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FEATURES

COLUMNS

DEPARTMENTS

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PERSPECTIVE

They Don't Make Revolutions Like They Used To

Another national election is here and will soon be gone. When you consider the resources sunk into elections, it's remarkable how little they accomplish. Shakespeare's phrase "sound and fury, signifying nothing" comes to mind.

The latest evidence for electoral indifference issues from Cato Institute analysts Stephen Moore and Stephen Slivinski, who write that the "Republican revolution" ushered in by the 1994 congressional elections was something less than revolutionary. Its architects promised less government, and the candidates campaigned on that promise. If a mandate can ever be discerned in an election (a dubious proposition at best), the 1994 election seemed to be a mandate for cutting government drastically.

So what happened?

"The 106th Congress is well on its way to becoming the largest-spending Congress on domestic social programs since the late 1970s when Jimmy Carter sat in the Oval Office and Thomas 'Tip' O'Neill was Speaker of the House," Moore and Slivinski wrote in July. ". . . A major reason for all the new spending is the inability or unwillingness of Republicans to eliminate virtually any government program. Many of the more than 200 programs that the Republicans pledged to eliminate in 1995 in their 'Contract with America' fiscal blueprint now have fatter budgets than they had before the changing of the guard."

The authors point out that 95 of the biggest programs targeted for extinction have actually grown by 13 percent. "Many of President Clinton's favorite programs have received substantial budget increases, often in excess of what the president has proposed," they wrote. When the GOP Congress exceeded its own spending caps by $187 billion, the leaders applied the standard remedy: they raised the caps. But they overshot them too, by $40 billion.

Among the more egregious increases highlighted in the study: the budget for Ameri-

Corps increased 248 percent since 1995, bilingual education by 80 percent, and the education program Goals 2000 by 112 percent. "In the past three years, the Republican discretionary budgets have exceeded the White House requests by a total of more than $30 billion," the report stated. This includes the Department of Education, which the Republican platform no longer opposes. Support for term limits was also a casualty of the revolution.

Remember that as you go to the polls—or as you don't go.

* * *

In this political season bumper stickers are in full bloom. Jon Sanders interprets an especially popular genre of auto adornment.

The automotive age is nearly a century old, but never have the car's enemies been more determined to impose restrictions on people's transportation mode of choice. The attack on the automobile is an attack on freedom, writes Ralph Clark.

Cars traverse roads, of course, which today are almost all government operated. Leigh Jenco goes back to a time when roads were the product of private enterprise.

The lords in Washington brag that they are responsible for putting 100,000 policemen on the streets of America's communities. If so, they have wasted a lot of resources, write Dan Alban and Frank Stephenson.

In ordering professional golf to let Casey Martin ride a cart during tournaments, the courts have intruded not only into private matters but also into a grand tradition. Ray Keating relates this disgraceful chapter in the annals of the Americans With Disabilities Act.

Over the years economic liberty has waxed and waned in the hands of the U. S. Supreme Court. Progress in one area has co-existed with retrogression in others. Norman Barry leads us on the constitutional roller coaster.

In communist countries nothing is as it seems. The economy has nothing to do with economics; education teaches slavish absorption of official doctrine; and psychiatry is political discipline. Miguel Faria takes a close look at psychiatry in the island bastion of Marxism, Cuba.

Despite a multitude of diagnoses about what ails the government's school systems, it is only rarely pointed out that what the schools lack most of all are—customers. Darcy Olsen explains.

The law of comparative advantage says do what you do best and trade for the rest. Ted Roberts found that law the surest way to ripe tomatoes.

Globalization is on everyone's mind, but this is not the first time the world has lived through the phenomenon. The late nineteenth century saw increasing economic integration and liberalism, which perished in world war. Ian Vásquez compares today with that earlier period of freedom.

Before Adam Smith wrote *The Wealth of Nations,* the Scottish professor of moral philosophy wrote a book on a different subject. Or was it so different? James Otteson examines Smith's other book.

Our columnists have prepared a sumptuous intellectual feast. Donald Boudreaux discusses two radicalisms. Lawrence Reed says government discourages ambition and self-reliance. Doug Bandow assesses the regulatory overload. Thomas Szasz discourses on geniuses and madmen. Dwight Lee continues his discussion of putting a price on human life. Mark Skousen remembers E. F. Schumacher. Charles Baird champions union-free professors. And Roy Cordato, hearing consumers blamed for higher oil and gasoline prices, inveighs, "It Just Ain't So!"

Books that have occupied this month's reviewers contend with the illusion of the illusion of prosperity, America through war and depression, the *Titanic,* the causes of financial crashes, public finance, and subsidies to scientific research.

—Sheldon Richman

Thoughts on Freedom

by Donald J. Boudreaux

Two Radicalisms

Is radicalism good or bad?

The answer depends on what is meant by "radicalism." Radicalism is good when it means consistently adhering to principles. Among my principles, for example, is that adults who respect the rights of others deserve to live in peace according to their own lights. I apply this principle to everyone, regardless of sex, religion, ethnicity, nationality, sexual preferences, or whatever other particular facts you care to identify about them. I make no exceptions. If you therefore accuse me of being a radical about this principle, I proudly plead guilty.

Radicalism is also good when it means seeking to understand a phenomenon by identifying its root causes. (The word "radical" is derived from the Latin *radix*, meaning "root.") If an economist wants to understand why the price of milk fell, he doesn't focus on the fact that the dairy manager in the local supermarket changed the price tag on cartons of milk from $2.50 to $2.00. Instead, he finds his answer in the principles that determine price formation—supply and demand—and asks which real-world events might have caused either the supply of milk to rise or the demand for milk to fall.

Radicalism in these two senses is the opposite of capriciousness and superficiality. It is, instead, a source of decency, intelligence, and wisdom.

Radicalism is undesirable, however, when it connotes a refusal to take account of the tradeoffs that our world of scarcity necessitates. For example, most people agree that family vacations are good things. But this fact does not mean that a family should spend 52 weeks of each year vacationing. Parents must work to earn income, and children must be educated. Any family that becomes so radical about vacationing that they do so year-round will suffer in the long run. Such a family will fail to make the tradeoffs necessary to lead a full and happy life. Single-minded obsessions are dangerous.

Consistent advocates of free markets are often accused by statists of being radical in the undesirable way. The insinuation, of course, is that advocates of free markets are like the family that insists on vacationing year-round—namely, obsessed with one particular thing.

But the insinuation is faulty. Consistent advocates of free markets are indeed radical, but only in the good way—only in the way that means that they aren't diverted by superficial considerations—only in the way that means that they steadfastly stick to their principles. In fact, only by urging the widest possible role for the free market can we avoid the undesirable form of radicalism.

The reason is that free markets open to each person countless different ways to spend his resources and time. With this wide set of options, each of us tailors his or her choices in very subtle and nuanced ways. Undesirable radicalism is thereby avoided.

Here's a mundane example of what I mean. Next time you're in a supermarket, look

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Donald Boudreaux is president of FEE.

around at everyone waiting in the checkout lines. Because each of us has unique tastes, knowledge, and circumstances, you'll find that no one else's grocery cart contains the same mix of items that you have in your cart. While two six-packs of beer might be excessive for you, it's just right for the man ahead of you in line. Likewise, while a half-gallon of milk is ideal for the woman beside you in line, you need a full gallon. Each shopper selects that particular mix of groceries that promises to him or her—individually and uniquely—the greatest amount of satisfaction.

But if we acquired our groceries through government dictate rather than through individual choice, each of us would be compelled to consume a mix of groceries that other people—politicians—selected for us. The resulting mix for each of us would be inferior to the mix that each of us would choose individually. Each of us would be obliged to consume too-small amounts of some items and too-large amounts of other items. It's true that each of us is free, within free markets, to become single-mindedly obsessed with something. But because each of us who becomes so obsessed personally bears the cost of the obsession, free markets reduce to a minimum the amount of such obsessions—such radicalism—that prevails.

The undesirable form of radicalism arises inevitably whenever some people assume the authority to dictate how other people should live. A particularly galling variety is exhibited by those collectivists who lament that each person in free markets generally pursues his own self-interest. For this reason alone, many collectivists want to eliminate capitalism. They display a dazzling willingness to overlook collectivism's history; despite its long record of tyranny and mass slaughter, collectivism enjoys the praise of collectivists for no reason other than that it pretends that it will eliminate self-interest.

Why this radical obsession with motives rather than consequences? Why excuse a long and undeniable pattern of gruesome consequences merely because those who perpetrated these horrors *said* that their motives were altruistic? Are intentions so hallowed and consequences so trifling that only intentions matter?

Capitalism has proven beyond any vestige of doubt that it, and only it, is the engine of material prosperity for all. It creates colossal and widespread wealth, and does so peacefully. Contrast capitalist achievement with communism and socialism—systems designed to engineer society from top-down using coercion and, as a not-so-surprising result, distinguished chiefly by their excellence at human slaughter.

"No matter," growls the collectivist. "Capitalists are selfish. That fact alone condemns capitalism."

How radical in the worst way! Collectivists are willing to subject millions of people to the poverty, tyranny, and slaughter of statism—collectivists are willing to deny everyone the wealth, freedom, and flourishing that capitalism brings—merely because self-interest is part of the fuel that drives the capitalist engine.

Collectivism is surely the ugliest species of radicalism. □

High Gasoline Prices Are Your Fault?

It Just Ain't So!

Who should be blamed for the high oil and gasoline prices? OPEC? The oil companies? The government? According to the *New York Times*'s Floyd Norris, if you chose any of those you would be wrong. Writing on June 23, Mr. Norris places all the blame for the current "energy crisis," as he calls it, squarely on the shoulders of consumers. He answers the question "Why are gasoline prices so high?" with a cocky, "It's the demand, stupid." And as one would expect, his solution centers on public policies that would rein in consumption. Since consumers are obviously too stupid to know how much energy consumption is right for their needs, the government must step in and use enlightened force to reduce demand and bring prices down. In Norris's view, "The real mistake in Washington came in the years after the last oil crisis, when oil prices were weak and consumers lost interest in energy conservation. Higher gas taxes and less loophole laden fuel-economy rules would have helped avert the current situation."

It should be pointed out, first of all, that so long as oil is a scarce resource with a positive price, consumers will never "lose interest in conservation," that is, their desire to economize the resource. Of course, the extent to which we conserve oil, gasoline, or any resource will always be subject to what we must give up in the process of "conserving." What Norris is really saying is that consumers have refused to economize consistent with the tradeoffs *he* thinks they should be making.

Moreover, in a bizarre twist of logic his lament about higher gasoline taxes puts him in the position of arguing that gasoline prices are higher today because they haven't been higher for the last 20 years. And finally, it should be noted that the fuel economy rules, namely, the Corporate Average Fuel Economy (CAFE) standards, do not lead to reduced fuel consumption because greater fuel efficiency makes driving less costly and therefore encourages people to drive more. (The most distressing problem with CAFE regulations is that they lead to smaller, lighter, and therefore more dangerous cars. Studies by Robert Crandall and John Graham in *The Journal of Law and Economics* have concluded that 14 to 27 percent of the nation's automobile passenger deaths are due to CAFE regulations.)

Not a Normal Market?

Norris arrives at his conclusions about consumer responsibility for higher prices by arguing that "the oil market is nothing like a normal market." In a "normal market" higher prices and increased profits would typically attract new producers, which would bring prices down. But according to Norris, this is not how the oil market works. He points out that non-OPEC countries, like the United States, which would be expected to increase production cannot do so because they are already at full capacity. Since the crisis we face cannot be addressed on the supply side, it must be solved through government policies aimed at controlling consumption. It is demand and demand alone that drives oil and gasoline prices. This is what government policy needs to focus on.

Norris is correct on two points. The oil market is not like a "normal market," and the U.S. oil industry is not in a position to respond to the higher prices with increased output. But Norris completely misses the reasons for this. First, where a normal market features profit-seeking private-sector firms competing with one another, the oil market is dominated by a number of state-run monopolies, with both political and economic goals, that do not compete with one another but rather operate as a cartel. This includes Mexico, whose state-run oil industry has gone along with OPEC's output restrictions.

Second, the private-sector U.S. oil industry is at capacity, but not because there is no more oil left to exploit. The U.S. government, in response to a politically influential environmental movement, refuses to allow exploration in Alaska's Arctic National Wildlife Refuge (ANWAR) and off many coastal areas, and has effectively taken tens of billions of barrels off the market. The Energy Department's Energy Information Agency estimates that the ANWAR's coastal plain alone contains as much as 20 billion barrels of recoverable oil. What really "thrills" OPEC is not, in Norris's words, our "loophole filled" CAFE standards that allow American consumers to drive "gas guzzling" SUVs, but our government's restrictions on OPEC's competition. The oil-producing countries' most important ally is the U.S. environmental movement and its access to power in the Clinton administration's Environmental Protection Agency and Department of the Interior.

Norris's arguments are not only theoretically unsound; they also ignore the short-term and long-term history of oil pricing, both in this country and around the world. Norris cites as evidence for his hypothesis that "it's the demand, stupid," the fact that oil prices fell dramatically in 1998 because worldwide demand was down due to problems with economies in Asia. But all that proves is that market forces work. When demand is lower than expected, prices fall (duh!!). How does Norris explain the declining prices of the 16 years before 1998 or the declining oil prices of the last 100 years, all in the face of increasing demand? Let me give him a hint. It's the supply, stupid.

While Norris compares our current oil problems to the energy crisis of the 1970s, he seems to have learned nothing from that period. That decade's energy policy was focused entirely on demand management. From odd-even gas rationing and regional allocation schemes to CAFE regulations, interference with consumer sovereignty did nothing to end the energy problems the country was facing. The solution was found not in demand management but in the elimination of price controls and the massive supply-side response that deregulation engendered. The real problem with demand management, though, is not its lack of theoretical or empirical justification but its moral implications. Demand management is people management. It is inherently paternalistic and must, by definition, thwart individual liberty and personal decision-making. For that reason alone, those policies should be rejected by any society that considers itself free. □

—ROY E. CORDATO
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IDEAS ON LIBERTY
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"I Support Coercion and I Vote"

by Jon Sanders

People place a wide variety of slogans on the bumpers of their cars, and the messages those bumper stickers convey range from the ridiculous to the sublime. I've read many a bumper sticker in my commute, and I've come to the studied opinion that there is no more ridiculous genre of bumper sticker than that of "I support [insert a political cause] and I vote."

Whenever I have the misfortune of being behind a car proclaiming "I support the arts and I vote," "I support the environment and I vote," or "I support farming," I am stricken with the urge to confront the driver to get his explanation for it. I don't do so, of course, because it's dangerous to confront drivers these days and I already know what he means.

The meaning of "I support the arts and I vote" is not only obvious, it's gushing with smarmy priggishness. It also happens to be entirely self-defeating. The meaning is, of course, "I *don't* support the arts, but I vote for politicians who have convinced me they'll force *you* to give money to the arts." What vainglorious hooey! Not only are they tightwads who conscript others into paying for their desires, they're proud of it. And if that's not enough, they expect us to appreciate them for it.

The fact is these vehicular vanities don't support the arts, the environment, or whatever other cause at all. They don't give a dime to a damn about the cause; if they did, they'd pay for it themselves. Their mindset is similar to that of the NIMBYs, the infamous "Not In My Back Yard" bumpkins who didn't mind a hazardous-waste operation so long as it wasn't near them. But those folks are worse than the NIMBYs; they actually want the program in question, but they don't want to pay for it, except through taxes, which everyone else has to pay, too. Call them the Not In My Back Pockets, or NIMBPies.

If the NIMBPies truly cared for their pet causes, they'd see the utter void of virtue in being too stingy to pay for what they like. If they cared for a cause, they would give to it. Surely they wouldn't want to consign it to the yoke of governmental largess, thereby subjecting it to the fickle whims of legislators and voters. They would therefore make contributions to save that cause from an ill-advised reliance on politicians who get elected by promising enough nongiving voters that they, too—with a lot of help from their neighbors, of course—can "support" the cause. After all, those politicians could be replaced at any election by politicians of a different stripe who support nongivers of an opposing cause. The original cause, accustomed to receiving pilfered bounty rather than raising its own funds, would then languish and perhaps fail in its sudden inability to earn money. No true supporter of a cause would wish to imperil it so.

Jon Sanders is a master's student in economics at North Carolina State University and the director of publications for the Pope Center for Higher Education Reform in Raleigh, N.C.

An Honest Bumper Sticker

Oblivious to that, of course, the bumper-sticker "supporter" putts along, snug in his car and smug in the knowledge that he has done his part for his cause. Can you imagine what would happen if the rhetorical filters fell from that bumper sticker for just a moment? Picture the scene when, in heavy downtown traffic, the bumper sticker suddenly read, "Hey, you! Driver! I want you to know that I am extraordinarily pleased with myself for being personally responsible in small part for your high taxes. How would you like to bring home just a little more to your family tonight? Well, tough! I 'support' the arts. But since I'm a cheapskate, I found me some politicians who take money from you and your family to fund my personal fetish. Am I deserving of your praise or what? Can you believe I'm so satisfied with myself?" □

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Enemies of the Automobile

by Ralph W. Clark

The automobile age is approximately 100 years old. With the approach of a new century and new millennium there could be no better time to celebrate the automobile for its profound contributions to human happiness.

Unfortunately, automobiles have enemies. An influential movement is underway to make it much more difficult for people to use and enjoy their cars.

Even people who are not enemies of the automobile frequently view it as a mundane piece of machinery whose main function is to provide transportation from point A to point B. Cars cost a lot to buy and to operate, these people say. Public transportation is cheaper and more rational even if not always as convenient.

Automobiles have done more than any other single invention or discovery in history to expand the freedom that human beings can exercise day in and day out. Cars play an important role in supporting human autonomy for large numbers of people. And this number would be considerably larger if the enemies of the automobile were less influential.

Many critics of the auto charge that its widespread availability in countries like the United States has contributed to the breakdown of cities and the spread of suburbs, with a resultant loss of community and ready access to the conveniences of downtown areas. The catch phrase for this much-denounced phenomenon is "urban sprawl."

But shouldn't people be allowed to decide for themselves whether suburban living is desirable? If they wish to try it, they should be free to do so, which means they will need access to automobiles. If suburban living is as undesirable as some critics claim, then experience will teach people. The lesson of the suburbs—if there is a lesson—will have been learned on a wholly voluntary basis, which is always best.

The alternative favored by the critics is to make it much more difficult for people to use and enjoy their cars: they seek to raise gasoline taxes, cut back on building new highways and improving existing highways, place additional restrictions on the use of the streets and highways that we already have, and require that new construction for homes and businesses be "high density," which means squeezed into a small space, even when there is plenty of land available for development. Taken together, these policies are what politicians mean these days when they talk about "smart growth"—but the term itself is nonsense because the policies are not smart and they also don't have much to do with growth. Even more important, these policies don't have much to do with what most people really want regarding better places to live and more convenient ways to go about their daily business.

Ralph Clark is a professor of philosophy at West Virginia University.

Some critics of the automobile contend that federal and state governments have subsidized cars at the expense of other forms of transportation and that therefore the lesson of the suburbs has not been voluntary. This claim is simply not true. Gasoline taxes and other highway user fees provide virtually all the funds for highway construction and maintenance. As Randal O'Toole observed, "I once believed the myth that autos and highways are subsidized. It turns out that the subsidies are negligible. . . . In the past decade, the average subsidy to auto users works out to less than a tenth of a cent per passenger mile, while the average subsidy to transit is around 40 cents per passenger mile."[1]

Cars Versus Alternative Transportation

Politicians everywhere like to talk about "shared burdens" and "cooperation"—which mean doing things the government's way. American's must work together, sacrifice together, plan for the future together, and ride everywhere together on subways, trains, and buses. This theme is echoed by numerous social scientists and journalists as well as by politicians. Media stories refer to "sophisticated" European countries that have better public transportation systems than we do. The Europeans and others are held up as models for us to emulate.

The policy the United States has pursued up to this point—a policy based on the ideal of letting cars be available for people in all economic classes—is far superior. European policies make ownership of cars impossible for poor people and many members of the middle class. One reason is that value-added taxes increase the prices of new cars dramatically. Only the wealthy can use their cars frequently for long trips because gasoline costs so much. Few individuals can use their cars anywhere near as much as they would like to use them. And in places where new cars are extremely expensive and few new ones are sold, many fewer used vehicles are available for people with modest incomes. Visitors to Europe who look around for used car lots are surprised to find how rare they are.

