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LUCKY LIBERTARIANISM*

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ABSTRACT. Perhaps the greatest impediment to a viable libertarianism is the provision of a satisfactory explanation of how actions that are undetermined by an agent's character can still be under the control of, or 'up to', the agent. The 'luck problem' has been most assiduously examined by Robert Kane who supplies a detailed account of how this problem can be resolved. Although Kane's theory is innovative, insightful, and more resourceful than most of his critics believe, it ultimately cannot account for the type of control that moral responsibility and (ultimate) agency legitimately require.

Libertarians believe that free will and determinism are incompatible and that we have free will. As a result they believe that some indetermination infiltrates the world. In fact, most libertarians would prefer not being committed to the idea that at least some of our actions or choices are not determined, for indeterminism tends to be a pesky bugaboo for their theory. It seems difficult to explain how those behaviors and decisions that are the products of indeterministic processes can be subject to our control or 'up to us'. The difficulty of such an explanation resides in the commonsense idea that if an action or choice results from an indeterministic process, and thus is undetermined, our control over this action is substantially undermined if not completely eradicated. Regardless of what transpires in our minds and bodies prior to our act or decision, the fact that our mental and physical behavior is undetermined makes it impossible for our antecedent lives to guarantee that a particular act or decision results. The resulting act is typically characterized as 'random', 'arbitrary', 'capricious', 'lucky', 'fluky', or 'chancy'.

The significance of a diminution, if not annihilation, of control, comes into relief in two areas. Traditionally, philosophers have believed that the legitimate ascription of moral responsibility requires a very high, if not absolute, degree of control over the



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actions for which one is held responsible. Therefore, a lessening of control presents worries about whether the threshold required for moral responsibility is met. Worry is replaced by panic if our control is simply absent. The second area where the extent of our control over our mental and physical acts comes to the fore is in our self-concept. We (normal, adult human beings) think of ourselves as being in control of most of our daily acts and thoughts. Our relationships to our activities are, by and large, agential. If indeterminism really does rob us of control over many, if not all, of our mundane physical or mental activities, then we are not the prime movers that we believe we are. Without control, we are more like inert vessels for the events of the world than their active origins. Such an epiphany would reveal how stubbornly we have misunderstood our relationship toward our actions. But the embarrassment is much deeper. Recognizing that we have made an error is one thing; discovering that we have lost, or rather never had, perhaps the prime source of our dignity, is quite another.

All (suitably restricted) would be well if indeterminism did not have the dire effect of eroding our control. We would have control of our behavior, be legitimate subjects of moral responsibility, and have the agential relationship with our acts and decisions that we have always prized. Moreover, we would garner a bonus. If, as contemporary science tells us, we live in an irreducibly indeterministic world, we would have a theory of free will that is scientifically respectable. Let us investigate how well we fare.

1.

No libertarian has been as sensitive to the challenge that indeterminism brings to a viable libertarianism as Robert Kane. Through a series of articles and books, Kane has offered a detailed account of libertarianism that not only does not shy away from its commitment to indeterminism but embraces it. Kane first formulates the challenge of indeterminism in the ‘luck principle’.

(LP) If an action is *undetermined* at a time *t*, then its happening rather than not happening at *t* would be a matter of *chance* or *luck*, and so it could not be a *free* and *responsible* action.¹

For Kane, free will applies primarily to the will itself, that is, to mental actions like choices and decisions, and only secondarily to overt, physical behavior. Kane situates the indeterminism in the process that culminates in either a choice or decision, and not, as do some libertarians, subsequent to the choice but prior to the (overt) act. Although we agree with Kane regarding the locus of the indeterminacy, the point is not central to our discussion, for Kane's proposed refutation of LP does not essentially rely upon the location of the indeterminacy. If Kane's argument against LP, and more importantly, his argument for the viability of libertarianism, is sound, it remains so whether mental acts or physical acts, or both, are free and responsible. Indeed, Kane himself often shifts between speaking of mental and physical acts as the subjects of these attributions.

More importantly for our purposes, if a refutation of LP is to have the significance Kane ascribes to it, we need to establish some intimate connections between the concepts of *free* and *responsible* and that of *control*. After all, it is the threat that indeterminism seems to pose to our control over what we do that makes us pessimistic about formulating a viable libertarianism. The close connection we seek can be found by simply observing that control is a necessary condition of an act being free and responsible.

Kane accepts, as an analytic truth, that if an act is solely a result of luck or chance we cannot be responsible or in control of that act. The point of contention is whether undetermined acts must be acts that are merely lucky or chancy. Clarity surrounding this quasi-verbal point of departure facilitates understanding Kane's first gambit against LP. Kane points out that while ordinary language countenances the inference from 'lucky' to 'uncontrolled', there is no similar commitment from 'undetermined' to 'uncontrolled'. 'Undetermined' and 'indeterministic process' are technical terms and so there is no natural license permitting us to infer that an undetermined act is beyond our control. In fact, as we will presently find, we often pre-philosophically conceive of undetermined acts as being under our control as well as being freely and responsibly performed.

2.

Kane is right in thinking that there is no conceptual relationship between ‘undetermined event’ and ‘lucky (chancy, fluky) event’. Perhaps the clearest way to make this point is to begin with what philosophers mean by the thesis of determinism. Although slight differences exist among the various accounts of this thesis, the core idea is that determinism claims that the past along with the laws of nature make only one future physically possible. Since there must be at least one physically possible future relative to any given time, the truth of determinism effectively rules out the physical possibility of more than one future at any given time. Indeterminism then, being the denial of determinism, claims that the past along with the laws of nature allow for at least two possible futures.² Where determinism tells us that the world’s events can follow only one course at any time, indeterminism tells us that there are at least two different courses that the world can take at a particular time; the past and the laws of nature do not mandate a unique future.

