THE FREEMAN
Ideas On Liberty

October 1998 Vol. 48, No. 10

FEATURES

Andrew Ure

COLUMNS

DEPARTMENTS

THE FREEMAN
Ideas On Liberty

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533
Phone (914) 591-7230 FAX (914) 591-8910
E-mail: freeman@fee.org
FEE Home Page: http://www.fee.org

The Freeman is the monthly publication of The Foundation for Economic Education, Inc., Irvington-on-Hudson, NY 10533. FEE, established in 1946 by Leonard E. Read, is a non-political, educational champion of private property, the free market, and limited government. FEE is classified as a 26 USC 501(c)(3) tax-exempt organization.

The costs of Foundation projects and services are met through donations, which are invited in any amount. Donors of $30.00 or more receive a subscription to *The Freeman*. For foreign delivery, a donation of $45.00 a year is suggested to cover mailing costs. Student subscriptions are $10.00 for the nine-month academic year; $5.00 per semester. Additional copies of this issue of *The Freeman* are $3.00 each.

Bound volumes of *The Freeman* are available from The Foundation for calendar years 1972 to date. *The Freeman* is available in microform from University Microfilms, 300 N. Zeeb Rd., Ann Arbor, MI 48106.

Cover photo: Ludwig von Mises (September 29, 1881–October 10, 1973)

PERSPECTIVE

Whose Choice? Whose Responsibility?

The Wisconsin Supreme Court has given the school-voucher movement a shot in the arm by declaring that tax-funded school choice does not violate the separation of church and state. I always thought the argument that it *does* violate the separation was wrong. Vouchers would be given directly to parents, and they would decide where to redeem them. As the court said, school choice certainly would not be a government program intended to further religion.

That said, I hasten to add that the soundness of the court ruling is entirely distinct from the merits, or lack thereof, of the voucher plan itself. We have enough experience to know that when government subsidizes something, it attaches conditions. I find it hard to believe that a large-scale voucher plan will not include a long list of rules with which private schools will have to comply before parents can take their vouchers there. Some intrepid private educators will thumb their noses at the authorities and forgo vouchered customers, but most will not. Those schools will then lose their independence. One effect will be to undermine religious schools, as happened in Europe with government subsidies. The Wisconsin ruling says that under a voucher plan, religious schools would have to allow students to opt out of religious instruction.

Vouchers will undermine something else. As others have pointed out, parents who today know what it means to write a tuition check for their children's education would be relieved of some of that responsibility under a voucher plan. That would be a tragedy, because the main libertarian goal in education should be to promote freedom through parental responsibility. Public education creates irresponsible parents precisely because it removes responsibility from them. The parents of 12 percent of school-aged children have refused to relinquish that responsibility, and consequently, they are exercising their freedom. Vouchers would be a blow to those parents. We can't countenance that.

* * *

The eminent economist Israel Kirzner opens this issue with an important article on why economic education is crucial to everyone's well-being. The article is drawn from the first John Anthony Krogdahl Memorial Lecture, which Kirzner delivered at FEE last March. Aside from passing along many insights about the nature of economics, Kirzner also resolves a paradox about his great teacher, Ludwig von Mises, namely, how he could be a passionate "value-free" scientist.

In our latest reprint commemorating the 100th anniversary of the birth of Leonard E. Read, FEE's founder and long-time president tells freedom's friends how they can best work "On Behalf of the Ideal."

James Payne was wondering why anyone would travel to some unromantic spot and pay good money to sit through a day-long seminar on employment law. Then, recalling how much government dominates employer-employee relations, it all made sense.

And speaking of employer-employee relations, it's well known that a business owner can be found guilty of race or sex discrimination against job applicants purely on the basis of statistics. The issue is none of the government's business, of course, writes Robert Levy, but even if it were, the idea that discrimination can be demonstrated statistically is ludicrous.

The Americans with Disabilities Act has turned out to be the nightmare its critics predicted. But according to George Leef, we ain't seen nothing yet. ADA, meet ADD.

Does the International Monetary Fund promote free markets? Can the IMF resolve the economic crisis in Asia? If you answer yes to that question, Ian Vásquez has some news for you.

Classical liberals are well acquainted with Richard Cobden and John Bright, the brilliant intellectual-activists who spearheaded Britain's nineteenth-century free-trade movement. Now John Chodes introduces the forgotten English free-trade pioneer Andrew Ure.

Lots of people talk about the failure of public schooling these days. Twenty-five years ago, that wasn't true—with a few exceptions. In his introduction to the new edition of *The Twelve-Year Sentence: Radical Views of Compulsory Schooling,* edited by the late William F. Rickenbacker, David Boaz says he finds arguments that are as timely as ever.

Fine-art auctions don't usually upset people. Sotheby's isn't routinely picketed by art preservationists. So why do many folks worry about privatizing environmentally "sensitive" lands? Can't see the connection? Bernie Jackson explains.

Corporate downsizing, to hear the media tell it, represented the death of the American dream, the end of hope. A few facts were left out of the reporting. Christopher Lee fills in the blanks.

Official America is so concerned about how little we save that they called a national summit to discuss the matter. Too bad they weren't concerned enough to carry out the few pro-freedom suggestions made here by Peter Leeson.

Wendy McElroy delves into the archives of forgotten classical liberals to tell the story of Gertrude B. Kelly, a nineteenth-century writer and activist-physician who favored free markets, educational liberty, and individual rights, even for women.

Andrew Kleit looks at what Robert Bork has to say about the Justice Department's antitrust suit against Microsoft and declares "It Just Ain't So."

Lawrence Reed exposes the urban-sprawl myth. Doug Bandow, writing from Belgrade, tells why economic sanctions don't work. Dwight Lee explains the two most-used words in economics: *supply* and *demand.* Mark Skousen continues his discussion of the new interest in gold money. And Walter Williams argues that fairness is in the process not the results.

Our book reviewers consider such subjects as conquest and cultures, American heroes, law in cyberspace, anti-federalism, the endless energy crisis, and murder of an Idaho governor early this century.

—SHELDON RICHMAN

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It Just Ain't So!

Antitrust, now over a century old in the United States, has always had its supporters and critics. In the 1970s, however, a group of conservative scholars, including Richard Posner and Frank Easterbrook (who are now federal judges) and Robert Bork (now a retired federal judge), overwhelmed the existing consensus with devastating economic arguments and dramatically reduced the intellectual and practical scope of antitrust.

Perhaps the most obvious example of the overreaching of antitrust was the 13-year-long case against IBM, finally closed by the Justice Department in 1982. And what was IBM's crime? Simple. IBM produced computers so well that no one else could compete with it, giving it a "monopoly," or at least a high market share in the industry. But how did IBM get that market share? By offering consumers what were for that time high-quality products at low prices.

Of course, IBM could have escaped the wrath of the Justice Department by raising its prices, but that would have harmed consumers, contrary to the alleged purpose of the antitrust laws. Thus, by suing IBM, the Justice Department was punishing it for giving consumers what they want. The message to firms was clear: don't become too successful, or we'll come after you. It only took the Justice Department 13 years to figure out how anti-consumer this policy was.

Tough Competitor

Today, the lessons of the IBM case seemingly forgotten, the Justice Department has gathered up all its horses and deployed them against the Microsoft Corporation. When it comes to generating benefits to consumers, it would be hard to find a corporation that has done more than Microsoft. Over the last 15 years, it has been Microsoft's software products that have opened up computers and the Internet to millions. Microsoft is sufficiently effective that it is a very difficult firm to compete against. And therein lies its problem.

Microsoft has been such a successful firm that its rivals are upset. But instead of responding to their frustration by making better products, they complained to the Justice Department and got it to file a suit against Microsoft. But of course these firms can't simply say that they are tired of fighting Microsoft. So in steps Robert Bork, on behalf of one of Microsoft's competitors, Netscape. Netscape has particular reason to worry about Microsoft: Microsoft's Internet Explorer has reduced Netscape's market share from a dominant 80 percent to a paltry 50 percent of the World Wide Web browser market.

You might wonder how Judge Bork can escape his anti-antitrust legacy and sign on with Netscape. In an op-ed piece in the *New York Times* and a letter to the editor in the *Wall Street Journal*, Bork justified his position and Justice's case against Microsoft by citing a 1951 antitrust case, *U.S. v. Lorain Journal.* Indeed, according to Judge Bork, "The parallel between The Journal's action and Microsoft's behavior is exact." Of course, the typical reader has no idea what Judge Bork is talking about. But if one does a simple LEXIS search on *Lorain Journal* (aided, most likely, by one or more of Microsoft's "anticompetitive" products) it becomes clear there is no merit to his position.

In *Lorain Journal*, the only newspaper in Lorain, Ohio, refused to accept advertising from firms that were advertising simultaneously on a radio station in nearby Elyria, though it allowed advertisers to switch back and forth between the two media. The Justice Department accused the newspaper of trying to drive the radio station out of business. Already you might be wondering how this relates to Microsoft, where a large successful firm is charged with violating the antitrust laws for reducing Netscape's market share in the browser market from 80 to 50 percent.

But wait, there's more. While Judge Bork asserts that the effect of the newspaper's action on competition was "devastating," this was hardly the case. Though the Supreme Court ruled for the government in this matter, an examination of the record by Professor John Lopatka of the University of South Carolina and me (*Texas Law Review*, May 1995) shows the government's position (and by extension, Judge Bork's argument) to be fundamentally flawed.

The facts of the *Lorain Journal* case are clear. Contrary to what Judge Bork suggests in his writings, the *Lorain Journal* had no hope of driving the radio station out of business. Indeed, the station was earning substantial profits during the period of alleged "predation" and paid out dividends to its stockholders. In the end, all *Lorain Journal* was about was a difficult man who owned a newspaper and who didn't like radio stations. It is hardly a precedent in favor of major antitrust enforcement action, especially one that is directed against a company like Microsoft that is so successful in meeting consumer desires.

Microsoft may or may not be guilty of antitrust violations, however those are defined. It should give one pause, however, that the best argument that Judge Bork can cite to support his position against Microsoft is a case that lacks a sound economic foundation. It is disappointing that such a prominent scholar would take so public a position based on so little evidence.

Forgotten IBM Lessons

Perhaps even more frightening, a review of the Justice Department's petition in the case reveals how completely it has forgotten the lessons of IBM. For example, according to the official complaint against Microsoft, "One consequence of tying Internet Explorer to Windows is that the Internet browser is made available to purchasers of Windows at no additional charge." As a consumer, I am always pleased when firms add more features to their products, but somehow the Justice Department finds it objectionable. According to the complaint, Microsoft Chairman Bill Gates, taking an allegedly "anticompetitive position," has declared, "Winning Internet browser [market] share is a very, very, important goal for us." Again, as a consumer I'm pleased that Mr. Gates wants to compete for my business, rather than resting on his already substantial laurels. □

—Andrew N. Kleit
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The Nature and Significance of Economic Education

by Israel Kirzner

For many years I have been fascinated by what at first glance seems a paradoxical feature in Ludwig von Mises's attitude to the economics he taught. I believe that this seeming paradox in the life and work of my revered teacher can provide us with the key to understanding the role of economic education (and, I will further propose, to appreciating the special character and philosophy of the Foundation for Economic Education).

On the one hand, even the casual reader of Mises senses the enormous *passion* with which he preached the message of the free society and its dependence upon free markets. (See, for example, the almost dramatic closing paragraph of his magnum opus, *Human Action*, reprinted on the next page.) On the other hand, one of the foundations of economic science was, for Mises, the austere *wertfreiheit* with which, he maintained, the economist must pursue his scientific work. Science, Mises insisted, must never express or reveal the personal preferences, or judgments of value, of the scientist. The economist's work requires objectivity and detachment, in order that its conclusions can be arrived at, and accepted by, persons subscribing to widely divergent sets of personal ideologies. Many superficial readers of Mises have failed to understand the manner in which his life and work showed that these two apparently contradictory attitudes—passion and scientific detachment—can and must be simultaneously maintained, without jeopardizing either the purity of the *wertfreiheit* or the white-hot fervor of the passion.

Economics is a science; the truth of its predictions does not depend on whether or not we find these truths palatable. But this circumstance does not, to be sure, wipe out the palatability or unpalatability of the predicted outcomes. Mises's economic science, in fact, predicts consequences of central planning that are not only unpalatable, but tragically disastrous for human well-being—even for human survival. It was this which ignited Mises's passion, not as a scientist, but as a human being agonizing over what he (so accurately!) foresaw as the inevitably horrible consequences of twentieth-century *dirigisme*. For Mises, economic education is the only tool we have with which to warn mankind of these terrible consequences. The *content* of this education is science. This content must be established and demonstrated with austere, disinterested objectivity. The *purpose* of this education, however, is to further human goals (since, after all, *any* human activity, including scientific activity, must have as its objective, *some* human goal). In the case of economics, that human goal is of such overriding importance for the human race that passionate concern becomes well-nigh inevitable and a morally natural phenomenon. It is this fasci-

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> The body of economic knowledge is an essential element in the structure of human civilization; it is the foundation upon which modern industrialism and all the moral, intellectual, technological, and therapeutical achievements of the last centuries have been built. It rests with men whether they will make the proper use of the rich treasure with which this knowledge provides them or whether they will leave it unused. But if they fail to take the best advantage of it and disregard its teachings and warnings, they will not annul economics; they will stamp out society and the human race.
>
> —LUDWIG VON MISES, *Human Action*

nating fusion of austere objectivity with passionate concern that characterized the life and work of Mises—and which, I believe, defines the philosophy of the Foundation for Economic Education.

But why is economic education *needed*? Why can we not rely on the truths of economics being recognized by the intelligent public without deliberate, organized effort at public enlightenment? We may identify two interrelated reasons:

1. The conclusions of economics are, in general, counter-intuitive. Without careful guidance, the intelligent layman is likely to be led to accept as "obvious," policy prescriptions that economics reveals as tending to generate wholly unwanted consequences.
2. The reasoning by which economics reaches its conclusions is not only *not* self-evident, but in fact involves insights the subtlety of which is likely to be completely missed by the untrained. An education in economics does not have to be lengthy or very elaborate—but it *is* needed in order to introduce the intelligent layman to new ways of looking at and understanding the world. Let us take up in turn these two sources for the need for economic education.

The Counter-Intuitive Conclusions of Economics

The most significant of the counter-intuitive conclusions can be succinctly presented as follows:

First, despite individual freedom in the making of decisions in the free-market economy, there do emerge "law-like" *regularities* in economic phenomena—regularities that society can ignore or defy only at its own peril.

Second, these regularities appear as powerful *tendencies* in free markets toward the directing of scarce resources:

- into those branches of production which the consuming public values most urgently and most highly;
- into those methods of production which, judged from the consumers' perspective, must be described as the most efficient;
- with market consequences such that the rewards to owners of scarce resources express those resources' respective relative productive values, as judged by consumers, and thus stimulate these owners to place their resources and talents in the efficient service of consumers. Many have identified these conclusions with what the textbooks often call Adam Smith's "invisible hand" doctrine.

These conclusions are counter-intuitive. Very many intelligent, well-meaning persons during the past two centuries have simply assumed exactly the opposite of these conclusions to be the truth—and have concluded that government planning and control of market activities are crucially needed in order to avoid economic chaos, disorder, and social inefficiency. It was, however, true of the heyday of neoclassical economics (between, say, 1890 and 1930), that the overwhelming balance of professional opinion came to endorse the "invisible hand" conclusions. The major schools of economic thought (not including the German Historical School) agreed with these conclusions. And after World War I, with the demise of the German Historical School, it seemed to Mises[1] that economists of all schools were virtually unanimous in their understanding of markets. To deny these conclusions, it appeared, was simply to reveal a gap in one's education.

This unanimity rapidly crumbled away during the central decades of this century. The dominant orthodoxy of the years between, say, 1935 and 1970, was one that urgently endorsed centrally planned intervention in market economies (and, indeed, looked rather favorably upon the possibility of efficiency under socialism even in its purest forms), on both macroeconomic and microeconomic grounds. Such intervention was needed at the macro level, the conventional wisdom ran, in order to avoid the instability predicted by Keynesian economics; it was needed at the micro level in order to avoid the distortions and inefficiencies predicted by the theorists of imperfect competition and/or of externalities.

Austrian economics never gave up the central conclusions of the earlier shared consensus of neoclassical economics. In fact, both Mises and Hayek significantly deepened Austrian economic understanding (of how markets work and of how they set benign, efficiency-enhancing, tendencies into motion) during these decades of eclipse.[2] They demonstrated (in effect if not always quite explicitly) how Austrian insights concerning the entrepreneurial role, the competitive process, and the knowledge-discovery process in fact respond effectively to both the macro and the micro concerns of the new interventionist orthodoxy in the economics profession. And their work and teaching during those lonely decades of the fifties and sixties laid the groundwork for the subsequent modest but important revival of Austrian economics during the past quarter of a century.

Economic education, aiming to enlighten the intelligent lay public to these significant—but still counter-intuitive—implications of economics, surely has a valuable role to play. Let us however now turn to the second of the reasons we have identified (as responsible for the need for economic education).

The Subjectivism and Subtlety of Economic Reasoning

Economic understanding does not call for sophisticated technical prowess. It does, however, require appreciation for a way of looking at human actions and of social interaction, which many at first find rather strange and unfamiliar. Economic understanding requires one to see the "objects" with which economic activity is concerned—the money, the natural resources, the capital equipment, the flows of half-finished goods, the fully produced goods ready for delivery to the consumer—from a subtly different perspective from that to which the layperson has been accustomed. Take, for example, the simple act of exchange. To the untrained eye, an episode of market exchange is seen as one in which an exchange of objects, presumably of *equal* value, occurs. When I buy a meal for $20, I have given up a $20 bill for food and service having a market value of $20. For the economist this episode is seen in an entirely different light. For me the meal was subjectively valued as being *more* important than the $20 bill that I was asked to surrender for the meal. For the owner of the establishment that sold me the meal, its value was *lower* than that of the prospective $20 he hoped to receive from me. So that this simple episode of exchange must have meant, in the prospective judgments of both the consumer and the vendor, that new, *additional* value was being *created* by this exchange. This elementary insight, so foundational to economic reasoning and understanding, is strange and unfamiliar to the world of commerce and of everyday activity.

In fact, the subtlety of such "subjectivist" insights often eludes analysts equipped with sophisticated mathematical tools. Their training, and the scope of their analytical tools, lead them to focus on the objects exchanged in such episodes, rather than on the human motives expressed in the purposeful actions of which such episodes consist. And it has been this "blind-spot" in modern mathematical economics that has tended to render it, in general, surprisingly insensitive to the role of expectations and of knowledge in economic decision making and in market processes.

Without the subtlety conferred by the subjective perspective, the market process appears to consist of endless sequences of exchanges. From the subjective perspective, however, it becomes possible (if not indeed imperative) to recognize the market process as involving processes of mutual discovery (to use a Hayekian phrase) on the part of market participants. It becomes possible to recognize scope for superior entrepreneurial vision into the future, and for the consequence that such vision can be expected continually to shake up existing patterns of production and of market exchange (in directions inspired by more accurate or, at least, more up-to-date assessments of the underlying realities).

Not only does the subjective perspective taught in economic reasoning offer new and deeper understanding of market phenomena and of market processes, it permits us to *judge* these phenomena and processes from a more comprehensive and all-encompassing vantage point. One of the most pervasive fallacies in public opinion has been that of seeing the gain that one participant derives from a market exchange as having necessarily been extracted and subtracted from his partner in that exchange. After all, if I profit from an exchange with my neighbor, that profit can only have arisen from my neighbor's presumed, corresponding, loss. It is of course an elementary economic insight, yet one often entirely missed, that my profit must, at least prospectively, be in fact accompanied, not by a loss to my exchange partner (as in a "zero-sum game"), but by *profit* to him (a "positive-sum game"). No one, after all, engages in a voluntary act of exchange unless he or she expects to gain from it. This kind of entirely fresh perspective introduced by the subjective foundations of economic reasoning often (correctly) strikes beginners in economics as offering revolutionary new insights. It does not require lengthy training to introduce beginners to this kind of perspective. But economic education clearly has a "revolutionary" role to play in this regard.

Economic Education and Economic Policy

An eminent economist once provocatively declared that economists *qua* scientists have no business making normative pronouncements on economic policy (or, in fact, on anything else). To make such pronouncements, George Stigler somewhat impishly asserted, was to engage in "preaching."[3] As a citizen the economist may certainly express dismay at the consequences of economic policies; he may abhor these consequences. But those who initiated and executed these policies, he argued, obviously *desired* these consequences (which others are viewing with abhorrence). We have no reason to presume that those engaged in actions or in executing policy are unaware of the consequences of what they do. To object to these policies is then simply to assert what those with the power to initiate policies refuse to accept, namely, that their consequences are indeed abhorrent. To so object, Stigler maintained, is merely to preach, not to engage in scientific discourse. The position we have been articulating in this lecture (and, I suggest, the position consistently taken by FEE) utterly rejects Stigler's contention.

