

THE *Freeman*

IDEAS ON LIBERTY

JULY 1963

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THE *Freeman*

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LEONARD E. READ *President, Foundation for
Economic Education*

PAUL L. POIROT *Managing Editor*

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RIGHT and

WRONG

—NOT Right and LEFT

CLARENCE MANION

I HAVE almost lost faith in semantics, and if I can spell out the word very carefully, let me say that I am just about at the point of being anti-semantic. How, for example, did our semanticists ever get us divided between right and left? The division between right and left has a mere directional connotation. Right and left, if you please, is no way to divide society on economic, political, or social issues.

What has happened to the distinction between *right* and *wrong*? Right and wrong was the division that I grew up to understand and respect. Wrong is the opposite of right, but not left. When you men get into legal practice and you frame your first petition, if you live in Ohio, (or complaint, if

you live in Indiana) you will first affirm a right in your client. You will outline a certain right which this man has, whether it be of privacy, or what-not. Then in your allegation you will charge a wrong by the defendant, the wrong being the impairment of the right which your client had, and which should have been left undisturbed. So your first lawsuit is going to involve a distinction, not between right and left, but between right and wrong. This is a very proper and persistent legal distinction.

In this lawsuit between right and wrong you may be wrong in your allegation of the right. And you may be wrong again in your allegation that the defendant was wrong in violating the alleged right, which may not have been a right in the first place. If these things were all clear-cut, there wouldn't be any lawsuits. How-

Former Dean of the School of Law, University of Notre Dame, Dr. Manion now heads the *Manion Forum*. From an address at the Yale Law School.

ever, after you have made the allegation that your client has a right, and that the defendant committed a wrong in violating the right, the die is cast. After that there are only three things that can happen to that lawsuit. One, you can win it. The second thing is, you can lose it; you may be wrong about your right, and the defendant may be right about his wrong. Or third, you may compromise it. And believe you me, you will compromise a great many of them, and be very happy to do it.

The compromising of a lawsuit is a very important part of legal practice, and sometimes the most profitable. If you win the suit and establish the right categorically, you make a precedent. That is one thing. If you lose it, and your defendant's attorney establishes the wrong of your allegation and the right of his client's position, that is another thing. If you compromise the suit, then you merely temporize. In other words, you establish a middle-of-the-road for the time being, but you haven't made any law in this compromise. You haven't contributed anything to legal lore. You may have made a very profitable transaction, but that compromise will never go into a case book to guide future law students.

My point in underscoring this

process is this: You, as lawyers, throughout your legal life are going to be addicted to right and wrong, not right and left; and any compromise between right and wrong, whether it is in a lawsuit or in society and politics, is essentially a temporary stratagem, which serves nothing but expediency.

Why is it that we still adhere to right and wrong as the great division in law while in society, in politics, we have abandoned that division? When you say that a thing is right or wrong, you presuppose certain tests of objective morality. In order to determine the rectitude of a thing, or the wrong of an action, you must have certain inflexible moral standards of judgment. You say, "Well, these are legal standards that we apply in the courtroom. There is no morality about them. I can have objective legal concepts without having objective moral concepts."

Let's examine that for a moment. What has that to do with our heritage of law? I won't labor the point, but I will sketch it briefly.

Coke and Common Law

Our American jurisprudence is an English inheritance. Back in the years before 1689 in England, when Lord Coke, the great Lord

Chief Justice, was writing decisions, you will find (in Calvin's Case and Bonham's Case) that Coke was thundering limitations upon government that were not written in constitutions because England didn't have and doesn't have today a written constitution. But Lord Coke was restraining the Crown by citations of the natural moral law.

The natural moral law was a legally enforceable limitation upon the British government. That was changed in 1689 by what is called "The Glorious Revolution" in England. Before 1689, the American Colonies had been all but finally settled. I ask you to bear with me during this little piece of historical recollection. Remember that our first American colony was established in 1607 at Jamestown. Thereafter we went through the establishment of the various other colonies. As a matter of fact, the only colony that was established after 1689 was Georgia. But all of our colonies were in full flower in 1689, at the time of "The Glorious Revolution" in England.

In the years between the establishment of these American colonies, including Connecticut and New Haven, the only law that was applied here was Coke's natural or common law, along with the Mosaic Law, and the moral law. That

was all the law that the early American judges had to apply in this country. But in 1689 the supremacy of Parliament was established in England by "The Glorious Revolution." The King was no longer supreme. Parliament ascended to the supremacy. After that, instead of the natural law — and follow this closely, please — England went in for what we call colloquially today "the democratic process." In other words, the restraint upon government now devolved entirely upon the wisdom of the electorate, and there it stays in England today. Calvin's Case could no longer be cited against any act of the present British government, because the British Parliament can do anything to or with the English people or their property that it desires to. That was begun in 1689.

A Delayed Reaction

Nearly a hundred years later, in 1776, we staged a revolution. It took us nearly 100 years to find out what had happened in England, because we didn't have the informational devices we have now. Today, we know what the British Prime Minister said yesterday, and all of its significance; but in those days, it took a long time for the truth to seep through. We began to argue with Great Britain in 1765 or thereabouts,

when a difference of opinion developed as to the rights of Englishmen. When you look at pre-revolutionary literature, you will see that we were asserting the rights of Englishmen, and we were citing Coke to support them. George Mason, the author of the Bill of Rights in Virginia, was trying cases by citing Bonham's Case and Calvin's Case and the other decisions that were decided according to the natural law limitations upon government.

Finally Parliament made this fact known to us, that as British subjects, we had no rights that Parliament was bound to respect. That was finally made plain between 1765 and 1776. We then wrote the Declaration of Independence, in which we abandoned all reference to "rights of Englishmen" and talked about the rights of man, the rights of God's creatures. If British subjects had no rights that Parliament was bound to respect, then creatures of God, by divorcing themselves from all connection with Great Britain, could establish their rights under God and the natural law. That assertion was the first breath of the new life of this republic.

I dare say that there are people here, as there are people everywhere, who will tell you that the Declaration of Independence was

simply an emotional exercise, an escape valve for the revolutionary pressures of those times, which means nothing. To say that is to impugn the integrity of the men who wrote and signed the Declaration.

Self-Evident Truths

In composing the Declaration of Independence, Thomas Jefferson wrote very precisely what all of those present subscribed to without dissent; the four facts of American life, the four facts which constitute a collective predicate for everything an American lawyer properly does in his profession. If you don't challenge me on that, I will be very much disappointed.

Take a look at that Declaration of Independence. In the Declaration of Rights of 1774, these men had made their final plea for the rights of *Englishmen*. Between 1774 and 1776, they learned their lesson. The rights of Englishmen were nonexistent. And so in 1776 they declared the *rights of man* in these words. They said, "We hold these truths. . . ." We are now told that objective truth does not exist; that all truth is relative, like right and left. You can hold that position if you want to, but the authors of the Declaration of Independence took a different position. "We hold these truths

...” they said, and they underscored the expression by affirming these truths “to be self-evident.”

A self-evident truth carries its proof on its face. The Founding Fathers rested their case on four truths held to be self-evident. Number one. There is a God. All men are created. The position of an Almighty Creator in the universe was thus stated in the Declaration of Independence, not as a matter of faith, but as a matter of fact. God exists. And then number two. All men are created equal — *created* equal. All men are not born equal. All men are not physically or materially equal. But according to this declaration, people are equal in the sight of God. And for that reason — and this to lawyers is important — for that reason they are equal before the law of the land. This is the basis of our “equal protection of the law.” It is because of what was said in the Declaration of Independence — equal before God, equal before the law, and unequal in every other way.

Well, you say, “That is purely hypothetical.” Let’s see if it is. If and when you get into the practice of criminal law, you will have great respect for fingerprints. That little fingerprint of yours is not merely a means for the detection of crime. It is used that way, but we ought to broaden its sig-

nificance. Take a look at it. That fingerprint distinguishes you from everybody who now lives or who has ever lived on the face of the earth. That is the beginning of your individuation, and beyond that your differences sprout in every direction.

I don’t believe that everybody in this law school gets the same grade. I imagine that some get high marks, some low, some in between. The graduation system of law students is not peculiar. You are graduated all through life. Everybody has different aptitudes, different drives, and therefore they are different in achievement. You see, the fingerprint principle is extended throughout your personality. Some people want to be lawyers. Others want to be farmers, fabricators, plumbers, professors — until we have a whole complex of differences throughout the world. That is what makes for civilization. And whenever you try to equalize or stereotype humanity, by whatever name you call it, you are destroying the civilizing germ of difference. That is providential. Freedom will take this complex of differences and make a civilization out of it.

Endowed by Their Creator

But how to keep man free? Here is the next fact of life which

lawyers must know. What about freedom? Where does it come from? It says in the Declaration that the source is a self-evident truth. This is our third truth, namely, that all men are endowed — not by the Bill of Rights, or the Constitution, or the statutes, or by common consent — but men are endowed, it says in the Declaration of Independence, by their Creator, by God himself, with certain rights which are inalienable, that can't be taken away from them. They spelled out two of them. One was life, and the other was liberty. That is significant. There are other inalienable rights, but the Founding Fathers postulated these two in plain terms, life and liberty. Life is still unassailable in all civilized society, including ours. Murder is a heinous crime.

But what about liberty? In our Declaration liberty is made equally inalienable with life, a God-given, inalienable right, without which man loses his nature. It is freedom that sparks the differences of individual persons into action. How to preserve liberty? That is the hardest question of all. And that brings us to the fourth and final fact, and here is where lawyers come in. Mind you, right here is the point of a critical controversy. You say, "I will go along on God, and equality, and

the creative source of rights. But what has the last fact, the last of the four cornerstones to do with it?" It appears in the same document. It is postulated as a self-evident truth. It says that "to secure these rights," to protect these gifts of God, "governments are instituted among men." Government, as postulated by the Declaration of Independence, is a conservative agency. Its job is to preserve the gifts of God with which each man is endowed.

Servant Government, Subject to God

Now, how can government preserve these rights? Government is a servant. That is hackneyed, old hat in American terminology today, "Servant Government." But how did government get to be a servant, and what keeps government from being a master? It is the fact of God, and of God's creation, that subordinates government to service. This fourth and final self-evident truth from your Declaration of Independence puts government down because it first puts God up. A master government cannot withstand competition with God. And so when government gets ready to become a tyranny, if it wants to maintain the logic of its tyrannical position, it must deny God. Most tyrants are sufficiently logical to do that, as is the one with which we are

presently contending, Soviet Russia.

The reason why Soviet Russia is godless is precisely because it pretends to be all-powerful. It cannot make a pretense of omnipotence and at the same time acknowledge an omnipotent God.

So the greatest guarantee the Founding Fathers accepted for the subordination of government to service rather than mastery was the acknowledgment of God, in the first place. That, as I see it, is why God is a very important political argument in the United States, an indispensable predicate of freedom. Without God, a servant government doesn't make sense. And unless your government is a servant, it is a master. Where government is master, nobody is free. It is just as simple as that.

But you can't keep government in service merely by making a declaration that it is a servant. You have to have practical restraints, balls and chains. After they completed the Declaration of Independence, the Founding Fathers immediately went into the fabrication of our constitutional system. Now, let me tell you something, my friends. This constitutional system is a completely different and unique institution. The Declaration of Independence and the Constitution which followed it,

both of which were designed to limit government to the service of men, were both unique, different, and revolutionary. What is the definition of a constitution? A limitation upon government. That is why constitutions are the symbols of liberty, precisely and only because liberty means limited government.

Like Fire, a Dangerous Servant and Fearful Master

Liberty is limited government. I know that is not the philosophical definition but it is the practical definition. I go along with the theological experts who will say — and I agree — that liberty is merely my right to do what I *ought* to do. I am not at liberty to kill the man next to me. I may have the power but not the liberty to destroy his right. But practically, liberty means limited government. What is the opponent of liberty throughout history? Is it the big corporation, the big union? No. The only institution that has destroyed human liberty irrevocably is big government. The Founding Fathers looked over 6,000 years of human history, and saw the God-given rights of man burned to a crisp at least once in every generation by the fire of government.

George Washington once said, "Government, like fire, is a dangerous servant and a fearful mas-

ter." I will always remember that. "Government, like fire . . ." You may say, "You don't mean it." I do mean it. It is exactly like fire, useful, necessary, but at the same time the most dangerous instrumentality on earth. We couldn't get along without fire. Fire has been the cause of more disasters than any other one instrumentality in the history of the human race — and government is like that. We couldn't get along without government, because we are a benighted race. But at the same time, unless you keep government as you keep fire, under control, checked and balanced, separated, divided, tied down, government will destroy you. That is the rationale of our Constitution. It doesn't make sense otherwise. Your government is not streamlined for efficiency. On the contrary, it is hobbled for inefficiency. The most efficient type of government is an absolute despotism.

There is no inefficiency in the government of Soviet Russia, because not more than twenty men in the Politburo now control the destinies of 200 million slaves, for that is what the poor, benighted, tortured Russian people are. So if you want efficiency in government, don't look for liberty. There is an association of opposites in the idea of governmental efficiency and human freedom.

