THE
FREEMAN
IDEAS ON LIBERTY

Raw Milk and the Sour State

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JANUARY/FEBRUARY 2009

Beth A. Hoffman, 1950-2008

We are saddened to announce that our longtime colleague and *Freeman* managing editor, Beth A. Hoffman, passed away December 1 at the age of 58. Beth, who joined the FEE staff over 30 years ago, was beloved by the Foundation's many friends and supporters. She worked tirelessly and ably in a variety of capacities, including the editing of books and other materials. But her great love was *The Freeman*, which she served as managing editor for many years. While her important work was behind the scenes, it was not unheralded. She was a true champion of liberty whose contributions were many and long-lasting.

Michael Seto 2008

FEE President Lawrence W. Reed said, "Friends of liberty the world over are as stunned and saddened at the sudden passing of Beth Hoffman as we of the FEE staff are. Beth was the very definition of loyalty and hard work. Her passion for liberty was as strong November 30 as it was when she first joined Leonard Read's team nearly four decades ago. Countless people relied on her for advice and she always gave freely and generously of her time and wisdom for the cause. We are still coming to grips with this incalculable loss, but it is Beth's example that will get us through it. Our organization, and the liberty movement at large, has lost an irreplaceable giant."

Freeman editor Sheldon Richman added, "We've lost a devoted, passionate champion of freedom and the free market, as well as the best steward of the English language that I've known. Her skills and dedication made a lasting impression on many people even if only by telephone, letter, or e-mail. In her low-key way she was a mentor to many, many young people who came through FEE over the years."

The Trustees and staff of FEE mourn her passing and will miss her very much.

She is survived by her husband, Peter, and son, Ted. The family requests that in lieu of flowers contributions be sent to FEE or the Bound Brook Presbyterian Church, 409 Mountain Avenue, Bound Brook, NJ 08805. In her memory, FEE has established the Beth A. Hoffman Memorial Scholarship Fund to help students attend FEE summer seminars. Contributions are welcome. Details are at http://tinyurl.com/63zf58.

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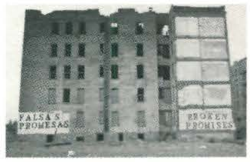

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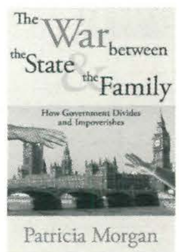

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Perspective

Theory and Crisis

What might be even more distressing than the current buildup of the corporate state in response to the supposed economic crisis is the way some self-styled advocates of the free market are willing to cast aside the economic theory they once claimed to embrace.

If you are a glutton for cable news-talk shows, you know it's been little more than a parade of "experts" declaring the absolute imperative of government bailouts. Many of these experts preface their remarks by saying how much they hate the idea of government intervention to save business from its mistakes. "I'm a free-market, small-government advocate, but. . . ." The tenor of their remarks is that the free market is great when things are going well, but this is an emergency and we don't have the luxury of theory. Statements like this were most common during the frantic week between the House's rejection of and reversal on the ever-changing Troubled Asset Relief Program, or TARP.

Right off the bat we can see a problem. Any bailout plan that is believed to be potentially effective must be based on a theory. If you asked a TARP advocate why the intervention is necessary, he might say that when the government borrows $700 billion in order to buy banks' bad mortgage-backed securities or shares of stock, it will inject liquidity into the credit markets and improve the economy. *But that is a theory.* (It's a bad theory, but it is a theory.) So the apparently bold thrusting aside of all theory in the name of pragmatic action is a mere pose. The move is as theory-bound as free-market opposition to the bailout is.

The debate, then, is a contest of theories. Free-market theory can explain the cause of the crisis—government intervention in the mortgage market through promotion of easy home-buying and implicit guarantees to lenders and underwriters, including its privileged creatures, Fannie Mae and Freddie Mac. Given that genesis of the problems and the general theory of markets, the solution is for government to back off—way off—and to let the economy adjust to real conditions and recover without subsidy, guarantee, or regulation. What is the alternative theory used by those who have jettisoned free-market theory in "this time of crisis"? Why should we believe that things will be fine only if the government has the discretionary power to transfer resources from those who haven't screwed up to those who have?

Ludwig von Mises had a thing or two to say about theory. For Mises the laws of economics (more broadly, human action) are derived by spinning out the logical corollaries of the inescapable concept *action*, of which we have apodictic "a priori" knowledge. (This means the self-evident and universal nature of purposeful behavior is not discovered through empirical testing; empirical testing *presupposes* purposeful behavior. The corollaries include, among others: means and ends, value and preference, marginal utility, cost, time preference, and profit and loss). As he wrote in "Social Science and Natural Science":

> Economics therefore is not based on or derived (abstracted) from experience. It is a deductive system, starting from the insight into the principles of human reason and conduct. As a matter of fact all our experience in the field of human action is based on and conditioned by the circumstance that we have this insight in our mind. Without this a priori knowledge and the theorems derived from it we could not at all realize what is going on in human activity. Our experience of human action and social life is predicated on praxeological and economic theory.

This doesn't mean that economic analysis is done without reference to the world. To be sure, we must first confirm that we *are* observing human action in an economic context (and not, say, a game, ritual, or reflexive motion), but once we do that, our a priori understanding of economics applies.

There is never a good time to throw aside theory and just act, for such a thing is impossible. The only question is whether our theory is good or bad.

★ ★ ★

Here in what Mencken called "the land of the theoretically free," most states outlaw the sale of unpasteurized raw milk. If you know what's good for you, don't get caught with it, writes William Pike.

What do poker and the free market have in common? More than you might think, Robert Stewart wagers.

It's been long enough for the American people to have gotten used to being forbidden to carry any more than three ounces of liquids and gels in a single baggie when boarding an airplane. Still, it's interesting to see this arbitrary decree sliced and diced, compliments of Becky Akers.

Support for a free and spontaneous society can be found in some unexpected places. Gene Callahan introduces us to Michael Oakeshott.

Much is said pro and con about gun control, but seldom is economic analysis applied to the subject. Unsurprisingly, it sheds a worthwhile light, as Scott Kjar and Jason Robinson demonstrate.

Taxation is normally discussed in the rarefied jargon of public policy or the technical terms of economics. Lachlan Markay, harking back to Frédéric Bastiat, analyzes it as a form of vandalism.

People fear complete privatization of education because they fear loss of central control over their children's curriculum. *That* absence of control is one of the strongest reasons to get government out of schooling, says Danny Shahar.

Here's what our columnists have come up with. Lawrence Reed remembers a friend who knew what it's like to live without liberty. Donald Boudreaux revisits the Austrian theory of the business cycle. Robert Higgs examines Richard Nixon's New Economic Plan. John Stossel takes on the Wall Street bailout. Charles Baird goes after government-employee unions. And Charles Johnson, reading the argument that freedom conflicts with social cooperation, protests, "It Just Ain't So!"

Our book reviewers dive into volumes on the middle class, immigration, economic fallacies, and the family.

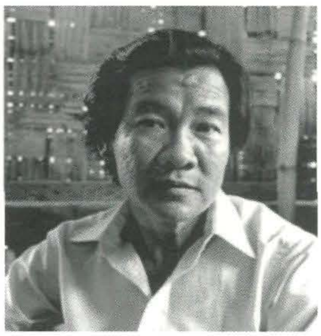
—*Sheldon Richman*
srichman@fee.org

A Man Who Knew the Value of Life and Liberty

BY LAWRENCE W. REED

A television audience in the millions will feast on the glitz and glamor of Hollywood when the 81st Annual Academy Awards are bestowed February 22. My thoughts will be elsewhere that Sunday night—on a friend who won an Oscar 24 years ago. Three days later, February 25, will mark the 13th anniversary of the day he was killed.

On the night of the 57th Oscars in 1985, *Amadeus* claimed Best Picture, F. Murray Abraham won for best actor, and Sally Field for best actress. Then came the announcement of the winner of the award for best supporting actor. To the stage bearing the widest grin of his life bounced a man few Americans had ever heard of. He had acted in only one motion picture. He had been trained as a physician in his native Cambodia, where he had witnessed unspeakable cruelty and endured torture before escaping and finding his way to America barely five years earlier. He was Dr. Haing S. Ngor.



Dr. Haing S. Ngor

Ngor's Oscar-winning performance in *The Killing Fields* gave him a platform to tell the world about the mass murder that occurred between 1975 and 1979 in Cambodia at the hands of the Khmer Rouge communists. When I met Ngor at a conference in Dallas a few months after Oscar night, I was struck by the intensity of his passion. Perhaps no one loves liberty more than one who has been denied it at the point of a gun. We became instant friends and stayed in frequent contact. When he decided to visit Cambodia in August 1989 for the first time since his escape ten years before, he asked me to go with him. Dith Pran, the photographer Ngor portrayed in the movie, was among the small number in our entourage. Experiencing Cambodia with Ngor and Pran so soon after the genocide left me with vivid impressions and lasting memories.

But Cambodia in 1989 was still a universe away from the Cambodia of 1979. In spite of the country's continued suffering on a grand scale, I knew it was a playground compared to the three and a half years that Ngor and Pran lived through and miraculously survived.

During that time, crazed but battle-hardened and jungle-toughened revolutionaries who had seized power in 1975 set about to remake Cambodian society. Their leader, Pol Pot, embraced the most radical versions of class warfare, egalitarianism, and state control. Mao and Stalin were his heroes. In the warped minds of Pol Pot and his Khmer Rouge hierarchy, the "evils" they aspired to destroy included all vestiges of the former governments of Cambodia: city life, private enterprise, the family unit, religion, money, modern medicine and industry, private property, and anything that smacked of foreign influence. They savaged an essentially defenseless population already weary of war. The Khmer Rouge manufactured the killing fields for which the film was later named.

One day after taking power, the Khmer Rouge forcibly evacuated the populations of all urban areas, including the capital, Phnom Penh, a city swollen by refugees to at least two million inhabitants. Many thousands of men and women—including the sick, elderly, and handicapped—died on the way to their "political rehabilitation" in the countryside. Survivors found themselves slaving away at the most grueling toil in the rice fields, often separated from their families, routinely beaten and tortured for trifling offenses or for no reason at all, kept hungry by meager

Lawrence Reed (lreed@fee.org) is president of FEE. This column was adapted from one published first by the Mackinac Center for Public Policy on its website in February 2007.

rations, and facing certain death for the slightest challenge to authority.

Thon Hin, a top official in the Cambodian foreign ministry at the time of our 1989 visit, told me of the propaganda blasted daily from speakers as citizens labored in the fields: "They said that everything belonged to the state, that we had no duty to anything but the state, that the state would always make the right decisions for the good of everyone. I remember so many times they would say, 'It is always better to kill by mistake than to not kill at all.' "

Churches and pagodas were demolished and thousands of Buddhist monks and worshippers were murdered. Schools were closed down, and modern medicine was forbidden in favor of quack remedies and sinister experimentation. By 1979 only 45 doctors remained alive in the whole country; more than 4,000 had perished or fled. Eating in private and scavenging for food were considered crimes against the state. So was wearing eyeglasses, which was seen as evidence that one had read too much.

> Haing Ngor felt compelled to tell his story so others would know what awful things total government can do.

Early estimates of the death toll from starvation, disease, and execution during Pol Pot's tyranny ranged as high as three million—in a nation of only eight million inhabitants when he took power. Most now put the figure in the neighborhood of two million deaths.

Haing Ngor didn't just *see* these things; he endured them. He had to get rid of his eyeglasses and disappear as a doctor. He reappeared as a cab driver, hoping he and his wife would not draw the attention of the Khmer Rouge. Nonetheless, on more than one occasion, he fell prey to their brutality. In one torturous episode, one of his fingers was sliced off. In another, his wife died in his arms from complications during childbirth. Ngor's skills as a physician might have saved her, but he knew if he revealed he was a doctor they both would have been executed on the spot. He eventually escaped Cambodia through Thailand, landing in America in 1980, a year and a half after a Vietnamese invasion eradicated the Khmer Rouge regime.

Haing Ngor believed the world must know these things, fully and graphically. When fate led to a chance to act in a movie about the period, he grabbed it and performed brilliantly. He deserved the Oscar it earned him, even though he often said that he really didn't have to "act." He had personally suffered through calamities much worse than those depicted in the film. He was driven to do well so that the rest of us would remember what happened and those to whom it happened.

One cold morning in February 1996 I learned that Dr. Haing S. Ngor had been shot and killed the day before—not somewhere in Southeast Asia, but in downtown Los Angeles. The perpetrators, it turned out, were ordinary gang thugs trying to rob him as he got out of his car. They took a locket that held the only picture he still had of his deceased wife.

For Haing Ngor, rediscovering his freedom after experiencing hell on earth wasn't enough. He couldn't relax, breathe sighs of relief, or resume living a quiet or anonymous life. He felt compelled to tell his story so others would know what awful things total government can do. He forced us to ponder and appreciate life more fundamentally than ever before.

Enjoy the Oscars on February 22. We should be thankful for people like Haing Ngor, who did more to educate for liberty in a few short years than most people who take their liberty for granted will ever do in their lifetimes.

Individualism Clashes with Cooperation? It Just Ain't So!

BY CHARLES JOHNSON

Individualists get a bad rap in politics these days. That should come as no surprise; politics these days is dominated by electoral politics, and electoral politics is an essentially anti-individualistic enterprise. With free markets and other forms of voluntary association, people who can't agree on what's worthwhile can go their own ways. But the point of government elections is to give people in the political majority a means for forcing through their favorite laws, projects, and rulers over the objections of people in the political minority, and making *everybody* obey those laws, fund or participate in those projects, and acknowledge those rulers.

Still, even if it is unrealistic to expect individualism to get much respect from people who are deeply invested in electoral politics, it's not too much to ask them not to try to score political points by totally distorting our position. In any case, if they do, it's worth taking the time to set things straight.

For example, consider "The Social Animal" by neoconservative *New York Times* columnist David Brooks (September 12). He begins by quoting Barry Goldwater's argument (from *The Conscience of a Conservative*) that "Every man for his individual good and for the good of his society, is responsible for his own development. The choices that govern his life are choices that he must make; they cannot be made by any other human being. . . . Conservatism's first concern will always be: Are we maximizing freedom?"

Outmoded Notions?

Brooks says that Goldwater's ideas seem to come from a vision of human life based on solitary, rugged individuals—"the stout pioneer crossing the West, the risk-taking entrepreneur with a vision, the stalwart hero fighting the collectivist foe." Brooks protests that "a tide of research" in the human and social sciences has demonstrated that Goldwater's old-fashioned individualist notions aren't supported by the latest empirical evidence because, Brooks tells us, human beings are social creatures by nature, closely intertwined with each other in the fabric of a shared social life.

He then lays into a number of Republican policies that he considers too locked into the old Goldwater free-market framework—tax cuts, tax-funded education vouchers, and "federally funded individual choice" in health care. He suggests that individualistic free-market principles have kept modern conservatives from coming up with a convincing rationale for the federal government's gigantic tax-funded bailouts for major investment firms and mortgage capitalists. (Apparently the failure to provide a convincing rationale for government bailouts of big business is supposed to be a problem for individualism, not a problem for the bailouts.) And he concludes that Goldwater's legacy of unrealistic free-market individualism is now "the main impediment to Republican modernization," which he believes has hobbled his fellow Republicans' efforts to provide plausible responses to "the gravest current concerns," which all trace back to the fact that "people lack a secure environment in which they can lead their lives."

Charles Johnson (feedback@radgeek.com), a third-generation Freeman contributor, is the author of the Rad Geek People's Daily weblog (http://radgeek.com) and a founding member of the Southern Nevada Alliance of the Libertarian Left (http://sonv.libertarianleft.org).

Maybe Brooks is right that Goldwater's legacy is holding Republicans back politically. Individualistic ideas can be a tough sell, particularly since the obsessive focus on electoral politics as a panacea for every social ill ensures that genuinely individualistic ideas are almost never presented in the media or discussed in public forums. But whether he's right or wrong about the best way for Republicans to "fully modernize," I don't care much about the Republican Party or its political prospects, or about Barry Goldwater's reputation. I do care about the prospects for individualism and truly freed markets. And Brooks's case against them commits a series of serious and misleading errors.

Brooks ultimately condemns free-market policies because they smack of individualism, and he condemns individualism because human beings are demonstrably social animals, who live interdependent lives and gain both utility and meaning through social networks, community, and shared projects. He points out that traditionalist conservative thinkers like Edmund Burke appreciated "the value of networks, institutions and invisible social bonds"—apparently believing that that sets them apart from individualist free marketeers. Of course human beings are social creatures, and networks, institutions, and invisible social bonds are all tremendously important to our shared lives and livelihoods. But to try to use that as an argument against individualism is nothing but a massive non sequitur. What individualist ever denied it?

Individualists, contrary to Brooks's claims, don't have any general objection to human sociality. We realize how much we all depend on one another in our everyday lives. That should be obvious enough from the fact that we believe in replacing government regimentation with freed markets and voluntary associations. But if it is not obvious enough, let's make it as clear as we can.

