weak too readily.) Whatever fundamental human needs we isolate, we find that circumstance and position (which involve criteria (2) and (5) as well) necessitate our distributing benefits and burdens unequally in numerous cases.

In addition, when we apply the formula "To each according to his or her need" we must establish some hierarchy of needs in their order of importance. Otherwise, we will be back at the beginning. In this way we can also give people reasonable warning or guidance (as the case may be) as to which needs will be acknowledged and in what order. There is a tendency to confuse the notion of needs with desires. What someone may feel is a legitimate need may be only a strong subjective desire or unnecessary dependency. It may be fine to supply soldiers with cigarettes when possible, but it would be more than foolish to

substitute them for medical supplies or ammunition. Once we go beyond bare minimum physical requirements for survival, disputes inevitably arise about what constitute essential needs and what are merely individual desires. This becomes especially acute in discussions of property rights.

Fortunately, for our purposes we shall be able to avoid such controversies. Too often the assumption is made that a particular level of income properly defines the minimum level necessary for subsistence. In actual fact such an assumption is false and misleading. Since income is only a relative measure of purchasing power, and since it bears no real relationship to any other criterion of justice, it cannot be used as a basis for determining the bare minimum need.¹² Even translating income into actual goods and services does not solve the problem. After all, it is important to remember that human needs are not merely physical in form. Certainly one primary human need is independence, so when we try to translate fundamental human needs into dollars and cents without determining if such a procedure really discloses the underlying requirements, we wind up creating the illusion that, merely by providing to everyone specific amounts of goods and services (from whatever source), we have dealt with one's need to support oneself and one's family.

VI

IF CRITERION THREE emphasizes that work should be rewarded and idleness discouraged, in the same light criterion four emphasizes that there is a fundamental human need to work, to contribute, as well as to receive. The whole purpose of freedom is to give individuals the opportunity to fulfill their potential (however narrowly or broadly it may be construed). Anything which would deny them that opportunity must be seen as a denial of fundamental human rights.¹³

Since access to land is essential for independence, it becomes clear that some form of land tenure must be recognized which gives all the equal possibility to occupy land. Land is the source of all wealth. From it we get everything that we use or value in the material world: food, clothing, fuel, shelter, metal, or precious stones. We live on the land and from its bounty. In the end our bodies will return to the soil. There can thus be no denial that availability of land is a primary human need. And it is easy to see that whatever principles of distribution are applied to land tenure, they will affect all aspects of our social, economic, and political lives.

Hence, it becomes undeniable that property rights in land must be established so that everyone has the opportunity to work and support oneself and one's family with as much independence as possible. Just as security of one's person and the integrity of one's mind are primary human rights, so also is the oppor-

tunity to be financially independent a primary economic right. Few other needs can take precedence over this, if we wish to live in a liberal society. No amount of welfare payments can substitute for this need. It is a basic requirement for human dignity.

VII

WITH CRITERION FIVE “To each according to his or her status or position” we meet an entirely different measurement of justice. Some would hastily argue that in a democratic society such a criterion of distributive justice is unacceptable, but closer examination of the issue reveals that there are certain situations in which such a principle would be useful and fair. Alf Ross reminds us that “the logical correlate of the demand for equality is the demand for unlike treatment of that which is unlike when measured by the presupposed yardstick of evaluation.”¹⁴ As we have already noted in the discussion of criterion (1) “To each the same,” we are part of society, and thus we have particular duties and responsibilities according to the roles we fulfill in society. This applies to marriage, professional life, and one’s political responsibilities. Few question tax advantages given to those rearing children or caring for elderly parents. Likewise age is often used—both for young and old—as a means for distributing benefits and burdens. Similarly we may even have sex criteria as with the draft.

Class distinctions need not be invidious. What makes them so is the fact that they tend to promote privilege. And when such distinctions are based upon secondary human traits such as sex, color, ethnic background, or other characteristics, then we can rightfully take exception. The criterion of status or position can never overrule the primary obligation to recognize equals as equals. The real problem arises in determining what common element establishes the equality asserted: $.5 = \frac{1}{2}$ in terms of quantity, but they are obviously different modes of notation. Equality is always a third party to any two things. And just as we must acknowledge what is common within any equation of equality, so we must acknowledge what is unique. Thus we must recognize status or position in many cases.