On purely practical grounds, there is much to be said for public transportation, especially in areas with dense populations. The greater the density, the more we need subway systems, commuter trains, buses, and other types of "people movers." Mass transportation systems contribute in their own way to freedom—namely, freedom from worry about parking or driving on bad roads. But everyone already understands this. The citizens of the United States know all about both the strengths and the weaknesses of mass transportation systems, and therefore they are perfectly capable of deciding for themselves how much they want to use buses and trains in relation to automobiles. What they do not need is to have someone else make the choice for them and force it down their throats while calling it "smart growth."

What About Global Warming?

A more serious criticism of the automobile concerns the possibility of global warming. There is no denying that automobiles contribute to carbon dioxide levels in the atmosphere. Critics say that an increase in atmospheric carbon dioxide will exacerbate the greenhouse effect, change the world's climate, melt portions of the polar icecaps, raise the sea level, and produce other undesirable consequences.

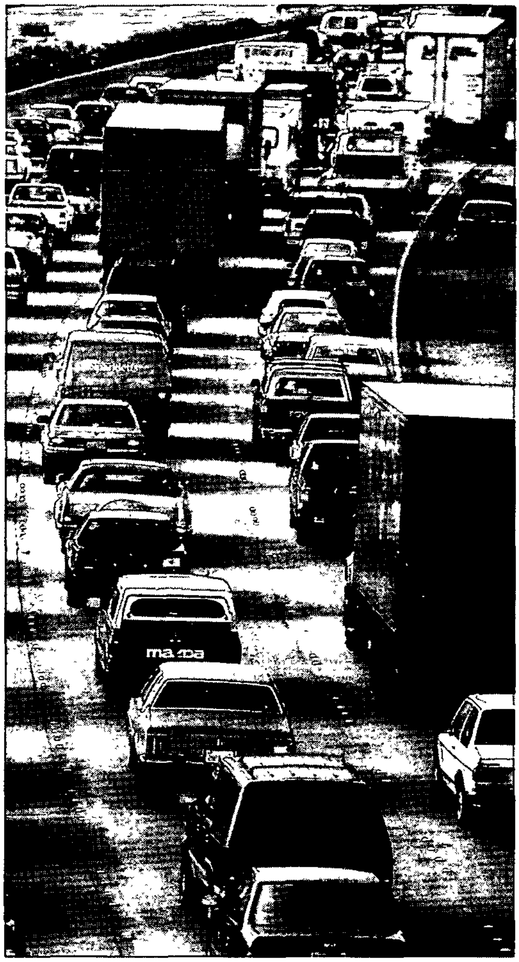
The first question to ask is whether scientists know with any degree of assurance that predictions of an impending harmful greenhouse effect are correct. Second, do we know how much automobiles contribute to any global warming that is actually occurring? According to prominent climatologists, such as Patrick Michael and Robert Bolling, Jr., the evidence for dangerous manmade global warming is lacking, making draconian measures, such as raising gasoline taxes substantially, unwarranted.[2]

The immense benefits that people enjoy because they live in what I like to call an "automotive civilization" can easily be documented. Cars make our lives better in numerous ways, and cars are improving all the time. By contrast, predicting future weather patterns is hugely complex and highly problematic. It is virtually impossible to do it over the long term. The interplay of causal factors is extremely difficult for scientists to sort out, and no adequate computer simulations have yet been devised for mapping and predicting the course of any future increase in the greenhouse effect.

One reason for this failure is that gases produced from the burning of hydrocarbons contribute to changes in the earth's surface temperature in at least two important ways—first, by trapping heat that reaches the earth's surface, and second by contributing to an increase in cloud cover which blocks *out* some of the heat from the sun. Moreover, carbon dioxide is not the most important greenhouse gas—water vapor is. According to the best models, the contribution made by carbon dioxide to the presently existing greenhouse effect (which overall keeps the earth from becoming so cold that it would not support life as we know it) is only about one-twentieth that of water vapor. Even among the products of chemical interactions involving hydrocarbons, carbon dioxide is not the main greenhouse gas—methane is. But methane production has nothing to do with the use of automobiles, coming as it does primarily from agricultural sources.

A major believer in global warming has come around to this view. In August, James Hansen of NASA's Center for Climate Systems Research said he no longer believes carbon dioxide is an important contributor to the greenhouse effect. "We argue that global warming in recent decades has been driven mainly by non-CO2 greenhouse gases such as chlorofluorocarbons and [nitrogen oxides], *not by fossil fuel burning*," Hansen said (emphasis added). This revised view, contained in "Global Warming in the 21st Century: An Alternative Scenario," published by the National Academy of Sciences, dramatically defangs the case against the automobile.[3]

Furthermore, there is no historical correlation between actual increases in the earth's surface temperature and increases in carbon dioxide levels. Instead, from about 1940 to 1970, when carbon dioxide levels were rising, the earth's temperature dropped slightly, after having risen during the previous 25 years



when carbon dioxide levels were increasing at a much lower rate. One possible explanation is that fluctuations in levels of solar activity may be a much more significant determinant of the earth's surface temperature than carbon dioxide levels are.

As far as the polar icecaps are concerned, a small increase in global temperatures would likely produce an increase in evaporation from the oceans, which in turn could mean more rain and snow. That could increase the thickness of the icecaps.

There is also the question of whether we are living during an interglacial period that is about to wind down. (Even less is known about the causes of the earth's many ice ages than is known about possible roles played by greenhouse gases in climatic changes.) If that is the case, then a strengthening of the greenhouse effect over the long term might be desirable to counteract the onset of an ice age.

Critics of the automobile will ask: What if scientists do succeed in demonstrating that increases in the greenhouse effect are real, harmful, and linked to rising carbon dioxide levels? Would this not prove that the enemies of automobiles had been right all along?

It would prove nothing of the kind. If cars do contribute significantly to a harmful greenhouse effect, then we need to put into place measures that address this *specific* harm caused by cars. After all, there is no essential link between the "automotive ideal" and the use of internal combustion engines or the burning of hydrocarbons.

The Automotive Ideal

The "automotive ideal" is the concept of affordable and practical self-propelled vehicles for people and their belongings, regardless of the power source.

Internal combustion engines can run on hydrogen—which produces no carbon dioxide—and new designs may be developed that are much more efficient than present designs. A number of promising alternatives to the internal combustion engine are possible, and one or more of them will undoubtedly be developed and made commercially feasible early in the twenty-first century within the competitive atmosphere of a flourishing global economy. Among the new ideas for automotive power currently being tested and actively developed are fuel cells that convert gasoline and ethanol directly to electricity—with almost no pollution.

The same approach that is best for dealing with problems that may be connected to atmospheric carbon dioxide levels is appropriate for other potential problems brought about by the use of automobiles. Step one: Identify the problem rationally (get the facts straight; use reasonable caution). Step two: Require that the specific harm in question be removed or reduced to acceptable levels, but leave the question of how it should be removed to market forces. We must not allow politicians to exaggerate the problem for demagogic, political reasons. □

1. Randal O'Toole, "Dense Feedback," *Reason*, April 1999, p. 51.
2. See Patrick J. Michaels and Robert C. Bolling, Jr., *The Satanic Gases: Clearing the Air about Global Warming* (Washington, D.C.: Cato Institute, 2000); also Jonathan Adler, "Global Warming—Hot Problem or Hot Air?" *The Freeman: Ideas on Liberty*, April 1998, pp. 231–36.
3. UPI, "Global Warming Scientist Downplays Fossil Fuel Threat," August 18, 2000.

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NOVEMBER 2000

Freeing the Freeways

by Leigh Jenco

Sitting in rush-hour traffic every working day of your life is enough to make you forget how much highways used to represent liberation. That's why a popular exhibition that ran recently at the National Building Museum, titled "See the U.S.A.: Automobile Travel and the American Landscape," offered more than just a walk down a pop culture lane. It provides a solution to the modern mismanagement of highways: a story of how the free market freed the roads.

Since the Eisenhower administration and its aggressive road-building policy, many people have concluded that only the federal government has the wherewithal to coordinate a huge, multistate project like a coast-to-coast highway. Since the road benefits the entire community, it is difficult to determine how much a road is worth to each individual user—and once a road is built, individual users are unwilling to pay for its funding and upkeep since they can literally free ride. Added to all this, the project's sweeping geographical scope makes participation by the private sector and even local governments seem unlikely.

However, the facts of history stand in direct opposition to the theories of politicians. Private initiative provided not only roadside conveniences but, in the case of the Lincoln Highway, also the road itself. In 1912, Carl Fisher, father of the Indianapolis 500, envisioned a well-paved, reliable cross-country road to avoid urban congestion, encourage travel, promote the automobile industry, and build up the rural communities along the way. His idea was so popular and necessary, in fact, that droves of private citizens, fed up with muddy backcountry roads, paid $5 each to become members of the highway organization that Fisher founded with Frank Seiberling of Goodyear and Henry Joy of the Packard Motor Car Company.[1] Local communities, in exchange for providing labor, received free road-building materials from the organization and, more important, a significant boost to local commerce.[2] Automobile manufacturers saw the highway plan as an essential foundation for the growth of their industry and volunteered substantial funds.

Despite its lack of federal support, the highway plan was anything but uncoordinated. As a 1916 guidebook touted, the Lincoln Highway cut the time needed for cross-country travel by two-thirds and reduced the cost to an affordable $5 a day.[3] Even when lack of funds threatened the future of the road, the association worked with local governments to build sections of the highway to connect with the "seedling miles" of concrete road built in strategic locations by the association.[4]

The federal government realized too late the importance of what the Lincoln Highway Association was the first to promote, and by 1921 it was anxious to catch up. The private initiative symbolized by the highway associa-

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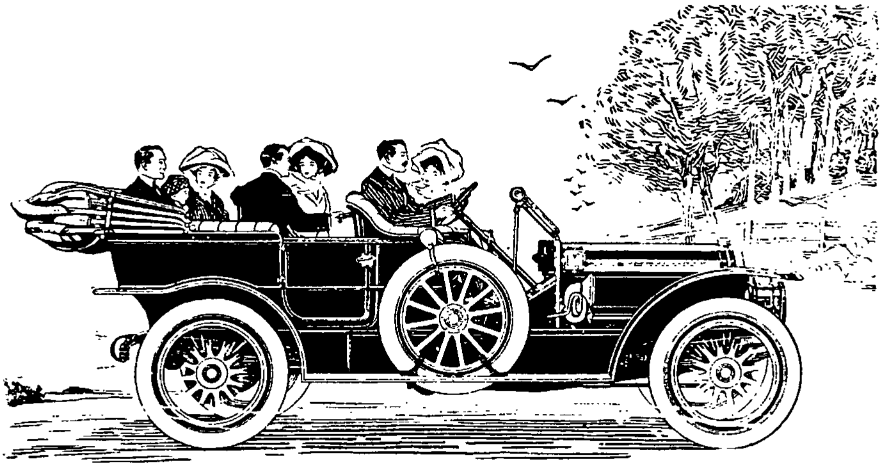
tion was crowded out by the Federal Highway Act, taking with it the knowledge of where roads were most needed. New, less-direct federal highways wound through those states and towns that could muster the most political clout, adding hours (or days) to cross-country driving time.[5] It was political lobbying, and not the "failure" of a market, that led to uncoordinated and unnecessary highway building.

Mismanagement Abounds

The situation today is much worse. The federal highway budget (which provides 80-90 percent of all state highway money) requires no appropriations action from the legislature (that is, the part of government that is supposed to be representing you), divesting it of its fiscal responsibility to those who actually use the roads.[6] Examples of mismanagement abound: President Eisenhower began the modern highway system for purely military purposes, and levied huge taxes that supported more than just the military-industrial complex: for decades, the trucking industry has enjoyed free capital inputs at the expense of taxpayers in the form of government-subsidized road building. Political conditions unresponsive to actual economic demands for new roads have led to notorious environmental degradation, as when the Forest Service builds access roads into pristine national forest for the lumber industry, or when the federal government funds miles of unnecessary highways around Los Angeles, resulting in unprecedented congestion and dangerously high levels of pollution.

Today private industry has begun, little by little, to pick up where the Lincoln Highway Association left off: four private highways in California join the Dulles-Greenway toll road in Virginia as examples of profitable, well-managed private highway projects.[7] As federal highway agencies become ever more susceptible to pork-barrel spending and special-interest groups, the history of America's first major highway speaks for the ability of localized and private development to serve the needs of an entire nation—profitably and appropriately. □

1. Chris Lewis, "Ambition Paved the Way," *Oakland Tribune*, October 19, 1997, p. 17.
2. "See the U.S.A.: Automobile Travel and the American Landscape," National Building Museum Exhibition, Washington, D.C., John Margolies, curator. An abbreviated version is available online at www.nbm.org/Exhibits/See_the_U.S.A.html.
3. Lewis, p. 17.
4. James Lin, "From Dirt to Concrete: 1913–1925," *The Lincoln Highway: A Brief History*. Available at www.ugcs.caltech.edu/~jlin/lincoln/history/part3.html.
5. Ibid.
6. U.S. Department of Transportation, Federal Highway Administration, "Financing Federal Aid Programs: Authorization." Available at www.fhwa.dot.gov/reports/fifahiwy/fifahila.htm.
7. Peter Samuel, "The Case for Privatizing America's Highways," *USA Today Magazine*, January 1997, pp. 5, 7.



IDEAS ON LIBERTY
NOVEMBER 2000

Incentives and Disincentives: They Really Do Matter!

"If you *encourage* something, you get more of it. If you *discourage* something, you get less of it." Whoever first said that deserves a medal for putting to words one of the most profoundly important elements of human nature. Human beings respond—often powerfully—to both incentives and disincentives.

An understanding of this great truth is critical for sound public policymaking. When lawmakers ignore it, they raise taxes and then wonder why people don't work as hard or save as much. Or they give people welfare checks for not working and then wonder why they're not polishing their résumés.

Indeed, the welfare reforms of the 1990s came about largely because Americans saw the tremendous toll that welfare had exacted on families and on virtues like work and self-reliance. We came to realize, for example, that one outcome of boosting handouts when the father left the home was that fathers often disappeared. We also discovered how counterproductive it was to cut a dollar of welfare benefits for each dollar of earned income—in effect, imposing a 100 percent marginal tax rate on welfare recipients who found jobs. Clearly, we had to stop *penalizing* work and *rewarding* nonwork!

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(Mr. Reed would like to thank Peter T. Leeson, a Hillsdale College student and a summer research scholar at the Mackinac Center, for his assistance in preparing this column.)

Robert Rector and William F. Lauber offered a stark but accurate assessment in a 1995 publication from the Heritage Foundation, *America's Failed $5.4 Trillion War on Poverty*. In their view, a half-century of welfarism produced substantial "behavioral poverty" because it subsidized illegitimacy, divorce, and idleness. Family disintegration encouraged by the dole in turn spawned dramatic increases in crime and other social problems. According to Rector and Lauber,

> The anti-marriage and anti-work effects of welfare are simple and profound. The current welfare system may be conceptualized best as a system that offers each single mother with two children a "paycheck" of benefits. . . . The mother has a contract with the government. She will continue to receive her "paycheck" as long as she fulfills two conditions: She must not work and she must not marry an employed male.
>
> Thus, the welfare system . . . has transformed marriage from a legal institution designed to protect and nurture children into an institution that financially penalizes nearly all low-income parents who enter into it.

Unfortunately, in spite of some notable reforms at the national and state levels, a wide array of programs here in Michigan (and probably in all other states as well) are undoubtedly still sending the wrong signals. Over the years, we've piled one well-intentioned means-tested program on top of another—the cumulative effect of which may well be to say to untold numbers of families, "If you earn less than a certain amount, you're eligible for lots of things but if you start to earn much more than that, you can lose it all."

Every means-tested program state or local government offers has the unintended effect of reducing incentives for most able people to become self-reliant. Get a job and surpass the program's income threshold and the aid disappears. Stay below this level and government pays you to stay unemployed or to remain in a low-paying job. And surely, some hard-working people who are earning slightly above the maximum allowed for certain benefits have days when they wonder if their efforts to take care of themselves are all worth it.

In Michigan, families below certain income limits qualify for a laundry list of benefits. The other way to look at it is as a list of the freebies low-income workers can get if they just work less.

- A family of four whose income rises above about $573 a month loses Family Independence Agency (FIA) cash subsidies for living expenses (actual limit depends on recipient tier, shelter area, and employment deductions). The same household also loses state-provided employment and training services when its income exceeds that threshold (again, actual limit depends on FIA classification).
- A family of four earning more than $755 a month no longer qualifies for cash subsidies provided by the State Emergency Relief program to cover housing and utility costs.
- Households of four with monthly incomes exceeding $1,783 may no longer receive food stamps.
- Unemployment benefits disappear when per-week earnings reach $450.
- Subsidized housing eligibility for a family of four vanishes when annual income exceeds approximately $24,725 (actual limit depends on city and income grouping).
- A household of four gets subsidized child day care until its monthly income grows beyond $2,586 ($31,032 per year).
- A family of four grossing more than $2,876 a month ($34,512 a year) loses aid from the Low Income Energy Assistance Program to cover heating costs.
- State-subsidized low-interest mortgage loan availability goes away when annual income exceeds $43,575.

Recently, a commission appointed by Governor John Engler proposed a "Postsecondary Access Student Scholarship" (PASS) program. If enacted, it would offer two years' free tuition for the pursuit of an associate's degree to students coming from families earning $40,000 or less.

It's not precisely scientific, but it's fair to say that under the current panoply of aid programs, at somewhere around the $25,000–$35,000 annual family income level lots of benefits disappear. For some citizens, that means it may be more lucrative to accept a low paying job than it is to accept a higher paying one because the value of government benefits more than offsets the loss of income from more gainful employment.

Careful empirical surveys might illuminate the extent to which current programs are having unintended, negative effects. Suffice it to say for now that simply recognizing that incentives and disincentives matter would be progress in the public-policy discussion, and it just might make a few legislators think twice before adding more programs to the problem.

The ultimate answer to this dilemma is not some reconfiguration of public welfare laws. As long as government is taking from some and giving to others, "reforming" the system in any fashion still leaves a relatively indifferent and unaccountable public bureaucracy spending other people's money on behalf of people who need something much more fulfilling than a government check. They need the uplifting effects of thoughtful and efficient private initiative—either their own or that of others who really care about them.

The best way to reform government welfare programs is to eliminate them. Excise the middleman of government and stimulate the direct civil-society approach of people helping people. Ultimately, there's no reason to believe that politicians are more compassionate than the people who elect them, and judging by the effects of the politicians' programs, there's not much reason to think they're any smarter either. ☐

IDEAS ON LIBERTY
NOVEMBER 2000

The Economic Virtues of Federalism

by Dan Alban and E. Frank Stephenson

The political benefits of federalism as a mechanism for dispersing and restraining governmental power are well understood by students of public policy. Often overlooked, however, are the economic benefits.

Take the federal government's Community Oriented Policing Services (COPS) program. The COPS program has been the subject of much criticism since its inception in 1994. This criticism, recently repeated in a front-page *Wall Street Journal* story, usually focuses on the questionable claim that the program will add 100,000 new officers to the streets and the dubious proposition that communities will retain the newly created police positions as the federal government phases out its financial support. The efficacy of the program is indeed questionable, but the quibbling over the precise number of police officers added by COPS ignores the fundamental issue of whether the program should have been created in the first place. Critics seem to have overlooked the fact that COPS misallocates scarce resources that communities or individuals could have put to more highly valued uses.

Traditionally, municipal policing has been a local issue, with state and federal assistance limited to purposes such as capturing criminals in interjurisdictional flight and specialized forensics, like DNA testing. That is, policing is primarily the domain of city and county officials who levy local taxes to finance it. Placing the responsibility for local policing on local officials is sensible because they are more aware of crime conditions than state or federal officials and are better able to judge their constituents' willingness to pay for additional police protection. Local officials have an incentive to compare the improvement in community safety from additional officers to the cost of financing them through local taxes.

Hence, federalism, by providing for a division of labor among different levels of government, serves to enhance economic efficiency because local officials have better knowledge of their constituents' willingness to pay for policing or other services than do state or federal officials.