A freed market is nothing more and nothing less than a form of *spontaneous social collaboration*. There are no markets without several people cooperating with each other to buy and sell, interdependent with others who work, invent, discover opportunities, and generally hustle to truck and barter. And there are myriad other ways for free people to choose individually to cooperate without cash exchanges, like family networks, charities, community organizations, fraternal lodges, or voluntary mutual-aid societies and workers' unions.

Cooperation or Coercion

The debate between individualists and "modernized" collectivists has nothing really to do with whether or not human beings ought to live a social life; it has to do with the *terms* on which we associate to work and live together—whether our social combinations ought to be cooperative or coercive. Social combinations can only be truly cooperative if they are *voluntary*—if they are organized through persuasion and free agreement among everyone involved, rather than through force and coerced obedience by some to a few.

Apparently Brooks believes that we have only two options: Either we live as a mass of uncooperative but free solitary hermits and devil-take-the-hindmost "rugged individualists" or else we live as a network of cooperative but unfree "socially embedded creatures," with government taxes and regulations shoving us down to make sure we *stay* good and embedded in the particular set of social arrangements that government favors—whether or not any of us would choose to make other arrangements with our fellows. But where does that leave the obvious third option—voluntary cooperation?

Individualism is not a philosophical rationale for antisocial attitudes or for indifference or hostility toward your fellow creatures. It is the collectivist, not the individualist, who sees human beings as naturally truculent creatures who don't care enough about each other to get along peacefully and who need to have plans for collaboration forced on them from the top. Promising social harmony and security, collectivism delivers dissonance and violence.

Individualists believe in individualism precisely because we believe that human beings can and should be both social and *civilized* to each other at the same time—that community and social life don't require shoving people around or bullying them into following one big plan. What Brooks fails to see is how—individually—we can peacefully, freely, and naturally form communities, institutions, and invisible social bonds as we make our way through the world. FEE

Raw Milk and the Sour State

BY WILLIAM E. PIKE

Take a moment, if you will, to think about the milk you buy from the grocery store.

Whether it is an expensive organic brand or simply carries a mega-chain store name, that milk has undergone pasteurization and homogenization. In pasteurization it has been quickly heated to temperatures up to 250 degrees Fahrenheit for a few seconds to kill bacteria. In homogenization the milk has passed through a tiny valve at pressures exceeding 20,000 pounds per square inch, breaking up fat globules so that cream does not rise to the top. In addition to these volatile treatments, your milk may come from cows fed specially designed hormones to help the animals produce at a rate far beyond that which nature intended.

There is a growing subset of consumers who would prefer not to buy their milk this way. They want it unpasteurized, unhomogenized—in a word, "raw." They would prefer to drink their milk as humans have consumed it for centuries, which is also how every single signer of the U.S. Constitution drank it.

To procure such a basic product, however, these consumers—with some exceptions—are forced to break the law. The basic retail sale of raw milk for human consumption is legal in only eight states—Arizona, California, Connecticut, Maine, Pennsylvania, South Carolina, New Mexico, and Washington. Its sale for human consumption across state lines is illegal nationwide. In some other states raw milk can be sold at the farm site only, sold through "cow share" programs, or legally marketed as "pet food." Seventeen states completely forbid the sale of raw milk in any way.

How did this happen? We all learned in childhood about Louis Pasteur's development of pasteurization in the mid-1800s. For mass-produced milk in an age before refrigeration, pasteurization was indeed a godsend. Early in the twentieth century, as people died at alarming rates due to contaminated milk from filthy urban dairy centers, pasteurization caught on as a hot market trend. In a time when milk collection and storage on large-scale farms was unsanitary and unrefrigerated (and when additives as diverse as marigold petals and animal brains were placed in milk to add body), pasteurization helped save lives. Thus people were willing to pay for it. But then one city after another began to mandate the process through legislation. In 1948 Michigan became the first state to ban the sale of unpasteurized milk, and other states soon followed suit. In 1986 a federal judge ordered that interstate shipments of raw milk be banned, further limiting supply for consumers.

Now, despite advances in dairy-production techniques, it doesn't matter how clean the equipment or

William Pike (williamedwardpike@gmail.com) lives in western Indiana, where he has imbibed raw milk from time to time and lived to tell about it.

how healthy the cow; raw milk is either illegal or highly suspect, and state and federal bureaucracies see it as a threat to the population. Regulation overstepped the free market and did an end run around common sense.

Raw-milk advocates argue that milk in its pure state is quite beneficial to health. According to the Weston A. Price Foundation, a leading natural-foods organization, raw milk reduces the incidence of asthma, eczema, and hay fever in children. Unpasteurized milk also aids the body's natural digestive system. Pasteurization, the Foundation insists, kills helpful bacteria and breaks down delicate proteins in milk, leading to the dairy intolerance seen in so many individuals in this modern age. Advocates also state that unpasteurized milk strengthens the immune system and provides optimal growth and development for young people.

The opinion of government officials, backed up by the bulk of the medical community, is that every bit of that is hogwash. A joint press release from the U.S. Food and Drug Administration and the Centers for Disease Control, dated March 1, 2007, reminds consumers "of the dangers of drinking milk that has not been pasteurized." Among the litany of diseases said to be carried by raw milk are "listeriosis, salmonellosis, campylobacteriosis, typhoid fever, tuberculosis, diphtheria and brucellosis." It is enough to make one wonder how Amish communities manage to survive.

What right does the state have to outlaw the sale of unpasteurized milk in the first place?

The FDA/CDC claims that "There is no meaningful nutritional difference between pasteurized and raw milk." The Price Foundation retorts that no research is cited by the FDA/CDC to substantiate such claims. The press release also states that "From 1998 to May 2005 CDC identified 45 outbreaks of foodborne illnesses," accounting for "1,007 illnesses, 107 hospitalizations, and two deaths." Aside from the fact that these are minuscule numbers for a population of nearly 300 million being tracked over seven years, there seems to be little evidence to back up the figures. Thomas Bartlett, in a *Washington Post* article on raw milk ("The Raw Deal," October 1, 2006), went looking for such cases of illness. In addition to finding no anecdotal evidence whatsoever, he also asked John Sheehan, then-director of the FDA's dairy and egg safety division, for evidence linking raw milk to deadly disease outbreaks. Sheehan admitted that he didn't know of any such cases in the United States in the past 20 years. Nevertheless, the official line on raw milk is so ingrained as to be farcical. In interviewing a Maryland state health official about raw milk sales, Bartlett was told selling raw milk was as bad as selling marijuana, and the official compared such producers to heroin dealers.

Indeed, the question is far more important than, "Is raw milk beneficial?" or even, "Is raw milk safe?" It is this: What right does the state have to outlaw the sale of unpasteurized milk in the first place?

Imagine the case of Mark Nolt of New Line, Pennsylvania. Nolt was arrested—*arrested*—last May in a sting operation in which undercover officials purchased raw milk from his farm. Nolt, a Mennonite farmer with ten children, was fined $4,040, had his equipment and products seized, and was threatened with jail if he tried to sell raw milk again. His case is not unique. Nolt's spokesman at his trial, Jonas Stoltzfus, eloquently summed up the situation: "This issue has very little to do with raw milk and health, and everything to do with freedom."

Controlling the Milk Supply

But why milk? Indeed, as the 2008 pepper scare has proven, harmful bacteria can find their way to many other food sources. However, milk is different from most other food products. It is a staple among staples. To control the milk supply is to control the food supply.

Pasteurization is not a cheap process, and therefore the legal demand for pasteurization favors large producers. A small, independent dairy farm may very well not be able to afford pasteurization equipment (not at government standards, at least), and thus micro-dairies can rarely operate legally on their own. With the dairy industry more centralized, it becomes easier to track and regulate—and control.

Control of the milk supply has been a primary step in the state's efforts to control the larger food supply. Agriculture continues to fall further and further under the eye of government regulation, as do businesses as diverse as potato-chip manufacturers and fast-food restaurants. The USDA, FDA, and myriad other state and federal agencies make no bones about their goal of controlling every morsel Americans consume—all for our own good, of course.

And where better to start than with milk? Think of the psychological benefits for the state emanating from such regulation. If a product as central and wholesome as milk can only be safe through government control, reliance on the paternalistic state grows. Has it worked? Ask a random acquaintance if he would consider drinking unpasteurized milk. You may very well get a look of horror in return. Why do people feel that way? Simply because they have been indoctrinated to feel that way. Why not be just as accepting of government regulation over their mayonnaise or their chicken or their lettuce? How about their water supply or the cars they drive or how warm they keep their homes in the wintertime? Though not necessarily a conscious progression, control by the state, when left unchecked, simply grows and expands naturally.

If a product as central and wholesome as milk can only be safe through government control, reliance on the paternalistic state grows.

As ingrained in our social conscience as pasteurization has become, it is hard for many to step back and realize just how preposterous milk laws happen to be. One must ask if the many citizen-farmers who valiantly fought for liberty two centuries ago could have ever envisioned a "free" state in which one citizen would be legally barred from selling milk from his cow to another citizen. Even King George III would have laughed at that idea. FEE

Poker and the Free Market

BY ROBERT STEWART

Until recently I was a director and the chairman of the audit committee of one of Bermuda's banks, but I lived with a guilty secret, almost the equivalent of being an alcoholic or, even worse, a smoker. I played poker regularly and had done so since I was about 20 years old. A public poker game was held in a bar in Bermuda called Flannagan's, and I played there a few times until about five years ago. A friend suggested that I should not participate in a public game since customers and shareholders of the bank would get the wrong impression I was gambling. Poker, of course, is not gambling, although the authorities took a different stance and closed the game down on the grounds that people like me need protection from ourselves. Poker appears to be about gambling, but it is a game of immense skill—skill that is based on betting and reading the bets of other players.

Fabio Toledo

However, the more I thought about it the more I began, belatedly, to realize that poker has as much in common with the free market as banking—indeed more, in light of some of the recent bailouts in the United States. There is no lender of last resort like the Fed, and no friendly Uncle Sam saying that you are too big to fail.

But I get ahead of myself.

The origins of poker are obscure (they go back to Persia in the fourteenth century to a card game called "as nas"), but most historians give the honour of developing the modern game to the French residents of New Orleans, the home of jazz and enjoyable living. It spread up the Mississippi through paddle steamers (showbiz historians will remember that in *Showboat* the main character was Gaylord Ravenal, a huge romantic but a rotten poker player). It was played by soldiers of both sides during the Civil War and then made its way to the Wild West and became a staple of cowboy movies. Violence has always been associated with the game, wrongly in my view, and many westerns feature poker disputes. Wild Bill Hickok was shot by Crooked Nose McCall in Deadwood in 1876 during a poker game when he held a hand of two aces, two eights and a queen, immortalized as the dead-man's hand. Benny Binion, owner of Binion's Horseshoe Casino in Las Vegas, who hosted the First World Series of Poker tournament in 1970, was a convicted murderer.

Spontaneous Order

The game is a good example of spontaneous order, not unlike the development of language, dancing, or the free market, where cooperation and coordination among people arise without conscious government or other deliberate direction. It is a classic product that arises not because of human design, but because of human action.

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Poker is normally played by five to eight players, usually but not exclusively males who enjoy the raucous company of one another plus the thrill and skill of being able to make a few dollars at the expense of their friends. The rules are pretty simple—to avoid boring everyone, they can be found in many reference books—and are enforced by all participants in an unequivocal way in much the same manner as golf rules are enforced by the U.S. Golf Association.

There are no extenuating circumstances, and genuine mistakes are regarded as acts of remarkable stupidity and penalized accordingly. No friendly banking window, no Ben Bernanke, just a fleeting look of sympathy (or contempt) as the other participants pocket your dough. This is capitalism at its rawest. You keep the benefits, but you pay the full price if you get it wrong. Best of all, you are not taxed on your winnings—unless you are good enough to win the World Series of Poker. There is no moral hazard because the participant bears the losses of his actions (or bets), and he will be constrained in his actions because of the burden of potential losses.

In one vital aspect poker is unlike a free-market economy. It is a zero-sum game.

Arguments about the rules of poker are rare. They have been established for years now, and although there can be local variations, the players generally all know the rules. There is no nonsense about living rules that need to be interpreted as social or economic circumstances change. However, nothing is perfect. Daniel Seligman, a writer for *Fortune*, in a delightful essay titled "Poker Memories" (http://tinyurl.com/4youdt) cites taking an arcane dispute to a professor of jurisprudence and public policy at Fordham Law School because his writings evidenced a lifetime of dealing at a high level with questions of justice and ethics. In my experience, it is rare for there to be an unresolved question about the rules. Anyway, people are too impatient to get on with the game rather than haggle about some obscure point of procedure.

A Zero-Sum Game

In one vital aspect poker is unlike a free-market economy. It is a zero-sum game. Participants who win are exactly matched dollar for dollar by those who lose. Indeed, playing in a casino setting it is even worse than a zero-sum game as the "house" takes its cut for organizing the game. By contrast, in a free market, both buyer and seller gain something—otherwise, no exchanges would take place.

That being said, most of the people with whom I play put the five or six hours of entertainment ahead of dining at the best restaurants, and even a bad night with the cards is less expensive than paying for an expensive dinner.

Over the past five years poker has enjoyed a renaissance thanks to television and the Internet. Online players are estimated to wager more than $250 million per day. On most evenings a viewer may watch a game and get a sense of the excitement that arises, notwithstanding that the game most frequently telecast is Texas Hold 'Em, probably the most boring of all poker games and scorned as "poker for dummies."

Indeed, so popular has the game become that it is the central theme in movies such as *Lucky You,* about a professional poker player, played by Eric Bana, who gets a lesson in life from a struggling singer played by Drew Barrymore; a few poker personalities make cameo appearances. Even James Bond in *Casino Royale* has given up baccarat in favor of Texas Hold 'Em.

Risk and Uncertainty

Competing against seven hardened veterans of poker means that the risk of failure is pretty high—at least 6 to 1 against—but less risky than the business world, where the failure rate is higher. Unlike a job in the civil service, the monetary rewards from playing poker are not predictable, and like most business ventures it does not provide a guaranteed income. There is always and everywhere uncertainty. In the free market, unless you serve the consumer at least as well as your competitor, you will end up broke—this is known as creative destruction. In poker, unless you are consistently better than your rivals over a five-hour period, you will end up the same way. It is you versus the rest, and in the poker world, there are only two types:

winners and losers, with the latter being the more numerous. It is a game of immense skill, not luck, although in the short term luck can temporarily overcome skill just as it can in economic life. But as most people know, luck comes in two packages—good and bad—and no one knows in advance which will apply.

In short, success at poker has much in common with success as an entrepreneur. Ludwig von Mises says it best in *Planning for Freedom*: "The entrepreneurs are neither perfect nor good in any metaphysical sense. They owe their position exclusively to the fact that they are better fit for the performance of the functions incumbent upon them than other people are. They earn profit not because they are clever in performing their tasks, but because they are more clever or less clumsy than other people are."

Few people play poker for "Monopoly" (or play) money because it does not mean anything; any incentive to win would evaporate if the participants knew that no one was going to win or lose. If there is nothing at stake the game is meaningless, just like the communist economies before 1989. In a socialist or communist country, as Henry Hazlitt pointed out in *The Foundations of Morality*, "If I am a government commissar selling something I don't really own, and you are another government commissar buying it with money that isn't really yours, then neither of us really cares what the price is." Prices and real money depend on the possibility of personal profit or loss.

You would be sneered at in disbelief if you alleged after a year of playing poker that the distribution of income was unfair and, because you find yourself with less cash than you think you should have, someone should bail you out in the name of social justice. There are no affirmative-action policies and no redundancy payments for bad poker players, no unemployment insurance, no subsidies, no tax write-offs, no pension after 40 years for having played the game sportingly. There are no alibis in poker.

Many poker games use chips instead of cash. They are easier to use than notes, can be given different values based on color, can be stacked with ease, and can easily be counted when the game ends. Each player, for example, can put $200 (or $2,000) in the kitty and at the end of the night cash in his chips against notes in the kitty. Should the host for the evening borrow extra chips without a corresponding donation to the kitty, there will be a cash shortage at the end of the evening when the players cash in. With seven players there could be chips valued at $1,500 but only $1,400 in cash. Any host who tried this stunt would suddenly find that no one would play with him. But is that not what central banks do? They create money (chips) out of thin air by using the printing press and when the public comes to spend it on goods and services they find that prices have gone up—which is the same thing as saying that the value of money has gone down.

The Fed and the Bank of England are really like crooked hosts. They create money without a corresponding payment to the kitty. In poker you would be banned—or shot, if you played in Deadwood. In central banking, the chairman of the Fed is listened to with respect and awe, and collects accolades when he retires.

In short, success at poker has much in common with success as an entrepreneur.