To Conserve These Rights

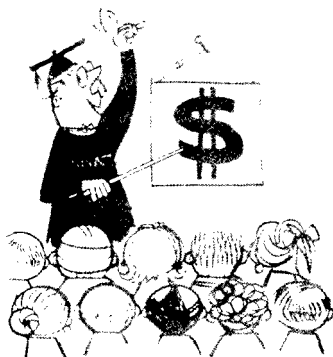
As lawyers, it will be your job to keep government at work at the preservation of rights. To secure these rights, you are going to be admitted to the bar. Can you think of any other service you are going to have as a lawyer? When you go into court, you represent a client to protect his rights. You are an officer of the court. The court is an implementation of government. The law itself is an implementation of government. The law is a protective, a conservative device, if you please.

The law is a "department of conservation," and you are one of its officers. Everything you do for a client, in your office or out, that is honorable and ethical, will be done to preserve his rights under God and the law. Your profession, therefore, is a conservative profession, because you are trying to keep this client as you found him, trying to preserve him, his person and his property and his liberty. The lawyer who is on the other side, who represents the state, in a criminal case, is trying to preserve the liberty of the man who was defrauded, or the man who was maimed, or murdered perhaps. From the beginning to the end of every lawsuit you are in the process of conservation. Consequently, I think that the division of our population into right

and left, and conservative and liberal, is a fragmentation of the proper meanings of words.

That, in brief, is why I am a conservative. As a lawyer I feel that I must be a conservative. I must uphold the traditions of this "department of conservation" to which I belong. I think, as a lawyer, I must conserve American

moral and cultural resources against the exploitation of those who would use government to destroy them. And so I think "liberal," when it is used as the opposite of "conservative," is a most unfortunate contradiction in terms. For that reason, as I said at the outset, I am inclined to be anti-semantic. ♦



FOR THE GOOD OF Others

LEONARD E. READ

A PROFESSOR WRITES, "It seems to me that it is quite an unworthy goal for businessmen to go to work for the sake of bringing profit to the stockholders."

The head of a large corporation bemoans the bad image of business and contends that the first consideration of American business is, when rightly oriented, the

well-being of employees and customers.

These positions typify a growing, collectivistic sentiment among corporate managers and academicians. Their view, in essence, is that one should go into business for the good of others; profit for the owners is an unworthy objective. A leading American so-

cialist built his utopia around a similar notion: "Production for use and not for profit."

I suspect that there are no card-carrying altruists in this world, though there are those who *think of themselves* as such. "So many people who think they have a tender heart have only a soft mind."¹ Anyway, this is to say that there are no selfless persons; there are only those who get self-satisfaction out of the mistaken idea that they are selfless. Self-satisfaction motivates one as much as another. Some aim for this state of bliss by piling up money, others by minding your and my business, and still others by working "for the good of employees and customers." The individual who gives his worldly goods to others gets as much thrill from his action as did Midas in his penny pinching.

Infinite Variety

We differ from one another, of course, in how intelligently we interpret our self-interest. A Thomas Jefferson, for instance, is intelligent enough to see that his self-interest is best served when he attempts to perfect the society in which it is his lot to live. A pickpocket, on the other hand, thinks his self-interest is best

served when he takes great risks for the sake of small gains. The difference between the two cannot be identified as selflessness and selfishness; it is simply a matter of intelligence.

Persons who get more thrills by "doing good" to others than by improving their own status—intellectual or spiritual or material—are drawn toward socialism which, theoretically, is consistent with and appealing to their manner of thinking.

Adam Smith, nearly two centuries ago (in *The Wealth of Nations*), stated what experience seems to confirm:

I have never known much good done by those who affected to trade for the public good. . . .

It is only for the sake of profit that any man employs a capital in the support of industry; and he will always, therefore, endeavor to employ it in the support of that industry of which the produce is likely to be of the greatest value. . . .

He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. . . . By directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, *led by an invisible hand to promote an end which was no part of his intention*. Nor is it always the worse for the society that it was no part of it.

¹ Jacques Maritain: *Lettre à Jean Cocteau*.

By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. (*Italics supplied*)

Profit Through Service

Let us reduce this debate to manageable proportions and reflect on what, for example, motivates a person to put his savings into a hamburger stand. The answer comes clear: to make as good a living as possible. We know from daily observations that it is the hope of profit, not humanitarian concern about the meatless diet of the population, which is responsible for the venture. Observe, however, that a large profit—the enterpriser's aim—signifies customer approval. By keeping his eye on his own gain, he assures that others are well served. Their repeated purchases, leading to the enterpriser's profit, prove this. Imagine how different this situation would be were the hamburger man to concentrate not on his own gain but only on the good of others!

Of course, to achieve a profit it is necessary that employees be given a wage and working conditions for which they will freely

exchange their labor and that people be offered goods or services for which they will willingly exchange their dollars. This is the free market way!

Humanitarian? Yes, indeed: Assume that a surgeon has discovered how to do a brain surgery, that he can do only one a month, that 1,000 persons a year need such an operation if they are to survive. How is the surgeon's scarce resource to be allocated? Charge whatever price is necessary to adjust supply to demand, say \$50,000! "For shame," some will cry. "Your market system will save only wealthy people." For the moment, yes. But soon there will be hundreds of surgeons who will acquire the same skill; and, as in the case of the once scarce and expensive "miracle drugs," the price then will be within the reach of all.

Look to the improvement of your own position if you would be most considerate of others! And this is sound advice whether one's business consists of earning profit or doing basic research or practicing medicine or saving souls or whatever. The best charity is to set an example by which others may learn to help themselves. ♦

In July 3, 1776, the Second Continental Congress adopted a resolution which has become a familiar part of the living language of America. We easily recognize these words contained in the Declaration of Independence:

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

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, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

Dr. Polin is Associate Professor of Political Science, Graduate School, St. John's University, Jamaica, New York.

The conclusion of this document solemnly promises: "And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor."

An expression of similar sentiments and language is contained in a broadside which was distributed in the streets of New York City and reprinted in its weekly

Foreshadows of the Declaration in th

press. Its opening paragraphs, directed against the British home government's misuse of its political power, declare:

These *sacred Rights* we receive from God in our Nature, and for their Preservation we are accountable both to Him, and to Posterity, to whom it is our indispensable Duty to hand them down inviolate as we received them from our Ancestors.

The Laws and Constitution of the Government of England, our native Country, are founded upon these

Laws of God and Nature, and on that Account, receive all their value. — On that Account, the People by Common Consent, exalt Men naturally their Equals, to be Magistrates and Rulers over them, and endow them with Riches and Honour; and with Power to enforce the Laws for the public Good, — to protect Individuals in the Enjoyment of their Rights, and to restrain or punish Oppressors.

The Experience of Ages has shewn this excellent Constitution of the

Does this broadside indicate that its author, who signed himself Freeman, borrowed rather heavily from Thomas Jefferson in order to reinforce the message that had been proclaimed by the Declaration of Independence? Not at all. For this throw-away was distributed on December 17, 1765, and it was reprinted in the *New-York Mercury* on December 23, 1765, more than ten years prior to publication of the Declaration.

Does this indicate, instead, that perhaps Thomas Jefferson borrowed from or was influenced by the writings of John Morin Scott (1730?-1784), the New York lawyer, soldier, and congressman who is generally identified by historians as Freeman? This is more logically conceivable; but no one should jump to any unwarranted conclusions of impropriety on the part of Jefferson or that there is necessarily a direct relationship between the two documents quoted.

For one thing, it is always possible — and more likely — that both Jefferson and Scott (assuming that Freeman is Scott) were influenced by and borrowed heavily from the same sources. These would include especially James Otis, Emmerich von Vattel, John Locke, Algernon Sidney, Roberto Bellarmino, and Cicero, to say nothing of the general intellectual climate of the Age of Reason.

of Independence NEW YORK PRESS

RAYMOND POLIN

English Government, to be the best that ever obtained in the World, for preserving the natural Rights, and promoting the Happiness of Mankind. No Wonder then, that this Constitution should be so dear to every Englishman — to all that are acquainted with its Value. Who, that deserves the Name of an Englishman, would see an open Attempt made to destroy, and for ever root it out from America, without exerting all his Power, and hazarding his Life and Fortune for its Preservation?

Sons of Liberty in New York

But one conclusion that does properly suggest itself, is that New York may not be receiving the deserved recognition of its role in promoting the Independence movement and the Declaration that symbolizes it, and that the role of the New York City press in this regard is also usually underestimated.

For example, in line with popularly accepted notions concerning preparation for the struggle, we find that long years after occurrence of the events, Thomas Jefferson and John Adams — among others — argued the question of whether the Committees of Correspondence which were so intimately connected with the American Revolution, originated in Virginia or Massachusetts in the 1770's. Yet it is now more than a hundred years since Henry B. Dawson wrote and privately printed in 1859 his little work entitled *The Sons of Liberty in New York* which showed that, instead, it was New York that was entitled to this honor by approximately ten years.

But Massachusetts and Virginia still continue to be regarded with a glamor and distinction that is not matched by New York in the popular mind. For after all, did not the acts of armed resistance begin in Massachusetts with the

Boston "Massacre" of 1770, the Boston Tea Party of 1773, and the fighting at Lexington, Concord, and Bunker Hill in 1775? Were not George Washington and Thomas Jefferson of Virginia respectively Commander-in-Chief of the Continental Army and author of the Declaration of Independence? Were not all of the early Presidents exclusively from Virginia and Massachusetts? And was not Pennsylvania of a similar character, with the Continental Congress meeting there and Washington wintering at Valley Forge, to say nothing of the writings and activities of Benjamin Franklin, John Dickinson, and Thomas Paine and the later meeting of the Constitutional Convention in Philadelphia?

The proper answer contains some strong reservations, especially in terms of contributions to the spirit and contents of the Declaration of Independence, the military struggle against Britain, and the movement for the Constitution.

Early Signs of Resistance

To begin with, there is not a significant idea contained in the Declaration of Independence which was not expressed vocally and in print in New York long before July, 1776. Even the language, including many of the

phrases themselves, as we have shown above, appeared in the press of New York City before the decade of the 1770's.

Indeed, as early as 1753 we find asserted in the New York City press the right of resistance against a King and government that did not properly limit their power by observing the inalienable, natural rights of the people and the separation of church and state. Opposition to the founding of King's College (today Columbia University) as a religiously established agency of the provincial government evoked a lively article in the *Independent Reflector* which is usually assigned to William Livingston or possibly William Smith, Jr. Both Livingston and Smith were close friends of John Morin Scott and fellow agitators across the years. Regardless of authorship, we find a prophetic discussion in this article of the reservation unto the people of this right of resistance against illegal power:

Such Reservation would only be corroborative of their radical inherent Right of Self-Defence; which is not the Donation of Law, but a primitive Right, prior to all political Institution resulting from the Nature of Man, and inhering in the People till expressly alienated and transferred, if it be not in its Nature unalienable, which may admit of debate. . . .

Strong similarity to the language of the Declaration of Independence appeared again in another anonymous article which was printed a few months later in the *Occasional Reverberator* in support of the position of the *Independent Reflector*:

Therefore, when this Right of Liberty is infringed by Civil Government, such Government is degenerated into Usurpation and Tyranny; and the Right of Self-defence, in the Oppressed, is under no other Regulation, than that of Prudence. But Prudence directs rather to bear smaller Grievances, than oppose, Force to Force, on unequal Terms, in the Recovery of our Liberties.

For note the following words which also appear in the Declaration:

Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing inevitably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

And, again, it must be repeated that the effort is not being made here to ascribe any improper lack of originality to Jefferson. Indeed, many years after 1776, Jefferson himself disavowed what he would have considered an improper originality, declaring: "I did not consider it as any part of my charge to invent new ideas altogether, and to offer no sentiment which had ever been expressed before." Instead, Jefferson stated, "I know only that I turned to neither book nor pamphlet while writing it." He further described his purpose (in a letter of May 8, 1825, to Henry Lee) by saying: "Neither aiming at originality of principle or sentiments, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind. . . ." Jefferson's own conclusion, therefore, is that: "All its authority rests then on the harmonizing sentiments of the day, whether expressed in conversation, in letters, printed essays, or in the elementary books of public rights, as Aristotle, Cicero, Locke, Sidney, etc."

A Center of Opposition

The effort is being made here, however, to demonstrate that the colony — or more properly speaking, the Royal Province — of New York, and New York City espe-

cially, were important in the early resistance movement, and later proved decisive during the course of the Revolution, however loyal much of the population remained to Great Britain. We may go even further and say that a similarly significant role was played by the people and press of New York City and State in the movement for the framing and adoption of the Federal Constitution in the 1780's.

Why so? New York's strategic importance becomes evident with only a quick glance at the map. The British were aware of this, and before the Revolution made New York City their military headquarters for the entire continent of North America. Consequently, New York was the center of opposition to the various Mutiny or Quartering Acts and their requisitioning features which provided extra burdens for the taxpayers and households of New York. The Sugar Act of 1764 and the Stamp Act of 1765 evoked especial protest in New York. As an important seaport, sparked by her merchants and their legal counselors, the Sons of Liberty, and a very vocal press, New York was host to the Stamp Act Congress in 1765 and the hub of the controversy for some time. She was also a leader of the Non-Importation movement that helped

bring about repeal of most of the Townshend tax measures. Conflicts between the local citizenry and the British garrison soldiers occurred in New York City long before the so-called Boston Massacre of 1770.

