THE
FREEMAN
IDEAS ON LIBERTY

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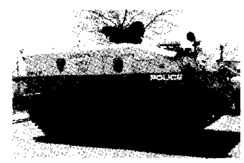

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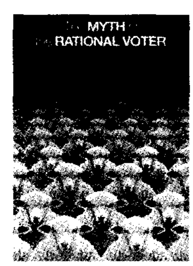

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Perspective

An Unstimulating Idea

"It's like taking a bucket of water from the deep end of a pool and dumping it into the shallow end."

That's how George Mason University economist Russell Roberts describes the logic—rather, *illogic*—of the economic "stimulus" proposals that everyone and his uncle have been proposing.

If we needed further demonstration of the folly that is the American political-economic system, there it is. The leaders of the interventionist state and the candidates who aspire to command it will continue to produce this inanity until people see it for the balderdash it is and resoundingly reject it.

The problem is that most people don't see it for what it is. When told economic activity is slowing down, they demand that their "leaders" and candidates assure them there is a Plan to keep them safe. The politicians are more than happy to oblige. Details don't matter much.

The economic-stimulus theory is plainly incoherent. Besides the swimming-pool analogy already quoted, Russell Roberts showed the futility of what's being proposed in another vivid way. Noting that politicians love to talk about "injecting" money into the economy, like a doctor giving a patient a transfusion, Roberts writes, "But where does the economic injection come from? It has to come from inside the system. It's not an outside stimulus like . . . the transfusion. It means taking money from someone or somewhere inside the system and giving it to someone else."

If the government uses fiscal means to goose the economy, the money has to come from somewhere. The politicians do not propose to cut spending—quite the contrary. So, since the budget is already in deficit, any tax "rebates" and new government spending will have to come from borrowing. But government debt doesn't create wealth; it only transfers it. The lenders won't be able to spend or invest the money. And the new debt will have to be repaid with interest through taxation in the future, suppressing economic activity then. Likewise, if taxes are raised to provide the stimulus—well, you can finish the thought.

If the government increases some people's ability to spend by decreasing other people's ability to spend, where's the stimulus? Maybe these measures aren't really intended to stimulate anything but a candidate's popularity with appropriate constituencies.

The underlying rationale for stimulus is that consumption is insufficient. While the purpose of production is indeed consumption, it doesn't follow that the government can create economic growth by stimulating consumption. You can't consume what hasn't been produced.

Thus giving people money and urging them to spend it won't improve their economic prospects. As usual, what looks like a political favor to low-income people is just a cruel hoax. Their well-being depends on genuine and sustained economic growth, which would maximize job opportunities and lower prices. But that requires a radical freeing of the economy—which politicians are not wont to favor.

The most objectionable side of the stimulus frenzy is the assumption that government can and should run the economy. The reports of the death of Keynesianism were apparently exaggerated. Most people still believe the economy is a vehicle and the government the driver, precisely adjusting the gas pedal and brake as needed. But really there is no "economy." There are only people pursuing ends and the property they use and exchange in the process. If the government tries to "run the economy" it has to run us. It is a dangerous mistake to think the would-be driver can know what he's doing. He can't possibly know. The system is too complex, the necessary information—much of which is never articulated—scattered too far and wide. In contrast, the market process solves the problem of how to coordinate the productive activities of countless people in order to satisfy consumers.

Those who are biased against freedom will proclaim that our economic problems show that the free market has failed. What free market? Do they mean the "free" market that for ages and in myriad ways the government has straitjacketed and skewed on behalf of favored interests?

We are in our present position because government has burdened us with taxes, spending, debt, regulations, subsidies, guarantees (to banks, for example), trade restrictions, fiat money, and other impositions. Between the endless domestic schemes and war, we are being crushed by the weight of the state. We don't need a stimulus. We need the weight lifted. We need freedom.

* * *

We've all seen those signs in stores bragging that only "fair trade" coffee is sold or served on the premises. Is this a worthy cause for advocates of freedom? Gene Callahan has the scoop.

It's now uncomfortably common to see reports about abuse of innocent people by police forces resembling military units. Steven Greenhut examines this ominous development.

Condemnation of the profit motive is routine. But as Steven Horwitz explains, the profit motive is ubiquitous. What makes it beneficial or harmful is the institutional setting.

When a government official harms someone and the victim wins a lawsuit, it's usually the taxpayers, not the offender, who pay the price. Is that justice? Ridgway Foley says no.

Some environmentalists think outer space should be preserved in its pristine state, free from human pollution. Are they kidding? J. H. Huebert and Walter Block ask.

The word "efficiency" is thrown around far too casually in discussions of government policy. It might be good to know what the word means. Gary Galles takes a look.

Here's what our columnists are serving up this issue: Richard Ebeling dissects the "new happiness economics." Lawrence Reed tells why a Continental was worth so little. Thomas Szasz points out that being drugged against one's will is not treatment. Robert Higgs assays the effect of the New Deal on local government. John Stossel is glad that Third World nations are getting richer. Charles Baird documents how the government helps union leaders to plunder. And David Henderson, stunned by the assertion that medical care in the United States is worse than in other places, responds, "It Just Ain't So!"

Books on democracy, market-based management, pharmaceutical regulation, and wealth-creation come under review.

—Sheldon Richman
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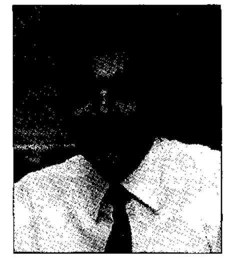
From the President

A Department of Homeland Happiness Security? Only if We Want to Be Unhappy!



BY RICHARD M. EBELING

It is more than 230 years since Adam Smith observed that each individual is a better judge of how best to apply his productive efforts than any statesman who would direct the economic activities of the citizenry. Furthermore, Smith said, any such power "would nowhere be so dangerous as in the hands of a man who had the folly and presumption enough to fancy himself fit to exercise it."

After all the disastrous experiments in social engineering over the last 100 years, we might expect Adam Smith's words to be a "self-evident" truth of practical politics. Yet in spite of this record of harm and failure, new rationalizations for more of the same keep cropping up.

One of the latest is called the "new happiness economics." Once more we are offered the illusory promise of social-scientific precision, this time through the measurement of happiness. The happiness economist says he will be able to quantitatively determine how happy we are and how much our current degree of happiness may be raised (or lowered) through the use of government fiscal and regulatory tools.

It seems that more stuff and higher incomes do not make people that much happier.

A leading happiness guru is Richard Layard of the London School of Economics, who wants to make the planning of people's happiness the primary goal of public policy. In the past, governments have tried to maximize output and income on the assumption that if people can buy more stuff, they'll be happier.

But it seems that more stuff and higher incomes do not make people that much happier. Oh, certainly, when people are living at or not much above subsistence, adding to their supply of desired material things does make them happier. But according to surveys, after a certain point the increment of additional happiness resulting from increments of additional income and wealth turns out to be negligible.

Why? First, it is said, people soon take for granted new or improved material aspects of their lives. Introduce cell phones, and the initial "ooh and aah" of being able to telephone from anywhere at anytime for any purpose wears off and becomes part of the assumed order of things. So the extra "happiness" from this improvement in the quality of life rapidly dissipates.

Second, people seem to care less about absolute increases in their material well-being than about their relative income in society. If people experience gains in their standard of living that leave relative income positions more or less the same, they do not feel any happier. Only in the transition, when one person's income rises before other people's incomes do, does he feel happier because he's gotten ahead of others.

Third, it is asserted that too many individuals pursue false trails in the quest for happiness. Modern man seeks happiness in the passing and superficial pleasures of the flesh and momentary enjoyments derived from the acquisition of material things. Instead, people should be reeducated by the government to cultivate the higher virtues, and to develop an appreciation for beauty, truth, and goodness—all on the assumption that government knows what they are and how they can be learned.

So what is to be done? If increases in output and income beyond a certain point do not bring any significant gains in happiness, then government policies should foster less work and more leisure so that people will refocus their time and talents on family, friends, community, and nonmaterial self-improvement instead.

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The unhappiness created by income and social inequalities should be removed through more progressive income taxes. Leveling down will reduce the unhappiness experienced by middle- and lower-income people when they see others better off than themselves, and higher taxes on the rich will reduce their incentives for trying to maintain or reestablish their superior status.

If an activist happiness policy were to be implemented by the government along the lines its proponents suggest, people's choices would have to be reduced. If some are unhappy because others have more or different things, then the range of actions through which individuals are allowed to pursue happiness will have to be curtailed. Not only would the after-tax income of wealthier people have to be reduced, but the types of goods and services offered would also have to be limited. Even with incomes dramatically reduced through taxes, the wealthy might scrimp and buy a luxury car. Some neighbors may be "unhappy" seeing that others have things they lack, possibly because they are unwilling to make the tradeoffs.

If an activist happiness policy were to be implemented by the government along the lines its proponents suggest, people's choices would have to be reduced.

Thus a happiness policy holds the potential for a heavily government-directed economy.

In fact we learn what is possible or desirable by seeing what others have attained. It stimulates us to work and create in order to be able to enjoy the kinds of things others have acquired. But the happiness-policy advocates object because of the frustration and "unhappiness" that inequality generates.

This stimulus, however, is often the engine of human progress. As Austrian-school economist F. A. Hayek once observed, most of what we call "civilization" can be classified as artificial since all we really need to survive is some food, an animal skin, and a cave. Art, music, literature, modern medicine, air conditioning, automobiles, shampoo, toothpaste, washing machines, electric lights, and so on, are artificial, the result of imagination, innovation, savings, and production. And all these and many, many more were often the luxuries of the few before becoming the necessities of the many.

Dropping Out of the Rat Race

No individual needs to remain in the rat race or allow his happiness to be defined by what others do or say. Anyone can give up the stress of urban life for a rural environment with fewer pressures—if he or she is willing to make the unavoidable tradeoffs. One does not have to keep up with the Joneses if one is willing to think of the good life in a different way.

Not surprisingly, many new-happiness advocates insist that all our unhappiness is due to liberal capitalism and its ideology of self-interest and materialism. The cult of individualism and the god of mammon have undermined the possibility of a happier society, or so they claim.

Few supporters of the market economy have ever asserted that greater wealth is the essence of a happier or more meaningful life. What they have argued, however, is that a higher material standard of living removes the constant concern for the essentials of life and provides us with the means, if we so choose, to cultivate other intellectual, spiritual, and cultural pursuits that can and indeed do enrich the human condition.

The new happiness economics would only further undermine all that the free market has been able to do to improve human well-being. A Department of Homeland Happiness Security, if it were established, would very likely lead to a very unhappy society.

Health Care Is Worse Here than Elsewhere? It Just Ain't So!

BY DAVID R. HENDERSON

In the November 13, 2007, *Washington Post,* columnist Eugene Robinson attacked former Republican presidential candidate Rudy Giuliani's claim that health care is better in the United States than in countries with socialized medicine. Robinson offers evidence that socialized medicine in various industrialized countries isn't much worse, and is sometimes better, than U.S. health care, but his case is weak. Indeed, with a little more knowledge of the facts and background, one can make a strong case that Giuliani is right: the U.S. health-care system, although it is highly regulated and somewhat socialized, *is* still better than systems of medicine that have an even bigger socialist component. Moreover, as we shall see, even Robinson seems unconvinced by his own argument.

Columnist Eugene Robinson attacked former Republican presidential candidate Rudy Giuliani's claim that health care is better in the United States than in countries with socialized medicine.

Robinson begins by criticizing the data Giuliani cited on survival rates from prostate cancer. Giuliani had claimed that his chance of surviving prostate cancer was 82 percent and would have been only 44 percent in England. Of course, we can't know whether Giuliani actually had an 82 percent chance because his particular probability depended on his specific characteristics. He was clearly talking about the chances of a random man in this country.

Health-policy analyst David Gratzer says that Robinson's challenge falls flat. Robinson and other critics point out that, in his words, "death rates from the disease in the two countries are basically the same." Gratzer agrees but says that this fact is misleading because a much higher percentage of Americans than Britons are diagnosed with prostate cancer in the first place. Once diagnosed, a man's chances of survival in the United States versus England are as Giuliani laid out. Score one for the United States.

Then Robinson cites a survey done by the Commonwealth Fund and Harris Interactive. The survey was of adults in Australia, Canada, Germany, the Netherlands, New Zealand, Britain—all of which, Robinson writes, have single-payer health care—and the United States. Already, though, Robinson states the facts incorrectly: While the other six do have a large degree of socialized medicine, the one that comes closest to single-payer is Canada. Canadians are legally barred from paying individually for most health-care services. The other five countries have safety valves of various degrees. Although Australia, Britain, and New Zealand are the next-most socialized, people in those countries are allowed to buy private services. Britain, the granddaddy of socialized medical systems in the industrialized world, started allowing people to pay for medicine

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decades ago as the failures of the National Health Service became too big to hide. The Netherlands and Germany have a complicated hybrid of socialism and private enterprise.

The first thing Robinson cites from the Commonwealth study is that a lower percentage of respondents in the United States said that their health-care system "works well" and a higher percent saw a need for "fundamental" change. But the problem with such a question is that it asks people to answer as health-care analysts, not as consumers. Moreover, there has been a drumroll in the United States media for, oh, about 20 years about how bad our health-care system is. One major reason for this emphasis is that many people in the media dislike capitalism and want a socialist health-care system. In the countries with more socialism, on the other hand, there's no contrary media bias in favor of free-market health care. So it shouldn't be surprising that people who are surveyed are affected somewhat by this propaganda campaign.

The United States comes up looking much better on waiting periods.

Robinson points out that the survey data conclusively refute the idea that people in socialized medical systems don't have a regular doctor. In fact, of the people surveyed in the other six countries, a higher percentage had a regular doctor than in the United States. This surprised me. Still, it's hard to know what to conclude. Do people in more-socialized systems not go looking for other primary-care doctors because those other doctors will turn them away, unlike in the United States? Robinson doesn't say, and the survey didn't ask.

You get better information from surveys, as surveyors can tell you, if you ask people about their own experiences—their local knowledge, so to speak. And when it comes to their experiences with the system, Americans who were surveyed tell a more positive story. The United States comes up looking much better on waiting periods. Here's how Robinson delicately puts it: "It's true that in the United States, the wait for elective surgery is likely to be shorter than in the other countries (except Germany, which has the shortest wait of all). But onerous delays of six months or more were significantly more common only in Australia, Canada and Britain."

Note that the delays were more common in the countries with the greatest degree of socialism. Also interesting is that this is one of the few parts of Robinson's article in which he doesn't give the actual data. But they are quite striking. Whereas 62 percent of surveyed Americans had waited a month or less for elective surgery, only 32 percent of Canadians and 40 percent of Brits had waited a month or less. And whereas only 4 percent of Americans had waited six months or more, 14 percent of Canadians and 15 percent of Brits had waited six months or more. That's a big difference in waiting times.

Out-of-Pocket Spending

Robinson also points out that Americans "were much more likely than any other national group to have spent at least $1,000 out of pocket on medical expenses over the past year." This is not surprising. When patients are more financially responsible for their own health-care expenditures, they tend to pay more out of pocket. But that makes doctors and other medical providers more responsive to their demands. One of the oldest economic principles is that he who pays the piper calls the tune. I want my doctor to depend on me for his livelihood rather than to know that there are many more like me lined up, none of whom can affect what he or she is paid: I'll get better service that way.

Robinson seems to think he's hit the mother lode by pointing out that of the countries surveyed, the United States has the highest infant mortality. But this fact has little to do with health care. Some of the major factors that influence child mortality, as John C. Goodman, Gerald L. Musgrave, and Devon M. Herrick point out in *Lives at Risk*, are race, geography, income, and education.

Robinson ends, surprisingly, by writing, "I agree with Giuliani that if I had a life-threatening illness, I'd rather be treated here." The question for Robinson, then, is, "Why?" His answer might have made for a more interesting article.

Is Fair Trade a Fair Deal?

BY GENE CALLAHAN

We've all seen the signs in our local cafes, boasting something like: "We proudly sell coffee brewed with Fair Trade coffee beans, acquired at a price that permits sustainable farming and pays growers a living wage." These posters are part of a popular trend in "progressive" circles to promote "fair trade." For some reason, perhaps because many of these folks get really hyped up on Joe every day, fair trade in coffee seems to be the chief focus of the movement.

According to the latest data I could turn up on the Internet (http://tinyurl.com/2hh6zf), fair-trade coffee buyers must pay at least $1.50 per pound if the spot price on the commodities market is lower than that figure. If the market price is higher, they will pay a 5-cent-per-pound premium over the going rate. (The exact current numbers, if they have changed, are unimportant to our analysis.) I'm not clear how the "fair" price was determined to be $1.50, rather than $1.46 or $1.59 or even $20.00, but so be it. The fair traders evidently believe that growers who cannot make a profit at the market price ought to be helped to stay in business anyway. (To what extent the current market price is a *free-market* price will be examined shortly.) They find it unfair that, in the words of the website Global Exchange: "Many small coffee farmers receive prices for their coffee that are less than the costs of production, forcing them into a cycle of poverty and debt" (http://tinyurl.com/2h75zq).