Just as people can trade freely with everyone irrespective of age, sex, race, national origin, income, or any other irrelevance, poker players have no objection to anyone participating in the game provided he plays by the rules and does not complain if he loses. Indeed, any televised poker game provides a representative sample of society, although your grandmother might think that there are more than a fair number of shady characters wearing dark glasses and baseball caps with odd nicknames like Amarillo Slim. Poker is a great social equalizer: So long as you have the cash you are welcome to pull up a chair. It is rare for someone, even a stranger, who wants to borrow to be denied a loan from another player; and it is equally rare, in my experience, for a debt not to be repaid in full. Financial responsibility is an unexpected characteristic of most players.

The essayist Leonard Kriegel, in an article titled "Poker's Promise" in the *New York Times Magazine*, stated, "No game commanded greater loyalty and no game promised more. Along with the intricacies of baseball, poker was a cultural bridge that helped you cross over into a wider world. No game better embodied the enormous sense of possibility we felt was ours by right of having been born in this America. A man could shed the past in poker. What could be more American than that?"

Imperfect Knowledge

Poker, like capitalism, is a game of incomplete information. In the free market there is always imperfect knowledge and uncertainty. In poker, it is possible to calculate the odds of drawing a king to make a full house, or whether the amount in the pot is sufficient to risk calling a bet, but these are mere fragments of the information required.

Donald Boudreaux, in his May 2000 column in this magazine, wrote:

"In *The Future and Its Enemies,* Virginia Postrel notes the astonishing fact that if you thoroughly shuffle an ordinary deck of 52 playing cards, chances are practically 100 percent that the resulting arrangement of cards has never before existed. Never. Every time you shuffle a deck, you produce an arrangement of cards that exists for the first time in history. The arithmetic works out that way. For a very small number of items, the number of possible arrangements is small. Three items, for example, can be arranged only six different ways. But the number of possible arrangements grows very large very quickly. The number of different ways to arrange five items is 120 . . . for ten items it's 3,628,800 . . . for fifteen items it's 1,307,674,368,000.

"The number of different ways to arrange 52 items is 8.066^{67}. This is a big number. No human can comprehend its enormousness. By way of comparison, the number of possible ways to arrange a mere 20 items is 2,432,902,008,176,640,000—a number larger than the total number of seconds that have elapsed since the beginning of time ten billion years ago—and this number is Lilliputian compared to 8.066^{67}."

This means that everyone playing poker is pretty much in the dark about what is going happen. To be a consistent winner means paying attention to minute detail, but it also means that the unexpected is always likely to happen. Like a participant in the economy, nothing is forever and nothing is certain. There is always the ever-present risk of being bested by the unforeseen. Is this not the problem of knowledge to which Hayek drew our attention? As he explains in "The Use of Knowledge in Society," "The peculiar character of the problem of a rational economic order is determined precisely by the fact that the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess. Or put briefly, it is a problem of the utilization of knowledge which is not given to anyone in its totality."

> Poker is a great social equalizer: So long as you have the cash you are welcome to pull up a chair.

A good poker player does not play just the odds; he also plays the people. Is a bet of $100 a bluff or a warning that your opponent holds four aces? Is the sweat on the hands of your opponent a result of the air conditioner not working or does it arise from the fact that the guy across the table is playing you for a sucker? Not all the information that you need to make a correct decision is available and it never will be.

The late John von Neumann, a mathematician involved in the development of the computer and the atomic bomb, sought to apply the principles of mathematics to poker, but he soon discovered that bluffing, deception, human fallibility, and human ingenuity were not promising subjects for the application of mathematical principles. Others have tried to apply what is known as game theory, but without any notable success. The geeks have failed to best the uneducated cowboys. That lack of success is similar to the failure of computer-generated studies to forecast with any degree of accuracy (or usefulness) the track of free-market economies. Time will tell if the same types of studies will be able to forecast accurately the climate of the world in 50 years time. But it must be remembered that poker (like economics) is not a hard science like physics, where predictions can be made in laboratory-like conditions. For a computer program to work, poker would have to be a game in which nothing unexpected happens. People would have to be predictable. Anyone who knows anything knows that people are totally unpredictable, and this is especially true of those who play poker.

In a free economy information is not free and is difficult to acquire. Government regulators, for example, always like to speak about uniform standards and processes, as do security personnel at airports. I wonder if these people play poker, because if they do, using uniform standards would mean that they are guaranteed losers. If you always fold when you have a mediocre hand or shake with excitement when you have a certain winner, your opponent will know exactly what you are up to and the chances are you will be a consistent loser. What is needed is not uniform or standardized behavior but unpredictable behavior. You want your opponent always to be guessing at what you have in your hand. Predictable security standards at airports assure that some criminal will do the unexpected. So will those who are regulated, as the 2008 subprime financial crisis indicated. I'll bet my house that it was a poker player who came up with structured investment vehicles, which were developed to get around regulators.

Good poker players are like entrepreneurs: You need greater skill than average to anticipate the future. As Mises so cogently puts it in *Human Action*, "What distinguishes the successful entrepreneur and promoter from other people is precisely the fact that he does not let himself be guided by what was and is, but arranges his affairs on the ground of his opinion about the future. He sees the past and the present as other people do; but he judges the future in a different way."

Incentives Matter

Most of all, poker is a game of incentives. It has been said of economics that it is only a question of incentives; the rest is merely detail. No one in his right mind would play if, at the end of the evening, the money won and lost had to be redistributed to ensure fair shares. Any poker game run on that basis would be a complete flop. In real life an economy that seeks to ensure that losers are compensated from the earnings of the winners (those who cater to the wishes of the consumer) would not be a place that winners would like to frequent. One of the central lessons of poker, and the free market, is that when incentives change, individual behavior also changes.

In the current world of high oil prices, futures markets, structured investment vehicles, and hedge funds, speculators are often blamed for creating mayhem and dismissed as mere gamblers or poker players. What difference is there between betting on two pairs in poker and taking a position on oil or corn? Are not speculators merely well-dressed poker players with Ivy League names?

There is a big difference. Poker is an artificially contrived uncertainty devised for entertainment or thrills, while the speculator clearly discerns unnoticed opportunities for profits and alertly exploits them. "Whereas the gambler is attentive to the world of artificial indeterminacy, the speculator keeps an economic vigil over the real, uncontrived future" (John A. Sparks, "The Fellows with Black Hats: The Speculators," *The Freeman*, August 1974).

There is certainly a close affiliation between playing poker and commercial speculation, but that simply makes my point that poker is but a surrogate for the free market. FEE

On the Austrian Theory of the Trade Cycle, Part I

BY DONALD J. BOUDREAUX

One of the most vivid memories of my undergraduate years is of sitting for hours in my carrel in the old Polk Library at Nicholls State University and reading F.A. Hayek's *Monetary Theory and the Trade Cycle* and his *Prices and Production*. These books on the economic cycles of booms and busts are among the most challenging Hayek wrote.

Sitting in that same carrel, I then read Gerald O'Driscoll's 1977 book *Economics as a Coordination Problem*—a work that explains in more up-to-date terms the logic of Hayek's theory of such cycles.

Having done my best to digest these works, along with some related articles and helpful conversations with my professor Bill Field, I believed myself to have gotten a pretty firm grasp of Hayek's macroeconomic thinking. And the logic of Hayek's explanation for economic booms and busts made good sense to me.

Spending time with Roger Garrison during my doctoral-study days at Auburn University only raised my confidence in this explanation of so-called "trade cycles."

The logic is straightforward. Investors and business people, like consumers, respond to *relative* prices in deciding how to act. And relative-price movements are crucial signals directing resources to uses that consumers value most.

So, for example, if the demand for apples rises *relative* to the demand for pears, the price of apples will rise relative to the price of pears. Producers—responding to this signal—will then switch some resources and effort from pear production into apple production. This response is appropriate.

But prices, of course, are expressed in money terms. If relative prices are caused to change not by any change in underlying economic reality but instead by changes in the supply of money, then producers and consumers will be misled by these changing relative prices to act as if some real economic fact has changed when actually nothing has happened. For example, if the central bank injects new money into the economy by giving it to people who have a special fondness for eating apples, this new money will enable its recipients to increase their demand for apples beyond what it would be without the new money. The price of apples will rise relative to that of pears, peaches, and other goods and services.

Eventually, though, this new money spreads throughout the economy, causing all prices to rise (resulting in what modern economists call inflation). Importantly, *relative* prices eventually adjust to reflect more accurately the underlying economic reality. When the underlying reality is clearly revealed by the now-correct relative prices, production plans based on the false price signals must be undone. Undoing these production plans takes time. One result of this process of undoing economically unsustainable production plans is temporary unemployment.

Relative-price movements are crucial signals directing resources to uses that consumers value most.

Interest Rates

The power of Hayek's theory, though, lies in its focus on a particular price: the interest rate. This price coordinates production and consumption plans across time. If people are very impatient to consume and, in consequence, save very little, interest rates will be higher than they would be if people were more will-

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ing to defer consuming the fruits of their labors. A high rate of interest, therefore, signals to businesses that it is not worthwhile to use resources today to build highly complex and expensive machinery for producing greater output in the future. In these circumstances, resources satisfy more urgent needs when they are used to produce goods for consumption today rather than to produce producer goods that will increase the availability of consumer goods only tomorrow.

Only if people generally become more willing to save—that is, to allow a greater amount of resources to be used *not* to increase the flow of consumer goods today but to build production processes that increase outputs tomorrow—does the size of an economy's stock of capital increase.

The price that signals this greater willingness to save is the interest rate. The higher the willingness to save, the greater the supply of savings available to be loaned to entrepreneurs—hence, the lower the rate of interest. But just as changes in the supply of money can cause the price of apples relative to pears to "lie" about the underlying demand for apples relative to pears, so too can changes in the supply of money cause the interest rate to "lie" about people's willingness to save.

Building on works by Richard Cantillon, Carl Menger, Eugen von Bohm-Bawerk, and Ludwig von Mises, Hayek argued that increases in the supply of money (beyond any possible increases in people's demand to hold money) are especially likely to cause the nominal rate of interest to fall. And as this price is pushed below its true ("natural") level, entrepreneurs increase the size of their investments. They channel resources from producing consumer goods into producing capital goods.

Hayek argued that increases in the supply of money (beyond any possible increases in people's demand to hold money) are especially likely to cause the nominal rate of interest to fall.

This "lengthening" of the production process, however, is not done in one fell swoop. It takes time and requires a continuing flow of resources for its completion. For example, an entrepreneur lured by a low rate of interest to build a new factory needs resources not only today to build the factory's basement, but tomorrow and the next day to complete his planned construction. If this entrepreneur discovers tomorrow that the resources that he thought would be available to complete the factory are not available, then he must abandon his plan. Workers hired in the expectation that the factory would be built and operated will be laid off.

Because newly created money usually enters the economy through the banking system, monetary expansion typically does indeed push the nominal rate of interest below the real rate. Entrepreneurs and businesses in general are thus misled into making production plans that require a continuing flow of capital larger than the flow of capital that will be forthcoming given people's actual plans to save.

The new money, however, soon causes a rise in the general price level—including a rise in the nominal rate of interest. This general rise in prices reflects the lower value of money, and the higher nominal rate of interest reflects the spreading expectation that money will continue to lose value.

To keep the inflation-adjusted rate of interest artificially low enough so that it continues to deceive investors about the public's willingness to save, the monetary authority must increase the speed with which it injects new money into the economy. Inflation rises faster and faster. The economy either eventually grinds to a halt because money prices have become so unreliable or the monetary authority stops printing new money.

In either case, adjustments to the true, underlying reality of people's preferences and resource constraints must be made. These adjustments take time and involve unemployment.

As I said, this theory made sense to me. But the economic growth of the past 30 years caused me to doubt its veracity. And today's economic turmoil is causing me to revisit both this theory and my doubts about it. In my next column I explore my doubts about the theory and my new doubts about my doubts.

Liquid Lies

BY BECKY AKERS

Government programs rely on deception from start to . . . Well, none of them ever seems to finish, but if one did, the end would doubtless be as devious as the beginning. Politicians propose programs to solve imaginary problems and perpetuate them with blatant lies. Predictably, this wreaks havoc not only on the program's victims but in other areas too.

A case study from the Transportation Security Administration (TSA) puts flesh on these theories. Imposed on American aviation after 9/11, the TSA operates airport checkpoints in defiance of the Constitution, common sense, and consequences. Though its screeners have squeezed more taxpayers than the IRS, it has yet to find a single terrorist.

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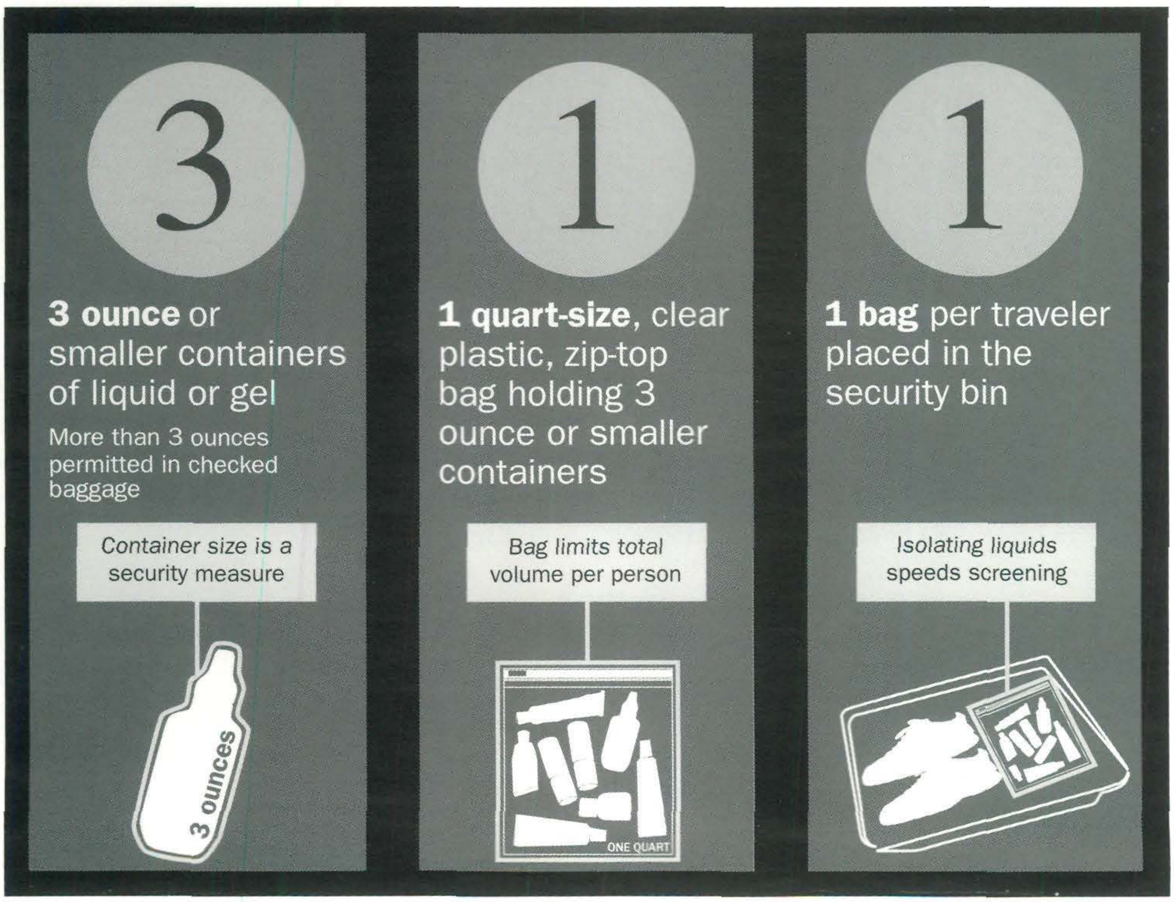

TSA

Nor will it. The TSA was a political rather than a practical response to 9/11. It was established not because experts in aviation identified terrorism as an overwhelming threat to the industry, studied ways to combat it, and invented checkpoint searches. Instead, politicians foisted the TSA on us. Their dictates, rather than research, analysis, and innovation, drive it. For instance, both the TSA and its predecessor, the Federal Aviation Administration (FAA), assume that disarmed passengers survive hijackings better than armed ones. But no data confirm that. And if some did, there's still no proof that checkpoints are the most effective way to discover weapons. Furthermore, screeners routinely flunk tests of their performance at those checkpoints —and we're not talking marginal failure, either. They miss 60, 75, even 90 percent of the guns, knives, and simulated bombs undercover investigators smuggle past them.

No Protection for Passengers

Though startling, none of this is new. No research justified the TSA when the Bush administration spawned it in November 2001, and the government's screeners have bombed tests since the very beginning. Clearly, the TSA cannot and does not protect passengers; if security were truly the goal, the Feds would never have established the agency in the first place or, having erred so colossally, they'd abolish it pronto. But don't look for the TSA to disband anytime soon because it performs another task indispensable to the American empire: subjugating citizens. It trains them to obey their rulers without question, no matter how ridiculous, insulting, or immoral the order may be.