Given this standard understanding of the thesis of indeterminism, we are clearly in need of an *argument* for believing that we lack control of undetermined events. All that indeterminism implies is that at the time that we choose or decide on a course of action, another course of action was physically possible. If our choice to perform action A is undetermined, then the world – consistent with the actual past that preceded our choice and the actual laws of nature – (physically) could have continued without our choice to do A. And, although indeterminism does not strictly imply this, we can assume (with Kane) that if our choice to do A is undetermined, then we could have made another choice at that very same time, with the very same history, and with the very same laws of nature that prevailed when we chose A.³

Highlighting the fact that there is no semantic relationship between ‘undetermined event’ and ‘lucky event’ is the first step in weakening our allegiance to LP. Kane’s second maneuver is to enumerate cases in which LP appears to be falsified. He asks us to consider the case of an angry husband who swings his arm intending to break his wife’s favorite glass table (p. 227). We assume that the momentum of his arm is undetermined right up to the point when the husband’s arm meets the table (perhaps because the relevant

neural pathways contain some indeterminism). Let us say that there are two physically possible momenta, M and N. If momentum M is generated, there will be sufficient force for the table to break; if the momentum is N, there will not be sufficient force for the table to break. As it so happens, the husband generates sufficient momentum to break the table. We are now to consider whether we would judge the husband responsible for breaking the glass table. If we do (legitimately) judge him as responsible, LP is false. Kane, agreeing with the assessments of J.L. Austin and Phillipa Foot of similar cases, says that the husband can be held responsible because he intentionally and voluntarily did what he set out to do. Presumably, we can infer from our intuitive assessment of the husband's responsibility that the husband was in control of his act. Being in control, it is agreed, is a necessary condition of an agent being responsible for an action. Indeterminism is thus compatible with responsibility and control and so LP is falsified. Rather than eradicating control, the indeterminism present in the husband's act guarantees only that regardless of the amount of effort he expends, there is a non-zero probability that he will fail.

Suppose, on the other hand, that merely momentum N was generated. In this case – a case whose physical possibility is ensured by the assumption of indeterminism – Kane informs us that the husband, although not responsible for his failure to break the table (since he did not attempt to fail), is responsible for the *attempt*. Just as we would legitimately hold a would-be assassin responsible for attempted murder, we are warranted in ascribing responsibility to the dastardly husband. In this case, we should speak of the control that the husband had of his attempt to break the glass table.

In virtue of implicitly replying upon very favorable probabilities, we believe that Kane greatly minimizes the degree to which indeterminism subverts the control, and therefore the responsibility, that an agent has of his actions. We now turn to substantiate this view.

3.

Consider a more articulated example of the husband's table-breaking. Assume that the indeterminism present in the relevant neural pathways makes it 99% probable that the husband will fail

in his attempt to break the table and only 1% probable that he will succeed in satisfying his intention. There is a stochastic law that tells us that the chance of the N-world being actualized is 99% and that the probability of the M-world being actualized is 1%. This assumption is obviously consistent with both possible outcomes being undetermined. Finally, we assume for the sake of simplicity, that the husband has no idea what the relevant probabilities are. The husband swings his arm and breaks the table; what he intends to happen does happen. Kane tells us that the husband is responsible for his act. But without some crucial additional information – to be presently supplied – this verdict is counter-intuitive. Although the husband did what he intended to do, he did so ‘against all odds’. In this case, the indeterminism that makes failure possible is so extreme as to make failure overwhelmingly likely. Here, it does seem proper to think of the husband as being lucky in having his act match his intention, for the chances of him being successful were prohibitively against him.

Compare the husband with Smith, who lends his new car to Jones. Queried about the possibility that an argument yesterday might have led someone to destabilize the steering mechanism, Smith might concede in exasperation that it is not impossible, but that the probability is negligible. But Smith might add that it would serve Jones right if disaster did strike him, despite its improbability. Suppose disaster does strike, and Jones is fatally injured. Jones’ fatal injury, at least intuitively, is purely accidental, and Smith is not morally responsible.

Consider a natural way of saving the intuition that the husband is responsible for breaking the table despite the enormous odds against him. Assume as we implicitly did when we first were presented with this case, that the husband freely and responsibly *took the risk* of breaking the table. If the husband freely risked wrongdoing, perhaps we can hold the husband responsible for *wrongly* risking breaking the table. But, of course, this needs argument. Not every risk of wrongdoing is morally prohibited. Smith risks wrongdoing in lending his car and yet he does nothing morally wrong in taking such a risk.

Notice too that, for Kane, taking the risk is a free and responsible act only if it is not deterministically produced. Were it a deter-

minate act then, given the agent's prior character and motives, he could not but perform the risk-taking. Kane believes, as do most libertarians, that freedom of behavior requires the (physical) possibility of the agent failing to perform the action that he does, in fact, perform. Indeed, Kane's embraces indeterminism just because he believes that it is required in the causal ancestry of an act to allow the behavior (mental or physical) to be free. But once we recognize that an agent is responsible for taking the risk only if the *choice to take the risk* is indeterministically produced, we find the very same problems for attributing responsibility. Specifically, assume that the relevant probabilities make it only 1% likely that, given his antecedent character and motives, the agent will in fact take the risk. That he actually does so is, once again, 'against all odds' and so it seems most counter-intuitive to think of the agent being responsible (and thus in control) of this act. This strategy can be indefinitely iterated. At any stage in the history of an act, we can always, consistent with Kane's thorough-going indeterminism, construct a scenario where the indeterministically produced event for which the agent is putatively responsible comes about despite the prohibitive odds against it. Therefore, indeterminism can severely subvert – indeed dissipate – the responsibility of the agent for his indeterministically produced act.

