the Freeman

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the Freeman

A MONTHLY JOURNAL OF IDEAS ON LIBERTY

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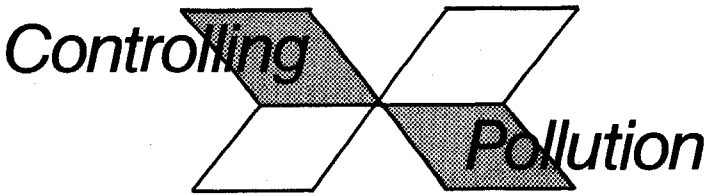

HANS F. SENNHOLZ

"POLLUTION is a classic example of failure of the private enterprise system." At least this is what we are told by countless critics of environmental pollution. Private property and the profit motive are held responsible for polluting man's environment with ever-increasing quantities of wastes or effluents. As the by-products of economic production and consumption, such as gasses, solid or liquid wastes, or released energy in the form of heat or noise, the effluents are said to overload the capacity of the environment to assimilate them, which is injurious to human, animal and plant life. Pollution is affecting the comfort, well-being, and possibly even the survival of the human race.

Such serious charges must ultimately be answered by biologists, chemists, and physicians. But for the sake of argument let us assume that the pollution problem really is as serious as described by the environmentalists. Let us then search into the causes of the dilemma so that we may find the cure. For only an understanding of the causes can lead us to a possible solution.

The explanations so popular with environmentalists appear to be taken directly from the armory of political and economic radicalism that blames the private property order not only for all economic shortcomings but also nearly all human vices. These explanations invariably misinterpret the causes and consequently prescribe solutions that are either

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ineffective or even detrimental to our environment.

Even economists schooled in the classical tradition are joining the chorus of vocal critics. The private enterprise system, they contend, does not lead to maximum welfare because many social costs are ignored in the calculation of welfare. Large blocs of "externalities," which are social costs not included in private costs, are characteristic of the enterprise system. These externalities are destroying our physical environment and precipitating disaster for the human race.

Robert U. Ayres and Allen V. Kneese make such charges in an essay on "Production, Consumption and Externalities." (*American Economic Review*, June, 1969, pp. 282-297). Private businessmen are discharging wastes into the atmosphere and water courses without cost to themselves. And consumers do not fully use up, through the act of economic consumption, the material elements that enter production. Almost 3 billion tons of residue are going back annually into our environment. This is becoming unbearable, especially in mass urban societies with growing populations and rising material output. Ad hoc taxes and government restrictions are not sufficient to cope with the growing problem. Central, or at least regional, control is needed; and above all, a new economics must be devised that considers waste disposal an integral part of the production and consumption process, and places it within the framework of general equilibrium analysis. "Under conditions of intensive economic and population development the environmental media which can receive and assimilate residual wastes are not free goods but natural resources of great value with respect to which voluntary exchange cannot operate because of their common property characteristics."

Such observations reflect an unbounded faith in the political and bureaucratic process. No matter what the grievance may be, the blame is always laid on private property and individual enterprise, and the solution is always more government!

Who is Polluting?

Even some of the facts are grossly misstated. The worst offenders are not private businessmen in their search for profits, but government itself rendering economic services in a primitive manner. Urban communities are polluted by an increasingly formidable cascade of solid waste, such as garbage and trash, rubbish and debris. According to a preliminary report made in 1968 by the Bureau

of Solid Waste Management in the U.S. Public Health Service, only 64 per cent of the nation's people lived in communities that had refuse collection systems. About half of household wastes were collected by public agencies, and one-third by private collectors; the rest were disposed by householders themselves. Most commercial and industrial wastes were handled by private collectors. And most of the dumps and incinerators were operated by public authorities or licensed contractors working for public authorities.

These facts primarily indict government rather than profit-seeking enterprise for our environmental crisis.

Or, take the pollution of our waterways. Who is discharging pollutants into streams and rivers, lakes and oceans? Lake Erie, the most polluted inland body of water, is an example. According to independent surveys, the city of Cleveland is by far the worst offender, followed by Toledo and Buffalo and other cities. Numerous public sewer authorities discharge thousands of tons of waste into the lake every day. So filthy is Cleveland's Cuyahoga River that it catches fire occasionally and traps tugs and boats in its flames. Surely, Lake Erie would suffer no serious pollution were it not for sewer authorities established and operated by government.

Under common law, the beds of navigable bodies of water are government property. Can it be surprising then that government itself either is polluting the lakes and rivers or permits them to be polluted? To blame individual enterprise is an obvious distortion of facts.

It is true, public attitude toward government property usually differs from that toward private property. While the latter is generally respected and the owner protected in its use, government property is treated as a common good without an owner. Unless it is guarded by a host of inspectors and policemen, it is used and abused by the citizenry as if it were free. This common attitude can hardly be construed as recommendation for more government ownership or control over environmental resources.

The Air We Breathe

The third pollution that is often laid on the doorstep of profit-seeking enterprise is the contamination of the air we breathe. In a stinging criticism of the "conventional wisdom" of economics, E. J. Mishan of the London School of Economics and Political Science called the private automobile one of the great disasters of the hu-

man race. It pollutes the air, clogs city streets, and contributes to the destruction of natural beauty. The economic growth it represents conflicts with social welfare. ("Economic Priority: Growth or Welfare" in *Political Quarterly*, January, 1969).

Such a severe indictment of the automobile is tantamount to a rejection of one of the most splendid fruits of private enterprise. There are few, if any, private automobiles in collective economies, from Soviet Russia to Castro Cuba. The automobile means high standards of living, great individual mobility and productivity, and access to the countryside for recreation and enjoyment. In rural America it is the only means of transportation that assures employment and income. Without it, the countryside would surely be depopulated and our cities far more congested than now.

The air pollution in our cities, the smoke, haze, and smog, nevertheless present grave health hazards to millions of city dwellers. Is individual enterprise that manufactures those millions of automobiles not responsible for most of the city pollution?

Zoning and Other Intervention

Again, the blame for the intolerable pollution of city air rests mainly with government. In particular, three well-established political practices have contributed to the environmental dilemma. First, zoning has become a popular legislative method of government control over the use of land. Primarily applied in urban areas, zoning constitutes government planning along "orderly lines," to control congestion in houses and neighborhoods, height, size and appearance of buildings and their uses, density of population, and so on. Surely, zoning has shaped the growth of American cities ever since the 1920's when it became popular.

Take Los Angeles, for instance. Radical zoning ordinances made it the largest U.S. city in area, a vast sprawling metropolis of more than 500 square miles in which transportation is an absolute necessity. The resident of Los Angeles may travel a hundred miles every day to work, shop, eat, to attend school or church, or to seek recreation or entertainment. Public transportation cannot possibly meet the millionfold needs of Los Angeles transportation; only the private automobile can.

Secondly, in nearly all American cities public transportation has deteriorated to disgraceful levels of inefficiency and discomfort. The private companies that first provided the service were regulated and taxed into losses, and finally

replaced by public authorities. Under their control, mass transportation has generally deteriorated in quality and quantity while the costs have soared, as in the New York City subways, for example.

Union Tactics

Public transport authorities are easy prey for militant unions. Politicians or their appointees cannot easily resist the demands of teamsters locals and their allies, despite the resultant inefficiency and high cost. The traveling public is frequently left stranded by organized work stoppages, slowdowns, and other union tactics. When public transportation is most urgently needed, in the vacation or holiday season, it is often struck by one of the unions.

The privately-owned mass transportation media are taxed by a host of government authorities until their services deteriorate or even sputter to a halt. The examples are legion. But the recent bankruptcy of the Penn Central Railroad illustrates the point. Even in bankruptcy, public tax authorities are crowding the courts to force collection of their levies. While labor unions threaten nationwide walkouts, government tax collectors prey on railroad income and assets. And when a company finally petitions its regulatory authority to halt some loss-inflicting service, it may be denied the right to do so. If permission is granted, local courts may order the company to continue the service and bear the losses. Can it be surprising, then, that service reluctantly rendered is minimal and poor?

When public transportation is dismal, undependable and inefficient, neglected and uncomfortable, primitive and costly, people naturally provide their own transportation. And millions of private automobiles are clogging the city streets adding their exhaust fumes to the city air.

In the "Free Goods" Class

Finally, there is the tendency to treat road and highway investments, no matter how huge, as "free goods" that are available to anyone without charge. City governments endeavor to provide adequate approach roads for unrestricted use of the automobile, continually constructing new expressways on the city's fringes. It is true, a great number of highway taxes are levied on those who use the highways. The Federal government collects taxes on gasoline, lubricating oil, new automobiles, tires and tubes. A highway trust fund established by the Highway Revenue Act of 1956 receives and expends the excise

taxes, which are the sole source of funds for the Federal aid highway systems. But as soon as an expressway is completed it is overcrowded with countless automobiles speeding or crawling to the city. No matter how many millions of dollars were expended on its construction, it is "free" to the user who simply does not relate the tax on his gasoline or tire to a particular trip to the city. But even if he were mindful of the tax aspect of the expressway, its convenience, speed and safety may exceed by far the tax cost. Thus, millions of suburban automobiles are rushing to or from the cities on billion-dollar highways, adding their exhaust fumes to our environmental dilemma.

In summary, the following table clearly depicts the role of government in environmental pollution.

Policy	Effects
Free or minimal cost trash and garbage collection by government agencies	Littering, hazard to health, air pollution
Free dumps and incinerators operated by governmental agencies	Hazard to health, air pollution
Free or minimal cost sewage treatment	Water pollution
Free lakes, waterways and harbors	Water pollution, traffic congestion
Free airport facilities	Air pollution, noise pollution
Free highways	Air pollution, traffic congestion
Free public parks	Waste, littering
Zoning laws and ordinances	Favoring the automobile over mass transportation, air pollution
Public transport authorities	Inefficient service, promoting the automobile, air pollution
Labor legislation	Expensive and unreliable mass transportation, promoting the automobile, air pollution

Removing the Causes of Pollution

As government is the prime polluter of our environment, we must call on government to cease and desist. All levels of government must abandon their policies that invite, promote or even subsidize the pollution. This is not to be interpreted as a call for further government intervention in our economic lives. On the contrary, the previous intervention that caused the deplorable conditions in man's environment cannot be improved through more radical intervention. The prior intervention must be removed step by step so that its destructive consequences can be gradually assimilated by nature.

First of all, government itself must cease to damage the environment. As owner of some 24 per cent of the land within the limits of the continental United States, as operator of many thousands of installations that span the continent, the United States Government probably is the worst polluter (Cf. Dennis Farney, "Meet a Prime Polluter: Uncle Sam," *Wall Street Journal*, Sept. 23, 1970). If it is unable to manage its property without harming the environment it should dispose of land and installations that lack significance for national defense. The economic services it renders free or at minimal costs should be left to the market place where economic costs and benefits are efficiently compared by the price system. For no matter who renders a service free or at minimal charges, misuse, abuse, and waste are invited. Governmental services are no exception.

This basic knowledge of human action points toward a solution to many pollution problems. If government would cease to subsidize the polluters, the condition of the environment would instantly improve. The interstate and intercity highways, for instance, provided at little or no cost to users, could be improved overnight if they were treated as scarce resources, that is, as economic goods. Road use charges that fully cover the costs of construction, maintenance, and administrative services would greatly reduce their wasteful use and thereby the pollution.

It is true, use charges that cover the expenses of government services would probably be extraordinarily restrictive as governmental costs usually are excessive. Many government investments probably are malinvestments, made without economic considerations but for political objectives. Use charges that fully cover all expenses would reveal the dreadful waste of resources and thus hopefully discourage government

from rendering a service that can be provided much more efficiently by the market.

Deficient Property Rights

Most pollution problems would soon be solved or at least alleviated if all governments would halt their own pollution and cease to subsidize other offenders. It is true, some pollution undoubtedly would remain even after this clean-up. After all, individuals as producers and consumers add smoke, soot, noise, waste, and other effluents to the environment. But no matter who the offender should be, pollution that measurably detracts from the property of other individuals or denies their rights to healthful living must be discouraged.

This pollution by producers and consumers reveals unfortunate legal deficiencies in the protection of private property. The law has always been and continues to be inadequate in its treatment of property rights, in particular, the liability and indemnification for damages caused by the owner's use of property. Ideally, the right of property as a market phenomenon entitles the owner to all the advantages of a given good and charges him with all the disadvantages which the good may entail.

Over the centuries governments have again and again restricted or even abolished the rights of private property. At other times the law, either by design or default, shielded the owner from some disadvantages of his property and charged other people with some of the costs, the external costs. Obviously, if an owner does not reap all the benefits of his property, he will disregard such benefits in his actions; and if he is not charged with all its costs, he will ignore such costs.

During the nineteenth century, legislation and adjudication reflected enthusiasm for the rapid industrial and commercial development. Legislators and judges understood the great importance of capital investment for economic betterment. They favored investments in industry and transportation and the productive employment of property. Unfortunately, they decided to hasten the economic development through tariffs, subsidies, land grants, and relief from some external costs. Thus, as the tariffs and subsidies encouraged some production, so did the relief from externalities. Some investments were made and some consumption took place just because part of the costs was shifted from the owners to other people and their property. The pollution of air and water was overlooked as a "public price" for economic progress, that is, some costs were

shifted from one owner to another to encourage economic activity favored by government.

To remove this cause of pollution, no property owner – whether public or private – must be shielded from the costs and disadvantages of his property. Damaged parties must have their day in court and find relief from any harmful effect of someone else's property. They must be able to claim and collect damages for losses suffered, and obtain court injunctions, that is, restraining orders that protect their rights.

Popular Solutions

The growing awareness of environmental problems is laudable indeed. But the explanations given by "experts" today are taken straight from the armory of political and economic radicalism. The private property order is summarily condemned, and government is hailed as the only savior from our self-destruction. More taxes and regulations, or better yet, comprehensive government planning and control, are to correct a deplorable situation.