An Ethiopian coffee farmer with her basket of coffee beans
United States Agency for International Development

There are two possible causes of the situation described by Global Exchange. In some cases it may be that a particular farmer *could* run his business profitably except that he is competing against others who receive some form of state-granted privilege, for instance, a direct subsidy from their own government or favorable terms of trade from some coffee-importing country. That is clearly unjust, but I contend that the best way to address such injustice is to eliminate the favoritism, rather than trying to compensate for it.

On the other hand, considering that the phenomenon of unprofitable coffee farmers is widespread, it also appears likely that there are simply too many producers in the world relative to the demand for their output. (And, of course, for any particular instance of a money-losing plantation, both factors may be relevant: the farm in question might do better than it does at present if it faced no subsidized competitors, while still falling short of profitability.) To whatever extent the second cause is to blame for the plight of growers, the only long-term, effective remedy is that a sufficient number of those farming at a loss exit the industry so as to permit the remaining producers to operate at a profit. (I am using "profit" here in the accounting sense, meaning

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an excess of income over expenses, and not in the economic sense of an above-normal return on capital.)

Advising struggling Third World coffee farmers simply to abandon their trade and find another way to make a living may seem flippant and heartless, especially coming from a well-off First World resident who is not confronted with such a daunting prospect. But I suggest that the compassionate concern apparently motivating that initial reaction is only superficial since it ignores two hard realities. First, continuing to operate a money-losing business in the absence of a scheme that plausibly could reverse its fortunes merely makes one's financial predicament more and more dire. If the situation does not appear likely to change for the foreseeable future, then even relaxing in a hammock all day is a better business plan than continuing to grow coffee at a loss. The former option at least stops the bleeding.

Second, it is ludicrous to imagine that a social arrangement is sustainable in which anyone who chooses to persist in a money-losing occupation is entitled to be supported in his obstinacy by the rest of his society. If all members of a society decided to follow their own inner calling without regard to the needs and desires of their fellows, soon enough there would be no resources available to support the pursuit of their visions. A prosperous society can afford to maintain a certain number of commercially disdainful artists, mendicant religious ascetics, selfless social reformers, unworldly scholars, and carefree "dharma bums," but only through the efforts of the bulk of its members who grow food, build houses, produce clothing, treat diseases, collect garbage, discourage criminality and violence, and perform all of the other jobs meeting the more mundane requirements of orderly social existence.

It is ludicrous to imagine that a social arrangement is sustainable in which anyone who chooses to persist in a money-losing occupation is entitled to be supported in his obstinacy by the rest of his society.

Since the very possibility of following a way of life indifferent to material concerns depends on the output of a multitude of others who are attending to those matters, people choosing the former course have no right to demand as their due any share of the resources produced by those opting for the latter course; rather, the visionaries' just claim for support could lie only in persuading their more-worldly companions voluntarily to aid them in their mission. It is the responsibility of every minimally functional adult to discover how she can perform some activity that others value enough to provide her with her sustenance, whether those others express that valuation by commercial transactions or ideal-inspired donations.

In light of the inescapable requirement that, for a society to continue, its members on net must engage in genuinely productive—meaning remunerative—activities, I can conceive of no plausible case for singling out coffee farmers as members of a special class that is exempt from pulling at least its own weight.

If we reject on principle the notion that any interest group has a rightful claim to such a privileged economic status, it does not imply that we lack sympathy for the real hardships likely to face a poor, largely uneducated peasant whose whole working life has been spent farming coffee and who must abandon the one occupation he knows well for the uncertain promise that he can do better elsewhere. But I suggest that those seeking to ameliorate that peasant's plight are well advised to direct whatever funds and energy they would devote to that aim toward helping him learn a new, more viable trade rather than using them to postpone the day when he must face up to his real situation.

Somewhat ironically, if fair traders choose to follow the second alternative, it is likely they will wind up even further depressing the coffee price confronting any farmers who are not producing fair-trade beans, since each consumer who switches to the fair-trade product is one less buyer for the "un-fair" coffee traded on the commodity market. "But," fair traders may protest, "our ultimate goal is that *all* coffee purchased be fair-trade coffee, so that *all* growers will receive the higher, fair-trade price!" However, even if that seemingly implausible scenario comes to be realized, the fair-trade movement still could not succeed in securing for every current coffee farmer a higher income than he receives today. A fundamental principle of economics is that the quantity of a good demanded drops when its price increases, meaning that at the universally higher price for coffee the fair-trade campaign would achieve by reaching its final aim, consumers would drink less of the beverage and the current glut of coffee farmers only would be exacerbated.

I suggest that this belief in the power of some concerned body—be it composed of government officials, economic "experts," religious authorities, or social activists—to discern some "just price" for a good, other than the one emerging from the market process, is the most fundamental misunderstanding bedeviling the fair-trade movement.

Arbitrary-Selection

However, that is not the only problem with its present modus operandi. At least in its current corporate embodiment in the company bearing the name TransFair USA, which is the entity that officially labels certain coffees "Fair Trade," the movement appears somewhat arbitrary about which producers are to be blessed with the label. Kerry Howley, writing in the March 2006 *Reason* magazine (http://tinyurl.com/2dnuv8), describes the predicament of farmers like Gregorio Martinez, who owns a small, family-operated plantation in Honduras. In the course of operating his business he overcame severe hardships, including the destruction of an entire year's crop by Hurricane Mitch and the threat of imminent foreclosure, to eventually win an important international prize for his product. It might seem that Martinez is just the kind of farmer the fair-trade movement ought to be promoting, but TransFair USA will only certify growers who are part of a cooperative, and so he cannot sell his beans with the "Fair Trade" label. Similarly, in Africa, many coffee farms are deemed ineligible for the label because they are run in a more traditional tribal style rather than in the democratic fashion demanded by the Eurocentric arbiters of who deserves the "Fair Trade" imprimatur.

TransFair USA

Marching under the fair-trade banner along with such dubious company are some genuinely promising initiatives. For instance, the effort to convince consumers to purchase "shade-grown" coffee instead of coffee produced in the monocultural method more common today, in which the crop is grown in a cleared field, is a plausible way to help maintain biodiversity. The natural setting of the coffee plant is as an understory shrub in dense forests, meaning that farmers can grow it under a canopy of trees, which may yield profitable crops themselves. Growing coffee under shade certainly results in a more natural environment than having large swathes of land occupied by only one plant species; it's an environment much friendlier to animal life and perhaps even helpful in slowing global warming. And consumers who buy shade-grown coffee at a higher price than that of coffee grown on a monocultural plantation are not attempting to supplant the market process with their own, arbitrary judgments about what various goods "ought" to cost, but are acting through that process to express their preference for a healthier, more vital environment. Indeed, to an extent that could only be determined by a detailed historical study quite beyond the scope and aim of this article, it was not the market that chose the current predominance of high-tech, monocultural coffee production, but governmental policies. As Deborah James of the Center for Economic and Policy Research notes, "In the 1970s the United States Agency for International Development (USAID) gave over $80 million to coffee plantations in Latin America to 'modernize'—to strip coffee of shade trees and purchase chemical pesticides and fertilizers" (http://tinyurl.com/2ba9pz).

"Bird-friendly" coffee, as far as I can determine by my (admittedly limited) reading on the subject, is just an alternate name for "shade-grown" coffee—the trees above the coffee plants provide homes and resting places for birds—so buying it is similarly defensible.

And if organic farming is really preferable to "chemical farming"—which is a disputed contention, since it is unclear where all the inputs needed for productive organic farming, such as manure, would come from if everyone forswore industrially manufactured fertilizers and pesticides—then buying organic coffee may also make sense.

Another plank of the fair-trade platform, advocating that consumers purchase coffee only from producers who embrace a minimum standard of decent working conditions for the agricultural laborers growing and harvesting their beans, cannot be ruled out on its face as a possible means of improving the lot of those impoverished workers. If some relatively wealthy residents of developed countries are willing to pay a higher coffee price to benefit poor farm hands, their intention is entirely laudable. However, I think the right approach here is to shop for a guarantee of labor standards while letting the market determine what the price for those standards will be, not to attempt to guess at a "just" price and pray that it makes everything all right.

Furthermore, anyone deciding to pursue this course should remain keenly aware there is no "silver bullet" with which to slay the beast named Third World Poverty. Even given that consumers are willing to pay a higher price for coffee produced under stricter labor standards, that labor will still be more costly to the farm owner, meaning that, at the margin, he will find it profitable to use more capital, such as machines or fertilizer, and less labor than he would under less-stringent labor requirements. It is inevitable that fewer workers will be employed under the improved conditions than would have been in their absence. The net result still may be preferable to the situation that existed before the consumers' campaign for higher labor standards. But if activists are really concerned about the well-being of the people they purport to be helping, and not just their own satisfaction in having adopted a noble cause, then their judgment of whether a real improvement is likely to occur ought to be based on both the positive and negative effects of their actions and not on a naïve faith that good intentions necessarily yield good outcomes.

The fair traders' broad criticisms of the current institutional foundation on which the global coffee industry is built also are justified, at least for those who advocate a free society, since the current world coffee market could hardly be termed "free." The coffee market itself is directly subject to many politically motivated distortions. For example, Kendra Okonski of the London-based International Policy Network points to recent policies adopted by the government of Vietnam as contributing significantly to the "coffee crisis" (http://tinyurl.com/2nzmmk). State officials, encouraged by international agencies to undertake "market reforms," decided to turn the country into a major coffee exporter, with the result that the nation, as of 2006, was the world's second-largest producer (http://tinyurl.com/39fc7t). The government subsidized producers, assisted in its project by low-cost loans to Vietnamese coffee farmers made by French, German, and Swiss government aid agencies, at a time when coffee prices were high.

The fair traders' broad criticisms of the current institutional foundation on which the global coffee industry is built also are justified, at least for those who advocate a free society, since the current world coffee market could hardly be termed "free."

But only looking at direct state interventions in the coffee market would seriously underestimate the full impact of state policies on the industry. As Okonski notes, an even "bigger problem is highly subsidized farmers in wealthy countries. Huge subsidies to farmers in parts of the West mean that farmers in poor countries cannot diversify their production, because they cannot access these markets. Poor farmers choose to produce coffee, cocoa and other commodities because they have few other options with which to generate income." Furthermore, developed countries put high tariffs and import quotas on processed agricultural goods, discouraging the development of valued-added processing industries in the Third World.

Land Theft

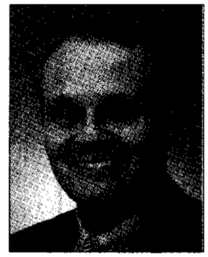
The final major deviation of the contemporary coffee market from a genuinely free market that I will note is that the existing pattern of land holdings, in all countries but especially in many of the Third World nations that produce the crop, is hardly the outcome of purely voluntary exchanges. Rather, it owes much of its current shape to past acts of theft, fraud, and highly coercive or manipulated transactions masquerading as trades on a free market. Indigenous people robbed of the land that supported them, land with which their intimate familiarity may have been their most valuable social capital, often were left with no better option than to toil at the behest of their expropriators on whatever miserable terms they were offered, and the lamentable effects of such injustices are still with us today.

As a result of such recent government interventions and past exploitations, farmers who are not the beneficiaries of policy favoritism may find themselves operating at a great disadvantage compared to those who are luckier in that respect. That situation is certainly deplorable. But I can't see that consumer action would be a promising way to rectify those inequities. How can a coffee shopper be expected to keep track of just which producers are getting just what advantages due to government policies and correctly calculate just what price he should pay to offset the effects of those state-granted privileges? No, it seems to me that the only sensible approach is to fight against the unfair policies directly, at the ballot box, through op-eds, by lobbying, and so on. Perhaps individual buying decisions can have some impact in the meantime, but their effect is likely to be minuscule compared to the scope of the problems.

I see the Fair Trade movement as embodying a mixture of sound ideas for improving the state of the coffee industry and well-meaning but misguided attempts to fight the realities of supply and demand.

In short, I see the Fair Trade movement as embodying a mixture of sound ideas for improving the state of the coffee industry and well-meaning but misguided attempts to fight the realities of supply and demand. The latter stem, I believe, from the misconception, common in Progressive circles, that the free market is a merely contingent feature of human social life, rigged up by the powerful to enable their exploitation of the weak. To the contrary, as brilliantly demonstrated by Ludwig von Mises and F. A. Hayek, the market process is the only method for rationally allocating scarce resources in any advanced economy. The mistaken view of many Progressives stems, to some extent, from a simple lack of economic understanding. But their mistrust of free markets also is bolstered by the fact that apologists for the many current situations in which the powerful *have* manipulated government rules and policies to entrench and increase their privileged positions in society often attempt to disguise the true character of what is going on by claiming that those outcomes are the result of free-market decisions, and, as such, perfectly just. Therefore, it is vital that advocates of truly free markets work to expose such deceit for what it is.

A genuinely free market favors no one except those who best can produce the goods desired by consumers, and no participant in the market process can gain an elevated status in society that is exempt from the necessity to continue to serve the interests of consumers in the future. If Progressives, who typically are driven by a truly commendable desire for a fair society, come to recognize that moving toward genuinely free markets will advance, and not hinder, the achievement of their goals, then their efforts will achieve much better results, to the benefit of everyone except the entrenched interests that profit from the current, government-distorted markets.

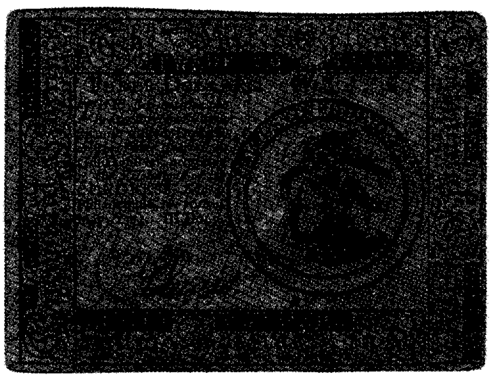


The Times that Tried Men's Economic Souls

BY LAWRENCE W. REED

Two hundred and thirty years ago this month in Valley Forge, Pennsylvania, the brutal and storied winter of 1777–78 came to a long-awaited close. Nearly a quarter of George Washington's Continental Army troops encamped there had died—victims of hunger, exposure, and disease. Almost every American knows that much, but few can tell you why Congress was as much to blame as the weather.

For six years—from 1775 until 1781—representatives from the 13 colonies (*states* after July 4, 1776) met and legislated as the Second Continental Congress. They were America's de facto central government during most of the Revolutionary War and included some of the greatest minds and admirable patriots of the day. Among their number were Thomas Jefferson, Benjamin Franklin, John and Sam Adams, Alexander Hamilton, Patrick Henry, John Jay, James Madison, and Benjamin Rush. The Second Continental Congress produced and ratified the Declaration of Independence and the country's first written constitution, the Articles of Confederation. It also ruined a currency and very nearly the fledgling nation in the process, proving that even the best of men with the noblest of intentions sometimes must learn economics the hard way.



Continental currency

Governments derive their revenues primarily from one, two, or all three of these sources: taxation, borrowing, and inflating the currency. Americans were deemed to be in no mood to replace London's taxes with local ones so the Second Continental Congress, which before March 1781 faced no legal prohibition to tax, opted not to. It borrowed considerable sums by issuing bills of credit, but with few moneyed interests willing to risk their capital to take on the British Empire, the expenses of war and government could hardly be covered that way. What the Congress chose as its principal fundraising method is revealed by this statement of a delegate during the financing debate: "Do you think, gentlemen, that I will consent to load my constituents with taxes when we can send to our printer and get a wagon-load of money, one quire of which will pay for the whole?"

Reports of the deliberations that led to the printing of paper money are sketchy but indications are that support for it was probably not universal. John Adams, for instance, was a known opponent. He once referred to the idea as "theft" and "ruinous." Nonetheless, he and Ben Franklin were among five committee members appointed to engrave the plates, procure the paper, and arrange for the first printing of Continental dollars in July 1775. Many delegates were convinced that issuing unbacked paper would somehow bind the colonies together in the common cause against Britain.

In any event, not even the skeptics foresaw the bottom of the slippery slope that began with the first \$2 million printed on July 21. Just four days later, \$1 million more was authorized. Franklin actually wanted to stop the presses with the initial issue and opposed the second batch, but the temptation to print proved too alluring. By the end of 1775 another \$3 million in notes were printed. After war erupted, the states demanded more paper Continentals from Congress. A fourth issue—this time for \$4 million—

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was ordered in February 1776, followed by $5 million more just five months later and another $10 million before the year was out.