This point is bolstered when we reflect upon a case where the agent's behavior is an indeterministic product of a randomizing device. Suppose, for example, that the momentum to be generated is a function of a pellet landing in a particular slot on a roulette wheel or the timing of some sub-atomic particle produced by radioactive decay. In these cases, regardless of odds for and against momentum *M* occurring, we would undoubtedly detach the agent from any responsibility and control. It seems difficult to justify, then, how we can legitimately attribute responsibility to the husband for his successful table-breaking. The only allegedly relevant difference is that in the case of the husband it is his own prior character and motives that causally produced the probabilities for his arm to swing with momentum *M*, while in the case of the roulette wheel, the probabilities are produced by something external to, and independent of, the husband. But bracketing the very contentious point that it is proper to think of the husband's indeterministically produced character and

motives as 'his own', it is mysterious why the nature of the cause of the probabilities should be of any consequence. After all, once the indeterminism sets in – be it as a product of motives and character or by the spinning of a roulette wheel – the agent disappears from the scene. After the moment that the indeterminism is produced in the agent, the agent loses any influence that he allegedly had.

But what if the probabilities are not prohibitively against the agent performing the act he intends? Kane may not hold the very strong position that an agent is responsible and therefore free regarding all indeterministic actions which are products of the agent's prior character and motives. One may agree that when the odds are prohibitively against the agent doing what he sets his mind to do, he is rightfully absolved of responsibility, but suggest that when the odds are far more conducive to the agent's success, he is legitimately viewed as being responsible for his behavior. To take a radical example of this suggestion, assume the mirror image of the stochastic law that we earlier presumed to govern the husband's arm moving with momentum M . In this case, the husband, as before, intends to break the table, but in this case has a 99% probability of generating the momentum M that is required for his intention to be satisfied. It may be thought that, at least in cases like these, where the probability urges that the intended action occur, the agent can legitimately be held responsible for his indeterministically produced act. So, LP is shown to be false.

The problem with this seemingly more palatable position is that it inevitably transmutes into the far stronger, more implausible, view. To see this, we need to briefly review the Kanean etiology of character and choice. The motives and character that are causally responsible for the 99% probability that the husband will accomplish what he intends, are themselves indeterministic products of prior choices. These prior choices are themselves indeterministic causal products of a yet earlier character. These choices – what Kane sometimes appropriately refers to as 'self-forming acts' – make us who we are in the sense that they compose part of our character and motivational structure. These causal chains which extend indefinitely back into the agent's past are therefore suffused with pockets of indeterminism. This has the consequence that our character and motives at any particular time (i.e., who we are at any particular

time) are not *fully* under our control. Since our character and motives at any particular time are formed, in part, by choices which themselves are indeterministic products of a yet earlier character and motivational structure, we could have had identical histories up to any particular moment of our lives and been different persons (selves) than we actually are. But this lack of total control and responsibility is more than compensated by the freedom it allows us to have. Had the causal chains been deterministic rather than probabilistic, we could have full control and responsibility but, in the process, we would be relegated to puppet status.

The problem insinuates in Kane's theory even if we grant him a 'best-case' scenario. Returning to table-breaking case, we assume that the husband's choice to break the table had a 99% probability of issuing from his antecedent character. In this case, there would be no surprise from the husband, his wife, or anyone who knew him well, that he formed this intention. He is known as a quick-tempered man and so this intention is understandable or 'in character'. In this case, it is reasonable to claim that the husband is responsible for, and in control of, his decision to break the table. Recall, however, that the character from which this choice was indeterministically produced is, in part, constituted by a prior choice that was, itself, an indeterministic product of the agent's prior character. That the choice is indeterministically produced guarantees that the probability of it being issued from its antecedent character is less than 100%; that is, there is some chance that the agent could have had a different choice given precisely the same character that issued in his actual choice. We can afford to be overly generous and again assign a 99% probability to the occurrence of the choice given the antecedent character and motives. But the probability of the agent having his current character has been somewhat lowered (99% of 99%). This decrease is tiny but since these chains are presumably of indefinitely, great length (we make thousands, if not millions of conflicted decisions over a lifetime), the responsibility for, and control over, our character will diminish and will eventually be very small. Almost inevitably, our responsibility and control of our characters will be akin to the responsibility and control of a husband who intends not to break the table when he strikes it (i.e., he intends to generate only momentum N) and yet, in virtue of

the indeterministically produced probabilities, has a 99% chance of breaking the table anyway. Effectively, then, we have a *reductio* of Kane's position, in that the generous assumption we initially made regarding the probability of the husband's mental state must be rescinded. Generalizing, we can say that any relatively mature agent, i.e., any person who has made a large number of conflicted decisions, cannot be responsible for, or in control of, his character, motives, and choices.

The disagreement with Kane can be put slightly differently. Both Kane and we agree that responsibility and control are *heritable* properties. An agent may be in a situation where he would not be responsible for, or in control of, his behavior were it not for the fact that he is responsible for placing himself in this very situation. Responsibility can 'span' probabilistic causal relations and so we can legitimately be held responsible for our indeterminate character and choices. We believe that Kane has mistakenly inferred from this that the *degree* or *extent* of the responsibility survives intact and undiminished throughout an indefinitely large number of these indeterministic events. We have argued that this is not the case; the amount of responsibility and control of an agent's actions necessarily decreases along the probabilistic causal chain, ineluctably diminishing to the point where it is no longer feasible to conceive of the agent being responsible for his indeterministically caused character, motives, and choices.

Strictly speaking, Kane is correct in rejecting LP; not all undetermined acts of an agent are, or at least need be, lucky. Nevertheless, the spirit of LP remains. Indeterminism in the ancestry of an agent's act does erode responsibility and control. Moreover, an extremely large number of our conflicted choices, decisions, and intentions are, in fact, fortuitous.

4.

Branch Rickey spoke wisely when he said that luck is the residue of design. There are situations in which we can somewhat control the extent to which luck plays a part in our lives. Consider the case where Tiger Woods and I are competing in a putting contest. We each have an opportunity to sink 45 foot putts covering very difficult, undulating greens. Woods is an expert putter; I am a tyro.