VIII

HENRY SUMNER MAINE’S now classic observation that “the movement of the progressive societies has hitherto been a movement *from Status to Contract*”¹⁵ (his emphasis) leads us to the sixth and last criterion, “To each according to his or her contracts or agreements.” Certainly we cannot underestimate the importance of this criterion of justice in both history and theory. As a matter of fairness, it seems essential that contracts and agreements are upheld in law, just as we expect people to keep their promises. Whenever someone is allowed unilaterally

to alter the terms of his or her contract or agreement, he or she is exercising a liberty or utilizing an immunity but not asserting a right or power. Thus it is natural that the law has tended to limit or eliminate privileged status which grants such liberties or immunities to individuals or classes.

But in order for contract to be meaningful, there must be freedom. Freedom of contract has become a slogan, and yet it is a very important concept in any political and legal system.¹⁶ Granting full legal rights to all—with the exception of minors or insane persons—has been the goal of modern democracies. Some have erected a whole theory of justice on the basis of this criterion. For them contractual obligations, or entitlements, are the most fundamental factors in determining who owes what to whom. As a matter of ordinary, routine distribution of wealth, this approach may work in a significant degree. But in terms of discovering the foundations of distributive justice, it is woefully inadequate. We must know far more about the conditions under which contracts are arrived at before we can justify the contractual conditions themselves. The famous statement of Mr. Justice Stone in his dissent in *Morehead v. Tipaldo* (1936) illustrates the point all-too-vividly: “There is a grim irony in speaking of the freedom of contract of those who, because of their economic necessities, give their services for less than is needful to keep body and soul together.”¹⁷

Moreover, the freedom that property rights guarantees gives rise to the possibilities of public duty. Especially in a democracy if we want all to participate in the public realm, we must establish the conditions under which this is made practical. This is one reason why Jefferson was so insistent upon securing access to land for every member of the community and basing voting privileges upon ownership of land. It signalled to him a commitment to the public good. This same idea is outlined by R. H. Tawney in his commonplace book, dated April, 1913:

People want rights—freedom, in order that they may perform duties. The hardship of the wage earner is not simply that he has insufficient food and housing, but that he is deprived of the means of performing certain primary duties, care of home, wife and family, direction of the industry by which he lives, a share in the public life. Hence the way of freedom is also the way of duty.¹⁸

Clearly rights to property ground other rights and they, therefore, protect and encourage the performance of duties. Rights and duties are correlatives: contracts merely spelling out specific agreements among the contracting parties that are legally enforceable. Contracts may create other rights and duties, but man's fundamental rights and duties do not rest upon expressed contracts, except metaphorically as when we speak of the ‘social contract’ theory of the State.¹⁹

Having examined these criteria, we can draw some conclusions regarding necessary principles of distributive justice.

IX

FIRST, JUSTICE DEMANDS that every individual be given an equal chance. This means in concrete terms that all are given the same fundamental consideration in order to meet basic needs. Discrimination among individuals regarding fundamental matters is completely unacceptable. Both criterion (1) "To each the same thing" and criterion (2) "To each according to his or her needs or requirements" remind us of the fact that in respect to minimums no one can justify preference. All have the same right to live. And since each person is one, his or her nature and needs are common. In relation to property rights, access to land, to space in which to live and work, is a universal and unalterable requirement for human beings. Hence, distributive justice must establish a method whereby all are guaranteed sufficient space, even if this means that some individuals who now have more than enough are forced to occupy less in the future.

Second, we must encourage productivity, discourage speculation and protect efficiency. (2) "To each according to his or her merit or achievement" and (3) "To each according to his or her work or contribution" are not opposed in essence. They complement each other. If we reward excellence, then we are bound to increase productivity and decrease speculation. Moreover, the greater men and women value their work, the more likely they are to take the pains necessary to improve its quality. If some can live off the efforts of others by gambling or speculating, then society will soon discover the effects in terms of widespread unwillingness to work and of rampant idleness. Additionally, conservation will suffer when land is held merely for high speculative gain. Short-sightedness always overlooks the future interests of society as a whole. Justice, however, takes the long view; it seeks the best solution for yesterday, today, and tomorrow.

Third, social stability must be supported wherever possible. A true system of distributive justice will not upset the status quo or violate contractual agreements unless absolutely necessary. Hence, we must look for a way to institute reform without causing revolution. This will encourage us to seek support in established tradition and legal precedent.