Many environmentalists would like to "ration the use of the environment" so that the quantity and type of effluents discharged into the environment are reduced to a level where the social costs are assumed to be equal to social benefits (Cf. Schreiber, Gatons, Clemmer, *Economics of Urban Problems*, Houghton Mifflin, 1971, p. 104 *et seq.*). Three basic methods of intervention are to achieve a short-run solution: direct controls, taxes or fines, and subsidies.

Direct controls set minimum emissions standards for various classes of effluents. No polluter is permitted to emit more than a certain quantity of effluents, such as fly ash, sulfur dioxide, carbon monoxide, and the like per time period. Federal standards of emission by automobiles, for instance, were imposed on auto manufacturers. But unfortunately, such standards cannot achieve an efficient level of pollution abatement because the environmental conditions in various parts of the country vary considerably. The car that adds its hydrocarbons and carbon monoxide to the pollution of New York City would have no visible effect on the environment of Farmers Mills in Pennsylvania. And the car that rarely leaves its garage in Big Horn, Montana, can hardly be likened in its environmental effects to the Los Angeles taxi that is cruising the streets day and night. And yet, under the Federal standards many billions of dollars must now be spent on abatement equipment by all automobile owners regardless of social costs and benefits.

Subsidies to Curb Production

To abate pollution, some writers urge the government to subsidize polluters so that they may reduce production and thereby harmful emission. Such subsidies are likened to the "soil bank" that pays farmers to reduce their land under cultivation and thus production. But as the soil bank has not achieved its stated objectives, so must the pollution subsidy be expected to fail. After all, the potential demand for such payments is unlimited, while the reduction in pollution would tend to be negligible.

Effluent emission may also be attacked by fines and taxes. At first, government levies taxes in order to provide the facilities that are used free or at minimal cost by the polluters. It thus subsidizes the polluters, and then proposes to tax them for the pollution. Would our environment not be cleaner if government had not entered the scene from the outset?

It is true, a tax levied on the polluter may make him consider the external costs of his activity. But it offends one's sense of equity that government should pocket tax revenues as a compensation for losses suffered by other individuals. If I am victimized by pollution, government will reap more revenue. A government in urgent need of revenue merely needs to promote more pollution through free services to polluters in order to derive more tax revenue from the polluted public. A strange and yet so popular method of government intervention in our economic lives!

Employ Space-Ship Technology

As a long-run solution, we are urged to develop a "space ship" technology which recycles all waste and makes it reusable for future production, or to develop a technology that leaves no waste matter.

Unfortunately, we do not know what the technology of the future will be. But we do know that the inventive genius of man that may bring forth a new technology cannot assure its use and application. History records countless examples of great inventions that failed to benefit man because a static society would not permit any change, or at least lacked the capital resources needed for such changes. Inventions spring from individual freedom, and their application from competition in a private property economy. This is why one may be skeptical about a new technology that is chosen and enforced by government.

But the ultimate solution, according to more radical ecologists, must be sought in population control. After all, it is man's produc-

tion and consumption that is polluting the environment. A growing population must be expected to add to the waste that results in pollution, although the social costs per person may be reduced through technological advances. These environmentalists would provide financial incentives for refraining from having children, such as an exemption of $3,000 on Federal income taxes to couples without children, or the payment of subsidies to every woman in child-bearing age who does not give birth during a given year. (Schreiber, Gatons, Clemmer, *ibid.*, p. 115).

Man or Environment?

Man or environment, that is the choice. As one is not compatible with the other, we are told, the radical ecologists choose the environment. They prefer grass and tree, ant and beast of the forest over man. They would preserve nature undisturbed and in a natural condition, as in a jungle.

However, the role of man on this earth is radically different from that of plant and animal. Although man is part of nature, his intelligence permits him to wisely use environmental resources for his best interests. He is like a steward in the use of natural resources who responsibly manages his environment in order to survive. His right to life embodies his right to manage the resources of nature.

But how can he best manage his environment? What are the proper means to this end? As in all other human pursuits, freedom works best in releasing man's creative energy. In freedom, man economizes his use of scarce natural resources and strives to safeguard his life with the least possible waste. Merely to preserve nature as man found it when he first set foot on this earth may appear to be easier, indeed, than the wise use of environment for the best interests of man. And yet, mere preservation denies not only the nature of man but also the very laws of nature. (Cf. Leonard E. Read, "A Conservationist Looks at Freedom" in *Then Truth Will Out,* The Foundation for Economic Education, Inc., Irvington-on-Hudson, New York, 1971, pp. 74-83.)

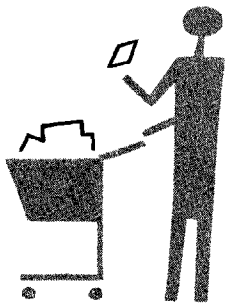
A Word of Caution

IDEAS ON LIBERTY

WE undoubtedly need some preservation. But it cannot be the answer to the control of man's environment, for we are an ecological part of that environment, and to preserve it makes us a museum-piece as well.

Weyerhaeuser World, April 1970

The Anatomy of CONSUMERISM



MAX E. BRUNK

THERE IS PERHAPS no better subject than Consumerism on which to polarize an audience. For example, a conference of consumer organizations in Washington recently graded the two Senators from New York State on how they voted on eleven so-called major consumer bills during the last term of Congress. One Senator received a perfect score of 100, the other, a score of zero. Both the Senators probably received a majority vote from this audience and both probably feel that they properly represented the majority view of their constituents.

This, in itself, tells us something about the nature of consumer issues. It tells us that there is a wide divergence in our personal economic philosophies. It tells us that the issues of consumerism are relatively unimportant in our choice of political representation. But if we are to assume a rational position of advocacy or dissent on various issues we need to know much more about the general anatomy of consumsumerism.

Traditionally our economy has been built around the market mechanism. In a very real sense the market provides a voting place for the wants and needs of people. The uniqueness of this voting place is that it respects and responds to the will of minorities as well as majorities. And this is fortunate because not all people have the same wants, needs and desires. When we see others do things we ourselves would not do,

Dr. Brunk is Professor of Marketing at Cornell University. This article is from a talk before the Annual Meeting of the Cooperative Extension Association of Livingston County, New York, November 15, 1972.

we do not know whether they are being victimized, are expressing a value different from our own, or have been deprived of opportunities equal to our own. As a result, against this backdrop of a free market, we are gradually building up a set of socially determined restrictions and mandates having universal application to all people. These are restrictions imposed on people in their role as consumers. And we would not have it otherwise for we as a people, in attempting to find a way of living together, have decided to forego some of the material wealth provided by the free market in the interest of what we call the public welfare.

Third-Party Activists

On previous occasions, and in no derogatory sense, I have defined consumerism as a movement of third-party activists who champion causes which *appear* to them to be beneficial to consumers in general. It is not an organized movement of 210 million Americans speaking in common cause on their own behalf. It is a movement of many fragments with issues frequently championed by small minorities. While this is no indictment, it does raise certain questions about the leadership, how well informed it is, how well it truly represents the general consumer interest. The point I make is that consumerism is made up of a third-party involvement in a buyer-seller relationship.

It is not my function here to argue the case of the free market or how far down the road of socialism we should continue to go. But I do have some personal convictions about consumerism. In many instances the costs far exceed the social benefits. I do not like the negativism of consumerism – the constant search for scapegoats and things that are wrong. I do not like the sensationalism of consumerism which leads society to accept impulsively certain restrictions on our productive capacity. I do not like the emotional verbalism of consumerism – the "truth" issues, the consumer "protection" issues, and so on. I resent the hypocrisies of consumerism: the hypocrisy that someone is doing something on my behalf which in reality serves only to further someone else's selfish political or social interests; the hypocrisy that consumerism is aimed at the business community when in reality it is only the consumer who is deprived or who pays the bill. We forget that the business community can operate and prosper under any given set of rules that society imposes on it. In final analysis the question is: how much production do we

want out of our business community? In fact, within the business community itself many strong advocates can be found for almost any consumer issue simply because each issue serves to enhance the competitive advantage some business may have over another.

Waves of Consumerism

Consumerism is not a new phenomenon. We have always had it. But its identity becomes more apparent during certain periods of economic growth. Around 1900 we had the sensationalism of Upton Sinclair. Looking back we can see the transparency of the many fabrications and fantasies of this colorful writer. But in his day they were accepted by many unhappy people who felt they were being exploited by big business. For example, Sinclair wrote of packinghouse workers falling into vats of fat and not being fished out "until all but the bones of them had gone out to the world as Durham's Pure Leaf Lard!" Very quickly we had our first Federal Meat Inspection Act and although this legislation was largely an emotional response to journalistic sensationalism I think most of us today would agree that it has served the consumer interest in a constructive way. Anyway, the consumerism of 1900 resulted, as you will recall, in considerable antitrust as well as labor-rights legislation. The teeth of our antitrust laws and the economic power of labor unions can be traced to the consumerism of that time. Then, consumerism declined with the build-up of international tension that culminated in World War I. Our need for productivity could no longer tolerate the false luxuries of consumerism, the false luxury of responding to every scrap of sensationalism. Toward the end of 1920 we hit another peak in industrial development. Again, displaced workers became disciples of Stuart Chase and the sensationalist writings of Kallet's and Schlink's *100,000,000 Guinea Pigs*. Many New Deal programs had relevance to the charges set forth by these writers. Then, along came World War II followed by the Korean conflict and we forgot about consumerism for a while. Once again it has been brought to life, first through the writings of Vance Packard and then through the activities of Ralph Nader and his many disciples, who seem to know more about what the consumer needs or should have than do the consumers themselves.

The food industry is a prime target for the consumerist. Not only is food a major item of expenditure but also it has a direct

bearing on health. Add to this the consideration of the changing nature of our food composition, necessitated by a dynamic market structure ever responding to consumer demands, technological developments and population demographics, and you have the makings of an industry highly vulnerable to the issues of consumerism.

To Gain Popular Support

Taking a closer clinical look at those consumer issues which have gained widespread public support in recent years, we can perhaps gain some appreciation of the characteristics of such issues and their applicability to our food supply. First, the social benefits of an issue must be easily rationalized usually by some grossly oversimplified cause and effect relationship: for example, the directed rationale in truth-in-lending, truth-in-packaging, informative labeling and so on. Benefits must be directed at a major proportion of consumers and the more such benefits have the appearance of being directed at health or economic welfare the more viable the issue. Typical of popular consumer issues is that costs of protection are hidden by dispersion throughout a complex production and distribution industry; or such costs are easily, though sometimes spuriously, rationalized as falling on large, concentrated or prosperous industries.

One of the remarkable features of the marketing system, as contrasted with the negativism involved in many consumer issues, is the way it has broadened choice in serving the specific and diverse needs of an almost endless number of consumer groups each having peculiar requirements. We must not make the mistake of assuming a universality of consumer values. Each of us, in terms of his own individual values, tends to rationalize what he considers appropriate universal values for others. We have difficulty understanding and respecting values other than our own.

The Food Labeling Panic: Does It Serve Consumers?

Looking back over the many consumer protection bills that have passed the Congress in recent years and more importantly the many administrative regulations that have been imposed on the consumers' freedom of choice in the marketplace, one is at a loss to see where some of these actions have served the consumer well.

Take for example the current food labeling panic. Depending on particular interests, advocates want foods labeled as to ingredients. They want nutrient values indicated, weights, use directions,

product count and number of servings, guarantees and warnings about misuse, prices per unit of content, open code dating, inspection stamps, identity of manufacturer, and many other kinds of information.

One can set forth very formidable arguments for the nutritive labeling of food products. And certainly no one with the consumer interest at heart would argue against the need for a better informed consumer. But is the problem really that simple? Do we really have a set of nutritive values universally applicable to all people? We have many sets of minimum daily requirements, but are they true values? Do people know how to use them? Do all persons have the same needs? Then there is the whole question of the availability of nutrients depending on the way food is prepared and used. Would such labeling lead to a false confidence by consumers that certain needs were being met? In what terms should the requirements be stated? What would be the cost of conforming to such labeling requirements and how many new bureaucrats would it require to police the program? Would consumers take such labeling into consideration in their buying decisions? How much digestible information can be provided on a label? And there are many other questions one could raise. Keep in mind, I am neither advocating nor condemning nutritive labeling. I raise these questions only to illustrate the kind of considerations which we have all too often neglected in establishing many of our regulations on the consumer.

Open Dating of Foods

For a moment along this line we might take a brief look at the proposed consumer protection legislation that would require the open dating of food products. If the manufacturer puts a bunch of funny numbers on a package to tell them when a product was made, why shouldn't the consumer be entitled to know what all this means? With some products this may be appropriate; but the false inference really lies in the fact that the date code is not used by the manufacturer nearly so much as a time code as for lot identification. The suitability of a product for consumption depends far more on storage and handling conditions than on time. I'd much rather eat hot dogs kept under proper refrigeration for 30 days than those only 3 days old but not refrigerated. Require an open date on them and what would be the added cost of store stock rotation and returned merchandise which is perfectly suitable for consump-

tion? And who do you think would pay that cost?

Are No Risks Worth Taking?

Permit me to comment on one other example. The Congress recently passed a law prohibiting the use of DES (Diethylstilbestrol) in animal feeds. Headlines reporting this issue could have read: "Congress votes to outlaw use of dangerous drug" or "Congress votes to increase annual beef cost $3.50 per capita and to make it a little tougher." Both headlines would be appropriate. In brief, these simple facts led to the action: First, direct dosages of DES to maternity cases in France were found to have caused cancer. Secondly, traces of DES were recently found in the livers of several animals. Consequently, the extremely remote risk that the use of DES in livestock feed might cause cancer was traded off against lowering the quality of beef and raising its price to the consumer. In testimony, the Food and Drug Administrator took the position that prohibiting the use of this feed additive will cause more fatalities through malnutrition than would result from the controlled use of DES.