Although there are chance events and states of affairs that can influence our respective successes (a gust of wind arises after we putt, a blade of grass may grow just a fraction of an inch while the putt is tracking the hole, etc.), Woods' skill minimizes the effect these chance events will have on the success of his putting. He is far more likely than I am to hit a put that would go straight in the center of the hole and so these chance events that may alter, ever so slightly, the course of his putt are unlikely to make his ball miss the hole completely. Not so in my case, of course. The probabilities of the occurrence of these chance events, we may assume, are the same for both of us. Still, despite the fact that we have the same intention, the luck factor will probably negatively affect my opportunity of success more than Woods'. If I make the putt I am lucky; indeed with my putting ability I am inordinately lucky. Woods is far less lucky if he makes his putt. Expertise, not intention, accounts for the difference by better managing chance. Moreover, only if the expertise is a product of deterministic events over which Woods has control can it accommodate the difference that fluky events have on our respective outcomes.

An analogue to this is where both a powerful and a weak man try to break their respective wives' tables. The stronger husband – analogous to Woods – is afforded more latitude than the weaker husband regarding the effect the indeterminism has on his ability to satisfy his intention. While a certain degree of indeterminism in the weaker husband's arm movement may suffice for the table not breaking, an equal amount of indeterminism may not prevent the stronger man from generating enough momentum for the table to break and so to fulfill his objective.⁴

Unfortunately, this Rickeyan observation does not ultimately aid Kane's cause. The partial control and responsibility that appears present in both the Woods and husband case is predicated on the fact that both Woods and the stronger husband are responsible for, and in control of, their characters from which their decisions, choices, and intentions flow. If Woods were not in control of his laudatory character traits such as perseverance, patience, and dedication, then he would not be in control of the indeterministic results of these traits. Similarly, if the stronger husband is not responsible for his unwavering resolve to lift weights, he is not responsible for his

ability to accomplish his goal despite the fact that the same amount of indeterminism present in his arm-moving would suffice to prevent the weaker husband from breaking his wife's table. The argument has shown that the agents are neither responsible for, nor in control of, what is required to be responsible and in control of their current behavior. In virtue of a litany of indeterministic and conflicted choices, Woods and the powerful husband have extinguished the limited heritable power that their responsibility and control once possessed.

5.

Although Kane believes that he has quieted the problem voiced in LP, he acknowledges that there are legitimate residual concerns whether robust free-willed agents can co-exist with indeterminism.

To Kane, the problem with using cases like 'table-breaking' to refute LP is that these examples are not representative of cases that are paradigmatic of free willed individuals. Traditionally, free will has been viewed as a dual power, i.e., the power to freely and responsibly perform the action that the agent, in fact, performs, as well as the power to freely and responsibly perform an alternative act. But since the 'table-breaking' case involves an alternative act that would not have been intentionally and voluntarily performed (i.e., the husband's not breaking the table), the case fails to be a good test of the intuition that grounds LP. Cases that really matter to the assessment of the spirit of LP are those where the agent freely and responsibly chooses *whichever* choice he makes. In effect, Kane believes that he needs to show the falsity of a slight variant of LP, LP* (p. 228).

(LP*) If it is undetermined at t whether an agent voluntarily and intentionally does A at t or voluntarily and intentionally does otherwise, then the agent doing one of these rather than the other would be a matter of luck or chance and so could not be a free and responsible action.

It is not surprising that our discussion of Kane's treatment of LP applies, *mutadis mutandis*, to his discussion of LP*, for LP* is a sort of 'doubling up' of LP. Where with LP only one of the two possible actions is performed voluntarily and intentionally, we now

need to deal with cases where both of the options open to an agent can be performed voluntarily and intentionally. To the extent that we believe that Kane's treatment of LP is found wanting, we also find his discussion of LP* flawed. Nevertheless, much can be learned if we enter into the discussion of LP* anew. By doing so, we will unearth distinct, fundamental problems that make the prospects of any viable libertarianism still bleaker.

6.

It is the truth of LP* that many of Kane's critics advocate. Al Mele's discussion of an instance of LP* is representative.⁵ In the actual world, John succumbs to the temptation to arrive late to a meeting, while in a close possible world, John*, who shares an identical psychophysical history with John up to the moment of decision, resists this temptation. Since there is nothing about the powers, states of mind, character, etc., that differentiate John from John*, it appears as though the fact that John succumbs to the temptation rather than resisting it is a matter of luck. John* was blessed with good luck (assuming we agree that it was good to resist the temptation to arrive late) and John was burdened with bad luck (assuming that we agree that it was bad to give in to temptation).

Kane's response to this and other like examples is ingenious. We should first concede that this 'temptation' case is importantly different from the 'table-breaking' case and cannot be handled in precisely the same manner. John, unlike the husband, does not have his mind set on what he wants to do before the indeterminism is introduced. Rather than having an undifferentiated will, John is experiencing an internal battle. On the one hand, John wants to arrive late to his meeting; on the other, he wants to resist this temptation. We can view this interior struggle as a fight between John's prudential and moral considerations for acting. For Kane, it is this internal conflict that is the source of the indeterminism. This indeterminism is fused with the mental battle that John is experiencing in trying to decide what to do. Eventually, John submits to the temptation to arrive late. This choice although undetermined, is one that John endorses (i.e., accepts as a product of his own will), manufacturers freely (i.e., there is no coercion or compulsion in its

creation), and is responsible for (i.e., is voluntarily and intentionally produced by the agent's efforts to do so). Furthermore, John would have had exactly the same relationship to his choice had he decided to perform the moral act. (This is equivalent to holding John* fully responsible for his act).

