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IDEAS ON LIBERTY

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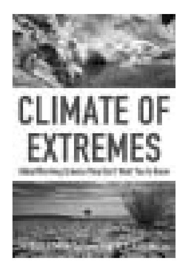

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Perspective

The Mandated Health Insurance Outrage

The most outrageous aspect of health care "reform" is the insurance mandate: Every individual will have to buy *government-defined comprehensive* medical coverage (if it isn't provided by his employer)—or be fined.

You must buy it. Who do these politicians think they are?

For those who wonder by what authority the government can make us buy insurance against our will, the Senate bill alluded to the Constitution's Commerce Clause: "The individual responsibility requirement provided for in this section . . . is commercial and economic in nature, and substantially affects interstate commerce."

How would an insurance requirement affect interstate commerce? The bill said that "The requirement is essential to creating effective health insurance markets in which improved health insurance products that are guaranteed issue and do not exclude coverage of preexisting conditions can be sold."

Fallacies abound. To begin, medical insurance isn't really interstate commerce. One of the few sensible things proposed during the public discussion on medical care is the repeal of the federal ban on interstate purchase of coverage. Residents of California are not free to buy less-fancy, less-expensive policies offered in Arizona, but are stuck with policies made more expensive by California's overbearing regulatory regime. Interstate sales would increase competition and lower prices, but the ruling party showed no interest in that idea.

The argument has more problems. The Commerce Clause has typically been invoked against barriers to interstate commerce, but the insurance mandate would represent the first time that individuals were *compelled to buy a product or service* in the name of making interstate commerce more effective. Even under the most expansive reading of the Commerce Clause, how does compelling the purchase of insurance qualify as regulating interstate commerce? We really have crossed a threshold.

The nub of the argument is that unless healthy people are forced to buy coverage, the insurance market won't work properly because the new law compels insurance companies to cover sick people for no more than they charge the healthy. Obviously, that would not be good for the insurance market.

The individual insurance mandate, then, is a solution to *a problem the bill itself would create.*

Guaranteed issue is the culprit, and freedom is taking a back seat to a political objective, which is to disguise a welfare program as insurance and put us on the road to government-administered rationing.

The "reformers" are quick to point out that people without insurance go to emergency rooms for medical care and sometimes don't pay their bills, shifting the costs to the rest of us. But Shikha Dalmia, writing in *Forbes*, notes that uncompensated care accounts for less than 3 percent of the country's total medical bill.

One reason for uncompensated care is that emergency rooms are forbidden to turn away patients (even in non-emergencies) who have no means of payment. Who imposed that prohibition? The government, of course. That may sound humane, but one unintended consequence is a likely contraction of charitable care. Why set up facilities for the indigent if they can turn up at any emergency room?

Again we see Mises's Law at work: Intervention begets intervention. Government action creates problems that politicians then use to justify more government action. Undoing the first intervention would help solve the problem, but politicians have little incentive to move in that direction.

Government has suppressed the free market in medical care on both the supply and demand sides. As a result, medical services and insurance are artificially expensive, pricing many people out of the market. Instead of removing the interventions and letting the free market—including mutual-aid associations and philanthropy—lower prices and create more widespread coverage, the politicians are piling on more market-suppressing measures. Freedom is the first casualty. But we can also anticipate an aggravation of the current system's worst features.

Forcing individuals to buy insurance is an intolerable assault on our liberty—not to mention a massive subsidy to the insurance companies. (They're mad the penalty is not greater.) How many more usurpations can we be expected to tolerate?

* * *

Speaking of health care "reform," only willful blindness or abject ignorance could prompt someone to say that the free market has failed. Kevin Carson explains why.

The so-called debate over health care has fallen short in even the most basic ways, such as sticking to what is actually possible. Gene Callahan calls for some maturity.

Also lacking has been any inkling that in public policy, results can be rather different from objectives. So Steven Horwitz offers a primer on the Law of Unintended Consequences.

With the economy struggling and many people still without jobs, the Federal Reserve is getting a closer look than ever before. Gerald P. O'Driscoll, Jr. examines the Fed's conduct since the bust and doesn't like what he sees.

Theodore Roosevelt still gets good press, but the case can be made—and Jim Powell makes it—that TR never understood the American Revolution.

John Locke is a beloved figure among libertarians, but is there less to him than meets the eye? Can he really be proclaimed the father of limited government? Joseph Stromberg's answer may surprise you.

Our columnists keep the hits coming. Lawrence Reed has some advice for President Obama about the role of government. Thomas Szasz returns to the horrific case of Alan Turing. Burton Folsom looks at what ended the Great Depression. John Stossel warns of the hazards of government mortgage insurance. Walter Williams wonders when the Supreme Court will again find some limits to government power. And Charles Johnson, reading the claim that the health care debate has been about fundamental values, protests, "It Just Ain't So!"

Books about private coinage, climate change, Alexander Hamilton, and the New Deal's business opponents come under scrutiny by our reviews.

Finally, a reader questions Kevin Carson on intellectual property in Capital Letters, while James Ahiakpor and Steven Horwitz go toe-to-toe on savings.

—Sheldon Richman
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Presidents and Precedents

BY LAWRENCE W. REED

America's 44th president has embarked on a massive expansion of the federal establishment that, if accomplished, will dwarf all previous welfare states in its spending and debt. Americans will largely depend on politicians and their underlings for a significant portion of their heavily mortgaged livelihoods. It's a path to national suicide that would horrify most of this President's predecessors.

Consider this cogent observation from a source that may surprise you: "The lessons of history, confirmed by the evidence immediately before me, show conclusively that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit. It is inimical to the dictates of sound policy. It is in violation of the traditions of America."

FDR called government charity "a destroyer of the human spirit."
Courtesy of the Franklin D. Roosevelt Presidential Library & Museum, Hyde Park, New York.

Those were not the words of a nineteenth-century president. They came from the lips of our 32nd chief executive, Franklin Delano Roosevelt, in his state of the union address on January 4, 1935. A moment later he declared, "The Federal Government must and shall quit this business of relief."

We all know that it didn't. Indeed, thirty years later Lyndon Johnson would take "this business of relief" to new and expensive heights in an official "War on Poverty." Another 30 years and more than $5 trillion in federal welfare later, a Democratic president in 1996 would sign a bill into law that ended the federal entitlement to welfare. As Ronald Reagan observed long before it dawned on Bill Clinton, "We fought a war on poverty, and poverty won."

What Reagan instinctively knew, Bill Clinton finally admitted, FDR preached but didn't practice, and Barack Obama seems unwilling to learn is that government checks come with some nasty strings attached. They encourage idleness and irresponsibility, blunt personal initiative, break up families, produce intergenerational dependency and hopelessness, cost taxpayers a fortune, and yield harmful cultural pathologies that may take generations to cure.

The failure of the dole was so complete that one journalist more than a decade ago posed a question to which just about everybody knows the answer and the lesson it implies. "Ask yourself," wrote John Fund of the *Wall Street Journal*, "If you had a financial windfall and wanted to help the poor, would you even *think* about giving time or a check to the government?"

The Anti-Poverty Nonprogram

Welfare statists dismiss the men who held the presidency during the nineteenth century as heartless and uncaring. Even during the depressions of the 1830s and the 1890s, Presidents Martin Van Buren and Grover Cleveland never proposed that Washington, D.C., extend its reach to the relief of private distress broadly speaking, and they opposed even the smallest suggestions of that kind. Now our compassionate government in Washington dispenses trillions of dollars not just to individuals but to companies as well (especially large, politically well-connected ones).

Let me underscore that when I speak of government "welfare" and its awful consequences, I do not mean

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only the checks for Grandma. I mean checks for Goldman Sachs and General Motors too.

For the most part, the presidents of the 1800s did mount a war on poverty—the most comprehensive and effective ever mounted by any central government in world history. It just didn't have a gimmicky name like "Great Society," nor did it have a public-relations office and elitist poverty conferences at expensive seaside resorts. It wasn't offered in the form of subsidies to business and sold as a "stimulus" for us all. If you could have pressed them for a name, most if not all of those early chief executives might well have said their anti-poverty program was, in a word, *liberty*. This word meant things like self-reliance, hard work, entrepreneurship, the institutions of civil society, a strong and free economy, and government confined to its constitutional role as protector of liberty .

For the most part, the presidents of the 1800s did mount a war on poverty—the most comprehensive and effective ever mounted by any central government in world history.

And what a poverty program liberty proved to be! In spite of a horrendous civil war, half a dozen economic downturns, and wave after wave of impoverished immigrants, America progressed from near-universal poverty at the start of the nineteenth century to within reach of the world's highest per capita income a hundred years later. The poverty that remained stood out like the proverbial sore thumb because it was now the exception instead of the rule. In the absence of stultifying government welfare programs, our free and self-reliant citizenry spawned so many private, distress-relieving initiatives that American generosity became one of the marvels of the world.

Most Americans once understood these essential verities: Government has nothing to give anybody except what it first takes from somebody (that includes health care), and a government big enough to give the people everything they want is big enough to take away everything they've got.

In his first inaugural address Jefferson gave us a splendid summation of what government should do. It did not describe welfare programs but rather, "A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government."

A similar view was held by James Madison, a key figure in the construction of the Constitution, a prime defender of it in the Federalist Papers, and our fourth president. "Charity," said Madison, "is no part of the legislative duty of the government."

Jefferson, Madison and almost all of the succeeding twenty presidents of the nineteenth century were constrained by this view of the federal government, and most of them were happy to comply with it. When doing so, they were faithful to their charge. They were true poverty fighters, because they knew that if liberty were not preserved, poverty would be the least of our troubles.

Meanwhile, the poor of virtually every other nation on the planet were poor because of what governments were doing *to* them, often in the name of doing something *for* them: taxing and regulating them into penury, seizing their property and businesses, persecuting them for their faith, torturing and killing them because they held views different from those in power, and squandering their resources on official luxury, mindless warfare and wasteful boondoggles. America was about government *not* doing such things to people—and that one fact was, all by itself, a powerfully effective anti-poverty, pro-prosperity program.

So here we are in the year 2010 burdened with an administration eager to toss time-tested wisdom and experience to the wind. It asks Americans to flee from their heritage and sign up for a nanny state drowning in red ink and broken promises.

We have a lot of work to do (or, more appropriately, to *undo*).

The Health Care Debate Was "Meaningful"? It Just Ain't So!

BY CHARLES JOHNSON

Let's give credit where credit is due. David Brooks does say one true thing in his *New York Times* column, "The Values Question" (November 24), on government health care reform: "The system after reform will look as it does today, only bigger and more expensive."

Brooks is certainly right that no "health care reform" proposal with any chance in mainstream partisan politics promises any fundamental change to the status quo. What we have had is a system where pervasive government regulation, subsidy, and mandated captive markets corral workers into an industry driven by sky-high costs, managed by bureaucratic pencil-pushing and corporate economizing (often at the expense of innocent people's health or lives), and owned by a handful of uncompetitive, well-entrenched incumbent corporations. No mainstream "reform" proposal would have changed anything about that. The proposals mainly concerned themselves with introducing new government subsidies and new captive-market mandates to force yet more workers and money into the broken system.

But Brooks took all this as a sign that the health care debate was about fundamental "values." I think it was a sign that conventional political debate was a superficial squabble over meaningless details. The real debate was about grammar.

Brooks sees "a debate about what kind of country *we* want America to be": Although "many of us" thought "we" were in a regulatory sweet spot in which "we" could extend coverage to the uninsured but also lower costs, "we" were wrong; "we" cannot make gains without substantial costs. So "we" face a "brutal choice"—a tradeoff between economic "vitality" and "security." "Vitality" for "America" means an "unforgiving nation" but also a more "vibrant" one; security means "a more decent society" but also one where "more of *the nation's wealth* would be siphoned off from productive uses and shifted into a still wasteful health care system" (emphasis added). We are told that "we all" have to decide what "we" want—for "America."

> Tradeoffs only become brutal when *I* am forced to take *your* risks or *you* are forced to fund *my* security.

Remarkably, among Brooks's 800 words, supposedly on a debate about deeply held convictions, the word "I" never shows up in the author's own voice. (The single "I" appears in a quotation.) Lost in this thicket of plural pronouns, "nations," and "societies" is any notion that *I* might settle on different preferences from *you*, or that you might have a right to decide *for yourself* which preference to pursue. There is only one path for all, and "we" are left only with the engineering decision of which output to optimize for: "vitality or security."

Mind Your Me's and You's

For the individualist, half of human decency in political thinking is just learning to keep your personal pronouns straight. There is no right outcome in this debate except to reject the conventional political premise that "we all" need to decide on *anything* when it

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comes to health care. Life is full of tradeoffs. But the right question to ask is not *which* choice to take, but rather *who* should choose and who should bear the costs of the choice taken. And the answer is that *each person* should choose how much of *her own* resources she wants to devote to health care and to insuring against future disasters. These tradeoffs only become "brutal" when *I* am forced to take *your* risks or *you* are forced to fund *my* security.