I used these two examples of consumer protection because they seem to illustrate two distinct yet general types of measures. One prohibits a practice or service while the other creates a practice or service to which it is hoped consumers will respond. Seat belts, nutritive labeling, unit pricing are all added services prescribed under the guise of consumer protection. In this type of protection the cost is imposed on the consumer by law but the use by the consumer remains optional. On the other hand, prohibited practices are made mandatory on the consumer and the costs of the protection lie in the vague area of deprivation. As more and more regulations are imposed on the consumer, we need increasingly to recognize this distinction in making our individual judgments on each new issue.

Gradually Overwhelmed

Perhaps you do not feel strongly about any of the specific issues I have discussed here. The costs and benefits of any particular consumer issue are not great; and that is the nature of consumer issues – the importance of being unimportant. It is somewhat like the gradual encroachment of taxes. We passively accept each increment until suddenly we find ourselves overburdened.

Increasingly, I think we must recognize that consumer protection does not come free – that it must be paid for by the consumer

either in terms of added costs or through suffering the consequences of deprivation. If we accept the idea that the consumer is to be fully protected in all his actions, he must by definition become nothing more than the ward, or prisoner if you will, of the State. Personally, I cherish the opportunity of making a mistake because I know with it I have economic and social freedom. With all its shortcomings, I like capitalism; and I resent all socialistic measures limiting my freedom.

It has been ten years since President Kennedy enunciated the now famous Consumer Bill of Rights: 1) the right to safety, 2) the right to be informed, 3) the right to choose, and 4) the right to be heard. These are rights with which we would not disagree. The question is really one of what we do in the name of these rights, for these are the rights only of a truly free society. What President Kennedy did not say, and which is more to the point, is that the right to safety is appropriate only in the exercise of reasonable and prudent judgment by the consumer. The right to be informed carries with it the responsibility of becoming better educated. The right to choose carries with it the opportunity of making the kind of choice which consumer protectionism prohibits. And the right to be heard carries with it a respect for the differing desires and wants of one's fellow men.

IDEAS ON LIBERTY

How To Be Cheated

THE same guards which protect us from disaster, defect and enmity, defend us, if we will, from selfishness and fraud. Bolts and bars are not the best of our institutions, nor is shrewdness in trade a mark of wisdom. Men suffer all their life long under the foolish superstition that they can be cheated. But it is as impossible for a man to be cheated by any one but himself, as for a thing to be and not to be at the same time.

RALPH WALDO EMERSON, *Compensation*

CLARENCE B. CARSON

THE FOUNDING OF THE AMERICAN REPUBLIC

19

Establishing the Government

"GREAT OAKS from tiny acorns grow," run the words of an old saying. They seem particularly appropriate to the United States government, as we look back on its small, uncertain, and precarious beginnings from the twentieth century when the lineal descendant of that government has grown to immense proportions. It is difficult for us who are used to this Leviathan with its symmetry, stability, and massiveness even to imagine the frail beginnings and the contingency of its existence. The government, which has long since proceeded on the momentum of an established institution, once had to be made to go by conscious and concentrated effort; and a little of that story needs to be told.

The first Congress was so slow in assembling that there was some reason to doubt whether the government might even get underway. It was scheduled to begin with its sessions on March 4, 1789 in the city of New York. But only a few members of either house had arrived by that date. Historian Claude Bowers describes the further difficulties of Congress this way: "A week after the date set for the opening of Congress but six Senators had appeared, and a

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circular letter was sent to the others urging their immediate attendance. Two weeks more and neither House nor Senate could muster a quorum. . . . 'The people will forget the new government before it is born,' wrote [Fisher] Ames. 'The resurrection of the infant will come before its birth.'" This was unduly pessimistic, however, for the houses had the necessary quorums for organizing to do business on April 6.

A few days later, April 16, George Washington set out by carriage from Mount Vernon to make the journey to New York City to be inaugurated as the first President of the United States. The electors were unanimous in selecting him to the post, though their unanimity dissolved when it came to selecting John Adams as Vice-President. Along the way on his journey north, Washington was greeted with pomp and ceremony and by throngs of people. The Governor of Pennsylvania, Thomas Mifflin, greeted Washington at the border of his state with a troop of calvary and escorted the President-elect into Philadelphia where his arrival was celebrated by thousands of inhabitants. Trenton, New Jersey, however, provided him the most effusive welcome. "There a triumphal arch composed of thirteen flower-bedecked pillars straddled the road. In front of it stood thirteen maidens in white, each with a flower basket on her arm. As the great man, now astride a white horse, rode into view the maidens burst into song."

> Virgins fair and matrons grave,
> Those thy conquering arm did save,
> Build for thee triumphal bowers;
> Strew, ye fair, his way with flowers
> Strew your hero's way with flowers.[1]

Republican simplicity had not yet replaced monarchical pomposity in America, but it is doubtful that any monarch was ever so genuinely admired, loved, and respected as the hero chosen to be chief of state of this Republic.

Inauguration in New York City

Quite a spectacle was prepared in New York City for Washington's arrival. The inauguration day was set for April 30. A splendid procession formed at Washington's residence to escort him to the place of inauguration, Federal Hall. He took the oath of office in public view, and then went into the Senate chamber to deliver his inaugural address to both houses of Congress there assembled. Washington had taken great care in preparing this address and had practiced the delivery of it before he had left Mount Vernon. Even so, he appears to have had great difficulty with giving it ut-

terance. Fisher Ames noted that the President was "grave, almost to sadness; his modesty, actually shaking; his voice deep, a little tremulous, and so low as to call for close attention."[2] Senator William Maclay of Pennsylvania declared that "this great man was agitated and embarrassed more than ever he was by the leveled cannon or pointed musket. He trembled, and several times could scarce make out to read."[3]

It is certain that Washington was no orator, nor was he comfortable in attempting to fulfill that office. But there was good reason aside from that for him to approach the highest office in the land tremulously. There is evidence that he entertained doubts as to his capabilities for the task ahead. One historian says that "Washington in some respects was a humble man, despite that massive outer shield of dignity which served to freeze the overfamiliar and even to awe his closest friends. He knew his own limitations. He had a sufficient faith in his powers as a military strategist and commander in the field; he had no such confidence in his abilities as a statesman in time of peace."[4] But even a man lacking his modesty might well have blanched before the prospect of the difficulties he would face. Indeed, all those who undertook leading roles in the new government had their work cut out for them.

Starting from Scratch

L. D. White, who made extensive studies of the early administrations, says that when Washington became "the first President under the new Constitution, he took over almost nothing from the dying Confederation. There was, indeed, a foreign office with John Jay and a couple of clerks to deal with correspondence . . .; there was a Treasury Board with an empty treasury; there was a 'Secretary at War' with an authorized army of 840 men; there were a dozen clerks whose pay was in arrears, and an unknown but fearful burden of debt, almost no revenue, and a prostrate credit. But one could hardly perceive in the winter of 1789 a government of the Union."

Indeed, the problems of getting an effective government underway in early 1789 were greater than even the above would suggest. The population of the country was not so great, of course. The census of 1790 showed it to be just under 4,000,000. But it was spread over a vast area. Though the bulk of the population was on or near the Atlantic seaboard, that fact hardly indicated that the population was concentrated. The seaboard itself stretched for perhaps 1500 miles

from Maine through Georgia. Along this great stretch of coast population was located mostly in clumps here and there, and these were frequently separated from one another by considerable distances. Back of the seaboard was a vast area, split by the Appalachians, much of it inhabited by Indians, by and large still in its primeval condition, and most of it as yet unsurveyed. Travel from one place to another was often an unpleasant adventure, and from some parts of the country to others a virtual impossibility overland.

Differences to Contend With

Although the preponderance of the population, save for the Blacks, was British in background and tradition, there were many differences among the people in any given area as well as many regional differences. Americans as a whole had not yet been governed by a real government located on this continent, and even British rule had not bound them together; that had held them only to the mother country as best it could. There were differences of religion: they were Baptists, Methodists, Presbyterians, Congregationalists, Episcopalians, Quakers, and members of a multitude of small sects, though, again, Americans were usually Protestant. The middle states differed decidedly from the New England, and the Southern ones from all the rest. These diversities made any union by government appear unlikely, if not impossible.

The financial situation of the government of the United States was so precarious that it might well be said that the new government was receiver for the bankrupt Confederation. Even after the repudiation of the Continental currency the debts of the states and the Union which were left over from the war were large and growing, for in many instances not even the interest was being paid. In 1790, Alexander Hamilton estimated that the United States owed to foreign creditors $11,710,378, of which $1,640,071 was interest. The principal of the domestic debt he declared to be $27,383,917, to which would be added interest arrears to the amount of $13,030,168.[5] States had debts, too, which had been contracted during the war and which might be charged to the United States government.

Complex Foreign Affairs

To these difficulties were added those of dealing effectively with foreign powers. The United States had not yet earned the respect or fear of foreign countries. British troops still held sway in the Old

Northwest from forts on the Great Lakes. The Spanish dominated much of the Mississippi River as well as egress from it. As if this were not enough, on July 14, 1789, only two-and-a-half months after Washington's inauguration, a mob in Paris stormed the Bastille, signalling the onset of the French Revolution. There were undoubtedly many in America who thought that the early events of that revolution were a good augury for the United States. Much of the rhetoric of the revolutionaries bore a family resemblance to that just used by Americans. (This was neither entirely coincidence nor attributable to the *Zeitgeist* alone; Thomas Paine devoted himself to the French cause as he had lately done to the American one.) This was to be a revolution in defense of the rights of man, so Americans heard, and were gladdened. Moreover, the French proclaimed a republic in 1792, and Americans welcomed company in that aspiration.

But out of the French Revolution grew such activities, contests, and, eventually, wars that all of Europe was caught up in them and repercussions reached to many other parts of the world. If George Washington, in preparing his inaugural address, had foreseen the trial that the wars and disturbances surrounding the French Revolution would be to the United States, he might have given up in despair, though it was hardly in his character to do so. War broke out in Europe in 1793, receded and expanded, but continued until 1815 with only one intermission of peace for about a year. It involved not only all the European powers at one time or another, and most of them several times, but also their empires in the rest of the world and any neutral nations trading with Europe. The American Republic needed peace very much for the development of unity; instead it was pressed toward war and torn between the warring parties of Europe.

Putting Ideas to Practice

To contend with these difficulties in 1789, the United States government had a Constitution — a piece of paper — consisting of a few articles setting forth a plan of government. The United States was a vision in 1789, its government was a dream, and a mere hope was its dominion over the vast continental territory vouchsafed to its keeping. Americans had proved themselves masters of rhetoric: they could pen declarations, draw up constitutions, add to them bills of rights; they had even fought a war succesfully; but it was still very much in doubt

that they could effect a permanent union, would submit to the necessary taxation to retire their debts, could govern the domain, and could take their place as a nation among nations.

Words are wonderful things; ideas move men; and plans contain the necessary patterns for human endeavor. But there is a missing link between words on paper – though they compose a constitution or some other noble document – and the realities of unity, government, stability, and liberty. That missing link, if it is supplied, is supplied by men. Man *is* a frail reed, but his proposals are evanescent without his energies. It was men who breathed the breath of life into the government, who provided the flesh to the bones of the Constitution, who in their contests with one another held the government in check, and who gave impetus and direction to it. But it was neither the generality of men who did this nor even all of those who held office in the government. Madison's comment after looking over the roll of those elected to the first Congress may have been somewhat harsh, but it was much to the point: he said that there were few members who would take an active hand "in the drudgery of the business."[6] That part would be played, as it usually is, by a few men with the tenacity, the ambition, the drive, and the determination to make the government work. Critics abound; leaders who get things done are few.

The Greatest of These . . .

The number of the men who played the leading roles in making the new government work were few and can be named on the fingers of a single hand – almost. Of course, there were others who played important parts, and no government could succeed without widespread support from the populace (and the social base which their activities provide); but given all these things, it still required and had the leadership of a remarkable set of men. The ones that stand out above all the others in the early years of the Republic are: George Washington, James Madison, Alexander Hamilton, Thomas Jefferson, John Adams, and John Marshall.

Americans were jealous of their rights and loath to grant that power over their lives and fortunes which is necessary even for limited government. Nor was it easy to reconcile them to the potential concentration of power that was vested in the office of President. If such power had to be vested in men, even many of those at the Constitutional Convention thought, it would be better imparted to three men than

one. What made it finally acceptable to Americans to have but one man as President was that the man would be George Washington at first. Washington's reaction to all this is summed up by a biographer:

> Even before the Constitution was adopted, public opinion had fixed on Washington as the first president. He repelled the suggestion when it was made to him and opposed it wherever he decently could. Fame he had never coveted and the purely military ambition of his youth had long since been burned out, as he had gained close acquaintance with the scourge of war. At the age of fifty-six he had no "wish beyond that of living and dying an honest man on my own farm."[7]

It was this modesty, this lack of personal ambition, this humility, and his sense of stewardship and honor that made him so right for the post. Washington could be trusted, that was the key: trusted to stick to his post until he had accomplished the goal, trusted to do the honorable thing, trusted with the affairs of the people, and trusted to think in terms of the Union. He would not be expected to achieve daring coups, to make risky innovations, or to use his office for purely personal ambitions. He would and did bring dignity to the office and make of it a symbol of unity for a people.

James Madison

Wispy James Madison is a strange choice for one of the essential leaders in establishing the government. Historians and biographers did not make the choice, though it should be said that they have affirmed it. Nor could it be said that for most of his career he was the choice of the people. With his quiet voice, his unassuming manner, and his small stature, he was not one to be picked for leadership. The Virginia legislature passed over him for one of their Senators, and he had to make do with being a member of the House of Representatives. In a sense, Madison must have chosen himself for the role. He had it, at any rate, because of his cultivated intellect, his determination to have a national government, and because he spoke with such cogency and authority on the Constitution. Where others doubted or vacillated, he was certain and determined. He was the man who had so much to do with drawing the Constitution, getting it adopted, making a Bill of Rights, and guiding through the House the early legislation by which the government was established.