COPS, however, weakens the link between hiring additional officers and local willingness to levy taxes to pay for them. A community's cost of hiring an additional police officer is greatly reduced because three-fourths of the program is funded from federal revenues. Consequently, even if a community has what it considers to be an adequate police force, COPS induces it to hire an additional officer at only one-fourth the usual cost. It is a bitter irony that this affront to federalism, which moves Congress yet another step closer to becoming, in the words of Bloomington, Minnesota, police chief Bob Lutz, "the gigantic city council of the United States," is foisted

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on the public under the name "*Community Oriented* Policing Services."

Since no community solves or prevents all its crimes, communities might benefit from obtaining the additional police officer since that officer might deter or solve crimes that otherwise would have occurred or gone unsolved. This, however, does not mean that the benefit of the additional officer outweighs his cost. Since the community does not bear the full cost of the officer, it may add an officer to handle low-priority items like jaywalking and traffic enforcement. This results in the misallocation of society's resources: Local officials choose not to hire an officer if they must pay his entire salary and expenses, but they do hire the officer when they have to pay only 25 percent of his cost. Since communities bear such a small share of the cost of an officer, even an officer assigned to low-priority duties might be considered worthwhile by local officials.

Consider Floyd County, Georgia, the home of Berry College. Floyd County has nine federally funded officers and receives a grant in excess of $600,000 over three years. While these officers have undoubtedly captured some real criminals and deterred other would-be criminals, the Floyd County "C.O.P.S. Unit 1998 Annual Report" touts the following accomplishments:

• Conducted 37 training programs in local schools, contacting 3,515 students.

• Participated in eight church events involving 128 people and providing security for a crusade held at the local civic center.

• Assisted 11 local charity events for, among others, the Special Olympics and Muscular Dystrophy Association.

• Sponsored a youth baseball team, the "Bullets." (This politically incorrect name must drive gun-control advocates nuts.)

• Established the Floyd County Police Youth Boxing League.

Local citizens might consider these worthwhile, perhaps even high-priority, policing activities. But if that's the case, then the local officials should have ample political support for locally funding the additional officers.

Can't Raise Taxes?

This reveals another possible argument for federal funding of local police: Local communities need additional police officers, but for some reason local officials are either politically unable to raise taxes to fund such officers or too ignorant to realize that the benefit of additional officers would outweigh their expense. Putting aside the rank paternalism present in this line of reasoning, it is apparent that this contention is false. Local officials, at least those in Floyd County, have not seemed constrained in raising taxes to pay for questionable things such as subsidizing a hotel construction project or building a municipal golf course. It strains credulity, especially given the public's near hysteria about crime in recent years, to believe that local officials are politically able to raise taxes for such projects but are unable to pay for local policing.

Rather than alleviating a dearth of police officers, COPS causes local police departments to proclaim how desperately "underfunded" they are, thereby creating an artificially high demand for police officers. That local requests for COPS grants exceeded available funds, as COPS Director Joseph Brann boasted in a 1997 letter to the General Accounting Office, does nothing to prove that local communities are somehow politically constrained from directly funding community policing. It simply indicates —no surprise here—that communities will queue up to receive free money from Uncle Sam.

While some local officials would no doubt argue that they are just trying to get back what their communities paid in federal taxes, this argument is specious because if all communities got back what they paid in federal taxes there would be no point in sending the funds to Washington in the first place. And since the contention that communities are only getting back what they paid disregards the bureaucratic overhead and the stipulations requiring communities to use the grants to hire unnecessary police officers, it overlooks the real means by which COPS squanders society's resources. □

IDEAS ON LIBERTY
NOVEMBER 2000

The Government's Assault on Golf

by Raymond J. Keating

Tour professional Casey Martin cheats at golf. And he does so with the government's help through a particularly bad federal law and judicial overreach.

Since late 1997 Martin has been riding in a golf cart, which is against both the rules of the Professional Golfers Association Tour (PGA Tour) and the 500-year tradition of golf played at the highest levels.

However, Martin suffers from a disability. The former college teammate of Tiger Woods at Stanford University has a rare and painful circulatory disease called Klippel-Trenaunay Syndrome afflicting his right leg, which prevents him from walking for long periods. In late 1997 Martin sued the PGA Tour, which operates the PGA Tour, the Buy.com Tour, and the Senior PGA Tour, for a "right to ride" under the 1990 Americans With Disabilities Act (ADA).

The ADA says: "No individual shall be discriminated against on the basis of disability in the full enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." The act goes on to state that "discrimination" includes "a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations."

The ADA, of course, is one of those feel-good laws that turn out to be vague and overly broad, thereby placing enormous discretionary power in the hands of regulators, lawyers, and the courts. Formidable legal and compliance costs have been imposed not only on the private sector, but also on state and local governments—that is, taxpayers. And a long line of absurd lawsuits and actions has been undertaken in the name of the ADA. In recent years, reports about ADA inanities have ranged from the Air Line Pilots Association's arguing that the ADA protects pilots who are alcoholics, to a deaf woman's suing Burger King a few years ago claiming that drive-through windows discriminate against deaf people.

If Martin ultimately wins his case, the courts would empower themselves under the ADA to actually set many of the rules of sporting contests.

A preliminary court injunction was issued in November 1997 to allow Martin to ride in a cart during the PGA Tour Qualifying School (Q-school) that December. Normally, the Tour does not allow carts in the final rounds of Q-school. In his lawsuit, Martin claimed that

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without a cart he "would be unable to pursue his profession at this high level." Martin missed the PGA Tour, but played well enough over the Q-school's 108 holes to make it onto the Buy.com Tour (formerly the Nike Tour), which basically is professional golf's minor leagues.

Before his case went to trial, Martin shot a 69 on January 11, 1998, in the final round and rode to victory in the Buy.com Tour's Lakeland Classic. For someone with Martin's disability, this was a noteworthy accomplishment—although it should also be noted that Martin beat by one stroke Steve Lamontagne, who during the tournament had foot surgery for an ingrown toenail and finished the tournament with the tip of his shoe cut open. Martin has continued riding ever since on both the Buy.com and PGA Tours while his case has worked its way through the courts.

The trial phase of *Casey Martin v. PGA Tour Inc.* began on February 2, 1998, and by February 12, U.S. Magistrate Thomas Coffin had ruled in Martin's favor. Coffin decreed that walking in golf is "not significantly taxing." He concluded, "Mr. Martin is entitled to his modification because he is disabled. It will not alter what's taking place out there on the course."

In May 1999, the Ninth U.S. Circuit Court of Appeals in San Francisco heard the PGA Tour's appeal. Almost a year later, on March 6, 2000, the Ninth Circuit found in favor of Martin in a 3–0 ruling. Judge William Canby wrote: "The central competition in shotmaking would be unaffected by Martin's accommodation. All that the cart does is permit Martin access to a type of competition in which he otherwise could not engage because of his disability. That is precisely the purpose of the ADA."

The court decided that a "place of public accommodation" pertained to the PGA Tour because ADA language includes golf courses, along with bowling alleys, theaters, stadiums, and other places of exercise, recreation, exhibition, or entertainment. The court wrote: "If a golf course during a tournament is not a place of exercise or recreation, then it is a place of exhibition or entertainment. The statute does not restrict this definition to those portions of the place of exhibition that are open to the general public." The Ninth Circuit concluded that "a golf course is a place of public accommodation while PGA is conducting a tournament there." It agreed with the lower court that letting Martin use the cart "was a reasonable accommodation to his disability . . . and . . . did not fundamentally alter the nature of the PGA and Nike Tour tournaments."

Injudicious Leaps

In reality, Judge Coffin and the Ninth Circuit are both guilty of astounding, injudicious leaps. The use of a little bit of common sense would reveal that while the spectator areas at sporting events—such as grandstands—could be defined as places of "public accommodation," the actual fields of play most certainly are not. If "inside the ropes" during a PGA Tour event falls under the ADA, then so would diamonds during Major League Baseball games, gridirons in National Football League contests, rinks for the National Hockey League, the hardwood for the National Basketball Association, and so on. The courts would be free to decide what rules are fundamental to the nature of each sport whenever someone with a disability decided to challenge a sport's particular rule.

Such an interpretation is an arrogant abuse of government's power, which both Coffin and the Ninth Circuit felt compelled to exercise. They presumed to overrule hundreds of years of golf history, some of the greats that have played the game, and the people that write the rules of golf in order to dictate that walking was not fundamental to the sport.

The counterarguments to the court's conclusions are not only obvious to those of us who have played golf for many years, but, considering the sources, should not be questioned by the courts. Let's start with the PGA Tour and its commissioner, who effectively are hired by the players on the PGA Tours to run their sport.

In the *Los Angeles Times* (January 10, 1998), PGA Tour commissioner Tim Finchem explained: "It's really not an issue whether one player who has a particular disability should be allowed to ride a golf cart. This is an issue, first and foremost, about whether or not the courts should make the rules for the game or the governing bodies in the game get to make those rules." He added: "It is also, to some degree, about the question, I would admit, of walking and the extent to which walking is a part of the tradition of the game. We feel very strongly that it is. For over 500 years, it has been part of the game at the highest level. We think that endurance is a part of our sport."

In a summary of its argument, the PGA Tour said: "The ability to walk five miles each day for four consecutive competitive rounds, week after week, often under adverse conditions and over challenging terrain, is part of the endurance and stamina required to play professional golf at its highest level." It should also be noted that weather can dictate that as many as 36 holes be played in one day; that contests like the Ryder Cup regularly require more than 18 holes be played in one day; and that a playoff in the U.S. Open means at least another 18 holes be played on a fifth day.

The Tradition of the Game

While some touring pros (including Tom Lehman, Mark Calcavecchia, and the late Payne Stewart) have supported Martin's case, the majority, though exhibiting great sympathy and respect for Martin, opposes the use of carts. When the case first became hot in the media, Curtis Strange told *USA Today* (January 7, 1998), "If you think with your heart, you'll feel for the young man. But you have to think with your brain. You have to go with the tradition of playing the game, and a large part of that is walking."

In a January 1998 interview with the Associated Press, CBS golf commentator Ken Venturi declared: "I think fatigue and being in shape is really part of the game. It's been that way since the beginning of the game. My feeling is no carts." He continued: "This is not a black and white issue, a heads or tails issue that is just about Casey Martin. . . . Where do you draw the line? How disabled do you have to be? What about guys like Billy Glasson and Scott Verplank who have had so many injuries and would be helped by a cart?"

Venturi himself, of course, offers a striking example of how important the walking rule is in professional golf. In 1964, Venturi not only overcame a multi-year slump, but also 100-plus-degree heat, 97 percent humidity, and severe dehydration to walk 36 holes at Congressional Country Club outside Washington, D.C., to win the U.S. Open. During testimony in the Martin trial, Venturi declared: "The doctor recommended I drop out because this could be fatal . . . but this was something I had prepared for all my life."

In videotaped testimony, two of the game's greats weighed in on how important walking is to golf. Arnold Palmer declared, "I feel if we change this rule, we will change the nature of golf on the face of the earth." He continued: "A golf cart is a pretty relaxing way to get around the golf course, and you would probably keep a lot more of the stamina. . . . Part of the game is the physical fitness built into your body so you can compete." Even though golf carts are available on the Senior Tour, Palmer does not think they should be, and has often declared that once he can no longer walk the course, he'll quit the game.

Jack Nicklaus also argued against Martin's assertion of a right to ride. Two months later, Nicklaus at age 58 made a run at a seventh green jacket at the Master's, but fell just short. A few months later, he was forced to withdraw from the British Open, breaking his streak of 154 straight majors, because of a bad hip. In both instances, a cart easily could have made a difference.

Martin's former teammate Tiger Woods has walked a delicate line, being supportive of Martin but saying he understands what the PGA Tour is doing. He was quoted in the *New York Times* (January 12, 1998): "As a friend, I'd love to see him have a cart. But from a playing standpoint, is it an advantage? It could be. If it's 100 degrees in Memphis, does it help to ride?"

But it was 1992 U.S. Open winner Tom Kite who made the clearest case as to how walking impacts the game of golf in a February 2, 1998, *New York Times* op-ed. Kite explained: "The mental, physical and emotional aspects of the sport are closely linked.

Fatigue can cause loss of concentration, which can cause poor shot selection, which can cause poor shotmaking, which can cause stress, which can cause more loss of concentration. I have seen a lot of tournaments over the years that were won or lost on the last few holes, when you have to be sharp mentally, physically and emotionally."

Thankfully, some federal judges seem to grasp that it might be better to leave the rules of golf to those who actually operate and play the sport. The day after the Ninth Circuit announced its decision in the Martin case, the Seventh U.S. Circuit Court of Appeals in Chicago issued a unanimous opinion directly contradicting the Martin decision. In *Olinger v. USGA*, Indiana club pro Ford Olinger had sued the United States Golf Association (USGA) under the ADA in order to ride a cart while trying to qualify for the U.S. Open. Olinger has a degenerative hip disorder. District Court Judge Robert J. Miller, Jr. had ruled against Olinger, noting that the "point of an athletic competition . . . is to decide who, under conditions that are about the same for everyone, can perform an assigned set of tasks better than (not as well as) any other competitor. The set of tasks assigned to the competitor in the U.S. Open includes not merely striking a golf ball with precision, but doing so under greater than usual mental and physical stress. The accommodation Mr. Olinger seeks, while reasonable in a general sense, would alter the fundamental nature of that competition."

In upholding the lower court, the Seventh Circuit wisely concluded: "The decision on whether the rules of the game should be adjusted to accommodate him is best left to those who hold the future of golf in trust."

Golfers for Judges

According to *Sports Illustrated*, Olinger complained that "Casey had three judges who attacked the legal issues, whereas I got golfers for judges." Actually, he got judges who happened to respect the sport of golf, but more importantly, they seemed to respect the law and the proper role of the courts. These judges restrained themselves from dictating the rules of a sport, whereby Judge Coffin and the Ninth Circuit did just the opposite, much to their disgrace.

On July 5, 2000, the PGA Tour filed a request with the U.S. Supreme Court to review the Ninth Circuit's decision. At the time, it was expected that Olinger's lawyer would appeal the Seventh Circuit's decision as well. The Supreme Court in fact did decide in late September to resolve the conflict by taking up the Martin case.

The ADA is bad news for all golf course owners and operators, and golf traditionalists as well. In effect, this law would preclude a golf lover from building and running a golf course meant just for walking. In addition, existing golf courses where the terrain does not lend itself to carts apparently would have to make costly alterations to comply with the ADA.

Unfortunately, bad laws like ADA pass whether a Democrat or a Republican happens to be president. It was signed into law by Republican President George Bush in 1990, who also happened to be the biggest golfer in the White House since Dwight Eisenhower.

In the end, when I see Casey Martin on television riding a cart at the latest PGA Tour stop, I often think about my late grandfather, Bernard Mitchell. While amateurs like me usually prefer walking, most of us have hopped in a golf cart. And then there are people like Bernard Mitchell, a fine golfer who taught me the game. We played a few rounds together as he climbed into his mid-seventies. As he got a bit older, he could still hit the ball straight and putt beautifully, but his legs wouldn't let him walk the course any more. He so believed that golf meant walking that he never went out onto the course again (though he still putted on his living room carpet and was more than willing to offer some tips). While I reflect on this today, I would love to have the memories of a few more rounds with my grandfather, but I also deeply respect his love for the traditional game of golf.

In my view, Bernard Mitchell had a far greater love for golf than do the Casey Martins and Ford Olingers of the world. After all, he played by the rules. □

IDEAS ON LIBERTY
NOVEMBER 2000

The Clinton Regulatory Miasma

It has been a sad spectacle: President Bill Clinton, desperate to salvage his scandal-laced legacy, crisscrossing the nation proposing new spending programs and regulatory initiatives with wild abandon. He seems determined to jettison perhaps his one good bequest to the nation: a less loony left-wing Democratic Party.

President Clinton's moderation was always heavier on rhetoric than practice. His original budget included the usual pork-barrel spending as well as tax hikes, and he proposed to turn control of the health-care system over to Uncle Sam.

Nevertheless, his early political defeats helped moderate his worst excesses, leaving left-wing social engineers apoplectic. They need not have worried. Bill Clinton has sought to bring back the liberal good ol' days of regulation.

The Clinton administration has some 4,538 regulations in process, 137 of which are termed "economically significant" and will cost at least $100 million each. The number of these big rules is up nearly a fifth from just a year ago.

The biggest rule maker is the Department of Transportation, followed by the Environmental Protection Agency; each accounts for more than one-tenth of the total. The Departments of Treasury, Commerce, Agriculture, and the Interior follow.

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Last year the *Federal Register*, Uncle Sam's compendium of regulations, ran 71,161 pages, a 4 percent increase over 1998. That is the highest since 1980, when it peaked at 73,258 pages during the glory times of the Carter presidency.

The federal government spent about $1.7 trillion last year. Despite the pervasive waste, at least there was theoretical accountability since Congress voted the money. Not so regulation, which Thomas Hopkins of the Rochester Institute of Technology figures cost Americans about $758 billion, almost 45 percent of official federal budget outlays.

Indeed, Clyde Wayne Crews of the Competitive Enterprise Institute points out that Americans spend almost as much on regulation as on the personal income tax. Rule making runs about four times as much as corporate income tax collections, and more than total corporate profits.

All told, every American family is paying about $7,400 a year for the privilege of being watched, controlled, prodded, nannied, and otherwise governed. That is essentially a separate income tax of almost 20 percent—on top of all the other government levies, which currently constitute the highest peacetime burden in U.S. history.

In effect, we are back to taxation without representation. As Crews puts it, "regulatory initiatives allow government to direct private-sector resources to a significant degree without much public fuss." Politicians pass general laws expressing unobjectionable sentiments (cleaner air and water). Unknown staffers buried within the bowels of the bureaucracy become the real legislators by implementing the law. All told, more than 50 agencies employ nearly 130,000 people and spend $19 billion to boss the rest of us around.

There was a time when some people thought the answer was to elect the right representatives. Give the Republicans control of Congress, it was said, and they will rein in the regulators. Now we know better.

Four years ago Congress enacted the Congressional Review Act (CRA), which requires all agencies to submit their rules to Congress. Lawmakers then have 60 days to use an expedited legislative process to block the proposals. Not once has Congress used the act, despite the administration's having implemented more than 14,167 new regulations since it was approved.

Too often Uncle Sam minimizes obvious regulatory costs and overestimates speculative benefits, thereby inflating cost-benefit calculations. For instance, the Office of Management and Budget proclaims that while environmental regulations cost between $124 billion and $175 billion, they yield benefits between $97 billion and $1.595 trillion. Transportation rules provide $84 billion to $110 billion in benefits at a mere cost of $15 billion to $18 billion. Similar is the case for other regulations, says OMB.

Costs Uncounted

Yet OMB doesn't count paperwork expenses, the cost of economic regulation, such as market-entry restrictions, and the price of "transfer" payments, like farm price supports. Some of the less obvious regulatory costs are quite high.

It has been evident for years that the Food and Drug Administration, by unnecessarily slowing the introduction of life-saving pharmaceuticals and medical devices, has actually cost lives. Indeed, a Harvard University study figures that regulation kills 60,000 people a year by diverting money from productive uses—medical research, safer homes, and more—to combat trivial dangers.

OMB's purported benefits are likewise dubious, being highly dependent on the underlying assumptions. A benefit range between $97 billion and $1.595 trillion is essentially meaningless. Moreover, it is difficult to demonstrate many of regulation's alleged benefits in practice. There is, for instance, no evidence that OSHA, despite imposing billions in costs on American business and thus workers and consumers, has reduced deaths or injuries.

And many of the same benefits could be achieved at far less cost. Markets, backed by definable property rights, are the better way to go.

Where some overall regulatory framework is necessary (for the great common pools of air and water, for instance), the United States currently relies heavily on command-and-control rules, demanding that companies employ a particular clean-up technology, for instance. Setting overall emissions levels and allowing polluters to choose the most efficient reduction method would be a far better approach. Devices such as emissions trading—essentially allowing high-cost businesses to pay low-cost companies to cut pollution more—and effluent taxes also better use market forces to advance environmental goals.

One of the greatest flaws of the current process is that regulators rarely conduct risk assessment, that is, compare the relative degree and likelihood of different harms. Uncle Sam often focuses his time and our money on minute risks. Several rules, ranging from benzene to dichloropropane to formaldehyde to chloroform, are estimated to cost from hundreds of millions to literally trillions of dollars per life saved. This is not a good use of scarce financial resources.

To help fix the problems, Crews proposes "congressional approval—rather than agency approval—of both regulations and regulatory costs." The people elected to make the laws should take responsibility for them, instead of hiding behind nameless bureaucrats.

