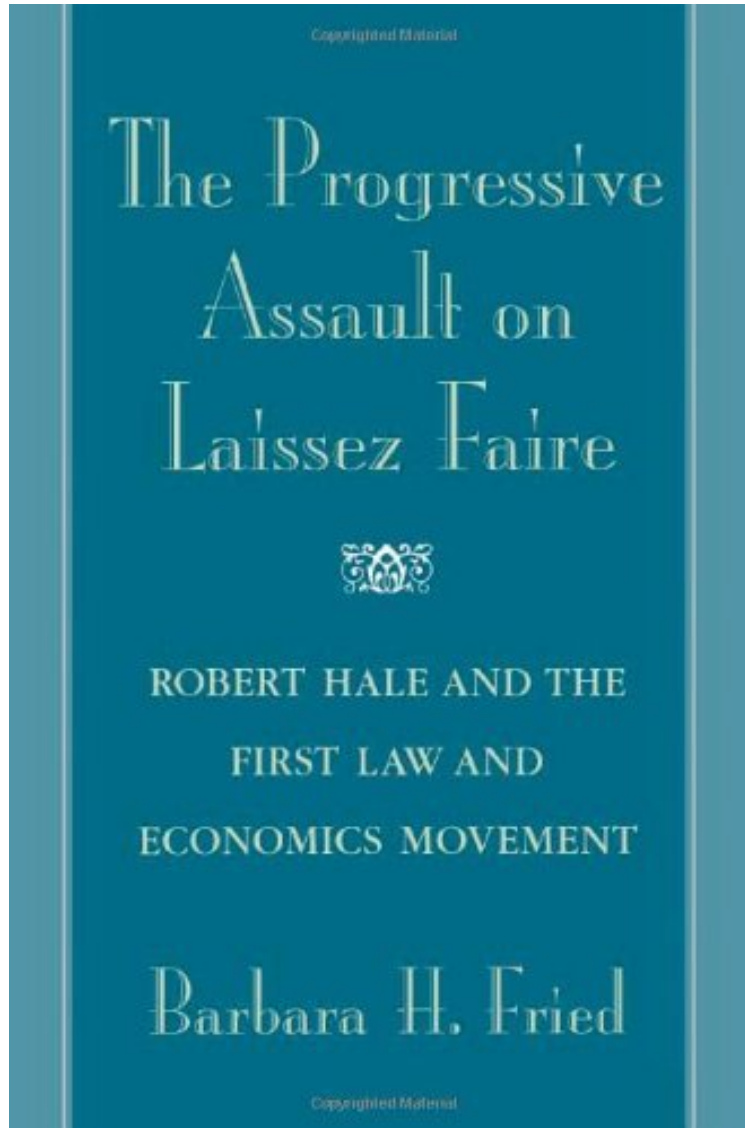


[Read free] The Progressive Assault on Laissez Faire

The Progressive Assault on Laissez Faire

Barbara FRIED

DOC | *audiobook | ebooks | Download PDF | ePub



#1738594 in eBooks 2009-06-30 2009-06-30 File Name: B002OEBOKU | File size: 72.Mb

Barbara FRIED : The Progressive Assault on Laissez Faire before purchasing it in order to gage whether or not it would be worth my time, and all praised The Progressive Assault on Laissez Faire:

22 of 27 people found the following review helpful. The best reveiw of Robert Hale's work to dateBy John PateWhile I certainly cannot agree that this book, or its principal subject, Robert Hale, present anything close to "one of the best demolitions" of laissez-faire, this book is quite intriguing; and I think that anyone who is in the business of defending the concepts of laissez-faire or present-day libertarianism would do well to ponder upon Hale's arguments. This is not to say that a full understanding of Hale is essential (it may even be stretching it to say useful) for a complete defense