Alexander Hamilton

Alexander Hamilton was, and has remained, a controversial figure in the history of the early

years of the Republic. Given his brilliance, his audacity, his drive, and his ambition, it probably could not have been otherwise. He was the man with a plan, a plan he intended to see adopted, and a plan over whose merits men were sharply divided. Perhaps what he achieved could have been accomplished without the acrimony he aroused, but we may doubt it. He wanted an energetic government which men would look upon as *the* government, and any program to achieve it was bound to stir up deep animosities. Hamilton was a nationalist; much less than any other leading figure of these times was he associated by allegiance with any state. He was born and partially educated in the West Indies. He came to Boston in 1772 or 1773, at the age of 15-18, depending on which birth date is accepted and which year he arrived. Shortly, he moved to New York for such local base as he ever had for his political ambitions. He had hardly arrived when he entered the lists of pamphleteers against British measures. He served in the army during the war, was appointed an aid to General George Washington and at that post learned much about the country. He was instrumental both in getting the Constitutional Convention called and less so in helping with its work. He was, however, a leading figure in securing its ratification in New York.

Washington appointed Hamilton to what many considered the most important post in the new government, that of Secretary of the Treasury. If it was not the most important, he acted as if it were, and from it he proceeded to the establishment of a financial system for the United States. His over-all achievement has been aptly described this way:

> He created as from a void a firm public credit; he strengthened the government by not merely placing it on a sure financial foundation, but also uniting great propertied interests behind it . . . He saw the importance of what he called "energy in the administration" . . ., and if only because he went further than any other member of the government in exercising the powers of the Constitution, he must rank as one of the boldest and most farsighted of the founders of the nation.[8]

Thomas Jefferson

Thomas Jefferson has had the loftiest of reputations among the Founders. There was something somewhat Olympian about him; he had more skills and abilities than any man ought: he was architect, inventor, lawyer, statesman, writer, and linguist, among other accomplishments. But his Olympian position may owe more to his

absence from the center of most continental and national efforts during the crucial years of the late 1770's and the 1780's. When other prominent men were engaged in the War for Independence he was serving ineptly as Governor of Virginia. While the new Constitution was being drawn and ratified he was serving as Minister to France. While others were engaged in the heat of the contest for ratification or alteration, he could and did write calm and judicious letters about the document. Even after he was brought to the center of affairs in Washington's Administration as Secretary of State, he remained in the shade of the more energetic and imaginative Hamilton; and it would have been a sensible judgment that he was unsuited to the rough and tumble of politics. It is ironic, then, that he is included among the list of men who established the government for his role in partisan politics. Jefferson did grasp the nettle of involvement in the exercise of power, forge a political party which attracted a large national following, establish what became a succession of Presidents, and bring republican simplicity to government as well as make political parties another instrument in the balance and containment of power in America. He hardly wished to be remembered as a partisan politician, or even a politician for that matter; yet he adorns history books largely in that role, and in the largest view this is as it should be. It is in the rough and tumble of politics that ideas are tested along with the mettle of those who advanced them. To be founder of a political party appears to be a lesser thing than to be "Father of the Constitution," but Jefferson's reputation has been more secure than that of James Madison. (Lest someone remind me that Jefferson wrote the Declaration of Independence, I note again that indeed he did, and maintain also that this authorship would have given him a secure place in American history but it would probably have no more made him a Founder than did Paine's authorship of *Common Sense* and *The Crisis*.)

John Adams

Why include John Adams in the list of eminent establishers of the government? There is no doubt, of course, that he should have a secure niche among the Founders for his service over the years in working for independence and for his dogged diplomacy in Europe. Moreover, he was the first Vice President of the United States and the second President. These latter activities are the ones that give trouble, however, for he has

frequently been adjudged a weak and ineffective President, one who inherited from Washington and kept a cabinet which he could not dominate, and who lacked the authority to keep the Federalists in line. The consensus of historians has sometimes been more generous with him, however. About twenty years ago historian Arthur M. Schlesinger queried over half a hundred prominent historians and political scientists asking them to evaluate the Presidents on a scale ranging from Great to Failures. John Adams finished in the top ten, and was rated as near Great.[9] Perhaps, if the reason for rating him so high must be simplified it is that as President he steered the United States on a course of neutrality and independence in the world, averted both serious internal troubles and a major foreign conflict, and achieved out of it an accord with France.

John Marshall

John Marshall came late to the role of establishing the government. He did take part in the war and in politics during the 1770's and 1780's but in positions that did not bring him to the forefront of the attention of Americans. He was prominent in the Virginia convention which took up the question of ratification of the Constitution and debated in favor of adoption. But he only emerged as a major national figure in 1800 when John Adams appointed him Secretary of State. And, in 1801 he was made Chief Justice of the Supreme Court, a position which he occupied until his death in 1835. It was, of course, as Chief Justice that he distinguished himself and played a prominent part in giving stability to the United States government.

Marshall does not exactly fit our image of an eminent jurist. He was not particularly well-stocked with formal education; his academic training in the law was restricted to a few lectures by George Wythe which he attended. A contemporary said he was "'tall, meagre, emaciated,' loose-jointed, inelegant in 'dress, attitudes, gesture,' of swarthy complexion, and looking beyond his years, with a countenance 'small in proportion to his height' but pervaded with 'great good humour and hilarity . . .'"[10] Even so, he came to dominate the court in fairly short order, a fact which is the more remarkable because he was a Federalist, and the men appointed to be his brothers on the court over the years were Republicans. He had a mind which could go the nub of the matter; he was unencumbered by any great knowledge of the law; and he would carry the field with the

force of an argument. His great strength lay in his devotion to the Constitution and his determination to have it hold sway regardless of what there might be in ordinary law to the contrary. The impact of his opinions on the Constitution raised that document far above the realm of ordinary law and did much to make the Constitution into a Higher Law. As Justice Story said in the dedication of his *Commentaries* to Marshall:

> Your expositions of constitutional law enjoy a rare and extraordinary authority. They constitute a monument of fame far beyond the ordinary memorials of political and military glory. They are destined to enlighten, instruct, and convince future generations; and can scarcely perish but with the memory of the constitution itself.[11]

Building from the Blueprint

The great task which confronted the men who would establish the government of the United States at the outset, aside from getting respect for it, was to flesh out the very general outline for a government contained in the Constitution. Their work can be likened to that of a master carpenter who has the task of constructing a house from a blueprint. The blueprint indicates what the house should be like, but it rarely tells in any detail how the effects are to be achieved. That is the task of the builder. So it was with the men who took the reins of the government. Moreover, they had the momentous job of deciding which way, among numerous ways, things should be done in the knowledge that once a way was chosen it would be a precedent for the future. The writers of a constitutional history text comment on this point in the following way:

> The decisions made by the statesmen who launched the new government were of especial importance, for the institutions they erected and the policies they inaugurated established precedents that were certain to affect profoundly the entire subsequent development of the constitutional system.[12]

The Setting of Precedents

There were many such precedential decisions in the early years, some trivial, or apparently so, others momentous. For example, the Senate spent some little time over what the proper form of addressing the President should be. A Senate committee actually recommended that Washington be addressed as "His Highness, the President of the United States of America, and Protector of their Liberties." Many in the Senate were outraged, and under Madison's leadership in the House, that

body insisted that he be addressed as the Constitution implies he should, namely, as "the President of the United States," and so he has been ever since.[13]

There was considerable discussion over whether or not heads of departments should be permitted to appear before the houses of Congress to present and discuss legislation. The decision was against it. President Washington appears to have been uncertain himself as to how he was to get the "advice and consent" of the Senate to treaties. He came in person to the Senate to present his first treaty. He was so disgruntled at the proceedings there, however, that he vowed after a second visit over this same treaty that he would never return on a similar errand, and he did not. Since that time, Presidents have caused treaties to be drawn, have sent them along to the Senate for approval, amendation, or rejection, and have considered themselves to be thus complying with the Constitution.

How Many Terms as President?

Perhaps the best example of a precedent being set which men adhered to for a very long time was in the matter of the number of terms a President would serve. There had been considerable concern when the office was set up that election to the office once would amount to election for life, for a President might be expected to be re-elected time after time. No doubt some even hoped that this would be the case. George Washington, however, decided to retire after his second term. His example carried such weight that every other man who had the opportunity stepped down voluntarily after two terms for the next 144 years. Franklin D. Roosevelt was the first President to attempt to succeed himself for a third term. The precedent was still so highly valued, however, that the two-term limit has since been made part of the fundamental law.

Duties of Congress

The Congress had the most immediate task of getting the government underway. It had to pass legislation that would call into being powers and functions that had been authorized by the Constitution. The first order of business was to provide revenue for the government. The first act, then, was the Tariff Act passed July 4, 1789. Though there were some protectionist features to it, the average duties laid were only 8 per cent, making it an act for revenue primarily. On July 20, a Tonnage Act was passed, levying a tax on goods unloaded in American ports. The rate was to be 50 cents a ton on foreign shipping

and 6 cents a ton on domestic. These duties, while not prohibitive, did obviously discriminate in favor of American ships. These things done, the Congress busied itself much in the next couple of months with creating departments of the government. The first departments called into being were State, War, and Treasury, in that order, and these were followed shortly by authorizations for a Postmaster General and an Attorney General, though these dignitaries did not yet oversee departments. A Federal Judiciary Act was passed on September 24, which provided for a Supreme Court with a chief justice and five associates. Three circuit courts were authorized, each of which was to have the attention of two Supreme Court justices. And Congress established 12 district courts. Though that body had been empowered by the Constitution to establish such courts, it was a discretionary power. The bringing of the lower courts into being was a decisive measure by the Congress and set the United States in the direction of having two distinct court systems, those of the United States and those of the states.

The leadership in originating and pressing through much of this legislation was taken by James Madison. With respect to part of the legislation, one historian says; "In the formulation of the fiscal policies of the new government, James Madison asserted over Congress the same high order of leadership that he had exercised over the Constitutional Convention."[14]

Presidential Coordination

It was now President Washington's turn to take the necessary actions to get all this functioning. Men had to be appointed to high offices with the consent of the Senate, and others had to be appointed to the more mundane jobs. Washington was finally able to persuade Thomas Jefferson to serve as the first Secretary of State. He got his old comrade at arms, Henry Knox, to become Secretary of War, which involved for him, mainly, continuing the post he occupied under the Confederation. Hamilton was the first Secretary of the Treasury, Edmund Randolph the first Attorney General, and John Jay the first Chief Justice of the Supreme Court. Department heads were not at first thought of as composing the President's Cabinet. They began to be convened as a cabinet, however, when Washington found it more convenient to have their opinions in concert rather than individually on certain matters. However, the Cabinet, as such, has

only such power and influence as the President accords it. With Washington this was considerable. "He surveyed his Cabinet with justifiable complacency. All were men of ability, and two were men of genius. With such as these, he wrote, 'I feel myself supported by able Co-adjutors, who harmonize well together.'"[15] This estimate, however, turned out to be much too optimistic.

With these things done, the government began slowly to function. Some of the most basic laws had been passed, men appointed to posts, and the tasks of performing functions assigned. The three branches of government were acting or ready to act, their separate functions becoming more clearly delineated, the relationships among them being sorted out. What had been a dream and a hope only a few months before was by 1790 becoming a reality.

• FOOTNOTES •

1 Nathan Schachner, *The Founding Fathers* (New York: Capricorn Books, 1954), p. 6.

2 *Ibid.*, p. 11.

3 *Ibid.*, p. 12.

4 *Ibid.*, pp. 3-4.

5 Curtis P. Nettels, *The Emergence of a National Economy* (New York: Holt, Rinehart and Winston, 1962), p. 115.

6 Schachner, *op. cit.*, p. 33.

7 John C. Fitzpatrick, "George Washington," *The American Plutarch*, Edward T. James, ed. (New York: Scribner's, 1964), p. 51.

8 Allan Nevins, "Alexander Hamilton," *ibid.*, p. 113.

9 Morton Borden, ed., *America's Ten Greatest Presidents* (Chicago: Rand McNally, 1961), p. 4.

10 Edward S. Corwin, "John Marshall," James, *op. cit.*, p. 164.

11 *Ibid.*, pp. 171-72.

12 Alfred H. Kelly and Winfred A. Harbison, *The American Constitution* (New York: Norton, 1955, rev. ed.), p. 167.

13 Schachner, *op. cit.*, pp. 46-47.

14 John C. Miller, *The Federalist Era* (New York: Harper and Row, 1960), p. 15.

15 Schachner, *op. cit.*, p. 63.

Next: Steering a Course for the Nation.

LEONARD E. READ

SHELTERING IDEOLOGIES

Damn the magistrates who play, "protect me, I'll protect you."
—*Petronius*

SOME THINGS never change, apparently: the nature of politicians, as distinguished from statesmen, for example. There is cameraderie in the trade; they take care of each other. "You play ball with me, and I'll play ball with you." No wonder the Roman magistrates winked at one another when they met! However, I do not damn the politicians who play the game that Petronius so rightly decried. My attitude is rather one of pity: they do not know any better!

Let us define our terms. What is meant by ideology? It is "the study of ideas, their nature and source . . . the doctrines, opinions, or way of thinking of an individual, class, etc."

And sheltering? As used here, it means protection from life's problems – seeking refuge from difficulties – not by building and strengthening one's own intellectual and physical assets but by using force or coercion to live off the resources of others. In politico-economic parlance these sheltering ideologies range from protectionism and state interventionism to socialism, welfarism, the planned economy, nazism, fascism, Fabianism, communism.