Which brings us to one of the agency's most unpopular edicts and the lies that hatched it: the jihad against liquids and gels in carry-on bags. The TSA imposed the ban literally overnight, on August 10, 2006. Lotions, potions, pastes, and gels that had been innocuous on August 9 suddenly endangered American aviation so seriously that the TSA ordered screeners to steal them from passengers. Many travelers had no idea Cover Girl and Crest were now illegal until they arrived at the checkpoint that morning.

The victims didn't take this lying down. Passengers may stand impassively while screeners grope them, but they rebelled against spending hours in a jet's dry air without lip balm and eyedrops. One business executive told the *Washington Post* that he would continue smuggling hand sanitizer in his pocket "because he worries about germs on planes. He has made about 10 trips since the restrictions went into effect and hasn't been caught." A woman with Chanel perfume in her carry-on laughed at the idea of entrusting it to her checked bag since that would give the TSA's baggage screeners a crack at it, while another admitted to sneaking body lotion onboard. Such insouciance set TSA spokeswoman Ellen Howe to scolding, "Travelers must realize this isn't a game. The threat is real. . . ."

> The TSA inflicted the ban after British authorities claimed that they had foiled an imminent plot to bomb ten flights leaving London for the United States.

But is it? The TSA inflicted the ban after British authorities claimed that they had foiled an imminent plot to bomb ten flights leaving London for the United States. Supposedly, some of al Qaeda's operatives planned to hide "peroxide-based liquids" in bottles of Lucozade, Britain's equivalent of Gatorade. Once aboard their respective planes, they would mix the solutions into a combustive cocktail and then, high above the Atlantic, detonate it.

But explosives experts and the British media quickly realized that the authorities were snookering folks. When "police sources" named triacetone triperoxide (TATP) as the explosive terrorists were dying to produce at 30,000 feet, chemists hooted.

Manufacturing TATP is a complicated feat. The difficulties begin with one of its three ingredients: Concentrated peroxide is hard to find and even harder to make. Terrorists game to try would have to buy gallons of ordinary hydrogen peroxide and boil off the water; most likely they'd blow themselves up before enough condensed. But presuming they survived and had plane tickets in hand, they'd be ready for the next step: smuggling the peroxide, acetone, and sulfuric acid in separate bottles aboard the plane for combination mid-flight.

Alas, the final step requires a lab with precise, freezing temperatures—not the airplane lavatory authorities implied the terrorists would requisition. Otherwise, the liquids overheat and explode. A mishap, certainly, but one too weak to hurt anyone other than the terrorist mixing the concoction. That's because the TATP crystals the liquids yield must dry before they'll ignite—a process that takes another couple of hours while passengers waiting for the restroom crowd the plane's aisle. They're not only shifting from foot to foot, they're also complaining about the fumes billowing from the lav-turned-lab. All in all, while it's theoretically possible that someone could smuggle ice, beakers, and chemicals into a jet's toilet, it's virtually impossible for him to concoct TATP there, let alone bring down the plane.

The story's silly science wasn't its only gap in credibility. Many of the 25 "terrorists" British cops rounded up seemed unlikely suspects. First, their neighbors and friends agreed that these were fine, upstanding folks, not radical ideologues. All had been born in Britain, mostly to Pakistani families. Few held plane tickets or even reservations. It seems their plans for "mass murder on an unimaginable scale," as Paul Stephenson, deputy chief of the Metropolitan Police in London put it, were just that: unimaginable and therefore unfulfilled.

Despite massive publicity and months of bagging gels and liquids, "3-1-1" continues to confuse.

One of those arrested was the mother of a six-week-old baby. Another was a biochemistry student, and a third, a 17-year-old boy, had only recently converted to Islam. Tayib Rauf, not only a plotter but the brother of alleged "key person" Rashid Rauf, was 22 years old, deaf in one ear thanks to a childhood illness, and "very, very polite, the kindest person you could hope to meet," according to his great-uncle, Qazi Amir Kulzum. Others were so obviously innocent that cops had to release them after a few days.

Eventually, even Rashid "the Key" Rauf himself walked free. Born and raised in Britain, with dual Pakistani citizenship, 25-year-old Rashid had been living in Pakistan since 2002. He was arrested and tried there as one of the plot's ringleaders. But even Pakistan's courts, with their lax definitions of "evidence" and "guilt," had to admit that a few bottles of hydrogen peroxide in his medicine cabinet weren't enough to convict him of terrorism.

By now, the original 25 suspects had dwindled to eight. They went on trial last April.

Far from being terrorists, the defendants countered that they were merely filmmakers producing a documentary about American and British abuses in the Arab world. They never aspired to hurt anyone, much less blow up jetliners. Instead, they were concocting a PR stunt for their movie: a series of small explosions, with perhaps one or two detonating in trash cans around airline terminals. That explained their interest in aviation, which the prosecution had emphasized. The martyrdom videos they had filmed, which the prosecution also stressed, were faked for the documentary.

Their explanation seems not only stupid (what docu-dramatist wants to spend opening night in jail?) but far-fetched. Yet the jury found the government's scenario even more so; as the *New York Times* put it, the trial's "testimony has shown little evidence that the suspects were prepared to strike immediately, or of any link to Al Qaeda." After five months of trial and 56 hours of deliberation, jurors convicted only three of the men—of lesser charges. They found them guilty of "plotting to kill people using homemade liquid bombs," according to Reuters, not of "intend[ing] to blow up transatlantic airliners." The jury reached no verdict on four other defendants, and it cleared the eighth of all counts.

The final debunking of the liquid-bomb hoax came with the question, "Cui bono?" Skeptics answered: "Bush and Blair." In August 2006 both President George Bush and British Prime Minister Tony Blair faced sagging polls as well as challenges to their totalitarian tactics. Bush openly hoped that reports of Muslims conniving yet again to kill Westerners would quell resistance to his War on Terror: "The American people need to know we live in a dangerous world, but our government will do everything we can to protect our people from those dangers." Indeed, with midterm elections looming, he hailed the scheme as "a stark reminder that this nation is at war with Islamic fascists who will use any means to destroy those of us who love freedom, to hurt our nation." Britain's Home Secretary, John Reid, went further. He cast the plot as part of the immemorial battle of good against evil: "We are involved in a long, wide and deep struggle against very evil people." And only very evil people will object to that struggle.

Speculative Exaggeration

Unfortunately for Reid, the Frankenstein science, improbable suspects, and obvious political benefits compelled British authorities to backpedal. Within a fortnight, they were admitting that their hypothesis of ten bombed flights was "speculative and exaggerated."

But speculative exaggeration was good enough for the TSA. It threw American aviation into bedlam by suddenly changing checkpoint rules. Fliers confronted a new and draconian prohibition on the morning of August 10: They could carry absolutely no liquids or gels aboard their planes. No toothpaste, shaving cream, shampoo, or hand sanitizer in carry-on bags, no cups of coffee or tea in hand, not even water in sealed and clearly labeled bottles. Lines at TSA checkpoints, merely formidable before the ban, became harrowing as people waited two or more hours. The unconstitutional, warrantless searches for moisturizers and mascara delayed thousands of passengers so long they missed their flights—if those flights actually took off. Hundreds were cancelled, thanks to the TSA's bedlam.

> Passengers pay the price, not only in the fees and taxes that allow the TSA to perpetrate this scam, but also in long lines and lost time, aggravation, frustration, and inconvenience—to say nothing of the ocean of liquids and gels we forfeit to the TSA.

All for a plot conjured by politicians' power lust, not terrorists' bloodlust. Even if the government's fevered imaginings had been real, the TSA had no reason to ban sunscreen and soda: "Officials" told the *Washington Post* they were "confident their security efforts in place at the time would have prevented the plotters from getting through security checkpoints at U.S. airports. But they said they couldn't take any chances and hastily enacted the ban early on Aug. 10."

There's plenty of research in the aviation industry on liquid explosives; perhaps the TSA's too busy groping grandmothers to study the literature so it can discern credible threats from comic-book ones. But let's pretend that the agency acted in good faith here, that it believed this tall tale of terrorism, and that it *wasn't* "confident its security efforts in place at the time" would have thwarted the threat. That explains, though it doesn't justify, the ban for the first few days—but years after the British authorities admit they hyperventilated?

Initially, the TSA prohibited all liquids and gels from carry-on bags. Passengers' outrage and mutiny soon softened that to the infamous "3-1-1 for carry-ons = 3-ounce bottle or less (by volume); 1 quart-sized, clear, plastic, zip-top bag; 1 bag per passenger placed in screening bin." But despite massive publicity and months of bagging gels and liquids, "3-1-1" continues to confuse: "After a year and a half, people still have no clue about the liquids (limitation)," Kimberly Kraynak, a screener in Pittsburgh, told *USA Today*. That means the TSA continues to rob passengers daily of thousands of dollars in cosmetics, toiletries, and beverages, even uncorked bottles of wine.

Perhaps "people still have no clue" because 3-1-1 makes no sense, as countless commentators and passengers have pointed out. It pesters but does not protect. Anyone determined to sabotage a flight could fill a few three-ounce bottles with gasoline, lighter fluid, or any other common flammable; this would be especially effective if several terrorists booked the same flight.

The plot on which the TSA bases 3-1-1 was a fraud, as even the British government admitted. And the TSA's extreme reaction to it was overkill, as even the agency admitted to the *Washington Post* (see above). Yet the TSA refuses to leave the bunker and rejoin reality.

It still insists that terrorists are trying to sneak liquids onto planes for bathroom bomb-making, despite experts' blowing so many holes in this claim it looks like Swiss cheese.

All the debunking hasn't swayed TSA chief Kip Hawley. In September 2007 he repeated this line to columnist Joe Sharkey at the *New York Times.* Sharkey swallowed it whole, holes and all, then passed it on to the rest of us: "... Mr. Hawley explained that ... the liquids explosion plot was 'chillingly real.'" Hawley also tried to rationalize 3-1-1 by claiming that "the science ... is clear. [He said,] 'With certain explosives you need to have a certain critical diameter [amount] in order to achieve an explosion that will cause a certain amount of damage. The size of the container itself ... is part of the security measure.'"

The following month he assured the International Air Transport Association, "This plot was real. It was imminent." But how imminent was it if most of the "terrorists" had no tickets?

The TSA's parent bureaucracy, the Department of Homeland Security (DHS), also swore that ten planes had narrowly escaped a cataclysm. DHS Secretary Michael Chertoff told ABC News, "I think that the plot, in terms of its intent, was looking at devastation on a scale that would have rivaled 9/11. ... [T]he time frame within which the attack was going to take place, would not be a matter of months but ... a matter of weeks or even days. ... [W]e're going to be back and forth with terrorists on this kind of cat-and-mouse process for years to come." So of course we'll need the DHS for years to come at $40 billion annually.

Who Pays?

Meanwhile, we ignorant passengers scorn "3-1-1" because we can't concentrate for longer than 15 seconds: Hawley told the *Times*, "[The science] is incredibly complex and doesn't lend itself to a sound bite. And we've certainly paid the price for that."

Actually, passengers pay the price, not only in the fees and taxes that allow the TSA to perpetrate this scam, but also in long lines and lost time, aggravation, frustration, and inconvenience—to say nothing of the ocean of liquids and gels we forfeit to the TSA. And we'll continue to pay because the TSA is too arrogant to admit its mistake, according to its website: "It is unlikely that we will make changes [to 3-1-1] in the near future. These changes [allowing three ounces of liquids and gels as opposed to none at all] represent a sustainable level of security for the TSA, passengers, airports and airlines."

Another consequence of 3-1-1 is that more passengers are checking more bags so that they can shave and brush their teeth when they reach their destinations. All that gives the airlines a new excuse for losing luggage, according to the *Washington Post*: "In 2002, 3.84 reports of mishandled bags were filed per 1,000 passengers. In July [2007], the figure was 7.93. ... Airline representatives and analysts cite a variety of factors [to explain this]. Restrictions on gels and liquids in August 2006 have led to a surge in the number of checked bags."

Stress, inconvenience, and waste for passengers, and overloaded baggage systems for the airlines. In the government's hands, a cock-and-bull tale of terrorism is almost as dangerous as an actual bomb. FEE

Bailing Out Statism

BY SHELDON RICHMAN

The key to understanding the saga of Fannie Mae and Freddie Mac—the recently nationalized twin government-sponsored enterprises (GSEs) that dominate home financing—is this:

They were set up—intentionally—to *distort* the housing and mortgage markets. Government planners were not content to let voluntary exchange and spontaneous market forces configure those industries unmolested. So—holding the taxpayers hostage—they intervened.

Make no mistake: The collapse of Fannie and Freddie is *government social engineering predictably gone bad.*

In a *free* society supply and demand would govern markets. The demand for houses would be determined by people's preferences and the resources at their disposal. Supply would be determined by relative profit expectations—which is to say, by the demand for housing and the competing demand for the necessary inputs.

> Make no mistake: The collapse of Fannie and Freddie is government social engineering predictably gone bad.

A distortion occurs when government planners and rent-seeking corporate allies, under cover of humanitarian social policy, engineer a deviation from natural market outcomes. Dressed up as promotion of the American Dream through home ownership, the planners used political means—ultimately, the threat to imprison uncooperative taxpayers—to channel wealth to the construction, real-estate, and financial industries. The primary instruments of this social engineering were Fannie Mae, created as a government agency during the New Deal and—*cough*—"privatized" in 1968 to get it off budget, and Freddie Mac, created as a "private" GSE in 1970.

The GSEs don't make mortgage loans. Rather, using borrowed money, they buy mortgages from original lenders, encouraging banks to make more loans. Pooling lots of mortgages together, the GSEs create mortgage-backed securities (MBS). In fact, Freddie and Fannie created the secondary mortgage market that has come in for criticism since the subprime problem developed.

As economist Arnold Kling writes, "Whether it retains or sells the security, *the GSE bears the default risk* of the mortgages, which is the source of the recent crisis" (emphasis added).

Freddie's and Fannie's activities were designed to channel money to mortgage lenders so that they could loan widely, especially to people who might have been priced out of a fully private mortgage market. The system inevitably lowered lending standards and interest rates.

If these activities had been performed not by GSEs but by real private companies, they would have been subject to market checks. But they were not. *They're not called government-sponsored enterprises for nothing.* As such they have special advantages over private companies, permitting them to do things on a scale larger than would have occurred in a free market. They don't pay local and state taxes like other companies do, and they can get government loans. Moreover, as Kling puts it, "In both the mortgage insurance business and the portfolio lending business, the GSEs have two important advantages . . . [:] a lower risk premium and lower capital requirements." In brief, Fan and Fred could borrow money for less than private companies could because "investors believed that the GSEs would not be allowed to fail," Kling writes. This is the "implicit guarantee." (With the wink of an eye, the

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GSEs say their paper is not guaranteed. So why not hold their creditors to the letter of the contract?)

As for the lower capital requirements, Kling writes, "When banks engage in the mortgage insurance business or the portfolio lending business, they are required by their regulators to put more of their shareholders' funds at risk than the GSEs are. This makes it difficult for banks to compete with GSEs."

The result was a far more concentrated lending market and hence greater vulnerability to adverse changing conditions. Fan and Fred hold or insure $5.4 trillion in mortgage debt—half the national total—making the taxpayers ultimately responsible now that the GSEs are under federal conservatorship. Three-quarters of mortgages written these days are GSE-backed. So the government has just become the country's major mortgagee. It's ironic that after making the GSEs dominant, the government now wants to shrink their role in the mortgage industry beginning in 2010.

Not Greed But Incentives

We can see, then, that the GSEs' privileged status, which was intended to distort the housing and mortgage markets, did exactly that. The whole shaky structure was vulnerable to a deterioration in home values, to which the GSE system itself contributed. (Other things contributed to the run-up and collapse of home values in particular parts of the country, such as a broad social policy of encouraging banks to lend to un-creditworthy borrowers.) As of September, the GSEs had lost well over $10 billion since the mortgage meltdown occurred, and they were getting close to being unable to borrow enough money to roll over their debt. This and fear of a more general economic meltdown are what prompted the government to step in, exposing the taxpayers dramatically. The bailout was to begin with a billion-dollar infusion. Up to $200 billion has been promised. It will no doubt be more. Of course, the treasury secretary now has the author-ity to buy $700 billion worth of dubious mortgage-backed securities from struggling banks. Rev up those printing presses.

It's really an anticlimactic chapter in this story of putrid rent-seeking and political opportunism. The bailout of the GSEs' creditors creates a new round of the same moral hazard—encouraging recklessness by insuring it—that brought on the calamity in the first place. No one believed it would be the last bailout of those who are "too big to fail."

The current problems are commonly attributed to greed and irresponsibility. But this won't do. As Lawrence H. White notes, "Greed is a constant." Why did the consequences take so long to show up?

There was irresponsibility—but only because the government for decades has pursued a policy of relieving big companies of the responsibility that otherwise would have been imposed by market discipline and competition. Any promise to bail out companies, and any regulatory, tax, or trade policy that raises the barriers to entry for new competitors, sews the seeds of crisis.