Outspoken Lawyers and Publishers

Strong expressions of theoretical justification to support their violent and nonviolent actions of protest were often printed by the New Yorkers in their press before the Revolution. The weekly gazettes of New York published all important resolutions of official and unofficial bodies and quite a few letters to the printer representing even opposition viewpoints. The rival newspapers had serialized columns which belabored each other in both gentlemanly and ungentlemanly fashion over the long-drawn-out issues of the day. The so-called "New York Triumvirate" of Presbyterian lawyers who were graduates of Yale, and have been mentioned above (William Livingston, John Morin Scott, and William Smith, Jr.), were the principal authors of some of the more radical of these columns, indicating the influence of their religious and educational backgrounds. Smith, however, was later on to remain Loyalist. These firebrands were aided and abetted in varying degrees by

such publishers as Hugh Gaine, John Holt, James Parker, and William Weyman, who frequently changed partnerships and titles to such weekly offerings as the *New-York Mercury*, *New-York Gazette and the Weekly Mercury*, *New-York Gazette*; or the *Weekly Post-Boy*, and the *New-York Journal*; or, the *General Advertiser*.

That this was a long-lived tradition in New York is borne out by the Zenger Case of 1734-35 which established basic freedom of the press in the colonies, and which represents one of the few instances in which New York and its press are customarily given their due.

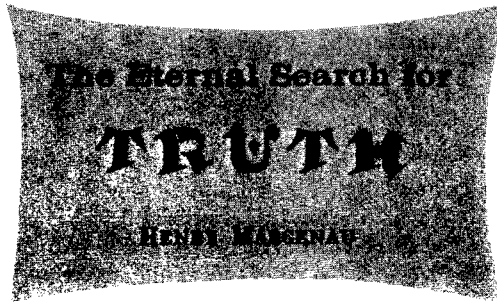
There are other such examples. We may note that the strategic importance of New York was recognized by the French, who regarded the American victory at Saratoga as the possible turning point of the struggle, and who thereupon signed a treaty of alliance with the Americans in 1778. We may also add that so important was New York militarily, that the great treason of the Revolution committed by Benedict Arnold involved control of the Hudson River.

And following the Revolution, where did the critical struggle for adoption of the Federal Constitution, which consolidated many of the gains of independence, take

place? In New York. Alexander Hamilton was the single most important voice and force in calling the Constitutional Convention into being at Philadelphia in 1787. During the struggle for ratification, James Madison of Virginia joined with Alexander Hamilton and John Jay of New York in writing *The Federalist Papers*, because they all realized that as New York went, so would go the fate of the Constitution. These

were published in the New York City press and reprinted throughout the country — as had occurred with the public resolves, addresses, and columns printed in New York for decades before July 4, 1776.

It is ironical, therefore, that the New York press, which in so many ways foreshadowed the Declaration of Independence, has all too often underestimated its own proud heritage. ◆



ONE OF THE OLDEST LEGENDS of our culture dates back to the era before the Libyan dynasties of Egypt, many centuries before the Christian era. It relates to the town of Sais, in the delta of the Nile, where a great temple had been dedicated to Osiris, a god of

the underworld. The ruins of that temple are still visible today.

It is said that this temple contained a mysterious picture, covered with a veil and inscribed by the tantalizing words: "The Truth." Mortal man was forbidden to lift the veil, and the priests of Osiris enforced this statute with severest rigor.

A youth, dedicated to the discovery of truth, perhaps a person

Dr. Margenau is Eugene Higgins Professor of Physics and Natural Philosophy at Yale University. This is an excerpt from his article, "The New Style of Science" in the *Yale Alumni Magazine*, February, 1963.

we would now call a scientist, once entered the temple and saw the covered image. He asked his guide whether he knew what was hidden under the veil, but he received a horrified denial and an official account of the ancient law. Thoughtfully, the youth left the temple that day but an irresistible thirst for knowledge of truth forced him to return at night with intent at sacrilege. In the ghostly light of the moon he entered the hall of Osiris and lifted the veil from the image. What he saw, nobody knows, but the legend insists that he was found near death, lying at the foot of the picture, by the attendants of the temple the next morning. Revived, he would not speak of his experience except to regret it. His life, thereafter, was spiritless, his actions were undistinguished, and he sank into an early grave.

There the legend stands at the

very beginning of our history, noncommittal like the Sphinx, foreboding human agony over truth, symbolizing one of the great and noble passions of men. The legend has not lacked interpretations, but I'd like to offer my own version of what the youth read when he lifted the veil. The message as I imagine it, runs like this:

Only a fool looks for truth in a finite formula; only a knave would want to acquire it without toil and heartache. Final truth is tantamount to stagnant knowledge; there is no substitute for self-correcting, progressing, self-improving understanding. Dismiss your quest for truth in final formulation and embrace the greatest human virtue called Eternal Search for Truth.

There are no short cuts to Truth, this being the first lesson we have to learn. ◆

IDEAS ON LIBERTY

Truth

THOUGH ALL the winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew truth put to the worse, in a free and open encounter?

JOHN MILTON, *Areopagitica*

WILLIAM HENRY CHAMBERLIN

All FREEDOM OR NO FREEDOM



FROM Moscow recently has come an impressive lesson in the eternal truth that freedom is integral and indivisible, that without economic and political freedom there can be no freedom of the mind and the spirit. The occasion was the long, scolding, threatening lecture which Nikita Khrushchev delivered to an audience that included leading Soviet writers, artists, and composers. The Communist Party, with Khrushchev as its representative and spokesman, is not content to control the entire political and economic life of the Soviet Union, to make all the big decisions of foreign and internal policy, to "plan" every year how much every Soviet citizen will be permitted to consume, from bread and sugar to furniture and moving-picture tickets. It also assumes the right to plan and dictate what

its subjects may hear, read, see on all media of communication, to determine, so far as this is possible, what Russians shall think.

Since Stalin's death ten years ago there have been changes in the Soviet Union, although the extent and significance of these changes should not be exaggerated. Khrushchev's personal style as a dictator differs from Stalin's. Stalin was a paranoid introvert who, especially in his last years, saw very few foreigners as he lived secluded in the Kremlin, never leaving Russia. Khrushchev is a bouncy extrovert who seems to enjoy travel, crowds, and mingling with diplomats and journalists. The ghastly terror of Stalin's rule has abated; during the last decade there have been no mass deportations, many prisoners have been released, and conditions in concentration camps have become less barbarously inhuman. Arbitrary arrests are less frequent.

However, the Soviet Union remains a strict police state, gov-

Mr. Chamberlin is a skilled observer and reporter of economic and political conditions at home and abroad. He has written a number of books, has lectured widely, and is a contributor to *The Wall Street Journal* and many nationally known magazines.

erned from above. A self-perpetuating party bureaucracy is the source of all power. Elections are farces; it is still true, as Lenin is reported to have said, that there may be any number of political parties in Russia, provided that the Communist Party is in power—and the other parties in jail. The Iron Curtain is no empty phrase; the Soviet authorities do everything in their power to insulate the Soviet people from knowledge of conditions abroad. Moscow remains the only European capital where it is impossible to buy the *New York Times*, or any other foreign noncommunist newspaper.

The Soviet government invests a vast amount of money and technical resources in jamming foreign radio broadcasts. The status of the peasants remains what it has been since collective farming was forced on them thirty years ago: that of serfs assigned to their tasks by the state. And, as against the relaxation of terror in some fields, there has been in recent years an extension of the death penalty, especially to so-called economic crimes, which in some cases are nothing more than the exercise of initiative and ingenuity in short-circuiting the processes of the cumbersome bureaucracy.

This same mixed pattern—relaxation here, tightening there—has been equally evident in intel-

lectual life. Under Stalin the rules for the writer, artist, musician were simple. Every novel, every painting had to point the moral that all was for the best in the communist world. It was a matter of conform or, at best, not be published; at worst a one-way ticket to a concentration camp. The result of this kind of force-draft “culture” was the most barren period in the creative arts since Russia assumed its place in European culture through the creations of such poets as Pushkin and Lermontov and such novelists as Tolstoy, Turgenev, Dostoevsky, and Gogol. Apart from one epic novel, Sholokhov’s *Quiet Flows the Don*, the whole of Soviet literary production during the quarter century of Stalin’s personal absolute rule (1928-1953) may be dismissed as mediocre to worthless.

Temporary Release

The same considerations that led Stalin’s successors to abate political terror induced them to relax somewhat the shackles on the intellectuals. A more sophisticated and educated generation had grown up, restive and disillusioned with an unvarying diet of coarse propaganda which was often in glaring contradiction to the realities of everyday Soviet life. So, very cautiously and gingerly, and with many jerks and halts, a little

more license was granted in the creative arts.

Literary magazines began to let a little fresh air into their contents. Now and then a novel appeared which most probably would not have been submitted and certainly would not have been published under Stalin's reign of terror. The most striking example of this was the recent appearance of Alexander Solzhenitsyn's *A Day in the Life of Ivan Denisovich*, a matter-of-fact account, without any injection of spectacular horrors, of the normal life of the half-starved, half-frozen slave laborers in the Arctic climate of Northern Siberia. How complete the system of thought control and censorship in the Soviet Union is may be gauged from the fact that this was the first printed word in Russia which documented the very existence of the slave labor camps to which millions of human beings were consigned.

But the relaxation of restrictions on free expression did not proceed in a straight line. *Doctor Zhivago*, the great novel of Russia's outstanding man of letters, the late Boris Pasternak, became a literary sensation in Europe and America and sold in hundreds of thousands of copies. But it could not be published in Russia, and the author and his book were overwhelmed with coarse abuse. Pas-

ternak was put under such pressure that he declined the invitation to receive the Nobel Prize for literature in Stockholm.

Now, progress has come to a dead halt and a retrograde movement seems to have begun. Khrushchev's manifesto — given the widest possible publicity through press and radio — indicates that, in the opinion of the ruling group, intellectual ferment had gone too far and that the authority of Communist Party dogma must be reaffirmed. Khrushchev sneered at what he called the moldy idea of absolute freedom and declared that the Party regards the press, literature, painting, music, radio, pictures, and theater as "sharp ideological weapons." "In questions of art," he continued, "the Central Committee of the Party will demand from everyone — from the most merited and renowned as well as from the young budding artists — unswerving adherence to the Party line."

Czarist Censorship

Here, in a nutshell, is the blight that has fallen on creative expression in the arts under communism. There was censorship in Czarist Russia; but this did not prevent the emergence of literature second to none in depth of psychological insight, in the quality of human compassion, in imaginative depic-

tion of characters. But the Czarist censorship was purely negative and fairly easy to evade.

No one demanded of Tolstoy or Turgenev or Chekhov that he depict Imperial Russia as a happy place in which to live; and this is certainly not the impression the reader gains from the Russian literature of the nineteenth century. So long as the nineteenth century Russian novelist abstained from open endorsement of revolution and from disrespectful references to the Imperial family, he could write pretty much as he pleased.

But under the communist dispensation a neutral, apolitical attitude is not tolerated. You must either ballyhoo the cause of communism or face the dry guillotine of not being published — in a society where the state is the only publisher. The case of *Doctor Zhivago* is very instructive. Had there been no censorship and had there been competing private publishers, this work would have been a best seller for a Russian public sickened of stereotyped propaganda fiction that bears no relation to the realities of life.

Khrushchev has unconsciously and unwillingly given new proof that liberty is integral and indivisible. Many in the United States and Western Europe probably agree with the Soviet Premier's blunt characterization of modern

abstract art as suggesting something "smeared with a donkey's tail," find much modern music tiresomely and earsplittingly cacophonous, and object to trends toward obscenity and contrived obscurity in some modern literature. But no one in a free country would deny the writer, the composer, the artist the right to express himself according to the dictates of his inner impulse.

The Blight of State Dictation

Far worse than the most obnoxious and absurd cultural experiments is the prospect of a political party or any other impersonal authority assuming the right to dictate the form and content of novels, poems, plays, paintings, and symphonies. Public opinion, in the long run, usually sifts out the valuable from the phony in fields of creative expression. But no culture worthy of the name can survive the blight of state dictation.

It is interesting and significant that the same system which eliminates consumer choice in material things and which substitutes the judgment of the state for that of the consumer and the free market in deciding what, and how much of what, should be produced, arrogates this same privilege in matters of the intellect, carefully pre-tasting and prefabricating

what the Soviet citizen may read and hear and determining, so far as possible, what he is to think.

It is no accident that such political institutions as free elections, freedom of speech, press, and assembly, safeguarding of the legal rights of the individual against arbitrary state authority, are intimately bound up with a free economy, with the maintenance of a free market, with the acknowledged right to acquire, own, and transfer private property. Where one finds free trade, there will also usually be free thought; and the converse of this proposition is equally true.

The Gadarene swine who rushed over a cliff to their destruction were models of discretion compared with intellectuals who have advocated socialism, communism, fascism, and other forms of collectivism which would substitute state planning for individual initiative. For the surest prediction that can be made about such systems is that they will not leave the human mind and soul out of the range of things which it is proposed to control.