That contention rested on the premise that we must assume those who take actions or undertake policies to be correctly aware in advance of the likely consequences of those actions or policies. But, as we have argued here, the truth is that, because of sheer economic ignorance, well-meaning policy makers may be completely unaware that what they are doing may in fact generate consequences quite the reverse of what they wish to achieve. Someone once defined the job of an economist as that of warning people when and how they are seeking to run in two opposite directions at the very same time. My teacher, Mises, used to say something like the following in his lectures on price controls: "These laws passed by the legislators are bad not because I, Mises, do not like their consequences. These laws are bad because they produce consequences which *they*, the legislators themselves, would not like and certainly did not aim at." In other words, economic ignorance is rife; it leads voters and politicians to support policies the consequences of which they themselves can only regret. The economist has a role to play in offering policy advice, and this role is *not* one of preaching, but one of pointing out the respective consequences of alternative policies among which voters and legislators must choose. Economic education is vitally and essentially relevant for this role. And this returns us to the paradox with which we began this lecture, the paradox of passion and austere *wertfreiheit* that permeated Mises's life and work.

The Passionate Pursuit of Austerely Defined Economic Education

If one recognizes, as Mises did, how central planning in all degrees is likely to generate disastrous human consequences, it becomes clear that a passionate urge to spread elementary scientific economic understanding among the public involves no contradiction whatever. The phenomenon of economic ignorance is so widespread, and its consequences so frightening, that the objective of reducing that ignorance becomes a goal invested with independent moral worth. But the economic education needed to reduce such ignorance must be based on austere, objective, scientific content—with no ideological or moral content of its own. Precisely because it is necessary to "persuade" (that is, to educate) the lay public, it is necessary that this public be convinced of the objectivity and ideological impartiality of the insights being transmitted.

If public policies seeking to increase the scale and scope of government intervention in the economy are to be successfully fought at the legislative and executive levels, the economic understanding of the public must certainly and urgently be enhanced. For this to be achieved, the delicate interface between moral passion and scientific detachment must be recognized and respected.

There is, we have insisted, a fundamental difference between economic education (the raison d'être of this Foundation) and "libertarian" ideology or rhetoric. The former is not, and must not be, a mere "public relations" expression of the latter. The legitimate moral, and even passionate, commitment with which the Foundation and its supporters seek to promote its goals need not (in fact, dare not) compromise the detachment and objectivity of the *content* of the economic education, the dissemination of which makes up those goals. □

1. Ludwig von Mises, *Epistemological Problems of Economics* (Princeton, N.J.: Van Nostrand, 1960 [translation of *Grundprobleme der Nationalökonomie*, 1933]), p. 214.

2. It was in 1949 that these two Austrian economists published major works (unappreciated for a long time) developing these deepened insights: Ludwig von Mises, *Human Action: A Treatise on Economics* (New Haven: Yale University Press, 1949) and F.A. Hayek, *Individualism and Economic Order* (London: Routledge and Kegan Paul, 1949).

3. George J. Stigler, "The Economist as Preacher," in *The Economist as Preacher and Other Essays* (Chicago: University of Chicago Press, 1982).

On Behalf of the Ideal

by Leonard E. Read

There is a line of reasoning, gaining ground among businessmen and others, that tends to narrow an understanding of freedom rather than broaden it. It relates in part to our work at the Foundation for Economic Education, and I want to examine the reasoning from this standpoint.

Over the past 14 years—from countries as remote as India as well as here at home—have come inquiries to this effect: "In what ideological pigeonhole can FEE be put? You folks don't quite fit Bentham or the Physiocrats or the Georgists or Smith or Mill or Simons, or any system. Where shall we put you?"

Honor be to these discriminating inquirers, for what FEE attempts to purvey is neither a system nor is it "pigeonholeable." On the contrary, we seek to learn of freedom in its consistent, undiluted, ideal form, and to report candidly and in full what that search reveals.

This effort on behalf of the ideal has met with enough approval to put FEE on its educational and financial feet. While always challenged and even criticized by many "practical" people—among whom are some of the world's greatest producers—there has been an adequate corps of what we shall call idealists to keep FEE going as a small-scale enterprise. Now, however, "practicality" appears to be winning converts from among those who were thought to be the idealists. Limiting these comments to the "practical" as distinguished from the idealistic businessmen and putting it bluntly, defections are observed at a time when leadership on behalf of the ideal might well turn the tide for freedom.

These "practical" people—many of them—will readily acknowledge that our society is shot through and through with socialism. But, having said this, they will add, "While I agree with your idea of the ideal society in *theory*, it is utterly naïve to insist upon its rightness in today's world. The existing political interventions are *fait accompli*, water over the dam. To condemn them and to suggest the ideal in their stead, as you so undeviatingly do at FEE, is to operate in a dreamland. Forget about upholding the ideal and do your educational work for freedom premised on the *what is*, not on an idealistic *what-ought-to-be*. Let us be practical!"

Such counsel, increasingly offered, could more accurately be phrased, "Tell us how to make socialism work," as though we at FEE could perform that miracle if only we'd try!

For instance, the "practical" argue that TVA is here to stay, as are subsidies to farmers, compulsory Social Security, federal delivery of the mails, exchange controls, the minimum wage at which one is allowed to work, the maximum one is permitted to earn, coercive

Leonard E. Read established FEE in 1946 and served as its president until his death in 1983. This article, one of Mr. Read's Notes from FEE messages, is excerpted from Essays on Liberty, *Vol. VII (1960), pp. 332–436. It is the tenth in a monthly series commemorating the 100th anniversary of Mr. Read's birth.*

powers in the hands of labor unions called "gains for the laboring man," indeed any item of socialism once it is put on the statute books. Everything, no matter how absurd, appears sacrosanct to them the moment it becomes law. Thus, they regard as foolhardy any questioning of what they deem "unalterable." The president of one of America's largest corporations summarized their conclusions, "We wouldn't think of supporting the work of FEE. Why those folks even argue that the government's social security program is not right."

Conceding, as they do, the hopelessness of removing any of the interventions, and recognizing clearly enough the miserable distortions these interventions inflict on a free and competitive market, the "practical" minded look with favor on additional anti-market devices such as governmental protections against their competitors. They privately regard as "economic nonsense" the wage earner's claim to the job he has vacated and, at the same time, claim a right to an exchange made by other parties. They denounce compulsory actions of unions as they ask for compulsory protection for themselves. Their inconsistency, which certainly is apparent to them, is charged off to "being practical."

It isn't that these people quarrel with the way FEE presents the ideal; it is that they reject the presentation of the ideal as sound educational procedure. This brings us to the nub of the question, to the point when analysis of their position is possible.

One thing for certain: our "practical" friends, according to their own admissions, are dead set against any more socialism than we now have. Except for some socialism in the form of protection against competition or a pet project, they stoutly advocate "dropping anchor." Yet, their unwillingness to criticize the status quo, coupled with their refusal to uphold the ideal of a free society for all to see and hear, makes them more effective obstacles to freedom's progress than are the socialists themselves.

This, indeed, is a serious charge. Valid? Let's see.

Socialism has only a few articulate antagonists and only a few articulate protagonists. Between these two small groups are unnumbered millions who are more or less indifferent, who at best are only followers of one camp or the other. Every issue has always been thus.

Socialism's protagonists will argue for, not against, their credo. Count on that!

Now, socialism's antagonists, were they to follow the counsel of the "practical" people, would remain neutral—standing neither against socialism nor for the ideal. In short, not one person in the population would be signaling either right or wrong. What is not shown to be wrong is perforce right, or so that unnumbered millions "who have the votes" would be warranted in concluding. . . .

Those who, in this moral crisis, remain noncommittal while purporting to be private enterprisers are, in effect, however innocently, abettors of collectivism. They, not the socialists, have the educational obligation for stating the private enterprise case, ideally.

Regardless of how thoroughly we may adjust ourselves to our sickness—or even enjoy it—the numerous social diseases must be repeatedly and consistently identified as maladies lest we mistake our sickness for a state of health. Indeed, such diagnostic action is a necessary preface to corrective action, to the presentation and ultimate realization of freedom in its ideal form.

There aren't many of us at FEE naïve enough to believe that identifying socialistic projects as maladies, and upholding the ideal, will bring about the ideal. Any such expectation is absurd among human beings who, by nature, are fallible. However, we do insist that this course is the essence of genuine practicality, for only in this manner can our country's direction be reversed. Man can do no better than travel toward the ideal, and this he can do only if the ideal is sought for and to some extent discovered. We must always face in the right direction! There will never be any undoing of socialism unless the ideal of freedom is identified and upheld with enthusiasm and with undaunted faith. □

THE FREEMAN (Ideas On Liberty)

Employers Swamped by Good Intentions

James L. Payne

One of the hidden costs of regulation is the intellectual burden of keeping up with it. In many cases, finding out what the rules are can be more than a full-time job. Consider the area of employer-employee relations.

A few months ago, an odd travel brochure arrived in my mail. It wasn't printed in four colors, and it didn't invite me to Hawaii or Cancún. No, this brochure offered me Dullsville. Printed on gray paper in blue ink, it urged me to come to the Doubletree Riverside Hotel in Boise, Idaho, to attend an all-day seminar on wage-and-hour legislation. My first reaction was, who would ever go on such an unappealing excursion?

Then I realized that probably *I* should. I run a small business, and I'm thinking of taking on an employee. Reading this brochure about what's involved in hiring somebody gave me lots of second thoughts.

It turns out that there isn't just one law governing wages and hours, but three comprehensive federal acts, plus state laws, as well as all the judicial case law that has grown up over the past half-century. So the eight-hour seminar in Boise barely scratches the surface of this legal specialty. No employer can simply hire a worker on the assumption that if he is fair and reasonable the law will have no quarrel with his behavior. Decades of regulation have put common sense out of the picture, so that only the experts know what's right and wrong.

The seminar, with its 35 sections on different aspects of employment law, helps employers become experts. It tells them how to define "hours worked," how to define "regular rate of pay," and how to define and apply the different types of exemptions from the law. It explains how the law treats time spent on volunteer activities, travel, preparatory activities, on-call duty, sleeping, and going to workshops and conferences. The seminar also covers what the law requires about minimum wages, vacation pay, holiday pay, overtime, jury duty, lunch hours, and work breaks.

Even if you attend this $169 seminar, it doesn't mean you will avoid problems. Employment law is not a system for preventing disputes. It's a framework for provoking them, and all employers, even the most saintly, need to know how to navigate the sea of litigation. Hence, the seminar devotes an entire section to these hazards, including a "Step-by-step guide through the civil complaint process," a segment on "Defenses available to the employer," and another on "Practical strategies for handling wage/hour claims."

Regulating Snakes in the Workplace

And even if you become a master of all the wage-and-hour regulation, that would only be a beginning. Congress and the courts have

James Payne's most recent book is Overcoming Welfare: Expecting More from the Poor—And from Ourselves *(Basic Books).*

stepped in to regulate many other aspects of employer-employee relations, including discrimination, medical and maternity leave, and accommodation for disabilities. To help employers grapple with these regulations, the Society for Human Resource Management in Alexandria, Virginia, has established a hot line for employers with personnel questions. According to the *Washington Post*, the hot line receives an average of 300 calls a day and takes nine counselors to handle them.

"Can we fire an employee who just ran over a customer with a forklift?" asked one caller. "Do we have to allow an employee to bring in snakes because his psychiatrist feels it will help him with his phobia?" queried another. One executive called in to ask what they should do about someone who had just died at his desk. The counselor was floored. "Why are you calling me?" she responded. "Call 911." She ruefully noted that in the rule-bound modern context, many employers seem to have lost their ability to deal with problems on their own. "The first thing they think of is not what should I do, but will I be sued," she said.

When legislators first came upon the idea of regulating workplace relationships, did they have any idea where this process would lead? Regulations are like potato chips: no one ever stops at just one. Lawmakers can always see more possible wrongs to right, and the courts will keep interpreting and extending the law, until an entire area of human activity is prescribed in vast detail. Instead of being directed against the few bad apples, the law bears down on everyone. Everyone has to keep records, everyone has to submit to audits and inspections, and everyone has to try to master arcane legal concepts that are but tenuously related to what is right, fair, and sensible.

Surely the day will come when even the regulators, sinking ever deeper into the mire of this vexing, irrational system, will be struck by a shining vision: *Why not just let people use their own judgment?* The results won't be perfect by any means, but could a system based on freedom be so much worse than what we now have? At least we wouldn't have to drag ourselves to stupendously boring seminars in Boise when there are mountains to climb, poems to read, and children to be hugged. □

THE FREEMAN (Ideas On Liberty)

Discrimination by the Numbers: Lies, Damned Lies, and Statistics

by Robert A. Levy

More than a century ago, Justice Oliver Wendell Holmes observed: "For the rational study of the law . . . the man of the future is the man of statistics." Lamentably, our lawmakers learned their lesson only too well. Over the past three decades they have co-opted statistics, stretching its already malleable bounds to create an incoherent legal doctrine under the rubric of "disparate impact."

As codified in the 1991 Civil Rights Act, an employee can make out a prima facie case of race or gender discrimination based on no more than a statistical disparity between the composition of a company's work force and the pool of available workers. To defend itself, the company must then show that the disparity is job related or consistent with business necessity, whatever that may mean. And even if the company can make such a showing, the worker wins if he can demonstrate that the company rejected an alternative practice that would have resulted in a less disparate impact. Nowhere along the way does the employee have to prove that he personally was subject to discriminatory treatment.

To criticize the use of statistics in discrimination law is not to acknowledge that Title VII of the 1964 Civil Rights Act and its progeny are constitutional. Indeed, insofar as those laws are enforced against private-sector employers, they violate freedom of association as guaranteed by our Bill of Rights. Nevertheless, Title VII is the law, so let's examine a few of the problems with "disparate impact" theory.

First, which pool of workers is relevant for comparison? Is it the general population, or job applicants, or only those applicants deemed "qualified"? Should a nationwide pool be considered, or should it be limited to a more narrowly defined geographic area? What about potential applicants who were dissuaded by what they perceive to be a discriminatory hiring practice? The possibilities are nearly limitless—and adjustable to suit the desired outcome.

Conflicting Doctrines

Second, the logic of disparate impact is fundamentally incompatible with the logic of affirmative action; yet the chief use of the former is to justify the latter. Disparate-impact theory tells us that under-representation of a protected group in the work force is presumptive evidence of discrimination. But proponents of affirmative action make exactly the opposite point. They contend that females and minorities will be under-represented even if employers are scrupulously fair. Because of *past* discrimination, disadvantaged groups are

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handicapped at the starting line. Accordingly, so the argument goes, work force composition will be unbalanced even without ongoing discrimination; only preferential programs can level the playing field.

In other words, the upshot of historical prejudice is that women and minorities do not now have a fair shot at job opportunities—regardless of how successful we have been in rooting out recurrent intolerance and bigotry. So a statistical disparity in the employment mix could occur despite nondiscriminatory practices. Of course, that doesn't square with disparate-impact case law, which permits an inference of discrimination whenever there is disproportionate representation in the work force. The two propositions cannot coexist. Either an imbalance in the work force signifies current discrimination (disparate-impact theory) or it reflects vestiges of past discrimination (affirmative-action theory).

That's not all. For statistics to prove discrimination, an apparent association between A (say, race) and B (say, percentage of applicants hired) must be interpreted to mean that *A caused B*. But it is conceivable, perhaps likely, that the relationship between A and B is not causal. Instead, both A and B may be correlated with one or more other factors, which statisticians call confounding variables.

For example, there seems to be a close association between math scores and shoe size. Yet nobody would suggest that big feet enhance mathematical ability, or that math skills cause one's feet to grow. The obvious confounding variable is age. As people grow older, they learn more about math and they wear larger shoes.

Similarly, in assessing the correlation between race and hiring rates, it is essential to control for a long list of factors—education, experience, age, and test scores, just to name some obvious candidates. If those variables are omitted, a disparity in hiring rates may be mistakenly attributed to discrimination in the workplace when the real problem is elsewhere—for example, minorities may more likely come from broken homes or attend poorer schools, both of which contribute to lower scores on standardized tests.

Illusory Discrimination

To illustrate, here's how the omission of a confounding variable, job preference, can lead to an inference of discrimination when there is none. The Equal Employment Opportunity Commission (EEOC) applies this so-called 80 percent rule: if the group of applicants least successful in obtaining a job has a hire rate less than 80 percent of the rate for the most successful group—a measure called the selection ratio—EEOC infers discrimination. Let's assume that 200 of 600 women applicants (33 percent) are hired for two types of job openings; and 350 of 800 men applicants (44 percent) are hired for the same two types. The resultant selection ratio is 33 / 44 or 75 percent, thus suggesting discrimination. But suppose that most of the women applied for the more difficult of the two job types, for which only a quarter of the applicants were hired; while most of the men applied for the easier type, for which half the applicants were hired. The numbers look like this:

	Difficult Job		Easy Job		Total	
	M	F	M	F	M	F
Applied	200	400	600	200	800	600
Hired	50	100	300	100	350	200
% Hired	25	25	50	50	44	33
Selection Ratio		100%		100%		75%

If each type of job is considered separately, precisely the same percentage of men and women was hired. But if the data for the two job types are combined, the female-to-male selection ratio is only 75 percent. Explanation: the particular job sought is a confounding variable; it helps explain the disparate selection rate, but it also correlates with the variable at issue (gender).

Unless the EEOC controls for job preference—say by calculating job-specific selection ratios—it may, in this instance, infer discrimination that is illusory. Of course, if women applied primarily for the easier jobs and men for the more difficult, then failure to control for the confounding variable could lead to an opposite but equally erroneous result—an inference of nondiscrimination despite a discriminatory hiring process.

The symmetry of potential mistakes only further buttresses the case against statistical measures.

A related problem is that multiple explanatory variables may be correlated with one another, in which case the separate effect of the variable at issue—usually gender or race—will not be measurable with precision. Let's say, hypothetically, that the probability of being hired for a particular job is a function of both gender and experience. If those two variables are themselves correlated (say, men tend to have more years on the job), then we will not be able to determine reliably the impact of gender alone.

That leaves us with a dilemma. On one hand we must include in our statistical study all of the variables that could affect the result. Otherwise we could mistakenly attribute disparate impact to discrimination when it was actually due to an omitted variable like experience. But on the other hand, if we include multiple explanatory variables, they will almost always be correlated with one another. And that makes it very difficult to determine whether and to what extent discrimination is the culprit.

Two Different Questions

There's more. Statistical tests are designed to address a question that is totally different from the one a court faces. Given an observed disparity in, say, hiring rates between a sample of men and a sample of women, a court must determine the probability that discrimination is a cause of the disparity. But statistical tests reason in the opposite direction: they assume a nondiscriminatory environment, then assess the probability that a disparity as large as the one observed between men and women could have arisen just because a sample and not the entire population was studied.

While those two issues are related, they are not equivalent. By analogy, presupposing a fair coin, statistics tell us that the chance of two flips in a row coming up heads is one in four. That is not the same as saying that, given two heads in a row, the odds are only one in four that the coin is fair. If we know that quality control is rigorous and counterfeits are systematically removed from circulation, then we have an independent, nonstatistical basis for believing that the coin is fair.

That logical error, says Professor Kingsley R. Browne, pervades the way in which courts think about disparate impact. Browne's insightful 1993 article in the *Washington Law Review* lays out the many objections to statistical proof of discrimination. He describes how courts now reason: "This disparity is very unlikely to have occurred by chance; the result is suspicious and the employer must explain it." More properly, Browne suggests, the court should be reasoning in these terms: "The plaintiff has described statistics that would be true for thousands of nondiscriminating employers; if the plaintiff wants me to suspect discrimination, he better give me a lot more than that."

Put another way, statistics without individualized corroboration are at best prejudicial and very possibly unjust. Consider this example from criminal law: What if the blood type of an accused rapist matches a specimen recovered from the victim? The prosecution establishes that the likelihood of a random match is one in 1,000. Is that strong evidence? It depends on how the accused was selected and whether corroborating evidence established a prior probability of guilt. If the accused met the victim's description, was arrested nearby, then picked out of a lineup, the statistical evidence would be strong confirmation. But if the police had a data bank of blood characteristics and selected the defendant merely because of the forensic match, the evidence would be quite weak. Indeed, 1,000 people in a city of one million would have qualified.

In a nutshell, statistics are not enough. Their purpose is to show whether an observed work-force disparity might simply be due to chance, which statisticians call "sampling error." Conventionally, when that likelihood is 5 percent or less, courts will infer that discrimination, not chance, is the reason. But that inference, by definition, will be wrong 5 percent of the time: sampling error will be the underlying reason in five cases out of every 100. Thus, many innocent employers will be held accountable for discrimination that does not exist. And the defense available to those employers under the 1991 Civil Rights Act—they may show that the disparity is job related—is utterly fruitless. There can be no job-related explanation when the disparity is a statistical artifact.

In the real world, far more than 5 percent of employers are at risk. Statistical disparities can exist for each job, each department, each factory, each geographic region, each time period, and each grouping by race, color, religion, sex, or national origin. What's even worse, the court doesn't deal with a randomly selected profile of employers but with companies that were specifically selected because of an observed work-force imbalance. So the probability that a court will mistakenly infer discrimination is much higher than 5 percent. When plaintiffs and their attorneys are permitted to introduce statistical evidence based on 20/20 hindsight, we should not be surprised that companies are forced to implement quota systems and adopt other class-based practices—the same practices that the anti-discrimination laws were allegedly designed to eradicate.