Contrary to the President's famous pronouncement, the era of big government never really ended. Federal rule-making continues to run amok. Only by returning the regulatory state to the rule of law can we secure our freedom. □

IDEAS ON LIBERTY
NOVEMBER 2000

Constitutional Protection of Economic Liberty

by Norman Barry

The Supreme Court has been deliberately neglectful of traditional American economic liberties. With the exception of some important protections for property produced in the last 15 years (to be considered later in this article), economic liberties have been at the mercy of the legislature with little or no protection from the judiciary.

While the Court has been anxious to subject legislative intrusions into civil liberty to the most rigorous constitutional standards, this has not been so in relation to, say, contract, the individualistic rigor of which has been significantly diluted. The constraints on legislative action contained in the Fourteenth Amendment have been interpreted *substantively*, that is, the prohibitions on the taking of life, liberty and property (possibly) without due process of law are thought to protect specific liberties or rights that the states or the federal government (in relation to the original ten amendments) ought not to transgress irrespective of the procedural correctness of the legislation.

Not so with the right to reach a freely negotiated contract with a potential employer.

But this was not always so. In the early part of the twentieth century, the Court was assiduous in its protection of economic liberties; indeed, substantive due process emerged then. The Court was particularly concerned to prevent the police power (not itself in the Constitution) being misused. It should be limited to the prevention of harm and not invoked to promote the morals and well-being of the community (though it sometimes did); such action was especially reprehensible if it interfered with contract. Its endeavors here were not primarily validated by the utilitarian value of the free market but by the Court's reading of the Constitution and the justices' understanding of the rights that it embodied.

The apogee of the free-market Court was reached in the famous *Lochner* decision of 1905 in which liberty of contract, derived from the Fourteenth Amendment, was used to strike down a New York statute that would have limited the hours per week (or day) that a baker could work.[1] This was followed by other decisions that freed the labor market and significantly slowed the pace of the New Deal until 1937 when, under the threat of Roosevelt's Court-packing plan, the Supreme Court upheld (in *West Coast Hotel v. Parrish*[2]) a Washington state statute that regulated the pay of female hotel workers.

Equally important was a case the following year (*U.S. v. Carolene Products)* in which the Court separated economic rights, for example, contract, from civil liberties and disavowed any obligation to subject the former to any serious scrutiny. The latter, however, could not be left to unreliable elected legisla-

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tures. It was a doctrine that became the conventional wisdom of the Court and its modern liberal admirers.

Undoubtedly the intellectual foundation for this was provided by Oliver Wendell Holmes's famous dissent in *Lochner*. The Court had repeatedly upheld interference with contract under the police power and would do so in the future, he said. The Constitution did not enact Herbert Spencer's *Social Statics*. The Court did not think so either; it simply enforced constitutional rights even if they were not enumerated. (Modern liberals "discovered" the right to privacy, but it is not, strictly speaking, in the Constitution.)

Holmes's strictures have been widely accepted, even by people whom one would have thought to be sympathetic to the reasoning in *Lochner*. Richard Posner (who pioneered the economic theory of law) refers to Holmes's "magnificent dissent," and many free-market conservatives have agreed with the decision's economics while objecting to the Court's implicit activism.[3] Yet Posner strongly objected to the egregious *Williamson v. Lee Optical* decision (1955) in which the Court upheld an Oklahoma statute that reserved spectacle repair work for ophthalmologists and optometrists, severely restricting competent opticians.[4] It was pure protectionism. But maybe Posner's famed philosophical pragmatism can detect a difference between this case and *Lochner*, which concerned a statute clearly designed by the big bakers to drive out competition from the smaller, mainly immigrant businesses.

Of course, modern legislatures are riven with interest groups that frequently act against the public good of free competition and the rule of law, and it seems naïve of the modern liberals to entrust them with our economic liberties. Yet prominent modern liberals think there is a philosophical difference between the various liberties (Ronald Dworkin refers to the "stench of Lochner") and write as if how we earn our living and the contracts we make have no connection with free expression, nondiscrimination, or any other civil right in the litany of "liberalism." All sorts of individual rights are threatened by majoritarianism or the tyranny of pressure groups.

Current Institutional Weaknesses

Some of us despair of the flimsy guarantees of the familiar parchment protections, and the Constitution does, in its original form, go some way toward nurturing a kind of alternative political action (the exit option) as a protective device for freedom. The United States is a federal system, and under proper competitive conditions individuals can avoid excessive regulation and taxation and enter states that offer more amenable environments. It's a process that theoretically would probably lead to a reduction in intervention all round, as states would be compelled to compete for citizens by offering easier conditions. The Constitution has the Tenth Amendment, which says that, apart from the responsibilities specifically allocated to Congress, all other legislative responsibilities lie with the states (or the people). But such permissiveness could scarcely survive the New Deal, and the final death knell of competitive federalism was officially sanctioned by the Supreme Court when it said, in *Garcia v. San Antonio Metropolitan Transit Authority* (1985), that the federal element in the Constitution consisted in the several states' equal representation in the Senate. In other words, state autonomy did not derive from the Constitution; it was a gift generously donated by Congress with the approval of the Court. The Tenth Amendment is more or less senescent.

There is, of course, little left of the original economic liberty at the center, and where there is, as in freedom for commercial advertising, it is the almost accidental outcome of a favorite civil liberties instrument, the First Amendment. Again, it is perverse decisions by a Court supine before Congress (a position it would never adopt in civil liberties) that is to blame for the erosion of the economic liberties of the Constitution. The major example of this perfidy is its treatment of the commerce clause, which was put in the Constitution to enable Congress to guarantee free trade across state lines. Since the New Deal, however, it has become the means for the central regulation of *intrastate* commerce. National standards apply everywhere so the value of exit is accordingly reduced. In 1942 Roscoe C. Filburn, who raised a small amount of wheat for his own private use was fined for violating the Agricultural Adjustment Act (upheld in *Wickard v. Filburn*), which limited wheat production. Apparently his action had a nationwide effect since without it he would have purchased wheat on the open market. If everything affects everything else, there really is no limit to Congress's powers.

The Court, however, offered a glimmer of hope in a recent case, *U.S. v. Lopez* (1995), where it refused to enforce a federal gun-control statute (forbidding the carrying of a gun near a school) on commerce clause grounds. The weapon was not imported from another state, and there was a perfectly good state (Texas) law anyway. (Congress rewrote the law to apply only to guns that passed through interstate commerce.)

With regard to liberty of contract, the days of *Lochner* really do belong to a different century. The Court seems to be oblivious to the needs of a free and flexible market and the imperishable rights on which it depends. Minimum-wage laws and the recent Americans With Disabilities Act are obvious examples of the breach of these simple requirements. However, all is not lost for liberty, for in a series of remarkable decisions in the past 15 years or so, the Court has abandoned its customary abject surrender to legislatures over economic matters and ushered in a new era of the protection of property against the voracious appetites of legislatures, a welcome refusal to accept that economic decisions made by elected representatives are necessarily for the public good.

Property and Land-Use Planning

Liberty of contract may not be specifically protected by the Constitution, but the right to property certainly is mentioned, and the Founders surely intended it some guarantee: the Fifth Amendment says that "private property shall not be taken for public use without just compensation," and the Fourteenth includes the injunction that no state "deprive any person of life, liberty or property without due process of law."[5] For those conservatives interested in "original intent," it is certainly the case that John Bingham, the author of the Fourteenth, believed that the amendment protected property as well as assuring rights for minorities.

However, throughout much of the twentieth century the judicial system offered very little in the way of protection for property. Of course, if a government physically occupied a piece of property (normally, but not only, land) it would have to do so under eminent domain and provide compensation. But sometimes a person's property could be rendered virtually valueless by a regulatory taking and without compensation. The government has always had power to regulate under the common law of nuisance, but most of the oppressive land-use planning (zoning) was done under the police power. The courts seemed eager to trust public bodies with virtually unlimited power to plan, regulate, and control.

After some significant critical evaluation of state law in the 1920s, in which Justice Holmes played an important part, the pattern was set for most of the rest of the century in *Euclid v. Ambler Realty Company* (1926), which constitutionally validated zoning. (A village near Cleveland had introduced a zoning ordinance that restricted development of privately owned land to family dwellings.) Here the public interest was elevated virtually to the exclusion of private property rights, and the Court showed an extraordinary deference toward public authority: the ordinance was upheld under the police power. Justice George Sutherland, who wrote the opinion in *Euclid*, is historically associated with the allegedly free-market Court (pre-*West Coast Hotel*). Ambler Realty, prohibited from industrial development, lost considerably, as did the community whose use of land was henceforth determined by politicians, not the market. Although some later decisions softened the rigor of *Euclid*, by the later 1930s, judicial deference to elected bodies had become the norm in all takings cases.

But in the 1980s things changed significantly. In *Agins v. City of Tiburon* (1980) a challenge to an ordinance actually failed, but the Court still proposed standards, mainly to do with the establishment of legitimate governmental goals that must be met if municipal planning were to succeed constitutionally. In three later cases, the Court applied those norms more or less consistently to the advantage of private property holders and to the detriment of public authorities, which had hitherto been insulated from serious examination of their activities. In *Nollan v. California Coastal Commission* (1987) Mr. and Mrs. James Nollan wanted a permit to demolish an old cottage they owned and replace it with a two-story dwelling. The Coastal Commission agreed, subject to one condition: the Nollans should dedicate a public easement across their property. On appeal to the Supreme Court, the Nollans won because the justices (Antonin Scalia wrote the majority opinion) ruled that the regulation did not advance common goals; and while the goals may have been legitimate, the means used to achieve them were disproportionate. The "essential nexus" between means and ends had become outright "extortion."

The next, and most famous, of the recent takings cases was *Lucas v. South Carolina Coastal Commission* (1992). David Lucas had spent nearly a million dollars on the purchase of beach property that he planned to develop into two vacation homes. Unfortunately, the Coastal Commission later introduced environmental regulations that rendered his investment worthless (although, as was pointed out, not quite worthless; he could still have picnicked on the beach). A lot of issues were involved apart from the question of whether it was a "taking": for example, was there protection against retroactive laws? Were claims for partial takings admissible (early commentators on *Lucas* seemed to think not)? Was there protection for investment-backed expectations? And what was the importance of commercial viability?

Lucas won in the Supreme Court and was duly compensated; it was conceded that he had suffered a total economic wipeout, although some of the questions raised were not fully answered. However, it was clear that the Court from now on would be much more searching in its inquiries into the rationale of a regulation. One ironic aftermath of the case was that the Commission later tried to sell Lucas's former property for vacation home development. The case indicated that the destruction of all investment-backed expectations should not go uncompensated and that a regulation should not eliminate the commercial viability of an asset. Implicit in the Court's deliberations was the acceptance of the fact that utilitarian value (not that there seemed to be much in the *Lucas* case) of a regulation should not trump economic rights.

Some questions left unsettled in *Lucas* were answered by *Dolan v. City of Tigard* (1994). Florence Dolan, in order to get a permit to extend her electrical and plumbing store, was told that she had to dedicate part of her land to public use (to abate the threat of floods and to provide a bikeway). Dolan's suit against these requirements was ultimately successful in the Supreme Court, and the decision provided the rationale of compensation for a partial taking; the burden imposed on her for the cost of a public benefit was ruled invalid. Of equal importance was the fact that burden of proof for the necessity of the regulation now lay with the authority. *Euclid* seems finally to have been buried. Although *Nollan* and *Dolan* perhaps have not been unfailingly followed in later cases, it is clear that the takings world is a very different place from what it was once.

Economic Liberties and the Constitution

While all this is encouraging, it would be foolish to imagine that the economic constitution has been rehabilitated. There are vast areas of commercial life that get no protection from the courts, and governments at all levels have pretty much a free hand. Contract law is subject to endless statutory depredations (whatever happened to employment at will?) and arbitrary antidiscrimination law has removed the market from the resolution of many of the most contentious disputes. And I haven't even mentioned antitrust and its legal and economic absurdities.

It is also worth discussing something mentioned earlier—the hitherto serious dereliction of duty by the judiciary itself in the protection of economic liberties. Is it feasible to expect the Supreme Court to defend economic rights in today's hostile intellectual environment (as opposed to the public world, which does not entirely consist of graduates from the country's premier law schools)? A measure of a significant shift in the debate can be gauged in Chief Justice William Rehnquist's opinion in *Tigard*: "[we] see no reason why the Takings Clause of the 5th Amendment, as much a part of the Bill of Rights as the 1st Amendment or the 4th Amendment, should be relegated to the status of a poor relation." And Scalia and Clarence Thomas have expressed encouraging sentiments about economic rights. But I fear it is a libertarian dream that one day economic and personal rights might be united. □

1. See Bernard Siegan, *Economic Liberties and the Constitution* (Chicago: University of Chicago Press, 1980), chapter 1.
2. A decision presaged in *Nebbia v. New York* (1934).
3. Richard A. Posner, "The Constitution as an Economic Document," in Richard A. Posner and Francesco Parisi, eds., *Law and Economics* (Cheltenham, England: Edward Elgar, 1997), p. 418.
4. Richard A. Posner, *Economic Analysis of Law* (Boston: Little, Brown, 2nd ed., 1977), p. 502.
5. See Bernard Siegan, *Property and Freedom* (New Brunswick, N.J.: Transaction Publishers, 1997).

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Creativity and Criminality: The Two Faces of Responsibility

"No productiveness of the highest kind, no remarkable discovery, no great thought which bears fruit and has results is in the power of anyone. . . . Man must consider them as unexpected gifts from above, as pure children of God. . . . The process savors of the demonic element which irresistibly does with a man what it pleases and to which he surrenders himself unconsciously while believing that he is acting on his own impulses."

—JOHANN WOLFGANG VON GOETHE

What makes "creative geniuses" different from "crazy criminals," and both different from ordinary people?

Plato regarded creativity as a form of possession or madness, of which the Muses are the source. The modern view is the same, except that it identifies the madness as a specific disease, manic-depression, and attributes its source to the brain. In the absence of objective evidence for this interpretation, its "truth" is demonstrated by the volunteering of public figures—such as writer William Styron, television journalist Mike Wallace, psychologist Kay Redfield Jamison—as poster children for madness, their malady controlled or cured by chemistry.

Alongside the image of manic-depression as a cause of creativity that does not detract from the subject's responsibility for his good deeds stands the image of schizophrenia as a cause of criminality annulling the subject's responsibility for his bad deeds. This interpretation, too, lacks objective proof. Instead, its "truth" is enshrined in the criminal law—in the practice of the insanity defense, allowing society to incarcerate *some* persons who break secular laws and are deemed mad in prisons called "hospitals." And it is enshrined as well in religion—in the practice of the insanity excuse, allowing clergymen to bury in consecrated ground *all* persons who break the religious law against suicide, and are deemed automatically *non compos mentis* at the precise moment of their sinful deed.

The successful creator and the successful destroyer resemble one another in their single-minded determination to achieve their goals. Nineteenth-century French alienists medicalized single-mindedness by calling it "monomania." According to the *Oxford English Dictionary,* the term, first used in 1823, refers to "A form of insanity in which the patient is irrational on one subject only"; it is also used to identify "An exaggerated enthusiasm for or devotion to one subject; a craze." Because in different times (or places) people value devotion to a particular subject differently, certain persons dishonored as mad at

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one time are hailed as geniuses later, and vice versa. While he was alive, the Hungarian obstetrician Ignaz Semmelweis—who discovered the microbial causation of puerperal fever before the discovery of microbes as pathogens—was considered to be wedded to an erroneous belief, which he defended irrationally. Diagnosed insane, he was incarcerated and died in a madhouse. Today, the medical school at the University of Budapest is named after him. Conversely, while he was alive, Adolf Hitler was hailed, especially in Germany, as a political genius. Today, he is loathed as a lunatic.

"There is no great genius without a touch of madness," declared Seneca. The image of a person seized by a great force, often called a "fire"—seemingly outside of himself—is a figure of speech for a powerful *motive* propelling him toward certain kinds of actions. Misinterpreted, the metaphor implies that the subject has lost control over himself, is under the control of alien powers—"muses" in antiquity, "madness" today. Accordingly, we view the mad person as having a disease (insanity) that deprives him of moral agency and hence responsibility. The evidence? That mad persons (mental patients) disavow choosing their actions and attribute their (illegal, destructive) actions to other agents, typically God or "voices"; and that psychiatrists eagerly validate this misinterpretation by accepting the patients' claims as valid, attributing their "symptoms" to irresistible impulses lodged in the chemistry of their brains, and excusing their crimes as the products of "sick brains."

I maintain that the "mental states" of the creative genius and of the destructive genius are essentially similar. We view both as inspired or "monomaniacal," but while we regard the former as *intentionality incarnate,* we regard the latter as *devoid of intentionality.* In other words, we perceive the good genius (artist) as possessing moral agency and personal responsibility, and the bad genius (mad criminal) as bereft of these quintessentially human qualities. These constructions suit our needs for dealing with exceptional persons and their exceptional conduct. They are not scientifically valid accounts of the good and bad genius's *ability to control his behavior.* Regardless of whether a person is called "creative" or "crazy," he is capable of self-control; each yields to his inclinations ("frenzy"), whose consequences others judge as good ("creative") or bad ("crazy").

Sane or insane, persons possess more self-control than we are willing to accord them. The idea that mentally ill persons lack self-control is a modern view, alien to people in less advanced civilizations. The doctrine that the so-called insane person *cannot* control his ("psychotic") behavior, rather than that he *does not want* to control it, is, in my view, a postulate parading as a factual proposition. The evidence points decisively in the opposite direction. Under extreme threats to life—as in a concentration camp—mad persons suddenly "recover" and cease to display symptoms of their "disease."

The idea of the irresistible impulse and the problems it generates—epitomized by the insanity defense and claims for victimization by voluntary behavior, such as smoking—are artifacts generated by the belief in mental illness as a *cause* of diminished or annulled responsibility.

The behavior of every person—regardless of whether we regard him as creative, criminal, or normal—is intentional. Hence, he is responsible for it. Nevertheless, we believe it is scientific to divide people into three groups: individuals with exceptionally large amounts of intentionality—creative geniuses; individuals with little or no intentionality—insane criminals; and individuals with an average amount of intentionality—ordinary persons:

- We see the genius as full of intentionality and his creative act as the embodiment of self-disciplined self-expression, equating the actor with his act ("It is a Renoir.").
- We see the madman as lacking intentionality and his destructive act as the embodiment of alienated impulsivity, separating the actor from his act ("He is not himself.").

The answer to questions such as "Was van Gogh or Hitler a genius or a mad person?" depends on whether we perceive the person's act as creative or destructive, good or bad, rather than on the nature of his "mind." Thus, it tells us more about the speaker's mind than the mind of van Gogh or Hitler. □

IDEAS
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Psychiatry in a Communist Utopia

by Miguel A. Faria, Jr.

I recently read a book that should shock freedom-loving and civil-liberty-loving readers, even the libertarians, Objectivists, and Americans of other political persuasions who (thanks to Dr. Thomas Szasz) have come to be skeptical and even critical of psychiatry, particularly in the courtroom.

The Politics of Psychiatry in Revolutionary Cuba by Charles J. Brown and Armando M. Lago (Transaction, 1992) provides irrefutable evidence and graphically documents that the totalitarian government of Cuba has used (and continues to use) psychiatry for political purposes—in this case, political repression, the crushing of dissent, and the establishment of conformity within the political structure of the island prison of communist Cuba.

The authors have carefully investigated the stories of 27 Cuban dissidents charged with political crimes (nonviolent opposition to the regime), arrested, interrogated by the State Security apparatus, and then treated horribly as psychiatric cases. In Cuba, psychiatrists *must* cooperate with State Security or face reprisals, arrest, and punishment by the communist government; thus there is no opposition to speak of.

A clear pattern emerges from the cases. After arrest, the individuals were usually taken to Villa Marista State Security Headquarters for harsh interrogation, then to the Havana Psychiatric Hospital (also known by its old name, Mazorra) where they underwent unspeakable terror. They were not taken to the meticulously polished floors and corridors of the Paredes ward, where foreign dignitaries go to see the marvelous advances in psychiatry in the Cuban health-care system, but to the horrible Salas Carbó-Serviá and Castellanos wards, which are under the control of State Security.