of laissez-faire, but he certainly does present an intellectual and philosophical challenge for its adherents. Fried does an excellent job of documenting and reiterating Hale's approach to legal theory and the early 20th century thought underlying it - but in the end, we are really only left with Hale's analysis which, while intriguing and ingenious, is little more than an intellectual puzzle the ramifications of which even Fried (an evident admirer) expresses some skepticism. Hale's attempts to defeat the concept of laissez-faire (linguistically) put him in the position of beating up on traditionalists like Thomas Nixon Carver, without giving us any practical reason as to why they were right or wrong. Even if we were to take Hale's central argument as correct, (he essentially contests the idea of a minimalist state as conceptually incoherent) Hale gives little to no insight as to why the "coercion" he advocates is preferable to the "coercion" of the marketplace. Only once in Fried's book is the antithesis of Hale, Frederick Hayek, mentioned - whose defense of laissez-faire was primarily based on its efficiency in conveying vast amounts of interspersed and fragmented knowledge as to the opportunity costs of goods and labor, and constantly changing values and preferences throughout complex societies. Yet it is this argument which is (by far) more central to the debate about laissez-faire - and this argument which Hale essentially ignores - preferring instead to defeat classic liberals on their choice of terms. Even if he were right, Hale gets us absolutely nowhere; not to mention, as does Fried, that Hale's expansive notion of "coercion" to include any form of human conduct tends to embarrass the idea of free speech or the civil rights movement - of which his progressive counterparts have been so active in protecting. The book does not only deal with the so-called "empty" ideas of liberty and property, but also extends to Hale's analysis of "surplus value" of property and rate regulation of monopolies. There are problems here as well - but by far the most important are his ideas regarding freedom and coercion. Hale is an intellectual challenge, but really nothing more - and while he clearly rejects the conceptions of liberty and property as they were conceived in the Lochner era, he gives us no good reason to do the same; and at times it seemed that even Fried wanted to pop Hale's balloon - but for some reason could never quite bring herself to do it. 11 of 17 people found the following review helpful. Beware of libertarianism. By A Customer. Asking for Hale's rebuttal to Hayek is foolish because (a) it is anachronistic and (b) Hale was writing in the field of law, while Hayek was writing in economics. The introduction and an excerpt (which you can see here on) describe the laissez-faire rhetoric that Hale was refuting. Hale clearly explains why laissez-faire is wrong about liberty: all property is a grant of unaccountable private power from the state. Thus, it doesn't matter if liberty is infringed by the state retaining the power or private owners abusing the power (as in the cases of monopolies, public utilities, and opposition to unions.) Those were Hale's primary interests throughout his career. And interestingly, they are also precisely places where Hayek's social calculation arguments fail. Hale (and Fried) don't bother explaining why they thought their alternative was better: the progressive case was being widely made elsewhere at the time. Hale's contribution was to specialize in kicking out the supports of laissez-faire so that progressive arguments could compete fairly with extremist capitalist arguments. 17 of 23 people found the following review helpful. An important work for modern liberals. By Michael R. Huben. This is an essential book for understanding the major changes in legal theory of the progressive era. The change from classical liberalism to modern progressive liberalism was profound, and required the abolition of a number of myths presumed by law and the judiciary. These myths have since been resurrected by the libertarians, and it is enlightening to see the satisfying reasons why they were rejected so long ago. It's easy to tell how threatened libertarians feel about this by the vehemence of their attacks. College-level reading, and not for those with short attention spans.

Law and economics is the leading intellectual movement in law today. This book examines the first great law and economics movement in the early part of the twentieth century through the work of one of its most original thinkers, Robert Hale. Beginning in the 1890s and continuing through the 1930s, progressive academics in law and economics mounted parallel assaults on free-market economic principles. They showed first that "private," unregulated economic relations were in fact determined by a state-imposed regime of property and contract rights. Second, they showed that the particular regime of rights that existed at that time was hard to square with any common-sense notions of social justice. Today, Hale is best known among contemporary legal academics and philosophers for his groundbreaking writings on coercion and consent in market relations. The bulk of his writing, however, consisted of a critique of natural property rights. Taken together, these writings on coercion and property rights offer one of the most profound and elaborated critiques of libertarianism, far outshining the better-known efforts of Richard Ely and John R. Commons. In his writings on public utility regulation, Hale also made important contributions to a theory of just, market-based distribution. This first, full-length study of Hale's work should be of interest to legal, economic, and intellectual historians.

Early in this century, orthodox statesmen and judges believed that government policies such as progressive taxation and regulation of labor contracts were coercive interferences with natural, and thus also Constitutional, rights of property and liberty. A small band of progressive lawyers and economists arose to challenge that orthodoxy. One of its leaders was Robert Lee Hale, who developed an especially piercing and sophisticated critique of libertarian ideas. In this path-breaking book--rigorous, clear-eyed, marvelously revealing--Barbara Fried unearths for a modern readership

the legal-economic thought not only of Hale but of an entire generation of his progressive contemporaries, along with its roots in classical and institutional political economy. She dusts off and makes freshly available a critique of laissez-faire that is in many ways still as powerful--and, lamentably, as necessary--today as it was sixty to seventy years ago. Here are meticulous scholarship, complete mastery of both the underlying structure and the details of legal-economic thought, and above all a gift for explaining complicated ideas and bringing obscure historical figures into brilliant present focus. The Progressive Assault on Laissez-Faire is both an intellectual treasure and a real public service. -- Robert W. Gordon, Yale Law School By far the best work on the legal realist movement's attack on 'laissez-faire,' and one of the best demolitions, in law or political theory, of that contested concept. Not only an important contribution to the history of legal thought, this book stands on its own as a critique of the basic distinction between 'government' and 'market.' --Cass R. Sunstein, Law School, University of Chicago About the Author Barbara H. Fried is Professor of Law at Stanford University Law School.