Brooks might reply, "Ah, you claim to avoid the hard choice here with a free market. But really you *are* making a choice without admitting it. Free markets mean everyone is limited to her own resources to meet medical bills; but by definition poor people have no real resources to fall back on. So really you're just advocating one option: a system that chooses vitality and growth over security and care for the vulnerable." Indeed, Brooks insists that "The unregulated market wants to direct capital to the productive and the young" and confusedly suggests that this is more or less the kind of "vitality"-oriented system that America has had and will continue to have unless government forces taxpayers to chip in for more extensive government "welfare policies" in health care.

> There is a "market" of a sort here, but it's far from a free market. It's rigged for government agencies and privileged corporations.

That might seem true if the corporate health care system we face emerged from "the unregulated market." But it didn't. Government licensure controls who practices medicine, and where and how they practice it. Government prohibitions restrict which drugs are produced and where to get them because government thinks it knows better than you what drugs you should take and because it is engaged in a deliberate effort to raise drug prices through a system of patents. Federal tax loopholes and regulatory micromanagement make most full-time workers dependent on their bosses for health insurance and force most other workers to deal with government health insurance or none at all. There is a "market" of a sort here, but it's far from a free market: It's a rigged market, shaped by government regulation, funded by government subsidy, and owned by government agencies and government-privileged corporations.

The Meaning of a Freed Market

Pervasive confusion of the existing government-supported anticompetitive *corporate* health care market with health care provided by a genuinely freed market leads to two related confusions about what a real market in medicine would mean.

First is the widespread but ultimately ridiculous notion that free markets would require individual workers to rely only on personal savings or expensive corporate health insurance to cover high medical costs. In fact in the late nineteenth and early twentieth centuries, freer medical markets actually offered many competitive, *non*corporate means for working folks to get affordable, decent health care for themselves by pooling resources *through free-market bargaining and free association*. As the libertarian scholars David Beito and Roderick Long have discussed, "contract practice" agreements, organized by low-income workers and primarily negotiated through unions, mutual-aid societies, and fraternal lodges, provided reliable medical care for 20 to 50 percent of workers in English-speaking countries for about one day's wages per *year*. These affordable arrangements were ultimately driven out, not by the ruthlessness of the free market, but rather by deliberate assaults by government and the government-privileged medical guilds.

Second, if we recognize the importance of freed markets to the prospect for a civilized solution to the health care crisis, it also quickly becomes obvious that there are many opportunities for "reform" that simply do not present the kind of tradeoff that Brooks wrings his hands over—specifically, "reforms" that get rid of the government interventions that cause costs to skyrocket in the first place.

There *is* a clash of fundamental values in the health care debate, but it's not a clash *within* conventional electoral politics. The real debate is *between* politics as a means of providing health care and a freer, more humane alternative: consensual social organization. FEE

Health Care and Radical Monopoly

BY KEVIN CARSON

In a recent article for *Tikkun*, Dr. Arnold Relman argued that the versions of health care reform currently proposed by "progressives" all primarily involve financing health care and expanding coverage to the uninsured rather than addressing the way current models of service delivery make it so expensive. Editing out all the pro forma tut-tutting of "private markets," the substance that's left is considerable:

> What are those inflationary forces? . . . [M]ost important among them are the incentives in the payment and organization of medical care that cause physicians, hospitals and other medical care facilities to focus at least as much on income and profit as on meeting the needs of patients. . . . The incentives in such a system reward and stimulate the delivery of more services. That is why medical expenditures in the U.S. are so much higher than in any other country, and are rising more rapidly. . . . Physicians, who supply the services, control most of the decisions to use medical resources. . . .
>
> The economic incentives in the medical market are attracting the great majority of physicians into specialty practice, and these incentives, combined with the continued introduction of new and more expensive technology, are a major factor in causing inflation of medical expenditures. Physicians and ambulatory care and diagnostic facilities are largely paid on a piecework basis for each item of service provided.

Doctors benefit from the artificial scarcity created by the current system.
Waldo Jaquith

As a health care worker, I have personally witnessed this kind of mutual log-rolling between specialists and the never-ending addition of tests to the bill without any explanation to the patient. The patient simply lies in bed and watches an endless parade of unknown doctors poking their heads in the door for a microsecond, along with an endless series of lab techs drawing body fluids for one test after another that's "been ordered," with no further explanation. The post-discharge avalanche of bills includes duns from two or three dozen doctors, most of whom the patient couldn't pick out of a police lineup. It's the same kind of quid pro quo that takes place in academia, with professors assigning each other's (extremely expensive and copyrighted) texts and systematically citing each other's works in order to game their stats in the Social Sciences

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Citation Index. (I was also a grad assistant once.) You might also consider *Dilbert* creator Scott Adams's account of what happens when you pay programmers for the number of bugs they fix.

One solution to this particular problem is to have a one-to-one relationship between the patient and a general practitioner on retainer. That's how the old "lodge practice" worked. (See David Beito's "Lodge Doctors and the Poor," *The Freeman*, May 1994, www.tinyurl.com/cjca68).

But that's illegal, you know. In New York City, John Muney recently introduced an updated version of lodge practice: the AMG Medical Group, which for a monthly premium of $79 and a flat office fee of $10 per visit provides a wide range of services (limited to what its own practitioners can perform in-house). But because AMG is a fixed-rate plan and doesn't charge more for "unplanned procedures," the New York Department of Insurance considers it an unlicensed insurance policy. Muney may agree, unwillingly, to a settlement arranged by his lawyer in which he charges more for unplanned procedures like treatment for a sudden ear infection. So the State is forcing a modern-day lodge practitioner to charge more, thereby keeping the medical and insurance cartels happy—all in the name of "protecting the public." How's that for irony?

Regarding expensive machinery, I wonder how much of the cost is embedded rent on patents or regulatorily mandated overhead. I'll bet if you removed all the legal barriers that prevent a bunch of open-source hardware hackers from reverse-engineering a homebrew version of it, you could get an MRI machine with a twentyfold reduction in cost. I know that's the case in an area I'm more familiar with: micromanufacturing technology. For example, the RepRap—a homebrew, open-source 3-D printer—costs roughly $500 in materials to make, compared to tens of thousands for proprietary commercial versions.

More generally, the system is racked by artificial scarcity, as editor Sheldon Richman observed in an interview a few months back. For example, licensing systems limit the number of practitioners and arbitrarily impose levels of educational overhead beyond the requirements of the procedures actually being performed.

Libertarians sometimes—and rightly—use "grocery insurance" as an analogy to explain medical price inflation: If there were such a thing as grocery insurance, with low deductibles, to provide third-party payments at the checkout register, people would be buying a lot more rib-eye and porterhouse steaks and a lot less hamburger.

The problem is we've got a regulatory system that outlaws hamburger and compels you to buy porterhouse if you're going to buy anything at all. It's a multiple-tier finance system with one tier of service. Dental hygienists can't set up independent teeth-cleaning practices in most states, and nurse-practitioners are required to operate under a physician's "supervision" (when he's out golfing). No matter how simple and straightforward the procedure, you can't hire someone who's adequately trained just to perform the service you need; you've got to pay amortization on a full med school education and residency.

> The health care system is racked by artificial scarcity.

Drug patents have the same effect, increasing the cost per pill by up to 2,000 percent. They also have a perverse effect on drug development, diverting R&D money primarily into developing "me, too" drugs that tweak the formulas of drugs whose patents are about to expire just enough to allow repatenting. Drug-company propaganda about high R&D costs, as a justification for patents to recoup capital outlays, is highly misleading. A major part of the basic research for identifying therapeutic pathways is done in small biotech startups, or at taxpayer expense in university laboratories, and then bought up by big drug companies. The main expense of the drug companies is the FDA-imposed testing regimen—and most of that is not to test the version actually marketed, but to secure patent lockdown on other possible variants of the marketed version. In other words, gaming the patent system grossly inflates R&D spending.

The prescription medicine system, along with state licensing of pharmacists and Drug Enforcement

Administration licensing of pharmacies, is another severe restraint on competition. At the local natural-foods cooperative I can buy foods in bulk, at a generic commodity price; even organic flour, sugar, and other items are usually cheaper than the name-brand conventional equivalent at the supermarket. Such food cooperatives have their origins in the food-buying clubs of the 1970s, which applied the principle of bulk purchasing. The pharmaceutical licensing system obviously prohibits such bulk purchasing (unless you can get a licensed pharmacist to cooperate).

I work with a nurse from a farming background who frequently buys veterinary-grade drugs to treat her family for common illnesses without paying either Big Pharma's markup or the price of an office visit. Veterinary supply catalogs are also quite popular in the homesteading and survivalist movements, as I understand. Two years ago I had a bad case of poison ivy and made an expensive office visit to get a prescription for prednisone. The next year the poison ivy came back; I'd been weeding the same area on the edge of my garden and had exactly the same symptoms as before. But the doctor's office refused to give me a new prescription without my first coming in for an office visit, at full price—for my own safety, of course. So I ordered prednisone from a foreign online pharmacy and got enough of the drug for half a dozen bouts of poison ivy—all for less money than that office visit would have cost me.

Gaming the patent system grossly inflates the cost of R&D spending on drugs.

Of course people who resort to these kinds of measures are putting themselves at serious risk of harassment from law enforcement. But until 1914, as Sheldon Richman pointed out ("The Right to Self-Treatment," *Freedom Daily*, January 1995, www.tinyurl.com/yjnxrtv), "adult citizens could enter a pharmacy and buy any drug they wished, from headache powders to opium."

The main impetus to creating the licensing systems on which artificial scarcity depends came from the medical profession early in the twentieth century. As described by Richman:

> Accreditation of medical schools regulated how many doctors would graduate each year. Licensing similarly metered the number of practitioners and prohibited competitors, such as nurses and paramedics, from performing services they were perfectly capable of performing. Finally, prescription laws guaranteed that people would have to see a doctor to obtain medicines they had previously been able to get on their own.

The medical licensing cartels were also the primary force behind the move to shut down lodge practice, mentioned above.

In the case of all these forms of artificial scarcity, the government creates a "honey pot" by making some forms of practice artificially lucrative. It's only natural, under those circumstances, that health care business models gravitate to where the money is.

Health care is a classic example of what Ivan Illich, in *Tools for Conviviality*, called a "radical monopoly." State-sponsored crowding out makes other, cheaper (but often more appropriate) forms of treatment less usable, and renders cheaper (but adequate) treatments artificially scarce. Artificially centralized, high-tech, and skill-intensive ways of doing things make it harder for ordinary people to translate their skills and knowledge into use-value. The State's regulations put an artificial floor beneath overhead cost, so that there's a markup of several hundred percent to do anything; decent, comfortable poverty becomes impossible.

A good analogy is subsidies to freeways and urban sprawl, which make our feet less usable and raise living expenses by enforcing artificial dependence on cars. Local building codes primarily reflect the influence of building contractors, so competition from low-cost unconventional techniques (T-slot and other modular designs, vernacular materials like bales and papercrete, and so on) is artificially locked out of the market. Charles Johnson described the way governments erect barriers to people meeting their own needs and make comfortable subsistence artificially costly, in the specific case of homelessness, in "Scratching By: How the Government Creates Poverty as We Know It" (*The Freeman*, December 2007, www.tinyurl.com/dglrov).

The major proposals for health care "reform" that went before Congress would do little or nothing to address the institutional sources of high cost. As Jesse Walker argued at Reason.com, a 100 percent single-payer system, far from being a "radical" solution,

> would still accept the institutional premises of the present medical system. Consider the typical American health care transaction. On one side of the exchange you'll have one of an artificially limited number of providers, many of them concentrated in those enormous, faceless institutions called hospitals. On the other side, making the purchase, is not a patient but one of those enormous, faceless institutions called insurers. The insurers, some of which are actual arms of the government and some of which merely owe their customers to the government's tax incentives and shape their coverage to fit the government's mandates, are expected to pay all or a share of even routine medical expenses. The result is higher costs, less competition, less transparency, and, in general, a system where the consumer gets about as much autonomy and respect as the stethoscope. Radical reform would restore power to the patient. Instead, the issue on the table is whether the behemoths we answer to will be purely public or public-private partnerships. ["Obama is No Radical," September 30, 2009, www.tinyurl.com/yk33uqf]

I'm a strong advocate of cooperative models of health care finance, like the Ithaca Health Alliance (created by the same people, including Paul Glover, who created the Ithaca Hours local currency system), or the friendly societies and mutuals of the nineteenth century described by writers like Pyotr Kropotkin and E. P. Thompson. But far more important than reforming finance is reforming the way delivery of service is organized.

Consider the libertarian alternatives that might exist. A neighborhood cooperative clinic might keep a doctor of family medicine or a nurse practitioner on retainer, along the lines of the lodge-practice system. The doctor might have his med school debt and his malpractice premiums assumed by the clinic in return for accepting a reasonable upper middle-class salary.