In those dreadful wards it became obvious that the "patients" were not confined to be treated for "mental illness," but rather to be terrorized. Some were placed days, weeks, or months among those judged criminally insane to coerce them to submit and conform to the dictates of State Security. Others were forced to ingest large amounts of psychotropic drugs (including Thorazine and other phenothiazines) or to undergo even more barbaric "treatment" with electroconvulsive therapy (ECT), usually without anesthesia or muscle relaxants, under the supervision of a sadistic orderly named Heriberto Mederos, who was actually a State Security agent nicknamed "El Enfermero."

Every morning at 5 o'clock Mederos and his sadistic assistants, one of whom was nicknamed "El Capitán," would select the unfortunate ones who would undergo ECT after being doused with cold water (for better electrical conduction!) and thrown on the hard cement floor where the procedure was per-

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formed. El Capitán would later sodomize young prisoners. Others would be brutally beaten. One of them was found hanged and incinerated with gasoline.

Psychiatrists were sometimes present. They would interview the prisoners, classify them, and sometimes approve of the "treatment." Other times they would admit to the prisoners in private that they had not specifically ordered their medication, torture, or rehabilitation. After their detention and confinement patients would be suddenly "dismissed" and transferred to prisons with or without a diagnosis. They would be told they had been "tried in absentia" and sentenced to long terms in such notorious prisons as Combinado del Este, La Cabaña, El Príncipe Castle, El Morro Castle in Havana province; other prisons or mental hospitals such as the Gustavo Machín Psychiatric Hospital (the old *Jagua*) in Santiago de Cuba; or other facilities throughout the island.

Charges brought against the dissidents included anti-regime activity or trying to leave the country illegally. The case of Nicolás Guillén, the nephew of the former poet laureate of Cuba by the same name, is noteworthy. He was accused of "ideological deviationism" for making a short agricultural film, *Arabian Coffee*, which contained a scene of Fidel Castro climbing a mountain while the Beatles' song "Fool on the Hill" played in the background. Guillén was picked up by State Security and taken to Villa Marista, held without trial, and interrogated for six months. He had at least eight sessions of ECT without anesthesia. Although he had fought in the Revolution, he was in and out of prisons and psychiatric hospitals for almost 20 years, from 1970 to 1989, until he was finally allowed to emigrate to Miami where he lives today as an artist.

Languishing in Prison

Most amazing of all is that, although these cases were verified by at least two sources, in some cases by civil rights organizations in the United States such as Freedom House, Of Human Rights, and Americas Watch, as well as international groups such as Amnesty International and the United Nations Human Rights Commission, these cases have not received the attention they deserve. They represent only a small number among the thousands of known Cuban political prisoners languishing in Cuban jails.

The evidence is overwhelming that Cuban psychiatry is totally subordinate to the nefarious purposes of Castro's communist government. In the past, the World Psychiatric Association (WPA) has refused to investigate these charges because "complaints are examined in association with the WPA Member Society in the country in question. As the WPA has no Member Society in Cuba, we cannot examine the complaint appropriately." Perhaps it is time for this information to become widely available to the American public so that a cry for justice will be made. □

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Peanut Butter, Education, and Markets

by Darcy Olsen

Have you ever thought of petitioning Congress about the quality or quantity of the peanut butter you eat? Have you ever thought of creating a reform movement around peanut butter? Or have you ever wondered why there isn't a federal department of peanut butter? Maybe it's because if customers don't like Peter Pan, they can buy Jif, and if they don't like Jif, there's Skippy. We can get it chunky or smooth. We can even get low-fat peanut butter, of all things.

Why are there are so many variations on a product that in the scheme of life is pretty insignificant, but when it comes to education—a product that determines our children's future incomes and the very character of our society—America still relies on a Soviet-style monopoly that provides almost no choice, variation, or freedom?

Student achievement has been stagnant or falling in almost every subject for the past 30 years, as measured by several tests, including the National Assessment of Educational Progress, the International Evaluation of Education Achievement, the Young Adult Survey, the National Adult Literacy Survey, and the International Adult Literacy Survey. And it's not because we don't spend enough. Over the same 30-year period, real spending has doubled, increasing from $4,000 to $8,000 per child.

Why? One reason is that K-12 education in America is a legally protected monopoly—it's protected from competition by its guaranteed tax base, and it's bereft of the profit motive that spurs innovation and efficiency in every other successful industry in the country. America desperately needs an education system where the customer is king. And when the customer is not treated as a king, he should be able to take his business elsewhere. Let's call this customer-driven education.

Naturally not everyone shares that vision. Vice President Al Gore's biggest-ticket education item is federal preschool for all 3- and 4-year-olds. Lost on Gore is the fact that 70 percent of preschool-aged children already attend preschool, and, call it old-fashioned, but some parents still prefer to care for their preschoolers at home. This flexible approach to early education arguably is the best part of the American education system. According to the Department of Education, U.S. preschoolers have a strong start. On factors that kindergarten teachers say are among the most important for school readiness—physical health, enthusiasm, and curiosity—today's kindergartners are in top shape. As they enter kindergarten, more than 95 percent are in good health; nine out of ten are eager to learn; and about 85 percent work and play creatively. In terms of concrete knowledge, 94 percent are proficient at recognizing numbers and shapes and counting to ten. Two in three know their ABCs.

It's also in the early years when American

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students are most competitive internationally. Consider France, England, Denmark, Spain, and Belgium—any number of European countries with universal preschools—where more than 90 percent of 4-year-olds attend public preschools. International tests show that by age 9, when the benefits of preschool should be most apparent, American children outscore nearly all their universally preschooled peers on tests of reading, math, and science. The little known truth is that America's free-market approach to preschool education is working.

While politicians like Gore may not be clamoring for educational freedom, parents are. The homeschooling universe is now roughly the size of Los Angeles and Chicago city school systems combined, and growing. Since just 1990, 36 states have passed charter-school laws and already there are more than 1,700 charter schools. Wisconsin, Ohio, and Florida have adopted voucher programs. Minnesota, Illinois, Iowa, and Arizona have tuition tax credits. And half the states have considered vouchers and tax breaks in just the past year.

Those plans are a long way from a pure, customer-driven education system—but what this demonstrates is a tremendous shift in attitude about who should provide education and how it should be financed. For a long time, the teachers' unions dictated education policy. The problem was money: the solution was money. The only point of contention was how much. Today, there is tremendous skepticism about the notion that more money can buy progress, and there is a growing demand for more parental authority and less government control.

Online University

A few months ago, Michael Saylor, a high-tech billionaire, put up $100 million to start an online Ivy League university free to students. Imagine an Ivy League-quality education freely available to any student in the world. That's just one entrepreneur's dream. Now imagine the response of hundreds of thousands of entrepreneurs when families of 55 million students go shopping for an education. In a competitive environment who knows where the schools will come from? IBM, Disney, National Geographic, education entrepreneurs, or universities. Maybe we'll be learning everything we need to know from something the size of a Palm Pilot.

Some people might say this is too radical. But the Wright Brothers weren't looking to make a faster steamship: radical may be just what we need. As David Boaz of the Cato Institute wrote, "Without that market, we'll be putting 20th century computers in 19th century schools and congratulating ourselves on preparing children for the 21st century." The monopoly is loosening, and the time has come to replace it with a customer-driven education system characterized by competition, innovation, diversity, and excellence. Soon, our choosy mothers will finally have a choice, not only in peanut butter, but somewhat more important, their children's education. □

IDEAS ON LIBERTY
NOVEMBER 2000

How the Theory of Comparative Advantage Saved My Marriage

by Ted Roberts

My neighbor is a kindly man with the pink and white complexion of a healthy turnip—and the generosity of a squash plant in dark loam. He has two green thumbs and big hands with long fingers obviously designed to pluck weeds.

Like most southerners, there's an agricultural limb on his family tree. Even though currently he's an engineer, every spring he hears the earth calling and he responds with tiller, fertilizer, and eventually seed, resulting in a 300-square-foot reproduction of the Garden of Eden minus the snake and the naked newlyweds. The gentle mist of an automatic sprinkler system substitutes for the Tigris and Euphrates.

I, too, have horticultural ambitions. Or at least I used to. I tried for years to install a garden. But the mineral resources of my backyard were only rusty nails and shingles left by the builder. And my garden skills were minimal. I much preferred puttering around in the kitchen. I'd rather stew a chicken using my secret recipe that features Caffeine-Free Diet Pepsi than pull weeds.

Out of this neighborhood diversity arose my first experience with that anthem of free-trade economists—David Ricardo's theory of comparative advantage—thereby demonstrating that economic theory has a down-home value to cookers of chicken as well as captains of industry. The comparative advantage theory says that self-sufficiency is a myth. Nations and individuals should specialize in those activities they do best. It's a good deal for the United States to supply pharmaceutical products to Japan, which sends us TVs that we buy with the yen we receive for our medicines. Likewise with individuals. An accountant doesn't weave shirts or cobble shoes or raise beef. He spends his accounting wages for those products.

Specialization determined by resources and skills is the watchword. Don't salinize the Mississippi River so you can grow Nova Scotia Salmon. Have a fried catfish filet instead, and if you still lust for salmon, import it. It's OK, says the theory, to buy Japanese TVs and sell those big Boeing jets to the Japanese.

My adventure with David Ricardo—the nineteenth-century economist—began one afternoon as I inspected my cement yard—Hell's Half Acre—after a three-week drought. My jovial neighbor yelled a hearty hello from his suburban Eden—a manicured yard framing a cornucopia of squash, pole beans, and tomatoes that flourished under the mist of his regulated sprinklers.

"Come on over and get ya a couple tomatoes for supper," he shouted.

And I did, which brought a warm ambience to my home since my wife was a homegrown-tomato addict. She had long complained about my garden shortcomings.

But now, so what if I was a clumsy klutz among the tomato stakes. In some wily way, due to my intra-neighborhood skills, I put

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fresh sliced tomatoes on the breakfast, lunch, and supper table. Life was good.

One day, while biting into a No. 3 Better Boy, it occurred to me that common decency and the need for a continual flow of tomatoes required some reciprocal generosity on my part. And since my backyard was as barren as Sodom and Gomorrah after the fireworks, and since I couldn't grow a dandelion in a pile of potting soil, I'd better come up with a creative substitute.

Aha, my famous Stewed Chicken with the secret recipe I would pass on to my children as a rich inheritance and the major part of my estate. The secret is the exotic flavoring of one small turnip. Perfect. I had culinary talent and a freezer full of frozen chicken dating back to the ice age.

So—every week I'd carry a plateful of Spécialité de la Maison to my obliging neighbor and return with my pot full of those scrumptious No. 3 Better Boys. My wife, with an expectant grin (and knife and plate in hand), greeted me at the backdoor with a kiss. Yes, the theory of comparative advantage was everything David Ricardo said it was.

Let me stress that at no time in my pre-tomato days did I ponder my lack of tomatoes and conclude that this nineteenth-century theory was my solution. I was totally innocent of the science of economics. To me, David Ricardo sounded vaguely like a Latin bandleader. Only later, when my son, the University of Chicago-educated economist (and *Ideas on Liberty* columnist), showed me his recent book on foreign trade did I appreciate my *independent* discovery. Kids! They think they know everything.

All this time I thought I was swapping stewed chicken for tomatoes, but what was really going on was a classical bubbling of the theory of comparative advantage as described by a nineteenth-century trade theorist.

Hmmm—my neighbor on the other side sure has some nice-looking peaches hanging on his peach trees. Wonder if he likes stewed chicken with a tinge of turnip? □

Economics

Sacrificing Lives for Profits

I pointed out in my last column that despite what people commonly say about how human life is priceless, they put a price on their lives every day with their actions. People take chances that shorten their life expectancies to do things that are fun, and for the convenience and savings of not taking every precaution possible. When people willingly accept risks to acquire things they value, they are putting a price on their lives—telling us with their actions that the *marginal* value of their lives is less than the often quite low value they realize from overeating, not exercising, driving too fast, and so on.

Unfortunately, when people take chances they sometimes have regrettable accidents. Nothing is more natural than feeling sorry for those who have suffered serious injury or death because they exposed themselves to risk. But our sympathy for them should not blind us to the fact that we would not be doing adults a favor by interfering with their ability to take risks that, given their preferences and circumstances, make sense to them. Yet such policies are condoned and encouraged every day by well-meaning people who (1) fail to recognize that, at the margin, human life is not priceless and (2) don't understand how prices and profits empower people to communicate effectively their desires to business firms. These are people who are quick to express moral outrage when they hear the charge that corporations sacrifice lives to increase their profits by making unsafe products.

People are accidentally injured and killed every day because products are not as safe as they could be. More than ever before, the prevailing legal environment encourages those harmed in these accidents to sue manufacturers of "unsafe" products to compensate for their pain and suffering. An obvious inducement for these suits is that the payoff to plaintiffs and their lawyers can be high, occasionally outrageously high. For example, in 1999 a $4.9 *billion* judgment against General Motors was awarded to six people severely burned when their 1979 Malibu caught fire after being hit by a drunk driver going between 50 and 70 miles per hour.* The charge that sways juries and offends public sensitivities, and helps explain the large awards, is that greedy corporations sacrifice human lives to increase their profits.

Is this charge true? Of course it is. But this isn't a criticism of corporations; rather it is a reflection of the proper functioning of a market economy. Corporations routinely sacrifice the lives of some of their customers to increase profits, and we are all better off because they do. That's right, we are lucky to live in an economy that allows corporations to increase profits by intentionally selling prod-

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*The actual settlement will be less, though still much higher than justified by how much people value the marginal safety involved in the case. As of March 2000 the plaintiffs have offered to settle for $400 million, but General Motors has refused so it can continue appealing the case.

ucts less safe than could be produced. The desirability of sacrificing lives for profits may not be as comforting as milk, cookies, and a bedtime story, but it follows directly from a reality we cannot wish away.

The reality is scarcity. There are limits to the desirable things that can be produced. If we want more of one thing, we have to do with less of other things. Those expressing outrage that safety is sacrificed for profit ignore this obvious point. For example, traffic fatalities could be reduced if cars were built like Sherman tanks. But the extra safety would come at the sacrifice of gas mileage, comfort, speed, and parking convenience, not to mention all the things you couldn't buy after paying the extraordinarily high price of a Tankmobile. Long before we increased automotive safety to that of a Tankmobile, the marginal value of the additional life expectancy would be far less than the marginal value of what would be given up. It simply makes no sense to reduce traffic deaths as much as possible by making automobiles as safe as possible.

Communicating with Profits

But how much safety is the right amount? The answer varies among individuals. Some people get so much enjoyment out of riding motorcycles, for example, that they do so even though the chances of surviving an accident are 17 times greater in a car. People typically purchase more safety as their incomes increase and when more people are dependent on them. When I was in graduate school, I drove a battered Volkswagen Bug with a door that wouldn't close completely. I chose more education at the cost of less safety. Now that I have a family and more income, I am willing to pay for more safety, so I drive a Suburban—not quite a Sherman tank, but close.

How do people communicate their demand for safety to automobile manufacturers? Through the prices they are willing to pay for different types of cars and the profits generated by these prices. There would be no profit in making a car as safe as a Sherman tank because nobody would buy it. Car companies make more profit as they get closer to incorporating the inevitable tradeoffs in automobile designs to the liking of consumers. So when car manufacturers compromise on safety to increase profits, they are doing what we want them to do—responding to our preferences.

This is not to say that mistakes aren't made. Prices and profits don't allow consumers to communicate every aspect of their preferences for cars with surgical precision. But the advantage of profits in motivating auto safety is that when a car company doesn't give consumers what they want, profit opportunities increase for car companies that do. And although this market process doesn't work perfectly, it works better than any other process.

Unfortunately, with any reasonable level of product safety, people will be killed and injured in accidents. The cost and carnage of these accidents are easily seen, as is the fact that the damage would have been less if only more safety had been built into the product being used. Not as easily seen are the advantages millions of people realize from not having to pay for more safety than they want—advantages like more money to spend on education, medicine, clothing, and housing. And more education, better medicines, and improvements in the clothing and housing available are all associated with longer life expectancies. Those whose lives are cut short by accidents are obviously identifiable, while we will never know who avoided a premature death because of the prosperity generated by an economic system guided by market prices and profits. But there can be no doubt that the latter far outnumber the former. □

IDEAS ON LIBERTY
NOVEMBER 2000

The Return to a Global Economy

by Ian Vásquez

If we want to understand the current advance of global capitalism, it is worth remembering that a liberal international economic order has actually arisen twice, first at the end of the nineteenth century and now at the end of the twentieth.[1] In many ways, the world economy has simply caught up to where it was 100 years ago, prompting prominent economists to question whether the level of international integration is as high now as it was before the interruptions of two world wars and the Great Depression.

In a recent study, economists Michael Bordo, Barry Eichengreen, and Douglas Irwin ask whether globalization today is really different from globalization a century ago.[2] Answering that question can help us determine whether we are living in unprecedented times, whether the nation-state is becoming obsolete, and whether the new liberal international economic order promises to endure. Indeed, as various observers have noted, the mere fact that the first episode of global capitalism met such a cataclysmic end should force us to reflect on the current features of commercial, financial, and labor integration.

One area in which the world is decidedly less liberal than it was under the Pax Britannica is that of immigration. Although technological advances have made travel far more affordable and convenient than in the nineteenth century when restrictions on immigration were minimal or nonexistent, today most countries in the world—certainly most rich countries—have an array of labor and immigration regulations. As economist Deepak Lal convincingly explains, such restrictions on the movement of people exist today because citizenship concedes rights to the services provided by the welfare state.[3] Yet even as the welfare state has grown, so have migration flows. From 1965 to 1990, the foreign-born population rose from 75 million to 120 million people—with flows from poor to rich countries accelerating the most. The number of people emigrating to the United States has grown about ten times since 1945, for example, but as a percentage of the U.S. population immigration still represents only about one-third of its peak at the turn of the century.[4]

By contrast world merchandise trade reached its 1913 level by the 1970s.[5] Global exports as a percentage of global output stood at about 12 percent in the early 1970s and has since risen to about 18 percent. U.S. exports as a share of the country's economy are only slightly higher today at 8 percent than they were in the late nineteenth century. Including trade in services, however, the U.S. export figure rises to about 11 percent. Indeed, the rise of trade in services such as tourism, finance, insurance, and technical assistance has become far more pronounced today than it was previously. Thus taking into account world exports of both goods and services,

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global exports rise to about 23 percent of world output today.[6]

Two other features distinguish commerce in the new liberal international economic order: the rise of the multinational corporation and the change in the composition of trade. Much trade today involves corporations "slicing up the value chain" and engaging in intra-industry trade. As a result, manufactured goods are increasingly exported from developing countries to developed countries. That contrasts sharply with the nineteenth-century experience when countries on the periphery exported primary goods to rich countries, which exported manufactured goods made primarily in the center countries to the periphery. Bordo and his coauthors note, for example, that 80 percent of U.S. imports from Mexico are manufactured products while 100 years ago that figure was only 10 percent. And although U.S. exports of goods have not increased dramatically as a share of its economy, a much higher percentage of the production of the United States' tradable goods is now exported.[7]

Financial Integration

Is the world more financially integrated than it was in the past? A look at net capital flows suggests that the answer is no. The outflow of capital from Great Britain reached 9 percent of its GDP during the Victorian era with similar figures in Germany, France, and the Netherlands. No country today even comes close to those levels of net flows. In the 1990s, the average capital outflow for leading economies was slightly above 2 percent of GDP.[8]

Other differences in capital market integration suggest that the world is indeed more globalized than ever. Gross flows of capital, at about $1.5 trillion per day, are much larger than at any time in history, and much of that money represents short-term investment. Investors can today react at a moment's notice to economic and political developments around the world in a market that offers a wide and growing range of international financial instruments. Investors, moreover, are almost equally putting their funds into equity instruments and debt instruments, which predominated 100 years ago. At that time, international finance concentrated on funding certain sectors, principally railroads and government bonds.[9] Today, with more rapid and perhaps more reliable information about investment opportunities, international funds flow into virtually every sector of countries' economies. In short, although net capital flows are not as large as those of the nineteenth century, gross flows are unprecedented in size, as are the extent and sophistication of capital markets, suggesting that financial integration is greater today than in the first episode of world capitalism.

The Role of Technology and Politics

Has globalization come about because of political change or technological change? Here again, Bordo and others suggest important differences between the two episodes of world capitalism. During the last century, technological changes clearly led to globalization. By the 1860s the political bases for a liberal international economic order were already in place. Great Britain repealed the Corn Laws and established its presence in China in the 1840s; it conquered India by 1857, and, with France, defeated Russia in the Crimean War by 1856.