Notes

1. J. R. Lucas, *On Justice* (Oxford: Clarendon Press, 1980), pp. 164–65 n. 6 gives a list of different criteria that various authors have proposed. See, further, Chaim Perelman, *The Idea of Justice and the Problem of Argument* (London: Routledge & Kegan Paul, 1963), pp. 7–11; A. M. Honore, "Social Justice," in R. S. Summers, ed., *Essays in Legal Philosophy* (Oxford: Blackwell, 1968), pp. 66–81; Gregory Vlastos, "Justice and Equality," in A. I. Melden, ed., *Human Rights* (Belmont, Calif.: Wadsworth Publishing Co., 1970), pp. 76–95; Nicholas Rescher, *Distributive Justice* (Indianapolis: Bobbs-Merrill, 1966), pp. 73–83; William A. Galston, *Justice and the Human Good* (Chicago: Univ. of Chicago Press, 1980), pp. 143–91; Scott Gordon, *Welfare, Justice and Freedom* (New York: Columbia Univ. Press, 1980), pp. 83–114.

2. There are many senses of the word 'equality' and disagreement among authors often hinges on the specific meaning that is being implied. Sometimes it is argued that this criterion can be reduced to the 'formal principle of justice' or some form of due process, but there is a distinct difference between the idea of treating like cases alike and arguing that all cases are essentially alike. See, Isaiah Berlin, "Equality" reprinted in his *Concepts and Categories* (New York: Viking Press, 1979), pp. 81–102. He notes, "Equality is one value among many: the degree to which it is compatible with other ends depends on the concrete situation, and cannot be deduced from general laws of any kind; it is neither more or less rational than any other ultimate principle; indeed it is difficult to see what is meant by considering it either rational or non-rational" (p. 96). Further critiques of the idea of equality are S. I. Benn and R. S. Peters, *Social Principles and the Democratic State* (London: George Allen and Unwin, 1959), Chapter 5, particularly, pp. 114–15; J. R. Lucas, "Against Equality," *Philosophy* 40 (1965), pp. 296–307; Keith Joseph and Johathan Sumption, *Equality* (London: John Murray, 1979) and the collection of essays in J. Roland Pennock and John W. Chapman, eds., *Nomos IX: Equality* (New York: Atherton, 1967).

3. This condition is seldom observed, it must be admitted. Only recently has attention focused on the obligations to future generations. See, D. Clayton Hubin, "Justice and Future Generations," *Philosophy & Public Affairs*, 6 (1976), pp. 70–83.

4. See, Charles Frankel, "Equality of Opportunity," *Ethics*, 81 (1971).

5. Peter Singer, *Practical Ethics* (Cambridge: Cambridge Univ. Press, 1980), pp. 158–81 is one who argues that it does.

6. There is a lot of literature on the topic, but much of it is at cross purposes because of the varieties of ways in which merit or achievement can be measured. David Miller, *Social Justice* (Oxford: Oxford Univ. Press, 1976), pp. 83–121 discusses the issues at length. Also Norman Daniels, "Meritocracy," in John Arthur and William H. Shaw, eds., *Justice and Economic Distribution* (Englewood Cliffs, N.J.: Prentice Hall, 1978), pp. 164–78. Joel Feinberg, *Doing and Deserving* (Princeton: Princeton Univ. Press, 1970) is perhaps the best treatment of the various issues involved.

7. Simone Weil, *The Need for Roots* (New York: Harper & Row, 1971), pp. 19–20.

8. See, in addition to works cited in note 1, Michael A. Slote, "Desert, Consent, and Justice," *Philosophy & Public Affairs* 2 (1973), pp. 323–47 and the critique by Christopher Ake, "Justice as Equality," *Philosophy & Public Affairs* 5 (1975), pp. 69–89.