As an alternative to arbitrarily inflated educational mandates, on the other hand, there might be many competing tiers of professional training depending on the patient's needs and ability to pay. There might be a free-market equivalent of the Chinese "barefoot doctors." Such practitioners might attend school for a year and learn enough to identify and treat common infectious diseases, simple traumas, and so on. For example, the "barefoot doctor" at the neighborhood cooperative clinic might listen to your chest, do a sputum culture, and give you a round of Zithro for your pneumonia; he might stitch up a laceration or set a simple fracture. His training would include recognizing cases that were clearly beyond his competence and calling in a doctor for backup when necessary. He might provide most services at the cooperative clinic, with several clinics keeping a common M.D. on retainer for more serious cases. He would be certified by a professional association or guild of his choice, chosen from among competing guilds based on its market reputation for enforcing high standards. (That's how competing kosher certification bodies work today, without any government-defined standards). Such voluntary licensing bodies, unlike state licensing boards, would face competition—and hence, unlike state boards, would have a strong market incentive to police their memberships in order to maintain a reputation for quality.

The clinic would use generic medicines (of course, since that's all that would exist in a free market). Since local juries or arbitration bodies would likely take a much more common-sense view of the standards for reasonable care, there would be far less pressure for expensive CYA testing and far lower malpractice premiums.

Basic care could be financed by monthly membership dues, with additional catastrophic-care insurance (cheap and with a high deductible) available to those who wanted it. The monthly dues might be as cheap as or even cheaper than Dr. Muney's. It would be a no-frills, bare-bones system, true enough—but to the 40 million or so people who are currently uninsured, it would be a pretty damned good deal. FEE

Books for People Who Think

The Wages of Destruction

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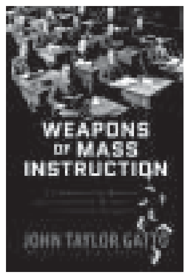

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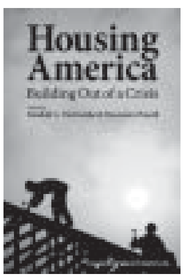

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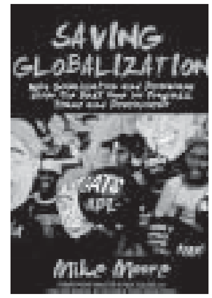

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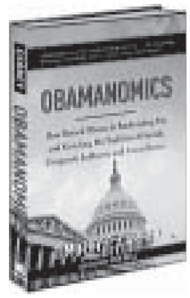

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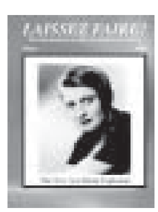

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Fantasy Is Not an Adult Policy Option

BY GENE CALLAHAN

The Freeman, quite understandably, has an editorial focus on the advocacy of libertarian solutions to economic and social problems. In this article, however, I wish to enter a plea for *adult* solutions to such problems, a plea that transcends any left/right or statist/libertarian dichotomies. As I hope to persuade readers—or any serious advocates of any policy stance whatsoever—so long as they are interested in real discussion and intelligent engagement with their opponents, they should eschew pleasant fantasies. Instead, they should focus on the options realistically on the table.

Although the ideas I present here were simmering on a back burner of my mind for some time, they were moved to a front burner due to some sloganeering I recently encountered several times on Facebook. Those of you who are members of that social networking site also may have seen the status message that read, "[John Doe] thinks that no one should die because they cannot afford health care, and no one should go broke because they get sick." (One reasonably can surmise that this is meant to be an argument for the health care legislation being pushed by prominent Democratic politicians.)

Well, I posted as my status a *Star Wars*-based parody of that message (which I did not originate) that said, "No one should be frozen in carbonite, or be slowly digested for a thousand years in the bowels of a sarlaac, just because they couldn't pay Jabba the Hut what they owe him."

In response, some of my Facebook friends got mad at me, contending that I was scoffing at the political pursuit of worthwhile goals. But actually I was scoffing at adopting childish fantasizing as a replacement for a serious discussion of policy alternatives. Yes, it would be lovely if no one ever died because of a lack of health care funds, and, in fact, if no one ever got sick at all, and if our burps smelled like lavender flowers.

The only way to find a world with no tradeoffs.
Raúl Arévalo

But no matter what policies we implement, none of these things are going to happen. In this particular case people, under any organization of medical care, will die due to a lack of funds, because *we do not live in a world of infinite resources*. True, if medicine were fully socialized, and treatment were always "free," no one would die due to a lack of funds on his or her own part—instead, people would die due to lack of government funds.

Any State running a socialized medical system has to stop spending at some point—for instance, it can't come anywhere near spending 100 percent of GDP on

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medical care, because then there would be massive deaths due to starvation! And it will always be the case that if the government in question only had spent more than it in fact did spend, some people would have lived longer.

A serious discussion of this issue should approach the topic as adults would, recognizing that we live in a world of scarcity in which, as a result, we cannot avoid making tradeoffs. Some people *will* die who might have been kept alive a bit longer by devoting more resources to their care, no matter what we do. Having recognized that, now we can begin to discuss what policy will result in minimizing those deaths, or distributing them better, or whatever other goals we have. Clearly, libertarians will tend to believe that a free market in health care would provide the best possible solution to this problem of scarcity, but the point I'm attempting to make here is not tied to that answer. An interventionist who thinks that market failure pervades the health care industry may see a need for a government program to address such failures, but, nevertheless, she will, if she's being serious about the issue, realize that her proposed solution will not be a panacea and will still involve tradeoffs. (And such realistic interventionists do, indeed, exist—see Robert Reich discussing just such tradeoffs in this video: www.tinyurl.com/yj9z3nb.)

A serious discussion should recognize that we live in a world of scarcity.

Not a Partisan Issue

And lest anyone still think I'm being partisan here, I will note that the temptation to substitute fantasizing for serious political thought afflicts both major political parties to a similar degree. For example, some on the right have declared that the United States is engaged in a "war to end terror," but that is not an adult policy goal; an adult recognizes that terrorism will occur, and asks how to minimize it. Now one such adult's answer may still be different from another's: One person may decide that, even though some acts of terrorism are inevitable in our less-than-perfect world, it is still the best option for the Untied States to do what it can to spread democracy in the Muslim world, while recognizing that such a project will inevitably produce some "blowback." Another may conclude that leaving Muslims alone to work out their own problems is a better solution, even though it will inevitably leave some terrorists free to operate—terrorists whom a more active policy may have been able to thwart. However, whatever policy mature consideration ultimately decides on, it should be recognized that proposals such as those put forward in a 2003 book by two prominent neoconservatives and Bush advisers, David Frum and Richard Perle, promising "an end to evil" itself, are an exercise in childish fantasizing and not in serious political thinking.

Similarly, a "drug-free America" is not an adult policy goal. An adult realizes that some people will find a way to get high under any legal regime and asks how to best minimize the harm. Once again, it is clear that libertarians probably will opt for widespread drug legalization, citing both the undesirable byproducts of attempts to prohibit voluntary drug consumption (see, for instance, Paul Armentano's article in *The Freeman*, December 2009: www.tinyurl.com/yfycdcm) as well as an individual's right to choose what drugs he or she should or shouldn't consume. However, it is likely that conservatives and progressives may not reach a similar conclusion, finding that some combination of partial legalization, mandatory treatment, and/or prohibition is the best solution to the drug problem. Nevertheless, if they are approaching the issue in an adult fashion, they will recognize that their favored solution is very unlikely to produce a "drug-free America," noting, for instance, that the well-nigh universal prohibitions on murder and theft that have existed for thousands of years have never produced a "murder-free" or "theft-free" society anywhere in all that time.

I will offer one more example of political fantasizing drawn from the left. While riding in a New York City subway train recently, I saw an advertisement advocating that all New York employers be legally required to grant paid sick leave to employees. Once again, the intentions are admirable: It is certainly nice to have some paid sick leave, just as it would be nice if no one ever died due to a lack of medical care, or if terrorism were eliminated from the world. But, after visiting the website of one of the groups sponsoring the advertisement (www.tinyurl.com/yb48ldq), I was struck by the fact that the site portrays paid-leave legislation as having only positive consequences, as if no tradeoffs need be made. The New York City government could simply declare that every worker has the right to either five or nine paid sick days, depending on the size of the company (please don't ask me exactly how they arrived at these numbers) and everything else would continue exactly as before.

But in the real world employers decide whether or not to hire a worker, as well as how much to pay him, based on the marginal effect of that hire or that wage rate on the profitability of their businesses. For instance, if the employer works in her firm (as is typical in small businesses), she often has the option of either hiring an extra hand or working a bit more herself. On the margin the extra cost of mandatory paid sick leave will inevitably tip the balance, in at least some cases, toward the owner taking the shifts the potential new hire could have taken. In such cases, the proposed legislation will not have gained the hypothetical employee a job with paid sick leave, but deprived him of that job altogether.

Another decision an employer will face, in any job paying more than the minimum wage, is what salary to pay an employee. It should be obvious that the salary will be lower if the job description includes several paid sick days than it would if it does not. A worker who is young and healthy, and unlikely to be sick very often, may well prefer slightly higher wages to some number of paid absences. That worker will be hurt by the proposed legislation to the extent that her employer must factor into her wage a number of sick days she probably will not use.

Intentions Are Nice, Tradeoffs Are Real

Now, an honest, adult citizen may recognize the presence of such tradeoffs and favor this legislation nonetheless. He might decide it is more important that working parents have the option of staying home to care for a sick child than it is for young single workers to earn a slightly higher wage, and that the benefits to working parents are greater than the costs of the hires that won't be made as a result of the mandate. But to pretend that such tradeoffs don't exist is, once again, to substitute fantasy for prudential evaluation of available options.

Having nice intentions and then pushing for some policy aimed at achieving one's goals—without giving any thought to the likelihood of the policy's success or the possibility that it will actually worsen the condition one seeks to ameliorate—is, indeed, not only silly but also immoral: It lacks the virtue that classical moral thinkers called *prudentia*, or the consideration of the *actual* result an action is likely to bring about and not merely what one wishes it will achieve. On the personal level, people generally understand this principle well enough; a mother who defends having placed her child in a fire because the flames would burn away the evil spirits that caused his bad behavior is unlikely to get much sympathy. But perhaps because social problems are more complex and the consequences of a bad policy not as immediately apparent, we too often are willing to excuse a lack of *prudentia* based on the lovely aims of the supporter of that policy.

> To pretend that tradeoffs don't exist is, once again, to substitute fantasy for prudence.

What I suggest here is that, whatever policies one suspects will work best, whether libertarian or otherwise, our political discourse cannot help but be healthier if we commit to examining our options as adults, recognizing that any choice will involve tradeoffs, instead of suggesting that mere fantasizing represents an honest political option. FEE

Unintended Consequences

BY STEVEN HORWITZ

In two earlier *Freeman* essays, I explored the idea that "ought implies can" and the role of profits in providing knowledge about how best to serve others (www.tinyurl.com/ct8qv9 and www.tinyurl.com/m4nd2j).

Both insights rely on the foundational idea that intentions and results are not the same thing. Thinking we ought to do something does not mean it will have the results that motivate the "ought." With respect to profits we have to recognize that because someone does something to benefit himself, it does not mean the action doesn't benefit others too. In both cases the core concept that is often overlooked is *unintended consequences*. Recognizing that intentions do not equal results and that we must consider the possibility of unintended consequences is what separates good social analysis from bad.

> Unintended consequences come in two flavors: positive and negative.

The issue of unintended consequences is interrelated with a more general aspect of human social existence: the pervasiveness of uncertainty. The future is not available to us in the present. We cannot know the course of nature, but neither can we know the course of human choices. We are always acting based on our best guesses about what others will do and how our actions will coordinate with theirs, which we can never know with certainty. This structural uncertainty of the human condition means that we can never know all the consequences of our choices, which implies that some of those consequences will be other than what we intend. Anyone who believes the consequences of his actions will be exactly as intended is blind to the fact that his choices must interact with those of others, creating outcomes that none of the choosers designed.

Unintended consequences come in two flavors: positive and negative. The concept of negative unintended consequences is acknowledged in some social analyses and in morality, but is certainly underdeveloped in the understanding of economic policy. Positive unintended consequences are rarely recognized in "serious" conversations about public policy, even though they are at the core of modern economics.

Consider the two-by-two matrix on the next page.

We have moral language for three of the four possible combinations of intent and outcome. Vice and virtue are easy enough, as they are our common terms for discussing the morality or desirability of our actions when the outcomes match our intentions. But what about when they don't? We have the category of "negligence" when we cause negative outcomes we did not intend, such as failing to set the brake on a car that rolls down a hill and damages property. But we do not have a word for the unintentional doing of good! That missing box is filled in by economics and good social science as they explain how, under the right institutional framework, the pursuit of self-interest leads to unintended benefits for society as a whole.

Contributing Editor Steven Horwitz (sghorwitz@stlawu.edu) is the Charles A. Dana Professor of Economics at St. Lawrence University and a columnist at TheFreemanOnline.org.

	Outcome is as intended	*Outcome is unintended*
Negative	Vice	Negligence
Positive	Virtue	????