The Arrogance of Planners

It is only on the foundation of free political institutions and a free economy that there can be any security for the intellectual to create and express himself freely.

That is why resistance to the tendency of the modern state to swell and expand beyond its proper functions is an essential element of the vigilance that is always needed if freedom is to be maintained in all fields, not least in those of the mind and the spirit.

Adam Smith pronounced a final and devastating judgment on the illusions and delusions of the state economic planners with his wise observation:

“The statesman who should attempt to direct private people in what manner they ought to employ their capitals would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it.”

The same overwhelming arrogance that leads state planners in all societies to claim for themselves this privilege of substituting their judgment for that of the impersonal free market is easily transferred to the sphere of the intellect. If planning is good for industrial output and for the provision of the people with just what they require, or ought to require, in food and clothing and housing, why should it not also be extended

to books, magazines, press, radio, every medium for influencing thought?

The principle of the free market is just as sound in cultural values as in the production of material things. The state as patron is only the other side of the coin from the state as censor; it is miscast in both roles. A good illustration is the contrasted position of opera in New York and in London.

Experiments in cacophonous modern compositions have been infrequent at New York's Metropolitan Opera because they invariably have proved unsuccessful from the box-office standpoint. Not being subsidized, the Metropolitan directors are obliged to pay some consideration to what their audiences wish to hear. (There is, alas, no such pressure on the program makers of the symphony orchestras, whose concerts are regularly sold out. Consequently, they are able to inflict what they wish on what are essentially captive audiences).

Unmelodic music is just as unpopular in London as it is in New York. But an organization called the Arts Council, supported by public funds, steps into the breach by furnishing subsidies which are used to cover the deficits incurred by performing unpopular operas to half-filled houses. So, as is apt to be the case, the greatest satis-

faction of the greatest number — whether it be in the choice of opera or in the thousand and one other items that enter into the standard of living — is insured by leaving the decision to the free operation of public taste. A system of state subsidized art in any form is likely to turn into a playground for cranks and doctrinaires.

Freedom Is Indivisible

So, one always comes back to the proposition that freedom is integral and indivisible. To violate the principle of the free market, of consumer choice, is equally disastrous in economics and in the arts. It is difficult to calculate how much a free economy is superior to a controlled one, merely because of the fact that it is free. The first steps toward a controlled economy may seem attractive, desirable, even necessary; but the final station on this road is the substitution of some bureaucratic agency's judgment for that of the individual in one element after another involving the individual's standard of living.

State planning in the arts is almost certain to end in one of two pitfalls, censorship and thought control, or foisting on a captive audience eccentric and unpopular forms of expression. It is remarkable how many problems, cultural and economic, could be

avoided and/or solved by the simple device of leaving people free to follow the bent of their own taste and judgment.

Indeed, if one would seek to reduce to a single formula the ideological struggle of our time—a struggle that is both international and intra-national—the best touchstone for distinguishing those

on one side from those on the other might well be belief in the saving virtue of free consumer choice. There is the dividing line between libertarians on one side and totalitarian communists, socialists, fascists, collectivists of all kinds and degrees—authoritarian so-called reformers—on the other. ♦



ABOLISH SWEATSHOPS

PAUL L. POIROT

PREVALENT in the United States and other industrialized countries is the belief that without governmental intervention, such as wage and hour legislation, child labor laws, and rules concerning working conditions for women, the long hours and grueling conditions of the “sweatshop” would still exist.

The implication is that legisla-

tors, in the days of Abraham Lincoln, for instance, were cruel and inconsiderate of the poor—no better than the caricatured factory owners of the times who would employ men and women and children at low wages, long hours, and poor working conditions. Otherwise, had they been humanitarians, legislators of a century ago and earlier would have pro-

hibited child labor, legislated a forty-hour week, and passed other laws to improve working conditions.

But the simple truth is that legislators of a few generations ago in the United States were powerless, as Mao Tse-tung or Nehru or Nasser or Castro are powerless now, to wave a wand of restrictionist legislation and thereby raise the level of living and abolish poverty among the people. If such a miracle were possible, every dictator and every democratically chosen legislator would "push the button" without hesitation.

The reason why women and children no longer find it necessary to work for low wages under poor conditions from dawn to dusk 6 days or more a week is the same reason why strong healthy men can avoid such onerous labor in a comparatively free industrialized society: surviving and earning a living are made easier through the use of tools and capital accumulated by personal saving and investment.

In fiction, the children of nature may dwell in an earthly paradise; but in the real life of all primitive societies, the men and women and all the children struggle constantly against the threat of starvation. Such agrarian economies support all the people they

can, but with high infant mortality and short life spans for all survivors.

The Stages of Progress

When savings can be accumulated, then tools can be made and life's struggle somewhat eased—industrialization begins. And with the growth of savings and tools and production and trade, the population may increase. As incomes rise and medical practices improve, children stand a better chance of survival, and men and women may live longer with less effort. Not that savings are accumulated rapidly or that industrialization occurs overnight; it is a long, slow process. And in its early stages, the surviving women and children are likely to be found improving their chances as best they can by working in factories and "sweatshops." To pass a law prohibiting such effort at that stage of development of the society would simply be to condemn to death a portion of the expanding population. To prohibit child labor in India today would be to condemn millions to starvation.

Once a people have developed habits of industry and thrift, learned to respect life and property, discovered how to invest their savings in creative and productive and profitable enterprise, found the mainspring of human

progress — then, and only then, after the fact of industrialization and a prosperous expanding economy, is it possible to enact child labor laws without thereby passing a death sentence.

A wise and honest humanitarian will know that a death sentence lurks behind every minimum wage law that sets a wage higher than some individual is capable of earning; behind every compulsory 40-hour week rule that catches a man with a family he can't support except through more than 40 hours of effort; behind every legislated condition of employment that forces some marginal employer into bankruptcy, thus destroying the job opportunities he otherwise afforded; behind every legal action that virtually compels retirement at age 65.

Rarely in history has there been an advanced industrial society able to afford as much labor legislation and related socialistic measures as constitute the present laws of the

United States of America. Never in history have a people lifted their level of living by passing such laws. Whether the present level of living can be maintained under such laws seems highly improbable, for such restrictions are fundamentally sentences of death — not gifts of life.

Men will take their children and women out of "sweatshops" as fast as they can afford it — as fast as better job opportunities develop — as fast as the supply of capital available per worker increases. The only laws necessary for that purpose are those which protect life and private property and thus encourage personal saving and investment.

To believe that labor laws are the cause of improved living and working conditions, rather than an after-thought, leads to more and more "welfare" legislation. And the ultimate effect is not a boon to mankind but a major push back toward barbarism. ♦

Reprints of this article are available at 2¢ each.

IDEAS ON LIBERTY

Justice Louis D. Brandeis

EXPERIENCE should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. . . . The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

Americanism in Action

JESS RALEY

How do you define Americanism?

In recent weeks I have asked this question of numerous persons — businessmen, professional people, students, and the man on the street. The most provocative answer came from a high school student. "In my opinion," this student said, "Americanism is something we hear more and more, but see less and less."

My own experience tends to validate this. Almost daily I see people accept and participate in various socialistic proposals, while advocating pure, undiluted Americanism with all the eloquence at their command.

Many of those I questioned seemed to believe that only magnificent acts of valor may properly be classified as true Americanism. And surely, America needs great people to do great things — needs men and women with vision and

ability to stand for Americanism in high places, to defend liberty and justice before the whole world. When bands are playing and the flag is waving, however, it seems easy enough to stand in the spotlight and defend a worthy cause. At such moments, many will pledge to defend an ideal to the death.

But what of the times when a person is called upon to defend his own principles, when such defense entails only hardship, devoid of glory, when the only witness of note may be oneself? Such an incident encompasses my own definition of down-to-earth, everyday Americanism in action.

A few months since, I was passing through a small city where an old friend serves as hospital chaplain. We were reminiscing in his office, just off the main floor lounge, when six people entered the lounge. They talked quietly at first, and I forgot them for awhile.

Mr. Raley is a free-lance author, speaker, philosopher from Gadsden, Alabama.

As their discussion became more heated, however, their voices rose to a level difficult to ignore. As a matter of fact, when the subject of their discussion became apparent, I must have listened deliberately.

The six included two sons and a daughter, and their respective spouses, of a man who had just been admitted to the hospital. However, this man had been in and out of the hospital so much in recent years that his own meager funds had been exhausted. The in-laws were not saying much, but one son and the daughter wanted to sign a paper that would allow the hospital to collect from the federal-state fund. The other son felt strongly that they should get their father a private room and pay the bill themselves.

This one who wanted the family to assume responsibility for their father's bill was called Buster. He was a little too short for his weight, and showed signs of baldness at the back of his head. His wife was slight, almost straight, and her total vocabulary seemed to consist of three words. The other son, John, was taller and, I think, older; his wife, an attractive brunette, was Sue. The daughter did most of the talking; everyone called her Sis except her husband. I didn't get the son-in-law's name or much that he said.

By the time I had decided who was who and where each stood, the discussion was going loud and clear — "Sis" apparently in control and gaining with every word.

"I tell you, Buster, it's not the same as charity. It's a law, passed by Congress, just so people won't be stuck with hospital bills that will work a hardship on them."

"No difference to me, if it does work a hardship on us. The old man spent all he ever earned educating and helping us get started. He didn't believe in these government programs, and I don't intend that he should fall into their hands since he can't help himself."

"But really, honey," Buster's wife interjected, before Sis continued.

"Buster, you are the most contrary person — it doesn't make sense. No telling how long Dad may be here. His bill could be several thousand dollars. We and the children might have to do without things that we need for months. You know Dad wouldn't want that. I just can't understand you, Buster . . . my own brother wanting to saddle us all with this — this unnecessary burden," and Sis started to snifle.

After the next, "But really, honey," John was ready with what I feared would be the winning argument.

"Now look, Buster. I know how

you feel, of course, and I know how Dad feels about such things, but we must use reason — common sense — about this matter. Like Sis says, it's not charity in the first place. We know that everything that is paid by the state and federal government comes from taxes. Now I don't like these programs and the high taxes they make necessary any better than you do. I would much prefer less taxes and more responsibility myself; you know that. But we have no choice in the matter. The law was passed; we have to help pay for this program, like it or not; so why not take advantage of it? It's the only sensible thing to do under the circumstances."

This discussion went on for some time. I was pulling for Buster as hard as I have ever pulled for anyone in my life, but frankly, I felt that his chances of winning were very slim. Every reason he advanced for accepting responsibility for his father's hospital bill was countered by several reasons why the government should pick up the tab.

Actually, I had grievously misjudged Buster from the beginning. What he lacked in eloquence and diplomacy was more than offset by single-minded determination. His parting shot was a masterpiece, leaving no doubt in my mind that Buster would ever ca-

pitulate to pressure from the socialist trend.

"I have heard all this malarkey I intend to," Buster said as he turned from them. "Frankly, I don't care what the rest of you do. Each one can do as he pleases, but I just want to tell you one thing: I am going to pay the old man's bill if I have to do it all myself. It may seem crazy, but I know how I feel about it. I have said all along, when forced to pay for these socialistic programs, that they were wrong — not good for the people and therefore not good for the country. I said this when other people were using the programs, and I don't feel one bit different now. I just don't aim to have any part of it — none whatever."

After Buster had gone, the son-in-law spoke up for the first time: "I don't understand the way he thinks; always figured to get all I could and give as little as possible myself. But old Buster has seen me through some rough times since I've been in the family. Since he is determined to pay your dad's bill — well, look girl, it's not right he should pay it all. I think we should — yes, we will pay your part. Matter of fact, I kinda like the idea."

Sis looked amazed and unhappy, but offered no objections. John

looked at Sue, who gave him a barely perceptible nod. Obviously, the bill would be split three ways, after all.

I didn't meet Buster. I don't know his name or what his occupation is, but I know him well. I know him to be a true, active American citizen. True to himself, he could not be untrue to anyone else.

There is little chance that this

man ever will be known as a great American. There were no flags waving and no cameras grinding as he made his stand, withstood stifling pressure, and overcame what must have been tremendous temptation. No, this is not the kind of thing that makes one a national hero. Just pure and simple Americanism in action. But it was a great inspiration to me, so I pass it on to you. ♦

IDEAS ON LIBERTY

In Questions of Power. . . .

Resolved . . . that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited Constitutions to bind down those whom we are obliged to trust with power. . . . In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

THOMAS JEFFERSON, Kentucky Resolutions, 1798



4. *Of Federalism*

CLARENCE B. CARSON

UNDOUBTEDLY, I must have picked up a good bit more, but I can remember only one point from the introductory course I took in political science. It was this: Sovereignty is indivisible. The professor was a recent arrival from southeastern Europe, Rumania, I think. He must have made this point about sovereignty many times, for it stuck in my mind. Quite likely, his basic principles were affronted by the notion that sovereignty was divided in America. It was obvious to him that it could not be done, and to have thought that they had done so must have signified to him the political illiteracy of Americans.