Focusing on greed and irresponsibility misses the most basic point: *incentives*. In a truly free market—when business people know they must face the consequences of their actions—"greed" (whatever that may be) tends to create general benefits. ("It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest.") In a government-regulated and government-guaranteed environment, "greed" can inflict harm on innocents. Institutions determine whether self-serving action benefits or damages others. Institutions that respect freedom, property, and self-responsibility promote the general welfare. Institutions that forcibly transfer risk to the taxpayers, punish responsibility, and reward irresponsibility promote social and economic catastrophe.

Let's hear no more about the "laissez-faire" Republicans.

The *New York Times* was wrong. This was not "an extraordinary federal intervention in private enterprise." *It is the state bailing out statism.* As Oliver Hardy might have said, "Well, government, this is another fine mess you've gotten us into." Let's hear no more about the "laissez-faire" Republicans. That myth serves only to protect advocates of state intervention regardless of party. FEE

Michael Oakeshott on Rationalism in Politics

BY GENE CALLAHAN

The British philosopher and historian Michael Oakeshott is a curious figure in twentieth-century intellectual history. He is known mostly as a "conservative political theorist," although he rejected ideology and his conservatism was primarily temperamental. Furthermore, his work on politics was only a fraction of his output, which comprised idealist philosophy, aesthetics, religion, education, the philosophy of history, and even horse racing. His popularity reached its zenith in the 1950s and early 1960s, when he was well known on both sides of the Atlantic, appearing on the BBC and becoming the favorite philosopher at *National Review*. But he never seemed to seek popularity, and did little or nothing to boost his own when it subsequently faded. Today, despite the growing interest in Oakeshott since his death in 1990, even his best-recognized work, his essay "Rationalism in Politics," is, I contend, not appreciated widely enough—thus, this article.

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One noteworthy aspect of Oakeshott's work on rationalism, which I address initially because it often has been misunderstood or denied, is that it is not an ideological platform, not an endorsement of conservatism, liberalism, libertarianism, or any other political stance. In "Rationalism in Politics" he explicitly points out that rationalism is a primary ingredient in all of the major brands of modern politics, having "come to colour the ideas, not merely of one, but of all political persuasions, and to flow over every party line." Oakeshott even accused F.A. Hayek, who might seem to be his natural ally, of responding to the proposals for improving society according to a "rational" plan with a rationalist system of his own: "This is, perhaps, the main significance of Hayek's *Road to Serfdom*—not the cogency of his doctrine, but the fact that it is a doctrine. A plan to resist all planning may be better than its opposite, but it belongs to the same style of politics," he writes.

Oakeshott's Critique

So what is the substance of Oakeshott's critique of rationalism? As he saw it, the primary feature of the rationalist approach is the belief that the essentials of any human practice can be conveyed adequately by means of a "guidebook" comprising explicitly stated rules, formalized technical procedures, and general abstract principles. Such a belief implies that understanding a theoretical model for some subject is all that is required for its mastery. Indeed, to attend to other features of a practice, such as experienced participants' rules of thumb or tacit understandings on how to proceed in the domain, could serve only to impede the necessary rational reconstruction of the subject in question.

To the contrary, Oakeshott argues that the rationalist, in awarding theory primacy over practice, has gotten things exactly backwards: The theoretical understanding

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of some activity is always the child of practical know-how, and never its parent. In fact, he sees the dependence of theory on practice as being so unavoidable that not only is the rationalist incapable of skillful performances guided solely by theory, he is not even able to stick to his purported guidelines while performing poorly. Instead he inevitably will fall back on some tradition of how to proceed in order to give context to his abstract instructions. (This is similar to Wittgenstein's insight that every attempt to follow a set of formalized rules necessarily is grounded on informal customs and practices that determine what it *means* to follow a rule "correctly"—the formal rules cannot also embody their own, "correct" interpretation because any effort to incorporate that interpretation into the first-level rules would create a set of "meta-rules" themselves requiring meta-meta-rules to guide the interpretation of the meta-rules, and so on, in an infinite regress.)

Oakeshott argues that the rationalist, in awarding theory primacy over practice, has gotten things exactly backwards: The theoretical understanding of some activity is always the child of practical know-how, and never its parent.

Oakeshott contends that the essence of an accomplished practitioner's skill cannot be conveyed to a neophyte through explicit technical instructions, but instead must be learned tacitly, during a period of intimate apprenticeship. The formal rules purported to underlie success in an activity merely present an abstraction from the concrete and formally unspecifiable knowledge possessed by the true master, who may offer such an explicit set of precepts as a rough surface map of his deep sea of experience-born proficiency, useful so that the beginner does not feel lost when first venturing into those waters, but hopelessly inadequate as a guide to their depths.

To offer a concrete example, the rationalist cook is oblivious to the years that the skilled chef has spent establishing intimate relationships with his ingredients and tools, and tries to get by in the kitchen solely with what he can glean from a cookbook. As a result, he botches most of the dishes he attempts. However, his repeated failures typically do not lead him to suspect that his fundamental method of proceeding might be faulty. Instead, each disappointment only spurs the rationalist to search for a new, improved, and even more "rational" book of recipes.

Influence of Rationalism

Despite that modus operandi being no more workable in political activity than it is in cooking, Oakeshott points out that rationalism has had its greatest influence in the arena of politics: "But what, at first sight, is remarkable, is that politics should have been earlier and more fully engulfed by the tidal wave [of rationalism] than any other human activity. The hold of Rationalism upon most departments of life has varied in its firmness during the last four centuries but in politics it has steadily increased and is stronger now than at any earlier time."

The preeminence that Oakeshott assigns to rationalist influence in modern political life may appear to be at odds with his assertion that the rationalist can never actually realize his program, but will always, in fact, wind up acting more or less along lines indicated by some existing practice. However, Oakeshott's contention that the rationalist never really can proceed according to her avowed principles does not mean that her attempt to adhere to them will be inconsequential, but only that it will not succeed.

An analogy may be helpful here: A person who tries to fly by vigorously flapping his arms whenever he walks surely will fail to achieve his goal, but, in the endeavor, he will succeed in making his perambulations much more tiring, awkward, and comical. Similarly, since the pronouncements of the rationalist disparage current practices, customs, and morals, insofar as they do not follow from his rational deliberations about how his society *ought* to be ordered, they will erode the spontaneous ease of the communal life that those traditions nourished, while offering in its stead only the artificial routines and regulations of a "rational" bureaucracy. Oakeshott offers this example: "First, we do our best to destroy parental authority (because of its alleged abuse), then we sentimentally deplore the scarcity of 'good homes', and we end by creating substitutes which complete the work of destruction."

Oakeshott's view of the rationalist project as fundamentally misguided does not imply that all traditional practices are sacrosanct or even that they all are laudable. There is plenty of room in any healthy tradition for innovations and reforms, so long as those alterations spring from an appreciation of the life of that tradition, rather than representing an attempt to wipe it out and replace it with an abstract scheme. Traditions are like living organisms, in that both ought to and usually do grow and adapt in response to their external circumstances and internal tensions, or, failing to do so, soon cease to exist. But those adaptations, if they are to meet the challenges presented by novel situations successfully, must not promote the deterioration of the very organic order they purport to be serving. The political theorist can serve to diagnose and treat ills in his polity much like a physician does in his patients. But, as Oakeshott notes in his *Lectures in the History of Political Thought*, "[T]o cure is not to transform, it is not to turn the patient into a different sort of being; it is to restore to him such health as he is naturally capable of enjoying." Because the rationalist physician attempts to transform rather than merely heal his charge, his treatments are likely to do far more harm than good.

Traditions are like living organisms, in that both ought to and usually do grow and adapt in response to their external circumstances and internal tensions, or, failing to do so, soon cease to exist.

Unfortunately, the "rationalist chef's" counterpart in social reform similarly is inclined to interpret the social maladies produced by his projects not as evidence of any problem with his basic premises, but, quite to the contrary, as signaling the need for an even more energetic and thorough implementation of rationalist social engineering. This explains the tendency, noted by Ludwig von Mises, Hayek, Sandy Ikeda, and others, for each intervention in the economy to prompt yet further interventions. And the engineering metaphor itself encourages the planners to regard the rest of the citizenry as parts of a machine, cogs to be readjusted and rearranged as called for by each new blueprint, each drawn up to fix the problems generated by its predecessor. Since most people are disinclined to acquiesce to a life in which they are constrained to behave as an externally controlled mechanical device, the breakdown of each new, rationalist design for society is the predictable result.

In *On Human Conduct*, published in 1975, Oakeshott presents a dichotomy similar to that between the "rationalist" and the "traditionalist" found in his earlier works, which is worth discussing here for the additional light it sheds on his ideas. He opens the book with a meditation on the nature of theorizing. As he concludes that section, he segues into the discussion of the practice/theory dichotomy by noting the debt his ideas on theory owe to Plato's analysis of the same topic, especially to the famous metaphor of the cave presented in *The Republic*. Given that similarity, Oakeshott wishes to note an important difference.

As Oakeshott understands Plato, the cave dwellers represent those individuals whose conceptual horizon is bound within the world of practical affairs. Plato was correct, in Oakeshott's view, in holding that, because such people fail to recognize the limited nature of the practical understanding of reality—instead mistakenly accepting it as the only possible mode of comprehending experience—they therefore have, in effect, imprisoned themselves within its confines (Plato's cave). And Plato also was accurate in regarding the understanding of the theorist—in that it represents at least an attempt to transcend those limits—as offering, in a sense, a higher form of knowledge than that gained by the solely practical thinker.

However, Oakeshott argues, contra Plato, the truth that the practical understanding of the world is inherently limited does not imply that what it yields it is not really knowledge at all, only that it is knowledge within a restricted domain. Moreover, quite crucially for Oakeshott, the superiority of theoretical knowledge over its practical counterpart in no way means that the former can replace the latter for dealing with the practical world.

As knowledge of the realm of the shadows is a real and hard-won achievement, the theorist goes gravely astray when he relies on his theoretical insights to issue directives to the practitioner, ridiculously trying to "set straight" the practical man on matters with which the theorist has no familiarity. The cave dwellers, first encountering the theorist on his return, might be impressed "when he tells them that what they had always thought of as 'a horse' is not what they suppose it to be . . . but is, on the contrary, a modification of the attributes of God. . . . But if he were to tell them that, in virtue of his more profound understanding of the nature of horses, he is a more expert horse-man, horse-chandler, or stable boy than they (in their ignorance) could ever hope to be, and when it becomes clear that his new learning has lost him the ability to tell one end of a horse from the other . . . [then] before long the more perceptive of the cave-dwellers [will] begin to suspect that, after all, he [is] not an interesting theorist but a fuddled and pretentious 'theoretician' who should be sent on his travels again, or accommodated in a quiet home."

Rationalist urban planning

This passage provides a fresh perspective from which one can contemplate the character of the rationalist and perceive how it is that he has gone astray. Here the modern rationalist is understood as a "theoretician" who is reiterating Plato's ancient misstep. Furthermore, Oakeshott now offers a more sympathetic picture of the rationalist than in his earlier, more polemical essays—the reader can appreciate how easy it is to fall into the error of rationalism, since the theorist really has broken through to a higher form of knowledge, and it is quite understandable that, elated by his achievement, he mistakenly concludes that theory ought to be the unquestioned master of practice. But while this model of rationalism significantly enriches the one put forward in the earlier essays, it does not contradict their central thesis.

"Rational" Urban Planning

A real-world example of the sorry effects of the rationalist mentality on society can be drawn from the works of the famed analyst of urban life, Jane Jacobs. Her detailed description of healthy urban neighborhoods is based on her close observation of them, not on armchair theorizing.

Unlike Jacobs, mid-twentieth-century urban planners, possessed by the rationalist mindset, looked at city tenements and saw only chaos. The residents of such neighborhoods were subjected to the noisy activities of industry and commerce, disturbing their peace. Their children, living in densely built-up districts, were forced to play *on the sidewalks*! What these people lacked was fresh air, sunshine, green spaces, and quiet. As Oakeshott predicted, the planners could not really free their thoughts from the world of practice—instead, what they actually tried to do was create a likeness of their own wealthy, suburban lives in the context of poor neighborhoods, completely ignoring the differences that made suburban life workable, such as greater wealth, ubiquitous ownership of automobiles, lower population densities, more homogeneous populations, the relative absence of strangers passing through the neighborhood, and so on.

Therefore, these planners claimed, the "obvious" solution to the discomforts of ghetto life was to tear down these "slums" en masse and in their place erect purely residential complexes, consisting of high rises separated by wide swaths of grass and trees—in other words, the giant housing projects of the 1950s and '60s. As Jacobs noted, the rationalist planners, blind to the concrete reality of tenement life, failed to realize that the mix of businesses and residences increased the safety of the residents by providing "eyes on the street." The neighborhood shopkeeper, who knows all the residents, is out sweeping his sidewalk early in the morning, the workers going to and from their jobs provide a steady stream of pedestrians, and even the neighborhood bar ensures that the streets are not deserted until the wee hours of the morning. Parents transporting their children to and from school appear on the street. Mothers with preschool children head to the parks, workers come out to eat lunch in them, and shoppers come and go from area stores.

The children playing on the sidewalks could be monitored easily by all of these people, many of whom knew them, as well as their parents, leaning out the second-story window to shout, "Johnny, cut that nonsense out!"

By contrast, the new, "rational" housing projects were empty of life around the buildings for most of the day. The basketball court and the lovely green parks were unsupervised because there was no one around. The mother, now living up in her 30th-floor modern apartment, was completely unable to watch over her children's play if she let them go down to those "recreational" spaces. The result is well-known. The community ties of the bulldozed tenements were shattered, the spaces around the high rises became the domain of drug dealers and muggers, and the rationally designed inner cities of the late 60s exploded with crime and waves of riots.

The effects of rationalism in Nazi Germany, Soviet Russia, Cambodia, and communist China were even more extreme, of course, leading to the deaths of millions upon millions of people in the twentieth century. But I offer the above example from Jacobs because I think it is important to see the relevance of Oakeshott's work in a more familiar and less obviously rationalist society.

Lovers of liberty should keep Oakeshott's work on rationalism in mind for at least two reasons. First, it offers a complementary but still significantly different critique of planning to those of Mises and Hayek. However, at the same time, it provides a warning to the advocates of freedom not to fall into the rationalist quagmire themselves. The relevance of the latter point is demonstrated by, for example, the tendency of many development economists, even those who are "market oriented," to attempt to impose their theoretical schemes for taking a shortcut to westernization on some Third World country, while running roughshod over all the traditions, customs, and morals native to the place, which, whatever their shortcomings, at least managed to sustain the society in question over previous centuries. Freedom cannot be "imposed" on a people according to some preconceived scheme. We all need to watch out for "the rationalist within."

Gun Control: An Economic Analysis

BY SCOTT A. KJAR AND JASON ROBINSON

In Economics 101 we teach students about several fundamental concepts, including the relationship between means and ends, forward-looking behavior, the use of substitutes, opportunity cost, and the role of moral hazard. Further, we insist that these concepts can be used to help understand the world around us and have applicability far beyond the classroom.

Yet, all too often, students fail to apply these lessons to serious policy issues. Instead of applying economics, they get blinded by knee-jerk reactions, hysteria, or ideology, reducing serious issues to bumper-sticker slogans. Gun control is one such issue in which a serious economic analysis can provide an important perspective.

> Gun control is one such issue in which a serious economic analysis can provide an important perspective.

The public debate over gun control flares up following horrific incidents such as the 1999 Columbine High School shooting (15 victims), the 2005 Red Lake High School shooting (ten victims), or the 2007 Virginia Tech shooting (33 victims). Gun-control advocates immediately call for tighter restrictions or outright bans, while gun-ownership advocates begin quoting the Second Amendment to the Constitution or making claims about prying guns from their cold, dead fingers. The same arguments are rehashed, but no one applies basic economics to the issue.

Ends and Means

Let's recognize that in all of these cases, the killers have ends, or things they wish to accomplish. Those ends are generally obvious: they want to *kill* people. To accomplish those ends, they begin acquiring means in advance. They buy guns, bullets, chains, locks, flak jackets, and so forth. Further, they frequently begin documenting their plans well in advance. In other words, the killers engage in forward-looking behavior.

After these events gun-control advocates generally decry the role played by guns and insist that had the shooters not owned guns, they could not have shot their victims. This is undeniably true. However, that is a far cry from claiming that without guns they would not have been able to *kill* their victims. These well-intentioned gun-control advocates never consider the common-sense economic concept of *substitutes*.

Substitutes are goods that can replace each other, or alternate means to achieve the same ends. On a cold morning I can drink hot coffee or hot tea. To get to work I can drive a car or take public transportation. For entertainment I can watch television or go out to a movie. If government were to ban coffee I could still satisfy my desire for a hot beverage in the morning. If there were no public transportation I could still get to work. If all movie theaters were torn down I would still have entertainment choices. Eliminating a single means does not eliminate the end. Further, when there are myriad substitutes to the same end—driving, taking the bus, taking the subway, riding a bike, walking, running, hitchhiking, skateboarding, roller skating, riding a motorcycle, riding a horse—eliminating a sin-

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gle means does not preclude the acting individual from achieving that end.