Naming the Unintentional Good

From Adam Smith in the eighteenth century to Carl Menger in the nineteenth to Ludwig von Mises and F. A. Hayek in the twentieth, the central mission of economics has been to understand how we can produce beneficial outcomes that were not intended. Smith captured this idea with the "invisible hand" that leads the butcher, baker, and brewer to provide us with our dinner not out of altruism but "self-love." Smith understood how exchange guided by prices and profits would harmonize (to use a term associated with Frédéric Bastiat in the nineteenth century) the self-interest of producers with the self-interest of consumers. Even if we care not at all about the people we trade with, we will nonetheless be led to satisfy their wants in our attempt to satisfy our own. Looking only at the seller's profits without tracing out the entire chain of beneficial though unintended consequences that his self-interest produces is to take an "unscientific" approach to understanding society.

Menger put the concept of unintended consequences (and the closely related idea of "spontaneous" or "unintended" order) at the center of his conception of the social sciences. In what is often termed "the Mengerian question," he asked: "How can it be that institutions which serve the common welfare and are extremely significant for its development come into being without a common will directed toward establishing them?" Menger recognized that many social institutions are not the product of human design, but instead emerge as people seek their own self-interest. Menger's own classic work on the evolution of money explains how it arose this way from barter.

Mises and Hayek deepened this argument another layer as both recognized, with somewhat different emphases, the role that knowledge plays in understanding the centrality of unintended consequences in social thought. Mises provided what we might call the "microfoundations" of Smith's invisible hand by carefully explaining how we go from people's subjective perceptions to market-level outcomes via prices, which facilitate our calculations about the effectiveness of the use of resources. Mises also explored how profit and loss provide further signals that serve as "aids to the mind" in guiding our behavior. Entrepreneurs are led to use resources wisely, profiting for themselves but also improving the well-being of others, thanks to the signals of the marketplace.

Hayek's work on economics, knowledge, and the problems of socialism allowed us to see the opposite side of Mises's analysis by exploring how socialist planners would be *unable* to replicate the workings of entrepreneurs. Hayek argued that without market signals government planners would be unable to marshal the dispersed knowledge available to entrepreneurs through prices and other market institutions. Because of their ignorance, planners would not only be unable to generate *beneficial* unintended consequences in their own pursuit of self-interest, they would in fact cause *harmful* ones by being unable to see how their mistakes would lead to further mistakes—not to mention accumulating State power. Both Mises and Hayek saw that regardless of the socialist planners' good intentions, their inability to make use of the knowledge of the marketplace would lead to consequences very different from those intended—in fact, as history has clearly demonstrated, consequences devastating for millions.

Institutions Against Uncertainty

The Smith-Menger-Mises-Hayek line of thought can be tied back to our earlier discussion of uncertainty. This tradition argues that we use evolved social institutions, including the market, to get more accurate expectations of the behavior of others and push back against the uncertainty that threatens to derail our plans. At the simplest level we see this with prices: The prices of particular goods or services are "aids to the mind" regarding the preferences, knowledge, and expectations of others, enabling us to better anticipate the consequences of our choices and to thereby make better ones. Institutions that emerge as a result of unhampered social evolutionary processes all perform this uncertainty-reducing function.

Consider the institution of ownership. When someone says that he "owns" a particular good, we know that gives him a certain set of rights to it and imposes certain obligations, largely negative ones, on us. Knowing that the good is owned means we can form particular expectations about what the other person might and might not do with that object, and he in turn can have reliable expectations about what we will and will not do.

An irony of social institutions is that by limiting our choices they make us better able to execute our plans and anticipate their likely consequences. However, to perform that coordinative function in complex matters and help us overcome uncertainty, institutions need to emerge from people's voluntary interactions, usually over a period long enough for them to embody the best ways of doing things. This is why markets are so good at generating positive unintended consequences and why institutions imposed by force from the top down tend to generate negative ones. Just as we are much more productive as a society when entrepreneurs and consumers have access to competitively determined prices, so in general does human action produce beneficial unintended consequences when social institutions generally are the result of unhampered evolutionary processes.

An irony of social institutions is that by limiting our choices they make us better able to execute our plans and anticipate their likely consequences.

Even in less dramatic ways modern economics remains focused on unintended consequences, particularly in how economists like to make highly counterintuitive arguments. For example, a number of years ago there was a call for government to require very young children to sit in car seats rather than on their parents' laps when flying on airplanes. This arose out of concern that in some circumstances lap children could be hurt or could hurt others. Critics, particularly economists, quickly responded that such a law would actually kill more children than it saved.

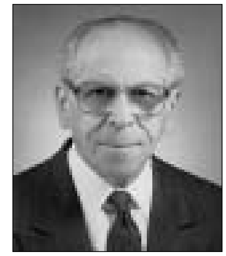
To see why, one has to explore the *unintended* consequences. Under the law parents would have had to buy tickets for children who formerly flew free in their laps. Faced with the additional charge, some families on the margin would switch from flying to driving. But the odds of being injured or killed in an automobile are much greater per mile than in a plane. Thankfully, that unintended consequence was anticipated before it was too late, saving many children in the process.

The idea of unintended consequences also helps us understand one process by which government has grown over the last century or two. Because even well-intentioned interventions produce consequences that political actors could not foresee and did not intend, every time government acts, it creates a new set of problems that in turn leads to calls for more government solutions.

A final observation: The neglect of unintended consequences and the focus on motives lead us to celebrate the lives and mourn the deaths of politicians, although they may have caused *undesirable* unintended consequences, while inventors and businesspeople who benefit humanity while pursuing their own ends go unnoticed. As my matrix on the previous page suggests, we simply don't have a moral category for people who unintentionally benefit others in pursuit of their self-interest. And we also highly overvalue intentions as a measure of moral worth, leading to praise for those whose "hearts were in the right place" even as they have caused incalculable damage to prosperity and freedom.

A better understanding of the idea of unintended consequences will not only give us the tools we need to more accurately analyze social issues, it will also provide us with a different way of making moral judgments. After all, it is results that count, and we all know where the road paved with good intentions leads to. FEE

The Shame of Medicine: Alan Turing Redux



BY THOMAS SZASZ

In my May 2009 column I recounted the tragic story of the medical-legal persecution of the famed British mathematician and World War II code breaker Alan Turing (www.tinyurl.com/ddl5p6). In June, John Graham-Cumming, a British computer programmer, created a petition on the "No. 10 Downing Street" website asking for a government apology for Turing's mistreatment. On September 10, Prime Minister Gordon Brown issued a formal apology on behalf of the U.K. government, stating, in part:

> Earlier this year, I stood with Presidents Sarkozy and Obama to honour the service and the sacrifice of the heroes who stormed the beaches of Normandy 65 years ago. And just last week, we marked the 70 years which have passed since the British government declared its willingness to take up arms against fascism and declared the outbreak of the Second World War. So I am both pleased and proud that, thanks to a coalition of computer scientists, historians and LGBT [lesbian, gay, bisexual and transgender] activists, we have this year a chance to mark and celebrate another contribution to Britain's fight against the darkness of dictatorship: that of code-breaker Alan Turing.

Memorials like this and apologies like Gordon Brown's continue to let psychiatry off the hook for its coercive "treatments."
Sjoerd Ferwerda

Brown was clueless. Turing had nothing in common with LGBT activists. Comfortable in his identity as a homosexual man, he killed himself because the "treatment" "transgendered" him in ways he did not expect and was not told about. Calling Turing "a quite brilliant mathematician" was another of Brown's gaucheries. Turing, Brown continued, "was one of those individuals we can point to whose unique contribution helped to turn the tide of war. The debt of gratitude he is owed makes it all the more horrifying, therefore, that he was treated so inhumanely." Would Turing have been less deserving of belated compassion if he had been just another Englishman caught in the web of his country's anti-homosexual laws?

"Laws," warned Solon, the sixth-century BC Athenian philosopher, "are the spider's webs which, if anything small falls into them they ensnare it, but large things break through and escape." The special irony of the Turing case is that he was not treated as any ordinary violator of the prohibition against gay sex would have been: He was allowed to choose between imprisonment and "medical treatment." He made the wrong choice. Despite his high intelligence and familiarity with medical crimes in the Third Reich, Turing failed to understand that medical criminals abound in all modern societies, most insidiously in so-called "free societies."

Brown says that Turing was "treated inhumanely." That's not exactly true. He could have gone to prison, where he could have worked, had visitors, and would have been unmolested by psychiatrists, and from which he would have emerged physically and mentally undamaged, as had Gandhi, Nehru, Castro, and many other prominent historical figures. Turing was treated inhumanely because he as well as his doctors failed to

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heed George Washington's famous warning: "Government is not reason; it is not eloquence; it is force. Like fire, it is a dangerous servant and a fearful master."

Physicians who work for the government's law-enforcement apparatus do not practice therapeutic medicine and are not healers. They practice anti-therapeutic prosecution, governed by the principle *Primum nocere* (first, do harm): They are professional injurers who define the harm they do as help. Such doctors are medical criminals, the gravity of their crimes depending on the particular laws they help to enforce and the methods they use.

Therapeutic Scapegoating

Turing was blind to the nature of the political system that victimized him. Brown is blind to the nature of the political system over which he presides and the fundamental similarities between it and the system he criticizes. Many more people are now persecuted in the United Kingdom (and in the United States) for "abusing" drugs than were persecuted for "abusing" sex. Neither of these modern (quasi-religious) scapegoat-persecutions could have occurred without the approval and assistance of medical professionals. Yet it does not seem to occur to Brown to mention the role of doctors in the Turing affair, much less blame them or suggest that they, too, owe apologies to Turing and others.

German politicians have apologized for the Holocaust. American politicians have apologized for slavery and post-Pearl Harbor concentration camps. Psychiatrists have not apologized for their institutionalized misdeeds. The American Psychiatric Association (or the Royal College of Psychiatrists) is not about to declare:

> We apologize. We erred when we declared homosexuality a disease and the forcible injection of female sex hormones an effective treatment for it. We committed evil when, instead of joining the defenders of liberty and endorsing the abolition of anti-homosexual legislation, we eagerly supported the coercive apparatus of the State and prostituted ourselves in the service of the social control of society's unwanted.

As an aside, it should be noted that the past medical treatment of homosexuals had included procedures such as surgical sterilization, carbon dioxide inhalation (a kind of suffocation by "gas-boarding"), and electric shock therapy.

Psychiatrists will never apologize for their crimes because they never acknowledge responsibility for harming people. For example, when criticized for depriving people of liberty, they assert that they do not commit mentally ill persons to insane asylums—judges do. "Mental health professionals must understand," explains Robert Simon in *Psychiatry and Law for Clinicians*, "that it is not they who make commitment decisions about patients. Commitment is a judicial decision that is made by the court or by a mental health commission." Psychiatrists call ordinary criminals who deny responsibility for their misdeeds "psychopaths" and say they have no conscience. Doctors, lawyers, politicians, and the press call psychiatrists who deny responsibility for 300 years of psychiatric slavery "conscientious physicians" and honor them as medical healers. Reality, not just history, is written by the victors.

As long as psychiatrists are accepted as medical specialists possessing the privilege to forcibly classify persons as patients and impose tortures on them as treatments, they will *not* apologize. Acknowledging that the classification of homosexuality as a disease was a mistake would open a Pandora's box of doubts about the disease status of currently fashionable mental illnesses.

Brown ended by exulting, "This recognition of Alan's status as one of Britain's most famous victims of homophobia is another step towards equality, and long overdue. . . . Alan and the many thousands of other gay men who were convicted, as he was convicted, under homophobic laws, were treated terribly."

Turing was not a victim of homophobia. Many persons are still "homophobic"—and "phobic" as well of Catholics, Jews, Muslims, and atheists, among others—but they have no power to deprive the persons they fear and hate of liberty. Turing was the victim of medical doctors who declared male homosexuals ill and declared torturing them a form of humane "medical treatment." FEE

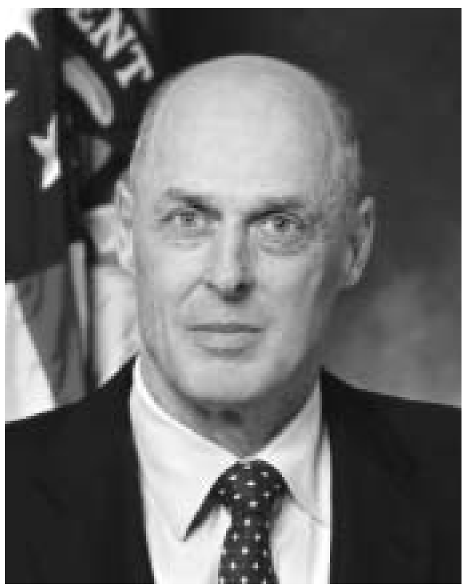
Boom and Bust: Crisis and Response

BY GERALD P. O'DRISCOLL, JR.

America has experienced a classic economic boom and bust, which I first chronicled in the November 2007 *Freeman* ("Subprime Monetary Policy," www.tinyurl.com/npnog4).

Ill-conceived policies to encourage homeownership channeled cheap credit into housing markets. Land-use and zoning policies restricted the supply of housing in key desirable markets. In *The Housing Boom and Bust,* Thomas Sowell of the Hoover Institution has shown how these policies brought about a crisis in housing and finance.

Others have told the story from a number of perspectives and with varying emphasis on different factors. My purpose here is to focus on the policy responses to the crisis and ask whether they have been helpful or harmful.