In the marketplace the paper notes fell in value even before independence was declared. The consequences of paper inflation at the hands of American patriots were no different from what they ever were (or still are) when rampant expansion of the money supply is conducted by rogues or dictators: prices rise, savings evaporate, and governments resort to draconian measures to stymie the effects of their own folly. As author Ayn Rand would advise in another context nearly two centuries later, "We can evade reality, but we cannot evade the consequences of evading reality."

Americans increasingly refused to accept payment in the Continental dollar. To keep the depreciating notes in circulation, Congress and the states enacted legal-tender laws, measures that are hardly necessary if people have confidence in the soundness of the money. Though he used the power sparingly, George Washington was vested by Congress with authority to seize whatever provisions the army needed and imprison merchants and farmers who wouldn't sell goods for Continentals. At harvest time in 1777, with winter approaching and the army in desperate need of supplies, even farmers who supported independence preferred to sell food to the redcoats because they paid in *real* money—gold and silver. Washington ordered guards placed along the Schuylkill River to stop supplies from reaching the British.

Americans increasingly refused to accept payment in the Continental dollar. To keep the depreciating notes in circulation, Congress and the states enacted legal-tender laws.

Another 13 Million Paper Dollars

Congress cranked out another 13 million paper dollars in 1777. With prices soaring the Pennsylvania legislature compounded the effects of bad policy: it imposed price controls on precisely those commodities required by the army. Washington's 11,000 men at Valley Forge froze and starved while not far away the British army spent the winter in relative comfort, subsisting on the year's ample local crops. It wasn't the world's first, nor would it be its last, experiment with price controls.

Congress recognized the mistake on June 4, 1778, when it adopted a resolution urging the states to repeal all price controls. But the printing presses rolled on, belching out 63 million more paper Continentals in 1778 and 90 million in 1779. By 1780 the stuff was virtually worthless, giving rise to a phrase familiar to Americans for generations: "not worth a Continental."

A currency reform in 1780 asked everyone to turn in the old money for a new one at the ratio of 20 to 1. Congress offered to redeem the paper in gold in 1786, but this didn't wash with a citizenry already burned by paper promises. The new currency plummeted in value until Congress was forced to get honest. By 1781 it abandoned its legal-tender laws and started paying for supplies in whatever gold and silver it could muster from the states or convince a friend (like France) to lend it. Not by coincidence, supplies and morale improved, which helped to bring the war to a successful end just two years later.

The early years of our War for Independence were truly, as Tom Paine wrote, "times that tr[ied] men's souls" and not just because of Mother Nature and British troops. Pelatiah Webster, America's first economist, summed up our own errors rather well when he wrote, "The people of the states had been . . . put out of humor by so many tender acts, limitations of prices, and other compulsory methods to force value into paper money . . . and by so many vain funding schemes, declarations and promises, all of which issued from Congress but died under the most zealous efforts to put them into operation and effect."

History texts often bestow great credit on the men of the Second Continental Congress for winning American independence. A case can also be made, however, that we won it in spite of them.

The Militarization of American Police

BY STEVEN GREENHUT

In the summer of 2006 a frail, troubled 18-year-old girl named Ashley MacDonald ran through a nearly empty Huntington Beach, California, city park in the early morning holding a small knife. An onlooker called the police and soon two large male officers showed up. They shot the girl to death with 18 bullets, claiming she had lunged toward them and put their lives in danger. It was just another day for law enforcement in suburban Orange County, where—despite low crime rates—police have become increasingly aggressive and militaristic.

The MacDonald killing sparked an unusual amount of public outrage. This shooting, in particular, was hard to grasp. An empty park and a tiny teenager hardly make for a life-threatening situation for the officers. Couldn't they just have backed away and used non-lethal alternatives such as pepper spray? The police admitted that they were readying a beanbag gun in the parking lot when the officers claimed that "time ran out."

> An empty park and a tiny teenager hardly make for a life-threatening situation for the officers.

Angry that anyone would question their "split-second decisions," the law enforcement "community" said it was wrong to jump to conclusions before the details of the investigation were complete. The sheriff defended the police publicly before any investigation even started, so he apparently was jumping to conclusions, but never mind. The consensus: calm down and wait for the department to see what happened.

I called the Huntington Beach Police Department (HBPD) and asked for the completed reports for two other high-profile officer-involved deadly shootings from 2001 and 2004. In the one case a troubled man reportedly with a toy gun was shot 29 times and bullets riddled several houses behind him. In another case, officers followed a suspect, lost track of him, and then started following a different man, 18-year-old Antonio Saldivar. Police shot him to death after they claimed he pulled a toy gun on them. The officer who shot Saldivar, by the way, has a disturbing disciplinary history, including allegations of excessive force.

Plenty of time had passed, so the reports should have been completed in those two cases. Well, the HBPD said I could have neither report because both are exempt from the California Public Records Act. What a great Catch-22: the public has no right to comment on police shootings until the investigation is complete, but once it is complete the public has no right to see the report.

In the teenaged girl's case district-attorney (DA) investigators ultimately prepared a report arguing that the officers had "no choice" but to shoot. The DA's office did not conduct any of its own interviews with witnesses. Investigators simply took the reports produced by the sheriff's department, which detailed a "perfect storm" scenario: the police were backed up against a fence with nowhere to go; the girl lunged toward them; officers gently implored her to back away but reluctantly shot her as she intruded on their 21-foot safety barrier.

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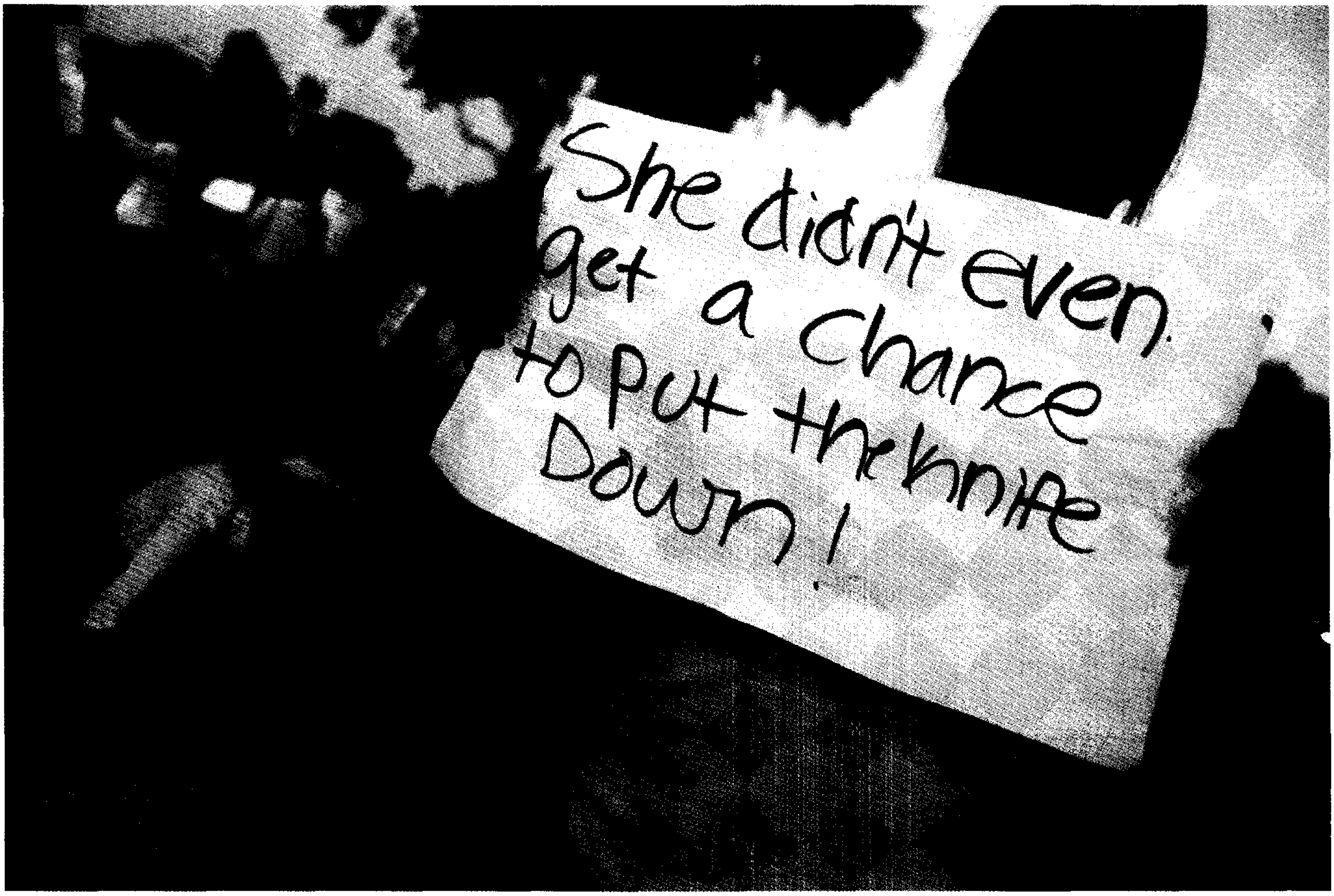


Huntington Beach community members gather to protest the tragic killing of 18-year-old Ashley MacDonald
Daniel A. Anderson, The Orange County Register

Although a local newsweekly easily found witnesses who stridently disputed that account, the DA was content with what it found. No Orange County district attorney has ever filed charges against police officers for an on-duty shooting, which is typical of most DAs. And district attorneys, by the way, only look at whether officers committed a crime—whether they fired the shots with criminal intent. But no one thinks there was criminal intent. DAs do not look at police procedures, and the newspapers were quick to find police training officials who declared that the officers "did what they are trained to do."

That's what is so worrisome.

As the MacDonald case reveals, despite many official oversight channels and processes, there is no serious oversight of police behavior. Law enforcement writes the rules of engagement, investigates its own officers, and has a well-oiled public-relations machine that kicks in whenever something disturbing takes place. District attorneys and grand juries are part of the law-enforcement establishment, and politicians usually defend the "heroic" officers. No information gets out until the family files a civil lawsuit against the department. No one ever discusses police policy, which is an internal matter.

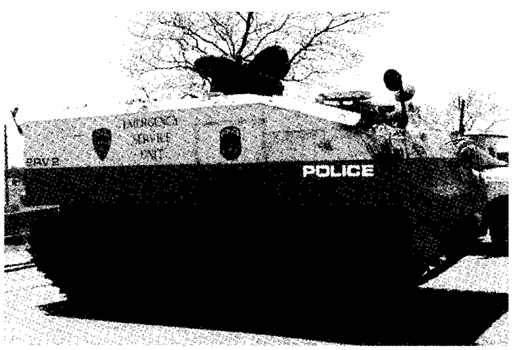
Typical Shooting

Yet the MacDonald shooting is sadly typical. Here's an *Orange County Register* report about a 2004 incident: "Robert Velarde said his son Jason stood beside the bed and appeared to freeze out of fear when four police officers, their guns drawn, entered the room the night of May 10. 'They told him to drop the scissors. I told him to drop the scissors. He didn't look like he could let them go, so I wrestled to take them away,' said Velarde, a quadriplegic with partial use of his arms.

. . . 'Then one officer yelled 'knife' and they all fired,' Velarde, 62, said. His son, Jason Velarde, 22, was killed."

In September 2007, a 15-year-old autistic teen went missing. The mother called the sheriff's department, which, she said, did nothing to help find him. Ten hours later, someone reported that a man was wandering around a busy street. It was the missing teen. Deputies responded by tasering the teen and then handcuffing him. The teen's father said his son was tasered when he already was on the ground and that the deputies treated him roughly as he tried to comply with their orders. The sheriff's department alternately claimed that the deputies had no choice but to taser the boy because they feared he might have a weapon and that they tasered him to protect him from himself.

In one case I recall several years ago, Anaheim police went to arrest an elderly doctor for a nonviolent crime. They drove one of those mini-tanks into his wealthy suburban neighborhood, black-clad SWAT-team members hanging onto the sides clutching high-powered rifles. (SWAT stands for Special Weapons and Tactics.)



NYPD tank

Police often tell me, "Our only concern is getting home safely at the end of the day." Such statements reveal two common traits in modern police forces. The first is an outsized sense of danger. In reality, police work isn't in the top ten dangerous professions, according to the federal Bureau of Labor Statistics. Indeed, no government job is in the top ten. The second attitude is the self-centered nature of police work. Concern for the public takes a backseat to concern for "officer safety."

Police officials always depict their officers as reluctant warriors who rarely, if ever, use or even brandish their weapons. But this is a fiction from the past. Officers tell me the old-school guys are mostly gone and that the new breed of cop has a military mentality and often a military background. The SWAT-team members are the ones who do the training and get promoted to top positions in the departments.

There's plenty of anecdotal evidence that police are far from reluctant to pull their weapons or feel much remorse when they do. After Riverside police gunned down a sleeping girl named Tyisha Miller in a car in 1998 (she had a gun in her lap, was unconscious, and after police smashed her window, she moved and they immediately opened fire), the officers involved in the shooting stood around, joked, and animatedly reenacted the shooting, according to *Los Angeles Times* reports. One of the officers commented, "This is going to ruin their Kwanzaa," after upset family members showed up at the scene. One local man arrived at the scene of another officer-involved shooting and reported that the police were high-fiving each other.

In another recent local case, a Costa Mesa police officer admitted pulling a gun on a teenager after the officer noticed that the boy and his friends were riding their bikes without helmets. He chased the boy into the boy's backyard and drew his gun. After the boy's dog came to defend him, the officer shot the dog 15 times. The city paid the family a large sum of money, but the police department insists the officer's behavior was correct police policy. That's perhaps the scariest part of this whole disreputable incident.

Former San Jose Police Chief Joseph McNamara, now a scholar at the Hoover Institution, captured the essence of the problem in a November 29, 2006, column he wrote for the *Wall Street Journal*. McNamara focused on an incident a few days earlier in New York, when several plainclothes police officers fired 50 shots at a car, wounding two men and killing a third, Sean Bell, who was to be married later that day.

How did this and other cases like it happen?

"Simply put," wrote McNamara, "the police culture in our country has changed. An emphasis on 'officer safety' and paramilitary training pervades today's policing, in contrast to the older culture, which held that cops didn't shoot until they were about to be shot or stabbed. Police in large cities formerly carried revolvers holding six .38-caliber rounds. Nowadays, police carry semi-automatic pistols with 16 high-caliber rounds, shotguns and military assault rifles, weapons once relegated to SWAT teams facing extraordinary circumstances. Concern about such firepower in densely populated areas hitting innocent citizens has given way to an attitude that police are fighting a war against drugs and crime and must be heavily armed."

According to McNamara, "Reasonable people accept that a cop's job is difficult and dangerous, and most people understand that sometimes an officer will have to shoot someone. But the police are not and should never be allowed to think of themselves as soldiers or to believe they face the same level of danger."

That's exactly right. Even worse, there is virtually no public oversight or accountability, not only for police who follow these new policies and kill or hurt citizens, but for police who act outside proper authority and abuse their power. In Orange County, deputies spend about seven years patrolling the jail before being sent out onto the streets of our cities. Some critics wonder whether the experience dealing with prisoners leads at least some officers to treat members of the public with a high level of disdain. While police militarization is a problem on city streets, it is even worse for anyone under police custody.

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Beaten by Inmates

In March of 2006, John Derek Chamberlain, who was stopped by an officer for public urination then arrested after he was found to possess child pornography, was savagely beaten to death for 20 minutes by fellow inmates. The *Register* reported that "[w]hile inmates beat John Derek Chamberlain to death, the senior deputy at the minimum-security barracks sat in the guard station, watching television. . . . The deputies' failure to prevent the torture and killing of a man thought by jail inmates to be a child molester is at the center of an ongoing criminal inquiry."

An inmate claims the deputy, who was several feet from the beating, actually instigated it after falsely outing Chamberlain as a child molester. Before any investigation was done, the county sheriff declared that his deputies did nothing wrong. Although other agencies typically investigate these killings, the sheriff's department took charge of the investigation itself and even "cleaned up" the scene before the county supervisors' staff arrived. The department refused to give the inmate a lie-detector test to corroborate his accusations. According to many solid sources, a group of deputies that calls itself "The Psycho Crew" routinely inflicts rough justice on inmates, picking particularly on minorities and drunks. The department denies this, but county taxpayers end up paying civil settlements to abused victims.