So it is with gun control and mass killing. The killers at Columbine and Virginia Tech all planned their activities in advance, acquiring resources and determining where, when, and how to strike. Had one method of killing been foreclosed to them, they could simply have found substitutes. In other words, even had they been unable to acquire guns, they still could have achieved their ends of killing their classmates and teachers.

So what are possible substitute goods available to these killers? For starters, they could have used machetes. Now, such weapons may sound exotic or hard to acquire, but they're not. One of us grew up in a small town in Iowa, and every summer he would "walk beans." This field labor involves several teenagers walking up and down the rows of a bean field with a "corn knife"—a wooden handle with an 18-inch blade. The boys would hack at any corn that grew in the bean field. Every teenage boy (and many girls) in the area had a corn knife.

So imagine a would-be killer armed with that kind of weapon. It would be harder for him to walk into a roomful of people, since others could overpower him. But it would be easy enough to use it and kill people in isolated circumstances—for example, in the laundry room, in the bathroom, in a library carrel. An assailant could rack up a large number of victims before anyone found out that he was on the rampage. The lack of a gun would not be sufficient to prevent a dozen or more deaths.

On a school campus a forward-looking potential mass killer could figure out a way to deliver poison into the water system, murdering a large number of people without having to resort to guns. Perhaps the easiest option involves a high-speed car. Occasionally, we read about some person who loses control of a car and hits a crowd of pedestrians, injuring or killing them. It is no great stretch of the imagination to consider that a would-be killer could do this on purpose. In fact, this could be done several times in short order, driving at high speed into a crowd outside one building and then leaving the scene in order to do it again outside another building. Campus pedestrian flows are predictable; it would be easy to injure or kill dozens of people in this manner.

Further, it is not unusual to read about car bombs and other terrorist activities all over the world. Such things occur on a regular basis, killing or wounding dozens of people. In fact, this type of mass killing occurs so frequently that we are nearly immune to news of it. By contrast, mass shootings are so unusual that we are always affected by them.

Substitutes occur not just in goods, but also in government policies. In 1981 Morton Grove, Illinois, passed a handgun ban. Partly in response, in 1982 the city council of Kennesaw, Georgia, passed an ordinance *requiring* every home to have at least one gun. The town substituted a mandatory-gun policy for a no-gun policy. Currently, the crime rate in Kennesaw is lower than the crime rate for its neighbors that do not have similar policies.

Mass shootings are so unusual that we are always affected by them.

Given the reduction in crime in Kennesaw, it seems that criminals also recognize the role played by substitutes. When choosing where to engage in crime, criminals are apparently substituting neighboring towns, such as Marietta, Smyrna, and Alpharetta, for Kennesaw.

Underlying Concepts

Many schools have policies against firearms on campus. These policies exemplify another pair of key economics concepts: *moral hazard* and *information asymmetry*. Moral hazard occurs when one party is not fully liable for negative consequences of his actions. For example, if you have car insurance that does not cover theft, you are likely to be diligent about locking your car, parking in a safe area, or using Lojack or some other theft-recovery system. But if your car insurance covers theft, you may be less diligent, since you will get a new car if the current one is stolen.

When a school has an anti-firearm policy, the policymakers are not the ones who must suffer the negative consequences. If a would-be killer arrives at school and discovers everyone else unarmed—students, faculty, and staff—the would-be killer is likely to be successful at creating mayhem and death. Yet the policymakers are not the ones at risk. The school board passes the policy, but the school board is not on the front lines next to the students, faculty, and staff when the would-be killer arrives. This is an example of moral hazard.

Information asymmetry occurs when one party to a transaction has more information than the other party and uses the difference to exploit the other party. Suppose, for example, I have a house for sale. I want to sell it because every time it rains, the basement fills with 3 feet of water. However, no one else knows this fact, and when you make an offer on the house I neglect to inform you of the problem. Had you been aware of it you would have acted differently in our negotiation, or perhaps you would not have made an offer at all.

When an educational institution posts signs proclaiming a gun-free environment, they convey the message to students that they may have less fear of being shot. However, they convey the same message to the potential mass killer. The killers at Columbine and Virginia Tech had no fear of facing resistance by armed students or teachers because they were on gun-free campuses. The killers knew who had guns (they did) and who didn't (everyone else), but no one else knew that. This information asymmetry allowed the killers to be far deadlier than they otherwise could have been.

> The hijackings of 9/11 were themselves substitute terrorist activities.

So suppose these campuses had been pro-gun zones instead of anti-gun zones. Suppose the killers had faced the prospect of confronting armed opponents instead of unarmed victims. Note that this policy difference does not change the killers' ends. However, it makes clear that the killer is far less likely to achieve those ends, regardless of the means selected. At some point, as risk rises and reward falls, even a would-be killer chooses to substitute video games and animated carnage for a murderous rampage and real carnage.

Again, we could explore the role of substitutes in the defense of the potential victims. A student with a black belt in martial arts can handle herself in dangerous situations, but the cost involves years of preparation, the expense of lessons, and the forgoing of many other activities. A student with a calculator and a notebook, on the other hand, has almost no defense against any sort of aggressor. A physically large student has certain natural advantages, but a small student is at greater risk. But for all potential victims, a firearm is a great equalizer. Whether the student knows karate, is large or small, male or female does not matter. All students can be very effective in defense with a firearm.

9/11

Let's even consider 9/11. Several groups of hijackers had their ends and their means. They intended to hijack planes to crash them into key targets such as the World Trade Center (WTC) and Pentagon in order to cause death, panic, and terror. Unlike the hijackers, the law-abiding citizens on board those planes had no weapons. Had the hijackers faced the possibility of armed passengers, it seems unlikely that the terrorist plot would have even been carried out, much less carried out with such success.

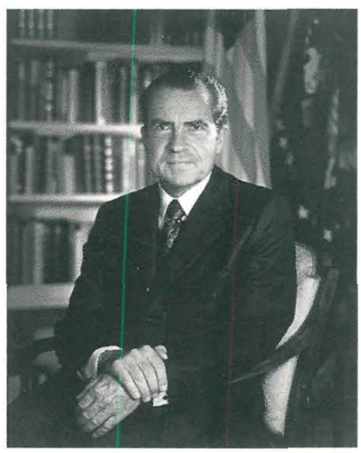
For that matter, the hijackings of 9/11 were themselves substitute terrorist activities. In 1993 terrorists detonated a bomb in the WTC's underground parking structure in an attempt to topple the building and cause a chain reaction, with one tall building falling against another, thereby creating maximum damage and death. The bomb detonated, but the WTC did not fall. The failure of the blast did not change the terrorists' ends; it merely led them to consider alternate means.

As with so many other issues, the issues of mass killing and gun control can be evaluated using basic economic concepts. Once we explore the ideas of substitutes, means and ends, moral hazard, and information asymmetry, we see that economic realities arise regardless of the wishes of well-intentioned people who call for restrictions on market behavior. Gun control will not solve the problems of society. It will only lead would-be killers to use substitutes. FEE

Nixon's New Economic Plan

BY ROBERT HIGGS

Richard Nixon had a crisis mentality. In 1962, unhappily out of public office, he wrote an autobiographical account entitled *Six Crises*. Whereas some presidents have faced real crises, however, Nixon's were more the product of his personal sense of siege. As president he twice declared a state of national emergency, first on March 23, 1970, in response to a strike by postal workers and then on August 15, 1971, when balance-of-payments problems, among other things, led him to adopt an important set of policies called the New Economic Plan. (Whether any of the President's advisers appreciated that the same name had been given to the policies implemented by Soviet dictator Vladimir Lenin in 1921, I do not know, but someone should have known.)



Richard M. Nixon
National Archives

Like most incumbent politicians, Nixon gladly took advantage of crises to augment his power, but he did not simply sit waiting for an emergency to come along. For him, the risk that he might not be reelected was crisis enough. According to his economic adviser Herbert Stein, he "tended to worry exceedingly about his reelection prospects and so to feel impelled to extreme measures to assure his reelection." Years before the election of 1972, Nixon and his aides began to scheme how they could maximize the likelihood of his reelection by manipulating the economy and creating as much apparent prosperity as possible before election day.

The New Economic Plan included several important elements, as described in the 1972 *Annual Report of the Council of Economic Advisers*: "The United States suspended the convertibility of the dollar into gold or other reserve assets, for the first time since 1934. It imposed a temporary surcharge, generally at the rate of 10 percent, on dutiable imports. Prices, wages, and rents were frozen for 90 days, to be followed by a more flexible and durable—but still temporary—system of mandatory controls." In no way did this set of policies reflect sound economic principles. Political expediency was its sole driving force.

Price Controls

Nothing illustrates Nixon's political opportunism better than his imposition of mandatory controls over wages, prices, and rents. The President, who had served as a low-level functionary in the Office of Price Administration during World War II, had often expressed an aversion to price controls, which, he declared during the campaign of 1968, "can never be administered equitably and are not compatible with a free economy." Yet, as James Reichley has observed, Nixon was "not prepared to take extreme political risks for the sake of economic dogmas." Having convinced himself that his defeat in the presidential election of 1960 had resulted from the Eisenhower administration's failure to generate favorable macroeconomic conditions on the eve of the election, Nixon was determined not to suffer again from the same kind of mistake. His latent fears were sharply aroused in 1970 and 1971, when the new administration's restrictive fiscal and monetary policies had a more immediate effect in raising the rate of unemployment than in reducing the rate of inflation.

Impatient that the government's macroeconomic policies seemed to be working so slowly, many politi-

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cally important people began to call for direct price controls: Union leaders, big businessmen, members of Congress, potential presidential candidates in the next election, high-ranking economists in the treasury department, even Federal Reserve Board chairman Arthur Burns—all prodded the president to impose an "incomes policy" because, as Burns put it, "the rules of economics are not working in quite the way they used to." Congress, as if daring Nixon to do what he insisted he would never do, passed the Economic Stabilization Act, authorizing the President to control all prices, wages, and rents. Nixon signed the bill with apparent reluctance on August 17, 1970.

Late in 1970 the appointment of the flamboyant John Connally as secretary of the treasury and his subsequent designation as the administration's chief economic spokesman tipped the balance toward more controls. Connally had few economic scruples; he specialized in dramatic political gestures, favoring, in Nixon's football metaphor, the "big play." He supported the imposition of controls because he thought it would appeal to the public as a sweeping, take-charge action by the President.

Nixon liked that aspect of the controls. As he later wrote in his memoirs, imposition of the controls "was politically necessary and immediately popular in the short run." Indeed it was. The stock markets soared. As Stein noted, "The Dow-Jones Average rose 32.9 points on Monday after the President's announcement—the biggest one-day increase up to that point." Opinion polls indicated a huge preponderance of approval of the President's action, a response that showed, in Stein's view, "how shallow was the general support in principle for the basic characteristics of a free market economy." A year later, with rigorous controls still in force, Nixon was reelected by a huge margin.

Do Price Controls Work?

Economists, with notable exceptions, can be relied on to testify that price controls "don't work," and in the sense that economists have in mind—actually reducing inflation, not simply suppressing its manifestations—their conclusion is correct. From a political perspective, however, this claim misses the point. Price controls do work—to gain short-run political support for the politicians who impose them. The public seems never to learn that it is being sold a faulty political product. As Stein remarked, even after all of the economic disruptions, artificial scarcities, and inequities of Nixon's price-control program, which finally ended on April 30, 1974, "the experience did not leave the country with a strong commitment to the free market, monetarist way of restraining inflation. The attraction of the direct approach remained." Only four years later, the Carter administration yielded to political temptation and imposed another incomes policy, albeit a half-hearted one entirely reliant on indirect sanctions rather than legal penalties.

The most important legacy of Nixon's wage-price-rent control program was the government's energy price controls and allocations that persisted long after the comprehensive price controls had expired. When the first "energy crisis" struck, the administration was looking forward to disengagement from its no-longer-useful incomes policy. But given the lingering presence of the price controls, the Arab oil embargo and the OPEC price hikes of late 1973 and early 1974 quickly led in many areas to short supplies that were rationed mainly by the customers' waiting in the infamous gas lines. The inconvenience and uncertainty were more than the American public could bear. There immediately arose, in William Simon's words, "collective hysteria. . . . The political heat was on both Congress and the executive to solve the problem overnight."

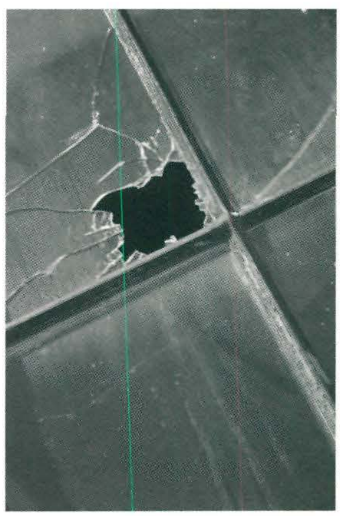
Congress "solved" the problem, all right, as anyone who endured the manifold foul-ups of the two "energy crises" (1973–74 and 1979–80) will recall. Only with Ronald Reagan's election and the scrapping of all oil-price controls was the mess permitted to clean itself up through market processes. Even then, however, a complex system of price controls lingered for natural gas, a political dragon too fearful for even Sir Ronald to slay. Not until 1993 were these controls terminated fully. FEE

Taxation as Vandalism

BY LACHLAN MARKAY

Imagine a small town with only a few small businesses. The best, most prosperous business is the general store, which sells citizens many of their daily necessities. Just across the street is a shop that sells and installs windows. Unlike the general store, the window shop is not doing well at all. The town is policed by one sheriff, an idealistic man who believes that it is not only his right, but his duty, to do what is best for his community to ensure the safety and happiness of all its residents to the best of his ability.

The sheriff is patrolling his town one day when he walks between the general store and the window shop, across the street from each other, and sees that the latter is in shambles, while the former is thriving. This situation strikes him as quite unfair. Why, he asks himself, should the proprietors of these two stores, who (he presumes) spent comparable amounts of time and money in building their businesses, be separated by a large and growing disparity in their wealth and consequently their living conditions?



The sheriff decides he will take it upon himself to remedy the situation—to level the playing field—so he puts a brick through each of the general store's windows. The window store is immediately flooded with business replacing all the general store's damaged property. The sheriff is satisfied. He has succeeded in spurring the business of a struggling entrepreneur. His town is once again in harmony.

A month or so later the sheriff is walking the same beat. He notices that once again the general store, having recovered from the vandalism of the previous month, is maintaining a healthy business, while the window store is once again struggling. He decides to repeat his previous actions, once again tossing a brick through each of the former's windows. And once again, the window store's business surges as it is charged with replacing the damaged panes in the general store.

But the sheriff realizes that, left to its own devices, the general store will once again recover and resume its thriving business, while the window shop will again falter. So he decides to repeat his window-breaking routine every so often. By doing so, he reasons, he will be supporting an industry that would otherwise fail. He acknowledges the price that the general store will have to pay, but immediately dismisses this thought, realizing that such a thriving business certainly has the money to replace its windows every now and again.

Before this rampage of vandalism by the community's civil servant, the owner of the general store had been contemplating ways in which to reinvest the revenue that his business was creating. He boiled the situation down to two options. On the one hand, he had been considering an expansion of his facilities. His business had been doing so well that he began to buy more products of more varieties, and, after a while, needed additional storage and shelf space. On the other hand, he thought,

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he owed much of his success to the hard work of his dedicated employees and felt they deserved a pay raise.

But before he could decide which of the alternatives suited him better, someone had begun to break the windows of his shop regularly. Although his business was not at risk, the costs associated with replacing the windows added up. He had to forgo his plans either for a physical expansion of his business or a bonus for his employees. (See Frédéric Bastiat's discussion of the "broken-window fallacy.")

After numerous occasions of vandalism at his shop, the owner of the general store goes to the sheriff and explains to him that the costs of replacing his shop's windows are hampering his business and that he would like the sheriff to investigate. Much to the shopkeeper's surprise, the sheriff admits that he, in fact, has been wreaking the destruction on the general store. The sheriff explains his logic, telling the owner that if those windows had not been broken, the business across the street would have gone belly up. As an officer of the law, the sheriff continues, he is charged with safeguarding the public—providing not just physical protection, but financial protection as well. He says that he cannot very well sit idly by and watch as members of the community who have entrusted their well-being to him are driven out of business and forced into poverty.

The general-store owner protests, but what can he do? Under threat of force (that is, of the law) he is told that he must endure the violation and destruction of his personal property for the benefit of the community. The sheriff continues to hurl bricks through the general-store window, and eventually the owner learns to live with this nuisance. Rather than expand his business—and the public service that it offers—or pay his employees more, he is forced to endure the oppression of the law for the sake of a business that could not survive on its own.