Though sorry for politicians who play the barbaric game of logrolling, my sorrow extends even more to those citizens who elevate politicians to their domineering positions. Why are these low-caliber men in office? Simply because too many voters themselves are of this caliber – they do as well as they know how to do. The dominators in office merely echo those in the population who believe their interests are best served by living at the expense of

others. Barbarism in both cases; like begetting like!

Why this harsh term, barbarism? The animal world, except for man, is guided by instincts. Man has lost most, not all, of his instincts. And few human beings have acquired man's distinctive features: *the ability to think for self, personally to will conduct, to make moral decisions.* Those who are neither animal nor man –trapped between the two – exhibit barbaric behavior: less than animals in instinctual guidance and short of man in rationality.

A Simple Test

How may we decide whether a person is trapped at the barbaric level or has ascended to the human level? There are many ways, but this simple test in economics should suffice: does an individual believe that one man's gain is another's loss?

Why is it that the Golden Rule is not universally accepted and applied as the only solution to the social problem? The answer is simple. Mr. Lippman put his finger on the heart of the matter in saying that *the fear* that "one man's or one country's gain is another man's or another country's loss is undoubtedly the greatest obstacle to human progress. It is the most primitive of all our social feelings and the most persistent and obstinate prejudice which we retain from our barbarian ancestors. It is upon this prejudice that civilization has foundered again and again. It is upon this prejudice that all schemes of conquest and exploitation are engendered. It is this prejudice which causes almost all men to think that the Golden Rule is a counsel of perfection which cannot be followed in the world of affairs."[1]

At the Human Level

Each person's position on the ladder of civilization is determined by the sheltering ideologies he condones or sponsors. If he subscribes to exploitation in one or more of countless forms, he has not thought his way out of primitive prejudices. If, on the other hand, he has freed his thinking of these superstitions, he is at the human level.

Except in the case of gambling and thievery (illegal), or state exploitation (legal, but identical in an economic sense), every gain of mine is someone else's gain as well. I value your product or service more than the cash paid or I would not have made the exchange. You value the cash more than the product or service or you would have retained your wares. Whenever and wherever there are voluntary exchanges, each party

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[1] See *Consent* by Newton Dillaway (Unity Village, Mo., Unity Books, 1967), p. 74.

gains in his own judgment – the sole basis of assessing value.[2] No sheltering ideology here! No hint of exploitation! Each doing for others that which he would have them do for him – the free market way.

Conceded, many people have ascended above the primitive level in other than the politico-economic realm which we are discussing here. But in this area, if we are to judge a man by his urge to plunder others, the number of "saved souls" is distressingly small. Further, this sad trait is not confined to any one occupational category. This propensity to live at the expense of others is as much in evidence among businessmen as labor union members, among professors of economics and clergymen as politicians.

Examples of Protectionism

Let us further identify those who subscribe to – support, condone, promote – the sheltering ideologies.

First, there are businessmen who seek varying forms of government protection against competition, domestic or foreign. Such people are not to be distinguished from labor union members who seek above-market wage rates for themselves by excluding other workers from certain jobs. Each practice is backed by government and thus exploits taxpayers and consumers. In this same category are those educators who demand tenure and go on strike to enforce their demands – all in the name of academic freedom!

Next are the promoters of such public works as The Gateway Arch, Urban Renewal, or moon shots. They may be likened to the monarchs of ancient Egypt. The pyramids were built with slave labor; today's public works are built by the coercively extorted income representing a portion of your labor and mine. What's the difference!

Those who support rent control and all other forms of wage and price controls are afflicted with a sheltering ideology. Controls seem to be a plausible way of dealing with rising costs, which in turn result from an increase in the money supply: inflation. Inflation is a device for syphoning private property into the coffers of government, and will be activated whenever the costs of government rise to the point where they cannot be met by direct tax levies – inflation to make up the difference.

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2 For an explanation of this point see *The Exploitation Theory* by Bohm-Bawerk (South Holland, Ill.: Libertarian Press, 1960). See also the chapter, "Readiness Is All" in my *Then Truth Will Out* (Irvington-on-Hudson, N. Y., The Foundation for Economic Education, Inc., 1971), pp. 144-152.

Expanding the Money Supply

These excessive costs result because other sheltering ideologies are practiced; prices rise as they would were everyone to practice counterfeiting. Wage and price controls hide the truth; they deprive buyers and sellers of the facts as to the demand for and the supply of goods and services. Thus, exploitation, which most people favor, can go on its merry way – people blinding themselves to reality!

Those who favor paying farmers not to farm – farm supports – are at precisely the same sheltering level as the American bureaucrats of the thirties who killed baby pigs to raise the price of pork, or the Brazilians who burned part of their coffee to raise the price of the balance. Exploitation of both consumers and taxpayers!

Physicians and dentists who support medicare and a system of licensing in order to suppress free entry and competition will, by and large, claim opposition to cartels and monopolies in the business world; they simply want their own cartel. "Dares thus the devil rebuke our sin! Dare thus the kettle say the pot is black!"[3]

Take account of the millions who favor unemployment insurance – a device so sheltering that many employables prefer their handouts coercively taken from taxpayers to earning their own way.

The Pension Idea

Who, we must ask, is free from sheltering ideologies in one or more of their numerous forms? If the above examples fail to embrace most of the population, then note the multitudes who favor Social Security. Nearly all educational, religious, and charitable institutions – not compelled by law to join in this economic monstrosity – have rushed to the trough. Favored, indeed!

Monstrosity? Reflect on the facts. ". . . the Social Security tax is not only rising faster than any other Federal tax but is also increasingly unfair to lower income workers. . . . The maximum Social Security tax rose from $60 in 1949 to $811 in 1971 and will jump to $1,324 in 1974."[4]

Here, however, is the shocker: not a cent of the billions collected in Social Security taxes is put in a reserve fund to pay beneficiaries – only IOU's in the form of government bonds. These billions are spent, as any other tax money, to defray the current costs of government. From what, then, are

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[3] Henry Fielding.

[4] See *New York Times*, November 19, 1972, First Section, p. 18.

beneficiaries paid? From more taxes imposed at time of payment, a tax on the beneficiaries as well as on other taxpayers. The enormous cost of this sheltering program is one of the major causes of inflation. If the money in circulation continues to escalate as in the past 33 years, it will total $1.5 trillion by the year 2000. What will the Social Security beneficiary then be able to buy with his dollar? Substantially nothing![5]

The proper function of government – organized force – is to codify the taboos against destructive actions and to enforce them. All creative activities, including the practice of charity, are appropriately left to men acting freely, voluntarily, cooperatively, competitively, privately. This is the freedom philosophy. As I see it, anyone who advocates, supports, or condones governmental intervention into any of the creative areas is a victim of one or more of the sheltering ideologies. And that covers all but a very few indeed!

I know the rebuttal; we hear it everywhere, by TV, radio, the press, nearly all associations – business, religious, educational, or whatever. Its substance? How else are we to care for the poor, the unfortunate, the unemployed, the aged? As a result, faith in free men to create a good society has all but disappeared.

A Record of Failure

The fact is that not a one of these alleged remedies is working. Nothing better illustrates the truth of this observation than one other of the sheltering ideologies: the minimum wage law. This popular panacea harms the very people it is supposed to assist, those on the lower rungs of the economic ladder. Workers whose skills are not valued by others at $2.25 per hour, for instance, are relegated to permanent unemployment. Economists, the world over, regardless of their other persuasions, are nearly unanimous on this point, and a moment's thought should tell us why.[6]

I insist that every sheltering ideology, be it Social Security, unemployment insurance, medicare, farm supports, wage and price controls, modern pyramids, teacher tenure, cartels, or whatever, has precisely the same debilitating, destructive effect as the minimum wage law. All of these,

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5 For more explanation, see "Social Security Re-examined" by Paul L. Poirot, *The Freeman*, November, 1965.

6 See the chapter, "A Laborer Looks at Freedom," in *Then Truth Will Out* (Irvington-on-Hudson, N. Y.: The Foundation for Economic Education, Inc., 1971), pp. 61-66.

without exception, harm the very people they are foolishly designed to help. At the root of these panaceas is nothing but an unwillingness to think, a failure to rise out of the primitive and up to the human level.

As to the sheltering ideologies, rare, indeed, is the person who favors none; rare, also, is he who favors but one.

What shall we infer from this? Sheltering has a near-unanimous approval. The individual who stands for even one special privilege endorses the principle of coercive exploitation; by his actions he declares that living off others is morally admissible.

The way to test the validity of this coercive exploitation is to assume its unanimous practice. It becomes obvious then that everyone would perish! Parasites die in the absence of a host.

One further observation: to the extent that the responsibility for self is removed, whether voluntarily surrendered or coercively taken over by governmental action, to that extent is denied the very essence of one's being, and the individual perishes by unseen degrees.

Man's laudable purpose is not to vegetate, to retire, to seek an escape from life – to be secure as in a coma; it is, instead, to get ever deeper into life, to grow. And this can be accomplished only by an increasing use of one's faculties, solving problems, surmounting obstacles. For it is an observed fact that the art of becoming is composed of acts of overcoming.

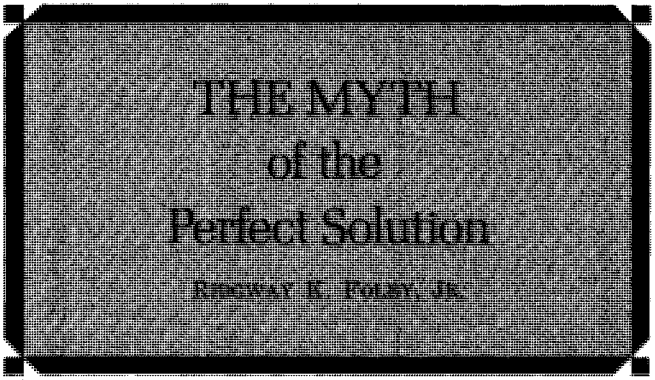
Why not be done with sheltering ideologies? As Maxwell Anderson wrote in his preface to *Knickerbocker Holiday* in 1938: "The guaranteed life turns out to be not only not free – it's not safe."

IDEAS ON LIBERTY

Something for Nothing

WHENEVER one man gets something without earning it, some other man has to earn something without getting it. That is morally wrong and any nation built on that kind of philosophy is headed for trouble because the real irony of this is that the man who pays nothing actually pays the highest price of all through the destruction of his character and self-respect.

From an address, "Don't Blame Caesar," by ED W. HILES



MAN PERSISTS in pursuit of utopian dreams. It seems second nature to search for the ideal solution to existing problems. Both self-improvement and societal change represent viable objectives and merit more than a sneer.

Nevertheless, enthusiasm for perfection or a final, conclusive solution must be tempered with an appreciation of the real nature of man. Man, a finite creature, lacks the quality of perfectibility; he is capable of improvement; he is not perfectible. Since human institutions merely reflect the nature of the men who form and operate them, one cannot reasonably expect perfection from society any more than one can anticipate it from individual man.

The statist errs in his consummate misapprehension of man's inherent nature. Indeed, his view appears ambivalent. The social engineering of the statist necessarily must be premised upon the assumption that man is inherently good and capable of creating Heaven on earth, yet the identical theorist often disdains the masses as mere sheep to be led, as mass voters incapable of knowing their own minds. Thus, he asserts that man may be perfected by the social engineer, the one who possesses the key to the door of ultimate understanding, notwithstanding the contrary contention that the mass man is incapable of self-perfection!

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On the other hand, the voluntarist who believes in the freedom philosophy[1] may likewise be snared by a related delusion. At the foundation, the exponent of freedom may comprehend man's finiteness. At the same time, he may continue a relentless quest for a positive, conclusive form of government which will necessarily secure the fruits of freedom to the governed.[2] I conclude against the existence of a perfect form of the state which will positively protect the individual from excesses of power. This essay explores this myth which may delude both the freedom exponent and the statist.

1 I use the terms "voluntarist," "libertarian," and "exponent of the freedom philosophy" interchangeably. By these words, I mean a person who adheres to the concepts of private property, limited government, free market economics, and individual self-determination, one who believes that the state is properly limited to promotion of common justice and protection of the individual from force and fraud by internal predators or external aggressors.

2 The Declaration of Independence, in salient part, forms the basis of the libertarian philosophy and suggests the obligation of government should be limited to *securing* personal freedom:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, ***."

The Search for Sovereignty to Best Assure Individual Freedom

Sovereignty represents the threshold inquiry. Where does, or should, sovereignty reside to best assure individual freedom? Sovereignty may be defined as the supreme power in a body politic.[3] Cursory reflection reveals that ultimate power of organized force must have a residence. In a milieu of anarchy or civil chaos, sovereignty constantly shifts, resting with the most currently powerful individual or clique. In a society controlled by organized government, sovereignty (the ultimate government power) must dwell in some individual or group ultimately controlling the coercive force of the state. That ruling force may be called a political party, a politburo, a king, a legislature, a privy council, or by any number of other names. Whatever its denomination, it is the ultimate repository of organized force in society.

The libertarian fears organized coercion; he recognizes that, despite good intentions, the monopoly of force provides fertile ground for misuse of power to the detriment of individual freedom. Chief Justice Roger Taney summed up

3 *Webster's New International Dictionary*, third edition, unabridged (G. & C. Merriam Company, Springfield, Massachusetts) 2179.

the problem succinctly over a century ago:

> It is said that this power in the President is dangerous to liberty and may be abused. All power may be abused if placed in unworthy hands.[4]

Thus, the essential libertarian concern considers limitations on the use of state power wherever sovereignty resides, since exertion of the law beyond its proper boundaries necessarily curtails liberty.[5]

Institutional Barriers to the Misuse of Power

To solve this concern, the libertarian searches for the location of sovereignty in the society in which he lives. Having determined where sovereignty abides, he often devotes his efforts to the erection of barriers designed to limit the sovereign and, hopefully, to inhibit the misuse of power.