Whether the problem is using hindsight, mischaracterizing the relevant population, omitting confounding variables, inferring erroneous causation, applying backward logic, excluding corroborating evidence, or disentangling the separate effect of multiple factors, the conclusion is unavoidable. Dependence on statistics alone to prove discrimination is wrong as a matter of justice and ought be prohibited as a matter of law. To rewrite Justice Holmes: *For the rational study of the law, the man of the future is the man who understands how statistics can be misused.* □

"Only by statistics, can the federal government make even a fitful attempt to plan, regulate, control, or reform various industries—or impose central planning and socialization on the entire economic system. If the government received no railroad statistics, for example, how in the world could it even start to regulate railroad rates, finances, and other affairs? How could the government impose price controls if it didn't even know what goods have been sold on the market, and what prices were prevailing? Statistics . . . are the eyes and ears of the interventionists: of the intellectual reformer, the politicians, and the government bureaucrat. Cut off those eyes and ears, destroy those crucial guidelines to knowledge, and the whole threat of government intervention is almost completely eliminated."

—MURRAY N. ROTHBARD

What Is This Thing Called "Sprawl"?

"Urban sprawl" is fast becoming the most important issue among so-called "land use" experts and in many state legislatures as well. If it isn't understood correctly, laws enacted to deal with it are likely to become major threats to both liberty and economic well-being.

One man's trash is another man's treasure, as the old saying goes. This has never been more apparent than with the sprawl issue. "What you call sprawl, I call home," a friend who lives in a suburban subdivision told me recently. Lacking a precise, universally accepted definition, what constitutes sprawl is ultimately in the eye of the beholder.

Holly Madill, a Michigan environmentalist writing in the *Detroit News* last spring, is passionately in the camp of sprawl opponents. She describes it as "the haphazard, unmanaged growth that is replacing our open space and farmland with asphalt and strip malls. . . . It is a threat to many things . . . that we hold dear: forests, wildlife, water, farmland, healthy ecosystems and communities, beautiful scenery and recreational opportunities."

Supporters of this perspective insist we have a crisis. A 1997 report from the American Farmland Trust estimated that the United States is losing about 50 acres an hour to the growth of suburbia and other forms of economic development.

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In contrast, Sam Staley, an Ohio economist, says sprawl is just another name for suburbanization, something that has been going on since the first Puritan settler left downtown Boston to live in the nearby countryside. He describes it as "the ongoing process of families moving outward [from cities] to live . . . in single-family homes," prompting the construction of businesses and schools and a subsequent decline in farmland and open space. But he doesn't see it as an inherent threat to civilization. He writes that it is simply the outcome of voluntary exchange and the use of resources for maximum value.

Are these two perspectives irreconcilable? Not necessarily. In fact, there are signs that people of these disparate views are coming together behind at least one principle. More on that in a moment, after a few important observations.

Debates about sprawl, or suburbanization, offer little but noise and emotion if they are not grounded in certain fundamentals. Like it or not, it results from the voluntary decisions of individuals who believe they will ultimately be better off. That's just as true for the farmer who sells his land as it is for the developer and later the resident who buy it. Depicting sprawl as a "monster" or a "plague on the land" may capture headlines, but it doesn't inform.

Suburbanization represents a significant improvement in the quality of life for those who make the move: larger houses, more land, safer neighborhoods, and better schools. The only real question seems to be, does sprawl harm *other* people or society at large because of pollution, traffic, noise, or even a smaller food supply owing to the shrinking farmland.

Those problems have solutions. Free-market economists have shown that both technology and clear definitions and enforcement of property rights can mitigate pollution. If private enterprise owned the roads, or if government did a better job of pricing their use so that users paid their full cost, traffic problems could be greatly ameliorated too. Pollution and traffic usually plague dense inner cities more than suburbia anyway.

As for food, at the same time that people have been gobbling up cropland with their buildings and roads, agricultural productivity has risen dramatically. Americans fed far fewer people when 90 percent of us lived on farms than we feed today with just 3 percent (or less) of us tilling the soil. And in terms of the amount of work required, food is cheaper than ever. The average family spends much less of its income to feed itself than it pays in taxes to feed the government.

The fear of food's becoming more scarce indicates a misunderstanding of how prices work in free economies. If demand for food goes up at the same time that supply goes down, the inevitable upward pressures on prices would attract both land and profit-seeking people back into agriculture; or it would prompt research on how to obtain higher yields. With so few people producing so much food so cheaply these days, markets are telling us not to worry.

Moreover, economists like Sam Staley point out that it isn't only the "pull" of suburbia's attractions that draw people out of the cities. Quite often, it's the "push" of bad city policies that drives them away. Instead of imposing new restrictions on the suburbs or rural areas, urban sprawl alarmists would do well to encourage American cities to cut their sky-high taxes, deregulate business opportunities, scale back burdensome bureaucracies, reduce crime, and let the market bring choice and competition to poorly performing schools.

These issues are controversial enough to keep both sides in the sprawl debate apart, but the one principle that has great potential to bring them together is this: whatever sprawl is and whether you think it's good or bad, government should not subsidize it.

The unvarnished truth is that, from roads to sewers, government policies artificially stimulate sprawl at the expense of densely populated areas. "The residents of low-density developments pay taxes," Phillip J. Longman wrote in *U. S. News & World Report* in April, "but are rarely charged the full cost of the government services they consume. Instead those costs are usually averaged across a whole region or state, in effect charging the people in the older areas for the costs of sprawl."

Longman cites the example of a sewage treatment plant recently built by the city of Tallahassee, Florida, for an upscale neighborhood. Actual costs were about $4,447 for the mostly black, inner-city neighborhoods nearest the plant, but were $11,443 for the more exclusive area further away. "Despite this nearly $7,000 difference in real cost, all households pay the same price, about $6,000, for sewer connections," Longman wrote. The poor get soaked paying part of the sprawl bill for the wealthy.

Recognizing that government's spending and irrational pricing of its services is a major cause of sprawl, the state of Maryland adopted a bipartisan growth policy. Despite some inherent problems, the law is guided by an important principle: no longer will Maryland use taxpayer money to subsidize growth in rural or suburban areas at the expense of people in the cities. Amen.

Are you concerned about this thing called "urban sprawl"? Fine. Don't start assaulting people's liberty and property. Better to devote your time to getting rid of the policies that drive people away from cities and subsidize the suburbs. □

Terms of Impairment

by George C. Leef

The Americans with Disabilities Act (ADA) was passed by Congress and signed into law by President George Bush in 1990 amid much congratulatory hoopla. "Let the shameful wall of exclusion finally come tumbling down," the President declared. "Every man, woman, and child with a disability can now pass through once-closed doors into a bright new era of equality, independence, and freedom." Like all the other grand, noble exercises in federal utopia-building, the ADA is proving to be a prolific source of examples of the law of unintended consequences. One would almost suspect that a group of crazed free-market economists had dreamed this law up so as to never run out of illustrations of the ways coercive legislation leads to harmful results.

Stories about the litigation the ADA has spawned are legion: a suit by a 350-pound Tennessee woman against a movie theater for not having seats wide enough to accommodate her; a judge who argued that he should not be removed from the bench after being caught shoplifting because he was "disabled" by depression over his daughter's failure to get into law school; a suit by a deaf lifeguard over a YMCA's insistence that all lifeguards be able to hear distress cries. The list goes on and on.

The remarkable vagueness of the law makes it easy for prowling lawyers to concoct federal cases out of rejection, disappointment, or inconvenience. A person has a "disability" if he has a "physical or mental impairment that substantially limits one or more of the major life activities." But what counts as an "impairment"? What is a "major life activity"? What is a "substantial limit"? Laws used to be very precise. You knew whether you had stolen another person's car or not. But with the ADA, the demarcation between lawful activity and unlawful "discrimination" is pure fog.

Fashionable Diagnosis

Among the "impairments" that have become prominent under the ADA is attention-deficit disorder (ADD). This recently "discovered" learning disability can entitle the "sufferer" to special legal status and obligates others to provide special compensatory treatment, known in legal parlance as "accommodation." In the years to come, one of the most uttered phrases in America will be, "You must accommodate me—or else."

Children who have trouble staying focused, following instructions, or playing calmly are said to have ADD. There are no objective symptoms, and everyone who has ever been around children very much knows that at times virtually every child has trouble paying attention to what adults want him to pay attention to. Fortunately, trained experts—child

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psychologists and counselors with the appropriate university degrees and state certificates—are able to diagnose ADD. In fact, parents often ask them to.

Why would a parent want to have his child diagnosed as having a learning disability? The answer is that in the perverse world of the ADA, the special privileges to which you are entitled if you fall into the "protected class" of the disabled give you significant advantages over normal (or, to use the politically correct term, "differently abled") people.

One accommodation to which those with this learning disability are entitled is the right to take crucial exams, such as the Scholastic Assessment Test (SAT), the Law School Admission Test (LSAT), and the Medical College Admission Test (MCAT) under special conditions—in a distraction-free room and with extended time. Taking away the normal, pressure-filled test conditions and replacing them with the congenial conditions of ADA accommodation can make a large difference in performance. Parents know that, and, wanting to maximize the chances of success for their children, some shop around for a specialist who will give the desired diagnosis. The number of exams given under "special circumstances" has risen exponentially ever since the ADA became law.

The Educational Testing Service (ETS) administers the SAT, LSAT, MCAT, and other exams. When students show their ADD papers, they are routinely given the mandatory "accommodation." When their scores are reported to colleges and universities, ETS marks them as "nonstandard administration," which could mean that the test was given in braille, in enlarged print, or, as with those "disabled" with ADD, additional time. More than that ETS does not dare say, for fear that it would be sued if it provided any further information about the exact testing conditions.

Once they have the test results, colleges and universities are careful not to treat the standard ones as any different from the nonstandard ones. To do so would, again, be to invite litigation. The expense and adverse publicity that would come from a suit alleging one of the most heinous of all contemporary offenses—*discrimination against the disabled*—is simply not worth the benefit of being able to assess more fully the capabilities of the various applicants.

The result is that students whose parents were clever and wealthy enough to use the ADA to their advantage by securing a "disability" diagnosis wind up with a substantial advantage over others. The student who was allowed to take, for example, the MCAT without time pressure is more likely to gain admittance into medical school than an otherwise comparable student who took the MCAT normally.

A Legal Leg Up

To the extent that attention-deficit disorder diagnoses are just a scam (and some medical experts argue that the very notion of ADD is quackery), the law is simply giving the unscrupulous a means of getting ahead of everyone else. To the extent that ADD is real and the law is assisting individuals who have a hard time concentrating to get into colleges and professional schools, it is attacking one of the most important functions of market competition, namely, steering people into the kinds of work for which they are best suited. Not even the most vociferous advocate for "the disabled" would be willing to be treated or operated on by a doctor who has difficulty in staying focused.

By short-circuiting the market's tendency to direct people into appropriate work, the ADA increases the likelihood that consumers will suffer at the hands of less-than-competent practitioners. Ordinarily, the slightest chance that something might harm a consumer is enough to send statists into frantic activity. Several years ago, for instance, the federal government banned the use of Alar in apple orchards when it was disclosed that some lab rats developed tumors after being force-fed megadoses of the chemical. The resulting publicity had mothers wondering if it was even safe to dump apple juice down the drain. Sober scientists pointed out that neither the apple juice nor Alar posed even the slightest threat to humans, but their voices were drowned out by the cry, "We must not take chances!"

There is far more likelihood that someone will be harmed by the egalitarians' attack on standards, of which the ADA is an integral part. However, you search in vain for any expression of concern from them that compelling schools to admit lesser-qualified individuals involves taking chances. Evidently, risks brought on by their own feel-good meddling with individual decision-making and the natural order of the world don't count.

Despite the high-blown rhetoric, the ADA is a terrible solution to a virtually nonexistent problem. Most truly handicapped people who wanted to work, attend college, or do anything else were able to do so prior to the enactment of the ADA. They had to adapt to the world, however, pursuing goals that were realistic given their mental and physical limitations. They had to seek out institutions and employers that wanted them, rather than forcing themselves on those that didn't. They naturally steered themselves toward those situations where their handicaps were not handicaps at all, just as people lacking an aptitude for mathematics steer themselves into fields where mathematical ability is not important.

The statists with their mania for group rights, however, can't tolerate that "the handicapped" sometimes have to take "no" for an answer. Rather than trying to help the handicapped to improve their abilities and find the places where they fit in naturally, they take the political path of legislated coercion. Much as we may feel for the disabled individual struggling to make ends meet (and bear in mind that many disabled people succeed very well on their own), it is wrong to use coercion to deprive other people of their freedom to make decisions—their right to say "no." □

THE FREEMAN
Ideas On Liberty

The IMF's Dubious Purpose

by Ian Vásquez

Treasury Secretary Robert Rubin insists that the International Monetary Fund (IMF) is "the right institution" to resolve the Asian crisis and that it deserves an additional $18 billion from U.S. taxpayers. But the burden of proof falls on the Clinton administration, which must explain why the IMF has any credibility either in moving crisis countries toward market reforms or in detecting financial crises in the first place.

IMF bailouts have not prevented Mexico-style crises from occurring or stopped them from spilling over once they've begun. Asia's financial turmoil has instead spread with each IMF intervention. And Indonesia's currency is sinking to record lows even after the IMF arranged a third emergency loan package since last fall. It appears that these developments have not occurred despite the Fund's "aid," but largely because of it.

None of this is too surprising given the Fund's record of creating loan addicts rather than economic success stories. A review of the agency's "short-term" loans is revealing. Through 1998, for example, 19 nations have been using IMF aid for at least 30 years; 31 countries have borrowed from it for at least 20 years; and 36 countries have relied on IMF credit for between ten and 19 years.

IMF bailouts are harmful because they provide money to governments that created the problem to begin with and that have shown themselves reluctant to introduce necessary reforms. After providing billions of dollars to Indonesia, for instance, the Fund pleaded with the former Suharto regime to end certain subsidies and government bailouts of well-connected industries. No wonder few people had confidence that President Suharto and his cronies would undertake the wide range of other necessary economic measures.

Giving money to such governments does not tend to promote market reforms; it tends to delay them because the financial aid takes the pressure off governments to reform. In 1994, for example, Boris Fyodorov, President Boris Yeltsin's former deputy prime minister for finance, warned against further IMF aid to Russia: "The sooner this money is handed over, the sooner we shall see a change in policy—in the wrong direction. I recall how Mikhail Gorbachev, after each new loan, would lose interest in any kind of economic reform."

Rather, a suspension of loans concentrates the minds of policymakers in the affected nations. The reason, after all, there is any talk or movement toward reform in Asia today is not because the IMF has arrived and suggested that policy changes should be made. Economic reality is forcing those changes.

But can't the IMF apply strict conditionality to bailouts? Here again, the Fund has little credibility, and not just because of its record of creating long-term dependency. The problem is institutional. A country—especially a highly visible one—that does not stick to IMF conditions risks having its loans suspended, as

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has repeatedly occurred in Russia over the years. When loans are cut off, recipient governments tend to become more serious about reform. Note that the IMF encourages misbehaving governments to introduce reforms by cutting off its loans. In 1997, for example, Yeltsin responded to the suspension of the IMF's $10 billion credit by naming reform-minded officials to key government posts.

Bureaucratic Incentive

Unfortunately, once the expected policy changes are forthcoming, the IMF feels the need to resume lending. Indeed, the IMF has a bureaucratic incentive to lend. It simply cannot afford to watch countries reform on their own because it would risk revealing the IMF's irrelevance. The resumption of credit merely delays the process of reform, unnecessarily prolonging a country's economic problems. The IMF's bureaucratic incentive to lend is well known by both the Fund and recipient governments, making its conditionality that much less credible.

Can the IMF be expected at least to detect ominous financial developments and offer timely warnings? Rubin and others suggest that the world badly needs better economic surveillance. The Fund, says IMF chief Michael Camdessus, should fill that role. Never mind that the IMF was already charged with that mission and it failed to alert anyone about problems in Mexico, Thailand, South Korea, or Indonesia. Instead, the IMF praised all of those economies right up to the outbreak of crisis.

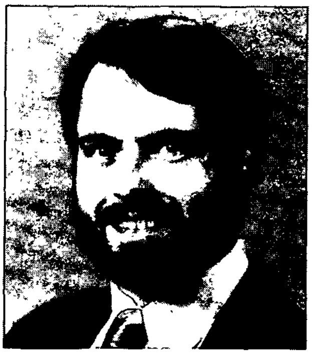
The superficially appealing answer might be that IMF should strengthen its role as a watchdog agency that provides an "early warning" system in case of potential financial troubles. Yet it is unclear how such a mechanism would work. As economist Raymond Mikesell asks, "Who would be warned and when? As soon as the financial community receives a warning that a country is facing financial difficulty, a massive capital outflow is likely to occur, in which case crisis prevention would be out of the question."

Credibility Undermined

On the other hand, if the IMF perceives serious financial difficulties in a country and does not disclose that information, then it undermines its credibility as a credit-rating agency for countries. That appears to have been the case in Thailand, where the IMF now claims to have privately warned Thai officials about the economy before the crisis erupted. The Fund's credibility would be further undercut by inherent conflicts of interest: in many cases, it would be evaluating countries in which it had its own money at stake. Only by ceasing to lend could the agency increase its integrity; at that point, however, its country evaluations would merely replicate a service already available in the market.

As it stands, the IMF is actually undermining the market, which would provide less-expensive solutions to currency crises. Absent the Fund's intervention, creditors and debtors would do what they always do in cases of insolvency or illiquidity—they would renegotiate their debts or enter into bankruptcy procedures. In a world without an IMF, both parties would have an incentive to do so quickly because the alternative, to do nothing, would mean a complete loss. Thus, not only does the Fund discourage rapid policy reform, it hinders a fast and more just resolution of private-sector payments problems.

The IMF is not the correct institution to solve problems in today's increasingly liberal global economy. Dramatically changed world conditions are not making the IMF less relevant than when the agency was founded; they are merely making the Fund's irrelevance—and its potential for harm—much more evident. □



The Folly of Economic Warfare

BELGRADE, YUGOSLAVIA—"What we say goes," was George Bush's famous remark after the Gulf War. That remains American policy, and U.S. policymakers are increasingly using economic sanctions to enforce their will. Burma, Cuba, Iraq, and North Korea are ongoing targets. An odd coalition of religious conservatives and human-rights activists wants to hit China with huge trade barriers. And Washington is threatening to reimpose restrictions on Yugoslavia unless it abandons its crackdown in the province of Kosovo.

But Yugoslavia demonstrates the limits of sanctions. The United States and Western allies isolated the Serb-dominated state during the lengthy Bosnian civil war without effect. They imposed bans on air travel, investment, and trade. But nationalism proved to be more powerful than economics. Only exhaustion and threatened Western military intervention on behalf of the Muslims led to the Dayton Accord and the preservation of a united Bosnia hated by all three resident ethnic groups.

Yugoslavia was once the most advanced nation in Eastern Europe, the state with the freest economy and greatest autonomy from the Soviet Union. In the late 1980s it "was a model of economic development for Eastern Europe," says Slobodan Brkic, a British-trained analyst with the Yugoslav Democratic Party.

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But the economy has since collapsed; the country's industrial production has fallen to 1952 levels. Yugoslavs are poorer even than the Bosnians, who only recently emerged from the horrors of civil war.

Sanctions were only one reason for Yugoslavia's economic implosion—the disintegration of the multi-ethnic state, the effects of war, and the end of the Communist Comecon market were others—but they are an important one. In that sense, they weakened the Yugoslav state.

However, sanctions had no discernible impact on Belgrade's policy.

But sanctions are not merely ineffective; they are usually counterproductive. President Slobodan Milosevic has so far escaped widespread blame for the economic chaos. He's the "Teflon president," explains one American observer. Indeed, sanctions actually strengthened the Milosevic regime. "The government loves sanctions," explains Filip David, editor of the magazine *The Right to Pictures and Words*. Democratic leaders in Yugoslavia, despite often difficult dealings with each other, agree that Western economic controls benefit the oppressive regime and make their opposition more difficult.

Western economic restrictions without doubt enriched those in power. Average people suffered from mass unemployment and underemployment, hyperinflation, and financial chaos, but smuggling and black-market activities provided enormous profits for the well-connected. With sanctions "the gold is everywhere. They control the black market completely," says David. "People become enormously rich." He adds that the people in the regime "don't need a good economy, they need the black market."

The beneficiaries were Milosevic's family and friends, who sent their money abroad, say opposition activists. This economic elite even used the sanctions to justify that conduct, observes David.

Sanctions also concentrated economic power in the hands of the government. Zoran Djindjic, a leading opposition figure, explains that "sanctions lead to centralization of the management of the economy." That obviously strengthens the state. Central control reinforces the people's dependence on the regime. And dependence cripples opposition activities. Djindjic notes that independent businesses and professionals have disappeared. "Our only support is from people who are independent in their businesses" since they are least subject to government pressure, Djindjic says.

Indeed, economic war from the West largely eliminated the indispensable constituency for liberalization: "The middle class is completely destroyed," says David. "It doesn't exist. Professors at universities, doctors can't survive." Brkic goes so far as to argue that "Milosevic's path to power was paved with the destruction of the middle class."