Kane admits that the indeterminism produced by the internal conflict in John's will does reduce his control over each option when considered individually. But this minor concession to those who believe that indeterminism excludes responsibility is far outweighed by the fact that John has *plural voluntary control* over the options when considered together (pp. 237–238). In effect, this means that John has the ability to bring about either of these two outcomes when he wants, because he most wants it at the moment he decides, and can do so in an uncompelled and uncoerced manner. In virtue of the indeterminism that is present in the process of creating self-forming actions, an agent is necessarily precluded from having full control of his choice prior to his actual making of the choice. Nevertheless, in cases of plural voluntary control, agents “exercise control over their present and future lives then and there by deciding” (p. 238). Although the choices of John and John* are undetermined, our ordinary inclinations to praise John* and blame John are warranted.

This theory also provides us with a phenomenological account of decision-making. Presumably, the less difference there is between the probabilities of the two events, the more tension John will experience. Since the indeterminism is physically manifested in the turmoil in the agent's neural pathways and psychologically manifested in tension and ambivalence, an agent would presumably feel most tense and ambivalent in the case where there is a 50/50 chance of either option occurring. On the other extreme, if, for example, there were a 99% probability of John deciding to submit to temptation and only a 1% chance of him resisting, little mental anguish would be produced.

7.

We need to consider whether, quite generally, plural voluntary control is sufficient for moral responsibility in contexts of indeterminism. As we have noted, Kane focuses his discussion primarily

on the interesting counterexamples advanced by Mele and others. Mele articulates his concern over how identically situated, psycho-physical twins might responsibly differ in choice or action. Mele's charge is serious, but by presenting an example in which indeterminism is situated solely in the mind of the agent, it allows Kane to avoid confronting a pervasive problem. Imagine that there are two recovering addicts who are psycho-physically identical. Each addict inhabits a distinct possible world, w_1 and w_2 . Assume, although it is not strictly necessary, that w_1 and w_2 are indeterministic worlds identical up until time t . At time t in w_1 our recovering addict finds himself in a part of town notorious for drug dealing. At time t in w_2 , of course, our recovering addict finds himself in the very same part of town. But the worlds diverge indeterministically just after t . In w_1 our recovering addict, quite against the odds, encounters not a single drug dealer, and his struggle between the desire to stay clean and the desire to backslide is decided in favor of staying clean. In w_2 our recovering addict encounters several dealers, and his struggle between the desire to stay clean and the desire to backslide is decided in favor of backsliding. Each of our recovering addicts, we assume, has plural voluntary control, but the addict in w_1 was unquestionably lucky, while the addict in w_2 was not. That the area was free of drug dealers at the particular time he was passing by has absolutely nothing to do with the character and mindset of the struggling addict. Even those agents who possess plural voluntary control over what they do are not fully responsible for what they do, since the struggle between desires is decided in large part by luck or undetermined events beyond their control.

Consider the recovering addict in w_1 insisting that his plural voluntary control over his choice to stay clean confers on him the full responsibility for doing so. We would not respond with unalloyed congratulations. He happened to be very lucky that his desire to stay clean defeated his desire to backslide. Had the more probable sequence of events taken place, as it did in w_2 , our fortunate addict would have returned to his old habits.

But notice that in indeterministic worlds there will not be many cases in which plural voluntary control over our actions is sufficient for moral responsibility. The strength and significance of our desires is a function of circumstances over which we do not have control.

Whether our lives are directed according to one desire or another is a matter of the chancy set of challenges we happen to face. Embracing a virtuous desire to help another hardly makes us praiseworthy, if, *by sheer chance*, the temptation to lead us away was not so strong. Embracing a vicious desire to help oneself hardly makes us blameworthy, if fortuitously, the lure of beneficence happened to be weak.

8.

Although Kane emphasizes the indeterminism present in the agent's deliberative process, he acknowledges that the considerations which play a role in the deliberative process are themselves also indeterministically produced. This means that the prudential and moral reasons (what Kane calls 'chance-selected considerations') that actually constitute John's interior battle could have been different. So, for example, any prudential consideration (say, making more money) that inclined John to act self-interestedly may not have been a constituent in the deliberative process. That it is a consideration is a function of John's previously indeterministically formed character.

There are, as Kane notes, many ways that undetermined occurrences can play a role in a deliberative process and influence what is considered without, at least intuitively, undermining the autonomy of the process. For instance, the considerations that enter into creative problem-solving at least appear to involve chance associations, inspiration, and sudden insights or realizations. We find the creative achievements of Copernicus and Kepler perfectly proper objects of praise. The role of undetermined associations in the scientific creations of a Copernicus are considerably less extensive than the role of undetermined associations in *our* scientific thought. That we would so much as notice a salient and important scientific relationship is extremely unlikely. That Copernicus would fail to notice that relationship, on the other hand, is extremely unlikely. Geniuses, like experts, simply manage chance better.

Fair enough; as far as this goes. We can think of each of us as being experts on the considerations that result indeterministically from our own character. It certainly is not as though we are normally shocked at entertaining a certain consideration that inclines us to act in way or another. We view these considerations or reasons not as

something foreign but as being consonant with our already formed character. But this only pushes the problem suggested by LP one step further back. We need an account of how we can be responsible for a character that itself was an indeterministical product of a great number of difficult decisions.

9.

To this point our objections have been localized. It would be useful to see if problems with Kane's theory can be derived from concerns other than free will. Specifically, we suggest that Kane's libertarian theory has limited explanatory power under any viable account of explanation.

Recall that having plural voluntary control over a set of outcomes is having the ability to bring about whichever outcome is willed (most wanted), when the outcome is willed, and for the reasons that the outcome is willed. This is all to be accomplished without coercion and compulsion. Plural voluntary control is manifested at the moment the agent decides on a singular course of action. When the agent makes the choice, he 'then and there' exercises control over his present and future lives.