Consider the American scene. The Founding Fathers greatly agonized over limitations on government, having lately removed the young states from the grip of royal and parliamentary despotism. They constructed intricate governmental institutions, separating and dividing power, checking and balancing the use of coercive force. Thus, for example, the House of Representatives wields the power of the purse; the Senate advises upon, and consents to, various executive appointments; the two houses of Congress must concur in the passage of legislation; the President proposes legislative acts, and executes them after passage; the Supreme Court may declare an act of Congress unconstitutional (beyond its power); lifetime appointments are made to the Supreme Court, with good behavior, without reduction in salary, by the Chief Executive, upon the advice and consent of the Senate; election to legislative and executive office occurs in staggered terms of 2, 4, or 6 years. In addition, power is further fragmented between the national government and the several states (division of power) and most state governments contain, on their own level, additional checks and balances.[6]

Fragmented Power

The American system posits the premise that diffused power poses

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[4] *Luther v. Borden*, 17 U.S. (7 How) 1, 12 (1849).

[5] See Foley, Ridgway K., Jr., "Individual Liberty and the Rule of Law" 21 *Freeman* No. 6, 357-378 (June 1971), and 7 Will. L. J. 396-418 (Dec. 1971), wherein I have attempted to analyze proper and improper uses of law.

[6] Of course, this cursory summary is not intended to be an exhaustive analysis of the system of checks and balances, division of power, and separation of power. Entire treatises have considered these conditions and provisions. The statements in this paragraph are intended as illustrative only.

less danger to individual freedom than concentrated coercive force. Liberty could survive handsomely under an enlightened monarch or unitary council, if the possessor of power limited the role of the state to its appropriate functions. History teaches the unlikelihood of this condition. It offers the collateral lesson that fragmented power, diffused among several individuals, entities, and institutions, may more likely retard abuse and salvage freedom.

Have They Worked?

Review American history. Has this system of checks and balances wrought preservation of freedom and limitation of the state? Sadly, the objective observer must respond negatively. The Supreme Court early usurped the power to declare congressional acts unconstitutional under a rule of "necessity";[7] this self-serving doctrine of judicial supremacy could be checked by congressional removal of jurisdiction, or by more explicit legislation, or by constitutional amendment, but none of these devices have yet achieved the needed limitation. Thus, the Federal courts proceed to judicially legislate, oblivious to constitutional restraints and unanswerable to the electorate. Using shibboleths like "state action,"[8] "affected with the public interest,"[9] and the like, the judiciary has imposed upon the body politic concepts of economics, morals, and sociology which satisfy the particular jurists but few others. One can measure whether we are in a nation of laws, not men, by comparing the change in judicial policy evoked in four years by four additions to the United States Supreme Court![10]

Assaults Upon Liberty

Again, legislative action in a bifurcated Congress has proved no savior of liberty. Political deals, use of odius riders upon needed legislation, the artifice of pork-

7 *Marbury v. Madison*, 1 Cranch 137, 2 L. Ed. 60 (1803).

8 But see *Moose Lodge No. 17 v. Irvis*, Supreme Court Bulletin B2734 (June 12, 1972), and *Lloyd Corp., Ltd. v. Tanner*, Supreme Court Bulletin B3140 (June 22, 1972), where the Court has taken a much-desired backward step from the governmental expansive concept of "state action." The philosophical defects and libertarian antidotes to this freedom emasculating tenet deserve a separate essay.

9 *Munn v. Illinois*, 94 U.S. 113, 24 L. Ed. 77 (1876).

10 The author holds no brief for Chief Justice Burger and Associate Justices Blackman, Powell and Rehnquist as libertarians in the sense used here. Indeed, their decisions reveal a singular ambivalence and inconsistencies so typical of those not endowed with any consistent philosophy of freedom. (Mr. Justice Rehnquist may prove the exception to this broad statement.) Nevertheless, no one can deny that these men, "conservatives" at least in the traditional sense, have worked a major change in the jural fabric of our nation.

barrel politics, and bottling up bills in committee for mean and venal ends have persisted since the nation began. Members of Congress display an increasing tendency to voice freedom and economy at the same time that they vote repressive and uneconomic bills into law. The checks and balances designed to encourage mature reflection have not fared well.

Finally, the executive branch of government has contributed to the decline of freedom. Not the least of its sins has been the appointment of persons to public office lacking in any appreciation of ingenuity and the desirability of maximum individual freedom. Again, the constant inordinate demands upon the legislative branch to legislate in all nooks and crannies of human existence can only induce and achieve the lessening of human creativity.

Nor has the division of power between the states and national government protected the citizenry from the assault upon their liberty. The original premises of the nation included (1) control of government by those closest to it; (2) strictly delegated or limited functions of the government; and (3) the individual states as incubators of political theory. Nevertheless, two hundred years reveal the constant usurpation of power by the general government, a corresponding increase in activities by both state and nation, a loss of direct control by the electorate, and a continuing assault upon political variation and a growth of the orthodoxy of mediocrity.

The Trap of the Constitutionalism Response

If the present system fails to preserve freedom, rationally one should inquire whether any other system might provide that sought-after perfect solution. At this point the libertarian may be ensnared by the trap laid by the myth. For lack of a better phrase, we may term this delusion the *constitutionalism response.*

The advocates of the constitutionalism response recognize that carefully formulated institutions devised by the Founding Fathers have failed to achieve the sole viable end of government: human freedom. They comprehend that the most carefully conceived institutions may decline, even in a democracy or republic, where 51 per cent of the voters can ravage the remainder by ballot fiat. Yet their rejoinder is to propose more carefully constructed constitutional provisions. How often have you heard a strong libertarian utter the cliché, "There ought to be a law against (or compelling) — —"? I have perceived even kindred souls suggesting that reading

Bastiat's *The Law* should be mandatory! A contradiction in terms.

The constitutionalism response suffers from twin deficiencies. It rests upon the fallacious premises that (1) it is desirable to legislate (read: coerce) others to conform to this chosen mode of behavior and (2) it is possible to legislate proper conduct, and even to define the content of such conduct. These premises, in turn, rely for support upon the arrogant assumption that some man (or group of men) is better able and equipped to determine the destiny of other men, so that it is proper and desirable that the former compel the latter. A subsidiary false assumption presumes that any man is even privileged to make this decision about another.

Just Ends and Coercive Means

Reduce the problem to simple terms. Am I better qualified, by intrinsic worth, brains, or talent, to judge how my neighbor should conduct his life, even in the smallest particular? Stated in these terms, a negative rejoinder seems prudent. Yet, I violate that conclusion every time I coerce my neighbor into paying Social Security against his will. Recognize that I may have his best interests at heart: he does not spend his money wisely and I fear he will wind up a destitute and unhappy old man. Besides, Social Security really costs him very little and this represents, indeed, a small particular since I leave my neighbor his freedom in other arenas. Nothwithstanding these rationalizations, no circumstance justifies my ordering my neighbor's destiny, even in minute instances, save one: to prevent the use of force and fraud against free men and for the promotion and administration of common justice. In fact, it is the height of arrogance for me to even claim the privilege of making this decision for my neighbor. Of course, logic patently demonstrates that if I am not individually privileged to restrain my neighbor, neither am I entitled to coerce him by banding together with my fellows, either to form a majority or a ruling claque. Action under the imprimatur of majority rule may soothe the superficial conscience, but it renders the evil deed no less evil.

Observe where the constitutionalism response first failed – at the point where the libertarian advocates the use of nonlibertarian methods to produce a "desirable" result. You may agree that the world would be a better place if all men memorized Bastiat's *The Law*. I suggest that such a desirable end should not be produced by threat of death to all those who fail in this endeavor. Such an edict

would violate the very principle sought to be achieved. On a less violent scale, the constitutionalism response proposes to correct injustice and restraint by the use of organized force – "There ought to be a law." If ends preexist in means, such propositions are doomed to failure.

The Art of the Possible

Most libertarians successfully hurdle the first deficiency. More of us stumble upon the second: the *possibility* of achieving desired ends by legislative or constitutional reform.

I propose two axioms: first, the Founding Fathers more nearly approached the ideal of human freedom than any other group of men, and that they constructed an intricate fabric (the Constitution) upon which to maximize individual liberty. Second, the condition of freedom has rapidly deteriorated despite this philosophy and protection. Given these premises, what can be done to better our condition? Is it *possible* to write a better constitutional answer?

I suggest that while improvement might be made in our Constitution, no man-made vehicle can possess perfection. Just as finite man is fallible, so also are his words, works, and institutions.

The problem is complicated by the nature of language. Words provide poor vehicles for transportation of concepts. Concepts contain the amount of precision and perfection injected by the perceiver; the perceiver is finite. But the perceiver may arrive at something close to perfection in his mind, yet be deterred or obstructed in conveying his thoughts to a listener or reader by the sheer clumsiness of language.

Words possess shades and variations of meanings. Meaning and content differ from man to man. The classic intra-libertarian intellectual struggles bear ample witness to the fact that even persons in basic agreement in principle may contest in context.

Differences in Interpretation

For example, I may say that the state should limit its activities to the prevention of force and fraud, to the protection of its citizens from internal violence and external aggression, and to the promotion of common justice. You may agree. You know these words and you understand their common signification; to you, the content is sound and we affirm our harmony. Yet this accord may dissipate rapidly when we apply my broad statement to concrete situations, or when we test it by definition or analysis. We may agree in principle and thus form a consensus, but disagree in application. Con-

sider fraud. To a lawyer, fraud possesses a stylized jural meaning: it is a material representation, false in fact, made by a party when he knows that it is false or made recklessly by that party without knowledge of its falsity and as a positive assertion, made with the intention that it should be acted upon by that other person in reliance and to his detriment.[11] I may mean the government shall only penalize active legal fraud as defined by the court; you may conceive of fraud as something quite different, incorporating common (and just) senses of indignation against a more wide-ranging and invidious type of deception. Any general definitional term may divide us when we seek to apply the rule to specific situations.

A constitution resembles the instance set forth in the last paragraph. By nature, constitutions are fundamental, basic documents. They are full of open-textured concepts which possess many interpretational interstices. As our "fraud" analysis demonstrated, words are susceptible to many meanings. General agreement can be achieved at the core; less agreement will hold sway at the penumbra. For example, most of us would agree that it is fraudulent for a used car dealer to affirmatively tell a buyer that the subject vehicle has only been driven 10,000 miles when in fact the dealer set back the speedometer from 50,000 miles himself that very morning, at least if the buyer believed the dealer, bought the car in reliance upon his affirmation, and was harmed by the misstatement. We might have a much more difficult time in reaching a consensus of fraud in a case where a seller conveyed a new vacuum cleaner to a buyer upon the affirmation that the machine was manufactured in Yuma, when in fact it was made up of parts made in Yuma but assembled in Flagstaff.

Two examples of open-textured phrases from the present Constitution sufficiently manifest this intrinsic deficiency appearing in that essential document. The states granted Congress the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."[12] Scholarly analysis demonstrates that the draftsmen intended to grant to Congress the power to inhibit trade barriers between states such as plagued the nation under the Articles of Confederation. Yet the Federal government has used this little clause as the basis for usurpation of a vast range of human action by im-

[11] See, e.g., *Amort v. Tupper*, 204 Or. 279, 282 P. 2d 660 (1955).

[12] United States Constitution, Art. I, § 8, Cl. 3.

plementation of restrictive legislative and judicial decisions. A similar flagrant linguistic misuse concerns the "general welfare"[13] clause of the preamble which has been tortured beyond belief.

History thus proffers a clear lesson to be learned: no matter how clear and precise a constitution may be, there exists no guarantee that succeeding generations of politicians and judges will not distort the phraseology, history, and meaning to their own ends, which usually involve the assumption of greater power to the state. I challenge whether it is possible to draft a constitution which will withstand the ravages of "unworthy" men.[14]

The Solution

I tender no perfect solution. None exists. I do offer a solution which may not be wholly palatable to today's activists who are aggrieved by the miasma wrought by governmental intervention. That solution is persuasion and reliance upon enlightened men. The concept of limited government requires, in final analysis, an agreement upon basic principles of limitation and the good faith of all citizens who participate in the body politic. Legislators and executives can be elected with a majority mandate to overturn or ignore basic principles;[15] judicial officers can misread a constitution or a statute. The sole viable solution is to educate and persuade an increasingly greater number of men to act in harmony with the principles of the freedom philosophy both in their private lives and as public servants.[16]

The nature of the solution should not deter us from seeking after perfection. It does not mean we should desist from ruffling lib-

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13 United States Constitution, Preamble:

"We the People of the United States in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

14 See Footnote 4. The Soviet Constitution, in many respects, appears to be a most liberal instrument, yet witness the depredations wrought in that family of nations.

15 I am reminded of Dr. Poirot's recent article "Who Should Vote?" 21 *Freeman* No. 2, 120-124 (February 1971) wherein he discusses, *inter alia*, potential limitations upon the franchise to the end that freedom might better survive. I do not disagree necessarily with some of his excellent ideas, I merely point out that franchise limitations pose no insurmountable barrier to the statists who convince the electorate that plunder is proper. Enlightened freemen provide our sole effective recourse in final analysis.

16 Insofar as the method of education and persuasion consistent with the freedom philosophy is concerned, I defer to the writings of Mr. Leonard Read who has given this subject much consideration.

eral tail feathers wherever we can. It does not mean that we should desert the polling place. I merely suggest that we should not place ultimate reliance upon the ballot box or a written document for the perfect solution. We come nearer to perfection if we concentrate on self-improvement and self-enlightenment, so that each of us brings his own candlepower into conjunction with others. Who knows – the Remnant might become a horde.