This is the crime of the state. Pragmatically, taxation is the enemy of innovation, the broken window in the general store. Philosophically, taxation is the moral—and universalized, or at least nationalized—equivalent of the sheriff's vandalism. The state feels, in the service of the public, that it must violate the property of some for the benefit of others.

One need not advocate anarchism, however, to see the problems inherent in such a policy. Taxation arguably serves its purpose in providing public services. If the sheriff had restricted his duties to the physical protection of the community's citizens, he would have been doing his job aptly. Likewise, the role of government must be restricted to the protection of the life, liberty, and property of its citizens. The state oversteps its bounds, however, when it violates one of those three rights—as the sheriff did, and as the federal government of the United States does—even for the benefit of others.

> Pragmatically, taxation is the enemy of innovation, the broken window in the general store. Philosophically, taxation is the moral—and universalized, or at least nationalized—equivalent of the sheriff's vandalism.

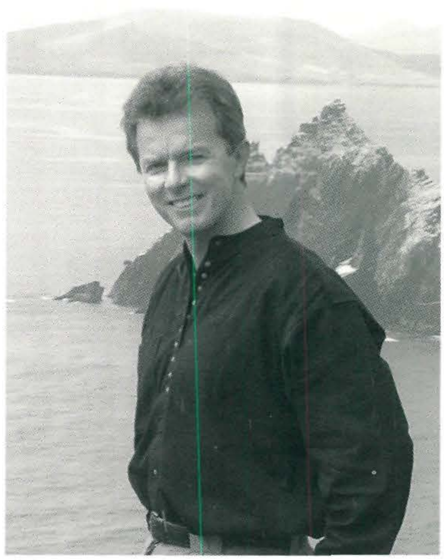
If the sheriff had not intervened, the owner of the window store may have realized that the community did not provide sufficient demand for his product for him to run a successful business. He could then have opened his own general store and competed with the one across the street. He could have vacated the building and rented it to the general-store owner, who needed additional space. But the sheriff's violation of the right to property, actions that embody the spirit of welfarism and coercive equality espoused by so many in our own government, cannot be justified on any terms.

The United States is moving dangerously close to (and has maybe even arrived at) a system under which those charged with protecting and trusted to honor our rights regularly violate them in the name of mindless rhetorical utopianism and forceful egalitarian mediocrity. FEE

In Praise of Educational Pluralism

BY DANNY SHAHAR

I often hear it said that if the government did not determine what our children are taught, we would have no way to assure they learned the right things. The idea here is that every child deserves a *proper* education and that, although government education has its share of problems, at least we can keep an eye on who is being allowed to teach and what they are teaching. The free market, on the other hand, would supposedly allow us no such control; schools could simply teach whatever they wanted, and our children might grow up thinking that up is down, black is white, and right is wrong.



Philosopher David Schmidtz
Photo: Cathleen Johnson

While this argument comes from the best of intentions, it is completely misguided for two basic reasons. The first, which has been widely discussed elsewhere, is that it gives an unreasonably pessimistic view of how a free-market education system would look. In a free market, competition would force producers to cater to their customers or risk losing business to other firms. This should lead us to expect that when customers are free to choose, producers will end up creating better products, not worse.

And in fact we can see this happening in the real world. For example, the success of graduates from particular universities reflects on the quality of the education there, so universities are constantly trying to better themselves and their current students in order to compete for the best students in the future. The same seems to be true of private and preparatory schools at the high-school level and below. Although the government funds a number of these schools, universities and private schools are generally permitted to make their own decisions about what they will teach and who will be doing the teaching. And yet we do not see these institutions systematically teaching their students poorly or indoctrinating them with false ideologies. On the contrary, it seems fair to say that these more laissez-faire systems generally perform far better than our centralized public school system.

But there is another reason to question the idea that governments must be involved to ensure that our children receive a proper education. That reason is that *there is no such thing as a proper education*. Different people have different conceptions about what kinds of lives they want to lead, what kind of knowledge is important, and how they want their children to be raised. These differences do not represent right and wrong. Rather, a free society will always be characterized by reasonable pluralism in values and worldviews. But if this is the case, then it seems the idea that we should all get together under one roof and democratically decide how to educate our children is a bad one. Instead, it's sensible to welcome a number of different approaches to education, with the crucial decisions

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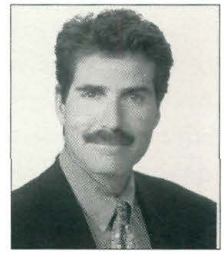
about how children are to be educated ultimately left to their parents. As philosopher David Schmidtz writes in *Elements of Justice*: "In effect, there are two ways to agree: We agree on what is correct, or on who has jurisdiction—who gets to decide. Freedom of religion took the latter form; we learned to be liberals in matters of religion, reaching consensus not on what to believe but on who gets to decide. So too with freedom of speech. Isn't it odd that our greatest successes in learning to live together stem not from agreeing on what is correct but from agreeing to let people decide for themselves?"

For far too long we have ignored the possibility that in a society which embraces freedom of belief, religion, and expression, it is best to respect people's freedom to decide for themselves how they want their children educated. I understand that some may feel shocked by the suggestion that they do not know what is best for everyone else's children. But for the rest of us, it is clear that the only fair and equitable solution to the differences in our values and worldviews is to reject the flawed model of centralized government education and to put the power to choose back in the hands of parents. FEE



What Happened to Market Discipline?

BY JOHN STOSSEL

During the late presidential campaign Barack Obama said, "[Today's economic problems are] a stark reminder of the failures of . . . an economic philosophy that sees any regulation at all as unwise and unnecessary."

What? Does that mean that until last fall the Bush administration embraced the free market? Nonsense. Governments at all levels have regulated and subsidized the housing and financial industries for years. Nothing changed under President Bush.

The government-backed Fannie Mae and Freddie Mac were created precisely to *interfere* with the housing and mortgage markets. In effect, Freddie and Fannie diverted money to people who wouldn't have qualified for mortgages in a real private market.

Had actual private companies performed these activities, they would have been subject to market checks. But they were not. The results were predictable.

Now that it's all tumbling down, the politicians and pundits blame the free market.

It's not simply misunderstanding. It's demagoguery by people who will never admit that their "progressive" social policies have spawned a taxpayer bill that boggles the mind.

For decades politicians of both parties have relieved big companies of the responsibility that market discipline would have imposed. The promise—explicit or implicit—to bail out companies "too big to fail" weakens market discipline. That invites recklessness.

This is a story not of private enterprise but of cynical political opportunism. Moral hazard—the poisonous mix of private profits and taxpayer-covered losses—is what you get when politicians indulge their hubris to redesign society. The bailout of those companies holding bad mortgages—big-business socialism—sets us up for the next crisis.

Could we count on the Republican presidential candidate to dissent? Not a chance.

John McCain said, "We are going to fight the greed and irresponsibility on Wall Street. These actions [leading to crisis] stem from failed regulation, reckless management and a casino culture on Wall Street. . . . We need strong and effective regulation. . . ."

He proposed a new bureaucracy, the Mortgage and Financial Institutions Trust (MFI), which he said would "provide troubled institutions with an orderly process to identify bad loans, provide funding and eventually sell them at a profit. . . . The MFI will supervise the sale of loan assets at market prices and *purchase them as necessary*" (emphasis added).

A government agency is going to buy bad loans and make a profit selling them. Give me a break!

Perverse Incentives

Irresponsibility induced by government-created perverse incentives is the culprit. For decades politicians of both parties have relieved big companies of the responsibility that market discipline would have imposed. The promise—explicit or implicit—to bail out companies "too big to fail" weakens market discipline. That invites recklessness.

John Stossel is co-anchor of ABC News' "20/20" and the author of Myths, Lies, and Downright Stupidity: Get Out the Shovel—Why Everything You Know is Wrong, *now in paperback.*

What if the government cut Freddie, Fannie, Bear, AIG, and the others loose and let them do what other businesses do in hard times: renegotiate with creditors and revalue assets? Would there have been another Great Depression? Not likely. What turned a recession into the Great Depression was the Federal Reserve's contraction of the money supply. I doubt they'd make that mistake twice.

Public officials say the big companies must be saved to prevent a devastating credit "lock." Really? Without a federal bailout, lending wouldn't have resumed? The market wouldn't have sorted it out? Prices wouldn't have found a more solid floor? We'll never know.

We do know that the taxpayer will buy—probably for too much money, because the private sellers will fool the government managers—at least $700 billion in "illiquid" assets. Where will this money come from: taxation, borrowing or the printing press? What will that do to our economic well-being?

Crisis is the friend of the State. The politicians are desperate to be seen as "showing leadership," so we're surely in for a new round of government interventions. Watch for the equivalent of the Sarbanes-Oxley Act. There'll be much posturing about how the new regulations "will keep this from ever happening again," but that's more nonsense because the root problem is not lack of regulation. It's government social engineering of the housing market, which will be unchanged.

This is the path to stagnation and poverty. As Nobel Laureate F.A. Hayek taught, markets are too complicated for planners to know enough to plan them. The relevant information, scattered unspoken among billions of market participants, is beyond the bureaucrats' reach.

We do need protection from reckless businessmen. But there is only one way to provide that: market discipline. That means no privileges and no bailouts. FEE

Capital Letters

How Rapidly Should the Money Supply Grow?

I would like to make one correction to Howard Baetjer's article "Inflation 101" (September). The author suggests that inflation results when the money supply expands faster than the rate at which goods and services are produced. The author correctly points out that this expansion of the money supply will lead to rising prices. But inflation exists even when prices are stable. Stable prices can mask underlying inflation if, absent an increase in the money supply, prices would actually have declined. In fact, for most of the nineteenth century, at a time of great industrial and agricultural expansion, prices declined. Price declines were then considered normal—the result of greater efficiencies in production—and a benefit of the industrial revolution.

Today we have come to see price increases as normal and fret when, in rare instances, general price levels actually decline. As Murray Rothbard pointed out, any increase in fiat money over the quantity of gold is inflationary. As a result, even when prices are stable, inflation may be at work robbing us of the benefits of improvements in technology and production.

—STEPHEN C. APOLITO
by e-mail

Howard Baetjer replies:

Your point that "Stable prices can mask underlying inflation if absent an increase in the money supply prices would actually have declined" is exactly correct. (My excuse: I left it out to keep the article from growing too long.) If, as you rightly point out about the nineteenth century, the output of goods and services grows more rapidly than the money supply *properly should grow*, then prices should gradually decrease, and that decrease would be perfectly consistent with a healthy economy.

The crucial question is *how fast should the money supply properly grow?* I agree with Murray Rothbard's aversion to government-issued fiat money, largely because I believe that governments and their central bankers cannot possibly know how large the money supply should be. I am persuaded by the work of such scholars as Lawrence White, George Selgin, and Steven Horwitz that the supply of money can be rightly determined only by a free-market process in which money is issued by competing private banks, whose customers are free to use what money they see fit.

I disagree, however, with (what I take to be) Murray Rothbard's claim that "any increase in [paper] money over the quantity of gold is inflationary." The key factor is not that the quantity of money supplied should grow no larger than the quantity of gold (or whatever other base-money commodity the market process might settle on), but that it should grow no larger than the quantity of money demanded.

That is, monetary equilibrium should be maintained: When people wish to hold more money, banks should create more money. When they wish to hold less, banks should extinguish some. I recommend George Selgin's *The Theory of Free Banking* for a fascinating description of how profit-and-loss incentives in free-market banking would naturally keep the money supply at or very near the "right" quantity.

We will print the most interesting and provocative letters we receive regarding articles in *The Freeman* and the issues they raise. Brevity is encouraged; longer letters may be edited because of space limitations. Address your letters to: *The Freeman*, FEE, 30 S. Broadway, Irvington-on-Hudson, NY 10533; e-mail: freeman@fee.org; fax: 914-591-8910.

Book Reviews

Falling Behind: How Rising Inequality Harms the Middle Class

by Robert H. Frank

University of California Press • 2007 • 160 pages • $19.95

Reviewed by Alan Reynolds

Robert Frank, a professor of economics at Cornell, has long argued that affluent Americans spend too much on conspicuous consumption, which he relabels "positional" goods. His favorite examples include big houses, expensive watches, barbecue grills, and wine. If Smith has more positional goods than Jones, then Jones is said to suffer "relative deprivation" because "what we feel we need depends on what others have." Poverty is relative too. A small house seemed "terrific," he explains, "when I was a Peace Corps volunteer in Nepal."

An affluent professor and consultant with a five-bedroom house and a taste for BMWs, Frank nevertheless boasts that he never spends much on wine and that he decided to eschew a costly Viking grill in favor of a cheap Weber.

How he spends his own money is his business. Unfortunately, Frank views everyone else's money as collective property: "Do we want to spend our money on better teachers, better roads, and enhanced national security? Or do we want to spend it on more expensive watches, more elaborate gas grills, and bigger mansions?" Everyone else's money becomes "our money."

"If we all pay more in taxes," he urges, "then we'll all have less available for private consumption and then we won't feel as though we need to spend as much." He doesn't really believe *all* should pay more in taxes. He proposes that the wealthy pay a tax on consumption (income minus saving) with marginal rates of 50 percent above $220,000.

"Demand for many of the things we buy," he contends, "is driven in part by their function as signals." To illustrate, he says that increased spending on clothing by the very rich has affected the amount a middle-class worker must spend on a professional wardrobe. Nonsense. Even the fanciest brands have never been cheaper, thanks to outlets and eBay.

The author's thesis depends on inequality of *consumption*, not of income. That difference is less than you'd think, however. W. Michael Cox and Richard Alm in a recent *New York Times* op-ed found that average consumption *per person* among the top fifth is just slightly more than double the average consumption of the bottom fifth.

Frank ignores such inconvenient evidence in favor of badly garbled secondhand data about income and wealth. All his figures came from Chris Hartman at inequality.org—a writer who specializes in "travel, sports, persuasive, and media-friendly political research." Many of Frank's assertions are based on easily refuted data—for example, his false claim that "asset ownership has become even more heavily concentrated during recent years."

Frank's biggest complaint is not about big incomes but big *houses*. He worries that "the median size of a newly constructed house in the United States, which stood at 1,600 square feet in 1980, had risen to more than 2,100 square feet by 2001, despite the fact that the median family's real income had changed little in the intervening years." As with the data on income and wealth, Frank's evidence is sloppy. The National Association of Realtors' "affordability index" shows that housing affordability has *improved* from 1979 to 2008.

Putting aside the many problems with Frank's data, his case for redistributionist taxation is just a weak excuse for having the federal leviathan gobble up more of the wealth created by individuals. Allowing politicians in Washington to increase their spending on whatever they please (there is no magic fairy to ensure that any added revenues will be devoted to better teachers and roads) is not going to make the relatively poorer people feel better. It might cost some of them their jobs, however. Think back to the impact of the luxury boat tax of the early 1990s, the only discernible effect of which was to cause high unemployment among the workers who had been building yachts for the rich and famous to enjoy.

We should not overlook the ethical muddle of Frank's call for coercive redistribution. He disapproves of individuals' spending money they have peacefully acquired in ways that give them satisfaction, but insists that the government forcibly take money away from the wealthy so that egalitarians can pat themselves on the back. Frédéric Bastiat called that legal plunder.

Frank has spent many years writing books and devising phrases to remind us that he disapproves of status symbols (*Luxury Fever,* 1999), overpaid superstars (*The Winner Take All Economy,* 1995), and people who try to keep up with the Joneses (*Choosing the Right Pond*, 1985). This slim volume repeats those egalitarian themes in a condensed way. Minimizing the surplus verbiage starkly reveals that the author's strong opinions remain based on remarkably weak evidence.

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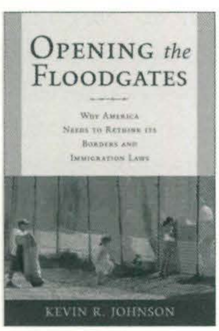
Opening the Floodgates: Why America Needs to Rethink its Borders and Immigration Law

by Kevin R. Johnson
New York University Press • 2007 • 304 pages • $35.00

Reviewed by George C. Leef



In recent years there have been numerous highly publicized federal raids against companies that had violated the law by employing illegal aliens. The hapless people were deported and the companies slapped with stiff penalties. Generally, the reaction has been, "Well, it's about time the government got tough!"

For the most part, the strident voices of the anti-immigration crowd have drowned out and intimidated those who do not believe that illegal immigration is a threat to the nation. There are, however, some people willing to stand up for the right of people to move across international borders freely. One of them is Philippe Legrain, whose book *Immigrants: Your Country Needs Them* was reviewed in the May 2007 issue of *The Freeman*. Another is Kevin Johnson, a law professor at the University of California – Davis. His book *Opening the Floodgates* makes an impassioned case for an open-borders policy. Although the book has some serious flaws, it makes a worthwhile contribution to the debate over this key issue.