The Chamberlain case led to enough of a public outcry that the county board of supervisors voted to take the first steps toward creating an independent oversight panel. The sheriff, DA, and deputies' union have tried to derail the proposal. It has been approved but the current plan, although useful, would create only a few advisory responsibilities. And, under current state law, almost all information regarding the disciplinary records of deputies and police are off-limits to civilian oversight panels, the public, and the media. As the American Civil Liberties Union explained, "On August 29, 2006, the California Supreme Court in Copley Press v. Superior Court held that records of an administrative appeal of sustained misconduct charges are confidential and may not be disclosed to the public. The decision prevents the public from learning the extent to which police officers have been disciplined as a result of misconduct."

Police supporters claim the public already has plenty of oversight. But observers always find the same pattern: The internal investigations are not public, and the deputies stay on the force with no obvious punishment. The DA exonerates the deputies. The grand jury only gets involved in the most highly publicized cases, and such juries are controlled by the DA and represent a narrow, conservative demographic. (Around here, it's mostly retired government workers who can afford to spend half their day working at the court for virtually no pay.) When a member of the public files a complaint with a police or sheriff's department, it typically takes months to hear anything back. Then the only legal requirement is for the agency to say whether the complaint was "sustained" or "not sustained." Such complaints are rarely sustained.

Code of Silence

Even when police engage in obvious misbehavior, fellow officers stand by the miscreants. There's a well-known "code of silence." Many people have watched the videotape of the savage beating of a barmaid by an off-duty Chicago police officer. The department had to be shamed into filing serious charges, and fellow officers showed up in force in solidarity when their compatriot had his court date. Juries in suburban communities are notoriously conservative, so when a case gets to trial, it's difficult to convict an ill-behaving cop. In February former Irvine Police Officer David Alex Park went to court for pulling over a woman motorist, threatening to arrest her, but letting her off after she performed a sex act. Park argued that he pulled the victim over for her own safety and that the sex was consensual—as if sex could ever be consensual when an armed police officer has pulled a woman over and threatens to take her to jail.

Indeed, the only real oversight and justice in police-abuse cases comes from trial attorneys who sue police departments.

The jury, however, bought the argument, and Park went free. He did lose his job, however, and the woman received a civil settlement from the city. Indeed, the only real oversight and justice in police-abuse cases comes from trial attorneys who sue police departments. It's better than nothing, and such actions often dislodge police documents, but it's a sad day when the only serious oversight of the most powerful government agents most people will encounter comes in the tort system. In many cases when police are caught abusing their power, their union defends them and keeps them on the force.

No wonder police officers behave as if they can do as they please. The *Los Angeles Times* reported last October 4 that Los Angeles County deputies play a game on the job called "Operation Any Booking," in which the winner is the deputy who makes the most arrests or most car seizures in a 24-hour period. "It's just a friendly competition to have a little fun out here," said the department spokesman. Never mind that such "games" encourage officers to make unnecessary arrests and seizures.

Officers at times behave like they are part of an occupying army, and there are many stories of excessive force that don't rise to the level of investigations and lawsuits, but are indicative of what's going on out there. One of the *Register*'s independent contractors who services newspaper racks in the wee hours of the morning tells about the time recently when he was emptying money from a rack while wearing his newspaper apron and he saw an officer looking at him. Rather than approach and ask him what he was doing, several police cars surrounded him and officers came at him with weapons drawn; he was shoved to the ground, his arms painfully wrenched behind his back, and he was even taunted by an officer. He was let go after a short time, but is this really the way we want our communities policed?

Police officers in California in particular are well paid, so this is not a case of insufficient funds to hire quality candidates, as some people argue. In Orange County the average deputy earns a total salary and benefit package of $111,000 a year. They are eligible to retire at age 50 with 90 percent of their final pay after 30 years of service, guaranteed forever, courtesy of taxpayers. Police agencies in California complain about a hiring shortage. The reason for the shortage is simple: a) rapid increases in retirement benefits have encouraged a large portion of local forces to retire; and b) unions are always lobbying cities to provide more police positions, and politicians often comply for political reasons. Who can say no? Police and deputies, after all, have been afforded near-hero status following the 9/11 attacks. And the media often provide photo ops for their anti-terrorism training exercises, so the public knows about the importance of their work. In a recent political battle police organizations made direct references to 9/11 as a reason to oppose any rollback of benefits. Politicians who go against the blue tide pay a heavy political price.

There's no apparent limit to the political gains that can be made by pandering to the "law and order" crowd. Last June the Assembly Public Safety Committee considered a bill that would have overturned the Copley decision and restored some public oversight to police misbehavior. The room was filled with police officers speaking out against it. The cops told emotional stories about police officers being killed in the line of duty—even though news reports later revealed that none of the examples had anything to do with the release of public records. The committee could not muster a single Democratic or Republican vote for the bill. In the state legislature Democrats mostly oppose such reforms because of their ties to the unions, and Republicans mostly oppose such bills because of their commitment to "law and order." It's the perfect scenario for law enforcement, and a troubling one for the public.

There's no apparent limit to the political gains that can be made by pandering to the "law and order" crowd.

Yet something needs to be done. While I was writing this article, the Santa Ana police gunned down an apparently unarmed man in a stolen car, and then shut down the freeway for five hours. The department would say nothing, according to the *Los Angeles Times*: the police spokesman "referred questions to the district attorney's office, which investigates officer-related shootings. A spokeswoman declined to discuss the probe, citing district attorney policy." And so it goes.

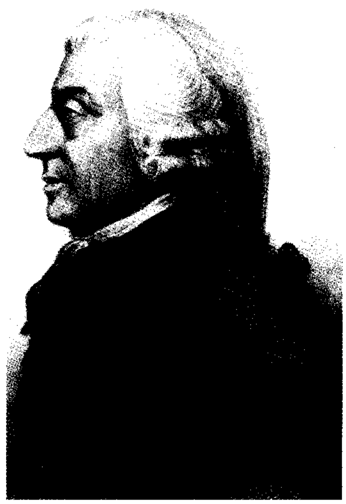
Police use deadly force at their discretion. Police agencies then investigate themselves. They release only the information they choose to release. Few politicians are willing to discuss police procedures, and the courts and legislatures uphold the "right" of police agencies to hide information about misbehaving officers. In California, police have a special officer's "bill of rights." America may not be a police state—that is, a political system characterized "by an arbitrary exercise of power by police"—but it's getting too close for comfort.

Profit: Not Just a Motive

BY STEVEN HORWITZ

One of the more common complaints of critics of the market is that "the profit motive" works at cross-purposes with people and firms doing "the right thing." For example, Michael Moore's film *Sicko* was motivated by his desire to take the profit motive out of health care because, in his view, the ways people seek profits do not lead them to provide the level and kind of care he thinks patients should have.

Leaving aside for a moment whether the health-care industry is really dominated by the profit motive (given that almost half of U.S. health-care expenditures are paid for by the federal government, it is not clear which motives dominate) and whether Moore knows better than millions of individuals what their health-care needs are, the claim that a "motive" is a root cause of social pathologies is worthy of some critical reflection. The critics seem to suggest that if people and firms were motivated by something besides profit, they would be better able to provide the things that patients really need.



Adam Smith
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The overarching problem with blaming a "motive" is that it ignores the distinction between intentions and results. That is, it ignores the possibility of unintended consequences, both beneficial and harmful. Since Adam Smith, economists have understood that the self-interest of producers (of which the profit motive is just one example) can lead to social benefits. As Smith famously put it, it is not the "benevolence" of the baker, butcher, and brewer that leads them to provide us with our dinner but their "self-love." Smith's insight, which was a core idea of the broader Scottish Enlightenment of which he was a part, puts the focus on the *consequences* of human action, not their motivation.

What we care about is whether the goods get delivered, not the motives of those who provide them. Smith led economists to think about why it is that, or under what circumstances, self-interest leads to beneficial unintended consequences. It is perhaps human nature to assume that intentions equal results, or that self-interest means an absence of social benefit, as was often the case in the small, simple societies in which humanity evolved. However, in the more complex, anonymous world of what Hayek called "the Great Society," the simple equation of intentions and results does not hold.

As Smith recognized, what determines whether the profit motive leads to good results are the institutions through which human action is mediated. Institutions, laws, and policies affect which activities are profitable and which are not. A good economic system is one in which those institutions, laws, and policies are such that the self-interested behavior of producers leads to socially beneficial outcomes. In mixed economies like that of the United States, the institutional framework often rewards profit-seeking behavior that does not produce social benefit or, conversely, prevents profit-seeking

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behavior that could produce such benefits. For example, if agricultural policy pays farmers not to grow, then the profit motive will lead to lower food supplies. If environmental policy confiscates land with endangered species on it, owners of such land who are driven by the profit motive will "shoot, shovel, and shut up" (that is, kill off and bury any endangered species they find on their land).

The same issues can be raised in the health-care industry. Before blaming the profit motive for the problems in the industry, critics might want to look at the ways in which existing government programs like Medicare and Medicaid, the interpretation of tort laws, and regulations such as those that limit who can practice what sorts of medicine might lead firms and professionals to engage in behavior that is profitable but unbeneficial to consumers. Labeling the profit motive as the source of the problem enables the critics to ignore the really difficult questions about how institutions, policies, and laws affect the profit-seeking incentives of producers and how that profit-seeking behavior translates into outcomes. Placing the blame on the profit motive without qualification simply overlooks the Smithian question of whether better institutions would enable the profit motive to generate better results and whether current policies or regulations are the source of the problem because they guide the profit motive in ways that produce the very problems the critics identify.

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For example, high medical costs may well be a result of profit-seeking providers' recognizing that government programs are notoriously bad at pricing services accurately and keeping good track of their expenditures. Ignoring the way institutions might affect what is profitable is often due to a more general blind spot about the possibility of self-interested behavior generating unintended beneficial consequences. Before we attempt to banish the profit motive, shouldn't we see whether we can make it work better?

Placing blame for social problems on the profit motive is also easy if critics offer no alternative. What should be the basis for determining how resources are allocated if not in terms of profit-seeking behavior under the right set of institutions? How should people be motivated if not by profit? Often this question is just ignored, as critics are merely interested in casting blame. When it is not ignored, the answers can vary, but they mostly invoke a significant role for government. The interesting aspect of such answers is that critics do not suggest that we somehow convince producers to act on the basis of something other than profit, but that instead we replace them with presumably other-motivated bureaucrats or have those bureaucrats severely limit the choices open to producers. The implicit assumption, of course, is that the government personnel will not be motivated by profits or self-interest in the same way as the private-sector producers are.

How realistic this assumption is remains highly questionable. Why should we assume that government officials are any less self-interested than private individuals, especially when the door between the two sectors is constantly revolving? And if government officials do act in their self-interest and are motivated by the political analogs of profits (for example, votes, power, budgets), will they produce results that are any better than the private sector's? If blaming the profit motive entails giving government a bigger role in solving problems, what assurance can critics of the profit motive provide that political officials will be any less self-interested and that their self-interest will produce any better results?

One will look in vain in *Sicko*, for example, for any analysis of the failures of state-sponsored health care in Cuba, Canada, Great Britain, or anywhere else. To blame the profit motive without asking whether an alternative will better solve the problems supposedly caused by the profit motive is to bias the case against the private sector.

How Will They Know?

Even this argument, however, does not go far enough. We are still, after all, focused on intentions and motivation. What critics of the profit motive almost never ask is how, in the absence of prices, profits, and other market institutions, producers will be able to *know* what to produce and how to produce it. The profit motive is a crucial part of a broader *system* that enables producers and consumers to share knowledge in ways that other systems do not.

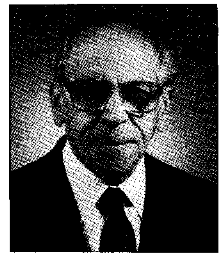
Suppose for a moment that we try to take the profit motive out of health care by going to a system in which government pays for and/or directly provides the services. Suppose further that we could somehow, ensure that the political officials would not be self-interested. For many critics of the profit motive, the problem is solved because public-spirited politicians and bureaucrats have replaced profit-seeking firms.

Eliminating profit-seeking from an industry doesn't just require that a new incentive be found but that a new way of learning be developed as well.

Well, not so fast. By what method exactly will the officials know how to allocate resources? By what method will they know how much of what kind of health care people want? And more important, by what method will they know how to produce that health care without wasting resources? It's one thing to say that every adult should, for example, have a checkup every year, but should it be provided by an MD, an LPN, or an RN? What kind of equipment should be used? How thorough should it be? And most crucially, how will political decision-makers know if they've answered these questions correctly?

In markets with good institutions, profit-seeking producers can get answers to these questions by observing prices and their own profits and losses in order to determine which uses of resources are more or less valuable to consumers. Rather than having one solution imposed on all producers, based on the best guesses of political officials, an industry populated by profit seekers can try out alternative solutions and learn which ones work most effectively. Competition for profit is a process of learning and discovery. For all the profit-critics' concern—especially but not only in health care—that allocating resources by profits leads to waste, few if any understand how profits and prices signal the efficiency (or lack thereof) of resource use and allow producers to learn from those signals. The most profound waste of resources in the U.S. health-care industry stems from the incentives and market distortions created by government programs such as Medicare and Medicaid.

Thus the real problem with focusing on the profit motive is that it assumes that the primary role of profits is to motivate (or in contemporary language "incentivize") producers. If one takes that view, it might seem relatively easy to find other ways to motivate them or to design a new system where production is taken over by the state. However, if the more important role of profits is to communicate knowledge about the efficiency of resource use and enable producers to learn what they are doing well or poorly, the argument becomes much more complicated. Now the critics must explain what in the absence of profits will tell producers what they should and should not do. Eliminating profit-seeking from an industry doesn't just require that a new incentive be found but that a new way of learning be developed as well. Profit is not just a motive; it is also integral to the irreplaceable social learning process of the market. Critics may consider eliminating the profit motive the equivalent of giving the Tin Man from Oz a heart; in fact it's much more like Oedipus' gouging out his own eyes.



Treatments Without Diseases

BY THOMAS SZASZ

In the psychiatrically correct view, mental illnesses are "just like bodily illnesses"; in fact, they are authoritatively declared to be "brain diseases." The truth is that they are not. In medicine, there are diseases and, *sometimes*, treatments for them. In psychiatry, there are no diseases; nevertheless there are *always* treatments; that is, procedures declared to be "therapies" for what, in fact, are *diagnoses*. The disanalogy between bodily disease and mental disease generates many confusions, perhaps most importantly the false belief that antipsychotic drugs function analogously to antibiotic and antihypertensive drugs.

There are objective criteria to determine whether a person has or does not have, say, a case of acute gonorrhea. This makes it reasonable to ask whether an antibiotic drug, say penicillin, is effective against gonorrhea. However, it is not reasonable to ask whether an antipsychotic drug, say Zyprexa, is effective against schizophrenia, because there are no objective criteria to determine whether a person has or does not have this alleged disorder. This is why it is futile to debate whether one or another psychotropic drug "works." All we can know is whether a particular mental patient likes or does not like to take a particular psychotropic drug; whether a particular family member likes or does not like his "loved one" to receive a particular psychotropic drug; and so forth.

With respect to so-called mind-altering drugs, whether heroin or Haldol, introducing the *coercive powers of the state* into the controversy about the therapeutic effectiveness of one or another such drug further complicates the situation. We regard clerical-religious coercion as evil independently of its alleged theological benefits. This was not always the case and is not the case now in other parts of the world. Similarly, we have a choice between regarding clinical-psychiatric coercion as good because it is "therapeutic" or evil regardless of its alleged therapeutic benefits.

In my view, the ultimate arbiter of whether a psychiatric drug helps or harms a patient is the patient himself. And the best way to determine whether a person truly believes that a psychiatric drug helps or harms him is by attending to his behavior, not his words, much less the words of psychiatrists and pharmaceutical companies.

If a "mental patient" seeks a drug and pays for it, then it helps him; if he avoids the drug and is unwilling to pay for it, then it harms him. It is foolish to call entire classes of drugs "therapeutic" or "toxic," good or bad, safe or dangerous, because the effect of a drug depends very heavily on the dose—as well as on the user and the social context.

From an economic-political point of view, drugs—especially psychiatric drugs—may be divided into two groups: 1) substances that people want to take and are willing to pay for, such as sleeping pills, and 2) substances that people do not want to take and are not willing to pay for, such as antipsychotic drugs. Not coincidentally, the substances people reject are the drugs typically administered to them against their will.

Drug Bonanza

Because many drugs affect the brain and the brain affects our behavior, the use of neuroleptic and other psychiatric drugs has proved to be a bonanza not only for pharmaceutical companies, psychopharmacologists, and personal-injury lawyers, but also for psychiatrists eager to testify in tort litigation about mental illness, drug treatment, and their supposedly scientific insight into people's "dangerousness to self and others" (self-mutilation, suicide, assault, and murder). These fake

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experts also fall into two groups that we may call "pro-" and "anti-drug" psychiatrists.