9. It is interesting to note that the famous formula of Marxism—"From each according to his ability, to each according to his needs"—was only deemed applicable to the higher phases of communistic society. Cf. Marx and Engels, *Selected Works* (London: Progress Pub., 1968), pp. 323–25. In conformity with this both the 1936 and 1977 constitutions of the USSR refer only to work, *not* need, as a principle of distributive justice. In the 1936 constitution it is put as follows (in article 12): "Work in the U.S.S.R. is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: 'He who does not work, neither shall he eat.' . . . The principle applied in the U.S.S.R. is that of socialism: 'From each according to his ability, to each according to his work.' " And in the 1977 constitution (in article 14): "The labor of Soviet people, free from exploitation, is the source of the growth of public wealth and of well-being of the people and of every Soviet citizen . . . In accordance with the principle of socialism: 'From each according to his abilities, to each according to his work,' the state supervises performance and consumption." Cf. *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics* (1936) (Moscow: Progress Publishers, 1969) and *Review of Socialist Law* 4 (1978), pp. 57–84. Constitution adopted October, 7, 1977.

10. Feinberg, *Doing and Deserving*, p. 59. This is, of course, one illustration of the importance of criterion (2) 'To each according to his merit or achievement.'

11. For a discussion of the various ways in which fundamental needs are understood, see *Human Needs and Politics*, edited by R. Fitzgerald (Sydney: Pergamon, 1977).

12. Of course, it might be maintained that speaking about 'income' is merely shorthand for talking about fundamental needs, but what we hope to show is that liberty rests on independent access to land, and that unless there are widespread rights to property in land 'income' is a poor measure of individual freedom or security. In addition, schemes of redistribution confront the same questions that property rights in land must address, e.g. What should be the basis for transfers of wealth? Work or contribution? Need or requirements? Contract or obligations? And what form of taxation or redistributive measures should be employed? Income tax? Sales tax? Property or capital gains tax? For an overview of the problems involved, see Colin D. Campbell, ed., *Income Redistribution*, (Washington, D.C.: American Enterprise Institute, 1977).

13. Recognition of this need has remained less than desirable, for despite all the talk about 'creativity' the true dignity of labor is not widely respected. For an attempt to explore the value of work, see Edwin G. Kaiser, *Theology of Work* (Westminster, Md.: Newman Press, 1966). Three recent papers have offered arguments in support of the right to work: Hillel Steiner, "The Natural Right to the Means of Production," *Philosophical Quarterly*, 27 (1977), pp. 41-49; James W. Nickel, "Is There a Human Right to Employment?," *Philosophical Forum* 10 (1978-9), pp. 149-69; and Lawrence C. Becker, "The Obligation to Work," *Ethics*, 91 (1980), pp. 35-49.

14. Alf Ross, *On Law and Justice*, trans. by M. Dutton (Berkeley: Univ. of California Press, 1959), p. 271.

15. Henry Sumner Maine, *Ancient Law* (Boston: Beacon Press, 1963), p. 165.

16. Three essential works on contract are: A. W. B. Simpson, *A History of the Common Law of Contract* (Oxford: Clarendon Press, 1975); Lawrence M. Friedman, *Contract Law in America: A Social and Economic Case Study* (Madison: Univ. of Wisconsin Press, 1965) and P. S. Atiyah, *The Rise and Fall of Freedom of Contract* (Oxford: Clarendon Press, 1979). The slighter work by Grant Gilmore, *The Death of Contract* (Columbus: Ohio State Univ. Press, 1974) is also useful. Finally, Morton J. Horwitz, "The Historical Foundations of Modern Contract Law," *Harvard Law Review*, 87 (1974), pp. 917-56, provides a brief overview of some of the extralegal considerations of modern contract law.

17. 298 U.S. 587 (1936).

18. R. H. Tawney, *Commonplacebook*, edited by J. M. Winter and D. M. Joslin (Cambridge: Cambridge Univ. Press, 1972), pp. 56-57.

19. Robert Nozick's *Anarchy, State, and Utopia* (New York: Basic Books, 1974) is the most recent attempt to establish a system of property rights based on the idea of freedom of contract, but, as several critics have noted, he does not provide initial justification for man's original entitlements nor does he offer sufficient criteria for measuring the validity of subsequent contractual obligations. See, especially, Hillel Steiner, "A Libertarian Quandary," *Ethics*, 90 (1980), p. 257.

Research Note

Valuing the Public Lands

"New Estimates of the Value of Federal Mineral Rights and Land." By Michael J. Boskin, Marc S. Robinson, Terrance O'Reilly and Praveen Kumar. *American Economic Review*, Vol. 75, No. 5 (December, 1985), pp. 923-36.

THE FEDERAL GOVERNMENT administers a large fraction of the mineral rights and land in the United States, as the authors point out, on behalf of its owners under