Suppose that John fulfils the conditions for having plural voluntary control over the set of options composed of his submission and resistance to temptation. Assume that John resists temptation and is asked to explain his action. Kane would not view this as a particularly difficult request. The explanation consists of the moral considerations that engaged his prudential reasons in internal battle (and eventually proved victorious) along with a relevant probabilistic law. At this point, some philosophers balk. Some may claim that no undetermined events can be explained and since John's decision is undetermined, it is unavailable to explanation. Others may be amenable to the possibility of explaining undetermined events, in general, but reject the view that improbable undetermined events can be explained. According to these thinkers, if the probability of John resisting temptation is less than 50%, it cannot be explained.

While we do see a problem with Kane's notion of explanation, it does not reside in either of these rather general objections to

the possibility of explaining undetermined events. Not only are we willing to grant that undetermined events, even improbable undetermined events, can be explained, but we also concede a point that Kane does not make explicit. We also grant, for the sake of discussion, that the reasons that Kane appeals to can serve as causes, albeit probabilistic causes, of the eventual act that is performed. If John resists the temptation, we can say that his moral reasons probabilistically caused his resistance; if John submits to temptation, we can say that his prudential reasons probabilistically caused his submission. And we grant that we can truly speak of a particular set of reasons being the probabilistic cause of an event even if the event is unlikely. So, for example, if John had only a 20% chance of resisting temptation given the internal battle transpiring in his will, we concede that moral reasons are the probabilistic cause of his resistance if he decides to resist the temptation before him.

To articulate our concern we need a basic idea of the nature of explanations of undetermined events. Suppose there is a photon approaching a slightly tilted polarizer. Contemporary physics tells us that it is undetermined whether the photon will be transmitted or absorbed by the polarizer. Suppose that the photon gets absorbed. Crucial to the viability of an explanation of this event is the existence of (true) probabilistic or statistical laws. Let us suppose that the relevant probabilistic law tells us that a photon that strikes a polarizer at such-and-such an angle has an 80% probability of being absorbed.⁶ Let us further suppose (although it is not strictly necessary) that we understand the workings of the micro-world well enough for us to understand why these probabilities are correct. By offering the probabilistic law and the account for its truth, we have provided an explanation for why the photon gets absorbed when striking the polarizer at the given angle. But suppose that what had happened was that the photon was transmitted and not absorbed. The explanation for this event would be the same as the prior explanation. At first blush, this may appear bizarre. We have the identical explanation for an event that occurs though it only has a 20% chance of occurring as we do for an event that occurs that has an 80% probability of occurring. But, perhaps this is not so strange.

First, reflection indicates that the explanations for both events would need to be structurally similar. After all, the difference in the probabilities of the occurrences of these events should not make the type of explanations differ. Furthermore, if explanations for the transmission of the photon are disallowed, we seem to be left without the resources for explaining any improbable event, a consequence that strikes many, though not all, as unacceptable. Moreover, and this introduces the problem facing Kane's explanatory machinery, the immediate disenchantment with which we often greet the idea of undetermined events having explanations can be explained by our almost automatic tendency to conflate plain explanations with contrastive explanations. We tend to think that the explanation of the occurrence of an event, per se, necessarily explains why this event occurred *rather than* an alternative. We should resist this inclination. Although we can provide explanations for each event, regardless of which event happens to occur (and, recall, that the supposition that the events are undetermined guarantees that either event could occur), we have not thereby provided reasons why one event rather than the other becomes actual. The person who wants to know why the photon was absorbed rather than transmitted has been given no help when he learns the statistical laws that govern the initial conditions of the event to be explained.

But now we approach a central problem for Kane's libertarianism. It is our claim that only contrastive explanations of undetermined events will suffice for an agent *having control* over such events and that Kane's libertarianism is impotent to yield these explanations. We now show that without the resources to contrastively explain why, for example, John resisted temptation rather than submitted to it, Kane's attempt to rebut LP* is doomed.

10.

The case of the photon indicates the essential difference between plain control and plain explanation on the one hand, and contrastive control and contrastive explanation on the other. Regardless of whether the photon gets transmitted or absorbed, reference to the probabilistic laws along with the initial conditions (e.g., that the

polarizer is slanted at such-and-such an angle to the vertical) suffices as an explanation of what occurs. But if the same explanation can serve equally well, no matter what happens, then it certainly cannot serve as an explanation as to why one event occurs rather than the other. Since the explanation suffices for the actual event and could (and indeed would) have sufficed for the unactualized event had it occurred, then the explanation cannot yield any insight as to why the other possible event did not occur.

It is one thing to recognize and accept the distinction between plain and contrastive explanations, it is quite another to accept that Kane, or any other free will theorist for that matter, is required to have the resources to provide us with contrastive as well as plain explanations of the actions that the agent performs. Why does the control necessary for responsibility require contrastive explanation? Why, that is, does the ability to perform an act that is 'up to' the agent demand that there be a contrastive explanation of the act that is performed regardless of which of the alternative acts become realized?⁷

One way to recognize that we should demand contrastive explanation in addition to plain explanation is that without this additional requirement we will be given an explanation of an act that is compatible with the unactualized alternative act. So, in principle, Kane may provide an explanation of why John resisted temptation that is consistent with John's submission to temptation. We know why John did what he did but we are at a loss to know why John acted as he did to the exclusion of the other alternative open to him. To have control over an action does not merely demand that the agent have the power to perform that action; it should also demand that the agent have the power not to perform an alternative act that he could have performed.

Suppose I am in the situation where my alternatives are to either pick a can of tomato soup or select a can of vegetable soup. If I am to be credited with being in control of this behavior, I should have the power to select one of these alternatives at the expense of the other. It would be an enormous capitulation of a worthwhile free will to have our power to make one selection manifested only if I pick (and thus have the power to pick) both.