The pro-drug psychiatrists claim that psychotropic drugs treat mental diseases, often manifested by suicide and homicide. When a patient does not take his "prescribed medication" and then kills himself or others, these experts blame the patient's behavior on "untreated mental illness." The pro-drug psychiatrist attributes agency to mental illness and non-agency to the person he calls "mental patient"—and testifies in court that the patient was not legally responsible for his lawless acts.

The anti-drug psychiatrists claim that psychotropic drugs cause or predispose to suicide and murder. When a patient takes his "prescribed psychiatric" medication and kills himself or others, the anti-drug psychiatrists blame the patient's behavior on the psychotropic drug. They attribute agency to certain psychotropic drugs (but not to others, such as alcohol and nicotine) and non-agency to a patient whom he regards as a victim of psychiatric malpractice—and testifies in court that the drug company that manufactures the drug (stigmatized as "Big Pharma") is guilty of negligent homicide.

Members of the two groups resemble one another in a crucial way: neither treats the patient-subject as a responsible moral agent. I maintain that neither mental illness nor psychiatric drugs cause suicide or murder. Killing—oneself or others—is a voluntary act for which the actor is responsible.

Pro- and anti-drug psychiatrists also resemble one another in their misuse of the concept of causation. There is an important difference between the way a drug such as Seconal (a barbiturate) causes sleep and the way a drug such Zyprexa (an antipsychotic) "causes" suicide. Sleep is a biological condition. Suicide is an action. To be sure, an antipsychotic drug may cause tormenting inner tensions that may "drive" a person to kill himself. But many of life's vicissitudes—divorce, disabling illness, death of a loved one—may do the same. Coerced drugging is a moral and political evil, even if it has no biologically harmful effects. If it does, the evil is compounded.

"If you miss the first buttonhole," remarked Goethe, "you will not succeed in buttoning up your coat." There are times, however, when missing the first buttonhole is the politically and socially correct thing to do. I believe we live in such a time.

The modern psychopharmacologist is like the man who inserts the first button into the second buttonhole and then tries to make the garment fit. What is the first buttonhole? The nature of the problem for which people take, or are forced to take, psychotropic drugs. What is the second buttonhole? The sacred symbol called "mental illness." Today, the person who makes a profession out of fastening the garment "scientifically" (but incorrectly) is richly rewarded, while the person who insists on fastening it correctly (but "unscientifically") is dismissed as an uncompassionate charlatan.

Legal-Social Context

Modern psychopharmacological treatment must be situated in its proper legal-social context. What is that context? It is a society in which the moral legitimacy of psychiatric coercions and statist drug regulations—exemplified by drug prohibition, prescription laws, and the criminalization of self-medication—are taken for granted. The parameters they set must not and cannot be questioned. The "scientific" psychopharmacologist—supported by the government (National Institutes of Mental Health) and the pharmaceutical companies—accepts the conceptual premises and coercive practices of psychiatry: mental illness is a medical illness like any other; the imprisonment of the mental patient is a medical treatment like any other. He validates psychiatry as a medical specialty and psychiatric drug treatment as a type of medical chemotherapy.

The result is the socially accepted pretense that the relationship between a patient with a mental illness and an antipsychotic drug is "just like" the relationship between a patient with an infectious disease and an antibiotic drug. This is a lie. Instead, the relationship between a forcibly "medicated" mental patient and the psychotropic drug resembles the relationship between a woman forcibly subjected to coitus and the aggressor's sexual fluids. Coerced drugging is a form of "therapeutic" rape.

Does Governmental Vicarious Liability Make Any Sense?

BY RIDGWAY K. FOLEY, JR.

Fueled by the Instrumentalist Revolution, the American legal system has decayed from a quest for a just resolution of realistic disputes that the parties cannot solve by less formal means into a grab-bag system of income and asset redistribution. Common lore decries lawsuit lotteries, avaricious attorneys, and contingent fees. As customary, common lore contains elements of truth, but in this instance the popular whipping boys obscure more sinister culprits, including illiberal and envious legal theories of enterprise and market-share liability, expanded concepts of nuisance and exemplary damages, and vicarious-liability doctrines in myriad guises.

This essay considers a single aspect of the modern application of the vicarious-liability doctrine of *Respondeat Superior.* This is the theory that the master must pay for the sins of his servant or, in today's vernacular, the employer must pay for real or imagined wrongs committed by his employees. More specifically, I'll analyze the application of this wealth-spreading doctrine when the employer is a governmental entity.

A policeman chasing an armed robber fires and misses his intended target, killing a ten-year-old boy on his way to school. The bereft parents sue the city for their son's wrongful death. A morally challenged supervisor of the county deed records terminates an attractive young female trainee when she rejects his inappropriate advances. The young lady sues the county, alleging harassment and unlawful termination. A school district fails to meet national measures mandated by the federal government. A lifetime federal judicial appointee fines the district for its misdeed.

In the immortal words of humorist Dave Barry, "I am not making this up." Actions resembling instances like these occur daily, pervasively, and repeatedly in these litigious United States. In many instances, the lawsuit does not even name the human being who caused the harm; if the peace officer, the supervisor, and the school administrator are named as parties, they customarily play a nominal role and the city, the county, the state, or the district pays the cost of their legal defense and also reimburses or indemnifies them for any personal judgment against them.

> Who really pays the costs of defense, the judgments, the fines, and all other system-assessed charges? Uncle Pungle pays and pays and pays.

Who really pays the costs of defense, the judgments, the fines, and all other system-assessed charges? Uncle Pungle pays and pays and pays. No government creates anything but chaos; no government produces goods, services, or ideas in a marketplace consisting of willing producers and purchasers. In actions against governments and their employees, the entity spends money and incurs expenses and liabilities, but it is the unwilling taxpayer who bears the burden of the ultimate discharge of all costs, claims, and judgments. In most instances, the individual human being causing the resulting putative harm pays nothing at all.

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Deviation from the fundamental tenets of the Anglo-American common law ordinarily causes unintended outcomes inconsistent with classical liberty. Application of the current notions of governmental vicarious liability demonstrates the effect of such deviations. No one should consider this paper an unlimited endorsement of the common law as anything resembling a perfect jurisprudential system: creation of a perfect rule of law requires ordination by someone or something greater than frail and fallible human beings. Nonetheless, one can make the case that the elemental English common law, in theory, most nearly approached the grand norm, the finest legal system created by mankind. Certainly in its basic construction and early development, the common law endorsed personal responsibility and nourished individual freedom in an open-textured jurisprudential system until the Instrumentalists denigrated these solemn values.

Solving Dispute

The common law solved interpersonal disputes, disagreements that the parties could not resolve privately, by employing deterrence and ordering restitution. It recognized and nurtured individual responsibility by wise application of these seminal concepts. Deterrence simply means action prohibiting, constraining, or channeling human conduct. Restitution refers to restoring that which has been lost or taken away. If an individual carelessly injured a neighbor's person or damaged his property, the law required the errant actor to make the victim whole by restoring him as nearly as possible to his condition before the intrusion. Thus, for example, if a man trespassed on a landowner's property and took his crop, the law ordered restitution requiring the trespasser to return the property and to pay the money value of the lost crop and the lost use of the land. In similar fashion, if a man promised to sell his crop to his neighbor for a certain amount of money and failed to keep that promise, the law could order the landowner to restore his neighbor to the benefit of their bargain, either by compelling him to keep his contract and deliver the crop or, if that were not possible or feasible, to pay the value of the crop to the neighbor. The juridical actions in these simple examples deterred the trespasser and the promise-breaker by demonstrating that private property and solemn contracts were special and sacred, and that the law common to the community would not tolerate these or future breaches.

Hence, in our initial modern examples, assuming a judge or jury determined culpability, the common law would deter the fleeing felon or careless cop by requiring him to pay the value of the schoolboy's life to the mourning parents as restitution. Likewise, the common law would compel the lecherous supervisor and the failing teachers to reimburse those who suffered harm at their hands and, by ordering such restitution, deter future similar conduct.

> Effective enhancement of personal responsibility by deterrence and restitution requires that an erring actor suffer real consequences.

Effective enhancement of personal responsibility by deterrence and restitution requires that an erring actor suffer real consequences. If the law shields him from the results of his malevolent or foolish behavior, he will neither learn not to repeat his mistake nor be induced to avoid the same or similar misconduct. To repeat: in almost every instance of governmental-entity liability, the harm-causing individual pays neither defense costs nor restitution and restoration expenses. More to the point, the errant actor incurs no adverse consequences of any significance whatsoever. Even in the most patent instances, government employees are placed on "paid administrative leave" and imbued with a sense of entitlement and victimization far removed from notions of responsibility.

Those who concocted *Respondeat Superior* theorized that the master controlled his servants, that a businessman who hired employees directed them what to do and how to do it. Hence, the doctrine presumed that a vigilant employer would always hire careful and kind employees; that he would train and oversee their workplace activity to insure quality and safety; and that he would discipline or terminate any dangerous or incompetent soul in his employ.

Thus even in its inception, vicarious liability deviated from the common-law tradition. After all, the ancient Saxon Witan imposed strict responsibility on the actor, and his family, for intentional and careless behavior harming another; it even enforced strict liability on inanimate objects occasioning human damage. *Respondeat Superior* made sense in the nineteenth century only when the master or employer in fact controlled and directed the servant or worker, and not when the latter departed from standing orders and made a mess on his own. The doctrine as conceived and expanded amounted to an anti-capitalistic riposte to the real or feigned excesses of the dawning industrial age.

Today the existence of all forms of vicarious liability in all work-related domains makes no sense both as a theory and as applied in the context of the present. Few owners or managers direct and control the daily activities of their workers, even in the smallest aggregate. While labor-union membership wanes in the rust belt, union power thrives in the government sector, where firemen, policemen, teachers, and office workers wield political power and jealously protect their members from employment sanctions. Hence public-employee unions often supplant the owner or manager, effectively controlling workers while avoiding liability. Further, owners and employers both public and private endure increasing legal constraints on their ability to hire and fire, promote, or discipline under rules enforcing "diversity," "tolerance," and other egalitarian notions. Chastisement, discipline, and discharge become difficult if not impossible in the modern workplace. In such a cauldron, application of fault-based responsibility and restitution on the erring actor becomes well-nigh impossible.

> The law imposes no personal responsibility on the government actor, and he normally accepts none.

If *Respondeat Superior* seems out of place in the private market, it becomes even more unreal in the ever-growing government-employment sector. In addition to union command and lifetime job-security features, government workers receive greater insulation from the consequences of their choices. First, public entities are armed with the power of conceded force, and the government worker exercises that force. Power begets dreams of elitism and favoritism, as well as senses of entitlement and omnipotence. Few government workers recognize, or concede, that they acted carelessly or improperly, and if they do see fault they tend to use the "greater public good" alibi as absolution. The law imposes no personal responsibility on the government actor, and he normally accepts none.

Second, one might argue that deterrence, restitution, and restoration in the government sector control and direct the "public" entity in place of the individual actor. Nonsense. Here the public-"private" dichotomy differentiates the issue. One could contend that imposition of liability on a private business for the misbehavior of its workers induces the business to more carefully hire, train, and oversee the workforce, and that it will lose market share if it does not channel its conduct in such a fashion. A government entity, by definition, is not subject to this market force: it does not operate in a market and it does brook any competition.

More from the Taxpayers

Further, one might urge that requiring a private owner to pay damages to an injured patron will deter future undesirable conduct; an uninsured loss will directly affect the financial success of an enterprise, and an insured loss will cost higher future premiums in addition to any self-retained liability. Again, by definition a government does not live in the marketplace: a liability loss merely means more assets must be sequestered from the supporting taxpayers.

In addition, anecdotal and empirical evidence strongly suggests that judges and jurors will more harshly judge a government employer; if true, this harshness coupled with a perception that any award comes from "free money," translates into larger compensatory and punitive damage judgments. After all, it seems easier to punish a faceless artificial entity than to assess damages against an individual human being, and the law of human action that one is less careful with another's property than with one's personal assets seriously compounds the excess of resulting judgments.

Enormous judgments thereby effectively transfer income and assets in unrealistic and windfall amounts from the productive taxpayer to the recipient, notwithstanding the merits of his case. The size of awards for contract violations and relatively minor personal injuries should never cloud the seminal issue, the survival of the essential character of our legal system. The traditional formal attribute of the Anglo-American system of justice lies in its fair resolution of disputes under a rule of law common for all persons within a clearly defined and strictly limited jurisdiction. The seminal foundational theory of personal legal responsibility undergirding the common law has served us well for more than one thousand years. Erosion of that theory based on bad values and poor insight signals that the end to a worthy system may reside nearby in a future quite different from our legal landscape.

Environmentalists in Outer Space

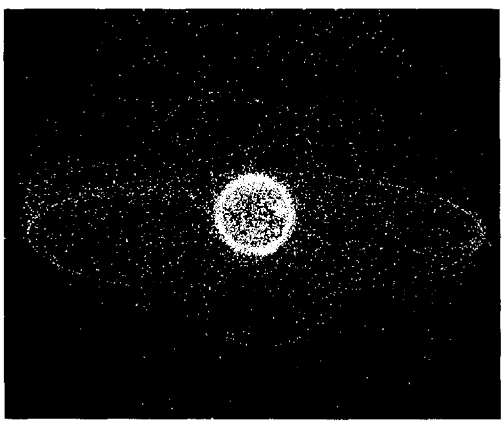
BY J. H. HUEBERT AND WALTER BLOCK

Save the earth! That's been the mantra of environmentalists for decades. But now they want more. They not only want to tell us what we can do on the earth, but also what we can do *off* the earth, in outer space.

Yes, statist environmentalists are already concerned about the alleged threat to the outer-space environment posed by humanity. Humans have already defiled the earth, they say, so why should we be allowed to do it to the rest of the universe?

We find their proposed environmental programs for outer space wholly unjustified. In their place, we propose pure private property rights.

Almost no one would say he's an enemy of the environment. Everyone wants clean air to breathe and clean water to drink, and no one wants anyone to invade his person or property with harmful substances. People (like us) who go this far—and only this far—with their environmentalism probably comprise the majority of humanity.



The dots in this image represent tracked objects orbiting the earth, 95 percent of which are space debris.
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In the second half of the twentieth century another type of environmentalism arose: *ecocentric* (rather than *anthropocentric*) environmentalism, or "deep ecology." According to ecocentrism, Mikael Stenmark writes, only "ecological wholes (such as species, ecosystems, the land or the biotic community) . . . have a value in themselves . . . and . . . the value of the ecological parts . . . is determined by how far they contribute to the survival and well-being of the ecological whole."

The ecocentric view extends its concern to the entire earth, dirt and rocks included. Everything (except humans, apparently) is seen as possessing "intrinsic value" (value somehow derived from itself, not from man), which is destroyed or threatened by any human tampering. Holmes Rolston III writes, "Earth does not belong to us; rather we belong to it. . . . Earth is really the relevant survival unit."

This philosophy's real-world implications can be seen in the activities of the Earth First! organization, which is known for putting spikes in trees so lumberjacks or mill workers who cut them may be injured or killed. Earth First! leader Richard Foreman states the ends of ecocentric environmentalism: "We advocate bio-diversity for bio-diversity's sake. That says man is no more important than any other species . . . . It may well take our extinction to set things straight."

Considering the focus on the earth and "biodiversity," one might expect that we would be spared the down-with-humans-up-with-dirt-and-rocks rhetoric with respect to man's activity beyond the earth. Unfortunately, this has not been so. As Howard A. Baker writes in the law journal *Annals of Air and Space,* "With an environmen-

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tal approach, protection of the outer space environment and its sub-systems is the priority, [not] ensuring that outer space can be used for [human] space activities." In *Law, Values, and the Environment,* Robert N. Wells Jr. adds, "Outer space, a source of wonder and inspiration for centuries, deserves to be preserved *in its original pristine state, for its own sake* and for future generations to enjoy." And April Greene Apking, writing in the *Journal of International Environmental Law and Policy*, writes, "[W]e must ensure that our presence [in space] does not defile what remains one of the few accessible pristine areas."

These radical views even have found their way into the work of relatively moderate writers. Glenn H. Reynolds and Robert P. Merges, for example, generally favor private property rights, but make an exception for "environmental research and conservation preserves," which would place "10 to 15 percent of the area capable of being developed" off limits.

To speak of a "pristine" outer-space environment is a rather strange thing to do, given how utterly unpleasant the rest of the universe appears to be. Mercury, for example, has no atmosphere, and portions of its surface become hot enough to melt tin, while others remain cold enough to keep ice from crashed comets perpetually frozen—with little remotely pleasant in between.