Contemporaneous and subsequent advances in technology led to a 40 to 50 percent drop in the cost of shipping in the latter part of the nineteenth century and early part of the twentieth. The transatlantic cable was laid in the 1860s; use of railroads and the telegraph proliferated; the Suez Canal was completed in 1869; and the radio telephone linked Europe and North America by 1900. Those and other innovations led to the first rise of world capitalism.

Globalization today has benefited from technological improvements but has been almost entirely due to dramatic political changes. Countries around the world have lowered their trade barriers and opened their economies since the 1980s and especially so since the fall of the Berlin Wall. (That contrasts with the nineteenth-century experience, as nations were raising tariffs incrementally as the century wore on.) New technology such as air transport may have helped propel today's globalization, but the role of such change in leading to globalization should not be overstated. On the other hand, technology in the information age may make it more difficult for politicians to reverse the course of world capitalism.

Although globalization is often said to create inequality and economic volatility, historical evidence points, in fact, to economic convergence in living standards among countries that open their economies. Studies have shown tendencies to converge among countries in the Organization of Economic Cooperation and Development, among U.S. states, and among Japanese prefectures.[10] Significantly, economist Jeffrey Williamson found a decreasing gap in living standards among people living in countries participating in the international economy during both periods of global capitalism. "History offers an unambiguous positive correlation between globalization and convergence. When the pre-World War I years are examined in detail," Williamson adds, "the correlation turns out to be causal: globalization played *the* critical role in contributing to convergence."[11]

The Financial System

The incidence of financial crises in Asia, Russia, and elsewhere in recent years has also often been treated as novel and as a consequence of globalization. Yet economists have examined the causes of the recent economic turmoil and have generally agreed that the causes included pegged-exchange rates, government-directed credit, protected financial systems, moral hazard at the national and international level, and the lack of transparency in official accounts.

Despite that consensus, the crises are used by critics of globalization to advocate *moving away from* a more market-based system and toward *more* interventionism. Thus India is cited as having followed more prudent policies than its East Asian neighbors since its more closed system allowed it to avoid succumbing to the regional financial crisis. The price it has paid for stability, of course, has been enduring poverty. By contrast, Hong Kong has had a volatile economic history but has become one of the wealthiest places on earth. Indeed, even after the financial turmoil, East Asian crisis countries are still eight to 15 times richer than India.

Financial crises also occurred in the first era of world capitalism. One common feature between the two eras is that banking and currency crises occurring at the same time tend to be more common in the periphery, or less-developed, countries than in the rich countries, where currency but not banking crises are more common. However, under the gold standard of the Victorian age, crises were resolved differently from how they are resolved under the current system of adjustable exchange rates based on fiat money.

One significant difference was that financial rescues 100 years ago were undertaken by the private sector, while today they are official, usually led by the International Monetary Fund. British Foreign Secretary Lord Palmerston summed up the attitude that prevailed for the rest of the century when U.S. states defaulted in the 1840s: "British subjects who buy foreign securities do so at their own risk and must abide the consequences."[12] Largely as a result of that approach, economic recovery was more rapid in crisis countries than it is today and crisis countries then did not experience wealth losses as large as those experienced by crisis countries today.[13]

Liberalism from Above or Liberalism from Below?

The distinct institutional framework under which liberalization is taking place worldwide—including the prominence of supranational governmental organizations like the IMF, the World Bank, the World Trade Organization, and the United Nations, and the prominence of welfare and regulatory states—causes both enemies and proponents of globalization to attribute the market revolution to the efforts of those institutions, and to recommend that further developments be managed by international world bodies.

Yet the evidence indicates that such international organizations have at best been marginal to the globalization process and at worst have caused disruptions or delays along the way. Decades of World Bank and IMF lending to inward-looking regimes, for example, have certainly slowed the move to world capitalism.[14] Yet countries have *unilaterally* undertaken economic restructuring, trade and capital account liberalization, and other policy reforms as past policies failed. That is even true of countries that have entered into multilateral free-trade agreements, like Mexico, which reduced its trade barriers for years before proposing the North American Free Trade Agreement. China, in its bid to join the WTO, is following the same course. Thus while aid agencies are likely to cause more harm than good in the globalization process (lending to Russia, for example), free-trade agreements such as the WTO are likely to be helpful. However, they serve more to preserve trade liberalization reforms than to promote them.[15]

In short, the world economy has evolved as a result of changes coming from the national level rather than from changes directed at the international level—what German liberal Wilhelm Röpke called an international order "from within and beneath" rather than the "false internationalism" that characterizes supranational organizations. The danger of the constructivist approach to achieving a liberal economic world order is that it may lead to discretionary and arbitrary use of power. Razeen Sally of the London School of Economics describes those hazards.

> Neoliberal institutionalists do not portray international policy coordination in the frame of limiting general rules at the international level that proscribe discretionary government action; rather, they think of it as an apparatus of complicated negotiations on particularistic policies intended to achieve specific results. This is the hallmark not of limited government under the Rule of Law, but of unlimited and discretionary government in an international public policy cartel, avoiding both domestic political accountability and market disciplines. In this context, international regimes are manifestations of government failure transplanted to the international level. Intergovernmental cooperation and international agreements, far removed from public scrutiny and the control of national legislatures and judiciaries, supply extra room for arbitrary activity by politicians and bureaucrats. They exacerbate the malaise of Big Government and political markets within nation-states.[16]

We have already seen some of that dynamic at work. For example, through international forums, rich countries have pressured poor countries to adopt labor and environmental regulations that did not exist in rich countries at a similar stage in their development. Those impositions have come about against the wishes of developing countries and the vast majority of consumers in rich countries.

Examples of arbitrariness and lack of transparency are amply provided by the IMF. For instance, the Fund does not tolerate the current account deficits of its member countries exceeding 4 or 5 percent of GDP even though large deficits are beneficial in many cases. Indeed, Australia, Canada, and Argentina had current account deficits greater than 10 percent for decades before 1913. The process by which the IMF decides the bailout amounts nations receive is also unclear. Why did the IMF put together a $57 billion rescue package for Korea as opposed to, say, a $30 billion package? We may never know the criteria or the rationales used in that case or many others.

In the end, globalization may make such international bureaucracies irrelevant. And efforts to promote international liberalism from above may prove futile. In the meantime, we can come to some tentative conclusions. The world has seen global capitalism before; what is unprecedented is not globalization per se, but the extent to which the world is more globalized today than it was 100 years ago. That is especially so in terms of trade and finance. Moreover, no matter how much international agencies would like to take credit for the worldwide market revolution, those changes have emerged at the national level and have not been imposed from above. In that sense, the nation-state remains quite relevant. But a backlash against global liberalism is in fact more likely to occur if international agencies increasingly manage the world economy to the detriment of what poor countries consider most important, namely, economic growth.

Happily, one of the biggest differences between the two periods of world capitalism—the ideological environment—portends well for the 21st century. At the end of the nineteenth century, the wave of the future was socialism and its variants, which intellectuals considered held great promise for humanity. That belief system helped destroy the first era of globalization. Today, with socialism thoroughly discredited, basic liberal principles are generally accepted. That current climate of opinion does not make continued globalization inevitable, but it removes a major obstacle on the path toward prosperity that the world has recently resumed. □

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7. Bordo et al.

8. *World Economic Outlook*, p. 114.

9. Bordo et al.

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15. Brink Lindsey, "Free Trade from the Bottom Up," *Cato Journal*, Winter 2000, p. 363.

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IDEAS ON LIBERTY
NOVEMBER 2000

Adam Smith: Moral Philosopher

by James R. Otteson

Adam Smith was not solely an economist, though that is almost exclusively how he is known today. His *Inquiry into the Nature and Causes of the Wealth of Nations* (WN) is one of the most important books in the Western tradition. Aside from ushering in the modern market-based economic order, which to varying extents has become the worldwide norm, WN laid out several of the fundamental elements of what has become standard economic theory. The crucial importance of the division of labor, the dependence of specialization on the extent of the available market, the dynamic relation between supply and demand that sets prices, and the generally salutary effects of free trade are all notions that students learn in their first economics class. These topics are all investigated systematically for the first time in Smith's book.

The argumentative strategy of WN is simple: given the way these elemental factors operate, we should expect that material prosperity will vary indirectly with governmental regulation of the marketplace (the less governmental interference, the greater the prosperity); and when one looks at the historical record—which Smith does in enormous and awesome detail—our expectations are in fact borne out.[1] WN's conclusion, then, is in the form of a hypothetical imperative: if we want increasing material prosperity, we must decrease governmental interference in the operations of marketplaces.

WN was published in 1776, and the subsequent history of the nations that adopted Smith's recommendations to the greatest extent—America and England—would seem to have vindicated his argument: no place in the world has seen as much increase in material prosperity, before or since, as post-1776 America and England.[2] Because of its enormous historical influence and the corroboration of its central tenets, then, Smith's *Wealth of Nations* has rightfully earned for itself a central place in the canon of great works of the Western tradition.

Smith became quite famous in both Britain and on the continent during his lifetime, but, perhaps surprisingly, not so much for the *Wealth of Nations*. Rather, it was for his earlier book, first published in 1759, on ethics. *The Theory of Moral Sentiments* (TMS) was written during an extraordinarily active period in ethical thought. Francis Hutcheson, who founded the so-called sentimentalist school of ethics, was Smith's teacher; David Hume was Smith's best friend and intellectual sparring partner; and Immanuel Kant, who read Smith carefully, was about to come onto the scene. It is no exaggeration to say that Smith's book was able not only to synthesize the important theoretical work done before him, but also to set the program for ethical philosophy for at least a generation after he died in 1790. Since about the middle of the nineteenth century, however, when Smithian economics

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began to make influential converts, WN has eclipsed TMS in recognition, readership, and, hence, influence.

I think that the inattention to Smith's first book has been a mistake. TMS is a sufficiently subtle and sophisticated book to merit serious scholarly attention even absent its great influence on moral philosophy during the eighteenth century. Indeed, TMS has another asset that recommends it: as is the case with WN, its argument is, in its essentials, sound. Let me summarize the argument here, then, in the hopes that you will come to see Smith not merely as an economist, but as Smith saw himself, something perhaps grander: a moral philosopher.

Acquiring Moral Standards

Smith's goal in TMS is to discover by means of empirical investigation the process that explains two phenomena: on the one hand, the adoption by individuals of moral standards by which they judge others; and, on the other, their adoption of moral standards by which they judge themselves. One striking feature about both phenomena is that during their lifetimes people seem to go from having virtually no such standards as children to having standards that are commonly shared with others as adults. What explains this transition?

Smith argues that all human beings innately have something he called a desire for "mutual sympathy" of sentiments. What Smith means is that each of us gets pleasure on seeing his own sentiments echoed in others. It gives us pleasure when, for example, our friends find the same things funny that we do, to the same degree, or we find the same things distasteful as our friends do, to the same degree. Smith thinks it is simply a fact about human nature that we find this mutual accord, or concordance of sentiments—what Smith terms "sympathy"—pleasurable. (And note, incidentally, Smith's special use of the term "sympathy": it means harmony or concord with any emotion whatsoever; it does not mean only pity or compassion.) In fact, he thinks this pleasure is one of the finest that human beings experience.

Since everyone finds this pleasurable, everyone seeks it out; and this mutual seeking-out of sympathy of sentiments becomes, for Smith, the engine of social cohesion and the centripetal force, as it were, of human communities. It encourages people not only to enter into groups, alliances, and communities with others (so that they have opportunities to achieve the much-sought-after mutual sympathy of sentiments), but also to form associations of like-minded people (because this increases the chances of actually achieving such a sympathy).

The mechanism, Smith thinks, is this: I desire mutual sympathy of sentiments with you, which leads me to moderate my sentiments to the level that I think, based on my past experience, you are likely to "enter into." You, on the other hand, because you desire the same thing, also moderate your sentiments to the level you think, based on your past experience, I am likely to enter into. Over time this process trains our sentiments to gravitate toward mutually acceptable levels. Smith's picture thus has a clear anti-Freudian thrust: it denies the hydraulic picture of human emotions according to which emotions build up "pressure" that must be "released." Instead, and more plausibly, it conceives of emotions as things that can be controlled and trained by exercising what Smith calls "self-command." The activity of reciprocal adjustment is then repeated numberless times in every person's lifetime, as it is between and among the people in one's community, resulting in the creation of an unintended and largely unconscious system of standards. These standards then become the rules by which we determine in any given case what kind of behavior is, as Smith calls it, "proper" in a situation and what "improper"—meaning what others can reasonably be expected to enter into.

Think of a person laughing too long at a joke: at some point you start to form the judgment that his laughter is simply too much; you judge it, that is, to be "improper." But how do you know at what point the laughing becomes too much? According to Smith, you know by judging this case against the standards you have unintentionally, and probably unconsciously, developed in conjunction with the members of your community over time. In different situations, the amount of laughter that is acceptable may differ; but in each case our experience with our fellows in similar situations sets the parameters for our judgment of propriety.

The same holds true with attire: there is such a thing as dressing inappropriately—in either direction, as it were: wearing black tie to a beach party, or wearing a bathing suit to a wedding—and your judgment of when a person's attire becomes inappropriate is a function of the mechanism Smith describes. To take a final example, there is even, Smith thinks, such a thing as too little anger. If a man's wife is being publicly humiliated by another man, then we think he ought to show anger, or what Smith calls "spirit." If he does not—if he cowers, without rising to her defense—then we judge him to have acted improperly. The propriety or impropriety of a person's behavior, then, is constituted by its accordance or discordance with what is recommended by this system of standards.

To facilitate our ability to predict what our own behavior should be (that is, what would enjoy mutual sympathy with others), Smith thinks we learn to adopt the standpoint of an "impartial spectator" from which to judge our own behavior. He believes that in time we come to take the impartial spectator's judgments as *the* standard of morality—first for ourselves and then also for others. We have all experienced the unpleasantness of being judged unfairly, that is, on the basis of biased or incomplete information (people who do not know our situation thinking poorly of us). This leads us to desire that others refrain from judging until they know the whole story; but because we all want this, our desire for mutual sympathy of sentiments subtly encourages us to adopt an outside perspective, as it were, in judging our own conduct. That is, because we want others to be able to "enter into" our sentiments, we strive to moderate them to be what we think others will sympathize with; but we can only know what that is if we ask

Adam Smith

ourselves what the impartial observer would think. The voice of the impartial spectator becomes our second-nature guide of conduct. Indeed, Smith thinks it is what we call our "conscience." The phrase "let your conscience be your guide" really means to let the imagined impartial spectator be your guide. And because we come to rely on this impartial spectator to give us accurate moral guideposts by which to judge our own behavior, our confidence in his judgments leads us also to employ him to judge others. In this way the impartial spectator becomes the standard of morality.

Let me summarize Smith's explanation of the process of developing moral standards. Babies have only desires; they have no tincture of remorse, shame, or guilt at desiring something improper. As they grow into children, however, they have the first experience of discipline, which teaches them that others judge them and expect them to behave in particular ways. And they make the shocking, arresting discovery that they are not the most important person in everyone's life—only in their own. Their desire for mutual sympathy then encourages them to discover what others expect of them and to strive to achieve it. The more experience they have, the better they become at anticipating others' expectations and hence of behaving in ways that lead to mutual sympathy. The children then develop habits of behavior that reflect what they have learned; what were once rules handed down from on high become internalized principles by which the children routinely order their lives.

As adults, larger and larger experience leads to more and more complicated, internalized principles. These principles now cover a large range of actions and motivations, and they have been revised, corrected, and fine-tuned as necessary. The principles inform Smith's procedure of making moral judgments: they are the standard against which people judge themselves and others. They are what, in practice, render the moral judgment. A moral judgment, then, is the result of a deduction by which one determines whether a given act or motivation accords with these principles.

Institutional Theory

Smith's analysis of the way in which people and communities come to have common moral standards is intriguing—and, indeed, may in large part be true. This alone would recommend it for serious consideration. But Smith's examination of human morality reveals a model for explaining the development and maintenance of large-scale human institutions *generally*—which would mean that the book's import is yet greater than initially thought. I call Smith's model a "marketplace model." Let me sketch it briefly, drawing on the discussion so far.

First, Smith argues that moral judgments, along with the rules by which we render them, develop in the way I have described, without an overall, pre-arranged plan. They arise and grow into a shared, common system of morality—a general consensus regarding the nature of virtue, or what Smith calls propriety and merit—on the basis of countless individual judgments made in countless particular situations.

Second, Smith argues that as we grow from infants to children to adults we develop increasingly sophisticated principles of action and judgment, which enable us to assess and judge an increasingly diverse range of actions and motivations.

Third, what seem when we are children to be isolated and haphazard interactions with others lead as we grow older to habits of behavior; as adults the habits solidify into principles that guide what we call our "conscience."

Fourth, people's interests, experiences, and environments change slowly enough to allow long-standing associations and institutions to arise, which give a firm foundation to the rules, standards, and protocols that both set the parameters for the initial creation of these associations and in turn are supported by them. (These "associations" would today include everything from Elks clubs, YMCAs, and Boy Scouts, to the American Medical Association, the National Academy of Sciences, and even the Catholic Church.)

Smith next argues that the development of personal moral standards, of a conscience and the impartial spectator procedure, and of the accepted moral standards of a community all depend on the regular associations people make with one another. It is in these associations, in the daily intercourse people have with one another, that they encourage each other to discover and adopt rules of behavior and judgment that will lead to mutual sympathy. Without such interactions with others, Smith argues, people would have no occasion to pursue such rules, and hence they would not. In that case moral judgments would not be made at all, and people would not, as a Robinson Crusoe would not, have thoughts about virtue or vice, propriety, or impropriety. (Smith, in fact, speaks of a "solitary islander," who, with no "societal mirror" by which to view his actions, does not think of the virtue or vice of his actions—just as he would not think about the "beauty or deformity" of his physical appearance.)

Finally, a person's (largely unconscious) adoption of general rules, development of a conscience, and employment of the impartial spectator procedure are motivated by a fundamental, innate desire—the desire for mutual sympathy. This desire is the sine qua non for Smith's theory of moral sentiments: without it, there would have been no reason to devise rules that enable people to achieve it, and, on Smith's theory, there would therefore have been no moral standards at all.

The model at work in TMS, then, comprises four central structural features: a system of order arising unintentionally from the actions of individuals (Smith was the first person to develop and work out the notion of what Hayek made famous two centuries later as "spontaneous order"), an unconscious and slow development of rules by which the system operates, the system's dependence on regular exchange among freely associating people, and a system that receives its initial and ongoing impetus from the desires of the people who make use of it. These four central features of Smith's account are, I would like to suggest, also the central characteristic features of an economic market. We can, then, accurately view Smith's conception of the system of interactions in which moral standards develop as a *marketplace of morals*.[3]

Other Marketplaces

By calling Smith's model a "marketplace" model, I already suggest in what way Smith's analysis can explain areas of human life outside of moral judgment-making. The first and most obvious application is to economic marketplaces, where the model Smith sets out in TMS matches up perfectly. Another application is to the human institution of languages. In an early essay titled "Considerations Concerning the First Formation of Languages," Smith lays out how he suspects languages first came into being and how they change over time. The processes he describes in that essay are instances of the processes he set out at greater length in TMS, and his model for language change foreshadows in important ways contemporary theories about language change[4]—a remarkable feat considering that linguistics was only in its infancy at the time. In fact, the three areas of morality, economics, and linguistics can be mapped onto one another quite nicely in terms of the four central features I listed above:

- **Motivating Desire**

1. TMS: the "pleasure of mutual sympathy" of sentiments;
2. WN: the "natural effort of every individual to better his own condition";
3. "Languages": the desire to make our "mutual wants intelligible to each other."

- **Rules Developed**

1. TMS: rules determining propriety and merit;
2. WN: protocols protecting private property, contractual agreements, and voluntary exchanges;
3. "Languages": rules of grammar, pronunciation, and so on.

- **Market (medium or arena of exchange)**

1. TMS: mutual exchange of personal sentiments and moral judgments;
2. WN: exchange of private goods and services;
3. "Languages": verbal communication.

- **Resulting "Unintended System of Order"**

1. TMS: commonly shared standards of morality and moral judgment;
2. WN: economy (large-scale network of exchanges of goods and services);
3. "Languages": language.