Thus impoverishing people for the actions of their rulers is not just bad moral policy. It is also bad politics. Notes Djindjic, sanctions "damage the democratic opposition." As people are made poor they tend to concentrate on trying to survive rather than on promoting political reform. "All classes of civil society are ruined," he says. Djindjic says that his party has even had to pay for the gasoline of party members so they can attend meetings, since they can't afford to do so.

Finally, and perhaps most important, sanctions have given Milosevic a convenient scapegoat for the impact of his policies—his "continual campaign for a lesser Serbia," as one wag in Kosovo, now under pressure from secessionists, puts it. "Whatever the problem—health, education, etc.—his response was that it resulted from the undeserved sanctions," explains Vesna Pesic, president of the Civic Alliance of Serbia.

Throughout the Bosnian civil war, sanctions helped the Milosevic government rally support. "It seemed unpatriotic to attack Milosevic," explains one American in Belgrade. And now there is "this feeling that he's defending Yugoslavia against outside pressure." Pesic says the sentiment is widespread that "someone is torturing us. They don't want to be Western slaves." Nationalism succeeds because, as Dragoljub Micunovic, president of the Democratic Center Party, observes, "unfortunately, we are not dealing with any kind of rational elements."

Having recently been relieved of the burden of Western sanctions, Yugoslavia is no longer on the economic brink—ten-*Dinar* notes are back in circulation, replacing the ten-billion-*Dinar* notes issued during the hyperinflation of the early 1990s. Belgrade has cracked the door open for a bit of foreign investment, and goods are far more plentiful than they were four or five years ago.

At the same time, democratic currents are stirring: opposition leaders led massive protests that overturned electoral fraud in municipal elections in 1996, and a Milosevic antagonist has won the presidency of the Yugoslav Republic of Montenegro. Police are refusing to serve in Kosovo, and parents are protesting the stationing of their conscript sons in that province. A bloody debacle in Kosovo could spark dramatic change.

Reimposition of sanctions—Western states are currently planning to block new investment and revoke landing rights for JAT, Yugoslavia's national airline—would do more harm to the opposition than to Milosevic. He will appeal to Serbian pride by "saying no to America, to the outside world," says Pesic. "Now the situation is a bit better," worries Djindjic, "but soon it could get worse." Micunovic says new sanctions would "definitely retard the development of anything progressive."

Solutions for Kosovo are hard to come by, but launching a new economic war on Yugoslavia is not one of them. Unfortunately, observes Filip David, "if we are not ready and capable of changing things here, then no one outside can." □

THE FREEMAN (Ideas On Liberty)

Dr. Andrew Ure: Pioneer Free Trader

by John Chodes

In 1846 England became the first major industrial country to end its centuries-old protectionist policies against imports from other nations. This was a revolutionary move. Free trade was much more than an economic policy. It reflected the philosophy of justice and limited government. Breaking down barriers to trade helped break down the barriers of class and the obstacles to civil liberty.

For 85 years free trade reigned as England's national policy, influencing all the commercial nations of the world. Most of the credit for this radical change has gone to Richard Cobden, John Bright, and their Anti-Corn Law League based in Manchester. They spent nearly a decade of zealous effort smashing those outdated trade obstacles.

Yet there was a lesser-known advocate of free trade who made an impact: Dr. Andrew Ure (1778–1857), a lonely pioneer who promoted the great advantages of international free trade and its corollary, unregulated internal industry. Ure was a medical doctor and a chemist. He was also a passionate advocate of the factory system and its new steam-driven machines. This led him to become an important inventor. Textile mills needed a constant temperature to produce uniform goods, but this was difficult to achieve, and so the quality of products fluctuated. Ure patented the thermostat, which automatically regulated the temperature and greatly advanced the standardization of textiles.

In the 1830s Ure wrote two remarkable books, *The Philosophy of Manufactures* (1835) and *The Cotton Manufacture of Great Britain* (1836). His books drew an inescapable conclusion: by repealing protectionism, England would become vastly wealthier, benefiting all her citizens and bettering relations with her European neighbors and the United States. In contrast, protectionism caused antagonisms that often led to war. Aimed at Britain's legislators, the books were filled with charts and data on the industrial productivity of nations, wages, profits, and more. Also included were blueprints of the astonishing new machines that were creating this wealth. Ure's purpose was to make it as easy as possible for Parliament to deregulate commerce.

"Foreign competition should always be permitted, to urge on, like an impelling spring, the movements of our own industry," Ure wrote. "Free trade consists in the entire absence of restrictions of any kind on the export or import of merchandise."

Protectionism, on the other hand, was "necessarily very complex, being entangled with numberless springs and counterchecks." Encouraging one industry, like wool, he believed, put the cotton, silk, and linen manufacturers at a competitive disadvantage. This forced each branch to fight one another in Parliament for government subsidies, regulatory aid, or higher tariffs. Since human intel-

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ligence could never reconcile these opposing interests by government control, justice required that trade be left free until that "liberty be proved dangerous to others."[1]

Free trade benefited working people dramatically by lowering the cost of consumer products. Ure gave a graphic example. When the tariff on printed calicos was repealed, it caused a tremendous celebration in Manchester, the center of the industrial revolution. The two delegates who helped push the repeal bill through Parliament were greeted like heroes with a seven-mile long procession and an inscribed silver cup. "Repeal enables the consumer to get the articles from thirty to forty percent cheaper and females of the lower ranks to clothe themselves in handsome, comfortable dresses," Ure wrote. Repeal also freed business from the espionage of tax collectors who previously could be bribed to steal trade secrets.[2]

Arkwright and Columbus: Voluntary Aid vs. State Grants

Ure greatly admired Richard Arkwright, one of the major early innovators of the industrial revolution. His "water frame" spinning jenny, patented in 1769, was a big step toward the mass production of textiles. Ure saw Arkwright as a revolutionary, another Isaac Newton.

To demonstrate the advantages of the free market over government subsidy, Ure pointed to Arkwright's struggle to invent the water frame and Christopher Columbus's begging for funds from the Spanish throne. "It required a man of Napoleonic nerve and ambition," Ure wrote, to overcome the irregular work habits of the early mill hands and the "prejudice, passion and envy" of his rivals. Ure added that "with the cooperation of two or three spirited citizens, he [Arkwright] advanced with unfaltering energy toward his object, living in affluence and dying in honor." Arkwright, concluded Ure, "has forever affixed his name to a great era in the annals of mankind." Columbus, on the other hand, wasted years pleading with kings before obtaining only paltry equipment for his heroic expedition, Ure said. The explorer's compensation was "disgrace, poverty and prison."[3]

Before Ure's time, most European countries had erected high trade barriers. In the seventeenth century, France's King Louis XIV wished to aggrandize commerce through royal patronage. His minister, Jean Baptiste Colbert, carried out the policy. Ure described the intent of their self-destructive folly: "Colbert's avowed purpose was to render France as much mistress of the civilized world in manufacturing as he thought her to be in military glory." To make France independent of other nations, Colbert subsidized any adventurer who would advance his scheme. Industry flourished first, then withered and died, unable to be sustained by the artificial channels scooped out by the government.

To show the degree of havoc that Colbert generated, Ure produced statistics revealing that France, in the half century between 1787 and 1830, had nearly doubled its population but its gross national product remained static.[4]

Ure saw that the misguided policy of protection created a natural antidote: smuggling. "Governments may, indeed, enact absurd laws, but they cannot compel mankind to obey them," he wrote. "The smuggler becomes the corrector of faulty legislation, and the vindicator of human rights."[5]

Switzerland, the only other free-trade country in Europe, verified this principle by reaping the benefits through a black-market policy by which her people received goods cheaply and then "smuggled them with advantage into the territories of her neighbors."[6]

Protectionists Falsely Charge Business

In the nineteenth century the factories were condemned as "satanic mills." The outside world was informed that the workers labored under dangerous, inhuman conditions and contracted fatal diseases. Mostly this is false. It was the propaganda of threatened aristocrats, who used any tactic, fair or foul, to thwart free-trade legislation. Ure focused on the reason for their falsehoods when he said that the hatred of factories proceeded "more from the envy of one ancient and powerful order of the Commonwealth [the aristocrats] toward another suddenly grown into political importance [the industrialists]."[7]

The famous Sadler Commission was the main source of the fabrications. It conducted hearings in London in 1832 and produced 600 pages of damning testimony against the cotton-mill owners. The data was used by Parliament to enact the first major industrial regulations, which later led to the nationalization of some British industries.

Ure was one of the few who had the courage and insight to see the consequences of the Sadler Commission and publicly state that the charges were lies. "Of 89 witnesses, only 3 came from Manchester, although it is the largest manufacturing town . . . . [O]ne was a convicted rapist. [Another] would not take the oath." When the regulatory bills were debated in Parliament, Ure called them "worthy of the darkest ages."[8]

Countering the Sadler Commission's charge of widespread disease among mill employees, Ure reproduced a letter by E. Carbutt, the physician to the Royal Manchester Infirmary, which stated that most of the doctors who testified before the commission had neither been inside a mill nor examined a factory worker. The doctors attributed scrofula (tuberculosis of the lymph nodes) and cholera epidemics to industrial labor. But this was untrue. Because of the controlled environment of the factories, Carbutt wrote, "the mill workers enjoyed a remarkable immunity."[9]

Misleading Charges of Child-Labor Abuse

The Sadler Commission concentrated its attention on child labor, knowing that the charge of abuse by "heartless capitalists" would provoke such a public outrage that restrictive legislation would be easier to pass. The commission alleged that children were beaten by the factory supervisors or owners as they worked at the "Slubbing Billy," a machine used in wool mills to reduce rolls of wool into a continuous cord. The children were called "pieceners" because they pieced together the porous rolls. Ure pointed out that the pieceners did not work for the factories but rather for independent contractors called "slubbers," or overseers. Moreover, the slubbers were often the fathers of the pieceners. Later, the pieceners' work was automated, eliminating the need for the children and hence the potential for abuse.[10]

The commission claimed that the owners employed mostly children in the "dangerous, disease-ridden" factories; again the charge was an attempt to promote legislation to control private enterprise. And once again, Ure shattered the charge. Using data from an impartial study of 43 major cotton mills in Manchester, he demonstrated that children constituted an insignificant portion of the work force. Only 1.7 percent of mill workers were between 9 and 10 years old; 3.2 percent were 10 to 12. Together this represented a small percent of all those employed. As automation increased, these numbers declined further.[11]

Andrew Ure performed a great service for his countrymen. Though his accomplishments have been widely ignored, it should be noted that one German exile in nineteenth-century London found Ure's work utterly distasteful. None other than Karl Marx chided Ure for his "apotheosis of large-scale industry." □

1. Andrew Ure, *The Philosophy of Manufactures* (London: Charles Knight, 1835), p. 446.
2. Andrew Ure, *The Cotton Manufacture of Great Britain* (Charles Knight, 1836), p. xvi.
3. Ibid., p. 250.
4. *The Philosophy of Manufactures*, p. 459.
5. Ibid., p. 449.
6. *The Cotton Manufacture of Great Britain*, p. xxi.
7. *The Philosophy of Manufactures*, p. 6.
8. Ibid., pp. 291, 297.
9. Quoted in ibid., p. 376.
10. Ibid., p. 179.
11. Ibid., p. 307.

THE FREEMAN
(Ideas On Liberty)

Whose Kids Are They?

by David Boaz

Rereading *The Twelve-Year Sentence* a quarter-century after it was first published is an interesting experience. By many measures it would seem that the time is even more ripe to discuss the problems with compulsory schooling. Not a week goes by without another report on the declining or inadequate quality of the government schools. Polls show that public dissatisfaction continues to grow. Even as the schools fail to teach children reading, writing, and arithmetic, they are expanding their warrant into new areas.

Education theorists explain that we can no longer teach morality in the government schools because not all Americans hold the same moral values. Fair enough. But this turns out to be mere cover for a very different position: that the schools shouldn't teach *traditional* morality, that is, the values of patriotism, free enterprise, sexual restraint, and especially traditional religion. In fact, today's schools—especially in large metropolitan areas and university towns—vigorously push such politically charged moral values as anti-business environmentalism, welfare statism, multiculturalism, anti-racism, anti-sexism, "safe sex," victimology, and faith in big government. The schools have not in fact become value-neutral, as bad as that would be; they have simply changed the particular morality they seek to impose on impressionable young minds. In the mid-1990s, one of the latest educational innovations is to require "community service" for high school graduation. (The advocates have learned to avoid the Orwellian term "mandatory volunteerism.") So the compulsion is compounded; not only are children forced to attend school, ostensibly in order to prepare themselves for the adult world, now they are forced to labor on behalf of others.

The compulsion is also compounded in the 1990s as a result of teachers' apparent inability to make their classes interesting. In the era of the therapeutic state, when children—especially young boys—are bored and restless in class, the solution is to declare them victims of attention-deficit disorder (ADD) and drug them with Ritalin. It makes me think there may be a great deal of wisdom in the words of an experienced teacher profiled on television: "We don't need to get kids ready for school, we need to get schools ready for kids."

Agitation for Change

In response to many of these problems, much agitation for educational change has arisen. Parents in many cities and states have demanded the right to send their children to any school, government or independent, that they choose, without having to pay extra for non-government education. A handful of legislatures have responded with "voucher," or

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"school choice," programs, and more are likely to do so in the near future. Other activists have tried to create more diversity within the government school system, with charter schools, magnet schools, and "public-school choice." For-profit companies have undertaken to run some government schools. An uncertain number of children—perhaps as many as a million—are being educated outside of any formal school, as "homeschooling" has caught the imagination of hundreds of thousands of parents. A movement has even arisen to make education as independent of government as religion is. Sheldon Richman published *Separating School and State: How to Liberate America's Families* in 1994, and about that time (but independently) the Separation of School and State Alliance was created.

But a few problems confront the enthusiast for educational freedom. First, despite all the agitation for reform, the government school system goes merrily on its way, collecting more tax dollars every year even in the face of swelling criticism. Second, few education reformers even think of challenging something as fundamental as compulsory schooling laws. To school critics of 25 years ago, today's reforms would seem like rearranging deck chairs on the *Titanic*. Third, and most disconcertingly, despite all the concerns about declining quality and moral values in the government schools, they continue to enroll about 88 percent of American children, with about 11 percent attending private schools and 1 percent being homeschooled.

Given everything we have heard about the quality of government schools, why do the overwhelming majority of parents continue to send their children to them? Yes, it's true that polls show most people think the nation's schools are bad, but their own are pretty good. (But *why* do they think that?) And yes, people who are taxed to pay for a "free" service have less money available to purchase the service elsewhere. Even so, people who care about their children's education ought to be inclined to sacrifice for it. Instead, the percentage of parents using private schools has remained virtually stable for 30 years.

It seems that advocates of educational freedom—and indeed advocates of education—must do more than criticize the existing system and offer policy reforms. They must exhort parents to exercise their responsibility for their children's well-being. It can't be enough to send one's children to school, or even to move to a suburb with a reputation for good schools. Parents need to investigate whether the local schools are adequately preparing children for adulthood and are well suited to their children's particular needs, and then consider other options if necessary. Along with "talk to your children about drugs," we need public-service campaigns urging parents: "talk to your children about their schools; are they learning anything?"

Prospects for Radical Change

The papers in *The Twelve-Year Sentence* were prepared in 1972 and published in 1974, at the end of a heady decade of political and cultural turmoil. The prospects for radical change, even in such a pillar of the welfare state as compulsory schooling, must have seemed very real at the time. Today, in an era of peace and prosperity, radical change seems unlikely. But events have a way of surprising us, and economic and cultural changes often swamp mere politics. The globalization of the economy has forced new efficiencies on most of our industries, and it may yet demand that American workers and entrepreneurs find a decent education one way or another. Technology is revolutionizing every form of information transfer *except* schooling (and of course the U.S. Postal Service), and it's likely that the schools won't be impervious to change forever. In *School's Out: Hyperlearning, the New Technology, and the End of Education*, Lewis J. Perelman suggests that trying to improve the government school system in the 1990s is like a great national effort to improve horses in the 1890s: it completely misses the revolutionary changes that are going to make schools obsolete in the near future.

Still, there are important philosophical issues at stake in the debate over compulsory schooling that should not be simply ignored as technology and economic change make the laws increasingly irrelevant. There have always been those who regarded children as

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October 1998

Why Honorable People Avoid Politics

Supporters of campaign-finance "reform"—meaning, supporters of greater government financing and central planning of electoral campaigns—routinely lament the fact that politicos must raise large sums of money to run for office. This requirement not only risks making elected officials indebted to the interest groups that fund their campaigns, but it also is said to dissuade honorable people from pursuing political office. Even George Melloan of the *Wall Street Journal* wrote (in the August 4, 1998, edition of that newspaper) that "[s]ome very capable persons who would make admirable public servants are turned off by this requirement" to "spend a great deal of time with begging bowl in hand."

Melloan is wrong.

First and least importantly, describing politicians as public servants is inaccurate. Does anyone really believe that the typical politician seeks office, not to enjoy the fame and career opportunities afforded by elected office, but mainly to help the public? Call me cynical, but I rank such a belief on an intellectual par with belief in levitating swamis and in messages sent from the beyond by Princess Di.

Second, politicians don't beg for money; they sell a service—namely, use of government's coercive power to achieve for interest groups what these groups cannot or will not achieve peacefully on the market. A politician seeking office gets his funds by begging no more than an accountant or an architect gets *his* funds by begging. Like the accountant and architect, the politician offers a *quid pro quo* in exchange for campaign contributions. The difference, of course, is that the *quid pro quo* supplied by the accountant or architect—unlike that supplied by most politicians—isn't a promise to reduce the liberties or confiscate the wealth of innocent third parties.

Third, and very importantly, raising funds is commonplace in reality and not (as proponents of campaign-finance "reform" insinuate) unique to electoral politics. As FEE's president, I raise funds by convincing contributors that monies given to FEE will be used wisely to promote a free society. The same is true for fund-raisers at the Cato Institute, the Reason Foundation, and other free-market organizations. The president of General Motors raises funds whenever his firm borrows money, issues new stock, or sells any of its automobiles. Banks raise funds by offering attractive interest rates to depositors. Novell raises funds by developing and selling software.

In a very real way, the entire commercial society is one immense fund-raising enterprise. The particular *means* of fund raising differ from enterprise to enterprise, just as the specific purposes for which these funds are raised differ from enterprise to enterprise. But everyone who makes a living in the market must persuade others voluntarily to part with some of their money.

Politicians, however, don't make their livings in the market. They are in the coercion business and, as such, are unaccustomed to the voluntary nature of peaceful market relationships. Their salaries are paid out of funds forcibly extracted from taxpayers, and their careers are spent drafting and debating prospective statutes that diminish the freedoms of innocent people.

In general, the kinds of men and women attracted to politics are precisely the kinds of men and women who disdain the reciprocities required for success in the market. Market relationships are inherently coequal: Because I can buy my car from Toyota or Ford, General Motors has no power over me. When I walk into an automobile dealership (or a supermarket, or a department store, or a restaurant, or a bank, or a brokerage firm, or a hardware store, or *any* private firm that enjoys no government privileges) I walk into an establishment that has no power to coerce me. The consequence is that the owners of that establishment treat me with respect, for if they don't, I spend my money elsewhere.

In contrast, I have no real choice but to obey whatever commands are dictated to me by politicians. Any class of people accustomed to issuing commands that are enforced with threats of coercion is a class of people who regard as degrading any need on their part to resort to persuasion rather than force as a means of getting what they want.

The need to raise campaign funds is one of the few areas of a politician's life where he must actually persuade others *voluntarily* to give to him; he cannot (yet) steal these funds. Is it any wonder, then, that many in the political class are attempting to use government to spare them the necessity of hawking for campaign funds?

I am, therefore, unpersuaded by the argument that honorable people are dissuaded from pursuing political office because of the need to raise campaign funds. Again, honorable people raise funds *all the time*. More likely, honorable people steer clear of politics for the following two reasons. The first is that honorable people have no taste for minding other people's business or for living off of the fruits of other people's earnings. Nor do honorable people enjoy the kinds of public attention given to politicians.

H.L. Mencken was exactly correct when he observed that "[t]he typical politician is not only a rascal but also a jackass, so he greatly values the puerile notoriety and adulation that sensible men try to avoid."

The second reason that honorable people avoid politics is that they could not stomach having to utter all that politicians must utter to win office. Judging from modern American practice, successful pursuit and maintenance of political office require the utterance of an unending stream of statements that are silly, vapid, or false. No honorable man or woman would say to an audience of millions "I feel your pain" or "I didn't inhale" or any of the countless other lunacies that spew daily from the mouths of politicians of every party.

Honorable people value their reputations and their integrity too highly to sacrifice these for the dubious distinction of elected office. Again, Mencken saw matters clearly.

> He is willing to embrace any issue, however idiotic, that will get him votes, and he is willing to sacrifice any principle, however sound, that will lose them for him. I do not describe the democratic politician at his inordinate worst; I describe him as he is encountered in the full sunshine of normalcy.

Honorable people avoid political careers not because of the need to raise funds. Rather, honorable people avoid politics because they are revolted by the prospect of behaving indecently.