> To speak of a "pristine" outer-space environment is a rather strange thing to do, given how utterly unpleasant the rest of the universe appears to be.

Venus is even worse. Its atmosphere is almost pure carbon dioxide, complemented by thick clouds of something like battery acid. Its atmospheric pressure is 92 times greater than earth's, so any visiting astronaut in a normal spacesuit would be crushed instantly. The mean surface temperature is 480 degrees Celsius.

Earth's moon is relatively less hateful, but it has no atmosphere, of course, and has never supported liquid water, let alone life.

Mars is dead, too. There is no conclusive evidence for life there, either now or in the past. Its atmosphere consists mostly of deadly carbon dioxide, and its mean surface temperature is negative 23 degrees Celsius.

Jupiter, Saturn, Uranus, and Neptune are covered in extremely large, cold, and stormy mixes of toxic liquids and gasses. Some of these distant planets' moons might be of some use, but are nonetheless wholly inhospitable. For example, one of Jupiter's moons, Europa, is covered in water ice and may have liquid water and possibly some sort of microscopic life beneath its frozen surface. And Saturn's moon Titan has, like earth, a mostly nitrogen atmosphere—at negative 180 degrees.

Where there is no atmosphere, as on the moon, the environment is far from healthy. Spaceships and spacesuits must be well shielded to protect against the sun's radiation.

Bad to Worse

All of that may sound bad, but in fact the space environment is only going to become much worse. That's because our sun will eventually change to a "subgiant" star, then a Red Giant, then a nebula, then a White Dwarf, then a Black Dwarf. In the end, all the planets, including earth, will lose their atmospheres and exist at a temperature just a few degrees above absolute zero.

In sum, the space environment is so bad right now that, from anything other than a human-hating perspective, it could not get much worse—except that billions of years from now, it *will* get worse, and there is nothing anyone can do about that.

Considering the solar system's present and future environmental state, the idea of space pollution becomes absurd.

Air pollution? As we've seen, there is no air on the moon—and to the extent that our neighboring planets have an atmosphere at all, it's almost entirely carbon dioxide, which is toxic and the bane of environmentalists when produced by humans here on earth. Thus nothing we could do to other celestial bodies could make the "air" more toxic than it already is.

Water pollution? There is no surface liquid water anywhere but on earth.

Radiological pollution? There's already dangerous radiation in space against which humans must shield themselves. The Mars atmosphere may limit the amount of radiation on its surface—but given its poison-gas environment, not to mention its already highly toxic soil, how much worse would some radiation here and there make the planet?

To speak of pollution or contamination of space in the abstract—apart from human beings' property rights—makes no sense.

Law professor Lawrence D. Roberts suggests that "[u]biquitous commons [sic] resources on Earth such as air and water will likely pose the same kinds of environmental challenges for space developers as they do for Earth developers," adding, "The need to recycle such valuable commodities will require stringent regulation of the discharge of hazardous byproducts into the waste stream." We find this implausible. If there's any air or surface water on the moon or elsewhere in space, how did it get there? It could only be from humans who brought or created it there. Where would it be found? Inside the space vehicles or other structures people brought or built there. And here we get to the key space environmental policy: to protect humans' environment in space, we need only protect their private property rights.

We get to the key space environmental policy: to protect humans' environment in space, we need only protect their private property rights.

On earth such a policy has presented some technical difficulties. For example, it may be difficult to determine which factories contributed to victims' air or water pollution and in what amounts, as contaminants may travel imperceptibly over long distances. Pollution victims may also suffer very small harms individually such that a lawsuit would cost them more than it was worth. Those problems are not insurmountable in the earthbound context—technological advances and the availability of class-action lawsuits should make them decreasingly problematic—but they do exist.

In space, though, apart perhaps from radiological poisoning, some sort of clear physical invasion would be necessary for anyone to pollute anyone else's air or water. Thus enforcement of a property-rights regime for pollution should be simple and effective.

Lunar-Dust Pollution

Some have said we need environmental regulation on the moon to prevent pollution from lunar dust. But why should this be a problem? There's no atmosphere, and it seems likely that those using the moon for mining and those using it for recreational purposes or for a good view of the earth would rationally spread themselves apart. With relatively few parties and a strong incentive to spread out, we can imagine that people might bargain either in advance to avoid conflicts or later do so to eliminate them.

Of course, to the extent that polluters (whether by dust, chemicals, radiation, or anything else) arrive at the moon first, they may establish property rights there, *including the right to "pollute."* Where no one has already homesteaded lunar or planetary land, a mine or factory owner may homestead an easement to "pollute" the surrounding area that his operation affects. Then new arrivals will know that they should not locate in the area the established industrial operation affects unless they are willing to subject themselves to the industry's byproducts.

On the other hand, where owners of hotels, golf courses, "wilderness" preserves, and the like arrive first, they will homestead their land, including the right not to be disturbed by pollution. Should someone trespass on their property with any form of pollution, they will be entitled to both damages and injunctive relief, just as pollution victims were in Great Britain and the United States through the 1830s.

One of the most promising uses for space is, of course, as a waste dump. This should be cause for environmentalist celebration, not alarm.

For example, nuclear electric power is far better for the environment than fossil fuels, which pollute the air and cause countless health problems. But what to do with the small amount of toxic waste it creates? Once space flight becomes sufficiently affordable, the answer becomes simple: send it on a long, long trip. Who but the most fanatical "cosmo-centrist" could be disturbed by sending our waste to Venus, an already hellish place where no living creature will likely ever go? The only colorable objection to this is that the waste might pose a risk to people on earth as it leaves the atmosphere (say, if the ship carrying it explodes or crashes, as NASA vehicles are wont to do). But presumably that risk would shrink as the private sector moves further into space transportation and space technology advances. For example, a space elevator would not entail the high risks or costs of ordinary space flight. And, of course, carriers of hazardous waste would be liable for harm they cause—which, along with their financial investment, would encourage them to take extreme care.

Another potential benefit would be to move polluting industrial operations off-planet. Again, environmentalists who really care about the well-being of humans or life generally (as opposed to rocks and dirt per se) should delight in this prospect.

As we've mentioned, some have called for part or all of outer space to be declared an untouchable "wilderness."

We find this to be a rather strange preoccupation. Right now space is a de facto 100 percent wilderness preserve and will remain so even if humans go there in large numbers.

If environmentalists wanted to preserve specific areas, they could buy or simply homestead land, which some of them have done on earth. Governments, though, have little incentive or ability to determine which parts of any celestial body are best used as wilderness preserves and which are best put to other purposes. Such determinations would surely be corrupted by the influence of special interests, just as special interests have influenced terrestrial environmental laws to the benefit of polluters. Indeed, the U.S. government's management of its national parks has been dismal, as have governments' overall environmental records. So if optimal preservation of that which is valuable to scientists and other admirers of pristine lunar wilderness is the goal, the answer again is strictly enforced private property rights.

It is entirely unjust for "wilderness" advocates to use government to prevent others from developing their property in space. They may speak in terms of intrinsic value, but they really seek to use the law to forcibly place their *personal* aesthetic preferences above those of others, and above the welfare of the human race.

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Terraforming

What about "terraforming"? This would involve transforming an alien environment to give it a climate more like earth's. Fantastic though it sounds, this may be technologically feasible on Mars. Essentially, it would involve initiating "global warming" through the release of CF_4 into the now very sparse Martian atmosphere, raising its temperature by ten degrees Celsius within several decades, which would cause an increase of water vapor in the atmosphere, further warming the planet. Next, humans could release "methanogenic and ammonia-creating bacteria into the now-livable environment," quoting Robert Zubrin, creating even more greenhouse gases. "The net result of such a program could be the creation of a Mars with acceptable atmospheric pressure and temperature, and liquid water on its surface within fifty years of the start of the program." (Zubrin is quoted in Glenn H. Reynolds, "Space Law in the 21st Century: Some Thoughts in Response to the Bush Administration's Space Initiative," *Journal of Air Law and Commerce*.) Mars would not then have a breathable atmosphere, writes Glenn Reynolds, "but would support crops and allow people to move around without spacesuits."

Those who want a "pristine" outer-space environment hate this idea, but we see no problem with it. If no one owned property on Mars before terraforming apart from the terraformers, property rights wouldn't be an issue—the terraformers would have a right to do as they please. They would not own the whole planet, though, but only the parts with which they actually "mixed their labor."

If other property owners were present, they would likely welcome terraforming because it would make their own property more useful to them. Some, though—especially scientists researching the planet's history—might not welcome the radical changes to the planet. But the right to be protected against weather one finds undesirable has never been recognized, to our knowledge.

No Legal Standing

Of course, non-property-owning environmental activists on earth—those most likely to challenge terraforming—would have no standing to challenge this process of development. Again, their aesthetic tastes should not be given priority over the preferences of those with an actual stake in the matter (property owners) and over the good of the human race generally.

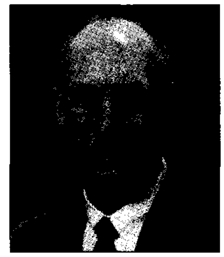
Some have suggested that space settlers should be restricted because extraterrestrial life is possible. We disagree. There is no evidence that life exists or has ever existed anywhere except earth. And even if it does exist, there is no reason to think government is necessary to protect it.

Human beings are fascinated by the idea of extraterrestrial life. Anyone who goes to space for any purpose is likely to be interested in checking for signs of past or present life on his property before acting in a way that might destroy those signs. For the intellectually uncurious, there would still be financial incentives. For example, scientific or environmental organizations could offer prize money for discovery of evidence of extraterrestrial life; a property owner who discovers such evidence could sell scientists, journalists, and others rights to access, study, and publicize it. Only governmental intervention (say, stripping individuals of property rights when something of scientific interest is found on their property) is likely to cause incentives to run in any other direction.

Space environmentalism lacks any justification, and its only philosophical foundation is a most extreme form of environmentalism to which very few people seriously subscribe. For the good of the human race, and because it is just, private parties should be free to use space for whatever human purposes they see fit within the limits of private property rights.

Our Economic Past

The New Deal and the State and Local Governments



BY ROBERT HIGGS

Until the twentieth century the average American in peacetime had little contact with the federal government, except for the post office, and the federal government's policies and actions affected most people only indirectly—for example, through land-disposition policies or the tariff's effect on commodity prices. State and local governments provided nearly all the government services the citizens needed, wanted, or merely endured: definition and enforcement of private property rights; construction and maintenance of roads, streets, sewers, water-supply systems, bridges, canals, and most other economic infrastructure; provision of most schools and some universities; regulation of many economic activities and much personal behavior; and so forth.

In the late-nineteenth and early-twentieth centuries, governments at all levels never spent more than 9 percent of gross national product (GNP) during peacetime. Of the total, local governments spent the biggest share, the federal government somewhat less, and state governments less still. In 1927, for example, local governments accounted for 56.7 percent, the federal government 30.4 percent, and state governments 12.9 percent.

Employment figures mirrored the spending breakdowns. In 1929 state and local governments combined employed 2.6 million persons, more than a million of them in education, whereas the federal government employed only 981,000 persons, including 267,000 in the military and many of the others as postal workers. (At that time, the total U.S. labor force numbered roughly 48 million.)

With the onset on the Great Depression and the advent of the New Deal, the structure of government underwent drastic change. People who know anything at all about these years understand that government became both larger and more centralized, yet few appreciate exactly how and why the overall structure of government changed or what consequences flowed from this change.

In mid-1929 the economy began to contract, and as the contraction continued, business failures and unemployment increased, and relief rolls lengthened. Cities and counties, which had traditionally borne the responsibility for public relief of the destitute, faced increasing demands for relief spending. At the same time, however, their revenues were shrinking, as property values fell and hence property-tax receipts, the major source of local government funds, fell along with them. In addition, tax delinquencies increased, and borrowing became more difficult. More and more cities and counties found themselves in a fiscal squeeze. States provided some assistance, but they faced similar difficulties as their own property-tax and other receipts dropped. Three states—Arkansas, Louisiana, and South Carolina—defaulted on their debts, and by the end of 1933, approximately 1,300 local governments also had defaulted and many other state and local governments verged on default.

Everyone looked increasingly to the federal government to save the day, and even before Franklin D. Roosevelt's election, Congress began to respond. In July 1932 the Emergency Relief and Construction Act was passed, providing \$300 million to be lent to the states (and thence to cities and counties) for relief. Everybody understood that these loans probably would never be repaid, and eventually they were indeed written off. This statute constituted, as it were, the first big leak in the federal relief dam. After Roosevelt took office in March 1933 the dam burst.

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When it did, the federal government's expenditures increased rapidly relative to those of the state and local governments. In 1932 the shares of the federal, state, and local governments in total government spending (net of intergovernmental grants and receipts) were 32.4, 16.3, and 51.3 percent, respectively; in 1934, they were 38.8, 16.7, and 44.5 percent; and in 1940, they were 45, 17.4, and 37.6 percent. Notice that the state share did not fall; indeed, it rose slightly. The big shift came because the federal proportion and the local proportion traded places. Once this shift had occurred abruptly in the 1930s, the shares did not change much afterward; in 1990 they were 56.2, 17.9, and 25.9 percent. Thus although the depression that had provoked the shift ended in the 1940s, the status quo ante was never restored.

These developments did not mean that the local governments spent much less in absolute terms after 1932; in fact, they reduced their spending only slightly in the mid-1930s and then increased it in the latter years of the decade; by 1940 they were spending about 21 percent more than they had in 1932. State governments increased their spending much faster, by 84 percent between 1932 and 1940.

Tax revenues did not move in tandem with these spending changes because from 1932 on, the federal government was making greatly increased grants to the lower levels of government. By 1940 almost a third of all state spending was funded by federal grants. Between 1932 and 1940, not counting intergovernmental grants, local revenues increased by only 8 percent, state revenues by 120 percent; and federal revenues, excluding borrowed funds, by 166 percent.

Eager for the Money

The foregoing figures might tempt us to conclude that the federal government simply overwhelmed the other levels of government during the New Deal era, but the image of the feds riding into Dodge City like the James gang and taking over the town (and Kansas, too) is not true to the facts. Recall first that the state and local politicians were literally begging for federal bailouts in the early 1930s; the money was scarcely forced down their throats.

Second, in some states, such as Michigan, Pennsylvania, and New York, state politicians embraced the same ideology and political objectives as the dominant faction in Congress, and they proceeded to enact so-called Little New Deals that implemented state-level reforms, especially union-friendly labor laws and anti-business tax laws, similar to those the New Dealers enacted nationally. Twenty-four states adopted general sales taxes in the 1930s, 20 of them during the period 1933–35.

Third, many of the programs the federal government was establishing for relief and other purposes were not only financed with matching grants (in varying proportions), but also administered "cooperatively," that is, in large part by state or local employees, especially at the lower levels. Owing to this style of administration, state and local politicians gained considerable control over the newly created patronage jobs, and in some cases they could also shape the local rules or select the particular projects to be undertaken. In short, the lower-level politicos were definitely cut in on the deals.

Dependent on Government

The political profits the politicians reaped at every level do not signify, however, that other people gained, especially in the long run. Of course, each recipient of a welfare handout or a make-work job viewed the largess as beneficial at the moment it was received. For many, however, that "first drink" was indeed the road to hell because they became dependent on government support and therefore increasingly incapable of supporting themselves or rearing their children to become self-supporting—ultimately an unfortunate outcome for everyone concerned. In addition, the welter of relief, subsidy, bailout, and other programs that the New Dealers brought forth in constantly changing configurations, in the hope (very successfully realized, especially in 1936) of buying votes, also contributed to the creation of uncertainties about the future security of private property rights, which impeded economic recovery—another unfortunate outcome for nearly everybody.

Misunderstanding Efficiency

BY GARY M. GALLES

Efficiency—getting the most value from a given amount of resources—is important in a world of scarcity. The more efficient people are, the better off they can make themselves. That's why economists are always talking about efficiency. Unfortunately, what economists have to say on the subject is frequently misunderstood or misleadingly portrayed. A primary reason for this is the confusion about what economists actually mean by the term.

Economists do not mean technical efficiency, in the sense that the most efficient car is the one that gets the most miles per gallon. Gasoline is not the only scarce good. As a result, it is sometimes cheaper to "waste" gasoline in order to have more of other things we value more, such as safety, room, style, or acceleration. What people value more depends on their preferences and circumstances (which only those individuals know—a major reason why centralized decisions about what is efficient fail, as they do in other areas). Each of us may be willing to sacrifice some gasoline for more of other things. The same is true for all the other goods we trade off against one another every day.

> The more efficient people are, the better off they can make themselves. That's why economists are always talking about efficiency.