Henry Paulson's "ready, shoot, aim" bailout was a recipe for disaster.
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TARP

On October 3, 2008, Congress enacted the law creating TARP (the Troubled Asset Relief Program), which was authorized to spend up to $700 billion to purchase troubled assets from financial institutions. A little more than a month later, then-Treasury Secretary Henry Paulson announced that rather than buying troubled assets, the Treasury would use the money for capital injections into banks in return for preferred shares.

Regardless of one's attitude toward bailouts generally, Paulson's original plan was a recipe for disaster. To help the banks he would have needed to overpay for the assets to the detriment of the taxpayers. If he had paid then-current prices, accounting rules would have forced all firms holding such assets to write them down (not just those selling the assets). Financial institutions holding dubious mortgage-backed assets were desperately trying *not* to write them down because that might have threatened their depleted capital base. It is fair to say that Paulson failed to grasp the underlying problems at these institutions when he first proposed the program.

TARP became a capital-relief plan. It harkened back to the Reconstruction Finance Corporation (RFC) of the Great Depression. Under Jesse Jones and in conjunction with Franklin Roosevelt's Bank Holiday, all the nation's banks were examined and divided into the good, the bad, and the ugly. Call it his version of a "stress test." Those deemed beyond hope were never reopened. Those troubled but salvageable were eligible for RFC capital injections. Jones also extracted resignation letters from senior management of institutions being bailed out. If he deemed existing management best suited to run the bank, it could stay. If not, it was replaced.

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In comparison, Paulson's strategy was "ready, shoot, aim." Banks received government injections of money to replace depleted capital, with nothing explicit extracted in return. There were vague promises that banks would resume lending but there was nothing enforceable. The banks were stress-tested only after having received government funds. There were second and even third rounds of bailouts for some banks, indicating they had been weaker than thought. We know that at least one—CIT, a financial institution that received $2.3 billion in TARP money—should have been allowed to close. Instead it eventually filed for bankruptcy, and the taxpayer funds were lost.

Moreover, in what has become a national disgrace, existing management at bailed-out banks remained in place. The Bush administration failed to impose even the level of control exercised under FDR.

On the one-year anniversary of the announcement of Paulson's reversal on TARP, I was asked by *Newsweek* for my assessment (www.newsweek.com/id/222321). "It hasn't done what [Paulson] said it would," I said. "Yes, it saved some banks from going under, but did it restore the health of the banking system? Absolutely not." I stand by that assessment today.

> Did TARP restore the health of the banking system? Absolutely not.

What Does Government Stimulate?

The fiscal response to the crisis of the Bush/Obama administrations has been to spend their way out of the recession. In the process the nation's debt has skyrocketed. There are deficits and debt as far as the eye can see, and our children's future has been mortgaged. The 2009 fiscal deficit was double that of 2008. It is running at 10 percent of GDP, and former Fed governor and Bush adviser Larry Lindsey estimates deficits will run at 7 percent of GDP for a decade.

Because of the work of Milton Friedman and his monetarist followers, countercyclical fiscal policy fell under a cloud. First, they argued that recessions are difficult to forecast and we only typically know we have entered one after the fact. The monetarists also argued that fiscal policy was subject to the cumbersome legislative process and thus could not be quickly implemented. Once spending began, its effects were only felt slowly. All this wisdom was forgotten in the panic of the Bush administration and then more so in the Obama administration.

The Economic Stimulus Act of 2008, passed in February of that year, mainly sent $100 billion in checks to households in early summer to stimulate consumption and jump-start the economy. As Stanford economist John Taylor, author of *Getting Off Track,* has shown, the money did nothing and the economy slid into recession later that year. Any economist worth his salt knows that temporary government cash infusions will likely be saved and at best have transitory effects on spending.

Undaunted by that failure, the Obama administration decided to up the ante on the theory that there had just not been enough fiscal stimulus. It replaced billions in spending with trillions in spending: the stimulus package added on to TARP. In the next section I also discuss Fed spending masquerading as monetary policy.

What is the record? It appears that the recession may have ended in the third quarter of 2009. That would make it less than one year in duration–not atypical in that sense. Most of the Obama stimulus money has yet to be spent. (Recall Friedman's arguments on fiscal policy.) It may be good electoral politics to claim credit for a still-nascent recovery. But it is poor economics. More likely, the self-adjusting forces of the market have been at work.

Clearly, nothing the government has done has been able to lower the unemployment rate. GDP is an abstraction; being out of work is a reality. In October the unemployment rate exceeded 10 percent. (It fell back to 10 later.) A broader measure of unemployment exceeded 17 percent. These numbers put the flesh on the skeleton of policy debates. More ominously, we now are seeing indications that wage rates are falling. As the *Wall Street Journal* reported, Professor Kenneth Couch of the University of Connecticut estimates that displaced workers returning to work will on average take a 40 percent pay cut.

Double-digit unemployment rates and double-digit wage cuts are depression statistics. In what way is government spending "stimulating"? In an editorial the *Wall Street Journal* concluded that "no matter how hard or imaginatively the Administration spins, the reality is that the stimulus has been the economic bust that critics predicted it would be."

Indeed, the labor story helps us to see the dark side of stimulus spending. A good chunk of it has gone to state governments to support bloated budgets in the face of collapsing revenues. Those fiscal transfers are being done, at least in part, to placate public-sector unions, which want to protect the incomes and pensions of their members.

Fiscal stimulus has failed. What about the monetary variant?

Monetary Stimulus

The Fed's response to the crisis has drawn mixed reviews among free-market economists. Some approve of the Fed's easing in 2008–09 as a response to an increased demand for money (falling velocity). Nearly all market-oriented economists are disquieted by the explosion of the Fed's balance sheet as it takes on more and more assets of dubious quality. It will be extremely difficult for the central bank to dispose of such assets when it inevitably comes time for it to tighten. The Fed will likely suffer losses, and such losses impact the taxpayer. (The Fed's surplus is paid to the Treasury.)

The public backlash is of the Fed's own making.

Many economists have been critical of the Fed for its targeted-credit policies, which amount to credit allocation. They favor one sector at the expense of others, and constitute fiscal policy rather than monetary policy. The Fed's leadership is dismayed at its loss of approval by the general public and fears calls for greater political oversight. But the backlash is of the Fed's own making.

In the end its fortunes are tied to the economy's. Most Americans do not know the technicalities of monetary policy. But Fed Chairman Ben Bernanke has taken an active and public role in defending the policy response to the crisis (under both Bush and Obama). Under Bernanke the Fed has promised much and delivered little.

Just as Americans fear the spending and budget deficits, many understand that easy money helped get us into the crisis. Now Dr. Bernanke has prescribed the strongest dose of cheap money ever administered. How can the elixir that caused the boom cure the bust?

The Bernanke Fed is engaged in a policy of reflating (re-inflating) the economy: stimulating money demand to restart economic growth. It justifies the policy on the basis of Professor Bernanke's own research that shows the evils of deflation. But what prices is he trying to prop up? All prices? Even in hyperinflations, some prices fall. Is he trying to prevent downward adjustment in wages? As suggested above, wage rates in hard-hit sectors may be falling at double-digit rates. Is he preparing for double-digit price inflation? If so, gold is underpriced at $1,000 an ounce.

Astute observers increasingly fear that what is being reflated is another asset bubble. At present, the asset bubble is concentrated in commodities (such as gold, copper, and oil) and Asian real estate. In what is known as a carry trade, global investors are borrowing dollars at low interest rates to invest in property in cities like Hong Kong and Singapore. Instead of bringing prosperity to Americans, the Fed's policy is fueling speculation. Instead of production in the United States, the Fed's easy money is creating paper wealth for Asian property owners.

The rise in commodity prices is perhaps most ominous. The U.S. economy remains weak and unemployment elevated. Yet Americans are already paying higher prices for gasoline. They are facing the prospect of renewed inflation and economic weakness: stagflation. That would be an updated version of the economy of the 1970s. The Fed is thereby impoverishing Americans. Is it any wonder many are calling for a reconsideration of its role? FEE

What Ended the Great Depression?

BY BURTON FOLSOM, JR.

What finally ended the Great Depression? That question may be the most important in economic history. If we can answer it, we can better grasp what perpetuates economic stagnation and what cures it.

The Great Depression was the worst economic crisis in U.S. history. From 1931 to 1940 unemployment was always in double digits. In April 1939, almost ten years after the crisis began, more than one in five Americans still could not find work.

On the surface World War II seems to mark the end of the Great Depression. During the war more than 12 million Americans were sent into the military, and a similar number toiled in defense-related jobs. Those war jobs seemingly took care of the 17 million unemployed in 1939. Most historians have therefore cited the massive spending during wartime as the event that ended the Great Depression.

No longer unemployed, but that's hardly a way to end a depression.
Library of Congress

Some economists—especially Robert Higgs—have wisely challenged that conclusion. Let's be blunt. If the recipe for economic recovery is putting tens of millions of people in defense plants or military marches, then having them make or drop bombs on our enemies overseas, the value of world peace is called into question. In truth, building tanks and feeding soldiers—necessary as it was to winning the war—became a crushing financial burden. We merely traded debt for unemployment. The expense of funding World War II hiked the national debt from $49 billion in 1941 to almost $260 billion in 1945. In other words, the war had only postponed the issue of recovery.

Even President Roosevelt and his New Dealers sensed that war spending was not the ultimate solution; they feared that the Great Depression—with more unemployment than ever—would resume after Hitler and Hirohito surrendered. Yet FDR's team was blindly wedded to the federal spending that (as I argue in *New Deal or Raw Deal?*) had perpetuated the Great Depression during the 1930s.

FDR had halted many of his New Deal programs during the war—and he allowed Congress to kill the WPA, the CCC, the NYA, and others—because winning the war came first. In 1944, however, as it became apparent that the Allies would prevail, he and his New Dealers prepared the country for his New Deal revival by promising a second bill of rights. Included in the President's package of new entitlements was the right to "adequate medical care," a "decent home," and a "useful and remunerative job." These rights (unlike free speech and freedom of religion) imposed obligations on other Americans to pay taxes for eyeglasses, "decent" houses, and "useful" jobs, but FDR believed his second bill of rights was an advance in thinking from what the Founders had conceived.

Roosevelt's death in the last year of the war prevented him from unveiling his New Deal revival. But President Harry Truman was on board for most of the new reforms. In the months after the end of the war

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Truman gave major speeches showcasing a full employment bill—with jobs and spending to be triggered if people failed to find work in the private sector. He also endorsed a national health care program and a federal housing program.

But 1946 was very different from 1933. In 1933 large Democratic majorities in Congress and public support gave FDR his New Deal, but stagnation and unemployment persisted. By contrast, Truman had only a small Democratic majority—and no majority at all if you subtract the more conservative southern Democrats. Plus, the failure of FDR's New Deal left fewer Americans cheering for an encore.

In short the Republicans and southern Democrats refused to give Truman his New Deal revival. Sometimes they emasculated his bills; other times they just killed them.

Senator Robert Taft of Ohio, one of the leaders of the Republican-southern Democrat coalition, explained why he voted against much of the program: "The problem now is to get production and employment. If we can get production, prices will come down by themselves to the lowest point justified by increased costs. If we hold prices at a point where no one can make a profit, there will be no expansion of existing industry and no new industry in that field."

Robert Wason, president of the National Association of Manufacturers, simply said, "The problem of our domestic economy is the recovery of our freedom."

Alfred Sloan, the chairman of General Motors, framed the question this way: "Is American business in the future as in the past to be conducted as a competitive system? He answered: "General Motors . . . will not participate voluntarily in what stands out crystal clear at the end of the road—a regimented economy."

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Taft, Wason, and Sloan reflected the views of most congressmen, who proceeded to squelch the New Deal revival. Instead they cut tax rates to encourage entrepreneurs to create jobs for the returning veterans.

After many years of confiscatory taxes, businessmen desperately needed incentives to expand. By 1945 the top marginal income tax rate was 94 percent on all income over $200,000. We also had a high excess-profits tax that had absorbed more than one-third of all corporate profits since 1943—and another corporate tax that reached as high as 40 percent on other profits.

In 1945 and 1946 Congress repealed the excess-profits tax, cut the corporate tax to a maximum 38 percent, and cut the top income tax rate to 86 percent. In 1948 Congress sliced the top marginal rate further, to 82 percent.

Those rates were still high, but they were the first cuts since the 1920s and sent the message that businesses could keep much of what they earned. The year 1946 was not without ups and downs in employment, occasional strikes, and rising prices. But the "regime certainty" of the 1920s had largely returned, and entrepreneurs believed they could invest again and be allowed to make money.

As Sears, Roebuck and Company Chairman Robert E. Wood observed, after the war "we were warned by private sources that a serious recession was impending. . . . I have never believed that any depression was in store for us."

With freer markets, balanced budgets, and lower taxes, Wood was right. Unemployment was only 3.9 percent in 1946, and it remained at roughly that level during most of the next decade. The Great Depression was over. FEE

Theodore Roosevelt, Big-Government Man

BY JIM POWELL

Theodore Roosevelt has been known as "the Good Roosevelt," "the Republican Roosevelt," and "the conservative Roosevelt," as distinguished from his fifth cousin Franklin, who's credited with ushering in modern American big government.