Don Boudreaux

Donald J. Boudreaux

collective property, to be shaped and molded according to the state's needs. Benjamin Rush, a signer of the Declaration of Independence, is often quoted in this regard: "Let our pupil be taught that he does not belong to himself, but that he is public property. Let him be taught to love his family, but let him be taught at the same time that he must forsake and even forget them when the welfare of his country requires it." German thinkers from Luther to Fichte to the Prussian monarchs developed a theory and practice of compulsory government schooling to serve the state. Horace Mann and other architects of the American compulsory-schooling system were admirers of the Prussian approach.

Today one rarely hears educators being as blunt as Rush, but his theme is still there. In 1981 William H. Seawell, a professor of education at the University of Virginia, told a crowd that "public schools promote civic rather than individual pursuits" and that "each child belongs to the state." A Michigan school district more recently objected to a child's being allowed to "escape" from his own district and attend a government school in a neighboring district.

And the will to power involved in the combination of compulsory schooling and government-run schools may have been summed up by Winnie Mandela, campaigning in 1994 in South Africa's first all-races election. She promised "free and compulsory education" for all, then added, "Parents not sending their children to school will be the first prisoners of the ANC [African National Congress] government." That would be a party-state that took indoctrination seriously.

Needed: A Theory of Children's Rights

Educational libertarians can easily reject the claim that "each child belongs to the state." But neither libertarianism nor any other political philosophy seems to have a well-thought-out theory of children's rights. Few would argue that children have *no* rights, that they can be ignored or abused at will by their parents or by any other party. But on the other hand few would argue that children have the same rights as adults. So for the purposes of our discussion here, there are some crucial questions to be answered. Do children have the right to decide whether to go to school? At what age? If they have such a right, should it require a positive check-off—that is, children go to school *unless* they assert their right not to? And, conversely, do children have a right to be educated? If so, against whom is that right directed? Their parents? The state? And how much education are they entitled to?

A good philosophical case against compulsory education must rest on answers to such questions. Of course, many educational libertarians would point out that a good utilitarian case against compulsory schooling can be constructed without developing a full philosophical case. E. G. West has demonstrated, here and elsewhere, that before public schooling almost all children in Great Britain and the United States were being educated, and surely there is a presumption against state action when the need hasn't been proved. H. George Resch would point to the difficulty of designing an adequate one-size-fits-all education for myriad diverse children. Joel Spring would argue that state education will necessarily serve the state and its ruling elites. Economists would point out the dismal record of monopolies and captive customers compared with competitive markets and consumers who are free to choose. Many educational critics would agree that, theory aside, in practice compulsory schooling has by no means produced universal education. A very practical argument against compulsory schooling for teenagers has been raised recently by the sociologist Jackson Toby: keeping in school students who don't want to be there often leads to disruption and even violence, creating an atmosphere in which even the diligent students find it difficult to learn.

But perhaps the best argument against compulsory schooling is the one raised by Isabel Paterson in *The God of the Machine*, in the form of a question to educators who support compulsion: "Do you think nobody would *willingly* entrust his children to you or pay you for teaching them? Why do you have to extort your fees and collect your pupils by compulsion?" □

The Seen and Unseen in Gun Control

The heinous shootings by young people at public schools around the country have predictably renewed calls for more gun control. Advocates of gun bans commit a classic fallacy that is usually associated with economic policy. But it fully applies to all government policy, including gun control.

In the nineteenth century, the French economist Frederic Bastiat explained that in order to understand the consequences of a policy, you must consider both "what is seen and what is unseen." This was also the "one lesson" taught by Bastiat's intellectual descendant, Henry Hazlitt, in his famous book *Economics in One Lesson.* Hazlitt identified the "persistent tendency of men to see only the immediate effects of a given policy, or its effects only on a special group, and to neglect to inquire what the long-run effects of that policy will be not only on that special group but on all groups. It is the fallacy of overlooking secondary consequences."

The famous case of neglecting the unseen, of course, is the broken shop window. Observers are likely to notice that a glass maker will have new income to spend. They miss that had the glass not been broken, the owner of the window could have spent his money to better his situation rather than merely to restore it. That's the unseen.

If you think this is a seldom-committed fallacy, just read the newspaper after the next hurricane or earthquake. Five'll get you ten that someone will herald the silver lining: reconstruction projects.

If we look at only obvious, primary consequences, we will badly misjudge circumstances and any resulting policy will be bad. That is one problem with gun control.

Unseen Gun Sales

Advocates of gun bans react to a shooting by saying that if the assailant had had no access to firearms, that shooting could not have occurred. Of course, that is true: the shooting required a gun. But this proves much less than the controllers think. It doesn't mean that had the killer not been able to get a gun legally, he couldn't have gotten one at all. Fans of the Brady law, which requires a waiting period and background check for gun buyers, rejoice that tens of thousands of people have had gun applications turned down. (Most were not violent criminals.) But that's not the end of the story. Will a thug who is turned away from a gun shop give up so easily? Or is he apt to go into the black market to buy a firearm? Worse, might he not break into a gun shop or someone's home to steal a gun?

Gun control runs aground on this simple fact: people who would use guns to break laws would also break laws to use guns.

The controllers see the turn-down at the gun counter. They don't see, and therefore they don't take account of, the alternative methods of acquiring firearms.

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Unseen Victims

The failure to look for the unseen does not stop there. After each mass shooting, we hear recited the statistics on how many people are murdered by gunshot each year. The implication is that without guns, the total murder rate would be reduced by that number. We are also reminded of how many accidental shootings occur (the firearms accident rate, however, has been falling), and are led to believe that if legal gun possession were severely restricted, fewer people would die each year from gunshots. Not true.

To be sure, some people who were killed might be alive today. But some who were *not* killed might have been. How so? It might come as a surprise, because it gets no publicity, but people use guns defensively (often without firing them) two and a half million times each year. As John Lott of the University of Chicago Law School points out, this number includes incidents in which mass shootings are prevented or curtailed and in which mothers thwart car-jackings when their children are in the cars.

Writes Lott in the July/August 1998 issue of *The American Enterprise*: "On the surface, [school shootings] seem to present a strong argument for restricting private gun ownership. But the truth is, guns wielded by private citizens have saved lives in such incidents, including some of the recent ones." He reminds us that the shooting spree at a Pearl, Mississippi, school earlier this year might have taken more victims had an assistant principal not retrieved a gun from his car and used it to hold the student assailant until the police appeared. A similar thing happened to end the student shooting incident at Edinboro, Pennsylvania.

The deaths that do *not* occur because lawful people have guns cannot be seen and therefore are not entered in the plus column of the ledger. If guns are banned, lawful people, not criminals, will be denied a key method of using force—in defense of self and others. Thus, more may die at the hands of criminals than do today.

We can demonstrate this negatively with a real incident. Some years ago, George Hennard, Jr., walked into Luby's Cafeteria in Killeen, Texas, and opened fire, killing 23 patrons and wounding 28 others. Suzanne Gratia Hupp was having lunch there with her parents and saw them murdered. It so happens that this woman usually carried a handgun in her purse (which at the time was illegal to do). But on this day, fearing revocation of a recently received occupational license, she left the gun in her car when she and her parents went into the cafeteria. She is convinced that if she had taken the gun with her, she would have stopped the shooter. Her parents, and others, might have been spared. They can be counted among the victims of gun control.

There is still another kind of "unseen" in the issue of gun control. A majority of states has now legalized the concealed carry of handguns for citizens who satisfy a few objective criteria. Formerly, local authorities had wide discretion in granting such permits. Where concealed carry is allowed, it is the criminals who are plagued by the unseen. They can't know who has a gun and who doesn't. This creates a free-rider problem—for the thugs. People who choose *not* to carry firearms nevertheless benefit from the fact that others may and do carry them. Criminals don't typically like to attack dangerous targets. Since criminals can't know in advance who's carrying and who isn't carrying a gun, they have to assume anyone might be—if not the potential victim, then someone nearby. That's how to create safety on the streets.

A world without any guns would not be safer than one in which lawful people were free to own them. Without guns, bigger, stronger thugs would have an advantage over smaller, weaker victims. Women, especially, would suffer. In that world, the unseen would be the victims of fatal beatings and stabbings who would have remained alive had they possessed firearms with which to defend themselves. ☐

THE FREEMAN (Ideas On Liberty)

The Fine Art of Conservation

by Bernie Jackson

Imagine being a fly on the wall in an upscale auction house. You witness a parade of unique, priceless merchandise—items whose value cannot be explained by material usefulness alone. Their value arises from some combination of aesthetics, historical importance, pride of ownership, and a sense that they should be preserved for all to see. You might think such exquisite items must be rationed with care, lest they fall into unappreciative hands. Yet, auction houses merely sell to the highest bidder.

You watch as the bidding begins for an original Picasso. The room is packed, and the bids flow quickly. As the price begins to stabilize, a new bidder joins in. Gradually the others recognize him, and you see their shocked expressions as his identity registers. He is the notorious Mr. Big, a top executive for a giant multinational shoe company. As usual, he is here looking for canvas, an important ingredient for many models of his company's shoes.

With corporate resources at his disposal, Mr. Big easily pushes the price beyond the other participants' means. The others team up, pooling their resources to protect their beloved relic, but Mr. Big's pockets are too deep. When the final gavel falls, the greedy executive makes off with the artwork, which to his perverted mind is nothing more than a patch of useful canvas covered by some annoying paint. He returns to his factory, where he pitches his latest acquisition onto the assembly line. In no time flat, the paint is stripped from the canvas, which becomes 2.7 pairs of shoes.

Absurd? Impossible? Ridiculous? You would think so; but fear of exactly that scenario is what drives governments all over the world to write regulations that attempt to conserve natural resources.

Imagine being a fly on the wall (or on the tree) as a precious tract of beautiful, ecologically valuable forest is put up for sale. This land's true value is tremendous, far beyond its material usefulness. Its value arises from some combination of aesthetics, historical importance, pride of ownership, a sense that it should be preserved for all to see, and—of course—the overriding need to conserve a healthy environment for future generations. All over the world, the biggest fear of government regulators and conventional environmentalists is that precious ecological assets might be sold to the highest bidder, who will lay them to waste. For some reason, such fear is not widely considered absurd, impossible, or ridiculous.

The Price Mechanism

In most areas of life, we rely on a market force called the "price mechanism" to allocate resources. Any raw material or commodity has several uses for which it is uniquely suited, as well as countless incidental uses that could just as easily accommodate other mate-

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rials instead. By selling materials on an open market to the highest bidder, we can rest assured that each material will tend to be allocated to those parties who appreciate it most. The party willing to outbid all others tends to be the party that most understands and values that material's unique qualities.

In the case of fine art, aficionados (and their imitators) are the only group willing to pay dearly for paint-covered canvas. There are plenty of incidental uses for fine artwork: the canvas might be made into shoes, sails, or luggage; the paint might be reclaimed for oil-based products; the wood frame might be burned in a fireplace or made into doorstops; and one can imagine countless other appalling examples. Perhaps more believably, an unappreciative buyer might purchase artwork on a whim, only to neglect and mistreat it after losing interest. While some misfortunes are inevitable, it is really quite remarkable that fine art is routinely conserved for art lovers, without rules and regulations, simply by selling to the highest bidder.

In other areas of life, we see the same amazing system at work. Profit-seeking office-supply makers do not turn precious gold into paper clips. Dollar-hungry car manufacturers do not strip down antique autos for their parts and materials. Greed-motivated electric companies do not burn libraries of historic documents in their generators. There are no regulations preventing these tragedies from occurring, yet capitalists concerned only with the bottom line routinely steer clear of them.

Are these corporate profiteers motivated by a transcendent respect for beauty and rarity? If so, why wouldn't they approach ecological assets the same way? If not, then their alleged tunnel vision will not spell destruction for the ecology any more than it has for these other resources.

Are Ecological Assets Different?

Notwithstanding all of this, we constantly hear tales of modern industrialists devouring priceless ecological assets for profit all over the world. How can this be, if the price mechanism is so effective at conserving and allocating everything else? Is this an example of "market failure," caused by something fundamentally different about ecological values?

We have already noted the sources of value for artistic commodities: a combination of aesthetics, historical importance, pride of ownership, and the desire to preserve them for future generations. All of these sources of value are also present in ecological assets. Plus, a healthy ecology is vital to life itself! That certainly ought to add some value.

There is one important difference, though. Unlike most commodities, ecological assets are highly regulated by many of our world's governments out of fear that markets will not allocate them properly. The typical modern nation's regulatory system allocates precious forests to those who manage to wheedle a permit from the bureaucracy.[1] These wheedlers are granted the right to buy or lease public land, or use it for free.[2] Prices are determined either by fiat or by a sham of a bidding process restricted to a few players or a single industry.[3]

Perhaps our world's governments have *caused* ecological destruction by stifling the open markets that work so well at allocating our other resources. Logging companies and industrialists seek the cheapest resources they can find, whether they are buying canvas, steel, land, or timber. If loggers had to outbid nature lovers, environmentalists, wildlife foundations, ecological research groups, hunters, and quirky billionaires, they would quickly give up on such ecological gems as "old growth" forests, turning instead to less critical lands, renewable tree farming, synthetic materials, and currently unforeseeable innovations.

Unfortunately, the majority of citizens seem to take for granted the price mechanism that functions every day right under their noses. Those who fear market forces frequently object that the rich industrialist will always be able to defeat the price mechanism's laissez-faire allocation strategy; with his deep pockets, he can outbid anyone on any resource. But the question is: why would he want to?

Remember the opening scenario. Even though Mr. Big could afford to buy that Picasso and turn it into 2.7 pairs of shoes, we would be astonished if he actually did so. The more "greedy" we imagine Mr. Big to be, the less we need to worry that he will blow money on such an inflated commodity.

Our species and our planet would be far better off if our ecological assets were sold on an open market—to the highest bidder, period.

Taking It Personally

On a vacation to the California beach town of Cambria some time ago, I encountered the price mechanism in a particularly striking form. While browsing the shelves of a used book store, I found a dingy old school text. It was in reasonably good shape, though dog-eared, yellowed, and dusty. By all physical appearances, it should have cost a few dollars.

It was a reading book for grade school from several decades ago. Being curious about the history of public education, I was intrigued and decided to buy it. Unfortunately, the price turned out to be a bit more than I had expected. The storeowner explained that it was a classic "Dick and Jane" primer, a collector's item worth nearly $100! I decided it was not worth $100 to satisfy my idle curiosity.

Society should be glad that I did not buy that book. In my possession, it would have gathered dust in my closet or been carelessly mistreated. Instead, it will go to someone willing to pay its high price: someone who will treasure it, share it with other enthusiasts, and preserve that bit of history for future generations. The most remarkable part of this story, though, is not merely that the price mechanism peacefully prohibited me from owning an item I was not qualified to care for. More impressive is that this happened at a relatively low price and without a full-blown auction.

I easily could have afforded to pay $100 for that book. After all, I was on a vacation, already paying for a few days of food and lodging, gasoline, and even several hundred dollars for a painting at a local art gallery. Like Mr. Big, I had the cash to buy the collector's item before me. I just didn't want to. To keep scarce commodities away from those who do not appreciate them, prices need not be exorbitant. They need only be high enough that the unappreciative buyer would rather use that money for something else.

In addition, I did not need a room full of competitive bidders to keep the "Dick and Jane" reader away from me. The seller only needed to know that collectors were willing to pay far more than the few dollars I would have offered; knowing that, he could hold out for the higher price. Similarly, in the case of ecological conservation, there need not be a widely attended public auction every time a parcel of land is sold. In fact, an auction may be counterproductive, since the ecological values of those not present will not be reflected in the price. When environmental regulations allocate precious land to predetermined commercial uses, inviting select parties to participate in "competitive bidding," it is not a case of market failure. It is market sabotage.

For the sake of our species and our descendants, we ought to remove our ecological resources from governmental stewardship. Let each individual seller research his market and hold out for a buyer willing to pay dearly. When selling a precious old-growth forest, leave the unregulated seller free to turn away the industrialist, the logger, and the home-builder, who will be happy with cheaper and less remarkable tracts of land. Let him hold out for the nature lovers, environmentalists, hunters, quirky billionaires, wildlife foundations, and ecological research groups. They are uniquely qualified to conserve the land (or to hire those who are), and uniquely motivated to raise serious money for its purchase. ☐

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1. The U.S. Bureau of Land Management's 1997 Annual Report, in a section titled "Blueprint Goal: Serve Current and Future Publics," under the heading "Provide Opportunities for Environmentally Responsible Commercial Activities," states: "The public lands provide myriad opportunities for commercial activities. . . . Currently, BLM administers about 46,000 oil and gas leases, of which 19,650 are producing or producible leases. During the fiscal year, the Bureau processed 2,795 oil and gas applications for permit to drill. . . . The number of active mining claims, down in past years, has stabilized at about 300,000."

2. According to the BLM (ibid.), "Every year thousands of companies apply to the BLM to obtain right-of-way grants to use public lands for roads, pipelines, transmission lines, and communications sites. . . . As of the end of FY 1997, the BLM administered 77,643 rights-of-way grants for electrical transmission lines, communication sites, oil and gas pipelines, and other facilities nationwide and was processing 6,148 right-of-way actions."

3. U.S.C., Title 43, Section 1713d says, "Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary." But in practice, the Secretary can only assess this "fair market value" after arbitrarily allocating the land to a specific legally authorized use and researching prices paid for that usage of similar parcels. This defeats the price mechanism, in which price-setting and allocation are synergistically intertwined.

THE FREEMAN
Ideas On Liberty

Sizing Up Downsizing

by Christopher Lee

Critics of voluntary cooperation through free markets typically describe one aspect of its wealth-creating dynamic as "downsizing." They allege that such adjustments are, on balance, harmful.

The news media, as well as explicit market opponents, use "downsizing" to describe the alleged loss of millions of jobs that have been sacrificed on the altar of corporate greed. According to National Public Radio, the 1980s and 1990s witnessed "massive layoffs" by corporations that pursued short-term profits designed to increase stock values.[1] The condemnation comes from many quarters, even mainstream churches. *The Lutheran* (the publication of the Evangelical Lutheran Church in America), for example, claimed that 43 million jobs were eliminated between 1979 and 1995—and that economic instability has destroyed faith in the American dream.[2]

The job loss has taken its toll on the incomes, health, and spirit of American citizens, according to the critics and media. Last year Reuters reported a Finnish study that asserts downsizing harms employee health.[3] Individual self-confidence is supposedly torn down by the threat of job cuts. Psychologist James Campbell Quick claims that downsizing causes workers to feel mistreated and abandoned.[4] Even *Fortune* magazine used the term "executioners" to describe corporate job-cutters.[5]

But the term "downsizing" is grossly misleading. More important, the social and economic adjustments so described provide tremendous net benefits.

There is an eerie Orwellian flavor to the term "downsizing" that has much more to do with propaganda than truth. Observe, for example, that the Amazon Rain Forest is characterized by tremendous amounts of water evaporation. Indeed, it may be unrivaled in this regard. But it would be seriously misleading to emphasize the evaporation at the expense of the rain, thereby leaving the incorrect impression that one is describing a desert. Bill Gates spends millions of dollars per year. Indeed, he may be unrivaled within the United States in that regard. But it would be seriously misleading to emphasize the spending at the expense of his wealth creation, thereby leaving the incorrect impression that one is describing a net consumer.

One has an ethical duty not to present misleading half-truths. (By the way, Tiger Woods has not beaten me in golf for the last three years.)

The Whole Truth

But presenting half-truths is exactly what critics have been doing. The simple truth is that the free-market economy, on net, creates jobs and has done so since its inception. This has been the case during the 1980s and 1990s,

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the so-called heyday of downsizing. Even in our hampered economy, more jobs are created than cut. This is an *upsizing* economy.

According to Federal Reserve data, 1980 started with total employment at more than 99.8 million. By the beginning of 1985, it had increased to over 106.3 million. On average, job creation exceeded job cuts by almost 1.3 million jobs each year during the 1980–1985 period. By the beginning of 1990, total employment had increased again to over 119 million. From 1985 to 1990, job creation exceeded job elimination by an average of more than 2.5 million per year. By the beginning of 1998 total employment had increased again to over 131 million. From 1990 to 1998, job creation exceeded job elimination by an average of almost 1.5 million jobs per year. Over the entire 1980–1998 period, net job creation was nearly 2 million jobs per year.[6] The economic rain forest is hardly becoming an economic desert!

The U.S. experience contrasts sharply with that of the European Union (EU). During the 25-year period ending with 1995, EU countries added 8.5 million jobs while the United States added 46 million jobs, even though the EU has about one-third more people.[7]

Not only has total employment increased, but the percentage of the population in the work force (those with jobs or actively seeking jobs) has increased, rising from 64 percent in January 1980 to 67.3 percent in January of 1998.[8] The current numbers are all-time records.

Loss of Faith?

Even though the detractors of the market economy claim that workers have lost faith in the American dream, many data present a contrary view. They indicate, for example, that individuals are healthier than ever. According to the Centers for Disease Control and Prevention, 1996 U.S. life expectancy was at its all-time high of 76.1 years. Since life expectancy in 1900 was only 43.7 years, it has increased substantially during this century.[9]

Furthermore, a nationwide poll by *Money* magazine reveals that individuals generally feel more secure about their jobs.[10] Consumer confidence numbers reveal a similar picture. The Conference Board reported that the December 1997 index of consumer confidence jumped to 134.5, a 28-year high. Indeed, consumers should be confident because income has generally increased for all groups of Americans.