I can now suggest why Smith's analysis in TMS is of general applicability: the model it constructs for explaining the development of moral standards can be fruitfully employed to understand not only the development of morality, economic markets, and languages, but indeed the development of *all human social institutions*. It can, for example, account for the accepted protocols of behavior in a fifteenth-century Indian bazaar as well as those of late-twentieth-century American business; it can explain why certain forms of address and speech are peculiarly acceptable among academic professors, on the one hand, and among inner-city gang members, on the other; it can explain why Americans think the English are stuffy and why the English think Americans are loose. Smith's model is thus extraordinarily powerful, and its scope may be coterminous with the whole of human social activity itself.

This is not to say that the model as Smith presents it is perfect or flawless. One possible problem is its almost exclusive reliance on the desire for mutual sympathy of sentiments: although this desire may well be a foundational element of human nature, it seems clear that there are also other motivating desires. Thus one might object that Smith's picture of human motivation may be too simplistic. On the other hand, I see no reason to think that a richer view of the range of human motivation would necessarily be incompatible with the formal elements of Smith's model. As long as people still strive to satisfy the desires that motivate them, and as long as the satisfaction of those desires requires the presence and sometime cooperation of others, Smith's model would still seem to hold.

Another possible problem is that the moral standards that develop in the way Smith describes would not seem to have any ultimate sanction—they would seem justified, that is, solely because their peculiar historical course of social interaction produced them. That would seem to imply a cultural moral relativism that many—including me—find distasteful. It is a disputed point among Smith scholars whether he in fact thought that moral judgments had any kind of transcendent justification. I think the fact that they issue from natural human desires and needs begins to lend them objectivity, as does Smith's claim that these "natural" desires and needs were implanted in us by God—which would mean that the moral standards that unintentionally arise by their operation actually reflect the will of God.

Some scholars maintain, however, that Smithian moral standards, like the standards of etiquette, are simply a matter of convention driven by their relative utility at satisfying local, contingent, or changing desires. But I would point to what Smith actually said, and it seems to me that human nature is enough of a constant to anchor a "middle-way" objectivism—between personal subjectivism and absolutely transcendent objectivism—that is sufficient to answer most worries about relativism.

Smith's *Theory of Moral Sentiments* is thus full of far-reaching possibilities. One astonishing surprise is that, although published exactly 100 years before Darwin's *Origin of Species* in 1859, TMS's examination of the way in which these systems of unintended order, as I call them, develop and change over time adumbrates in substantial part the way in which Darwin's theory explains the development and change of species. If recent work in what is called "sociobiology"—the field of inquiry that attempts to explain large parts of human social behavior by employing evolutionary insights[5]—has merit, then Smith's TMS, which is the first book in the Western tradition to try to work out such a view, might well have been on to something important indeed.

Thus *The Theory of Moral Sentiments* has had enormous historical influence, is subtle and sophisticated, develops an account of morality that is plausible and persuasive, and works out a model for explaining human interaction that is powerful enough to encompass virtually the entire range of human life. On top of that, some recent empirical research suggests his theory might be true. I can think of little else a book would need to be included as one of the greatest works of the Western tradition. I therefore commend it to you for your consideration, and I hope you will think of Smith not merely as an economist, but rather as he thought of himself: a moral philosopher. □

1. For contemporary evidence substantiating Smith's conclusions, see the annually updated *Economic Freedom of the World* compilation, available at www.freetheworld.com/release.html.

2. For a recent study supporting this claim, see David S. Landes, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some Are So Poor* (New York: Norton, 1999).

3. For further discussion of this claim, see James R. Otteson, "Adam Smith's Marketplace of Morals," *Archiv für Geschichte der Philosophie* (forthcoming).

4. Two examples are Rudi Keller, *On Language Change: The Invisible Hand in Language* (London: Routledge, 1994) and Steven Pinker, *The Language Instinct: How the Mind Creates Language* (New York: Harper-Collins, 1995).

5. A classic statement of this view is E. O. Wilson's *On Human Nature* (Cambridge, Mass.: Harvard University Press, 1978); a more recent treatment that draws explicitly on Smith's work is James Q. Wilson, *The Moral Sense* (New York: Free Press, 1993).

CAPITAL LETTERS

Dog Day Afternoon

To the Editor:

I recently read Andrew Morriss's article concerning Missoula's trail markers (August 2000). Mr. Morriss might be interested to know that he helped pay for the ten markers, which were funded by a $30,000 federal grant. At the time, I had just been elected (as a Republican!) to the City Council. If memory serves, I was the only one of 12 council members to vote against spending $3,000 per marker to enshrine the effectiveness of government.

—MICHAEL A. BENNETT
Missoula, Montana

I was enjoying Andrew Morriss's "A (Revisionist) Walk in the Park" (August 2000) until his last paragraph, where he writes that the sight of dozens of unleashed dogs, whose owners were in violation of a clearly posted leash law, made him optimistic for the cause of liberty. I must strenuously disagree.

I know from experience that a large proportion of those unleashed dogs are not under the verbal control of their owners. Thus, for other people who would like to use the park—children tossing a ball, families having picnics, people on horseback—those cavorting canines can be everything from a nuisance to a hazard. In my small town, I have more than once been forced to leave public property, where I was training my dog in preparation for obedience trials, because of people who refused to keep their unleashed and untrained dogs from harassing me. One woman haughtily informed me that she let her dog "run free." Her previous dog, also running free, had run into the street and been killed by a car.

If I asked hikers on my property to keep their dogs on leash, surely Mr. Morriss would not applaud those who disregarded my request. Leash laws are not, as he implies, the doing of autocratic government trying to "get between people and their dogs," but a recognition by communities that the use of public property by one individual ought not interfere with another's enjoyment of it.

—ABBEY LAWRENCE
Tuftonboro, New Hampshire

Andrew Morriss replies:

I completely agree with Ms. Lawrence that undisciplined dogs are a menace—but I must disagree that the "tragedy of the commons" caused by the existence of "public" property should be solved by government dictates such as leash laws. Many people, including apparently Ms. Lawrence, have well-behaved dogs and leash laws restrict the liberty of those dog owners by applying a "one size fits all" remedy to the problem of irresponsible dog-owner behavior. Of course, there would be no problem with such people if the "public" parks were privatized and had an owner to enforce such rules as market demand required. The problem is no different, however, from the undisciplined behavior of unleashed poorly reared children and boorish adults without dogs. (The dogs I saw in Missoula, by the way, were uniformly well behaved.)

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

IDEAS ON LIBERTY
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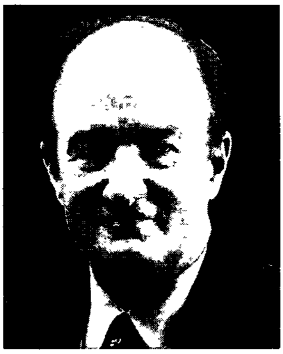

The Anti-Capitalistic Mentality, Updated

"In the excitement over the unfolding of his scientific and technical powers, modern man has built a system of production that ravishes nature and a type of society that mutilates man."

—E. F. SCHUMACHER[1]

In 1956, Ludwig von Mises countered myriad arguments against free enterprise in his insightful book, *The Anti-Capitalistic Mentality*. "The great ideological conflict of our age," he wrote, "is, which of the two systems, capitalism or socialism, warrants a higher productivity of human efforts to improve people's standard of living."[2]

Unfortunately, Mises's counterattack has done little to stem the tide of anti-market sentiments. One that continues to be popular is E. F. Schumacher's 1973 book, *Small Is Beautiful*, which has recently been reprinted in an oversized text with commentaries by Paul Hawken and other admirers. Schumacher has a flourishing following, including Schumacher College (in Devon, England) and the Schumacher Society (in Great Barrington, Massachusetts). Hawken hails Schumacher as a visionary and author of "the most important book of [his] life."[3] Schumacher's message appeals to environmentalists, self-reliant communitarians, and advocates of "sustainable" growth (but not feminists—the old-fashioned Schumacher cited favorably the Buddhist view that "large-scale employment of women in offices or factories would be a sign of economic failure"[4]).

From Austrian to Marxist to Buddhist

Oddly enough, Fritz Schumacher's background is tied to the Austrians. Schumacher was born in Germany in 1911 and took a class from Joseph Schumpeter in the late 1920s in Bonn. It was Schumpeter's course that convinced Schumacher to become an economist. While visiting England on a Rhodes scholarship in the early 1930s, Schumacher encountered F. A. Hayek at the London School of Economics and even wrote an article on "Inflation and the Structure of Production."[5] But his flirtation with Austrian economics ended when he discovered Keynes and Marx. He renounced his Christian heritage and became a "revolutionary socialist." The Nazi threat forced him to live in London, where he was "interned" as an "enemy alien" during World War II. After the war, he worked with Keynes and Sir William Beveridge and supported the nationalization of heavy industry in both Britain and Germany. But his real change of heart came during a visit to Burma

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in 1955, when he was converted to Buddhism. "The Burmese lived simply. They had few wants and they were happy," he commented. "It was wants that made a man poor and this made the role of the West very dangerous."[6]

Schumacher greatly admired Mahatma Gandhi and his saying, "Earth provides enough to satisfy every man's need, but not for every man's greed." Eventually he wrote a series of essays that became his classic, *Small Is Beautiful*, published in 1973. In the 1970s, he became passionate about trees and began a campaign against deforestation. After a successful book tour in the United States, including a visit with President Jimmy Carter, he died in 1977 of an apparent heart attack.

The Lure of Buddhist Economics

Schumacher's message is Malthusian in substance. *Small Is Beautiful* denounces big cities and big business, which "dehumanizes" the economy, strips the world of "nonrenewable" resources, and makes people too materialistic and overspecialized. According to Schumacher, individuals are better off working in smaller units and with less technology.

His most important chapter is "Buddhist Economics," with its emphasis on "right livelihood" and "the maximum of well-being with the minimum of consumption." Foreign trade does not fit into a Buddhist economy: "to satisfy human wants from faraway places rather than from sources nearby signifies failure rather than success."[7] In sum, traditional Buddhism rejects labor-saving machinery, assembly-line production, large-scale multinational corporations, foreign trade, and the consumer society.

There are two problems with Schumacher's glorification of Buddhist economics. First, it denies an individual's freedom to choose a capitalistic mode of production; it enslaves everyone in a life of "nonmaterialistic" values. And second, it clearly results in a primitive economy. Mises responded to both these issues: "What separates East and West is . . . the fact that the peoples of the East never conceived the idea of liberty. . . . The age of capitalism has abolished all vestiges of slavery and serfdom." And: "It may be true that there are among Buddhist mendicants, living on alms in dirt and penury, some who feel perfectly happy and do not envy any nabob. However, it is a fact that for the immense majority of people such a life would be unbearable."[8]

I have no objection to preaching the Buddhist value that sees "the essence of civilization not in a multiplication of wants but in the purification of human character." Nor do I disapprove of localized markets (see my favorable review last November of the Grameen Bank, which makes small-scale loans to the poor). But none of this idealism should be forced on any society. Ultimately we must let people choose their own patterns of work and enjoyment. Clearly, whenever Third World countries have been given their economic freedom, the vast majority have chosen capitalistic means of production and consumption. As a result, poor people have been given hope for the first time in their lives—a chance for their families to break away from the drudgery of hard labor, to become educated, see the world, and enjoy "right living."

Freedom is beautiful! □

1. E. F. Schumacher, *Small Is Beautiful: Economics as if People Mattered: 25 Years Later with Commentary* (Point Roberts, Wash.: Hartley & Marks, 1999 [1973]), p. 248.
2. Ludwig von Mises, *The Anti-Capitalistic Mentality* (South Holland, Ill.: Libertarian Press, 1972 [1956]), p. 62.
3. Paul Hawken, Introduction to Schumacher, p. xiii.
4. Ibid., p. 40.
5. See *The Economics of Inflation*, ed. by H. P. Willis and J. M. Chapman (New York: Columbia University Press, 1935).
6. Quoted in Barbara Wood, *E. F. Schumacher: His Life and Thought* (New York: Harper & Row, 1984), p. 245.
7. Schumacher, p. 42.
8. Mises, p. 74.

BOOKS

Illusions of Prosperity: America's Working Families in an Age of Economic Insecurity

by Joel Blau

Oxford University Press • 1999 • 272 pages • $30.00

Reviewed by Donald J. Boudreaux

When Joel Blau looks at the United States today, he sees a population of mostly poor, confused, frightened people helplessly in the grip of greedy corporations who extract profits from the hides of workers, welfare recipients, women, and minorities. He sees an environment rendered toxic, communities made lifeless, and a federal government suffering "perpetual deprivation." He also sees big business monolithically dictating government policy: selfishly pressing for free trade, low taxes, privatization, and deregulation.

When I read the dust jacket of this book I anticipated that Blau would present challenging arguments against the free market. I hardly expected to be persuaded by such arguments, but I wanted to sharpen my thinking about the nature of capitalism and of state intervention. My hope was to write a positive review that, while critical of the author's faith in government intervention, reported how those of us who are less enthusiastic about the state can nevertheless benefit from reading Blau's work.

I regret to say that I cannot write such a review. In almost every way this book is appalling. Not only is Blau's factual analysis unsalvageable, his arguments are confused and often internally contradictory, and his Marxist perspective is childish. Also, his writing style is horrid, with the organization of the material even worse. The book reads as though Blau (professor of social work at SUNY-Stony Brook) just started writing one day, energized by his hatred of the market, and kept on writing down anything that popped to mind until he'd filled a sufficient number of pages for Oxford University Press to consider the result a book.

Blau's principal problem is his fantasies about the facts. An incomparably better book on the current state of the American economy is W. Michael Cox's and Richard Alm's *Myths of Rich and Poor* (1999). Cox and Alm show beyond any doubt that Americans of all income levels enjoy standards of living today that far exceed those of Blau's imagined golden age of the early 1970s. Cox and Alm also demolish many of the other myths that motivate Blau's written rampage. For example, material inequality is not increasing in America (it's decreasing); Americans are not working harder and longer (they're working easier and less); and job stability has not declined. (See my review of *Myths of Rich and Poor* in the January 2000 issue of *Ideas on Liberty.*)

It's impossible to take Blau seriously given his outlandishly backward portrait of current economic conditions.

Equally outlandish is the poor quality of Blau's arguments. For instance, he argues for greater government interference in the labor market (higher minimum wages; legislative efforts to enforce a maximum wage; higher employment taxes; enforced worker participation in corporate decision-making). He rightly anticipates that an objection to his scheme is the fact that European unemployment is much higher than in America and that economists explain this fact by pointing to European governments' greater interference in their labor markets.

Blau rejects economists' explanation, offering instead his own theory that European unemployment is higher than American unemployment in large part because the 1992 Maastricht treaty obliged European governments to reduce their budget deficits and to pursue tighter monetary policies. But if smaller budget deficits and tighter monetary policy were the principal causes of unemployment (as Blau implies), then the rate of U.S. unemployment should now be at least as high as those in European countries. Of course, it is substantially lower.

Blau also entertains the naïve assumption that business interests are monolithic—that there is "a" business interest and that all business people pursue that interest in unison. Not once does Blau show a whiff of awareness that businesses compete against each other. It is Blau's hero, the state, that is the only proven entity capable of enabling businesses to join forces and gang up on workers and consumers.

If the quality of all arguments against the free market were no higher than Blau's book, I would confidently predict that overwhelming intellectual victory for capitalism is on the horizon. But this is not the case. Blau is hardly representative of the best scholars who argue against liberty and for the state. And that's the tragedy of this book: had Blau presented seriously challenging arguments, he would have assisted friends of freedom in honing their own thoughts and arguments. He would have advanced scholarship and understanding. Instead, he's only given us a cause to snicker. □

Donald Boudreaux is president of FEE.

Freedom From Fear: The American People in Depression and War, 1929–1945

by David Kennedy

Oxford University Press • 1999 • 936 pages • $39.95

Reviewed by Burt Folsom

"It is clear that anybody who deviates a hair's breadth from the Roosevelt line is in trouble, not only from the professional smear Bund but also from 'scholars.'" Thus spoke historian Charles Beard in 1948 to Ray Moley, the New Deal brain truster. In the 50-plus years since Beard wrote this, very few historians have had the knowledge, the nerve, and the integrity to challenge "the Roosevelt line" that the New Deal was, on balance, a positive contribution to American economic development.

David Kennedy, professor of history at Stanford University, is the latest historian to fall into line with his peers. In *Freedom From Fear* he largely defends the New Deal, lauds President Roosevelt, and celebrates the growth of government in the United States during the 1930s and 1940s. In the process, alas, Kennedy picked up this year's Pulitzer Prize in history.

Kennedy covers Roosevelt's complete administration—more than half the book, in fact, covers World War II and the $304 billion spent to fight it. His 380 pages on the Great Depression and the New Deal, however, is what will most interest historians and readers of *Ideas on Liberty*.

The book's cover says that *"Freedom From Fear* tells the story of the New Deal's achievements, without slighting its shortcomings, contradictions, and failures." This is somewhat misleading. Kennedy does sometimes concede that various New Deal programs failed and that "Roosevelt conclusively demonstrated in 1938 that it [the New Deal] was not a recovery program, at any rate not an effective one." But Kennedy usually attributes these failings to improper administering or insufficient funding. What Kennedy never says is that most New Deal programs—from AAA to NRA to the Silver Purchase Act—could never have worked regardless of funding. You can't restore prosperity by having government (read "taxpayers") pay farmers not to produce, by fixing prices of goods, or by purchasing silver at inflated prices. The more thoughtful observers recognized this; as Walter Lippmann, an early supporter of the New Deal, concluded, "the common character of all this legislation—from AAA to the Stock Market Bill, is that it constricts enterprise."

Kennedy rarely talks about taxes, which are the flip side of the government programs and need detailed attention. Roosevelt and his allies pushed the tax rate on top incomes to 79 percent in 1935, and to over 90 percent in the 1940s. Kennedy neglects to mention that, in 1942, Roosevelt issued an executive order to tax all incomes over $25,000 at 100 percent (Congress repealed it). No wonder the economy did not recover—and that production during World War II was sometimes stymied. While entrepreneurs worked out schemes to avoid confiscatory taxes, FDR ran up the national debt and supported excise taxes on cars, tires, movie tickets, cigarettes, whiskey, and even grape concentrates—all of which are considered regressive because they hit lower income earners hardest. Kennedy avoids discussing the funding for New Deal programs from regressive taxes, but he clearly knows this happened because he cites the key sources that demonstrate this point.

Often Kennedy tells the part of the story that supports the New Deal, or big government, and then omits the part where the program didn't work or where Roosevelt (or Hoover) endorsed a regressive tax scheme to help it survive. For example, Kennedy tells the reader about the $300 million spent (under the Reconstruction Finance Corporation) for the country's first federal welfare program. But he fails to mention that it was a grab bag for whichever states could rush to Washington quickest to get the cash. Illinois managed to snatch over $55 million; Massachusetts got zero.

Kennedy tells the reader how skilled a campaigner Roosevelt was, but conveniently omits much of the logrolling that made his victories possible. In Roosevelt's run for reelection in 1936, for example, he gave this order to Henry Wallace, his secretary of agriculture: "Henry, through July, August, September, October and up to the 5th of November I want cotton to sell at 12 cents. I do not care how you do it. That is your problem." Also during that campaign a Gallup Poll showed that over 75 percent of the relief vote was for Roosevelt and only 17.5 for Alf Landon, his Republican opponent. Therefore, Roosevelt pumped millions into relief in the key states right before the election. Had Kennedy chosen to discuss FDR's orders to Wallace, the targeted spending for relief, or the many other examples of programs for votes, the reader would have had a more balanced account of the changes taking place in American society with the growth of government.

Instead, Kennedy usually toes what Beard called "the Roosevelt line." He portrays the growth of government in an invariably positive light. "In the yeasty atmosphere of Roosevelt's New Deal, scores of social experiments flourished," Kennedy writes. "In the last analysis, Franklin Roosevelt faithfully discharged his duties. . . . He did mend the evils of the Depression by reasoned experiment within the framework of the existing social system." Such lines may have helped Kennedy win the favor of the Pulitzer Prize committee, but they don't illuminate the complexities of the New Deal era. □

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The Titanic Story: Hard Choices, Dangerous Decisions

by Stephen Cox

Open Court • 1999 • 152 pages • $16.95

Reviewed by George C. Leef

The story of the sinking of the *Titanic* is a monumental drama that will be told and retold for centuries to come. In recent years we have seen a blockbuster movie, a Broadway play, and a spate of books on the great 1912 disaster. The trouble with most of the *Titanic* output is that it tells only part of the story, and often with a decided slant.