Johnson writes, "To the extent that the idea of open borders is even mentioned in public discussions, it is immediately brushed off as hopelessly impractical and not worthy of in-depth analysis and consideration as a possible policy option." He wants to change that by showing the numerous, frequently tragic consequences of our current, highly restrictive immigration policy and emphasizing the benefits of scrapping it in favor of openness.

The most visible harm resulting from the status quo is that many people die every year in the effort to move to the United States. It's strange that Americans who used to be appalled when East German border guards killed people trying to leave are mostly indifferent when Haitians drown or Mexicans die of heat and dehydration trying to leave those countries. Johnson shows that the death toll from our immigration laws is very high, but largely ignored.

Another harm is that illegal immigrants are outside the protection of the legal system. Unscrupulous employers can and do cheat them. Sometimes the immigrants are hardly more than slaves. Anti-immigrationists retort that those unfortunate people have only themselves to blame for having had the temerity to disobey our laws. Johnson finds this morally chilling. It is.

Johnson aptly compares our efforts to stop immigration to Prohibition. The latter didn't prevent people from drinking alcoholic beverages but instead led to unsafe products sold by criminal syndicates, violence, and a gigantic waste of resources. Our prohibition of immigration has similar consequences. The parallels are strong and Americans ought to ponder them.

What about the impact immigrants have on our culture? Writers like Samuel Huntington wring their hands over the "damage" that dark-skinned and non-English-speaking immigrants (legal and illegal) inflict on "America's" culture. Johnson says: Relax. Similar attacks were made in the past against the Irish, Italians, Chinese, and other groups. But more to the point, there is no reason to believe that any harm comes to us when different peoples settle here. Besides, he says, recent immigrants seem to be "assimilating" just fine.

I think Johnson would have made a stronger case if he had, apropos of that last point, challenged the notion that "assimilation" is really important. What does it matter if a group lives in the United States and chooses to keep to itself, speaking some language other than English, adhering to traditional customs, and ignoring American political institutions? The Amish are a very much unassimilated people, but there is no reason to complain about them. Live and let live—as long as an individual abides by that rule, there is no moral ground for interfering with him.

That point is something of a quibble, but there are more serious problems with the book.

First, Johnson's grasp of economics is weak. For example, he takes seriously the notion of "the multiplier effect," long ago shredded for its errors. And he repeatedly extols labor unions as if they have the power to transform low-paid jobs into "decently" paid jobs. The impact of unions is greatly exaggerated, and they have little or no impact at the bottom of the labor scale.

More important, Johnson thinks it would be good policy to allow free immigration, but then attempt through taxation to "even things out." If we had open borders, he says that "business" would gain but low-paid workers would lose because of added competition in the labor market. Therefore he advocates taxation to compel the supposed winners to pay the supposed losers.

That's where he really loses me. Increasing freedom to migrate should not be offset by decreasing freedom elsewhere. FEE

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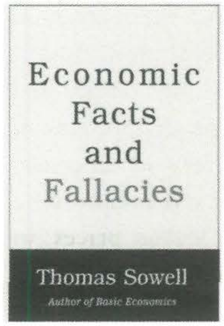
Economic Facts and Fallacies

by Thomas Sowell
Basic Books • 2007 • 221 pages • $26.00

Reviewed by Gary M. Galles



You don't have to read far to find the focus of Thomas Sowell's latest book, *Economic Facts and Fallacies*. It begins by quoting John Adams—"Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence"—then immediately argues for the importance of debunking economic errors because so many policies are based on false beliefs and fallacious thinking.

Economic Facts and Fallacies exposes an array of widely held beliefs to careful logical scrutiny and evidence—evidence that is usually ignored by those who favor interventionist government policies. Time and again, readers are shown that support for expanding government control arises from mistaken reasoning and interpretation of data.

First is Sowell's discussion of four core fallacies we frequently encounter in public-policy discussions: the zero-sum fallacy (ignoring that voluntary economic arrangements are positive-sum); the fallacy of composition (particularly that robbing Peter to pay Paul benefits society simply because it benefits Paul); the chess-piece fallacy (assuming that some authority can achieve desired results as though he were moving chessmen on a board, ignoring people's desires and incentives); and the open-ended fallacy (that commitments to evermore health care, safety, open space, and so on, are sensible in a world of scarcity). Even if people read only that section, they would greatly benefit from Sowell's logic.

The bulk of the book consists of six chapters dealing with subjects where economic misunderstanding abounds: the urban economy, male-female comparisons, academia, income, race, and the Third World. In each of those sections Sowell rebuts a group of beliefs that are widely accepted despite their fallaciousness and incompatibility with the evidence.

While the whole of the book is enlightening, Sowell's discussions of affordable housing and income comparisons are particularly powerful. I'll concentrate on them.

Most Americans believe that government intervention is necessary to ensure that there will be enough "affordable" housing. Sowell challenges that notion with a barrage of contrary evidence, including that 1) people paid smaller percentages of their income for housing before the era of government intervention; 2) housing prices rose sharply when more pervasive government regulation began; 3) housing prices in areas with more government intervention rose more rapidly than in areas with less; and 4) growing population and income did not result in far higher housing prices where builders were allowed to construct more housing.

In short, government intervention in the housing market is the *problem*, not the solution. Sowell writes, "It is precisely government intervention in housing markets which has made previously affordable housing unaffordable." The next time you hear someone claiming that there is a shortage of affordable housing due to a failure of the free market, you can haul out the book and show that the failure does not lie with the free market.

Sowell similarly devastates income comparisons that twist the data to get whatever conclusion is desired to justify political redistribution. He points out many ways that those who want to create the impression that the United States faces an income distribution "crisis" rely on misleading statistics. For example, there are substantial differences between real income growth *per household* and *per capita* (from 1969 to 1996, the former rose only 6 percent in America, while the latter rose 51 percent). By emphasizing only the first statistic, it is possible to create the impression that income growth has been fairly stagnant. Another way of misleading people is to focus only on income data and ignore consumption—consumption by people in the poorest quintile is actually twice their income, but that fact is usually ignored. Moreover, the idea that there is an income crisis is greatly undermined if, instead of looking at "snapshot" data, you consider the high degree of income mobility. The latter data tend to be ignored. With this section, Sowell shows that it's unwise to jump to conclusions based on highly selective facts.

Economic Facts and Fallacies highlights many instances where questionable if not downright foolish policy choices were made. So why don't we change them? Sowell writes, "Many beliefs which collapse under scrutiny may nevertheless persist indefinitely when they are not scrutinized, and especially when skilled advocates are able to perpetuate those beliefs by forestalling scrutiny through appeals to emotions or interests." This book makes it harder for such advocates to keep pulling the wool over our eyes. FEE

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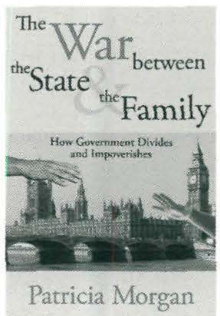
The War Between the State and the Family: How Government Divides and Impoverishes

by Patricia Morgan

Transaction Publishers • 2008 • 162 pages • $24.95

Reviewed by Raymond J. Keating



Sympathy and compassion help make humans caring, moral beings. Adam Smith, the father of modern economics, understood that, as illustrated by his emphasis on sympathy in *The Theory of Moral Sentiments*.

Often, however, sympathy and compassion are transformed from tools of moral judgment and action into weapons of blind ideology, irrational emotionalism, and cynical politics. They particularly serve as the bat with which opponents of the welfare state get pummeled. After all, the argument goes, if you oppose an extensive network of government income, housing, healthcare, employment, and child-care assistance programs, you must be severely lacking in sympathy and compassion. To truly care, you must support big government.

That assumption, unfortunately, has long clouded the debate over welfare policies, especially when it comes to government programs affecting family life. The big-government crowd has pushed blindly for government to play an ever-larger role as financial provider for households, thereby contributing critically to the undermining of traditional families. Meanwhile, it should be noted that some who argue against such programs have tried to make their case without fully acknowledging the important economic and societal roles played by the family.

Too many on both sides of this debate have been guilty of declaring that "family" can mean whatever one likes—therefore saying, in effect, that "family" lacks any significant meaning or purpose.

Part of the problem is the failure to apply economic analysis to the family's role in the economy and to the impact of government policies on the family. That has been remedied to a degree in *The War Between the State and the Family: How Government Divides and Impoverishes* by Patricia Morgan. Published initially by the London-based Institute of Economic Affairs, it mainly deals with the programs and realities of Great Britain, but the discussion and analysis obviously apply elsewhere, including the United States.

Morgan pulls together overwhelming evidence and data showing the benefits to adults, children, and society in general of marriage and intact families, and the problems of non-marriage, single parenthood, and divorce. And she illustrates how the welfare state subsidizes and encourages family breakdown.

For example, Morgan shows that marriage boosts personal responsibility and employment among males, while single males are far more likely to be jobless and receiving government assistance. She also makes clear that government benefits have a strong impact on marriage and childbearing decisions and responsibilities among both men and women.

She notes the varying ways in which government policies affect such critical decisions: "By rewarding some behaviours and penalising others, tax and welfare systems affect the preference and behaviour of individuals not just through hard cash calculations but by (unavoidably) embodying and promoting certain values and assumptions. . . . The generous subsidisation of the lone-parent household cannot but reinforce the belief that it is quite acceptable for men to expect the state to provide for their offspring."

Morgan sums up the implications of all this on the size and intrusiveness of government: "Growing family and household fragmentation" drives government spending and taxes ever higher; increases the "number of clients of the state"; "displaces existing institutional and private arrangements"; places the government in the role of parent and provider to children; allows for increased government intrusions into family life; and generates "an increasing mass of legislation and regulation of provisions for custody, access and financial support." For good measure, child development is inevitably hampered due to the loss of "private investment in children," which can never be matched in substance or quality by government programs.

What's the solution? Morgan provides a straightforward answer: "The benefits to society of family commitments within households, including marriage, are so huge that these institutions should be nurtured rather than eradicated. There is no need to denigrate other 'lifestyles': the tax and benefits system should just stop discouraging family commitment and treating it as superfluous."

After digesting the formidable data, evidence, and arguments harnessed in Morgan's book, it is hard to see how anyone claiming to possess sympathy and compassion for others could still rationally embrace a welfare system that, intentionally or not, undermines personal responsibility, destroys the traditional family (thereby undermining its accompanying benefits), and hurts children. If we are serious in our concern for others, then, as Morgan closes her book, "Voluntary action within and between families and households should be the first source of welfare."

Given all the problems that come with government, including waste and loss of freedom, government action should always be a last, desperate resort. Unfortunately, for decades government action has been the first resort in dealing with social problems. When it comes to family life, the negative fallout from this government-first philosophy should be obvious to all who understand economics and feel compassion for others. FEE

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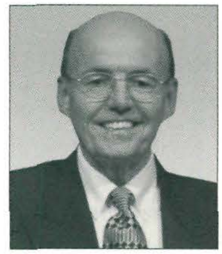
How Bad Can It Get?



BY CHARLES W. BAIRD

In August the Evergreen Freedom Foundation (EFF) in Washington state released its *State of Labor 2008* (the Report), which warns of several perils emanating from the growth of government-sector collective bargaining and offers suggestions for ameliorating them. (The Report is available in PDF at http://tinyurl.com/45w4ea.) I predict these perils will soon be much more severe than the EFF fears.

The dangers discussed in the Report are all threats to democracy. Government payrolls are taxpayer expenditures. Basic principles of democracy call for government expenditures to be determined in the open by duly elected legislators. Moreover, taxpayers must be able to testify in open legislative hearings regarding such expenditures. This is not how government-sector collective bargaining (GSCB) works. For example, in Washington state a legislator's only role in the GSCB process is to vote yes or no on government-employee compensation bargained by the governor and the government-employee unions. Those bargaining sessions are closed to the public. The unions are a de facto fourth branch of government empowered to ignore both the legislature and the taxpayers. Unions are not ordinary special-interest groups, like the Sierra Club, that try to affect government policy. They actually get to codetermine government policy with the governor.

Colorado government unions assembled over $13 million of forced dues and fees to fight a ballot measure that would have prohibited them from collecting forced dues and fees.

As described in the Report, GSCB in Washington state is an egregious special-interest game. The governor, who gets in-kind and financial campaign support from the unions, "bargains" with them. This is government of the taxpayers by the unions for the unions. It is taxation without representation.

Because the unions are permitted to force government employees to pay union dues and agency fees as a condition of continued employment, they are able to buy the loyalty of the governor and to bribe enough legislators to vote yes on the bargains. The Report gives details of this pay-to-play game in Washington state from 2004 to July 2008. It reveals the specific amounts paid by unions to various politicians in direct campaign contributions and the resulting union-friendly votes those politicians cast. The unions spent a total of \$1,128,425 buying political votes. According to the *Wall Street Journal*, Colorado government unions assembled over \$13 million of forced dues and fees to fight a ballot measure that would have prohibited them from collecting forced dues and fees.

Sign This Card or Else!

Unions are not content with the money they take from ordinary government employees. Some unions are now bribing politicians to vote for laws that will force individual private-sector workers—such as home healthcare workers, daycare providers, and even foster parents—who are paid with any taxpayer funds to submit to union representation and forced fees.

In private-sector collective bargaining the employer and the union sit on opposite sides of the table. The employer is playing with his own money, and he is constrained by the market competition he faces. The union represents the interests of employees under the con-

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straint that if the enterprise loses out to competitors, there will be fewer employees to represent. If the workers of a private enterprise go on strike, its customers can take their business elsewhere. In GSCB both parties sit on the same side of the table. They are playing with other people's (taxpayers') money and are unconstrained by competition. Taxpayers cannot legally refuse to pay taxes. If the employees of a government agency go on strike, its customers (taxpayers) have no place to turn. Notwithstanding this crucial difference, government unions often argue successfully that strikes in the government sector must be legal simply because they are legal in the private sector. Strikes take place even in many jurisdictions where government-sector strikes are illegal. When such strikes are settled, the strikers and their unions usually are granted amnesty.

Some states, such as Iowa, have tried to avoid government-sector strikes by imposing binding arbitration in collective-bargaining impasses. But that is an unacceptable alternative. An arbitrator in government-sector labor disputes is unelected but has power unilaterally to determine the size of government payrolls and thus significantly affect state fiscal priorities. Some states have been forced to raise taxes to pay arbitrators' awards. In the words of the Report, binding arbitration in the government sector "could place an arbitrator in the position of single-handedly raising government expenses (and thus the taxes to cover the costs.)" If this isn't taxation without representation, the Founders gave George III a bad rap.

The Report also tells of an attempt by the California legislature to prevent private-sector employers who receive more than $10,000 of state funds from speaking out against unionization during certification election campaigns. Only unions would have free-speech rights. In June 2008, in *Chamber of Commerce v. Brown*, the U.S. Supreme Court struck down the California law on the grounds that the National Labor Relations Act (NLRA) preempts state law in private-sector collective bargaining. According to the Court, Congress is free to give states the power to restrict employer free speech simply by amending the NLRA.

I expect this issue soon to be moot because the new Congress and the new president are poised to abolish secret-ballot certification elections. Under the Employee "Free Choice" Act employers will be forced to recognize and bargain with unions if a majority of their respective employees have signed union cards. Signatures will be collected in face-to-face encounters between union organizers and individual employees. Free speech and free choice be damned. Sign this card or else!

What Can Be Done?

The Report offers four suggestions to improve the situation. I think the first two make sense, and the others are too weak to make any difference. It proposes that all states subject government-sector collective bargaining to open-meeting laws that guarantee the opportunity for individual citizens to be heard on the subject of government-employee compensation and that force public disclosure of all collective-bargaining agreements. Currently only 11 states have such laws. It further recommends that states adopt legislation to force unions fully to disclose their financial information to workers and the general public. If people knew how much unions spend for political and ideological purposes rather than bargaining and representation, they would be appalled.

It also recommends that all states adopt "paycheck protection" legislation, which would force unions to get permission from each individual union member before any of his dues could be used for political purposes. Paycheck protection already exists in 16 states. While this is better than doing nothing, unions are skilled at obfuscating the difference between what is and what isn't political spending. A more effective remedy would be for all states to forbid unions to collect any forced dues or fees from any workers. Finally, the Report recommends that all government-employee strikes be prohibited by law. Unfortunately, where that proscription already exists it has proven to be feckless.

I expect all the problems discussed in the Report to get worse during the next four years. In 1985 the U.S. Supreme Court, in *Garcia v. San Antonio Metropolitan Transit Authority*, gave Congress a free hand in setting the rules for state and local labor relations. Congress can override any measures enacted by the states. It can even force states that do not now allow government-sector bargaining to do so. The only change we can expect here will be dictated by the unions. FEE

"Up to what point does the government get to play nanny? Where does it end? Sometimes it is the government that seems to suffer addiction—addiction to power—and it is the one that needs to show restraint. Furthermore, the justification of 'it's for their own good' is bound to be abused. It will be used to justify all manner of special-interest plunder...."

—Daniel B. Klein
"The Moral Consequences of Paternalism"

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