We are witnessing the continuing restructuring of the American economy in response to consumer dollar votes. The downsizing in mature industries is what permits growth industries to acquire workers. If downsizing had been prohibited, we would still be using the Pony Express instead of e-mail!

Change characterizes free-market economies. A review of the 1994 *Forbes* 400 reveals that opportunity still characterizes the American economy. Four-fifths of the richest Americans earned rather than inherited their wealth. This represented an increase from three-fifths in 1984. They earned their wealth in technology, retailing, and finance. Those dropped from the list got their money from inherited wealth, real estate, oil and gas, heavy manufacturing, media, and agriculture.[11]

While the people on the *Forbes* list represent spectacular examples of economic success, it is also true that the gains have been spread throughout the American economy. This rising tide indeed has lifted all boats. All income groups, including the poor, have improved their position over time.

Who Are the "Poor"?

It is important to remember that the "poor" is not a fixed group of individuals. Defining the poor as those in the bottom 20 percent in income means that poverty will never be eliminated. There will always be a lowest 20 percent! But this does not mean that those who were previously the poor are still poor. They have generally moved up to higher incomes, and their places have been taken in part by those who were previously in higher income groups. More typically, they are replaced by new entrants into the labor market, essentially young individuals and immigrants.

To understand how the poor fare over time, one needs a longitudinal sample that tracks the success of the same individuals over time; otherwise, one is measuring an ever-changing group. The University of Michigan has collected such a sample, which is the subject of a Federal Reserve Bank of Dallas study.

This study stands in sharp contrast to the view of people who claim that the American dream has been shattered. Over the period 1975 to 1991, the poor did not get poorer; instead, they generally got richer! Only 5 percent of those in the bottom 20 percent in 1975 remained there in 1991. The other 95 percent had moved up the ladder. By 1991 roughly 80 percent of those in the bottom 20 percent in 1975 had moved up to the top 60 percent—middle class or above. Indeed, nearly a third had moved up to the top 20 percent. A poor person in 1975 was six times more likely to be rich in 1991 than still to be poor.[12]

All income groups increased their real purchasing power over the period 1975 to 1991. But the bottom 20 percent had larger gains than the top 20 percent. Measured in 1993 dollars, the "poor" had an average gain in income of $25,322 from 1975 to 1991, while the top 20 percent had an average gain of only $3,974 during the same period. Every group increased its real income, but the poor had much larger increases than the rich.

These findings are confirmed by a separate and independent U.S. Treasury longitudinal sample covering 1979 to 1988. The study found that 86 percent of the individuals in the lowest income group moved up during that period, with 67 percent moving up to the middle class or above. The slightly lower values for the Treasury study are explained by the fact that it covered a shorter period.

Both the Federal Reserve and Treasury studies confirm that a fixed sample of individuals improved their relative income position. Assuming that the free market is allowed to work, there is every reason to believe that the individuals now in the bottom 20 percent will also move up the income ladder. The American dream is indeed alive and well.

Absolute Improvement

But these studies underestimate the gains. Individuals in the 1975 sample improved their position relative to others. But the entire constellation of incomes was shifting upward as well. Thus, most people's purchasing power would have improved in absolute terms even if their relative position had not changed. Using a constant benchmark, such as the living standards prevailing in 1975, we find that 98 percent of the individuals in the bottom 20 percent in 1975 had improved their living standards by 1991! About two-thirds of those in the lowest 20 percent that year had by 1991 achieved a living standard that exceeded what the middle class had in 1975.

Since all income groups have witnessed increases, it follows that today's poorest 20 percent are better off than the poorest 20 percent earlier in our history. Consumption patterns confirm this conclusion. It is widely acknowledged that individuals give priority to life's "necessities" and use additional, discretionary income to purchase less essential items. Food, clothing, and shelter are widely considered essentials. In 1920 the poorest 20 percent used 75 percent of their income to purchase those necessities. By 1950 the income percentage had decreased to 57 percent. And by 1993 that percentage had dropped to 45 percent of total consumption.

This is true even though the homes are larger and have better climate control, the food is more varied and safer, and clothing comes in more variety and in higher quality. That today's poorest individuals spend a smaller percentage of their total income on necessities implies that they are better off than their earlier counterparts. Simply put, if one must be in the poorest 20 percent (or in any other income group for that matter), it is better to be there today than in 1975. These are the good old days!

Growth and Change

The free market's creative restructuring in response to consumer preferences is not properly characterized as "downsizing." Growth and change characterize free markets. It is something of an enigma, to me at least, to see so-called progressive "liberals" propose reactionary policies designed to preserve old modes of exchange and production. Policies that prevent firms from responding to changing consumer wants will serve only to impoverish Americans. The freer an economy, the greater is its average income growth. When government intervenes in the workings of the free market, income growth slows. (See, for example, the Heritage Foundation's *1998 Index of Economic Freedom.*)

The view that the market economy has killed the American dream is simply false. Individuals are healthier than ever. They live longer than ever. More jobs are being created than cut. Individual incomes are rising over time. There is great mobility up the income ladder. The market economy is the greatest institution for social cooperation ever developed. Capitalism has accomplished fantastic feats in spite of the dead weight of government. Imagine what it would do if freed from that burden. □

1 David Molpus, Alex Chadwick, "Downsizing," Morning Edition NPR, November 14, 1997, www.elibrary.com, April 17, 1998.

2. Cheryl Heckler-Feltz, "Broken Promises, Economic Earthquakes Shake American Dream," *The Lutheran*, March 1997, pp. 8–9.

3. Reuters, "Downsizing Threatens Worker Health," October 17, 1997.

4. Nathan Seppa, staff writers, *APA Monitor*, May 1996, www.apa.org, April 17, 1998.

5. Kenneth Labich and Erin M. Davies, "Managing: How to Fire People and Still Sleep at Night," *Fortune*, June 10, 1996, pp. 64ff.

6. St. Louis Federal Reserve, www.stls.frb.org/fred/data.

7. Peter Lynch, "The Upsizing of America," *Wall Street Journal*, September 20, 1996, p. A14.

8. St. Louis Federal Reserve, www.stls.frb.org/fred/data/employ/civpart.

9. U.S. Bureau of the Census, U.S. Life Tables 1890 and 1901–1910, and Centers for Disease Control and Prevention, Vital Statistics Rates in the United States, 1940–1960, cited in MedAccess Corporation Table 27. Data are located at website http://www.medaccess.com/health93/TABLE027.htm.

10. Lesley Alderman and Karen Cheney, "Your Worklife: Here's the Good News about Jobs," *Money* magazine, May 5, 1996, p. 110. The data was obtained at website http://www.elibrary.com/getdoc.cg...burl=http*C*//pathfinder.com/money.

11. W. Michael Cox and Richard Alm, "By Our Own Bootstraps," Federal Reserve Bank of Dallas, *Annual Report*, 1995, pp. 23–23.

12. Ibid., p. 13. Subsequent income data come from this study.

Economics

Demand and Supply

No series on the basic notions of economics can continue long without introducing demand and supply. These concepts, as illustrated with demand and supply curves, are fundamental to how economists understand economic behavior. In particular, with the use of demand and supply curves, I can supplement in concise and powerful ways my previous discussion of the communication, cooperation, and coordination of the marketplace.

The Basics of Demand and Supply

Although a complete discussion of demand and supply curves has to consider a number of complexities and qualifications, the essential notions behind these curves are straightforward. The demand curve is based on the observation that the lower the price of a product, the more of it people will demand. There may be occasional exceptions to this behavior (and indeed economists have developed the theoretical possibility of such an exception), but they are so few and transient that economists refer to the negative relationship between price and quantity demanded as the "law of demand." Because of the law of demand, demand curves (such as D in the figure) are always shown as downward sloping, with the price on the vertical axis and the quantity demanded (over some period) on the horizontal axis.

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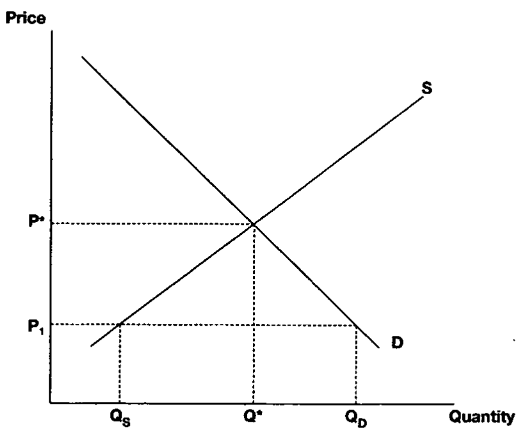
The basic notion behind the supply curve is that the higher the price of a product, the more of it producers will supply. In other words, as with the curve S in the figure, supply curves are upward sloping. A justification for this upward-sloping relationship between price and quantity supplied is that the cost of producing additional units of the product increases as more is produced. So it takes a higher price to motivate additional output. But this is not necessarily the case when there is time for new firms to enter an industry, or for existing firms to expand their plant size. Such long-run adjustments to a higher price can permit more of the product to be made available at the original cost (or even a lower cost), in which case the supply is horizontal (or negatively sloped). But over periods of time that can extend to several months or more, it is reasonable to assume that supply curves slope upward.



Obviously, a lot of things affect the amount of a product that will be demanded and supplied besides its price. But for any set of demand and supply curves, all of these other influences are held constant, since the purpose of the analysis is to allow us to concentrate on the effects of the product's price on the amount demanded and supplied.

Communicating through the Market

The simple diagram here allows us to consider the most important insight from demand and supply analysis, which is how people coordinate their decisions by communicating through market prices.

Assume that we start off with a price for denim jeans given by P_1 in the figure. The most important thing about that price from an economist's perspective is that it fails to coordinate the decisions of suppliers and consumers. At price P_1 suppliers are willing to supply only Q_S pairs of jeans, but consumers want to buy Q_D pairs. Consumers will be frustrated because they are unable to obtain all the jeans they want at the prevailing price, and in response to this frustration they will start bidding up the price of jeans relative to the price of other products. By doing so, they communicate to suppliers that they want more resources devoted to the production of additional jeans because they are worth more than what those resources are currently producing elsewhere. Suppliers respond appropriately to this information by moving up the supply curve, increasing the availability of jeans.

But the increase in price does more than communicate information from consumers to suppliers. It also is the means by which consumers communicate valuable information to one another. As consumers bid up the price of denim jeans, they are telling each other that these jeans are in short supply and that everyone should economize on their use, take better care of the ones they have, use substitute clothing, and so on. And consumers respond appropriately to this information by backing up the demand curve as they reduce the number of jeans they demand. This process continues to increase the price of denim jeans until it reaches P* in the figure, the price determined by the intersection of the demand and supply curves. This price is often called the equilibrium price, because at P* there is no pressure for the price either to increase or decrease. (Our discussion could have started at a price greater than P* and the communication would have taken the form of price decreases.) At P* we can clearly observe the miracle of market communication and cooperation. Millions of people pursuing their private advantages as consumers and producers, with almost no direct knowledge of, or interest in, the concerns and circumstances of others, are led to a completely coordinated pattern of decisions by responding to the information contained in market prices. Each consumer decides to consume an amount perfectly compatible with the amounts that all other consumers are deciding to consume and all producers are deciding to supply.

It's the Process

The equilibrium price, along with the equilibrium quantity Q* in the figure, is typically presented as the most important feature of demand and supply analysis. But seldom do real-world markets ever get to equilibrium. The world is constantly changing, and demand and supply curves constantly shift. Equilibrium is a moving target. The most important insight from demand and supply analysis is that the market process is constantly directing people to accommodate one another in ways that move them toward the coordination represented by equilibrium, and not just for one product, such as denim jeans, but for thousands of products. Things may not stay still long enough for equilibrium to be reached in any market. But freedom and market communication accomplish a pattern of cooperation that can never be duplicated by the coercion of central planning.

One of the best ways to appreciate the coordination and cooperation of market communication is by considering the problems that arise when political authorities censor it with price controls. In my next three columns, I'll use the demand-and-supply framework to examine those problems in detail. □

THE FREEMAN (Ideas On Liberty)

How Big Government Usurped Personal Responsibility

by Peter T. Leeson

Aren't national summits great?

America's foremost academicians, bankers, and mutual fund managers gathered in early June at the government's request to devise new ways to encourage a spend-happy public to save more. While the 240 delegates to the National Summit on Retirement Savings agreed that more savings are needed, they were reluctant to suggest policies that would boost savings. It's always amusing when the government holds these summits. While ostensibly organized to establish why Americans aren't saving enough for their retirement, the gathering was little more than another opportunity for academics to socialize and for the government to look like it cared about the public. In actuality, nothing was said that we didn't already know. The government employs economic advisers who know very well why retirement savings are so puny.

At the summit President Clinton called on employers offering 401(k) retirement plans to automatically include their employees in the program unless specifically told not to do so. While this little gem will surely, as Clinton put it, "affect a very large number of people in getting them into the business of saving for their own retirement," it doesn't quite seem to get to the root of the problem.

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What's Left to Save?

The savings problem begins with a lack of funds to save. An active government is an expensive one, and that's exactly what America has. When federal, state, and local taxes are counted, the government confiscates about 40 percent of America's income. With only 60 percent of their paychecks at their disposal, wage earners have little left to save after Uncle Sam has lined his pockets with their cash.

The second reason people are saving less is the government's inflationary tendencies. As the Federal Reserve erodes the purchasing power of the dollar over time, the money people have stored in their savings accounts loses its value, too. The $100 a family saved in 1980 may only have the purchasing power of $80 today. In order to get the greatest bang for their buck, individuals have the incentive to spend their income as fast as possible. Even under the very modest inflationary pressures we are experiencing now, the fading value of savings creates a strong disincentive to provide for the future.

The third major reason people don't save for retirement is that the government ostensibly does it for them! Prior to Social Security's inception in 1935, people were responsible for providing for their own retirement. There was no federal safety net. Either you saved for your future; your friends, family, or charity supported you; or your future was unpleasant.

When the government entered the picture, it usurped the responsibility of its citizens to save for themselves. Individuals came to rely on big government to provide for retirement income. In fact, they became so dependent that until recently they couldn't even conceive of a system whereby they provided for themselves.

This is where we find ourselves today. Social Security is failing, as it inevitably had to, and the government is getting worried that the safety net's holes might be too big to catch impending retirees.

Now the government is pushing for citizens to go back to the traditional method of providing for retirement—personal savings. But how?

Workers must bear the burden of the failed Social Security program's steep costs. The steadily increasing payroll tax needed to fund the program is like a sack of bricks weighing down every wage earner who wants to save for himself.

Older earners are accustomed to the idea that an active government will provide future income for them. They are reluctant to save for themselves, and resent the fact that much of their income was squandered on Social Security benefits they will never see. Fortunately, many young income earners recognize the Social Security fraud and expect to rely solely on themselves in the future.

While getting Americans once again to accept responsibility for saving for their own futures is no easy task, eliminating Social Security and relieving the taxpayer's burden are steps in the right direction. As Labor Secretary Alexis Herman said, "The message to Americans is be prepared." Now let's provide Americans with the tools they will need.

We can begin by abolishing Social Security. In just 15 years the system will start running deficits, meaning massive tax increases if it is to be saved. Instead of raising taxes, why not simply eliminate the program? Freeing taxpayers from Social Security means allowing them to keep what they would have paid in to the faltering system so that they can provide for a far better retirement.

Budget cuts in any area would be helpful. The more cuts that are made, the more money that is left in the hands of people to save. If given the freedom to do so, many Americans will invest their savings in the stock market. In the long run, stocks provide significantly higher returns than does Social Security and are a more secure form of saving for retirement. Allowing Americans to keep more of their money means giving them control of their futures once again.

No summit is needed to decide what to do. The government knows the appropriate steps as well as you or I. The question is, is the government willing to see its budget and power fall so that Americans can have a secure future? Sadly, I predict no. □

THE FREEMAN
Ideas On Liberty

Gertrude B. Kelly: A Forgotten Feminist

by Wendy McElroy

Contemporary feminism's preoccupation with its collectivist past has served to silence the voices of early individualist women. A perfect example is Dr. Gertrude B. Kelly (1862–1934), whose contributions to women's rights are long forgotten. Like most early individualist feminists, Kelly insisted that individual autonomy and responsibility constituted the building blocks of social order and cooperation, both of which would evolve naturally under conditions of freedom. Whenever a group of people—a government or a labor union, for example—used force to impose its goals on individuals, social order and cooperation ceased. Then the only method by which true society could be reconstructed was to return power to the individual.

A labor radical who was deeply skeptical of unions, a medical doctor who opposed state licensing of medicine, a staunch anti-statist who broke with the most prominent individualist anarchists of her day, an ardent feminist who denied that there were "women's rights" as distinct from "human rights" . . . who was Gertrude B. Kelly, and what specifically did she fight for?

In the opinion of Benjamin Tucker, editor of the pivotal individualist periodical *Liberty*, "Gertrude B. Kelly, . . . by her articles in *Liberty*, has placed herself at a single bound among the finest writers of this or any other country." From her first article in *Liberty* (September 1885) to her bitter split with that same periodical over its debate on egoism versus natural rights (August 1887), Gertrude Kelly was one of Tucker's most dynamic writers and, certainly, its most frequent female contributor. She was also a strong champion of natural law.

In particular, her articles brought a unique perspective on labor and women, for she was one of the few feminists of her time who believed "there is, properly speaking, no *woman question*, as apart from the question of human right and human liberty." She looked forward to a society composed of individuals, in which such secondary characteristics as sex or race had no impact on the equal rights enjoyed by each person. As Kelly phrased it, "The woman's cause is man's—they rise or sink/Together,—dwarfed or god-like—bond or free."

The general cause shared by woman and man was the drive for "universal liberty, equality of rights, individual responsibility" as "the moving principles of societary progress." The specific social injustice on which Kelly focused her considerable energy and insight was what she called "the plight of the working-class."

Concern with Working Women

As a medical doctor who worked in the tenements and as the secretary of the Newark Liberal League, Kelly displayed a special

Wendy McElroy is a contributing editor to The Freeman. *Her latest book is* The Reasonable Woman: A Guide to Intellectual Survival *(Prometheus Books, 1998).*

concern for the debilitating effect of poverty on the laboring woman. Indeed, her first article in *Liberty,* titled "The Root of Prostitution," argued that the inability of women to make an adequate living through respectable forms of labor was the cause of this profession. She wrote: "We find all sorts of schemes for making men moral and women religious, but no scheme which proposes to give woman the fruits of her labor."

The condemnation aired in this article expressed two themes that were common to most of Kelly's analyses of poverty and of women.

First, women had been oppressed by cultural stereotypes created primarily by men. She declared, "Men . . . have always denied to women the opportunity to think; and, if some women have had courage enough to dare public opinion, and insist upon thinking for themselves, they have been so beaten by that most powerful weapon in society's arsenal, ridicule, that it has effectively prevented the great majority from making any attempt to come out of slavery." She leveled this charge equally at the supposedly enlightened men in her own political circle, whom she claimed would "immediately change not only the serious topics of conversation, but change the very tones of their voice" when wives or sisters entered the room.

Second, charitable organizations created by the rich were hypocritical in their attitudes and behavior toward the poor, who needed to become self-sufficient and not to be further victimized by misguided benevolence. She particularly ridiculed the philanthropic groups so popular in her day in which working "girls are given lessons in embroidery, art, science, etc., and are incidentally told of the evils of trade-unions, the immorality of strikes, and of the necessity of being 'satisfied with the condition to which it has pleased God to call them.'"

Like most radical individualists of nineteenth-century America, Kelly viewed "capitalism" as the major cause of poverty and social injustice. This conviction sprang from two other beliefs. First, she accepted a particular version of the erroneous labor theory of value that was espoused by the pathbreaking individualist Josiah Warren: this version is commonly expressed as "cost is the limit of price." Second, she shared the popular radical belief that capitalism was an alliance between business and government, in which the latter guaranteed legal privileges to the rich. In essence, Kelly considered all forms of capitalism to be what contemporary individualists call "state capitalism."

Free Market as Cure

Accordingly, she mistakenly believed that interest, profit, and rent were usuries through which capitalists exploited laborers by usurping the product of their labor. Although it sounds ironic to modern ears, Kelly—along with many other early individualist theorists—considered the free market to be a cure for capitalism. She considered voluntary cooperation, unregulated by anything but the laws of economics and the desires of individuals, to be the solution to this social injustice.

For example, in her article "The Unconscious Evolution of Mutual Banking," Kelly suggested a remedy for the state monopoly of money, which caused the usury of "interest": the establishment of privately controlled currency (or currencies). She exuded, "the free monetary system with its destruction of interest and profit, looms up before us! The exchange of product against product is inaugurated! The social revolution accomplishes itself!"

In other words, to sever the alliance between government and business that constituted capitalism, it was necessary to deny government any power over the economic arrangements of individuals, for "all the laws have no other object than to perpetrate injustice, to support at any price the monopolists in their plunder." In her opinion, a free market in which individual contracts—and not government—set prices would eliminate practices such as charging interest.

But what if she were proven wrong? What if interest and other forms of usury continued to exist within the framework of a free market? Contributors to *Liberty* were clear and consistent on at least one point. Individuals had the absolute right to enter into agreements which *Liberty* contributors considered to be foolish and self-destructive. Any interference into such voluntary contracts constituted the use of force, which was the more primary evil. As Kelly commented, "[W]e realize the labor question can never be solved by force. . . . You cannot shoot down or blow up an economic system, but you can destroy it by ceasing to support it, as soon as you understand where its evils lie." But if a free individual could not be persuaded away from paying interest, then that individual would have to live with the folly of his or her own actions.