Chaff About Wheat

WILLIAM F. RICKENBACKER

WHEAT, of all things, has been making the headlines in recent weeks as if it were married to a Greek shipping lord. There has been the announcement of general crop failures in the Communist world, an enormous sale by American exporters, accusations of "windfall" profits by those exporters, guarantees of higher-than-market prices for wheat and even for the shipowners who transport it to the Soviet Paradise, the decision of the longshoremen's union to abandon its long-established policy of refusing to work vessels under Soviet flag – and so on and so forth. Wheat, quite clearly, is a "problem."

Now the interesting thing is that there is no reason why wheat intrinsically should be a problem, as, for example, carbon monoxide is a problem. Men of average ability can cooperate with the Lord's creation in such a way as to produce wheat in abundance; mechanisms can match up supply and demand as they do for hundreds, nay thousands, of other commodities; transportation can be arranged at less than the presidential level for wheat as it is routinely for, say, cornflakes or narcotics. What's so special, and what's so especially problematical, about wheat?

I submit that the special char-

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acteristic is governmental intervention. Across the sea, in the Soviet Paradise, where the farmers in czarist days never failed to export their agricultural production to Europe and Asia, the intrusion of a crazy political ideology has converted abundance into penury, an agricultural exporter into an importer. On this side of the water, the intrusion of an equally crazy political ideology has distorted just about every aspect of wheat economics. You can't plant wheat without a license. Trafficking in licenses is a crime. General tax revenues are used to prop up the domestic price of wheat, raising the cost of living. If a wheat exporter sells wheat at less than the domestic price, the Department of Agriculture will make up the difference. So, general tax revenues are used to depress the world price. Exporters can gamble on varying differentials in the daily quotes, and apply for subsidies calling for larger payments than needed to offset their actual losses. In the recent sale of wheat to the Soviet Paradise, this system alone cost the taxpayers $120 million. Some "sale"! The artificially swollen price for domestic wheat encourages perennial over-production and embarrassing "surpluses" that, in merely economic terms, are as surely a sign of coercive distortion as the "shortages" created by Soviet ideology in the historic breadbasket of Europe.

As for transportation, the two meddling governments, Washington and Moscow, have agreed to pay more than the market rate for shipping. General tax revenues will be used to line the pockets of the shipowners. By political agreement, one-third of the wheat transported from the U.S. to the USSR must go in American bottoms, one-third in Soviet bottoms and one-third in "other" vessels. No matter what price the "other" vessels charge, the Soviets will pay 10 per cent more to the American shipowners. Presumably this will help American ships to stay in business despite the ruinous results of governmental interventionism and subsidies in the shipping industry – another, but sickeningly similar, story. All of this finagling, boondoggling, price-setting and reciprocal pocket-lining would be strictly illegal if done by private citizens.

It seems clear that the effect of governmental meddling in wheat has been to unbalance the supply-demand function in the U.S. and the USSR, to raise prices in *both* places, to create "problems" where none had existed before (transportation of Ukrainian wheat to Europe was no "problem" when it was handled, year after year, by

freely functioning agents), and to misallocate scarce resources such as human labor, farm machinery, real estate, storage bins, fertilizer and on and on. It is, in fact, impossible to show that the wheat maneuvers of Washington and Moscow have done any economic good at all; and it is easy to show that the over-all net result has been entirely negative, raising everyone's cost of food and creating hostility where once there had been only cooperation.

Here, as always when the government intervenes in a market, the "problem" does not reside in some inanimate object named "wheat" or "natural gas," but in false ideologies. More precisely, the problem does not lie in false ideologies but in a political system that permits some people to impose their false ideologies on others. I would gladly let the Department of Agriculture go on forever with its delusions and magical operations. But why must it have the power to force all of us to pay for its mistakes?

Wonder what would happen if the Department of Agriculture had to offer its "services" in a free market?

IDEAS ON LIBERTY

Inventions vs. *Interventions*

THE INTRODUCTION of great inventions appears to be one of the most distinguished of human actions, and the ancients so considered it, for they assigned divine honors to the authors of inventions, but only heroic honors to those who displayed civil merit such as the founders of cities and empires, legislators, the deliverers of their country from lasting misfortunes, the quellers of tyrants, and the like. And if anyone rightly compares them he will find the judgment of antiquity to be correct; for the benefits derived from inventions may extend to mankind in general, but civil benefits to particular lands alone; the latter, moreover, last but for a time, the former forever. Civil reformation seldom is carried on without violence and confusion, while inventions are a blessing and a benefit without injuring or afflicting any.

SIR FRANCIS BACON

Edmund Burke on Inflation and Despotism

GARY NORTH

EDMUND BURKE is generally regarded as one of the founders of modern conservative thought. As a defender of tradition, private property, slow social change, and "muddling through," he was an opponent of aprioristic thinking, rationalistic blueprints for social reconstruction, and "metaphysical arithmeticians." He is therefore not heralded as a master of the subtle skills of economic reasoning. Nevertheless, Burke's teachings on the relationship between policies of monetary debasement and social change indicate that he was far more alert to the dangers of monetary inflation than are recent defenders of Federal deficits and a system of price-wage controls. When *Nation's Business* can survey 450 leading business executives concerning their opinions on price and wage controls, and find that over 70 per cent of them favor the controls, with 47 per cent of them favoring an indefinite extension of such controls, it is not difficult to conclude that Edmund Burke had a more sophisticated sense of economics than our modern professionals.[1]

In 1790, Burke distinguished himself by writing what was to become the classic statement of conservative social theory, *Reflections on the Revolution in France.* Though its focus is social and political, the book contains several penetrating sections dealing with two crucial economic issues: wealth redistribution and monetary debasement. His presuppositions are not those of classical liberalism, given his commitment to landed property as distin-

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guished from commercial ("monied") property, but his conclusions are quite close to nineteenth-century liberal monetary theories.

Burke's defense of private property in land as a form of ownership superior to stocks, bonds, and other "paper" investments harkens back to the famous Putney Debates of Cromwell's Army in 1647. Burke, like Ireton (Cromwell's son-in-law) before him, viewed the owners of landed property as men with a greater stake in the preservation of society than either the propertyless or those owning nonlanded property.[2] Understandably, given this perspective, Burke was appalled by the advent of money speculators in France, coupled with the simultaneous confiscation of church and Crown lands. "The monied interest is in its nature more ready for any adventure," he wrote, "and its possessors more disposed to new enterprises of any kind. Being of a recent acquisition, it falls in more naturally with any novelties. It is therefore the kind of wealth which will be resorted to by all who wish for change."[3] Burke was not opposed to change as such; he wrote that any state "without the means of some change is without the means of its conservation."[4] But he wanted slow, steady, familiar, "organic" changes, and not the more rapid changes associated with modern industrial society. In this sense, he was certainly a "conservative" rather than a "liberal."

This preference for landed property – which in eighteenth-century England meant property hedged about by statist restrictions on ownership, transfer of such ownership, inheritance, and politically imposed land enclosures[5] – over monied property undoubtedly colored Burke's economic analysis. He resented what he regarded as land confiscation in France and the sale of this land to middle-class French businessmen, thereby "carrying on a process of continual transmutation of paper into land, and land into paper. . . . By this means the spirit of money-jobbing and speculation goes into the mass of land itself and incorporates with it."[6] Yet he accepted Parliamentary enclosure bills, and he was personally interested in agricultural rationalization and improvement for England's increasingly market-oriented system of farming. Indeed, as Prof. Herbert Heaton has written, "Burke discussed cabbages and pigs almost as earnestly as he did the grievances of the American colonies."[7] Thus, he was not fully consistent in his support of private ownership nor in his attacks on political confiscation.

Immorality and Instability

His real concern was with morality and with semifeudal concepts like honor and loyalty. These concepts were being undermined in France by revolutionary politics and monetary debasement on the part of the French government. Instability – Burke's greatest fear – was becoming the order of the day in France. Most serious, this instability was undermining the French family, that most fundamental of all institutions in conservative social analysis.

> Nothing stable in the modes of holding property or exercising function could form a solid ground on which any parent could speculate in the education of his offspring or in a choice for their future establishment in the world. No principles would be early worked into the habits. . . . Who would insure a tender and delicate sense of honor to beat almost with the first pulses of the heart when no man could know what would be the test of honor in a nation continually varying the standard of its coin?[8]

The result of such an unsettled commonwealth, Burke predicted, would be barbarism. What was to take place in France over the decade following the publication of the *Reflections* convinced many of his contemporaries of the accuracy of his prediction.

France, it should not be forgotten, was probably the wealthiest nation on earth in the final quarter of the eighteenth century, although the English were rapidly overtaking their French neighbors, and by 1800 had probably succeeded in becoming the world's richest citizens. Burke understood the position of the French better than the French revolutionaries did; he praised France's cities, the transportation system, French agriculture, manufacturing, charitable foundations, and scholars.[9] But the French state was also in debt – so heavily in debt that half of all the King's revenues went in interest payments on the debt. (England was in a similar situation, and Burke may have been hinting at this fact in the *Reflections*.[10])

> Nations are wading deeper and deeper into an ocean of boundless debt. Public debts, which at first were a security to governments by interesting many in the public tranquility [a variation of an agrument used by Alexander Hamilton in 1790 in his Report on Public Credit[11]] are likely in their excess to become the means of their subversion. If governments provide for these debts by heavy impositions, they perish by becoming odious to the people.[12]

Burke, like Hamilton, failed to see that a "little" governmental indebtedness is comparable to a lit-

tle unwanted pregnancy, but he did grasp the politically unsettling reality of heavy state debt. Such conditions lead to revolution. (The French Estates General were summoned in order to approve tax increases necessary to finance the French debt; this was the first great event in the French Revolution.) Burke feared this repercussion of state debt because, he said, revolutions "are favorable to confiscation; and it is impossible to know under what obnoxious names the next confiscations will be authorized."[13]

Monetization of Debt

Like so many politicians before and since, the French revolutionaries decided that the best possible way of getting out of debt was to go deeper into debt. The Anglo-American version of this system is through the monetization of debt, through the mechanism of a central bank and fractional reserve commercial banks.[14] The French leaders adopted a somewhat different system. They first confiscated the lands of the church and Crown. Then they issued paper debt certificates, called *assignats*, that could be used in the purchase of these lands. These certificates bore 5 per cent interest at first, lowered to 3 per cent a few months after the initial offering in 1789. The decree of April 17, 1790, made these legal tender. These were "given" to – forced upon – those holding other forms of state debt certificates.[15] In the words of Prof. Bosher, who is not hostile to these administrative reforms, "Any of the alternative methods put forward would have perpetuated the old private enterprise system."[16]

The value of these fiat notes fell almost immediately. The "temporary" expedient of inflation and legal tender laws became a permanent phenomenon. The 400 million of them issued in 1789 became a roaring flood of 40 billion within four years. Again, quoting Bosher: "A decree of 8 April 1793 ordered all government purchases and payments to soldiers to be in *assignats*. Three days later, the Convention prohibited circulation, sale or purchase of gold and silver coin. All transactions were henceforth to be in *assignats*, now the principal legal currency."[17] The penalty (not mentioned by Bosher): imprisonment for six years.[18] Andrew Dickson White's *Fiat Money Inflation in France* continues the analysis:

> Later, on September 8, 1793, the penalty for such offenses was made death, with confiscation of the criminal's property, and a reward was offered to any person informing the authorities regarding any such criminal transaction. To reach the climax

of ferocity, the Convention decreed, in May 1794, that the death penalty should be inflicted on any person convicted of "having asked, before a bargain was concluded, in what money payment was to be made."[19]

It is not surprising that an increase of circulation from 400 million to 40 billion in a span of four years would have produced price inflation. What is surprising is that a book seriously advertising itself as "conservative economics" could argue, as one widely read study does, that "The fact that they were destroyed as money by the gigantic counterfeiting operations of the money creators later, does not detract from their validity."[20] Burke, almost two centuries ago, knew better than that!

Price and Wage Controls

On September 29, 1793, the "Law of the Maximum" was declared, setting forth a system of price and wage controls. But, as White says, it "could not be made to work well—even by the shrewdest devices. In the greater part of France it could not be enforced."[21] It was abolished in the latter months of 1794, a total disaster. It was as unworkable as the early attempts to control prices and wages had been in New England, and it was as disastrous as the controls had been in the American Revolution.[22]

Burke had foreseen these events in 1790. The politics of mass inflation, he warned, would create a gambler mentality in the minds of French citizens, a mad rush to stay ahead of rising prices. He warned the citizens of France—or at least those who might be reading his book—of this fact:

> Your legislators, in everything new, are the very first who have founded a commonwealth on gaming, and infused this spirit into it as its vital breath. The great object of these politics is to metamorphose France from a great kingdom into one great playtable; to turn its inhabitants into a nation of gamesters; . . . With you a man can neither earn nor buy his dinner without a speculation. What he receives in the morning will not have the same value at night. . . . Industry must wither away. Economy must be driven from your country. Careful provision will have no existence.[23]

It is not simply that industry will decline or that people will have to become speculators. The real curse of mass inflation is that it harms the ignorant, the unprotected, the citizen who is not aware of the nature of the new, inflationary game. In the name of democracy, the French revolutionaries had constructed a system that favors the elite—an elite made up of the least honorable, least productive men in the community.

The truly melancholy part of the policy of systematically making a nation of gamesters is this, that though all are forced to play, few can understand the game; and fewer still are in a condition to avail themselves of the knowledge. The many must be the dupes of the few who conduct the machine of these speculations. What effect it must have on the country people is visible. The townsmen can calculate from day to day, not so the inhabitant of the country. When the peasant first brings his corn to market, the magistrate in the towns obliges him to take the assignat at par; when he goes to the shop with the money, he finds it seven per cent worse for crossing the way. This market he will not readily resort to again. The townspeople will be inflamed; they will force the country people to bring their corn.[24]

The nation will be torn with social conflict. This, in turn, will create disruptions, further instability, and the destruction of law and order. His warnings were in vain, and his prophecies came true.