Yet promoters of big government have long recognized TR as one of their own.

Biographer Frank Freidel wrote that "While at Groton [Franklin Delano Roosevelt] first fell under the spell of his remote cousin Theodore Roosevelt. . . . Theodore Roosevelt believed in using to the utmost the constitutional power of the president. . . . This strong use of government was for the most part appealing to Franklin." During the Great Depression, FDR promoted "a program emphasizing national planning in the tradition of Theodore Roosevelt." Freidel noted that "in words reminiscent of Theodore Roosevelt, FDR declared 'the duty rests upon the Government to restrict incomes by very high taxes.'"

Historian Eric F. Goldman said that Lyndon Johnson, who simultaneously launched huge domestic entitlement spending programs and escalated the undeclared Vietnam War, admired "the hyperactive White House of Theodore Roosevelt." LBJ reportedly remarked, "Whenever I pictured Teddy Roosevelt, I saw him running or riding, always moving, his fists clenched, his eyes glaring, speaking out."

Richard M. Nixon, who dramatically expanded federal regulation of the economy, liked Theodore Roosevelt "because of his great dynamic drive and ability to mobilize a young country."

In recent years, influential Republicans like Newt Gingrich, Karl Rove, and John McCain have gushed with admiration for TR.

For starters, TR reinterpreted the Constitution to permit a vast expansion of executive power. "Congress, he felt, must obey the president," noted biographer Henry Pringle. Roosevelt wanted the Supreme Court to obey him too. TR ushered in the practice of ruling by executive order, bypassing the congressional process. From Lincoln to TR's predecessor William McKinley, there were 158 executive orders. TR, during his seven years in office, issued 1,007. He ranks third, behind fellow "progressives" Woodrow Wilson (1,791) and Franklin Roosevelt (3,723) in that category.

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Unintended Consequences of Foreign Wars

Theodore Roosevelt, who was awarded the Nobel Peace Prize, believed that "we should regard with contempt and loathing the Americans . . . crying on behalf of peace, peace, when there ought not to be peace." He warned against "the Menace of Peace."

When, in 1892, there was a dispute with Chile, he urged an invasion. As a lieutenant-colonel with his Rough Riders, on a ship bound for Cuba, he wrote Massachusetts Senator Henry Cabot Lodge: "You must get Manila and Hawaii; you must prevent any talk of peace until we get Puerto Rico and the Philippines as well as secure the independence of Cuba."

TR relished the prospect of war with Canada. In 1895, he wrote Lodge: "I don't care whether our sea coast cities are bombarded or not, we would take Canada." In a letter to his brother-in-law Will Cowles, Roosevelt said that the U.S. army would "have to employ a lot of men just as green as I am for the conquest of Canada."

As president, Roosevelt reversed the traditional U. S. foreign policy of refraining from intervention in the affairs of other nations. Intervention had been the exception, but he began to make it the rule.

TR promoted a big navy not to defend the country from a specific threat—since there wasn't any threat—but to be a tool for an expansionist foreign policy. "The primary concern of Roosevelt and his fellow-expansionists," observed historian Howard K. Beale, "was power and prestige and the naval strength that would bring power and prestige."

TR's most controversial intervention involved the seizure of the Isthmus of Panama, which had belonged to Colombia. He resolved to build a canal connecting the Atlantic and Pacific oceans so the U.S. navy could be more easily mobilized in either ocean. Historian David McCullough observed that "Roosevelt's haste, his refusal—his inability—to see the Colombian position on the treaty as anything other than a 'holdup,' were tragically mistaken and inexcusable." Is it prudent to have a U.S. president who seizes foreign territory when convenient?

TR's other interventions—in Venezuela, the Dominican Republic, and Nicaragua—were small by later standards, aimed mainly at helping European investors collect debts from deadbeat Latin American dictators so that European governments wouldn't establish a military presence in the Western Hemisphere. But his aggressive advocacy of intervention undoubtedly made his successors feel more comfortable about entering foreign wars, which have killed Americans when the United States wasn't under attack, triggered nationalist reactions that supported dictators, and multiplied the number of foreign enemies, complicating efforts to maintain our national security.

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TR's "Conservation" Subsidies

Roosevelt backed schemes that helped western-state politicians gain more clout. State-subsidized irrigation projects before TR aimed at attracting farmers who would try to grow crops in western deserts, but all these projects lost money. Roosevelt thought this experience didn't apply to him, and in the name of "reclamation" he decided that the federal government should promote desert farming.

Hence the Reclamation Act of 1902. Every western senator and congressman scrambled to get on board for a subsidized reclamation project. Nevada Senator Francis Newlands, for example, was particularly anxious about his state's declining population. To secure political backing, reclamation projects had to be spread around, and many locations didn't make any sense. They guaranteed losses.

TR's subsidized reclamation brought widespread financial ruin. Farmers who had no prior experience with irrigation overwatered their crops, their irrigation systems became clogged with silt, and they obligated themselves to pay for more acreage than they could handle. Many farmers quit, taxpayers were socked to cover the losses, and desert populations declined.

And despite TR's reputation as a foe of private monopolies, he approved unfair government practices that squeezed out private dam builders and helped the Bureau of Reclamation gain a dam-building monopoly. The Bureau of Reclamation became a vast federal bureaucracy with some 600 dams and reservoirs in 17 western states.

It led to waste on a colossal scale. More water has been lost due to evaporation from reservoirs in hot deserts than has been needed for human consumption in major western cities. It has been estimated that every year perhaps a million acre-feet of water—enough to supply Los Angeles—are lost, seeping into Lake Powell's canyon walls and evaporating in the desert sun.

Big-Government Bungling

Theodore Roosevelt challenged the prevailing American view that land-use decisions are best made by private individuals who have a stake in improving the value of their property. He throttled the privatization of land that had been going on for more than a century. In 1905 TR transferred millions of acres of government land from the Department of the Interior to the Department of Agriculture and established the U. S. Forest Service to manage it.

It's because he substantially limited privatization that today national forests account for about 20 percent of the land in the 11 westernmost states of the lower 48. Altogether, the federal government controls about a third of the land in the United States.

The rationale for "national forests" was that America supposedly faced a "timber famine." Gifford Pinchot, first head of the Forest Service, warned that America would run out of timber within 20 years. TR claimed that selfish private individuals were squandering America's resources and only public-spirited federal bureaucrats could be counted on to manage them. Despite Pinchot's claims about "scientific" forestry, the "timber famine" never happened.

TR claimed that selfish private individuals were squandering America's resources and only public-spirited federal bureaucrats could be counted on to manage them.

Nor did Pinchot actually conserve much. Cattlemen overgrazed their herds on national forest lands precisely because it was common property. In effect, nobody owned it. If one person's herds didn't eat all the grass, somebody else's herds would get it, so the incentive was to consume as much as possible. Similarly, nobody had an incentive to maintain the value of common property because the benefits might go to someone else.

TR enforced the "best" conservation policies throughout the country. Fire was considered bad for forests, so the Forest Service fought fires everywhere, and Smokey the Bear became famous. By suppressing fire for decades, deadwood built up and trees grew more densely. Moreover, Forest Service officials, in their alleged wisdom, ordered less logging, which accelerated the buildup of combustibles in national forests. Increasingly, instead of having many smaller fires to deal with, they faced huge conflagrations, which are harder to fight and more destructive.

Roosevelt used federal power to establish five national parks as well as 51 wildlife refuges and 150 national forests, yet they all seem to have suffered from inadequate maintenance at one time or another. For example, since TR thought parks were for big game, park rangers slaughtered wolves, cougars, and other predators. Soaring elk populations consumed so much vegetation that beavers disappeared. Park rangers closed garbage dumps where bears feasted, and as a result starving bears raided campgrounds. They were slaughtered, too. Parks have been polluted by poorly maintained sewage systems because their gate receipts went to Washington and they had difficulty competing with bigger government programs for funding. Hope Babcock, former general counsel of the National Audubon Society, lamented TR's legacy: "Few would assert that the historical institutional paradigm for managing the nation's public lands has protected the natural resource values of those lands."

"Trust-Busting" That Suppressed Competition

The rationale for antitrust laws and TR's "trust busting" was the idea that, left alone, a free market tends to develop monopolies and government intervention is required to maintain competition. There was more than a little hypocrisy in this since TR supported high tariffs, which helped politically connected business interests by suppressing competition and in the process ripped off American consumers far more than any monopoly. In fact, it had been said that the "tariff is the mother of the trusts."

Nevertheless, Roosevelt demonized businessmen as "malefactors of great wealth," a phrase later used by his cousin during his anti-business crusades. TR's attorney general, Philander Knox, filed lawsuits to break up private companies, starting in 1902 with Northern Securities (a railroad holding company). The most famous antitrust lawsuits resulted in the breakup of American Tobacco Company and the Standard Oil Company in 1911, after Roosevelt left office.

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Yet for more than two decades *output had been expanding and prices had been falling* in the American economy—the opposite of what one would expect with a lot of monopolies. Despite Roosevelt's allegations about railroad monopolies (which were largely built with government subsidies), in the previous half-century railroad mileage in the United States had expanded more than 250-fold to 258,784 miles, and railroad rates were falling. Cheaper railroad rates undermined local monopolies by giving people the choice of buying economically priced goods from far away. Regardless, TR signed the Hepburn and Elkins acts, which strengthened the Interstate Commerce Commission's power to control competition by regulating railroad rates.

Historian Gabriel Kolko observed, "The dominant tendency in the American economy at the beginning of this [twentieth] century was toward growing competition. Competition was unacceptable to many key business and financial interests, and the merger movement was to a large extent a reflection of voluntary, unsuccessful business efforts to bring irresistible competitive trends under control." (Kolko went on to establish that the progressive "reforms of the early twentieth century were backed by big business as a way to restrain competition and protect market share.")

Mounting evidence shows that monopolies are rare in free markets, as changing consumer tastes, changing business conditions, new technologies, and new competitors both foreign and domestic (when free) relentlessly challenge established companies. With very few exceptions, monopolies have persisted only when government has enforced barriers to entry that prevent new or old companies from competing in a market. Licenses, monopoly franchises, and trade restrictions are among the most common government-enforced barriers to entry.

Alarmed at the increasing size of major industrial corporations (which were often helped by tariffs and other kinds of privileges), many people didn't seem to realize that markets were expanding even faster—corporations were increasingly serving national and international markets. John D. Rockefeller earned his fortune refining kerosene from western Pennsylvania oil, but rivals discovered oil fields in Kansas, Louisiana, Oklahoma, Texas, and California as well as overseas. New products like Thomas Edison's electric lights attracted customers away from kerosene lamps, and Henry Ford's cheap Model T cars needed gasoline, a petroleum product that enabled new oil companies to establish themselves. Rockefeller's Standard Oil thrived because it was a low-cost competitor, investing in cost-cutting technology, yet so intense was the competition that its market share declined. There would have been more competition had TR focused on lowering tariffs and repealing corporate privileges, and refrained from attacking big discounters like Standard Oil.

It's past time to evaluate Theodore Roosevelt and other progressives not according to their personalities and speeches, but according to their actions and consequences. FEE

The Market Doesn't Ration Health Care

BY SHELDON RICHMAN

Health care "reformers" say they have two objectives: to enable the uninsured and underinsured to consume more medical services than they consume now and to keep the prices of those services from rising, as they have been, faster than the prices of other goods and services. Unfortunately, Economics 101 tells us that to accomplish those two things directly—increased consumption by a select group and lower prices—the government would have to take a third step: rationing. The reformers are disingenuous about this last step, and for good reason. People don't like rationing, especially of medical care.

To see that the market does not ration one need only see that "the market" doesn't *do* anything. To talk as if it does things is to reify the market.

But some defenders of government control acknowledge that rationing is the logical consequence of their ambition. They parry the objection by saying, in effect, "So we'll have to ration. Big deal. We already have rationing—by the market."

For example, Uwe Reinhardt, an economics professor and advocate of government-controlled medicine, writes, "In short, free markets are not an alternative to rationing. They are just one particular form of rationing. Ever since the Fall from Grace, human beings have had to ration everything not available in unlimited quantities, and market forces do most of the rationing."

Sadly, interventionist economists are not the only economists who talk this way. Most free-market economists would agree that where there is scarcity there must be rationing and that the most efficient way to ration is by price—that is, through the market.

This is factually wrong and strategically ill-advised. As we'll see, markets do not ration. Thus the health care debate is not about which method of rationing—State or market—is superior.

Let me be clear: I am not denying that economic goods are by definition scarce and that at any given time we in the aggregate must settle for less of them than we want. I am also not denying that the marketplace is relevant in determining who gets how much of those scarce goods.

I am denying that this is appropriately called "rationing."

Markets Don't *Do* Anything

To see that the market does not ration one need only see that "the market" doesn't *do* anything. To talk as if it does things is to reify the market. Worse, it is to anthropomorphize the market, ascribing to it attributes—purposes, plans, and actions—that only individual human beings possess. We may also see this as another instance of literalizing a metaphor, which, as Thomas Szasz has so often warned, is fraught with peril.