All those who attended that

course should have been forever unfitted for understanding the American tradition of federalism, assuming, of course, that we accepted what was taught. The concept of sovereignty is an utterly useless analytical tool for understanding the American system. Worse, it carries with it implications which lead to pernicious interpretations and wrong positions about American government. Sovereignty refers to the supreme or ultimate authority in a country. The modern conception of it was developed by Jean Bodin, a sixteenth century Frenchman. It was used to buttress monarchy, absolutism, and the nation-state. In short, kings were thought of and referred to thereafter as sovereigns — as possessing supreme and absolute authority.

Dr. Carson is Professor of American History at Grove City College, Pennsylvania.

Illustration: National Archives

Sovereignty, then, was an absolutist conception in origin and development. It became a central conception for analyzing governments and for discussing political economy. But it has never been divested of its absolutist trappings. In consequence, the moment one tries to locate sovereignty he is searching for the supreme authority. This has resulted already in a great deal of mischief in America. Since if there is a supreme authority it must be located somewhere — and not divided —, many thinkers have taken positions as to where it is located.

Not a Question of Sovereignty

Three positions have been most commonly stated: (1) that the states are sovereign, (2) that the people are sovereign, and (3) that the federal government is sovereign. For example, a recent writer takes the position that the states are sovereign. He starts with the premise that sovereignty is indivisible. "Finality knows no degrees. In law, as in mountain climbing, there comes a point at which the pinnacle is reached. . . . The argument here is that the states, in forming a new perpetual union to replace their old perpetual union, remained in essence what they had been before: separate, free, and independent states. They *surrendered* nothing to the

federal government they created. *Some of their powers they delegated; all of their sovereignty they retained.*"¹

On the contrary, another writer states, though he does not explicitly subscribe to it, the position "that the people are sovereign; that the people created both state and national governments and that therefore both levels of government are merely the agencies of the people."² C. M. Wiltse, however, maintains that the federal government emerged supreme in the Civil War. Referring to Lincoln, he writes: "The sovereign power of the nation rested in his hands, and he exercised it. The rebellious South was beaten back into the Union, and the great debate was finally over. . . . A century after the Stamp Act had been rejected . . . the United States of America itself emerged as a true national state, whose sovereignty was undisputed and whose will was uncontrolled within the limits of its power."³

None of these positions is even close to describing the American tradition of federalism. Supreme

¹ James J. Kilpatrick, *The Sovereign States* (Chicago: Regnery, 1957), p. 14.

² William Anderson, *The Nation and the States, Rivals or Partners* (Minneapolis: University of Minnesota Press, 1955), p. 14.

³ Quoted in M. J. C. Vile, *The Structure of American Federalism* (London: Oxford University Press, 1961), p. 27.

power was not vested anywhere in these United States. Of course, as regards the exercise of foreign powers over American citizens, these United States *are* sovereign, but within the country there is no seat of sovereignty. But surely, it may be argued, ultimate power is exercised in America. So it is. No greater power can be imagined than the power to take a life, and this power is frequently exercised. But where is the power to do this vested? Some will imagine that it is vested in some arm of the government(s). It is not. For the life of a man to be taken by due process of law he must be tried for the violation of pre-existing law by a jury before a judge. His guilt must be determined by a jury drawn from the people; his sentence must be passed by a judge trained in the law, chosen directly or indirectly by the citizenry, and paid by government funds. All of this must take place by procedures that are rigorously prescribed for all such cases, not arbitrarily adopted for the occasion.

Limited and Dispersed Powers

In these United States, the tradition is of *limited* and *dispersed* powers, limited in part by their very dispersion. Neither the people, nor the states, nor the federal government were made

sovereign, for all of these were limited finally by due process of law. Many commentators, including some of the Founders, have spoken of divided or dual sovereignty. This too is inaccurate, for it implies that between them the states and the central government are supreme. In fact, however, they are limited by constitutions and traditions. Let us discard the conception of sovereignty in the further discussion of federalism. It distorts the American tradition of liberty, rather than shedding light upon it. Happily, the American governments — and the relationships among them and to the citizenry — were not born out of abstractions rendered into absolutes.

Instead, American federalism was builded upon an historical tradition, was conceived to deal with a concrete situation, and was advanced to serve rather definite ends. To understand it aright we should begin not with abstractions but with the history which made it appropriate to the American condition.

The American colonies were settled for varying purposes, at different times, in diverging locales, with people having dissimilar views and aims. The founders of Massachusetts Bay Colony hoped to set up a Bible Commonwealth; the settlers of Virginia

hoped to find gold and a Northwest Passage; the British government sought to create a buffer between South Carolina and Spanish Florida by authorizing the settlement of Georgia; Lord Baltimore wanted Maryland to be a place where Roman Catholics might be secure from persecution. Men made their living by quite different pursuits on the rocky coasts of New England from those in the Tidewater of Virginia. The colonies differed greatly in the religious practices which they permitted or encouraged. In some, all Christians were tolerated; in others, only those of a particular sect could openly practice their religion. Negro slavery thrived in South Carolina, but Pennsylvania Quakers began to have compunctions about it in the eighteenth century. Some colonial governments were virtually independent of England, while others were bound rather more closely to the Crown.

Local Loyalties

These differences gave rise to regional and local cultures, each with its own particular flavor and ways. Men grew attached to particular colonies and took pride in those things which differentiated them from the inhabitants of other colonies. A Virginian writing in 1728 gave voice to this sen-

timent which, with appropriate variations, was shared to greater or lesser extent by colonists elsewhere. "If *New England* be called a Receptacle of Dissenters. . . , *Pensylvania* [sic] the Nursery of Quakers, *Maryland* the Retirement of *Roman Catholics*, *North Carolina* the Refuge of Runaways, *South Carolina* the Delight of Buccaneers . . . , *Virginia* may be justly esteemed the happy Retreat of *true Britons* and true Churchmen."⁴

Local Government

Within the rather loose framework of the British empire, each colony developed its own government. The major handicap to local self-government was that in Royal and Proprietary colonies the governor was frequently appointed from England. These appointees were sometimes viewed as interlopers. Robert Beverley, a Virginia gentleman who published a book in 1705, indirectly accused one governor of behaving like an "Ottoman . . . Bashaw," that is, in an "Arbitrary" and "Despotick" manner. He accused Governor Nicholson of violating individual rights by instituting censorship to keep unfavorable mail from getting to England. Not only was

⁴ Hugh Jones, *The Present State of Virginia* (New York: Reprinted for Joseph Sabin, 1856), p. 48.

mail intercepted, said Beverley, but spies were set upon people and the governor "condescended to act the low Part of an Evesdropper [sic] himself, and to stand under a Window to listen for Secrets, that would certainly displease him."⁵

My point is that colonists were not only attached to their colonies but also that they began to identify local government with liberty and representatives from elsewhere as sources of tyranny. The colonies were seedbeds of the development of self-government and shields against outside interference.

A Bias for Home Rule

Americans inherited a British tradition of local government and administration and built upon it. Counties and towns were the basic units of government which performed most of the functions of government in New England. In South Carolina and Virginia this was done by county and parish. One historian has concluded: "In general, the central governments of the colonies exercised even less control over local institutions than did the mother country over the colonies. Self-government was doubly the rule in colonial Amer-

ica."⁶ Colonists prized their local prerogatives, were eager to extend their number and scope, and resisted any attempt to reduce them, resorting finally to arms to preserve local government.

Many of us have never become aware of what they knew well, living as they did in a sparsely settled land. Tyranny upon one's neighbor is seldom practiced. Not only is this so because one may see immediately the effects of his actions but also he must live among those whom he has wronged. Thus, a sheriff must act circumspectly if he expects to live in peace among those over whom he has exercised authority. Jurors will wish to be very definite about a decision if they are to live out their lives in contact with the relatives of a man whom they have sentenced to death. At any rate, Americans were accustomed and devoted to governments as near to hand as practicable.

American federalism, then, was conceived to deal with a concrete historical situation. No man of good sense in the 1780's would have proposed seriously that a unitary state be erected to embrace all English Americans. Almost every man's hand would have been against him. Thus, to have

⁵ Robert Beverley, *The History and Present State of Virginia*, Louis B. Wright, ed. (Chapel Hill: University of North Carolina Press, 1947), pp. 90-91.

⁶ Clinton Rossiter, *The First American Revolution* (New York: A Harvest Book, 1956), p. 119.

created a single sovereign power in America would have been to do so at the expense not only of popular favor but of liberty as well. Some states had established churches, while others had none. A single sovereign must have one established church or none, but either course would alienate some large part of the population. Only a tyrant beyond the capacities of most of the "enlightened despots" of the eighteenth century could have imposed such uniformity upon America.

A More Perfect Union

Yet some sort of union was reckoned to be essential by most of those who attempted to assay the American condition. The Americans were in the midst of a war with England when they declared their independence. Their only hope for success lay in making common cause against the enemy. In these circumstances they sought the requisite unity by way of confederation, a union formalized in 1781 by the adoption of the Articles of Confederation. By this plan they hoped to preserve the virtual independence of the states while presenting a united front to the rest of the world.

Those who favored a new constitution in 1787 maintained that this government had failed, that it was not respected by foreign

countries, that it could not pay its debts, that some states would not respect its levies, that property and life were insecure in America. America needed a more energetic government, they declared, one with some direct powers over the citizenry. Defenders of the Confederation accused these advocates of change of being alarmists, and there are still differences of opinion as to which side was right in the contest.

Be that as it may, those favoring a stronger government of the union went ahead and drew up plans for a federal government, and it was this plan which became the Constitution of which we speak. The Constitution not only became the basis for an American tradition of federalism but it embraced and recognized a much older tradition of local government, colonial and state divisions, and diversity in the habits of individuals and groups. It recognized an existing system of governments and provided for a government of the Union.

The central (or federal) government was created to realize certain *limited* objects. These were felicitously enumerated in the Preamble to the Constitution, which reads:

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. . . .

It should be noted that this is not a grant of power but a statement of the ends for which the government is erected. Moreover, some of these phrases have been reinterpreted since, as we shall see. Thus, it will be well to examine what those who participated in the adoption of the Constitution thought the objects of the general government were.

Defense, Peace, Trade, Justice

John Jay, arguing for adoption before the convention held in New York state, said that the general government was very limited in its scope, and had but few objects. "They comprehend the interests of the states in relation to each other, and in relation to foreign powers."⁷ In defending the need for a federal judiciary, Edmund Randolph gave his understanding of the general purpose of the central government. "That it shall be auxiliary to the federal government, support and maintain harmony between the United States and foreign powers, and between different states, and prevent a failure of justice in cases to which

particular state courts are incompetent. . . . Self-defence is its first object. . . . Its next object is to perpetuate harmony between us and foreign powers."⁸ James Madison observed that the "powers of the general government relate to external objects and are but few."⁹ Edmund Pendleton declared that the "general government" was to act "in great national concerns, in which we are interested in common with other members of the Union. . . ."¹⁰ More heatedly, at another point, he emphasized the limited extent of the government:

I should understand a consolidated government to be that which should have the sole and exclusive power, legislative, executive, and judicial, without any limitation. Is this such a government? Or can it be changed to such a one? It only extends to the general purposes of the Union. It does not intermeddle with the local, particular affairs of the states.¹¹

From these quotations it appears that the objects of the general government were largely (1) protection from foreign invasion, (2) maintenance of peace among the members of the union, (3) facilitating of commerce among the states, and (4) establishing justice and liberty.

⁸ *Ibid.*, vol. 3, p. 570.

⁹ *Ibid.*, p. 259.

¹⁰ *Ibid.*, p. 301.

¹¹ *Ibid.*, p. 40.

⁷ *Elliot's Debates*, Bk. I, vol. 2, p. 283.

Enumerated Powers

Under the federal system as provided by the Constitution the United States government was limited in several ways in powers held and to be exercised. First, it was limited by an enumeration of powers actually granted. For example, Article I, Section 8, of the Constitution reads, in part:

The Congress shall have Power to lay and collect taxes. . . .

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes. . . .

Second, the powers of the government were limited by specific prohibitions in the original Constitution:

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Title of Nobility shall be granted by the United States. . . .

In addition to other restrictions not mentioned here but contained in the Constitution of 1787, other limitations were placed on the general government by the first ten amendments to it, commonly called the Bill of Rights. For example:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

More pointedly, a blanket limitation on the government of the Union was imposed by Amendment X:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Third, it was limited by its formal dependence upon the states for its basis and operation. Before the Constitution could go into effect it had to have the approval of the electorate *by* states. To be amended, there must be favorable action on the amendment by three-fourths of the states. James Madison explains further the dependence of the general government upon the states:

The State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former. Without the intervention of the State legislatures, the President of the United States cannot be elected at all. They must in all cases have a great share in his appoint-

ment, and will, perhaps, in most cases, of themselves determine it. The Senate will be elected absolutely and exclusively by the state legislatures.¹² Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men, whose influence over the people obtains for themselves an election into the State legislatures. Thus, each of the principal branches of the federal government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence. . . .¹³

This dependence, it was thought, would serve to restrain the central government and act effectively to limit its exercise of power.