Convertibility Makes a Difference

There is a difference, he said, between the paper money of England and that of France, contrary to certain French writers. "They forget that, in England, not one shilling of paper money of any description is received but of choice; and that it is convertible at pleasure, in an instant and without the smallest loss, into cash [specie] again."[25] The Napoleonic Wars were to bring an end to convertibility in England for temporary periods, but Burke's polemical point was grounded in fact: the presence of the threat of specie demands by the public acted as a restraint on the process of fractional reserve banking, thus reducing the extent of monetary inflation. But French leaders have gone mad, he said:

> The only difference among their financial factions is on the greater or the lesser quantity of *assignats* to be imposed on the public sufferance. They are all professors of *assignats*. Even those whose natural good sense and knowledge of commerce, not obliterated by philosophy [by which Burke meant the *a priori* theories of Enlightenment theorists], furnish decisive arguments against this delusion conclude their arguments by proposing the emission of *assignats*. I suppose they must talk of *assignats*, as no other language would be understood. All experience of their inefficiency does not in the least discourage them. Are the old *assignats* depreciated at market?—What is the remedy? Issue new *assignats*.[26]

Burke's jibes at the self-deceived and self-assured manipulators could (and perhaps someday will) be lodged against our contemporary "metaphysical arithmeti-

cians," the inflation-minded econometricians:

> In all this procedure I can see neither the solid sense of plain dealing nor the subtle dexterity of ingenious fraud. The objections within the Assembly to pulling up the floodgates for this innundation of fraud are unanswered, but they are thoroughly refuted by a hundred thousand financiers in the street. These are the numbers by which the metaphysic arithmeticians compute. These are the grand calculations on which a philosophical public credit is founded in France. They cannot raise supplies, but they can raise mobs.[27]

The people of France ought to see where a philosophy of state theft is leading them:

> I see the confiscators begin with bishops and chapters, and monasteries, but I do not see them end there.... Flushed with the insolence of their first inglorious victories, and pressed by the distresses caused by their lust of unhallowed lucre, disappointed but not discouraged, they have at length ventured completely to subvert all property of all descriptions throughout the extent of a great kingdom. They have compelled all men, in all transactions of commerce, in the disposal of lands, in civil dealing, and through the whole communion of life, to accept as perfect payment and good and lawful tender the symbols of their speculations on a projected sale of their plunder. What vestiges of liberty or property have they left?[28]

Once begun, this madness will be compounded. "If possible, the next Assembly must be worse than the present. The present, by destroying and altering everything, will leave to their successors apparently nothing popular to do. They will be roused by emulation and example to enterprises the boldest and the most absurd."[29] This, of course, is precisely what was to take place in France. "So violent an outrage upon credit, property, and liberty as this compulsory paper currency has seldom been exhibited by the alliance of bankruptcy and tyranny, at any time or in any nation."[30] Yet it got much worse in the next five years.

Theft is an insidious philosophy, whether public or private in scope. Short-run benefits of the confiscation of another's property tempt men to expand their activities and bring on personal and national disaster. Burke's warnings went unheeded by the French government in 1790. Today's metaphysical arithmeticians consider such opinions as Burke's utterly narrow, dogmatic, and unenlightened by the principles of modern thought. The results of today's confiscators will be comparable to the results of the French Revolution, since the

principles are similar. If not mass inflation, then it will be some Napoleon of the mass media. Perhaps it may be both.

• FOOTNOTES •

1 *Nation's Business* (July, 1972), pp. 28 *ff.*

2 See Ireton's remarks in A. S. P. Woodhouse (ed.), *Puritanism and Liberty* (London: Dent, 1938), pp. 52 *ff.*, 64 *ff.* On the setting of the Putney Debates, see Robert S. Paul, *The Lord Protector: Religion and Politics in the Life of Oliver Cromwell* (Grand Rapids: Eerdmans, 1955), Chap. 7.

3 Burke, *Reflections on the Revolution in France,* edited by Thomas H. D. Mahoney (Indianapolis: Bobbs-Merrill, Liberal Arts Press, 1955), p. 126.

4 *Ibid.*, p. 24.

5 Cf. Christopher Hill, *Reformation to Industrial Revolution* (Baltimore: Penguin, 1969), p. 270; Herbert Heaton, *Economic History of Europe* (rev. ed.; New York: Harper & Row, 1948), pp. 413-14, 419; Shepard B. Clough, *The Economic Development of Western Civilization* (New York: McGraw-Hill, 1959), pp. 296-97.

6 *Reflections,* p. 224.

7 Heaton, p. 410.

8 *Reflections,* p. 108.

9 *Ibid.*, p. 151.

10 J. F. Bosher, *French Finances, 1770-1795* (New York: Cambridge University Press, 1970), p. 24.

11 Hamilton wrote in his First Report on Public Credit (1790): "If all the public creditors receive their dues from one source, distributed with an equal hand, their interest will be the same. And, having the same interests, they will unite in the support of the fiscal arrangements of the Government. . . ." Robert Birley (ed.), *Speeches and Documents in American History* (New York: Oxford University Press, 1951), Vol. I, p. 159. Yet, as Prof. John C. Miller notes, "The national debt, instead of cementing the nation politically, acted as a divisive force. . . ." *Alexander Hamilton and the Growth of the New Nation* (New York: Harper Torchbook, 1964), p. 255.

12 *Reflections,* pp. 178-79.

13 *Ibid.*

14 Charles Holt Carroll, writing for *Hunt's Merchants' Magazine* in the 1850's and 1860's, produced some excellent analyses of the process of the monetization of debt: *Organization of Debt Into Currency and Other Papers* (New York: Arno Press, 1971). This was the essence of Hamilton's "sinking fund": Miller, p. 257. It is also the essence of the Open Market Committee of the Federal Reserve System: Herbert V. Prochnow (ed.), *The Federal Reserve System* (New York: Harper & Bros., 1961), Chap. 7.

15 Bosher, pp. 273-74.

16 *Ibid.*, p. 273.

17 *Ibid.*, p. 274.

18 Andrew Dickson White, *Fiat Money Inflation in France* (Foundation for Economic Education, [1912] 1959), pp. 78-79.

19 *Ibid.*, p. 79.

20 Gertrude Coogan, *Money Creators* (Hawthorne, Calif.: Omni Books, [1935] 1963), p. 320. For a critical analysis of the writings of Miss Coogan, see my essay, "Gertrude Coogan and the Myth of Social Credit," *An Introduction to Christian Economics* (Nutley, N. J.: Craig Press, 1973).

21 White, p. 77.

22 On Puritan economic controls, see Richard B. Morris, *Government and Labor in Early America* (New York: Columbia University Press, 1946), pp. 56 *ff.* These tended to die out after 1675. On the controls during the American Revolution, see Percy Greaves, "From Price Control to Valley Forge," THE FREEMAN (Feb., 1972).

23 *Reflections,* pp. 226-27.

24 *Ibid.*, p. 227.

25 *Ibid.*, p. 273. When Burke speaks of "cash" he means "specie": p. 283.

26 *Ibid.*, p. 276.

27 *Ibid.*, p. 281.

28 *Ibid.*, pp. 174-75.

29 *Ibid.*, p. 232.

30 *Ibid.*, p. 141.

JOHN CHAMBERLAIN

Trousered Apes

AS WILLI SCHLAMM once put it, the whole darned army is in the *avant garde*. Insofar as writers are concerned, this means that we have an almost totally unrelieved preoccupation with savagery in our plays, poems, novels and even philosophical speculation. The excuse is that you "gotta see it like it is." In the *avant garde* writer's view, "seeing it like it is" means that the human being is just another animal, and not one of the cleaner animals, at that – *Trousered Apes*, as Duncan Williams calls our literary "anti-heroes" in his scarifying attack on "sick literature in a sick society" (Arlington House, $6.95).

Professor Williams, a British critic, thinks rather better of human possibilities than the angry young playwrights of London or such American novelists as Norman Mailer. Not everyone is dedicated to "violence and animalism," and there are still whole sections of society – the recalcitrant "bourgeois" element – that would reject Norman Mailer's "decision to encourage the psychopath in oneself." Nevertheless, Mr. Williams does admit the provocation that pushes young writers to pessimistic extremes.

For one thing, there has been "an almost total loss of religious faith." We have "no ultimate reference." Mr. Williams thinks the population explosion, which he takes seriously, must offer a dizzyingly dangerous temptation to totalitarian rulers who possess the nuclear ability "to destroy the species." With no belief in a rationally structured universe or in a beneficent Creator or First Cause, it is easy for people to slip into the attitude of "anything goes." Our novelists and poets and dramatists, with no faith of their own to sus-

tain them or guide their artistic efforts, become easy victims in their turn of a temptation to mistake an ugly part for a less lurid whole. It is all quite understandable.

The Double Duty of Artists

In Mr. Williams's opinion, however, artists have what amounts to a double duty. They should "mirror" the civilization they see around them. But they should also be capable of rising above the "chronic upheaval which is engulfing our culture." This has not been a popular notion of the artist's duty, as Malcolm Muggeridge makes clear in his foreword to the American edition of *Trousered Apes*. Not since the Eighteenth Century have writers considered themselves to be teachers or moralists. There was a time in the "halfway house" of the Nineteenth Century when they aspired to be "objective" observers, as the very word "naturalism" indicated. More recently, out of despair, they have become conscious immoralists, mocking the idea that you can have a believable moral code in a world without purpose, or teleology, or God, or any other concept that gives meaning and dignity to existence.

The trouble is, as Mr. Williams demonstrates with a wealth of references to scores of writers from the times of Samuel Johnson and Alexander Pope and Jane Austen down to the present, that one little thing leads to another. The creations of the poets and the fiction writers have a definite influence on the texture of a culture. When a Shakespeare or a Richardson can discover heroes and gentlemen, life will ennoble itself by imitating what it sees on the stage or reads in books. But when the very idea of a hero is called into question, leading ultimately to the cult of the Dostoevsky anti-hero, life will imitate that, too. So the modern *avant garde* writer who has a clinical obsession with man as something that is "violent, animalistic, alienated, mannerless and uncivilized," becomes more than a mere neutral observer. Our Sartres, our Mailers, our Truman Capotes (*In Cold Blood*) and the film makers of *Bonnie and Clyde* take on Satanic pastorates in spite of themselves.

A Re-Run from the Thirties

The Williams thesis, however heartening and welcome it may be, is not quite as novel as either Malcolm Muggeridge or Christopher Booker (the delighted sponsors of *Trousered Apes*) might suppose. We had the whole argument out in the early Nineteen Thirties, when Gorham Munson and the "new" Humanists took issue with the prevailing negativistic cults of the moment. The fact that Munson and

his friends got nowhere in the "proletarianized" Rooseveltian decade is an indication that the malaise goes much deeper than anything that might be corrected if only Truman Capote, say, would start writing about something other than moral monsters. But if novelists, dramatists and poets cannot be satifactory substitutes for great religious leaders or philosophers, they should be quick to catch any stray hints of regeneration in society. After all, they pride themselves on their acute sensibilities. Gorham Munson was right to the extent that he held it a novelist's duty to "body forth" the best that might be found in the world around him, even though few fiction writers can ever have the stature of a Confucius, a Thomas Aquinas, a Luther, a Calvin or a John Wesley.

America Follows the Trend

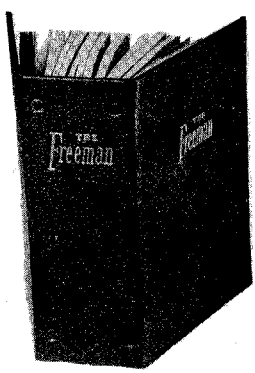
Since he is an Englishman, Mr. Williams chooses most of his more extended references from his own side of the Atlantic. If he had taken a closer look at American literature, he might have discovered that the American writer held on to a basic moral health until well into the Twentieth Century. It was not until the Nineteen Thirties that the anti-hero really invaded our fiction. The characters of Sinclair Lewis, Willa Cather, Elizabeth Roberts (*The Time of Man*), Ellen Glasgow, Booth Tarkington and even Scott Fitzgerald had a healthy forward-living quality that disappeared from our fiction only after Hitler and the depression had made their simultaneous appearance on the world scene. For all his naivete, Lewis's George F. Babbitt had something to commend him; he wanted to live in a true community. Lewis even found himself a hero in the businessman protagonist of *Dodsworth*. Willa Cather's operatic singer in *The Song of the Lark* and her glowing pioneer women in *My Antonia* and *O! Pioneers* were certainly not anti-heroines. We have had only one full generation of writers whose stupid devotion has been to the literature of the absurd. If memories weren't so short, we Americans might still find it in us to recover from the malaise that Mr. Williams anatomizes with such powerful accuracy.

Prospects for Recovery

The conditions of recovery, however, will not prevail as long as our contemporary critics remain sunk in what Mr. Williams, who has a genius for the happy phrase, calls our "temporal provincialism." This provincialism is currently enhanced by the current academic rage for the "relevant" – i.e., what is being thought and said in 1972 and 1973 at the expense of ideas

that were prevalent twenty, forty or a hundred and fifty years ago. How to break the vicious circle? Maybe a maverick group of young college presidents such as George Roche at Hillsdale College in Michigan and John Howard at Rockford in Illinois can do something about it. They might even prevail on Malcolm Muggeridge, or even Duncan Williams himself, to spend a year or two in American surroundings as visiting lecturers. Even our rebellious young might be willing to listen to common sense when it comes with a foreign accent.

Aside from his perspicacity as a critic, Mr. Williams is a competent theologian. He does not try to prove the existence of a Supreme Being. He notes that, just as a cat can't do calculus, the human species can't fathom the ultimate purpose of the universe. But he argues with great good sense that if the calculus exists beyond the ken of a cat, so there may be an ultimate purpose in the universe despite man's inability to go beyond the intuition that where there is evidence of structure there must also be a structuring intelligence.



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