I'm not saying that economists don't realize this diction is a metaphor. Of course they do, and there's no harm in using this shorthand among those who understand it as such. The problem, as I see it, is that the lay public doesn't fully grasp the metaphorical nature of these statements. For the sake of public understanding, free-market advocates should not welcome a debate in which they begin by saying, "Our method of rationing is better than your method of rationing."

Better to respond to the interventionists this way: The market does not ration or allocate. The market does not *do* anything. It has no purposes or objectives.

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When freed, it is simply a political-legal framework in which *people* pursue their own purposes with their justly acquired property and their time.

This is squarely in the Austrian conception of the market as set out by Ludwig von Mises and F. A. Hayek. The market order "has no specific purposes but will enhance for all the prospects of achieving their respective purposes," Hayek wrote in volume two of *Law, Legislation and Liberty*.

The market was never *set up* by people to achieve a purpose. It is not a device or an invention aimed at fulfilling an intention. "Market mechanism" is a metaphor. *The market*—as a set of continuing transactions among people—emerged, unplanned and unintended, from exchanges, initially barter, in which the parties aimed only to improve their respective situations. Lecturing at FEE last summer, economist Israel Kirzner recalled that one of the first things Mises said to him as a graduate student was, "The market is a process," by which he meant "a series of activities." This is similar to what the French liberal economist Destutt de Tracy (1754–1836) wrote in *A Treatise on Political Economy*: "Society is purely and solely a continual series of exchanges."

The market is simply a political-legal framework in which people pursue their own purposes, with their property and their time.

Mises, Hayek, and Tracy help us to sort out the rationing question. I submit it makes no sense to say that an undesigned series of exchanges by individuals seeking to improve their respective situations constitutes rationing. If we were to observe a free market (wouldn't that be nice?), what would we see? Rationing? Allocation? Of course not. We would see people exchanging things—factors of production, services, and consumer goods—for money. Where would they have gotten those things? From previous exchanges or original appropriation from nature.

When a person buys five apples in a grocery store rather than ten because he wishes to use the rest of his money for other purposes, it seems entirely wrong to say the market (or even the grocer) has rationed the apples. The customer simply makes his choice on the basis of his preferences and the money available (which is the result of previous transactions).

It is true that as a result of market exchanges, goods and resources change hands and (except for land) locations. But in no sense is this rationing or allocation. The resulting arrangement of resources is simply a product of many transactions. Of course, people's choices of what and what not to buy and sell at which prices create an arrangement of goods and resources that tends to be intelligible in terms of consumers' subjective priorities. But that does not warrant calling the process *rationing* or *allocation*.

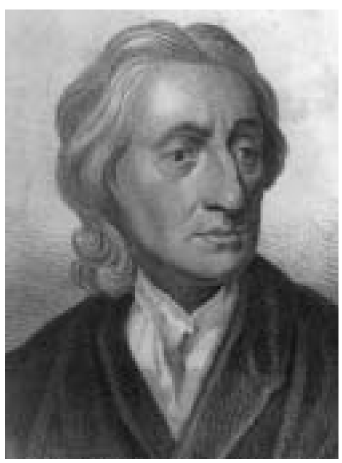
Those words (especially *ration*, which shares its root with *rational*) suggest conscious decision-making, as part of a plan, by an agent. In a free market there is no consciousness overseeing this "distribution"—another inappropriate word when it comes to describing the market process.

I am not saying anything that a good economist or other thoughtful person doesn't already know. I am merely pointing out that we can be more effective in the health care debate if we are more precise in our language. We do not face a choice between methods of rationing medical services. We face a choice between rationing according to a bureaucratic plan and freedom to engage in mutually beneficial exchanges. FEE

Did Locke Really Justify Limited Government?

BY JOSEPH R. STROMBERG

John Locke (1632–1704) was a physician, statesman, and political philosopher, filling that last office in a dry, "empirical," and militantly antipoetic English mode. Locke's stock has risen and fallen over the years. Contemporaries called him a Socinian (a precursor of Unitarianism), a deist, a Muslim, and an opportunist. Later critics have seen Locke as the Whig Oligarchy's spokesman (Basil Willey), abandoning the authentic natural law (John Wild), and leaving behind "right" and "left" Lockeans stressing either property or its labor justification (Christopher Hill).



John Locke
Wikipedia.org

Locke's fame rests on his *Two Treatises of Government*. Thanks to Peter Laslett's introduction (1960), we know Locke wrote his *First Treatise* answering Sir Robert Filmer's *Patriarcha* (1680) at a time when his *Second Treatise* was well underway. The *Second Treatise* defended (prospectively) the conservative revolution of 1688. Its argument owed much to a Calvinist political tradition in which certain political authorities oppose other authorities that are breaking the social compact. Seeking to justify government by consent regardless of historical specifics, Locke deployed a version of natural law.

The point of the rights adduced—labor-based property and so on—was to buttress an argument that the king could not (should not) expropriate English gentlemen–a rather meager result, unless of course all their rights eventually "trickle down" to the rest of us. To reach his goal Locke undermined the natural-law assumption that God gave the earth to men "in common." First, Locke set up each individual as a self-owner, rightfully appropriating natural resources to sustain life. By "mixing" their labor with resources (land), individuals rightfully acquired property, provided enough was left for others: the famous "proviso." (You could not, for example, grab all the acorns and then leave them to rot.) Next, he introduced money, an "invention" of civilized men, which can accumulate without "spoiling." A monetized economy overcame the problem of "waste" (spoilage) and allowed men to build large estates through production, exchange, and purchase. The increased productivity of larger estates assured that enough was left for others (provided bare subsistence from wage labor is "enough"). Arguing from economies of scale, Locke built an apology for the land enclosures into his system (not to mention a kind of Lockean multiplier whereby enclosed lands yield 10 times the product of commons). Paying wages made other men's efforts count as "mine" in appropriating property out of common resources ("The turfs my servant has cut," and so on).

These market activities precede the creation of states. Since individuals' personal "execution" of the natural law caused predictable problems, property holders created government through a social contract to provide impartial judicial services and common defense, putting their rights in trust. Accordingly, Locke

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held that property cannot (normally) be alienated even by conquest. Locke's applied system was less obviously liberal. From the theoretical high ground we suddenly descend to actual English property holdings in the late seventeenth century, with Locke pretending they rest on individual labor and free exchange rather than on conquest and expropriation.

So far Locke appears to be an advanced Whig and founder of liberalism with a nice rationale for infrequent and minimally disruptive uprisings by a consensus of great landholders, gentry, merchant capitalists, and bankers, duly supported by respectable tradesmen, shopkeepers, and farmers who survived enclosure. These are "the people," moderately and prudently redressing their grievances, even if (as Christopher Hill notes) Locke never actually defined who "the people" are. Americans took Locke fairly literally during our Revolution, and as a result his ideas sometimes seem the only American political tradition, as Louis Hartz complained.

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Locke's Problems

Since at least the eighteenth century, frustrated readers of Locke have "corrected" his system to purge it of apparently foreign elements. Some take Lockean rights as a starting point and move on (see Robert Nozick); others reject Locke's system while extracting congenial points from it (Murray Rothbard). Truncated or not, Locke has left us some serious problems.

Social Contract. Whether seen as historical possibility or useful fiction, social contract was always nebulous. The key perhaps was that something like a social contract "must have" happened, otherwise governments would not rest on voluntary consent. Further deductions from that premise would grind to a halt. Deductions were saved, but at a considerable cost in realism.

Mercantilism and Colonial Empire. As a political associate of the First Earl of Shaftesbury, Locke had access to the highest Whig circles. He was both a policymaker and theorist, serving as secretary to the Lords Proprietors of Carolina from 1668 to 1675 and writing (presumably with Shaftesbury) that peculiar neofeudal document *Fundamental Constitutions of Carolina* in 1669. He was a substantial stockholder in the slave-trading Royal African Company, and in 1696 we find him serving at the Board of Trade.

No stranger to mercantilism and colonial imperialism, Locke nevertheless argued that land is not rightly acquired by conquest *unless* it has been lying idle. This exception is extremely important, since Locke artfully fitted his "natural" right to property to English Protestant practices. Non-Europeans need not apply. Locke conceded that God *had* given land to mankind in common. On the other hand, the "industrious and rational" can—indeed must—prevent its being "wasted." They can "mix" their labor with land to acquire it but *must* maximize the product. Anyone failing to maximize could rightfully be dispossessed—Indians in America, non-enclosing peasants at home. In effect, Locke promoted freedom for a minority of industrious Englishmen—a freedom to be paid for through constant growth premised in part on overseas empire. Like his successor Adam Smith, Locke favored relaxing the rules "*within one part of the system*" (as William Appleman Williams put it), which otherwise continued to require overseas expansion.

Locke and Slavery. For Locke slavery arises in a sort of social-theoretical Guantánamo. It was not part of any social contract but arose in "war," private or public. In Locke's view anyone who (in a state of nature) attacks another or steals his property, "forfeits" all rights and becomes an "unnatural man" subject to death, outlawry, or enslavement in lieu of death. (Paragraph 19 of the *Second Treatise* wonderfully conflates *defense* with "war.") Reject one step here, and the whole thing falls to the ground. (Locke's reasoning nonetheless seems to inspire those war-prone libertarians who characterize the U.S. government's enemies of the day as "pirates," "common enemies of mankind," and so on.)

This apparent "exception" to liberty hidden inside liberal State theory causes much interpretive anguish.

Some writers see Locke as departing here from his real views. Others have him bending his theory to achieve a desired end. Still others believe Locke's slavery doctrine reveals hidden premises in his system. Given Locke's investments, it was perhaps convenient that he could accommodate slavery. His moves here involve some of his favorite hobby horses—aggression, forfeiture of rights, and enslavement.

Locke had labored to get around men's "in-common" right to the earth and thought he had justified English gentlemen's large estates. Looking abroad, however, he argued that some lands remained common, after all, owing to non-Europeans' waste (failure to maximize). It seems a fair implication of the text that where such people resist European efforts to develop those "idle resources," wars with them would be "just" and they might rightfully be enslaved if the conquerors forwent their "right" to kill them. In fairness, Locke never specifically said that "just wars" in *West Africa* accounted for the current supply of slaves, although Laslett believes Locke rationalized the matter thus.

Bastard Feudalism

Land and State. Why should anyone born after the imaginary social contract obey the current government? Here Locke's claims about political obligation and consent reach their goal through what I shall call the Law of Conservation of Feudal Assumptions. As George Gale suggests, *territoriality* was Locke's key (but hidden) premise: that is, civil society's (the State's) sovereign jurisdiction over a given territory to the exclusion of other States. But where has this come from? After adducing so many unlikely natural rights, Locke has suddenly become very conventional.

Now Locke *might* be describing a mere contract between neighboring property holders establishing a common defense agency (á la Murray Rothbard and Hans-Hermann Hoppe). In time this agency might assert a monopoly over "its" territory (the lands of its principals) and successfully march from Dominant Agency to minimal State (as in Nozick). Now the erstwhile agency would start *commanding* its former principals. But Locke took a shortcut and tied "Enjoyment of Land" to "a submission to the Government of the Country of which the land is part." Civil society turns out to have a spatial dimension. All the "voluntary" consent Locke relied on to ground the social contract seems to vanish when he states that no one can withdraw himself *and* his lands from civil society. No secession here. He can of course emigrate, forfeiting his property.

State ownership of land has arrived, quite unexplained. One wonders what the State has "mixed" *its* labor with. Perhaps it has mixed its swords and cannon with another State's soldiers or civilians. In any case, the social contract has somehow "annexed" individuals and their property to the community (State), and State control of land tenure becomes a chief means of enforcing obedience. So much then for all the "natural law" grounding of Locke's system.

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Naturalized immigrants have to pledge express allegiance. Native citizens are bound by the State's not-so-hidden power to vacate their property titles. Further, the State is free to enclose outliers and renegades (and their lands) politically, without limit —no proviso *here* about leaving "enough" for others. Actual State *practice* has supplied Locke's rules, leaving individual "owners" at the mercy of the State. Now Locke seems about as liberal—or as feudal—as William Blackstone.

Locke meant it when he described the "chief end" of government as "Preservation of Property." But if the State is in some way the ultimate owner, the chief end now amounts to preserving the government's claims—suggesting a modernized "bastard" feudalism, that is, feudalism without the advantages of the real thing: decentralization and reciprocal obligations. Like the Common Lawyers, Locke helped bridge the intellectual transition from one form of State to another. Accordingly, his liberalism is not in too much tension with his feudal recommendations for the Carolinas. Longstanding assumptions about (State) superiorities over land persist, while a modernizing State replaces feudal intermediaries.

Executive Liberalism. A closely related theme involves unknowably large emergency powers. Henry Parker, parliamentary propagandist in the Civil War (d. 1652), domesticated Machiavelli's "reason of state" with all its unknown powers "outside" the law. Hobbes and Locke inherited this principle. Uniting a broad "Federative" (foreign affairs) power with ordinary executive power, Locke extended the executive's arbitrary wartime capacities into domestic life. (On these matters, see Sheldon Wolin, "Democracy and the Welfare State," *Political Theory*, November 1987.)