Fourth, both the federal and state governments were limited by the balance of powers granted to each of them. This was intended to deter either of them from usurping the rights belonging to the people. Alexander Hamilton argued that the states would serve as a brake upon the powers of the general government:

This great cement of society [the administration of criminal and civil justice by the states], which will diffuse itself almost wholly through the

channels of the particular governments . . . would insure them so decided an empire over their respective citizens as to render them at all times a complete counterpoise, and, not unfrequently, dangerous rivals to the power of the Union.¹⁴

He explains further:

The separate governments in a confederacy may aptly be compared with the feudal baronies; with this advantage in their favor, that from the reasons already explained, they will generally possess the confidence and good-will of the people, and with so important a support, will be able effectually to oppose all encroachments of the national government.¹⁵

In the New York convention Hamilton elaborated this idea:

This balance between the nation and state governments ought to be dwelt on with peculiar attention, as it is of the utmost importance. It forms a double security to the people. If one encroaches on their rights, they will find a powerful protection in the other. Indeed, they will both be prevented from overpassing their constitutional limits, by a certain rivalry, which will ever subsist between them. I am persuaded that a firm union is as necessary to perpetuate our liberties as it is to make us respectable. . . .¹⁶

Just as the federal government

¹² Changed to direct election by the Seventeenth Amendment.

¹³ Benjamin F. Wright, ed., *The Federalist* (Cambridge: Harvard University Press, 1961), p. 327.

¹⁴ *Ibid.*, p. 169.

¹⁵ *Ibid.*, pp. 170-71.

¹⁶ *Elliot's Debates*, Bk. I, vol. 2, pp. 257-58.

was limited in its powers, however, so were the states. Each of the states had and has a constitution which limits its power. The United States Constitution restricts state powers in two ways: (1) by giving exclusive jurisdiction in certain matters to the central government and (2) by specifically prohibiting the states to take certain kinds of action. For example of the latter, the Constitution says: "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility." Every state must have a republican form of government, and by custom and tradition, if not otherwise provided, all legal action must follow the forms of due process of law. All levels of government are limited by the fact that those who make law and policy — at least officially — must be subject to reelection or removal at regular intervals by the electorate.

Authoritarian Moorings

The American tradition of federalism began to take shape in the authoritarian framework of the

seventeenth century. The governmental powers which the colonists exercised stemmed from their "dread sovereign," the King of England. The exercise of these powers came in the course of time to be thought of as rights. At any rate, colonial legislatures, courts, and local governments became bulwarks against the exercise of power from England. In like manner, dispersed power became identified as a major buttress to liberty. This view was given depth by the feudal tradition which preceded it, and by the ideas of Montesquieu which had great currency at the time of the American Revolution.

When it was cut loose from its authoritarian moorings, federalism became a profound part of the American tradition. I have placed much emphasis upon the historical circumstances within which federalism was embraced. But this does not lead to the conclusion that it was all a matter of expediency. It is true that there was little hope of creating a consolidated government in 1787, but, it must be remembered, there was little desire either. Edmund Randolph thought it a blessing that there were great differences among the people in America, for it served to assure the liberty of all. In the matter of religious sects, he argued thusly:

I am a friend to a variety of sects, because they keep one another in order. How many different sects are we composed of throughout the United States? How many different sects will be in Congress! We cannot enumerate the sects that may be in Congress! And there are now so many in the United States, that they will prevent the establishment of any one sect, in prejudice to the rest, and will forever oppose all attempts to infringe religious liberty.¹⁷

Struggles for Control

My point is this: Federalism was conceived not only as a practical means of getting the requisite measures for the defense of the country but as a lasting means for preserving liberty — the highest end of all government. Hence, it was an essential ingredient to the liberal tradition because it provided for the dispersion and counterbalancing of powers.

There were contests over power between the federal and state governments almost from the beginning. This was intended. And many examples could be found where one or the other has been prevented from encroaching upon the rights of the people by the contest, whether it was conclusive or not. But what concerns us here is the tremendous shift in the balance of power. Surely no one today will deny that the federal

government has vastly augmented its powers from what they were in the beginning and that there is mounting pressure for effectually reducing the states to administrative units of a consolidated central government. Federalism remains, of course, but it is much the worse for the wear.

Trend Toward Collectivism

How did these developments come about? Some claim to see a gradual extension of the powers of the federal government from the outset. True, Hamilton worked assiduously in the early years of the Republic to advance those powers, and John Marshall wrote decisions for the Supreme Court which frequently served to extend the sway of the central government. But the Jacksonians reversed this trend in the mid-nineteenth century, and the states reasserted their vitality. During the Civil War and Reconstruction the federal government extended its sway once more, but in the late nineteenth century the courts nullified much of this. Thus, if my analysis is correct, the great and mounting shift has occurred in the twentieth century.

This shift has been impelled largely by the thrust toward collectivism. Theoretically, collectivism might be advanced and perhaps achieved at the local and

¹⁷ *Ibid.*, vol. 3, p. 204.

state level. Indeed, much collectivization has gone on at these levels, viz., city owned electrical systems and state minimum wages and "fair" prices. But the federal system posed two major obstacles to collectivism. The federal courts, particularly in the latter part of the nineteenth century, disallowed much of the state action, basing their decisions on the Fourteenth Amendment. Second, collectivism did not appeal to some people, notably manufacturers and industrialists. Hence, it was noted that as the states entered upon regulation and control, industrialists sought more favorable sites for their new factories. When unions entrenched themselves by violence and coercion, undeterred by state authorities, industries migrated, for example, the textile industry from New England into the South.

The point was not missed by many collectivist reformers. In order to achieve collectivism, it would have to be done on a nationwide basis, and the courts would have to change the character of their decisions. How much of this was consciously realized I do not know, for reformers have advanced their programs under the protective cover of necessity, and they have rarely exposed their aims and ends to open discussion.

At any rate, the powers of the federal government have been

greatly extended. Several means have usually been employed. The clauses in the Constitution referring to the promotion of the general welfare have been misinterpreted as grants of power, which they were not.¹⁸ The interstate commerce clause has been stretched to extend the power of the government over almost every kind of economic activity.¹⁹ There have also been constitutional amendments which have served to augment the power of the central government. Most noteworthy of these have been the Fourteenth and Sixteenth. The Fourteenth provided the basis by which the courts have become positive actors on the American scene, and the Sixteenth opened the way practically for the federal government to engage in the redistribution of the wealth.

"States Rights" a Misnomer

Defenders of the American system of federalism have frequently fallen into a ready trap. They have usually become earnest defenders of what have come to be called "state's rights." By so doing, they misname what they should be de-

¹⁸ For such a misinterpretation, see, for example, Mr. Justice Cardozo's decision in *Helvering et. al. v. Davis*.

¹⁹ Madison indicates in *Federalist* number 42 that the aim was to facilitate commerce among the states, thus, not to control it in the present sense.

fending and confuse means with ends. Anyone who would care to examine the quotations in this essay from Americans who established the tradition will discover that they did not refer to any governments as having *rights*. They referred regularly to the *powers* of government, and they did so consistently. *Rights*, at that time, were conceived of as something belonging to the people as individuals. Power was granted to governments for the purpose of maintaining justice and order so

that liberty might be exercised by individuals. Dispersion of power was conceived as a means to the end of fostering liberty.

These distinctions we should revive, for they too are a part of the American tradition. Those concerned with the recovery of liberty in America may well work for a restoration of the balance of power among the governments, but they should keep in mind that it is not for the rights of states but for the rights of man for which they labor. ♦

- *The next article in this series will treat "Of Individualism."*

IDEAS ON LIBERTY

Uses of History

IN FREE GOVERNMENTS . . . it is incumbent on every man to instruct himself, as well as the means and opportunities he has permit, concerning the nature and interests of the government, and those rights and duties that belong to him, or to his superiors, or to his inferiors. This in general, but in particular it is certain that the obligations under which we lie to serve our country increase, in proportion to the ranks we hold, and other circumstances of birth, fortune, and situation that call us to their service; and above all, to the talents which God has given us to perform it.

LORD BOLINGBROKE, *On the Study and Use of History*, 1735

PROFITS

- THEIR CONSEQUENCES

THE YEAR 1962 was one in which the nation's total production, employment, and money income were all greater than they were in any previous year. The record was marred, however, by the failure of expenditures for new plant and equipment to be significantly greater than those of five years ago, by the persistence of pronounced unemployment, by the development of a large fiscal deficit where balance had earlier been promised, by one of the sharpest stock price declines in security market history, and by a continued adverse balance of payments situation resulting in further decreases in our already shrunken gold reserves. There has been economic improvement but its extent has proved far from satisfactory.

Underlying the disappointing features of the situation and in substantial measure responsible

for them is the continued failure of profits and profit prospects to provide the incentives on which peacetime expansion of employment and production entirely depend. Corporate profits as a percentage of sales were only about three-fifths what they were in earlier postwar years; the percentage was scarcely better than it was in the depression year of 1954. The profit squeeze, and its origins, is thus of significant interest; it is of especial importance to the owners and employees of steel companies, because the steel industry is experiencing the profit squeeze and its consequences in more acute form than are many other industries.

For example, its profit margin on sales has, since 1958, been reduced by approximately one-third despite the fact that it shipped approximately one-sixth more steel. The 1962 profit margin was smaller than that of any nonwar year since the depression year of

From the 1962 Annual Report, United States Steel Corporation.

1938. Its product prices have not increased since 1958; its hourly employment costs have increased by approximately 20 per cent; and it has been squeezed out of some markets so that it and its employees have lost to foreign producers some 6 to 10 per cent of the market they formerly supplied.

The critical importance to progress of profits and profit prospects merits public attention. Such attention is especially relevant in view of proposals being advanced to "cure" the unemployment and other adverse features previously noted. Involved may be important national policies with respect to taxation, government expenditures, international trade, monetary matters, labor, subsidies, and prices. These policies constitute a significant segment of the institutional framework within which the American economy functions and they may be at the present time of overriding importance.

It seems probable that present policies in these areas are at least partly responsible for what is regarded as unsatisfactory economic growth or so-called "high level stagnation." The prospect of their public and legislative review and revision thus holds the hope of alterations in them that will release the growth and employment incentives; it presents also the fear that, flinching from the sup-

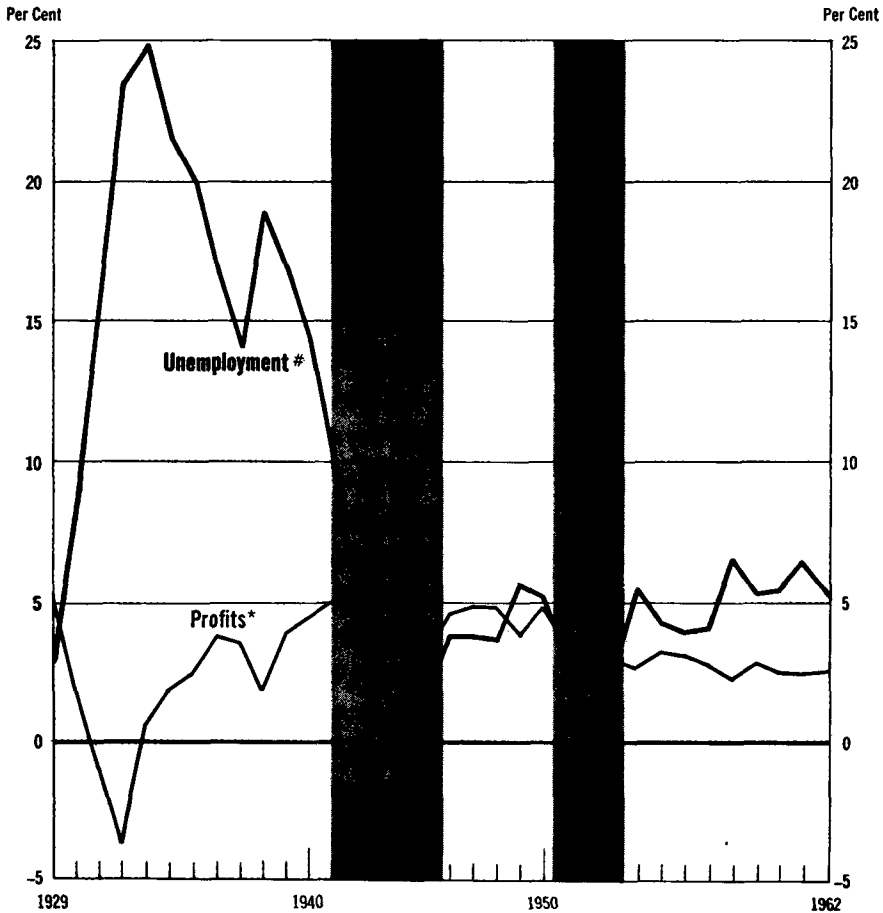
posedly unpopular, there will instead be dangerous resort to "easy-way-out" measures long since proven fallacious. Careful scrutiny is well warranted.

Profits and Employment

That the profit squeeze lies at the root of other unsatisfactory features of the situation is clearly evident in terms of ordinary observation, accepted economic principle, and the statistical record. In the matter of employment, for example, it seems clear that there is no dependable reason why any person ever hires another except that he values the service thereby received more highly than its cost to him. In the case of corporations which pay some three-quarters of all nongovernmental wages and salaries, this means that, within their financial capabilities, they will invest in tools of production and will, with alacrity, hire people when a profit from so doing is foreseen—a profit which is significantly greater, of course, than can be obtained by relatively riskless investment of money in, say, tax-exempt bonds.