Similarly, efficiency does not necessarily (or even usually) mean state of the art. Many of the costs of doing things "the old way" have already been incurred—for example, the cost of existing capital equipment—and need not be borne in the future. In contrast, doing things the "new and improved" way does require that new investments be made and new costs incurred. For many, the added benefits or savings do not justify those added costs, making the old way more efficient in their circumstances. That is why most people do not live in the latest house or drive the latest car, and why airlines fly a variety of older planes as well as newer ones.

Efficiency does not necessarily mean the absolute cheapest, but it does mean the lowest-cost way to do something at *a given level of quality*. The efficient widget (economists' traditional undefined good) is the lowest cost one at a given quality. But when anything beyond the lowest quality is desired, efficiency does not mean the cheapest widget. This point is often misunderstood, which may be why non-economists so often incorrectly believe economists think efficiency requires reducing quality to the lowest possible level in order to lower costs. That ignores an added aspect of efficiency—the efficient level of quality. Economists know, but often communicate poorly, that efficiency results in higher quality whenever those involved believe that the added value of the higher quality justifies the higher cost of achieving it.

Similarly, the most efficient way to make widgets in small volumes is not the same as for large volumes. As a result, when smaller volumes are planned, the lower costs that could be achieved if far greater volumes were desired are irrelevant as a standard of efficiency.

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Misunderstanding efficiency also arises from the belief that the question "what is efficient?" has an objective, universal answer, so that it is just a matter of turning things over to experts. In fact, the first part of the answer to general efficiency questions is, "it depends," because any number of changes in circumstances or relative scarcities can change the answer. That is why the second, much harder part is to recognize the many variables that the answer can depend on and how much it depends on them. This is sometimes illustrated by "ugly American" tourists in a foreign country who see locals doing things differently and conclude that they are wrong or stupid. Actually they just face different circumstances, making their different ways efficient for their particular situations.

Potential Compensation

These confusions could be avoided if economists were clearer in explaining their valid insights into efficiency. But beyond a lack of clarity, an even greater threat to understanding is that economists have trained people to ignore their pronouncements on efficiency. Economists' use of a standard of efficiency known as "potential compensation" is a major reason for this.

Many economists also employ an unattainable efficiency standard to find alleged market failures everywhere.

Say there was a policy that supposedly produced $100 in benefits for Adam and imposed $40 in costs on Eve. In that situation Adam could conceivably compensate Eve with something between $40 and $100. If such compensation was actually arranged and voluntarily agreed to, both parties would reveal their beliefs that the result was efficient because both expected to benefit. This is what happens in voluntary market transactions. However, in public policy, compensation is not generally paid to the losers, so "potential compensation" is a misleading guide.

When compensation is acceptable and paid, all parties get more than they give up. In such cases, what economists call efficient is nothing more than what is efficient for each individual. There is no social entity for which things can be efficient or inefficient. But when compensation is not paid, what is alleged to be efficient for society need not be efficient for each party. This violates the essential understanding economists have of an increase in efficiency—at least one party is made better off and no party is made worse off. In the example above, Eve is made worse off by a supposedly efficient policy. That is why we so often see people strenuously object to "efficient" policies, requiring government coercion to enforce the supposedly beneficial "solution" over their objections.

Sometimes people ignore economists' efficiency claims because of the economists' tendency to say something is efficient if the "right" or "optimal" quantity of output is produced. Unfortunately, even if that quantity (which is unknowable in the absence of a market process) were to be produced, affected parties could not know if it would actually benefit them until they knew how the cost burden would be distributed. Those who turn out to be disproportionately burdened could easily be made losers. This discrimination, whether imposed through regulations (such as restrictions imposed on owners of affected properties under the Endangered Species Act) or taxes (such as through progressive income taxes), breaks the connection between alleged efficiency and the well-being of those affected.

If an allegedly efficient policy does not mean that Eve is better off, why should she listen to those who say we should do what is efficient? Those in her position (and all of us are all too frequently placed in exactly that position) learn to ignore efficiency pronouncements as irrelevant to the real question—"Am I helped or hurt?" As a result, people learn that if they are helped (their benefits exceed their costs), they don't care if it is accomplished through means economists would term inefficient. On the other hand, if they are hurt (their costs exceed their benefits), they don't care if economists term it efficient. In contrast, market exchanges by their nature are restricted to those the parties involved agree are efficient.

Many economists also employ an unattainable efficiency standard to find alleged market failures everywhere. That standard is the model of perfect competition, which assumes away such "minor" real-world issues as uncertainty; differences in information; changes in products, processes, or preferences; marketing; search costs; future goodwill effects of present actions; entrepreneurship; and more. In fact, it assumes away almost every source of change that could make creating new voluntary arrangements efficient for participants. But failing to conform to a model that assumes so many issues away hardly establishes the real world as lacking efficiency.

Further, perennial market critics not only see market failures where they don't exist, they often blame what are really government failures on the market. (For example, they talk about market failures in health care, when that is one of the most subsidized, mandated, restricted, and regulated markets in America.)

Making things worse, many also jump from undemonstrated assertions of "inefficient" market failures to the non sequitur that government will increase efficiency by intervening. That ignores a mountain of evidence documenting government inefficiency everywhere one looks, which means that even situations that fall well short of perfect efficiency standards most likely will not be improved, and may be dramatically worsened, by government "solutions."

Despite gaping holes in logic, efficiency language is used to support all sorts of government programs that simply ignore this and other problems, such as rent-seeking and corruption. Instead, efficiency promises can always be heard from some economists—those whom Henry Hazlitt called "the best buyable minds." They look at short-run effects while ignoring often far more important longer-term effects; they ignore or undercount relevant costs (including the additional costs to society from the distortions caused by the additional taxation); they overcount benefits (alleging, for example, multiplier effects of spending, while ignoring the same multiplier effects on the opposite direction from the taxation required); they count benefits as costs (many government projects are alleged to generate income and jobs, as if they were both benefits, when only the income is a benefit, and the jobs are the costs people incur to get the added income); and perform a host of other logical contortions to justify the unjustifiable.

Thinking in terms of efficiency can be helpful in increasing our well-being. But misusing efficiency logic and language is also a powerful source of misunderstanding. Whenever arguments are couched in efficiency language, one must evaluate them with great care before giving them credence. There are some indicators that show when distrust of alleged efficiency improvements is appropriate.

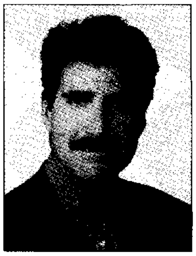
Thinking in terms of efficiency can be helpful in increasing our well-being. But misusing efficiency logic and language is also a powerful source of misunderstanding.

Disguised Transfers

If the people who know all the relevant circumstances and tradeoffs continue to do something, they must believe it is efficient for them. So overturning their decisions by government fiat is prima facie evidence that inefficiency will be created. If people object to having a supposedly efficient policy imposed on them, that policy violates the standard that no one is made worse off. And when efficiency language disguises the transfer of decision-making over a person's property to someone else, making the beneficiary the effective owner without paying for the privilege, the transfer is not really about efficiency.

Unfortunately, virtually every government intervention made in the name of efficiency is tainted with logical abuses, unless viewed as a way for the beneficiaries to more efficiently take what belongs to others. As a result, the word has been demoted from a useful term of analysis and insight to little more than another warning to watch your wallet.

Give Me a Break!



Who's Afraid of Prosperity?

BY JOHN STOSSEL

Should we worry that the people of China, India, and other undeveloped countries are getting richer? Apparently so, according to the newspapers and the "experts" they quote. They don't come right out and say that global prosperity is bad for us. Instead they say, as the *New York Times* recently said, "As development rolls across once-destitute countries at a breakneck pace, lifting billions out of poverty, demand for food, metals and fuel is red-hot, and suppliers are struggling to meet it. Prices are spiraling, and Americans find themselves in what amounts to a bidding war with overseas buyers for products as diverse as milk and gasoline."

It is certainly true that China's economy is expanding dramatically—10 percent last year. The Chinese build factories like crazy to pump out the inexpensive exports we Americans love to buy. To do that, Chinese producers have to purchase oil, steel, and lots of other commodities. The new demand drives prices up.

And as the Chinese and other people get richer, they improve their diets and eat more meat, putting pressure on world food prices.

So media handwringers suggest we should worry about the poor becoming rich.

Actually, we shouldn't. It would be a sad world if one person's economic success depended on another's failure.

Hazlitt's Lesson

More of us would understand this if we learned what the great economics writer Henry Hazlitt preached in his classic book, *Economics in One Lesson*: "The art of economics consists in looking not merely at the immediate but at the longer effects of any act or policy."

In the short run, richer Chinese and Indians bid up the prices of things. But that's just the beginning of the story. Increased demand and higher prices create opportunities for entrepreneurs.

When the price of, say, oil goes up, entrepreneurs and inventors have a strong incentive to: 1) find more, 2) find alternatives, and 3) find ways to use oil more efficiently. You and I cannot foresee what they will invent, but that means nothing. Predictions about the end of progress have been issued countless times. There is no reason to think they will be right this time. Assuming government stays out of the way.

Predictions about the end of progress have been issued countless times. There is no reason to think they will be right this time.

Our current "leaders" are full of promises about "protecting" workers and industries, creating new "green" industries, and starting worker-retraining programs. For example, Hillary Clinton promises government support for "research (to) stimulate the development of new technologies and life-saving medicines." Former presidential candidate Mitt Romney wanted "to initiate a bold, far-reaching research initiative—an Energy Revolution, if you will. It will be our generation's equivalent of the Manhattan Project or the mission to the moon."

The media lap it up, apparently believing that no one will produce unless our wise leaders create an inducement. Nonsense.

The market would deliver the goods if government doesn't impose crippling regulations and tax away everyone's capital to fund its coercive utopian schemes. I like what Henry David Thoreau once said: "This gov-

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ernment never furthered any enterprise but by the alacrity with which it got out of the way."

George Mason University economist Alexander Tabarrok has another way to demonstrate the benefits of spreading prosperity. Tabarrok wrote in *Forbes* recently that the bigger the market, the more worthwhile it is for companies to make products that require costly research and development, such as medicines and chemicals. As the Chinese and Indians become more able to buy things, businesses everywhere will find it profitable to make products that yesterday weren't profitable enough. The result will be cures for diseases and other products that make our lives better.

Tabarrok takes this a step further: "Amazingly, there are only about 6 million scientists and engineers in the entire world, nearly a quarter of whom are in the U.S. Poverty means that millions of potentially world-class scientists today spend their lives trying to eke out a subsistence living, rather than leading mankind's charge into the future. But if the world as a whole were as wealthy as the U.S. and were devoting the same share of population to research and development, there would be more than five times as many scientists and engineers worldwide."

When it comes to being wealthy, the more the merrier.

Book Reviews

The Myth of the Rational Voter: Why Democracies Choose Bad Policies

by Bryan Caplan
Princeton University Press • 2007 • 276 pages • $29.95

Reviewed by Dwight R. Lee

In one sense, *The Myth of the Rational Voter* makes a strong case for democracy. Bryan Caplan, professor of economics at George Mason University, argues that 1) citizens accurately communicate their preferences to politicians through voting; 2) politicians are responsive to those preferences, except that 3) when voter preferences are particularly misguided, politicians will often exert leadership and enact policies that deviate somewhat from the citizens' preferences in socially beneficial ways. But if this is correct, why does Caplan subtitle his book *Why Democracies Choose Bad Policies*? He quickly dispels any confusion by letting us know that he believes that while democracy gives citizens most of what they want, most of what they want is nonsense.

Caplan discusses four systematic biases in most citizens that lead to harmful policies. These are 1) an antimarket bias, 2) an antiforeign bias, 3) a make-work bias, and 4) a pessimistic bias. In order, people underestimate how much we benefit from what they see as the uncoordinated pursuit of self-interest and profit; are suspicious of foreigners and skeptical of claims that we benefit from dealing with them; applaud the creation of jobs and lament the loss of jobs regardless of the value being produced; and concentrate on economic problems while underestimating economic successes.

But couldn't the typical voter be correct in his biases and economists wrong in overwhelmingly seeing them as errors? Caplan devotes his longest chapter to addressing this question with creative use of data from the Survey of Americans and Economists on the Economy. I won't attempt to explain Caplan's analysis, but he convincingly challenges the argument that the biases of economists render their views on economic issues no more credible than those of the general public.

He next considers Public Choice explanations for why mistaken views inform the typical voter's decisions. Because of the extremely low probability that the outcome of an election will turn on one vote, voters have little motivation to become well informed. This has become known as rational ignorance—voters are rational to remain ignorant on most, if not all, issues they're voting on. But Caplan doesn't think the concept of rational ignorance adequately explains voting behavior. He argues that rationality requires updating one's beliefs in response to new evidence or arguments. Even by this minimum standard, however, most voters are irrational because they have emotional attachments to their political views that make them resistant to opposing evidence. This is "rational irrationality" because, Caplan explains, it's subject to the law of demand. The higher the personal cost of irrationality, the less irrational people will be. Unfortunately, the arithmetic of voting eliminates the personal cost of holding and expressing silly beliefs at the polls. So they persist.

If most people don't take the time to become informed and their views were random, then informed voters would determine the outcomes of elections. But most voters are misinformed in the same way—according to the four biases. And with no cost to expressing those biases at the polls, rational irrationality results in voters consistently choosing bad policies.

My brief review cannot do justice to all the insights Caplan pulls from the notion of rational irrationality. I particularly appreciated his answer to the question, why aren't policies even worse than they are? Caplan puts forth a compelling reason for believing that politicians often ignore the expressed wishes of their constituents for the constituents' own benefit. He also does a nice job responding to the criticism that economists are a bunch of "market fundamentalists."

The only nit I would pick with Caplan is that I think he tries to draw too much of a distinction between rational irrationality and "expressive voting" as developed by Loren Lomasky and Geoffrey Brennan in their 1993 book *Democracy and Decision*. Brennan and Lomasky use the arithmetic of voting to explain why people express support for feel-good proposals at the polls even when aware that they'll be worse off if those proposals pass. Caplan praises *Democracy and Decision,* acknowledging that expressive voting and rational irrationality aren't mutually exclusive, but he distinguishes between the two by claiming that expressive voters "know that feel-good policies are ineffective." Most expressive voters as envisioned by Brennan and Lomasky, however, surely believe the proposals they favor are worth feeling good about. How common is it to feel good about voting for a proposal you believe is socially harmful? It no doubt happens. A woman voter, for example, might feel good voting for a woman candidate even if convinced she favors bad policies, but this is surely an exceptional situation. To the extent that it's true, it makes the theory of expressive voting more general than the theory of rational irrationality.

That's a minor quibble. Caplan has written a wonderful and readable book—one generating new and impressive insights into political behavior.

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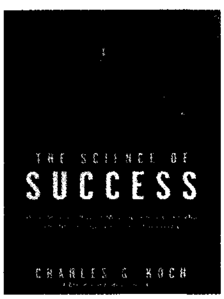
The Science of Success: How Market-Based Management Built the World's Largest Private Company

by Charles G. Koch
Wiley • 2007 • 201 pages • $22.95

Reviewed by William H. Peterson



The Science of Success and its remarkable author bring to mind a sonnet strategy of Shakespeare: "Let me not to the marriage of true minds
Admit impediments."

Meet then corporate thinker, entrepreneur, investor, hard-headed visionary, and impediment overcomer, Charles G. Koch. Koch, CEO of Koch Industries, Inc., with his rule of highly principled direction, has built the world's largest private firm, a mainly energy enterprise of 80,000 employees and $90 billion in annual sales, one that invested $21 billion in 2005 to purchase the publicly traded paper and wood giant Georgia Pacific.

Koch thinks and usually creates successful long-run company outcomes. His vision includes running an entrepreneurial meritocracy, a fused individual and team effort, and shrewd reinvesting of earnings for growth. He has been phenomenally good at that, and this book is all about his philosophy that has made it possible.

He calls his system Market-Based Management (MBM), a unique scientific approach to business management rooted in what our author describes as "the Science of Human Action." The system has five dimensions:

- *Vision:* Determining where and how the business can create the greatest long-term value.
- *Virtue and Talents:* Helping ensure that people with the right values, skills, and capabilities are hired, retained, and developed.
- *Knowledge Processes:* Creating, acquiring, sharing, and applying relevant knowledge, and measuring and tracking profitability.
- *Decision Rights:* Ensuring the right people are in the right roles with the right authority to make decisions and holding them accountable.
- *Incentives:* Rewarding people according to the value they create for the business. (He turns Marx around by proposing the maxim "From each according to his ability, to each according to his contribution.")

What Koch has done is to take key insights about what works for an economy and apply them to his business ventures. The MBM prowess of our author on the firing line is in outthinking and so staying ahead of competition, thanks in part to a team of profound manager-thinkers bent on creating "the greatest long-term value." By establishing a corporate climate that rewards efficiency and innovation—as the larger economy should do—Koch has seen his enterprises grow and prosper.