Kane may respond that the cases where there is an internal conflict of the will are significantly different than the case of the photon. While precisely the same explanation is given of the photon's absorption and transmission, whichever event actually occurs, there are different explanations offered for John's submission and his resistance to temptation, whichever of these outcomes eventuate. If John submits, the explanation makes reference to his engaged prudential reasons; if John resists, the explanation makes reference to his considered moral reasons. Since prudential and moral reasons are at odds with each other, since, that is, John's giving into temptation cannot be explained by his moral considerations and John's resistance cannot be explained by his prudential reasons, Kane's merely plain explanation of whichever outcome eventuates is, implicitly, a contrastive explanation. Thus, Kane may accept the demand for contrastive explanation but insist that he has met it.

But this response promotes a false picture of what is actually transpiring. Upon hearing this Kanean explanatory story, one conjures up the impression of the prudential and moral considerations doing battle in John's mind with eventually one set of reasons becoming victorious just prior to John's decision. But this is not, as Kane would be the first to admit, quite what is happening. While it is true that there is a conflict of John's will consisting of the competitive reasons, the victor is determined by John's decision. It is not as though John's decision is determined by the victorious set of considerations. This latter way of looking at the matter, the way that is fostered by the discussion of different explanations at work, has both the logical and temporal priorities backwards. If this were not the wrong way of looking at the matter then, in principle (and disregarding the assumption of the density of time just to make the point), we could predict with certainty what John's decision would be from a precise calculation of the micro-movements in his neural pathways. Effectively, then, if the victor of the interior battle was assured before the decision, the decision would be determined, and we know that this consequence is verboten.

The upshot is that although the competing reasons exist prior to the agent's decision (it is the conflict among the reasons that are the source of the indeterministic process that culminates in the

decision), the explanatory nature of whichever set of reasons that are used in the explanation becomes formed only at the moment of the agent's decision. This is not merely an epistemic claim. It is not merely that someone (even the agent himself) cannot know which set of reasons will constitute the set that explains the eventual choice (although this is true), it is rather that the set of reasons that becomes the one used in the explanation of the eventual decision only become explanatory at the moment of decision. The *ex post facto* explanatory nature of the set of reasons is, at root, a metaphysical claim.

Thus, it is misleading to speak of John's prudential reasons explaining his decision to act prudentially or John's moral reasons explaining his decision to act morally. The *ex post facto* metaphysical nature of these probabilistic reasons robs them of any contrastive explanatory force since these reasons are impotent to give us any insight as to why John acted one way rather than the other. While they may make John's behavior intelligible or even, in some broad sense, explicable, reference to these reasons necessarily fails to satisfy the demands that control places on the possession of free will.

Lack of contrastive explanations makes a mockery of moral deliberation. John, we suppose, had to deliberate over what to do. Presumably he had to choose, *hypothetically*, the action that he thought he had most reason to perform. But if contrastive explanations are not available, then there is no action that he has most reason to perform; i.e., John has no better reasons to perform one action rather than another since having comparatively better reasons for his behavior just is possessing a contrastive explanation for what he does. As a result, the tie between moral deliberation and choice is severed. The intuition grounding LP* remains unrefuted.

Unrefuted, perhaps, but is the intuition behind LP* irrefutable? Can libertarians, or anyone else for that matter, provide us with contrastive explanations of undetermined outcomes. It is fair to say that the jury is still out on this question. Nevertheless, we believe that Kane would need to make draconian modifications to his libertarian view even if we countenance the possibility of contrastive explanations for undetermined events. The problem facing those who advocate the possibility of contrastive explanations of undeter-

mined events is clearly manifested in the case of the photon. In one possible world, the photon approaches the titled polarizer and is absorbed; in another possible world the photon approaches the titled polarizer and is transmitted. The two possible worlds are identical up until the moment that the photon strikes the polarizer in each world. How can we give an explanation that purports to tell us why one outcome actually happened (say, the world in which the photon gets absorbed is the actual world) when there is nothing different about the two worlds up to the moment that the photon hits the polarizer? The guiding thought behind this problem is succinctly stated by David Lewis in what we may call the ‘contrastive question’.

(CQ) A contrastive why question with ‘rather’ requests information about the features that differentiate the actual causal history from its counterfactual alternative.⁸

The relevant causal history of the photon terminates at the instant it strikes the polarizer. Its counterfactual alternative has an identical history but a different future. John and his *doppelgänger* are in the same situation. Their careers stop being identical at the moment John gives in to temptation (and John* resists temptation). In both cases, since their respective causal histories are identical, it is impossible to answer the request for a contrastive explanation.

Pace Lewis, however, we believe contrastive explanations of undetermined events are possible. Suppose that I equally wish to teach at universities A and B and that the only offer I receive is from A. Someone knowing only that I was equally interested in both jobs might ask why did I go to A to teach rather than B. The obvious explanation is that I went to A rather than B because only A offered me a position. I might even omit the ‘only’, explaining my behavior just in terms of the position that A offered.

Con conversationally, this explanation implies that B did not offer me a position. We can see this by considering the scenario where I receive offers from both A and B. In this case, it would be wrong to explain my subsequent teaching at A rather than B in terms of the offer that A submitted. I can plainly explain why I took the position at A in terms of my desires and the fact that A offered me a position, but since, *ex hypothesi*, my desires to teach at B were of the same depth and intensity as my desires to teach at A and there

were offers that I found equally attractive forthcoming from both universities, there is no *relevant* difference between the two possible outcomes to answer a ‘why’ question. Lewis, then, would appear to be mistaken. We can give substantive answers to contrastive ‘why’ questions of undetermined events. There are occasions when we can give true and adequate explanations of why one outcome rather than another occurred despite the fact that the outcome that occurs is undetermined.

Peter Lipton has suggested a plausible principle that grounds our judgments in cases like these. He calls it the ‘Difference Condition’.⁹

(DC) To explain why P rather than Q, we must cite a *causal* difference between P and not-Q, consisting of a *cause* of P and the absence of a corresponding event in the history of not-Q. (our italics)

A corresponding event is an event that would bear the same relationship to Q as the cause of P bears to P.