Conversely, it follows that when the cost of hiring people is too high in relation to the prices at which resulting products can be sold, then they are competitively compelled to reduce their employment of people since loss is the

Corporate Profits and Unemployment Percentages, 1929-1962



U.S. Department of Labor: unemployment expressed as a percentage of civilian labor force. * U.S. Department of Commerce: domestic corporate profits, excluding finance, insurance and real estate corporations, expressed as a percentage of total sales. Year 1962 data partly estimated

only alternative. It is axiomatic that it is the prospect of profit, and it alone, that inspires the productive employment of people in the private economy; it is the dimming of that prospect that breeds unemployment and stops economic growth.

This principle has long been recognized by so-called conservative and liberal economists alike. For example, the late Lord Keynes in analyzing the unsatisfactory economic condition of his own country in 1931 wrote, "We live in a society organised in such a way that the activity of production depends on the individual businessman hoping for a reasonable profit, or at least, to avoid an actual loss. The margin which he requires as his necessary incentive to produce may be a very small proportion of the total value of the product. But take this away from him and the whole process stops. This, unluckily, is just what has happened. The fall of prices relative to costs, together with the psychological effect of high taxation, has destroyed the necessary incentive to production. This is at the root of our disorganisation. It may be unwise, therefore, to frighten the businessman or torment him further."

The principle is confirmed by the record. Shrinking profit margins go hand-in-hand with rising

unemployment percentages. From 1929 to 1932 corporate profits as a percentage of sales declined from about 5 per cent to less than nothing; and the percentage of those unemployed increased from about 3 to 24. By 1936-37 the profit percentage of sales had risen to about 3½; and the unemployment percentage decreased from about 24 to about 15. In 1938 the profit percentage dropped to about 1½ and the unemployment percentage rose to 19. In the non-war years since then, as shown in the accompanying chart, the tendency for unemployment to increase as profits decrease is also clearly observable on the record. It is not mere happenstance that the postwar downtrend in profit margins has been accompanied by an uptrend in unemployment that now threatens to become chronic.

Restatement of Principle

Once it is recognized that employment rests wholly on the profit expectations of employers, that truth can be restated to serve as a validity check on policy formulation. For example, if labor leaders find themselves unable or unwilling to propose and pursue any policies that demonstrably improve employers' profits or profit prospects, then by this default they contribute nothing to getting people back to work and instead

tend to guarantee that unemployment will continue or increase.

Similarly, if legislators are unable to revise or devise tax or other laws that will demonstrably permit or promote improvement in the profit prospect, then they, too, contribute nothing to getting people productively re-employed. Similarly, if the administrators of law cannot conduct themselves in ways that avoid undermining confidence in the profit prospect, then they, too, contribute nothing to alleviate unemployment and permit economic growth.

Similarly, if professional economists engage in establishing "guideposts" for wage setting, then they should admonish that no increase in the general wage level is warranted when there is pronounced unemployment; for they, better than any other group in the land, must know that the presence of pronounced unemployment is in itself proof complete that the level of wages is already too high in relation to the level of prices at which the fruits of employing people can be sold.

Finally, if the profit and loss makers themselves cannot propose policies to unleash the profit incentive that will be considered on their merits, rather than rejected out of hand as self-serving proposals, then they, too, can contribute nothing.

The Root of the Trouble

Yet such policies must be evolved and established for, as earlier noted, the profit squeeze lies at the root of the unsatisfactory features of the economic situation. Thus, if profits are squeezed and unemployment thereby increased, the fiscal problem is aggravated; for the income tax bases are relatively diminished at the very time the welfare burden is enlarged. If large fiscal deficits should occur, then the unsettling question of their inflationary financing is raised; and should that question arise, then, in turn, the risk of undermining international confidence in the dollar's stability is heightened.

If profits are squeezed, then not only is this source of job-creating expenditure for plant and equipment curtailed, but the ability and incentive to attract "outside" capital is simultaneously impaired and this, in turn, reacts to maintain or worsen the unemployment situation. If industries do not make modernization expenditures, then they must lag behind in international competitiveness; and this reacts to worsen our adverse balance of payments situation.

As Keynes said of his own country many years ago, the impairment of the necessary profit incentive to production is the root of our problems. If this situation is

adequately corrected, it thus appears that little else is imperatively required; if it is not, then other measures must prove comparatively futile.

Origins of the Profit Squeeze

Some light on the appropriateness of corrective measures may come from noting the origins of the profit squeeze. They appear to be both economic and political. It is historical fact that great wars cause postponement of the production of numerous durable consumer, producer, and public goods not needed in the war effort. Such goods already in existence are made to last a little longer. The big backlog of demand created by World War II became the basis for a long reconstruction boom financed by "soft" money policies adopted during and inherited from that war. Following that war this country not only had its own backlogs to take care of but it undertook to aid reconstruction in other lands. Our government, through loans, gifts, or expenditures, has supplied some \$120 billion of taxpayers' money to foreign countries and people.

Under cover of the boom a great inflation in hourly employment costs was engendered; and total taxes have risen to near three times their peak wartime levels. During the boom and while scarci-

ties and "soft" money still existed, prices could increase to cover the employment and tax cost inflations without extinguishing the profit margin reason for employing people.

Such booms end; and it now seems probable that basic world capacities and competitive capabilities were substantially restored or over-restored by 1957 or 1958 because, since then, basic commodity prices have been drifting slightly downward, and the international balance of payments has been seriously and regularly against us, as well manifested by shrinkage in our stock of monetary gold. Cost-covering price increases have met resistance from world-wide sufficiency of capacity. But the domestic wage inflation did not similarly halt. It has continued, thus intensifying the cost-price squeeze on profits and employment opportunities.

During the boom this country "geared" itself not only to satisfy normal living demands but to supply the great—but transitory—backlog demands. With the "catch up" demands satisfied there is overabundant ability, for a while, to meet normal living demands. Portions of manpower and industrial capacity are not now needed for the former purpose, and their competitive pressure on markets is part of the profit squeeze.

This need not be regarded with dismay. Instead, it represents opportunity; for, having overcome the ravages of war, resources are thereby released to speed innovations that spell progress, if we but have the wisdom to establish the policies permitting and promoting it.

The "Spending" Cure

It is sometimes supposed that increased government spending can cure economic troubles—especially unemployment. It is a seductive notion that must be regarded with much skepticism. As background it may be noted that government in the United States (federal, state, and local) can in a general way be regarded as spending three approximately equal chunks of money. Government is a direct employer of people—for example, schoolteachers and policemen—with payrolls of about \$50 billion a year. It spends another somewhat similar amount to purchase privately produced goods and services, involving private employment in their provision. The third chunk is used to cover interest on debt, subsidies, grants at home and abroad, social security, and other "welfare" disbursements for which it receives no concurrent equivalent in goods or services rendered.

Government expenditures are fi-

nanced by taxation supplemented by borrowing. According to official government data, a little over half of the taxes are loaded directly or indirectly on business and inflate (by about one-quarter) the amounts that must be secured in the market place to cover the disbursements required for continued private production. The rest of the taxes are levied on individuals as a transfer of big parts of their buying power to government.

It is apparent that government has become a monstrous burden on the economy and that its costs constitute a big element squeezing profits. To suppose that by becoming a still bigger burden it would thereby improve profit prospects is, on its face, upside-down reasoning; for the opposite is called for. Part of the spending cure theory rests on the fallacy that by resorting to "deficiteering"—spending more than is collected in taxes—the nation's so-called purchasing power can be increased with happy results for everybody.

But government cannot give purchasing power or anything else (except promises) to anybody without first securing it in some fashion from the governed; to suppose otherwise is to engage in arithmetic nonsense. It need only be noted that if government covers its deficits by borrowing—how else?—it thereby usurps sav-

ings or credit resources that might otherwise be invested or utilized in employment-providing production of marketable goods. What is given through deficiteering is equivalently usurped through borrowing, and no new self-sustaining jobs come into existence; such jobs are created only when savings are *productively* invested in the hope of profit. The burden of government is best measured by the larger of its taxes or its expenditures; reductions in both are now called for.

In the 1930's the deficiteering cure was tried out on a monumental scale and failed miserably in its purpose. For the fiscal years, 1931 to 1939 inclusive, federal deficits averaged 4.6 per cent of national income. In today's magnitudes this would mean deficits averaging over \$20 billion. It did not cure unemployment: in 1930, before the deficiteering, unemployment averaged 8.7 per cent; in 1939, following it, unemployment averaged 17.2 per cent. Only under the survival stimulus of war was unemployment reduced to less than 5 per cent in 1942.

Tax Policy

It is now so generally accepted that it need only be briefly mentioned that our federal income tax structure could scarcely be better designed to extinguish the profit

incentive, confiscate capital, and paralyze the growth processes. As the President of the United States recently noted, we have maintained and even augmented the wartime tax structures when the purpose was maximum diversion of resources to the war effort with corresponding repression of non-war activities.

The war is ended; but the repression remains. The taxes are unfairly "loaded" against efficiency and profit-making. Income taxes on corporations are approximately equal to their combined dividends and reinvested earnings. When earnings are transferred to owners as dividends, they are taxed again as individual income—and this despite the fact that dividends, which are all that the risk-taking stockholders get from their corporations, are less than 4 per cent of national income. Inefficient or nonearning corporations pay little or no income tax and are thus, in effect, subsidized at the expense of the efficient. The steeply progressive individual income taxes, with rates running up to over 90 per cent, also could not be better designed to siphon off the savings margins of the more productive and efficient and to discourage the productive investment of what remains in profit-seeking ventures.

It follows that in the present

situation, when profit incentive stimulation of innovation is sorely needed to stave off threatening stagnation, hardly anything can be considered more logical than reduction in the stifling burden of government taxation and expenditure and reform of the tax structure. In this connotation "reform" does not mean so-called "loophole" closing or taxation in additional areas which offset the effect of reduced rates. It means, instead, a general determination to substitute for present incentive-destroying taxation a more equitable system so that savings will be permitted and their confident investment in profit-seeking innovation will not be discouraged.

Labor Policy

Since employment costs in the private productive economy are three times as great as the total taxes on business, it follows as a matter of arithmetic that changes in the wage level have three times the effect on profit margins as do changes of similar proportions in the tax level. It next follows that

the leaders of labor with their ability to influence the wage level have it within their power to offset or to augment tax changes affecting the profit margin, or independently to establish a wage level in relation to prices that will speed re-employment of those now without work and provide opportunity for new entrants to the labor force. They have a responsibility in the matter which is indeed grave; it transcends partisan considerations.

Analysis of the situation enables one to assert with conviction that only as the prospect of earning profits improves will the manpower and resources of our land be fully utilized for economic growth. It further indicates that this can be achieved by stemming or reversing employment cost inflation and the rise in government expenditures, and by altering the tax structure to reduce or eliminate its features that undermine the incentives to engage in profit-seeking, employment-providing enterprise. ◆

IDEAS ON LIBERTY

Reason for Pride

BUSINESS should be publicly proud when it is most profitable and efficient, publicly ashamed when it is least profitable and inefficient. There should be praise for the companies that, in free and fair competition, are most efficient, most productive, most profitable.

HENRY FORD II, *What America Expects of Industry*

Acres of Diamonds

MORE than fifty years ago, the Reverend Russell Conwell of Philadelphia delivered more than five thousand times a lecture which was titled "Acres of Diamonds."

The lecture was built around the fabulous story of a Persian farmer named Hafed. To Hafed's home one day came a mystical wise man of the East who fascinated the farmer with a long and thrilling story about the value and beauty of diamonds. With a handful of diamonds, the visitor explained, Hafed could buy the whole county and with a diamond mine he would be rich enough to rule the world.

The eloquent visitor assured Hafed that great quantities of diamonds were located in various parts of the world merely waiting to be discovered — all one had to do was to find them. Hafed was enchanted. He forthwith sold his farm and sallied forth visiting many faraway countries in his search. He found no diamonds.

Years later, long after the weary and penniless Hafed had died tragically in a strange land, another Persian while digging in Hafed's deserted garden discovered the diamond mines of Golconda, the richest ever uncovered in the ancient world. ◆

From the Prologue to *The Key to Peace* by Clarence Manion.

This classic on Americanism, first published in 1950 by The Heritage Foundation, Chicago, is now available as a paperback for \$1.00 and may be ordered from The Foundation for Economic Education. Also available are a few copies of the earlier cloth edition at \$2.00.

Free GOODS Disciplined MONEY

WILHELM ROEPKE'S *Economics of the Free Society* (Regnery, \$4.95, translated by Patrick M. Boarman) is an interesting and important book which has had an interesting and important history. It was written in the nineteen thirties when its author, then an exile from his native Germany, was teaching at the University of Istanbul in Turkey. First published in Vienna, it was suppressed after the Hitler takeover of Austria. A Swiss edition was openly available for Swiss readers, but the French edition had, so to speak, to lead a clandestine life under the Nazi occupation. Thus the book slumbered for the decade when the totalitarians were raising havoc with the system of economics which Roepke supports and celebrates and explains with his incomparable lucidity.