Stephen Cox's book is not intended to be a full-fledged history of the *Titanic*—his extensive bibliography gives the reader a long list of books to consult, along with helpful short analyses of them—but rather is an endeavor to understand some of the "hard choices, dangerous decisions" (as the book is subtitled) that occurred before, during, and after the sinking. In the course of his writing, Cox calls into question many of the widely held beliefs that have grown up around the tragedy, beliefs that suit the anti-market zealots who never pass up an opportunity to depict capitalism as dangerous and immoral.

The difficulty with most of the *Titanic* versions, Cox writes, is that they are "told as if all the important issues were easy to resolve." "If we had operated the *Titanic*, it is suggested, we would certainly have taken the trouble to determine just how far from 'unsinkable' she really was. We would have provided her with every conceivable safety device and mechanism of escape. We would have anticipated every hazard she might conceivably have encountered." Cox, however, won't play the game of perfect hindsight, but asks about the situation that faced the decision-makers at the time, what information they had, what beliefs they held.

Consider, for example, the famous matter of the lifeboats. There were not enough lifeboats to provide places for all the passengers and crew members, and for that decision the White Star Line was pilloried. Supposedly, the firm's decision to equip the ship with fewer than enough boats to allow everyone to be able to escape showed its disregard for the well-being of passengers and crew—putting profits before people, as anti-capitalists are so ready to chant. Cox's analysis, however, shows that this is far from the indisputable indictment of laissez faire that it is widely assumed to be.

First, there is the element of time. On a passenger liner, with large numbers of panicky civilians who don't all behave ideally, getting everyone into lifeboats and safely launching them takes a great deal of time. The *Titanic* stayed afloat for two hours and 40 minutes after the collision—longer than most ships take to sink—but still, under perfectly calm conditions, did not have enough time to launch its full complement of boats. As Cox says, "The *Titanic* literally could not have used any more lifeboats, primarily because her crews were not organized well enough to save time by launching them simultaneously."

Moreover, the *Titanic* sank under the unusual conditions of calm seas and no port or starboard list. Why does that matter? Cox points out that, "if a ship is going to sink, it may well develop a list so severe that lifeboats on one side cannot be lowered because they will hit the hull and lifeboats on the other side cannot be loaded because they are swinging too far from the deck." Therefore, the requirement to have a lifeboat place for everyone would in practice require substantially more than "enough places" because of the likelihood that not all boats could be launched.

Instead of putting more money into making certain that there was a lifeboat place for everyone, shipbuilders concentrated on trying to make each ship "its own lifeboat"; that is, making the ship so seaworthy that in the event of a disaster, it could support those aboard long enough for help to arrive. "In 1912," the author observes, "lifeboats were valued chiefly for their ability to ferry a few people at a time from a distressed liner to a rescue ship, which would use its own boats to speed the operation." Had the *Californian* come immediately to the aid of the *Titanic*—another issue that Cox tackles—there might have been few if any casualties.

A fascinating aside is that because of regulations enacted in the United States after the sinking that mandated "lifeboats for all," the liner *Eastland* capsized and sank in Chicago, killing 844 people because of its excess weight added to the top of the ship by the obligatory new lifeboats.

Among other interesting subjects, Cox dwells on the post-sinking hearings held both in Washington and London. The former consisted mainly of grandstanding by Senator William A. Smith of Michigan, whom Cox describes as "an ingenious busybody, cherishing the . . . assumption that if anything goes wrong, the United States government ought to do something about it." The hearings in London, in contrast, were held more to generate light than heat.

A valuable book, indeed. □

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Money, Greed, and Risk: Why Financial Crises and Crashes Happen

by Charles R. Morris

Times Books • 1999 • 224 pages • $25.00

Reviewed by Larry J. Sechrest

The reader of *Money, Greed, and Risk* is informed that the book's author, Charles R. Morris, has been a partner in a consulting firm, an executive with Chase Manhattan Bank, the secretary of health and human services for the state of Washington, and assistant budget director for New York City. In short, Morris has considerable experience as a manager and a bureaucrat. He is, in particular, seemingly well versed in the technical workings of various financial markets and financial instruments such as index futures, collateralized mortgage obligations, synthetic put options, and so forth. As long as Morris restricts himself to the operational details of "exotic" financial assets, the reader is likely to benefit. Unfortunately, most of the issues addressed by this book—the causes of financial crises—call for someone with an understanding of economic theory, economic history, and, especially, the perverse effects wrought by government regulation. In those areas, Morris is sadly deficient, and his book fails to enlighten.

The book is divided roughly into thirds. One part presents a survey, albeit brief, of American economic history from the early nineteenth century through the Great Depression. The emphasis is on finance, money, and banking, and it features the usual cast of characters: Nicholas Biddle, Andrew Jackson, Jay Gould, J. P. Morgan, John D. Rockefeller, Cornelius Vanderbilt, Andrew Carnegie, and the British firm Baring Brothers. According to Morris, this span of time was characterized by the "fleecing" of first British investors and then the American middle class. Greed was the motive force, and fraud was rampant.

Morris's presentation is weakened, however, by two interrelated flaws. First, he relies almost entirely on a 1957 book by Bray Hammond, which, although reissued in 1991, fails fully to reflect recent scholarship on certain key banking issues. Second, Morris's understanding of money and banking is so muddled that he (a) regards Nicholas Biddle as a genius and Andrew Jackson as a man consumed by "prejudice and ignorance," and (b) insists that a central bank represents an enormous improvement over the "chaos" of free banking.

A second part of the book focuses quite closely on the financial innovations of the past 30 years and the many problems they allegedly have caused. Here the reader will be introduced to the "junk bond king" Michael Milken (in a chapter titled "Mephistopheles"); Howard Rubin, the exploiter of GNMA "strips"; notorious "inside trader" Ivan Boesky; the brain trust behind Long Term Capital Management; and "corporate raider" T. Boone Pickens, among others. Even though Morris seems to recognize that recent financial developments, such as corporate takeovers and derivative assets, have increased efficiency and improved the management of risk, he nonetheless portrays the innovators as being "offensively" greedy and generally sleazy. And he retains that sort of language even though, for example, he grants that the legal charges against Milken were based on ambiguous and contradictory evidence and were therefore unconvincing.

The third part of the book presents Morris's ideas about the necessity of relying on governments to regulate financial markets. Such a position is a predictable outgrowth of certain of his expressed beliefs. For example, he asserts that "the average investor probably is a fool," and that recently even financial "gurus" often haven't had "a clue to what was going on in their own businesses." Economists cannot be relied on either. According to Morris, they can neither figure out the cause of the Great Depression nor offer any helpful advice to nations experiencing currency crises. Wrong and wrong.

Worse still, in his opinion economists are entirely too wedded to free markets and too skeptical of "enlightened" regulatory structures. As far as he is concerned, financial markets were not safe "until the whole panoply of regulatory mechanisms and information requirements were in place." His core claim is that, unless they are reined in by regulators, financial innovators will always brutally exploit the populace, thereby creating periodic crises. This he believes to be the dominant theme in economic history.

I have three fundamental criticisms of this book. First, Morris is oblivious to a large and growing body of scholarship that demonstrates (conclusively, in my opinion) that all systemic problems in monetary and financial markets have, in fact, been caused by various government regulations. Prohibitions on bank branching, the forced segmentation of financial services, legal tender laws, and the "moral hazard" of deposit insurance are some of the more obvious examples. Fraud and corruption, except where protected by statute, have played a very minor role. Second, he offers no explanation of why some financial innovations, such as credit cards, NOW accounts, and ATMs, have not precipitated crises. Finally, the manner of presentation is shrill and sensationalistic. There is too much hyperbole, too many pejorative terms, and too little scholarship.

All in all, *Money, Greed, and Risk* is one of those much-hyped books that it's best to avoid. □

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Public Finance and Public Choice: Two Contrasting Visions of the State

by James M. Buchanan and Richard A. Musgrave

MIT Press • 1999 • 272 pages • $27.50

Reviewed by Mark Skousen

So there I was in the late '60s, an undergraduate economics major at BYU, a very conservative institution. My introductory textbook was Paul Samuelson's *Economics*; my history of economic thought textbook was Robert Heilbroner's *The Worldly Philosophers*; and for my public finance course we used *The Theory of Public Finance* by Richard A. Musgrave. In other words, my "conservative" BYU professors were all using the most Keynesian of textbooks. No Friedman, no Hayek, no Mises.

Musgrave, a Harvard professor, argued the need for a triumvirate government: (1) to provide public goods that the private sector couldn't; (2) to redistribute wealth and institute social justice; and (3) to stabilize an inherently unstable capitalist economy. That "mainstream" interventionist theory was taught with hardly a ripple of skepticism.

Fortunately, much has changed since I graduated. Friedman, Hayek, and Buchanan have won Nobel Prizes in economics, and the textbooks are filled with market solutions and anti-Keynesian alternatives, including monetarism, privatization, and public choice. Even Samuelson highlights the "public choice" work of Buchanan and Gordon Tullock in his latest textbook. (I can't let this paragraph end without expressing my outrage that Tullock did not share the Nobel Prize with Buchanan in 1986; even Buchanan admits that Tullock was the "catalyst" behind public choice theory.)

The fact that Buchanan, not Musgrave, won a Nobel is telling. Musgrave is in his late eighties. Most of his books are out of print, and he remains an unabashed Keynesian. Still, the influence of his approach to the task of the state is pervasive, since the best that free-market economists have done is to help slow the growth of government, not reverse it.

Public Finance and Public Choice is a script of the papers and comments presented at a 1998 conference in Germany by Buchanan and Musgrave. In their debates, Musgrave defended social insurance, progressive taxation, and the growth of the public sector as the "price we pay for civilization." Buchanan blamed democratic politics for a "bloated" public sector, "with governments faced with open-ended entitlement claims," resulting in "moral depravity." He wants to constrain government through constitutional rules and limitations and describes their differences thus: "Musgrave trusts politicians; we distrust politicians."

Musgrave responded: "Is the state of our civilization really that bad? . . . There is much that should go on the credit side of the ledger. The taming of unbridled capitalism and the injection of social responsibility that began with the New Deal. . . . Socializing the capitalist system . . . was needed for its own survival and for building a good society." He also mentioned the "enormous gains" by blacks and women in the twentieth century, apparently assuming that those groups could have made no "gains" were it not for government intervention.

The two professors' exchange on the extent of justifiable government activity is enlightening, but I have two complaints about the book. First, Buchanan and Musgrave assume the reader has a great deal of economic sophistication. They don't define terms and often argue on a level suited to graduate students. Second, I would have liked to have seen a clearer discussion of today's hot issues—privatization of Social Security, budget surpluses, tax reform, and the Medicare crisis.

Moreover, one of the problems with this debate is that the two economists are not completely at opposite ends of the political spectrum. This is no debate between an anarchist and a socialist. Both advocate a substantial public sector. In fact, Buchanan admitted that he is philosophically between Musgrave and Hayek. For all his skepticism about the ability of public-sector decision-makers to arrive at good economic decisions, Buchanan still endorses what seems to me an inordinate amount of government activity.

One of the reasons Buchanan's (and Tullock's) public-choice approach has been so effective is that it applies market principles to government finance. By assuming that public decision-makers will act in their self-interest, just like everyone else, they were able to strip away much of the "romance" (as Buchanan puts it) of government action. The power of that analysis is clearly lost on old Keynesians like Richard Musgrave, but should not be lost on younger economists.

Although this is not a book for those who are in the early stages of their economic educations, seasoned economists will find some provocative exchanges between these two well-known pillars of the profession. □

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Funding Science in America: Congress, Universities, and the Politics of the Academic Pork Barrel

by James D. Savage

Cambridge University Press • 1999 • 256 pages • $49.95

Reviewed by Jack Sommer

Taxpayer funding of science in America is pretty meager compared to total federal spending. But legislators and interest groups intent on grabbing tax dollars for themselves don't care whether the budget item is great or small. In recent years, federal funding for scientific research has become a prime target of the wastrels, and this pottage has since been giving off the distinct aroma of sizzling "pork."

Pork-barrel science is the subject of James D. Savage's excellent study of an arcane but important aspect of American academic science. He argues that the trend toward pork both corrupts the merit system for research funding and undermines the rational framework we have employed for the delivery of federal funds to those who do science.

Federal science funding used to be driven by the model of peer review. Congress would appropriate money for general fields of research, but decisions on the precise allocation of those dollars would depend on the evaluations of scientists called on by various agencies. That tax-funded system isn't perfect, but Savage says it tends to steer funds toward the research proposals that seem to have the greatest likelihood of success. Over the last two decades, however, politicians have been avoiding the peer review process more and more. Instead, much of the federal support for scientific research is now done through "earmarking," which is to say that money goes to institutions for purposes that may have only a tenuous relationship to science. Earmarking, as Savage puts it, is a "collective action problem" that challenges the "dominant policy regime" of peer/merit review.

Savage brings a wealth of insight from his years near the sausage grinder of science policymaking, having served as a consultant to the Congressional Research Service and to the Office of Technology Assessment. One of the key reasons for the move away from peer/merit review, he observes, was that its results were decidedly unegalitarian. The "old regime" of science funding sent the vast majority of the money to a small set of universities where most of the top scientists worked. In other words, it became obvious to many that a few states and universities were getting most of the resources under peer/merit review, so direct political action to "balance" the ledger was undertaken. Few university officials tried to hold out for meritocracy. Most, as public choice theory would predict, eagerly jumped on the earmarking bandwagon, trying to get as much as possible for their institutions, even though it meant diverting resources from more serious scientific uses.

Savage's book is a detailed exposition of the incentives for earmarking in our politicized distribution system, the activities of lobbyists in the employ of universities, and the battles within Congress and between Congress and the White House over academic pork. He knows his stuff and he provides useful documentation of his colorful examples, like Senator Ted Stevens's infamous $40 million earmark for the University of Alaska to find out how to get energy from the aurora borealis! And no legislator could rival fabled pork ranger Robert Byrd of West Virginia, whose huge trough of goodies for his state included $40 million for Wheeling Jesuit College (annual budget: $14 million) for a "classroom of the future."

Science policy insiders will appreciate this book more than the novice reader, but there is also much that informs at a general level. My criticisms are not of the book's content, but what it misses. One wishes that the author had ventured to comment on what a "best" arrangement for federal scientific funding might be like so as to eliminate the problems of earmarking, but he does not. Nor does Savage tackle the deeper question of whether government subsidies for scientific research are necessary at all, as Terence Kealy did in his book *The Economics of Scientific Research.*

Furthermore, Savage does not address how federal funding of science in general, and pork-barrel funding in particular, crowds out or supplants funding from private firms, and he fails to remark on the effects of the politicization of public health, with its "disease of the decade" phenomenon. The heavy subsidization of AIDS research, for example, redirects the efforts of medical researchers away from less "popular" but more deadly pathologies.

Those are sins of omission, however, in what must be described as a welcome critique of the hazards of the growing entanglement of academic science and politics, and the growing dependency of America's nominally independent centers of wisdom on the largess of the federal government. Perhaps we could say that they suffer from "trichinosis of the spirit." □

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IDEAS ON LIBERTY
NOVEMBER 2000

Shameless in California

A year ago October the California legislature and Governor Gray Davis enacted SB645, which empowers unions with monopoly bargaining privileges at California State University and the University of California to extract monthly fees from the paychecks of faculty and staff who want to remain union-free. Every Democrat and two Republicans in the legislature voted in favor of this legalized theft.

The unions and the politicians in their thrall rationalized their actions with the same spurious argument they have always used—the mythical free rider. First, rather than limiting unions to representing only workers who want such representation, the politicians force workers who want to represent themselves, or who want nonunion representation, to accept union representation. Unions, of course, are happy to receive this monopoly bargaining privilege. Next, the unions argue that since they represent workers who want to be union-free those workers must be forced to pay for the representation they do not want. Otherwise those workers would receive the "benefit" of the representation they do not want without paying for it. They would be free riders. Of course, with members-only rather than monopoly bargaining there could be no free riders.

Notice that the free-rider argument rests on the presumption that unions and politicians are anointed with superior wisdom. Workers who wish to be union-free may think that union representation confers harms rather than benefits, but they are benighted. The anointed know the truth. The unions are like charlatans who thrust snake oil into the hands of people and demand payment for it because of its alleged healing powers. But not quite. Politicians usually don't force people to pay charlatans for snake oil they don't want.

This is shameless pandering by politicians to the unions in exchange for a share of the loot in campaign contributions. It happens in other states too, but California politicians have reached new depths of shamelessness. SB645 is unlike all other laws empowering monopoly unions in California public education. For example, the 1975 Rodda Act allows unions to steal money from dissident K-12 public school teachers and community college instructors only if the unions can win the privilege through collective bargaining with individual school boards and boards of trustees. Under SB645 covered faculty and staff at the state's two public universities are commanded to pay tribute to the unions as a condition of continued employment without any bargaining. Apparently California's union-owned politicians don't think their masters are skilled enough to bargain for theft rights.

The politicians didn't stop there. All so-called agency-shop statutes include an escape hatch for the unions' victims. Those theft rights can be rescinded if 30 percent of covered workers request an election and if a majority of covered workers votes for rescis-

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sion. In all cases in California except those arising out of SB645, the Public Employment Relations Board, a bureaucracy set up to carry out the terms of the statutes, uses taxpayer money to pay for such elections. Under SB645 those who request the election must pay for it out of their own pockets.

Last February I and two others, represented by lawyers from the National Right to Work Legal Defense Foundation, challenged the law in federal district court in San Francisco. We argued that SB645 unconstitutionally denies us equal protection for the two reasons stated above.

Guess what? In March the same politicians who enacted SB645 set out to enact a new statute, SB1960, under which all California public education employees become subject to the two uniquely oppressive provisions of SB645. They decided to meet the Fourteenth Amendment's equal protection restriction by taking away as many rights from other public education employees as they took from us. Union-owned California politicians have no shame whatsoever. They will do anything they can to empower unions to steal money from public employees in exchange for getting to share in the loot.

Religious Exemption

It gets even worse. Another of the provisions of SB645 empowers unions unilaterally to decide whether covered employees have any sincerely held religious beliefs that prevent them from supporting unions. To qualify for a religious exemption from the legalized theft we must belong to a religion or sect that has opposition to supporting unions as part of its official doctrine, and the unions get to decide which religions and sects qualify. We argue in our suit that this violates our First Amendment right to freedom of association. The unions are empowered to tell us that we must belong to a union-approved religious organization in order to claim the exemption. We argue, and various courts have agreed in other cases, that our choice of religion is our own and that we can have religious beliefs that preclude supporting unions based on our own understanding of religious obligation.

For example, I am a Catholic. While the Church has no official doctrine against voluntary support of unions, the Eighth Commandment proscribes theft. Moreover, I believe that one of my obligations as a Christian is to refrain from supporting any organizations that promote conflict among people, especially when those organizations have a record of using violence and other forms of coercion to get their way. All laws that empower American unions promote adversarial labor relations, and the historical record is clear—unions and violence go together like left and right shoes.

I, along with hundreds of other faculty members, requested a religious exemption from the legalized theft. Most of us received a form letter from the union, the California Faculty Association, which in part says, "In reviewing your request, we considered whether any statements contained therein about how CFA conducts itself are accurate. We also considered whether the proffered belief is in fact religious, or instead merely personal and philosophical. Finally, we considered whether the proffered belief is sincerely held. Based upon your letter, and in light of the above-enumerated principles, your request for religious accommodation is denied." Under SB645 there is no appeal.

What arrogance! Since I don't belong to a religion or sect whose doctrines it will acknowledge, the CFA tells me my beliefs are neither religious nor sincere. With the blessing of the shameless California legislature and governor, the CFA discriminates against me because I am a Catholic rather than associated with a group on the list the union has approved for this purpose.

Finally, just to show to what depths politicians will sink in exchange for their share of stolen money, consider that under SB645 we are forced to pay for "preparation for strikes, slowdowns, and work stoppages regardless of their legality under state law." In other words SB645 encourages unions to "prepare" for illegal activities. If I collude with others to commit illegal acts I am subject to prosecution even if those acts are never carried out. SB645 exempts unions from the rule of law.

We shall see what the courts have to say about all of this. □