Thus, we can explain why I go to A rather than B when the only job offer I receive is from A (this offer is the causal difference) while I cannot explain why I go to A rather than B when I receive equally attractive offers from both schools (the offer from B would bear the same relationship to my teaching at B that the offer from A plays in my teaching at A).

We are not here interested in assessing the adequacy of (DC) as a criterion of contrastive explanation.¹⁰ Our current concern is whether this understanding of the nature of contrastive explanation is of any help to Kane’s libertarian theory. We want to know whether Kane can exploit (DC) to argue that his discussion of LP* allows the robust sort of personal control that is necessary to any view of free will.

(DC) can do nothing to help Kane. This is evident once we reflect again upon the case of John and John*. This case, like others that Kane speaks of in his discussion of LP*, are precisely those that lack any causal difference in the actual and merely possible worlds. John and John* are portrayed as being identical up to the very moments of decisions where John gives in to his temptation and John* resists. Although (DC) allows for the intelligibility and adequacy of contrastive explanations of undetermined events, it is

impotent to aid Kane's refutation of LP*. DC requires a difference in the histories of the alternative possible outcomes and this demand is (essentially) omitted from the types of cases that motivate the argument in LP*.

Consider a slightly different case that seems to make sense of contrastive explanations for undetermined events. An advantage of this case is that it makes evident that the notion of probabilistic, and not determinative, causation is at play.

Suppose that a randomizer is connected to each of two doors. The randomizer is set so that door A has a very large chance of opening and that door B has a tiny chance of opening. In fact, in this ceremony's long history, door B has never opened. (Make the probabilistic laws yield, say, the probability of A opening 99.99% and B opening 0.01%). Suppose that Jones knows about these probabilities and is coerced into passing through the door that opens. He also knows that if passes through door B (and not door A) he will suffer great agony. The randomizer is started and door B is the door that opens. Jones is dumbstruck and asks "Why did door B open rather than door A?". The answer is that the malicious Smith had previously manipulated the randomizer so that the respective probabilities for door A and door B opening were precisely reversed.¹¹

Again, we seem to have an intelligible and quite reasonable question and an intelligible and quite reasonable answer; we have a viable contrastive explanation of an undetermined event. Again, however, the case is crucially disanalogous with those that Kane operates. In this case, the manipulation of the randomizer makes a response to the contrastive question possible. This difference in the causal histories of the two worlds (one where no manipulation takes place, the other where manipulation occurs) is not mirrored in the actual and counterfactual worlds in which John inhabits, for in these, the divergence occurs at the moment of his choice and not before.

The intuition that is the basis of LP* is captured in CQ. Although the truth of CQ is compatible with the existence of contrastive explanations of undetermined events, none of these contrastive explanations can serve as a model to help Kane's version of libertarianism. Although Kane has the resources to explain why

undetermined choices and decisions occur, his essential reliance upon the *ex post facto* nature of reasons disables him from supplying contrastive explanations of a person's undetermined choices and decisions. Since the viability of contrastive explanations for an agent's choices and decisions are necessary for an adequate account of control, Kane's theory cannot accommodate a robust notion of control that a robust theory of libertarian free will requires. The oft-mentioned 'lack of control' objection to libertarianism expressed in LP* remains unrefuted and, unfortunately, the prospects of resolution do not appear promising.

NOTES

* We thank Bob Kane for very detailed and helpful comments on an earlier draft.

¹ "Responsibility, Luck, and Chance: Reflections on Free Will and Indeterminism," *Journal of Philosophy* 96(5) (May, 1999). All parenthetical page numbers refer to this work.

²This assumption just makes the discussion easier. Strictly, the occurrence of an undetermined choice is compatible with the physical impossibility of making a different choice.

³ Strictly speaking, the denial of determinism entails that if there is a possible future *f* at *t* (i.e., time does not come to a stop at *t*), then there is also an alternative possible future *f** at *t*. We make the simplifying assumption throughout that there is a possible future.

⁴ Kane denies that it is meaningful to compare amounts (degrees) of indeterminism. We disagree – the probabilistic laws seem to make such comparisons meaningful – but here we simply assume its intelligibility.

⁵ See Mele's review of Kane's "The Significance of Free Will," *The Journal of Philosophy* 95(11) (Nov., 1998), 581–584.

⁶ Complications arise concerning the nature of the probabilistic laws that are supposed to be used. Here, we have used a more specific law than would be used if either one did not know the angle at which the photon strikes the polarizer or believes that the angle of contract is irrelevant to the photon's probability of being absorbed. Undoubtedly, even more specific laws would be employed if we knew of them and appreciated their relevance. For example, perhaps the humidity of the chamber in which the experiment is conducted is relevant. Then, we would use this law to get a more accurate assessment of the probabilities of this particular proton in these particular circumstances being absorbed/transmitted.

⁷ We are requiring contrastive explanations of outcomes in addition to plain explanations. Just as it is a mistake that a (plain) explanation inherently provides reasons why one act occurred rather than other, it is also an error to believe that contrastive explanations inherently 'contain' explanations of the events in

question. For more on this, see Christopher Hitchcock, "Contrastive Explanation and the Demons of Determinism," *British Journal of the Philosophy of Science* (Dec., 1999), 585–612 and Philip Percival, "Lewis's Dilemma of Explanation under Indeterminism Exposed and Resolved," *Mind* 109(2000), 39–66.

⁸ David Lewis, "Causal Explanation," in *Philosophical Papers*, vol. 2 (Oxford: Oxford University Press, 1986), p. 231.

⁹ Peter Lipton, *Inference to the Best Explanation* (London and New York: Routledge, 1991), pp. 43–44.

¹⁰ See Hitchcock, op. cit., pp. 595–595 for a sympathetic, yet critical, discussion of (DC).

¹¹ Percival, op. cit., pp. 55–56.

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