It is important to understand Kelly's history in order to fully appreciate her opposition to usuries such as rent and interest. As an immigrant from Ireland in 1873, Gertrude Kelly's introduction to individualistic philosophy was probably through the columns of "Honorius" in *Irish World*—an organ of the Irish No Rent movement. Honorius was, in fact, a pseudonym for the American natural-rights advocate Henry Appleton, who contributed frequently to the early issues of *Liberty*, both under his own name and under the pen name of "X."

Kelly could not have been indifferent to the absentee British landlords whose claims to most of Ireland's fertile soil came from conquest and legal privilege. The exorbitant rent and interest they charged the Irish for use of land and money were a major cause of that country's poverty. On coming to America, Kelly did not seem to think that the differing histories of the two nations required differing economic and political analysis. She applied the same principles to both—principles she had derived partly from reading English classical liberals such as Herbert Spencer and John Stuart Mill, both of whom her articles often quoted.

In articles that displayed a deep breadth of reading that ranged from Proudhon and Godwin to Malthus, Kelly also displayed a level of common sense uncommon among political visionaries. She advised fellow individualists who wanted to pursue dubious reforms to ease the immediate problems of female labor and to educate themselves, instead, by listening to the voices of working women. Reformers with grand schemes should take "lessons from Miss Corson on how to make a neck of beef last a family of six persons for three weeks." Only by understanding the daily realities faced by working women with hungry children could radicals address the needs of this class of labor.

In short, Kelly infused the nineteenth-century individualist dialogue with a refreshing though harsh dose of women's reality, both in her discussion of issues and of events.

The Haymarket Incident

Kelly's insistence on principle linked to common sense helped to anchor radical individualism to the goal of nonviolence, especially when the movement was pressured to respond to violent events of its day. Her influence may be judged by her response to one particular event, which history calls "the Haymarket Incident." In the wake of this event most radicals—including other prominent feminists and some individualists—cried out for blind vengeance against the State. Kelly offered a voice of reason.

On May 4, 1886, a large crowd of laborers assembled in the Haymarket Square of Chicago to protest against recent police brutality. As the meeting began to break up peacefully due to rain, the police hurried the process along. From the sidelines, someone threw a bomb toward the police, who opened fire at the laborers. The shots were returned. In the final count, seven policemen and a number of protesters—estimated to be as high as 20—died.

The police rounded up labor leaders, with no regard to whether they had been involved in the violence or not. Eventually, seven men were tried for murder in a court case that has been generally accepted as a wholesale travesty of justice. For example, the jury was not chosen in the normal manner: a bailiff was instructed to go out into the street and select whomever he wished from the passers-by.

Most feminists responded with shock, outrage, and bitter pain. For example, on reading a newspaper headline stating that the Haymarket protesters (communist anarchists and labor radicals) had thrown a bomb into an assembled crowd, the teenaged individualist-feminist Voltairine de Cleyre had exclaimed aloud, "They ought to be hanged!" She keenly and instantly regretted the words, and assumed the opposite position with equal vehemence. Fourteen years later, de Cleyre remained sorely haunted by her words, "For that ignorant, outrageous, blood-thirsty sentence I shall never forgive myself." Much of de Cleyre's political activity in the ensuing years can be seen as an attempt to expiate her sin. Her most passionate addresses were delivered as lectures at the yearly memorials to the Haymarket martyrs that she attended.

In *Living My Life*, the socialist feminist Emma Goldman described her reaction to the judgment in the Haymarket trial as a result of which five of the men were condemned to death. After becoming hysterical Goldman was put to bed, where she fell into a deep sleep. On awakening, she discovered something new and wonderful within her soul. It was "a great ideal, a burning faith, a determination to dedicate myself to the memory of my martyred comrades, to make their cause my own." She left her newly wed husband and proceeded to New York to prepare for the task that would consume the rest of her life.

Against this backdrop of passionate and profound reaction among feminists, Kelly called for a calm and measured response. She refused to consider retaliation in kind against the state because force could never be an appropriate means by which to achieve social ends. In an appeal for restraint, she wrote, "Oh my brothers! let no blind feelings of revenge against the state and its tools lead you to play into its hands by attempting to meet force with force. . . . Remember that the employment of force leads to the redevelopment of the military spirit, which is totally opposed to the spirit that must exist in the people before anything that we wish for can be brought about."

Over and over again, Kelly stressed education. Individualists had to rely on enlightenment and persuasion because ignorance was their main opponent. Although the content was an essential factor in the process of educating people, the method was equally important. It not only had to be nonviolent, but also privately funded since taxation and the public funding that sprang from taxes were the sort of violence against property known as theft.

The Private Funding of Education

On June 1, 1887, Kelly delivered a remarkable speech titled "State Aid to Science" before the Alumnae Association of the Women's Medical College of the New York Infirmary for Women and Children, at which she had studied. It was remarkable because—at a time when feminists called out for various forms of state assistance to educate women—Kelly addressed the destructive consequences of governmental attempts to promote knowledge. It was also remarkable because Gertrude Kelly was a medical doctor and, as such, she was expected to tolerate, if not to revere outright the institutions that conferred social status on her profession.

Published as an article in *Liberty*, this speech presented two themes: "first, that progress in science is lessened, and ultimately destroyed, by state interference; and, secondly, that even if, through state aid, progress in science could be promoted, the promotion would be at too great an expense of the best interests of the race."

Kelly argued for the impossibility of government's promoting knowledge by pointing out that a subsidy "is not and cannot be aid to Science, but to particular doctrines or dogmas, and that, where this aid is given, it requires almost a revolution to introduce a new idea." Such an arrangement of government patronage creates "a great many big idle queens at the expense of the workers."

But, even granting for the sake of argument that state aid could promote knowledge, Kelly contended that the cost of this promotion would enormously outweigh any advantage. The cost would be the violation of property rights through the taxation that would be necessary to support the government's program. If ordinary people sufficiently valued the service being funded by the state, then tax funding wouldn't be necessary. If they didn't value it, then the government had no right to take money from the worker to finance officially desirable knowledge. "I maintain," Kelly insisted, "that you have no right to decide what is happiness or knowledge for him, any more than you have to decide what religion he must give adherence to. You have no right to take away a single cent of his property without his consent. Woe to the nation that would strive to increase knowledge or happiness at the expense of justice. It will end by not having morality, or happiness, or knowledge."

Using similar logic, Kelly opposed any government attempt to license physicians or regulate medicine because government could not guarantee the safety or quality of medical care. It could only create a quasi-union of medical elites and block progress.

On the state funding of education, as in all issues, Kelly demanded "no compromise" with the principles of individual autonomy and individual responsibility—in short, with the doctrine of individual rights. Indeed, it was her devotion to natural law that led her to depart from *Liberty* when it became a forum for Stirnerite egoism. (For more on the argument between natural law and the egoism of Max Stirner, see my article "The Non-Absurdity of Natural Law," *The Freeman*, February 1998.) Kelly contributed, instead, to the brief journal entitled *Nemesis*, then began to write for the periodical *Alarm* under the editorship of Dyer D. Lum. Her departure from *Liberty* robbed that periodical of an able defender of natural-rights theory and of its most forceful voice for women.

In like manner, Gertrude B. Kelly's absence from the pages of feminist history impoverishes that movement. Disillusioned with the "philosophical individualism" of *Liberty*, Kelly went on to express her principles through action and became the director of a clinic for the poor in the Chelsea district of New York City. As an outlet for writing and theory, she turned to the cause of women's suffrage and of Irish independence, becoming a prominent member of the Irish Women's Council. Ironically, two years after her death in 1934, Mayor Fiorello La Guardia dedicated the "Dr. Gertrude B. Kelly Playground" on 21st Street. □

CAPITAL LETTERS:

Should the State Legislate Labor Unions?

To the Editor:

Lawrence W. Reed, in his May column ("The Freedom Not to Pay for Other People's Politics"), surprised me by writing:

"California voters will go to the polls later this year to decide on a Beck-inspired referendum. [The measure, Proposition 226, was defeated in June.-Ed.] If it passes, unions in that state could no longer collect or use money from employees for political purposes without express permission. Millions of dollars will be spent by both sides over the exercise of a right that ought to be a given in the land of the free and the home of the brave."

Is Reed really advocating that the state legislate labor union policy? While I do not like how some labor unions (e.g., the teachers unions) collect funds to lobby for causes I find destructive, I do not want the government dictating how labor unions are run. Whether the union is for employees of a government monopoly should not affect my position, either.

I believe Reed's position is not the true free-market libertarian position. Am I mistaken?

—BRIAN SCHWARTZ
Palo Alto, California

Lawrence Reed replies:

Government is already deeply involved in legislating labor relations, and much of what it has done in this area has been destructive. It should never have granted labor unions the power by simple majority vote to impose collective bargaining on all workers at a site, for instance. Nor should government have given labor unions the power to forcibly extract dues money from unwilling members and then spend some of it on political causes that those very members oppose.

Now that government has done those things, would Mr. Schwartz advocate that it walk away from the playing field and pretend that doing so is some kind of "laissez-faire" approach? Why not get the government to undo some of the harm it has already done—for instance, by stripping the unions of the coercive power to extract political contributions? To do any less would be to validate and perpetuate past intrusions of government.

When the government grants special favors to special interests to employ legalized coercion for political purposes, that's neither "free-market" nor libertarian. When we can get the government to withdraw the coercive privilege that it should never have granted in the first place—which is what my column advocated—then we are moving in a free-market, libertarian direction.

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

THE FREEMAN (Ideas On Liberty)
OCTOBER 1998

A Golden Comeback, Part II

"Gold maintains its purchasing power over long periods of time, for example, half-century intervals."
—ROY JASTRAM, *The Golden Constant*[1]

In last month's column, I focused on gold's inherent stability as a monetary numeraire. Historically, the monetary base under gold has neither declined nor increased too rapidly. In short, it has operated very closely to a monetarist rule.

What about gold as an inflation hedge? In this column, I discuss the work of Roy Jastram and others who have demonstrated the relative stability of gold in terms of its purchasing power—its ability to maintain value and purchasing power over goods and services over the long run. But the emphasis must be placed on the "long run." In the short run, gold's value depends a great deal on the rate of inflation and therefore often fails to live up to its reputation as an inflation hedge.

The classic study on the purchasing power of gold is *The Golden Constant: The English and American Experience*, 1560–1976, by Roy W. Jastram, late professor of business at the University of California, Berkeley. The book, now out of print, examines gold as an inflation and deflation hedge over a span of 400 years.

Two Amazing Graphs

The accompanying two charts are from Jastram's book and updated through 1997 by the American Institute for Economic Research in Great Barrington, Massachusetts. They tell a powerful story:

First, gold always returns to its full purchasing power, although it may take a long time to do so; and

Second, the price of gold became more volatile as the world moved to a fiat money standard beginning in the 1930s. Note how gold has moved up and down sharply as the pound and the dollar have lost purchasing power since going off the gold standard.

In my economics classes and at investment conferences, I demonstrate the long-term value of gold by holding up a $20 St. Gaudens double-eagle gold coin. Prior to 1933, Americans carried this coin in their pockets as money. Back then, they could buy a tailor-made suit for one double eagle, or $20. Today this same coin—which is worth between $400 and $600, depending on its rarity and condition—could buy the same tailor-made suit. Of

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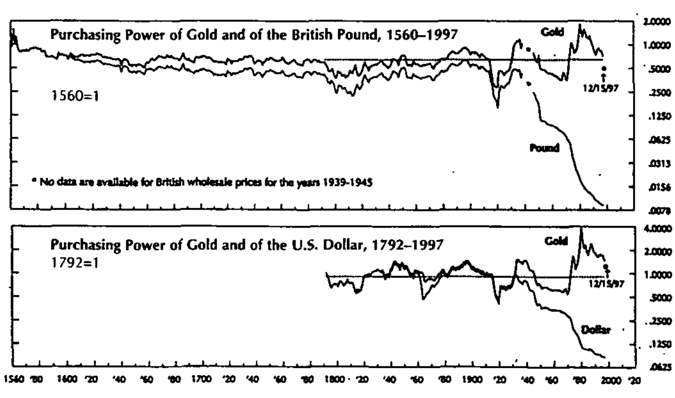


Courtesy the American Institute for Economic Research

course, the double-eagle coin has numismatic, or rarity, value. A one-ounce gold-bullion coin, without numismatic value, is worth only around $300 today. Gold has risen substantially in dollar terms but has not done as well as numismatic U.S. coins.

Gold as an Inflation Hedge

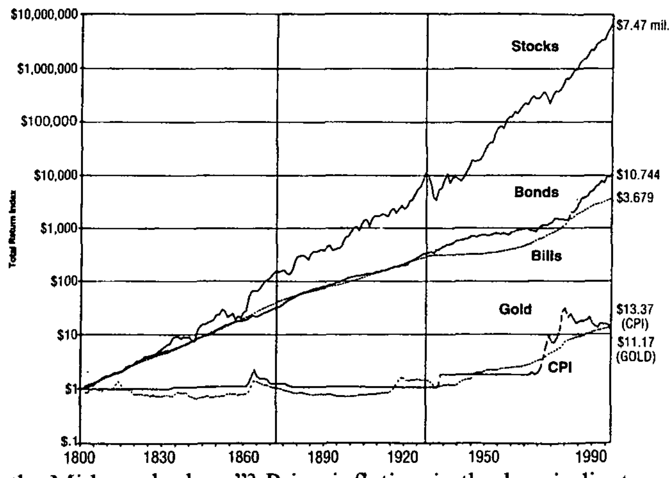
The price of gold bullion was over $800 an ounce in 1980 and has steadily declined in value for nearly two decades. Does that mean it's not a good inflation hedge? Indeed, the record shows that when the inflation rate is steady or declining, gold has been a poor hedge. The yellow metal (and mining shares) typically responds best to accelerating inflation. Over the long run, the Midas metal has held its own, but should not be deemed an ideal or perfect hedge. In fact, U.S. stocks have proven to be much profitable than gold as an investment.

The work of Jeremy Siegel, professor of finance at the Wharton School of the University of Pennsylvania, has demonstrated that U.S. stocks have far outperformed gold over the past two centuries. Like Jastram, Siegel confirms gold's long-term stability. Yet gold can't hold a candle to the stock market's performance. As the chart, taken from his book, *Stocks for the Long Term*, shows, stocks have far outperformed bonds, T-bills, and gold. Why? Because stocks represent higher economic growth and productivity over the long run. Stocks have risen sharply in the twentieth century because of a dramatic rise in the standard of living and America's free-enterprise system.

One final note: Stocks tend to do poorly and gold shines when price inflation accelerates. As Siegel states, "Stocks turn out to be great long-term hedges against inflation even though they are often poor short-term hedges."[2] Price inflation is the key indicator: When the rate of inflation moves back up, watch out. Stocks could flounder and gold will come back to life. In my next column, I'll discuss the ability of gold to predict inflation and interest rates. □

FIGURE 1-1

Total Nominal Return Indexes, 1802–1997



1. Roy W. Jastram, *The Golden Constant: The English and American Experience, 1560–1976* (New York: Wiley & Sons, 1977), p. 132.

2. Jeremy J. Siegel, *Stocks for the Long Run: A Guide to Selecting Markets for Long-Term Growth* (Burr Ridge, Ill.: Irwin, 1994), pp. 11–12.

BOOKS

Conquests and Cultures

by Thomas Sowell

Basic Books • 1998 • 493 pages • $35.00

Reviewed by George C. Leef

Conquests and Cultures is the final book in Thomas Sowell's trilogy exploring the formation and importance of human culture. The earlier volumes were *Race and Culture* (1994) and *Migrations and Cultures* (1996). With this volume, Sowell brings this great project to its conclusion. The book is superb, and the trilogy a monumental achievement.

Sowell's topic here is the impact of conquest on culture. "Cultures," he writes, "are not museum pieces. They are the working machinery of everyday life." For better or for worse, they change over time and conquest is one of the prime agents of change. Although he refrains from making any direct attack on the trendy idea that all cultures are equal and ought to be "celebrated," Sowell's work is a crushing refutation of that notion. As we have come to expect from him, Sowell is interested in a dispassionate, scientific examination of culture, not in jousts with his caterwauling detractors.

The book focuses on four groups—the British, the Africans, the Slavs, and the American Indians. Rather than moralizing about the evils of conquest, which is a worldwide phenomenon not specific to any race or culture, Sowell examines its effects. Subjugation is rarely beneficial to people in the short run, but in the long run, it can have and frequently has had a positive impact on them, by bringing them into contact with cultures more conducive to progress.

The Britons are a fascinating case study. Invading Roman legions subdued the fierce but technologically and organizationally backward Celtic tribes they encountered, and for more than three centuries, England was an outpost of the Roman Empire. The people were denied "self-determination" in that they were ruled from Rome, but they also received a large infusion of Roman culture. This led to the founding of cities (Churchill remarked, "The Romans gave us London."), heated buildings, improved agriculture, and a legal system that facilitated commerce. Unfortunately, these advantages were not rooted deeply enough to remain in the culture after the Romans left, but Roman culture made life a little less Hobbesian while it was dominant.

The modern British nation-state would, of course, become the pre-eminent practitioner of colonization, and Sowell's analysis of the effects of British (and other European) colonial rule runs counter to the conventional wisdom. Colonies were not generally profitable, absorbing much more wealth than they produced and requiring large subsidies from the controlling nation's taxpayers. In other words, colonies were typical government boondoggles. But the key point is the transmission of culture, and Sowell argues that the impact of Western civilization on native peoples was largely, although certainly not entirely, beneficial.

Literally lifesaving was the determined anti-slavery stand of the British government. Most slaves were captured and sold by other Africans, who had been doing that since time out of mind and saw nothing wrong in it. The British, having widely if incompletely accepted the Lockean philosophy of individual liberty, attacked the slave trade and eventually slavery itself. We might say that they were "imposing their values," to echo a popular leftist complaint, but if it had not been for this cultural clash, slavery would have lasted much longer than it did. (Sowell notes that there are still pockets of slavery in Africa to this day.)

Another cliché among the American chattering class is that the European discovery of the Western hemisphere was an unmitigated disaster for the native peoples. Columbus Day is now an occasion for mourning and self-flagellation. But, Sowell points out, there were benefits as well as costs. Diseases that ravaged the natives were spread by whites—ruthless conquistador and benevolent missionary alike—but so was the ability to combat all disease. Liquor led to much drunkenness, but European manufactured goods, such as cloth, were superior to the products the Indians could produce themselves, and they gladly traded to get them. There certainly was inexcusable brutality against the Indians, but, given the degree of brutality that had existed among Indians for centuries, establishing the Western idea of the rule of law undoubtedly reduced the prevalence of violence in the long run.

The fact that cultural contact gave some benefits to the Indians is no justification for forced resettlements, reneging on treaties, or massacres. Sowell makes no such argument. He merely observes that history is a very mixed bag of causes and effects.

What makes *Conquests and Cultures*, and indeed all of Sowell's books, so valuable is his dogged insistence on looking at things the way they really are. Intellectual fashions and emotions are not his concern; facts are. Years ago, when a critic accused him of being indifferent to the poor, he remarked, "Before one can be a partisan of the poor, he must first be a partisan of the truth." That is the best reason to read the "culture" trilogy—its relentless pursuit of the truth, no matter whom it offends. ☐

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The Book of Heroes: Great Men and Women in American History

by George Roche, with Lissa Roche

Regnery Publishing, Inc. • 1998 • 239 pages • $24.95

Reviewed by Burton Folsom

George Roche, the president of Hillsdale College, and his daughter-in-law, Lissa Roche, have crafted *The Book of Heroes,* which includes biographies of George Washington, Daniel Boone, Louisa May Alcott, George Washington Carver, Robert E. Lee, and Andrew Carnegie. These six biographical sketches, about 40 pages each, are fascinating life stories of courage, perseverance, and achievement.

The Roches' target audience is high-school students, but I learned from this book and other adults will, too. It is well written and the stories are dramatic and uplifting.

Some will think it odd that George Roche—college president, history Ph.D., and expert on Frederic Bastiat and on trends in higher education—is writing biographies for high-school students. But this book goes to the core of our national debate on what to teach and how best to teach it. Education is not merely the accumulation of facts. It also includes training in values and morality—what is right and wrong, and how to do what is right when the pressure is on.

Our Western ancestors, the ancient Greeks and Romans, took moral training seriously. They concluded that well-chosen stories were the best way to teach right and wrong—and also the best way to instill wisdom and courage, so that their young people would have the will to keep their societies strong, just, and prosperous. *The Iliad* and "Horatius at the Bridge" are two examples of stories that modeled courage, loyalty, and wisdom for youths in the ancient world. Jesus, in spreading the gospel message, also chose stories and parables to illustrate his teaching.

In the United States, for much of our history, we have followed the Greek and Roman pattern. The *New England Primer* and especially *McGuffey's Readers* helped train generations of children with stories of how people under pressure acted with courage and virtue.