Released for German readers after the war, *Economics of the Free Society* presumably played some part in guiding Roepke's disciple, the Bonn government's Minister of Economics Dr. Ludwig

Erhard, in the sparking of what has been called the "German miracle." Dr. Erhard has praised Roepke as "a great witness to the truth." This truth, as Erhard sees it, consists of a doctrine that calls for "freedom in the realm of goods, discipline in the realm of money." The quotation is from *Economics of the Free Society*, but the identical bit of wisdom, phrased in various ways, is to be found in all of Roepke's books. "Free goods," of course, refers to free choice in the market, not to any giveaways.

Building on the "free goods, disciplined money" idea, the West German government made it possible "in a few years for a war-devastated rump state, swollen with refugees, whose cities had been destroyed to the extent of 50 per cent and more, to develop a 'hard,' fully convertible currency, to become the chief creditor of Europe, and finally, even to be found worthy of helping the leading power of the free world, the United States, out of its balance

of payments difficulties with credits of one kind or another. German foreign trade, after having fallen to zero during and after the war, expanded within a decade to the point where Germany assumed the number two position in world trade (after the U.S.). Later, Japan — using the same recipes — achieved similar results.”

The foregoing bit in quotes is part of an additional section of *Economics of the Free Society* that was written long after the war. But it rams home by contrast everything the author had to say in the chapters written in the thirties about the vicious results of the “repressed inflation” of the Fascist economies. History, in twenty years of tumultuous over- turns, has added its pragmatic endorsement of all of Roepke’s “free goods, disciplined money” theory.

A Basic Textbook

Much of *Economics of the Free Society* moves on the level of a basic textbook, and to recapitulate it in a review would simply amount to restating modern marginal - utility - marginal - productivity theory. But what makes this textbook different from most texts is its verbal felicity. It is particularly telling when it comes to pointed antitheses. There is, for example, the contrast between the economist and the engineer. “For

the economist,” says Roepke, “the total quantity of means is fixed; his task is to discover the best use that can be made of them. The job of the engineer, on the other hand, is to achieve a given end . . . here, differently than in economics, the end is given, while the means must be found.” Modern governments, it might be added parenthetically, are dominated by the engineer mind.

Aside from its verbal felicity, *Economics of the Free Society* differs from other basic texts in its insistence that economic activity always takes place in a moral and legal context. To have a functioning free international system, nations must subscribe to common legal, monetary, and moral values. If such values exist and have wide acceptance, a UN will work. But, by the same token, a UN in such circumstances would be largely superfluous. On the other hand, a UN whose members do not accept congenial ideas about legality, morality, or monetary standards and practices will be a place of bickering and attempted bullying. In short, it will be a place of battle-short-of-war. Part of Roepke’s life crusade for the truth has been the effort to reconstitute the fabric of international society that existed in the West before the two world wars of the twentieth century. He is

tired of a perpetual battle-short-of-war.

Carrying through with his insistence that a good economics system depends on its moral and legal framework, Roepke compares the views of two giants of economic theory, Adam Smith and John Maynard Keynes. Smith, at the dawn of the modern era, viewed economics as an organic part "of the larger whole of the intellectual, moral, and historical life of society." Keynes, coming in the twilight of the humanistic age when a "mathematical-mechanical universe" was being substituted for Smith's "living order" under an "invisible hand," was a "representative of the geometric spirit." Where Smith thought in terms of freeing men, Keynes thought in terms of manipulating them as one would manipulate statistics to make a desired point.

Where Smith's values result in a society in which enterprisers try to combine the factors of production in the most efficient—i.e., economical—manner, Keynes's values lead directly to arbitrary selection and the rule of force. Roepke does not deny that force can accomplish things. But it does so wastefully, and with terrible frictions. "Equilibrium" is established in "command societies" by such things as killing off kulaks, or putting old-fashioned liberals

into concentration camps, or building walls and stringing up barbed wire to keep a slave labor force from escaping. "Command societies" can put sputniks into orbit, just as they can employ armies of human ants to build pyramids, but while the sputniks spin aloft, 50 per cent of the "commanded" population will be standing in the furrows of inefficient collective farms to watch the passage of one or two favored birdmen through the skies. The "command society" does not know how to combine factors of production into a harmoniously functioning whole, for it has no rational methods of calculation at its disposal.

The "Third" Way

When Roepke was writing *Economics of the Free Society*, the world was worried about the "deadening" implications of mass production. And, quite in keeping with the spirit of the nineteen thirties, this book retains its author's old fears of a "proletarianized, centralized, mass-type society." We must, he says, have a "policy—going beyond cyclical policy—which seeks to mitigate the sensitivity and instability" of our mass society "through decentralization, de-proletarianization, the anchoring of men in their own resources, encouragement to small farmers and small business, in-

creased property ownership, and the strengthening of the middle classes." Well, Roepke is right in fearing "proletarianization" and "centralization." But do his fears apply in countries that have passed through the earlier phases of mass production?

In the United States the evidence is that "proletarianization" is something that is being forced by the very people who profess most loudly to abhor it. The more that the federal government tries to "do something" for individuals, the more it tends to by-pass states, cities, and small voluntary organizations. And, instead of freeing the individual to be something more than a mass-man, it binds him to a passive role in life. He ceases to think and work for himself, and he really becomes "mass."

Meanwhile, in spite of centralizing politics, other individuals in America fight to be themselves. Freed by automation from production line "serfdom," the true individual becomes a motel keeper, a garage proprietor, or a tree surgeon. He buys a boat, he joins a bowling league, he takes up camping or fishing or skating or skiing or curling. He becomes a leisure-time student, one of the twenty-five million Americans who, according to a survey made recently by the National Opinion Research

Center of the University of Chicago, are taking adult education courses in something or other.

Thus it is entirely possible that Roepke's fears of "bigness" and "mass" and "proletarianization" are misplaced. One wishes he would have a second go at his section on what he calls "the third road." ♦

▶ THE ENTERPRISING AMERICANS: A BUSINESS HISTORY OF THE UNITED STATES by John Chamberlain. New York and Evanston, Illinois: Harper & Row. 282 pp. \$5.95.

Reviewed by K. S. Templeton, Jr.

THE MYTH of the "Robber Barons" dies hard. Taking their cues from Ida Tarbell, Gustavus Myers, Matthew Josephson, and scores of other journalists since the 1890's, American historians have found it difficult to shake off a congenial, and perhaps even congenital, anticapitalist mentality. In their debunking of the businessman, they have found additional comfort in the anti-industrialism of a long procession of Southern agrarian writers stretching back to the early nineteenth century. And finally, in more recent decades, Catholic and Protestant leaders of the Social Gospel have added their weight to the unbalanced scales of the historians.

Addressing the Newcomen So-

ciety in Chicago late in 1943, one distinguished historian, Stanley Pargellis, warned his profession about its partisan writing. At the same time, he urged businessmen themselves to open their company records for the benefit of new historical research. Pargellis' criticism had been anticipated in 1941 by the publication of R. Gordon Wasson's *The Hall Carbine Affair*, which minutely documented the historians' and journalists' distortion of J. P. Morgan's Civil War financial dealings. Shortly after Wasson published a second edition of his case study in 1948, Professor F. A. Hayek brought together critical essays by several economic historians in a book titled, *Capitalism and the Historians*. By this time the first of a flood of company histories and "revisionist" biographies of businessmen began to appear. Unfortunately, many of these recent studies erred in the opposite direction from the earlier ones by either making angels of mere men or lauding their subjects for the worst reasons possible — "unbusinesslike" conduct, or presumed concern for the general welfare as opposed (falsely) to company profits!

Drawing on this revisionist work in business history as well as on studies by a few economic historians who have been more judicious than the general run of

their colleagues, John Chamberlain presents in *The Enterprising Americans* a dramatic story of the pioneers in American business from colonial times to the present. While he focuses on the contributions of some of the great entrepreneurs in our history, the book in its full dimensions actually charts the evolution of American capitalism against a backdrop of the politics and general economic conditions of the times. Chamberlain skillfully accentuates the drama of business developments that were truly dynamic, sparked as they were by men whose vigor and creativity have too often escaped the student exposed primarily to "Robber Baron" journalism and the textbooks written by professional historians. Although it may be many years before American history texts avoid the anti-capitalist ruts they have become bogged down in for the past generation, Chamberlain has succeeded in giving us the textbook antidote which he says in his introduction he hoped to produce.

Yet a word of warning is in order: its critics notwithstanding, this book is anything but an apology for American businessmen and their role in the development of a distinctively "American system" of values and ways of doing things. This is a story of enterprising Americans — out-

standing inventors, innovators, and entrepreneurs — but it is not *the* story of freedom of enterprise in America. Chamberlain has made no attempt to portray his leading characters as great defenders, either in word or deed, of the underlying principles and arrangements which he, Chamberlain, thinks have contributed most significantly to our economic progress, namely, the market economy operating under a new form of limited government. In many instances, the entrepreneurial developments Chamberlain recounts are intertwined with wars and other governmental interventions covering the full range of traditional statist and mercantilistic practice. By his own account, Chamberlain has gone a long way toward modifying his introductory observation that the first several decades of the Republic “gave the principles of *The Wealth of Nations* their first great trial run.” While a variety of factors contributed to an expansion of laissez faire and general economic freedom, there were many counterstrokes, including those actions of some of the very “enterprisers” Chamberlain describes, to achieve their business ends by means of political power and manipulation rather than through the economic competition of the market place.

This is not to say that the per-

sistence of mercantilism in the nineteenth century means that the “Robber Baron” view of business activity is valid after all. In some ways, “social gains” are likely to be made under all but the most impossibly perverse systems of economic organization, even if the “social costs” of socialism are difficult to calculate, or if the regressive effects of state intervention are disguised by misleading appearances of progress. But this much must be said: first, businessmen themselves cannot be automatically hailed as the best champions of the market economy and of consistent anticollectivist thought and action; and second, it will not serve the cause of freedom to expose Marxist mythology and then erect, in a fashion far too popular among today’s conservatives, an equally tortured historical and philosophical myth about an “American way of life” which never did exist — and probably never will! Certainly one can show aspirations toward ideals, but this is no excuse for depicting utopias of national purpose and direction which have never been a reality no matter how earnestly they were desired by *some* men at *some* times.

By all means, let us be rigorous in seeking principles of freedom, to be strengthened in thought and action, so that we may recognize

heresy when it appears. But let us not be so deluded by myths of our own making that our antagonists may hang us on a scaffold of treason — against America! — that we ourselves have unwittingly fashioned. Libertarians will be well advised to leave chauvinism and imperialism to perennial collectivists of whatever self-designated stripe, liberal or conservative. As individuals, we clearly have a long way to go to overcome the collectivist virus in ourselves and thereby enhance freedom in the United States, without presuming that we as a nation have an “American

tradition” of freedom to offer the rest of the world. If we might have once boasted a little more than others, it is a delusion when we do so now, as indeed a few reflective critics such as Garet Garrett warned us some time ago.

Hopefully, *The Enterprising Americans* will succeed in dispelling myths to the “Left,” and at the same time it can illuminate for us the errors of myths to the “Right.” The libertarian understanding of freedom should not rest on pleasant historical fictions which are as warped as Marxism itself. ♦

IDEAS ON LIBERTY

Monopoly of the Mails

THE UNIVERSITY of Chicago Law School’s 1961 *Journal of Law and Economics* carries a most interesting account by Professor Ronald Coase of the nineteenth century running battle between “The British Post Office and the Messenger Companies.” These private messenger companies were offering a superior postal service — at a profit, to boot — thus depriving the Post Office of business and revenue.

The problem came to a head in 1891 when the Postmaster General, in effect, ordered the private companies to cease and desist their illegal infringement of the governmental monopoly and announced that the Post Office would start a messenger service of its own.

This aroused considerable public controversy. One correspondent, in a letter to *The Times*, found it “highly entertaining to see this sluggish and somnolent department thus goaded by private competition into clumsy and reluctant imitation.” Another citizen, unamused by the situation, concluded that “the role of an official . . . is (1) to do nothing (2) to prevent anyone else from doing anything (3) to invent reasons for (1) and (2).”

The Fateful Turn

From Individual Liberty to Collectivism

1880-1960

by **Clarence B. Carson**

Tracing the devious route Americans have traveled toward collectivism over the past 80 years should help reveal the way back to freedom.

Dr. Carson, professor of American history at Grove City College, clearly and skillfully shows how the American tradition was undermined: First, the ideology, developed by thought leaders in classrooms, pulpits, and the press; then, the formation of movements behind these men and their ideas, abetted by businessmen, laborers, consumers — the very ones with most to lose as freedom failed; and finally, the compulsory political implementation of collectivist ideas.

The return trip? First, one must understand the ideology of freedom; this book helps to supply that, too.

Included, and comprising perhaps half of this volume, are the six articles previously published in *The Freeman* series, "Individual Liberty in the Crucible of History."

255 pages, fully indexed.

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THE *Freeman*



COERCION AND THE STATE

■ The exercise of power in ways which cannot be anticipated causes some of the greatest restraints, for restraint is most felt and therefore is greatest when it is least anticipated. We feel ourselves least free when we know that restraints may at any moment be placed on any of our actions, and yet we cannot anticipate these restraints. . . . Known general laws, however bad, interfere less with freedom than decisions based on no previously known rule.

F. W. MAITLAND

Historical Sketch of Liberty and Equality as Ideals (1875)

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