His ideas did not emerge out of a vacuum. Koch cites as particularly important two great books whose authors were both closely associated with FEE. One was F. A. Harper's *Why Wages Rise;* the other, Ludwig von Mises's *Human Action.*

Harper's book is hailed for spotting the causes of real, sustainable wage gains. The main cause, said Harper, lies in ongoing capital creation, which raises marginal productivity and enables producers to bid more for labor and talent. That's been the history of markets and rising living standards over the last 300 years.

In *Human Action* Mises showed how a market society, based on private property rights and tightly limited government, yields civility, peace, and prosperity. Koch quotes Mises, whose writings helped inspire the MBM methodology: "The market determines who shall [have what property and who shall do what work]. None of these decisions is made once and for all; they are revocable every day. The selective process never stops." That fact challenges our author constantly.

No one picks winners all the time, though. In an appendix, Koch lists over 40 businesses exited by his firm. Included are tankers, drilling rigs, Canadian pipelines, service stations, and telecommunications. That is much exiting, and in most cases from *profitable* operations. But why quit a profitable business? Because profitability is not enough. Profitable investments can tie up precious capital otherwise available for better returns elsewhere, precluding creating "the greatest long-term value."

Koch here reminds us that opportunity cost is the value of the best alternative that must be forgone to undertake any investment. So he counsels that "we must look forward rather than backward" when calculating that cost in the face of ever-new dynamic conditions to beat.

Our author also says that individuals, nations, and organizations such as Koch Industries should seek their "comparative advantage" in a world of changing technology and markets, and so concentrate on producing goods and services in which each "has the greatest *relative* superiority" (my italics). This is the stuff of Econ 101, but it's amazing how many high-ranking people in the business world seem to forget basic economic principles.

Relativity, teamwork, benchmarking, capital creation, capital maximization, improving talent or human capital, insighting-outlooking macro-micro profit centers, and, above all, ever achieving that rising value creation—all mark Koch's MBM road to success.

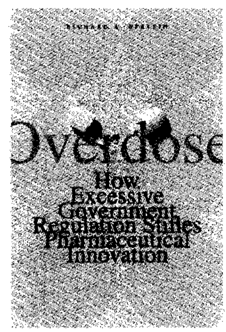
Charles G. Koch defines "the science of liberty" as: "How societies can best achieve long-term peace, civility, and prosperity." You can read his book for a lot of good tips on investing and managing; you can also read his book for a coherent philosophy combining great economic insights with the challenges of business.

Contributing editor William Peterson (WHPeterson@aol.com) is the 2005 winner of the Schlarbaum Award for Lifetime Achievement in the Study of Liberty given by the Ludwig von Mises Institute.

Overdose: How Excessive Government Regulation Stifles Pharmaceutical Innovation

by Richard A. Epstein
Yale University Press • 2006 • 271 pages • $30.00

Reviewed by George C. Leef



Over the course of his distinguished career in the law, Professor Richard Epstein has done as much as anyone to show how bad laws and regulations are harmful, both to individuals and to the fabric of society. He has tackled a wide array of subjects, from the misinterpretation of the Constitution to the attack on property rights, and with his current book, *Overdose,* Epstein applies his talents to the extremely important topic of pharmaceuticals. He gives the reader a comprehensive look into the process of bringing a new drug to market, carefully detailing the numerous obstacles the federal government puts in the way at each stage.

Epstein concludes that, far from protecting consumers, current regulation of the drug industry unnecessarily drives up costs and impedes development. What we need, he argues, is a consistent policy of liberalization. But he ominously suggests that instead we are apt to venture even further into the morass of political meddling with this vital industry.

Americans today live longer, healthier lives due in large measure to the wonderful advances in drugs over the past century. Most people assume that such progress just happens automatically, but Epstein shows that pharmaceutical progress cannot be taken for granted. It depends on property rights, incentives, and freedom. Unfortunately, drug companies are tempting political targets and a large number of people seem to think that these golden geese will continue laying eggs no matter how they're treated. Epstein takes us through intellectual-property issues, R&D issues, pricing, marketing, safety, and liability issues, always detailing the ways government policy works against the interests of people who benefit from (or could benefit from) drugs.

Some of his analysis will probably be familiar to *Freeman* readers. We learn, for example, that the Food and Drug Administration's testing regime does more harm than good by screening out many potentially beneficial drugs from legal use in America because they haven't been proven safe and effective to the satisfaction of agency officials. Those officials tend to err on the side of caution since, from their point of view, the visible harm that occurs when someone is hurt by taking an approved drug is far worse than the invisible harm that occurs when people can't obtain a drug that could save them. While this line of analysis has been made many times, Epstein elucidates it with particular clarity. Noting that some drugs the FDA blocks could be lifesavers, he writes, "If there were ever a life-and-death situation where collective choice is inappropriate, this one is it."

Other aspects of Epstein's case against the regulatory status quo will probably be less familiar. His lawyerly analysis of the swamp of tort liability faced by drug companies gets at the heart of the matter. The United States has trashed the law of contracts in this area, leaving firms entirely at the mercy of tort lawyers and their well-honed expertise in jury selection and manipulation. "The one conclusion that clearly stands out," Epstein writes, "is that no legal system can afford to try complex matters before a jury even one time, let alone ten thousand times." He suggests several ways of improving on the current situation, which greatly resembles a game of Russian roulette for the drug companies.

One way would be to establish specialized courts and expert juries as the venue for trials over pharmaceutical liability, thus minimizing the chances for plaintiff attorneys to sway juries of common people with junk science and emotional appeals. Another would be to bypass tort litigation and have all cases of alleged consumer harm due to a drug be handled by a special federal prosecutor, with a cap on total damages that would be shared among all injured claimants if the case were proved. Epstein cautions that there is no perfect solution here, but we need to find the best alternative to our badly flawed tort system.

Epstein concludes with a devastating critique of the faddish demands that the federal government socialize the entire market for drugs. "Relentless populism has led to recriminations and sanctions that have already crippled the industry," he writes. The best course for us to follow, Epstein shows, is to remove the many legal obstacles to drug safety and innovation.

Overdose should be on your reading list if you want to be able to combat the incessant cries from the anti-capitalist crowd that "Life could be so much better if only the government would do X," where X in this case is controlling or even taking over the pharmaceutical companies. You should read *Overdose* if you want to combat the view that the government should control or take over the pharmaceutical companies. Just as the free market works best in all other industries, so would it in this one, if only the politicians would let it.

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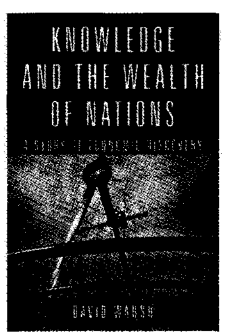
Knowledge and the Wealth of Nations: A Story of Economic Discovery

by David Warsh

Norton • 2006 • 426 pages • $27.95 hardcover; $16.95 paperback

Reviewed by Donald Boudreaux



The work that launched economics as a distinct discipline is Adam Smith's *An Inquiry Into the Nature and Causes of the Wealth of Nations*. Note well the title, especially the first eight words that typically are left off when people mention this book.

That great Scottish scholar inquired into the nature and *causes* of prosperity. Worded only slightly differently, Smith asked, "What causes economic growth?" His inquiry brilliantly identified as the chief proximate cause of prosperity the division of labor. The jack of all trades becomes a master of none. So a world full of jacks is poor. But let each of those jacks specialize at performing a distinct task, and the same number of workers can produce a much greater quantity of output than they could produce when each was a jack.

A fuller account of this wealth-creation process, of course, must be told. Smith himself told much of it, as did David Ricardo and lots of—well, some—economists over the past 230 years.

The sorry fact is that, for all its contributions to our understanding of economy and society, economics has only recently returned in a serious way to the Smithian question of economic growth. For most of its history, economics has revealed the logic of allocating a given stock of resources to satisfy a given set of consumer demands with a given stock of knowledge. The economics of growth—or what came to be called development economics—suffered. All too true was a remark I heard the late Fritz Machlup make in 1981 at New York University: "[D]evelopment economics attracts the least developed economists."

Unknown to Machlup and his students (and to most economists at the time), a turnaround was underway. Its leader was a young economist named Paul Romer from the University of Chicago. Romer (now at Stanford) is no typical Chicagoan. And what makes him least typical of that school is his recognition that externalities exist and often matter.

Externalities are effects of voluntary activities that spill over onto persons who are not party to the agreements that give rise to the activities. These effects can be negative (as when a factory dumps soot on the homes of nearby residents) or positive (as when a lighthouse guides whatever ships pass by). So-called "new-growth theory" builds on the latter by explaining how capital goods and human capital not only increase workers' productivity, but also that this increase in productivity often occurs at a faster rate as more capital goods and human capital come into existence. That is, the productivity of existing assets often increases as these are combined with additional assets. Such assets, then, are said to produce "increasing returns"—which means that their rate of output (say, per worker) increases when they are combined with other assets.

The story of the development of new-growth theory is not straightforward. But in *Knowledge and the Wealth of Nations,* economics reporter David Warsh does a fine job of telling it. Although Romer is the central character in the book, Warsh's summary of the economic theory of growth from Adam Smith's day to our own is wonderfully clear. Indeed, in my opinion this is the best part.

And while I heartily recommend this book to those who are curious about what economists now say about the causes of the wealth of nations, I must register a few complaints.

My biggest complaint is of Warsh's portrayal of the economics profession. He portrays economists as being more unified in our interest in pioneering ideas than we really are. I remember well the attention Romer's important papers of 20-odd years ago received from the profession, but no more than a tiny handful of economists eagerly awaited the next conference or paper discussing new-growth theory. Economics, for better or worse, is now a highly specialized discipline. It's the too-rare expert in urban tax policy who has interest enough to follow exciting developments in labor economics or even the economics of growth.

Relatedly, Warsh makes the development of new-growth theory appear to be much more self-conscious than it really was. For example, some work of my George Mason University colleague Tyler Cowen—work critical of one of Romer's papers—is mentioned in the book as playing a noteworthy role in fashioning the emerging theory of development. When I asked Cowen his thoughts on Warsh's description of this work, he replied that he wasn't really aware at the time (contrary to Warsh's suggestion) that he was helping to advance new-growth theory.

Warsh also jumps to conclusions too quickly. He writes, "The need for technology policy is the inescapable conclusion that emerges from" the new-growth theory. Well, here's an escape: this theory, for all of its usefulness, is not also a theory of government. To assume that politicians and bureaucrats can know enough to craft an appropriate "technology policy," and are trustworthy enough to carry it out, is a fantastic stretch—one that mars an otherwise useful book.

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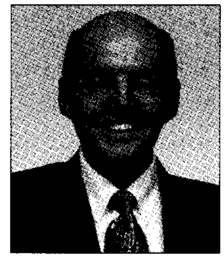
Stealing for Union Bosses

BY CHARLES W. BAIRD



H.L. Mencken opined that "Every election is a sort of advance auction sale of stolen goods." The November 2006 congressional elections are an excellent example of Mencken's proposition. The attempts by the 110th Congress to steal property and other rights from most of us at the behest of organized interests from which politicians take their orders are too numerous to count and too outrageous to ignore. They make one fear for the future of American liberty. For example, consider just a few congressional efforts to steal for the benefit of union bosses.

In my July/August 2007 column I wrote at length about the cynically named Employee Free Choice Act, the actual effect of which would be to eliminate employee free choice on the issue of union representation. This is a clear case of politicians stealing rights from workers to benefit union bosses. Here are other examples:

- HR 1644, the so-called "Respect Act," would disrespect workplace supervisors by exposing them to coercive union organizing. The National Labor Relations Act (NLRA) specifically exempts supervisors from its regulations. The Respect Act would remove that exemption. Union bosses like to pretend that any workers not subject to their control are being exploited. The truth is that most workers not subject to the impositions of the NLRA are grateful to be free of coercive unionism.
- HR 980 would force all police, firefighters, and emergency medical technicians (EMTs) to pay union dues before they would be permitted to do their duties. It would also outlaw volunteer firefighters because volunteers don't pay union dues. Police, firefighters, and EMTs are usually employees of state and local governments, and many such governments protect their emergency workers from coerced unionism. HR 980 would override those protections.
- Continuing congressional efforts to turn back the clock on free trade are all about shielding some unions, and the manufacturers whose workers those unions represent, from global competition. This is a theft of rights of consumers as well as of workers willing to compete in the global economy. Union bosses know that if they don't have to face competition from foreign workers, and if more American workers can be forced to become union members through, for example, the Employee Free Choice Act, the bosses will be much more powerful than they have ever been.
- As Doug Bandow has pointed out, congressional insistence that all international trade agreements include "labor standards" gives union bosses the opportunity to appeal to the International Labor Organization (ILO) when they are frustrated by rulings of the National Labor Relations Board (NLRB) and American courts. For example, the ILO's definition of freedom of association does not include the right of workers to choose not to associate with unions. Twenty-two states have right-to-work (RTW) laws that protect private-sector workers from having to pay union dues and fees as a condition of being able to work. The ILO claims that RTW laws are violations of the covered workers' freedom of association. Union bosses prefer the ILO to the NLRB on this issue.

Hiding Corruption

One of the most outrageous attempts by Congress to steal for union bosses is its effort to permit them to hide their corruption and theft from workers and the general public. Union bosses will have to wait until after the November elections to collect most of their loot. However, they are assured that starting with

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the new fiscal year they will escape effective supervision by the Office of Labor Management Standards (OLMS), which is the agency in the Department of Labor responsible for investigating, exposing, and prosecuting union corruption and victimization of workers. One of its roles is to collect and make public the LM-2 union disclosure forms in which unions are supposed to reveal and explain their revenues and expenditures. Congress delivered this loot to the union bosses by drastically cutting the OLMS budget. Since the federal budget is not subject to a line-item veto, this is a fait accompli.

Department of Union Bosses

During the Clinton administration the OLMS was effectively prevented from doing its job because the Labor Department was run as if it were the Department for Union Bosses. For example, the LM-2 forms then used by the department permitted union bosses to obfuscate their revenues and expenditures, making it almost impossible for the OLMS to enforce the Supreme Court's 1988 *Beck* decision. In that decision the Court prohibited unions from using agency fees, which are forcibly extracted from workers who prefer to be union-free, for political purposes.

Beginning in 2001 the department was run somewhat more in the interests of workers than union bosses. For example, in 2003 it adopted a new LM-2 form, which forced unions to disclose some, but not all, financial details relevant to *Beck* enforcement. Moreover, the unions were required to divulge details of salaries paid to some union bosses. According to the *Wall Street Journal*, in 2006 the treasurer of the United Steelworkers received a salary of $825,262 and the president of the United Food and Commercial Workers received $679,949. This came as a surprise to many rank-and-file who had become accustomed to their leaders complaining about excessive compensation of corporate officers.

In 2001–2006 the OLMS received a 50 percent increase in its budget, and the agency increased its audits of unions by 200 percent. This resulted in 780 convictions of union apparatchiks on charges of corruption and theft, and over $110 million was wrested from union coffers and returned to hitherto victimized workers. In 2006 alone the OLMS conducted 741 compliance audits, prosecuted 339 criminal cases, and won 129 convictions. Union bosses are, to say the least, displeased. They want the Labor Department to once again act as the Department for Union Bosses, and Congress is doing its best to comply.

The three recent strike-threat settlements involving the United Auto Workers (UAW) and General Motors, Chrysler, and Ford all included the creation of a trust fund, to be administered by the UAW, called a Voluntary Employees' Beneficiary Association (VEBA). GM gave $35 billion, Chrysler $8.8 billion, and Ford $13 billion to the UAW to set up VEBAs, which are supposed to be used by the UAW to take over the provision of retiree health benefits from the auto companies. This reduces the so-called "legacy costs" of the American auto companies, which have made it difficult for them to compete with foreign producers. Altogether UAW bosses have an additional $56.8 billion to play with. It is the responsibility of the OLMS to oversee the administration of these funds to assure they are managed in the interests of the retirees. It seems that Congress doesn't care very much about this oversight.

It is disturbing to note that in 2001–2006 the OLMS enforced the same laws that existed before 2001. The difference was not the law, but the willingness to enforce it. The rule of law is a favorite shibboleth of American politicians. Yet when it comes to laws affecting unions, there is no rule of law. What the OLMS does depends on the politicians who run the Labor Department. They all make it up as they go along. Politicians in thrall to union bosses decide one way, and politicians more dedicated to the interests of workers decide another. Law is subordinate to politics. Inasmuch as the NLRA was and remains designed to grant privileges to union bosses at the expense of workers who want to be union-free, its total repeal is a necessary condition for the rule of law to be re-established in American labor markets.