Public education in the last 30 years has failed, in part at least, because it has removed moral training through storytelling. Here is where *The Book of Heroes* comes in. By telling the stories of six American heroes, Roche shows us how men and women of character handle pressure and deal with the challenges of life that all of us face.

In today's classroom, many high school students learn "situation ethics." Here the students are asked, as a case in point, if a general should steal food to help his starving army. There is no real story here, only a problem to manipulate. Roche, by contrast, tells the story of George Washington, who had a starving army at Valley Forge, and a suggestion from Congress that he steal food from the Pennsylvania farmers nearby. Washington, Roche points out, "refused, pointing out that it was this kind of abuse of power that had led the colonists to revolt in the first place." Washington led by example, inspired his troops, and they followed his direction—in part because they saw his high character and the quality of his commitment to the army and to the new nation.

No classroom discussion of a hypothetical general contemplating theft to satisfy his army's hunger can substitute for a real-life general who sacrificed his wants—and those of his army—for the larger cause of freedom with honor.

None of Roche's heroes had comfortable lives or easy decisions to make in pursuing their careers. Louisa May Alcott, a graceful writer, and George Washington Carver, a determined scientist, had to overcome obstacles against women and blacks, respectively. Robert E. Lee and Daniel Boone displayed character and courage during wartime. Andrew Carnegie, an impoverished immigrant, made a series of fascinating choices in life that led him to become the largest steel producer in the world.

The Book of Heroes is more than a collection of interesting biographies. It is an outstanding teaching tool. It provides training in virtue, models to imitate, and dramatic stories to capture the minds of readers young and old. □

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Law and Disorder in Cyberspace

by Peter W. Huber

Oxford University Press • 1997 • 288 pages • $30.00

Reviewed by Solveig Singleton

The subtitle of Peter Huber's *Law and Disorder in Cyberspace* proudly proclaims the book's main theme: "Abolish the FCC and Let Common Law Rule the Telecosm." Huber proposes a free-market revolution for telephone, broadcasting, cable television, satellite, and Internet services, tempered with a few compromises. The book is well worth reading, particularly for his dramatic conclusion—that the Constitution has failed.

Huber begins by telling the story of the telephone and radio, showing how regulatory theory became a self-fulfilling prophecy of monopoly for phone markets and "scarcity" of the airwaves for broadcasters. Then cable television, satellite, and wireless telephony brought competition to shatter the old regulatory paradigms. "The broadcasters," he says, "were taken aback, much as someone humming in the bath would be taken aback to be suddenly joined by the massed choirs of the Russian Army." Regulators often treated new technology as an enemy of the "public interest" they were charged with preserving.

In the core of the book, Huber analyzes the problems facing regulators today—price regulation, universal service subsidies for rural and low-income consumers, and the duties of the common carriers. Finally, he considers content regulation, from copyright to privacy.

As he traces this tale of regulatory wrongs in compressed but readable fashion, Huber offers an alternative to bureaucratic control. The FCC, he argues, should be abolished. The airwaves should be sold to private owners. Interference should be a boundary issue to be resolved by common-law courts. Common-law rules should supplant regulation in every sector of the telecommunications industry. Price regulation should be abandoned. Universal service subsidies are incompatible with competition, and are futile in any case, since, Huber concludes, "telecom technology is advancing much faster than the Commission can make policy. . . . And, most important, unleashing free markets will deliver more goods to more consumers."

But how free would the markets that Huber envisions be? Not entirely. In Huber's view, antitrust law is part of the "common law." Thus, any telecommunications carrier would be subject to the guiding hand of the Department of Justice. This recalls the days when the Bell companies, the local phone companies formed after the breakup of AT&T in 1984, needed a judge's approval for new ventures—leading to delays of months or years—under the consent decree negotiated between AT&T and the DOJ. For Huber, antitrust scrutiny by courts is preferable to the FCC regulation.

Huber's view of antitrust squarely presents the old problem (for classical liberals) of whether markets should be defined by common law or by more pure theories of exclusive property rights. Common law, especially as broadened and twisted by statute, can subvert markets, but Huber does not address this problem. The economic and philosophical case for antitrust, however, is weak.

Huber agrees that common law is "uncertain," but believes that the cautious case-by-case proceedings of judges is preferable to bureaucratic regulation. Cable companies, whose rates were regulated in the '70s, deregulated in 1984, reregulated in 1992, deregulated again in 1996, and now which are threatened with further regulation by the FCC, would probably agree.

In Huber's discussion of content controls, he argues that the problem of censorship will be solved by giving audiences more technical control over what they view. He explains that a consenting audience cannot complain about content they have agreed to receive. This conclusion is too optimistic. People *do* complain bitterly about content they have consented to view—and legislators listen. Even the courts rationalize censorship by saying that broadcasters (for example) *invade* our homes with their programming, though common sense protests that turning a radio or television set on is an invitation to the broadcast content. Government power over media content will be defeated by the sheer amount of content that can now be carried point-to-point or broadcast.

This leads us to Huber's astounding and saddening conclusion. We must, he believes, put our trust in a common-law "people's constitution," because the Constitution has failed. With respect to telecommunications law, he is correct. The Constitution has done little to check the FCC's growing power and broad discretion over the years. As Huber probably understands but does not say, technology has done more, far more, to erode the power of government. The battle now is to preserve the common-law framework that permits innovation to continue. Innovation is our best hope for defeating the government's efforts to control the telecommunications market. □

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The Arc of the Pendulum: A Philosophy for Government in the 21st Century

by Charles Stewart Goodwin

University Press of America • 1996 • 190 pages • $54.00 cloth; $34.00 paperback

Reviewed by Randall G. Holcombe

In *The Arc of the Pendulum*, Charles Stewart Goodwin advocates moving government power from the national to the local level and narrowing the scope of government at all levels. He calls this philosophy antifederalism, after the philosophy of those who opposed ratification of the U.S. Constitution on grounds that the central government would be too powerful. (It is ironic, of course, that the call for a weak central government and relatively stronger state and local governments was labeled "antifederalism.") Goodwin identifies Thomas Jefferson as the intellectual father of antifederalism, and credits Andrew Jackson for articulating a vision of the philosophy that can be carried forward into the 21st century. Yet, Goodwin's antifederalism deviates sharply from the Jeffersonian vision and beyond a doubt, Jefferson himself would be appalled at the broad scope of activities that Goodwin would leave to government.

Goodwin envisions local republics of about 2,000 to 3,000 persons as the main units of government. They would constitute a confederation and would create towns, counties, and states. But the federal government would still have plenty to do. It would administer a national energy policy, engage in some economic planning, and, though he says Social Security will be privatized, aid the elderly and indigent. Goodwin never clearly delineates a philosophical basis for deciding what government should or should not do or what functions belong at what levels of government. His policy recommendations are marked with an overwhelming number of seeming inconsistencies.

Three chapters are devoted to specific examples of how his antifederalist ideas could be put into action. The first applies antifederalism to education. He calls for local control rather than federal involvement, but offers no real suggestions for implementation; nor, tellingly, does he question the case for government improvement in education at all. By his own admission, he raises more questions than he answers.

Goodwin's second example is taxation. Ironically, the chapter is devoted almost entirely to an analysis of federal taxes, even though local governments would require more revenue if Goodwin's antifederalism were realized. Where would they get it, especially since the federal and state governments are currently their largest source of funds?

Entitlements are the third example. Goodwin argues that the federal government has overcommitted itself and advocates devolution of entitlement programs to local governments. At the same time, however, he wants to retain a substantial federal program of entitlements. He evidently is not convinced of his own antifederalist case. Readers may question whether this recommendation is even remotely consistent with Jeffersonianism.

Goodwin cites the Americans With Disabilities Act (ADA) as an example of misguided federal policy, illustrating its side effects and noting its "crushing financial burdens." But is it inconsistent with the role of the federal government under his antifederalist philosophy? He says government should act to protect individual rights, but proponents of the ADA will argue that it does precisely that. Goodwin's philosophy provides no clear way to answer that claim.

Goodwin's book has interesting ideas scattered throughout, but ultimately it has too many inconsistencies and irrelevant detours to make a solid case for 21st-century antifederalism. This is a shame, because a strong argument for a true "antifederalism" can and should be made. If the role of the federal government were reduced, and the scope of other government narrowed to mere order-keeping functions, the common interest would be served and factionalism would be eliminated. This would foster the idealism and voluntarism that Goodwin says we need.

Ultimately, however, another problem lurks. Our current system of government is a product of the political process, and even the limited changes Goodwin advocates would require a substantial restructuring of American politics. He never discusses any concrete institutional changes that would be necessary to realize his vision.

Goodwin's ideas rest on a solid antifederalist foundation, but his often vague and inconsistent arguments create a philosophical superstructure much less substantial than the foundation on which it rests. □

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Energy: Ending the Never-Ending Crisis

by Paul Ballonoff

Cato Institute • 1997 • 125 pages • $18.95 cloth; $9.95 paperback

Reviewed by Jerry Ellig

This highly readable book undermines both the economic and constitutional rationales for federal regulation of energy markets. The truly amazing thing is the sheer amount of information the author packs into 125 pages.

The economics of energy regulation take up just a little more than half of the book, but Paul Ballonoff, an attorney and president of a consulting firm that specializes in energy issues, covers a wide range of free-market scholarship that supports his position. For the past 100 years, U.S. energy firms have been regulated for two conflicting reasons: to prevent monopolists from charging too much, and to prevent excessive use of fossil fuels whose prices are supposedly too low. Ballonoff presents arguments and evidence that attack both assumptions.

In the petroleum industry, for example, there is virtually no evidence of monopoly by any measure. The industry does not fit the static model of perfect competition found in economics textbooks, because some firms do seem to enjoy superior profit margins. But such profits, Ballonoff argues, are a sign of dynamic competition; firms that are especially skillful at locating or producing oil tend to earn superior returns as a reward.

Nor do doomsayers' common assertions that we are running out of fossil fuels hold up to scrutiny. The real, economic limit to fuel supplies is not the amount in the ground, but the human know-how employed in finding, producing, and using oil, gas, coal, and other fuels.

"Each advance in computer processing capability," Ballonoff argues, "causes the supply curves for petroleum exploration, development, and production to fall by a noticeable percentage." Productivity figures support this assertion. Between 1970 and 1990, for example, the number of barrels of oil found per foot of well drilled doubled! Even falling reserves are not evidence that we are running out of oil, because new technology makes it easier and cheaper to add to reserves when needed. In effect, oil companies are practicing something like "just in time" inventory management for their raw material, substituting better information technology for expensive drilling.

The author applies similar types of arguments to the gas and electric utilities. The traditional rationale for regulation in these industries is "natural monopoly"—because of high fixed and sunk costs, it is less expensive for one firm to serve the entire market, and so consumers get cheaper service when the government grants a monopoly to one firm and then regulates its rates.

Ballonoff grapples with the natural-monopoly dragon, but never quite slays it. He notes that annual depreciation accounts for less than 20 percent of the total costs of gas and electric transmission and distribution, implying that fixed costs are not nearly as high as most people assume. But the relevant measure of fixed costs is the total cost of fixed capital, not the annual amount that is charged off each year as depreciation.

Another, more original argument he offers is much more persuasive. A significant part of the fixed cost of providing utility service is the cost of the right of way, not the poles or wires or pipes. Natural monopoly or not, most homes are already served by as many as six different utility providers using their own rights of way—gas companies, electric companies, telephone companies, cable TV companies, and so forth. If indeed the right of way is the principal fixed cost, then competition would be quite feasible if government grants of monopoly were removed.

Even if some energy utilities are natural monopolies, Ballonoff presents ample evidence that regulation in practice actually leads to higher, not lower, prices.

The author offers three policy conclusions based on his analysis. First, all monopoly regulation of energy companies should be repealed. Second, if some degree of regulation must be retained, regulatory commissions should function solely as specialized antitrust courts with a duty to promote competition, not protect monopoly. And finally, policymakers should avoid "regulatory restructuring," such as occurred in the natural-gas and telecom industries and is proposed for the electric industry.

No doubt these conclusions will be hotly debated. Even the staunchest supporters of free markets can honestly disagree over whether regulatory restructuring is a step toward deregulation. But such disagreements should not detract from the truth of Ballonoff's central thesis, which is restated most forcefully in the book's conclusion: "Many of the ideas that justify and govern traditional American energy regulation are simply wrong." He's right. □

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Big Trouble

by J. Anthony Lukas

Simon & Schuster • 1997 • 875 pages • $32.50

Reviewed by David Kendrick

Labor-union violence directed at business owners, independent-minded workers, and political leaders who believe in the rule of law has a long, sorry history. *Big Trouble* is a revealing look at one episode.

The focus of Pulitzer Prize-winner J. Anthony Lukas's *Big Trouble* is the death of former Idaho governor Frank Steunenberg, killed by a bomb as he opened the gate to his home on December 30, 1905. Although the author is in the thrall of the false idea that labor is pitted in a struggle against "capital," he honestly reports the facts of the story. An intriguing story it is.

Within days of Steunenberg's murder, detectives closed in on Thomas Hogan, in whose hotel room they found traces of bomb-making material. Investigators discovered that he had been active with the Western Federation of Miners (WFM) in Idaho, using the name Harry Orchard. Under the skilled interrogation of the Pinkertons' most famous detective, James McParland, Orchard confessed to the Steunenberg murder and pointed to the chief conspirators, WFM President Charles Moyer, adviser George Pettibone, and the WFM's bombastic secretary-treasury, "Big Bill" Haywood. Their apparent motivation stemmed from their violent confrontation with Governor Steunenberg in 1899.

The battle had begun in 1892, when union militants called a strike, then rode through the mining district warning managers to dismiss non-union labor or see their valuable machinery blown sky-high. Soldiers soon restored order, but out of this initial loss the WFM was born. Seven years later, the WFM hierarchy rejected a wage increase and struck the Bunker Hill & Sullivan company's mines, demanding recognition as the *only* representative of all the miners. Frank Steunenberg was the governor, and because he had been elected on the Populist-Democrat ticket, the union leaders presumed he would be sympathetic to them.

Some 150 union militants, many of them armed, turned workers away from the mines with dire threats, while another group seized the tramway carrying ore from mine to mill. Hundreds more unionists commandeered a train in nearby Canyon Creek, drove it to Bunker Hill, and blew up a huge concentrator costing about $250,000.

Convinced that the local sheriff was colluding with the WFM (a conclusion endorsed by Lukas), Steunenberg finally asked President William McKinley to send federal troops to restore order. For this, Steunenberg earned the hatred of his former allies in organized labor. Indeed, after his death, union official and Socialist party leader Eugene Debs argued that Steunenberg had "simply reaped what he sowed."

The WFM's headquarters were in Denver. The union's penchant for threats, assaults, and murders perpetrated against non-union miners, combined with its political domination of the local mining areas, was so pervasive that, according to Lukas, juries couldn't be found that would convict a union man of any serious offense. Eventually, the three union officials were extradited to Idaho in a midnight raid and put on trial for Steunenberg's murder. They then turned to Clarence Darrow, who had gained national fame as a defense lawyer by his appeal to "larger" issues while skimming over his clients' actual guilt or innocence of the specific charges.

Defending Haywood, the first of the troika to be tried, Darrow employed the same tactic. "I don't care how many wrongs they [unions] have committed—I don't care how often they fail, how many brutalities they are guilty of. I know their cause is just." To the jury of Idaho farmers "removed from the men who work in industrial affairs," Darrow proclaimed, "had it not been for the trade unions of the world . . . you today would be serfs instead of free men."

Whether moved by Darrow's oratory, or fearful of retaliation by the WFM, the jury acquitted Haywood. Afterward, the cases against Moyer and Pettibone fell apart. Not for the first time, nor the last, the argument that it is permissible to use vicious means in the pursuit of supposedly virtuous ends triumphed.

Knowledge that they can—in this case literally—get away with murder has been a factor in the self-interest calculations of union organizers and bosses throughout much of our history. This meticulous book gives us a close look at the ugly phenomenon of union violence and the readiness with which many intellectuals excuse it. □

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Economics/Ethics

Fairness: Results Versus Process

Those of us who support liberty, limited government, and rule of law will never prevail in the public arena until we can compellingly make the case that free markets and voluntary exchange are inherently fairer than alternative forms of social organization. Proving that economic freedom leads to higher living standards and greater personal liberty is not nearly so persuasive as proving that it is morally superior.

Interventionists make their case for social controls and income redistribution based on the unfairness of outcomes such as differences in income, education, and wealth. Most people find that argument persuasive. After all, how can the game of life possibly be fair when some people's yearly income totals hundreds of thousands, even millions, of dollars, while many others scarcely earn ten or twenty thousand dollars? Our response to the interventionist's claim of unfairness should be that results cannot possibly determine fairness.

Here's one way to think about it. The Chicago Bulls have won the NBA championship six times in the last eight years. There are 20 teams in the league. Is it fair that one team wins so often? By simply knowing the results, can anyone give an unambiguous answer as to whether there's been basketball justice? The answer is no. Chicago's victories might be a result of a collusion between the Bulls players, referees, and timekeepers, or the result of superior ability.

Look to the Process

The justice, or fairness, of any outcome can only be meaningfully determined by examining the process that produced it. To determine whether the Bulls' domination of the league is fair or not, one must ask process questions such as: (1) Did the players play according to the rules of the game; that is, did they obey basketball "law"? (2) Did referees apply those rules in an unbiased fashion and were penalties evenly exacted for infractions? (3) Was participation voluntary? If the answers are yes, then any outcome is consistent with basketball fairness and justice.

Suppose we forsake the process approach and take a results-oriented approach. Based on the outcome—the Bulls' disproportionate wins—something should be done to create basketball justice. A Board of Game Deciders could be created to control the distribution of championships. Team owners and coaches might present their cases to the Board. Washington Wizards coach Bernie Bickerstaff might argue that his team has not won the NBA championship in 20 years and is truly deserving of a win in 1999. He might strengthen his argument by pointing out how hard his players worked both during the season and in the off-season. Moreover, Bickerstaff might ask the Board to consider the great psychological damage his players face being seen as perennial losers.

Walter Williams is the John M. Olin Distinguished Professor of Economics and chairman of the economics department at George Mason University in Fairfax, Virginia.

One can well imagine the resulting conflict and rancor that would develop over which team is most deserving of the NBA championship. Decent people would become bitter enemies over who had the more just and persuasive case.

In fact, NBA and other championship games are played every year with little or no bitterness. How is it that people with such conflicting interests play a game, agree with the outcome, and walk away good sports? It is a minor miracle of sorts.

The miracle is that it is far easier to reach agreement about the rules of a game than its outcomes. Even basketball teams in the cellar will conclude that their long-run interests lie in rules that are durable and evenhanded. If a coach yearns for an NBA championship, he can recruit and train superior talent and hire assistant coaches to get the best out of players. On the other hand, if the outcome is to be predetermined, a team owner, instead of trying to raise productivity, will lobby the Board of Game Deciders and bring lawsuits against biased Board decisions. There would be at least two predictable negative results. Predetermined outcomes would lower the skills and fitness of all players and lower the overall quality of the sport. What would team productivity have to do with winning? And, predetermined outcomes would heighten the potential for conflict.

On Rules

We should not evaluate rules in terms of the likely outcomes they will produce for certain people-specific circumstances. As Nobel Laureate F.A. Hayek argued, "It is the ignorance of the future outcome which makes possible agreement on rules which serve as common means for a variety of purposes."

Many people may deem it undesirable for the Chicago Bulls to dominate the league. However, despite that consensus, we cannot call the outcome unfair. If we deem disappointing outcomes unfair, then the term "fair" has no meaning whatsoever, because virtually all human actions and outcomes produce a disappointing outcome for someone else.

Mass production of automobiles disappointed the buggy manufacturers and their employees. Hand-held calculators disappointed the producers of slide rules. My marriage to Mrs. Williams produced a disappointing outcome for other women. In each instance, and millions more, the actions taken by one person or group produced undesirable outcomes for others.

Therefore, to begin to say anything meaningful about fairness and just conduct, we have to ask: did the participants play according to commonly agreed-on rules? But questions about justice cannot be fully settled simply by asking whether people conducted themselves according to rules. All societies have rules. In the United States before the Civil War, the rules held that blacks could be owned as slaves. In Nazi Germany, the rules held that Jews could be relocated to concentration camps. In the former Soviet Union, the rules held that a citizen could not emigrate freely. Conduct in accordance with rules or laws alone can never be the sole criterion for establishing fairness. We must think about the nature of just rules and laws.

When we discuss just rules for our market relationships, we find that they are not substantively different from the rules in basketball and other sorts of rules. In the marketplace, just rules surely include the right to property and its transference by consent, and the right to engage in peaceable, voluntary exchange. If these rights are protected, any result is just and fair, including the outcome that some people are very rich and others are very poor.

Thus, we who cherish liberty must focus our arguments on the rules of the game. In doing so, we should make the case that today there is unfairness in the rules governing our market relationships. That unfairness masks itself as social compassion in the form of laws that restrict the right to property and voluntary exchange such as: occupational and business licensing, regulation of economic activity, and legalized theft.

Even though we libertarians share some goals of the interventionists, such as greater wealth for our fellow man, we differ on the means. We look to process and they look to results as a criterion for justice. If we could argue our case more effectively and eliminate unfair rules, both libertarians and interventionists would be pleased with the results: greater prosperity for all. □