But Locke hardly bothered grounding this dual-use ("prerogative") power and merely derived it from what men surrendered on becoming "one Body." With men's personal enforcement of the law ceded to the State, the king had a roving, "at-will" commission to *do good* at home or abroad. The king could suppress customary law to foster increased productivity (and thus greater State revenue) so as to outdistance his foreign rivals. Here is Locke the near-Hobbesian, employed by defenders of Lincoln's executive dictatorship ("outside" or "beyond" the Constitution) and by latter-day "securitarians," who dwell on eternally returning emergencies and national survival.

Locke derived individual "rights" from the observed behavior of *States*, then gave them (back) to the State by way of imaginary general consent.

Seventeenth-Century "Natural Law" Swindles

How we got here on the high road of natural rights is an interesting tale. In it Locke is but one of many theorists who packed new content into the old shell of natural law in a kind of seventeenth-century Wrong Turn. The new international lawyers Suarez and Vitoria, seconded by Grotius, Locke, and others, asserted various unlikely "rights" belonging to natural individuals in hypothetical stateless societies. (I rely here on Richard Tuck, Brian Tierney, and Heinrich Rommen, among others.)

There were two jokes here. First, these "rights" derived from the observed behavior of *States*—such as Locke's claim that someone has a "right" to kill his defeated enemy out of hand, and therefore may enslave him. Next, the theorists aggregated these State-like "individual rights"—*private* war-making, *private* death penalty, *private* enslavement—and gave them (back) to the State by way of imaginary general consent. Taken seriously, this "consent" bound actual persons even tighter, the gains being therefore rather murky. State practices were now justified by a collectivization of "rights" that individuals never had and which in the genuine, Christian natural-law tradition might never arise. Locke's generously broad war powers—first private, then governmental—lead away from any serious just war theory toward total war.

These unhappy results hinge crucially on an explicit premise of the seventeenth-century "natural law" writers, namely, that promises must always be kept. (Hobbes claimed that even promises made under duress were valid; Locke disagreed.) "Will," once expressed, supposedly provides full justification for both a contract and its enforcement. Skepticism seems warranted, especially regarding fictitious "contracts." Justification, if we find it, will probably not be in some bare union of "wills" and nothing further.

The Devious Locke?

C. B. Macpherson remarked on the common "underestimate" of how much Locke subjected individuals to political power. He wondered why Locke's landowner-State should have any jurisdiction over rural and town proletarians. The analogy that came to his mind involved merchant companies chartered by the king and empowered by sovereign bluster to use native labor (or imported slaves)—and land—wherever their enterprises took them. After all, if Locke's property holders have created a real State—and on Locke's account they have—they will *use it*. Once again Locke and imperial practice are not far apart, especially since

Locke's community (State), having eliminated law enforcement by individuals, does everything through legislation or prerogative. Here Locke's model begins to approach legal positivism.

In Locke's finished model a majority of qualified property owners controls the State, while the State commands each individually. Once more, property—considered as part of an *imposed* mechanical order—counts more than specific owners of naturally occurring property. And security of property requires obedience. It is not surprising that Locke took rather little interest in constitutional issues or bills of rights, despite his involvement in Shaftesbury's revolutionary Whig projects.

It is the contrast with Thomas Hobbes that makes Locke seem a great liberal. True, he does give us some "outs" (very narrow ones), which Hobbes denies us. But with the Whig Oligarchs' triumph in 1688, Locke's ideas gave valuable rhetorical cover for newly entrenched interests. Soon enough they shifted over to simple Hobbesian practices buttressed with feudal-statist legalisms. (Enter Blackstone.)

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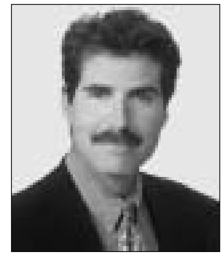
In connecting Locke to colonialism, slavery, and more, the point is not to condemn him but to ask how much we want to owe him. (After all, Hobbes seems a better guide on how States actually operate and on what premises.) Anticipating the Thatcher-Reagan program of "free market *and* strong State," Locke wanted an active imperial State, along with liberty for the right sort and *their* right to revolt if things went sour. The point is not that Locke "failed" to be an anarchist; it is that despite appearances, he did not make a case for genuinely *limited* government. He would, however, have made a wonderful contemporary Republican politician. FEE



Stop Insuring Mortgages

BY JOHN STOSSEL

The Federal Housing Administration (FHA) announced last December that it wants tougher rules on mortgage lenders. Maybe FHA got spooked by a *New York Times* story in November titled "Easy Loans to Wealthier Areas," which said: "In its efforts to prop up a shattered housing market, the government is greatly extending its traditional support of real estate, including guaranteeing the mortgages of middle-class and even upper-class buyers against default."

The *Times* pointed out that San Francisco, one of the priciest real estate markets in the country, had no government-insured mortgages two years ago, but now "the government is guaranteeing an average of six mortgages a week here. . . . The Federal Housing Administration is underwriting loans at quadruple the rate of three years ago even as its reserves to cover defaults are dwindling."

Some of those loans are surely questionable.

The *Times* explained that 27-year-old Mike Rowland and his friends were able to buy a two-unit apartment building for almost a million dollars. "They had only a little cash to bring to the table but, with the federal government insuring the transaction, a large down payment was not necessary."

"It was kind of crazy we could get this big a loan," Rowland said.

Yes, it was crazy. Such policies do not end well. Young Rowland gets that. Even the *Times* does: "With government finances already under great strain, the policy expansions are creating new risks for American taxpayers."

Our leaders plunge ahead, with your money. Has the administration forgotten that today's financial mess was precipitated in part by government's moves to encourage mortgage lending to unqualified or unproven borrowers?

But our leaders plunge ahead, with your money. Has the administration forgotten that today's financial mess was precipitated in part by government's moves to encourage mortgage lending to unqualified or at best unproven borrowers? In the 1990s, the Federal Reserve Bank of Boston, concerned that blacks and Hispanics were "underserved," issued guidelines to banks stating: "Policies regarding applicants with no credit history or problem credit history should be reviewed. Lack of credit history should not be seen as a negative factor. . . ."

Soon, the lower standards spilled into the prime-mortgage market. The risk to lenders seemed small because government-sponsored Fannie Mae and Freddie Mac happily bought the dubious loans. An entire financial edifice was built on these securitized mortgages and derivatives based on them.

Then the good times ended. Interest rates rose. Home prices flattened and then declined. Then those AAA mortgage-backed securities became "toxic."

Re-Inflating the Bubble

After all that, it's crazy that government still subsidizes housing rather than letting the market work. The economy will recover from recession only when it is allowed to discover the real value of assets like houses. But the government refuses to allow this to

John Stossel hosts Stossel *on Fox Business Network and is the author of* Myths, Lies, and Downright Stupidity: Get Out the Shovel—Why Everything You Know is Wrong. *Copyright 2009 by JFS Productions, Inc. Distributed by Creators Syndicate, Inc.*

happen. FHA has been blowing air into another bubble while other agencies do everything they can to boost prices.

This includes leaning on and bribing banks to ease mortgage terms for people in default. The Obama administration announced that it would increase that pressure because "the banks are not doing a good enough job," said Michael S. Barr, assistant treasury secretary for financial institutions. Some Democrats want to go further. They demand that the government compel mediation over defaulted mortgages or empower judges to change the terms.

This sounds humane, but it is typical political shortsightedness. When government helps delinquent borrowers to get easier loan terms, it simultaneously makes it harder for marginal borrowers to get loans in the first place. That's because lenders must now factor in the likelihood that a judge will change the terms.

The know-it-alls in Washington "help" Americans by hurting them.

Why won't the government let housing prices seek their own level? After a Washington-inflated bubble, that would seem to be the wise thing to do. Sure, some people get hurt when prices fall, but others—prospective home-buyers—are helped. By artificially raising prices, the Realtor-Construction-Banking-Big-Government Complex cheats honest low-income people who would otherwise have been able to afford a first home without begging the government for help.

Home ownership, all else equal, is a good thing. But when government lumbers into the market and subsidizes folly, that's a very bad thing. FEE

Capital Letters

Is Intellectual Property Real Property?

I feel I must respond to Kevin Carson's article "How 'Intellectual Property' Impedes Competition" (October, www.tinyurl.com/lqzehv). In his article Mr. Carson suggests that intellectual property is different than real property in that real property comes into existence in limited supply. I do not believe this to be true in that property can be defined and owned even when there is no demand for it. An example is the early west when there was ample land, yet settlers claimed what they needed for their farms. His further idea that someone could better use "intellectual property" that was not fully utilized by its owner is like someone going on someone else's land and better using it for themselves. The concept of property is to preserve the entity for the use of the owner. If we were to let anyone use any property because they thought they could be more productive with it we would have utter chaos. If "intellectual property" did not exist in the form of patents and copyright, why would anyone invest in developing a new product when, at the completion of their efforts, someone else could come in and make the product without the initial capital investment in R&D? An example is the tens of millions of dollars that pharmaceutical companies invest in developing new drugs. Why would they invest that money, if when the drug was approved, anyone could sell a generic version? To reject the concept of "intellectual property" so one can copy a song or movie without having to pay for it is nothing more than "justified theft." The concept of property, real, intellectual, or otherwise, is a basic cornerstone to our philosophy of individual freedom and justice.

—HENRY WOODRUFF
Golden, Co.

Kevin Carson replies:

I strongly disagree with Mr. Woodruff that the "concept of property," as such, is a cornerstone of freedom. Property, as such, with no other qualifications, is meaningless. It was an uncritical reverence for "property," without regard to questions of legitimacy, that caused Huck Finn so many sleepless nights, before he finally resolved to "go to hell" rather than betray his friend back into slavery.

I believe the expression "justifiable theft" more aptly describes Mr. Woodruff's own utilitarian justification for "intellectual property." The proprietary content owner's right to a guaranteed profit, or to an incentive to innovate, in Mr. Woodruff's scheme, justifies violating my right to use my real, tangible property as I see fit.

Limited supply was not the only distinction I made between real property and "intellectual property." The exclusive nature of real property is just as important. "Intellectual property" is not property at all, in the sense of protecting the owner's right to something in his possession. Supposed violations of "intellectual property" do not deprive the "owner" of any information or artifact in his possession. "Intellectual property," rather, prohibits other people from replicating information or copying a pattern with their own property because of the "owner's" exclusive right to arrange information or raw materials into that pattern.

Finally, I believe my original article addressed, in some detail, the question of incentives. It describes a number of possible business models, most of them relying on first-mover advantages or the offering of service and support for free content, for making money from innovation without reliance on "intellectual property."

On Saving and Hoarding

I regret that Steve Horwitz, in "Saving is Killing the Economy? It Just Ain't So!" (September, www.tinyurl.com/l6tfue), concedes some points to the misguided claim that savings retard economic growth or its recovery in a recession. First is the acceptance that some savings are hoarded in cash. As I have quoted T. R. Malthus to have pointed out a long time ago, "No political economist of the present day can by saving mean mere hoarding." To the classical economists, saving is the opposite of hoarding. Second, not all savings need to be transformed into physical capital or producers' goods to assist in increased production. Some are used to hire workers, the classical "wages fund." It also doesn't help, in contradicting the erroneous claims of the likes of Chris Isidore, to focus so much on savings being helpful in the long run. Increased savings help in the short run, too. Conceding that savings (may) help in the long run merely plays into the associated Keynes erroneous argument that "In the long run, were are all dead." In the monetary long run, there are more people alive in the economy than before. It is important to connect increased savings with lowering interest rates both in the short run and long run.

—JAMES AHIAKPOR
Economics Department, California State University, East Bay
from www.thefreemanonline.org

Steven Horwitz replies:

Professor Ahiakpor raises two good points in his letter. I think the first point is more a matter of terminology than substance. If individuals increase their holdings of base money (cash today or gold under a fractional-reserve gold standard) they do indeed refrain from consumption without increasing the supply of loanable funds. My intention was to emphasize the "refrain from consumption" point as justifying calling that a form of "saving." Ahiakpor is emphasizing the "not increasing the supply of loanable funds" point in order to say that holding base money is not a form of saving. Given the misguided focus on increasing consumption held by the media, it seemed reasonable for me to take any action that didn't increase consumption as an act of saving and then to explain the consequences thereof. I don't dispute Ahiakpor's underlying point, especially if one wants to view holding base money as consuming the services of money. However, given the argument I was responding to, treating base-money holding as a form of saving seemed to help clarify under what conditions refraining from buying goods and services did or did not translate into an increased supply of loanable funds.

His second point is more subtle. Ahiakpor and I differ on important issues in capital theory that need not concern us here. I would just note that while it's certainly true that savings supplies not only funds for physical capital but labor as well, my point was to show how savings does not just shuffle *who* receives income but actually generates more over time. If savings just goes to pay current labor, then it could have just as easily gone to pay the wages of employees at firms that received consumption spending. Ahiakpor is right to point out that savings, in that case, makes us no worse off, but I also wanted to argue why it makes us *better* off, which requires a focus on capital.

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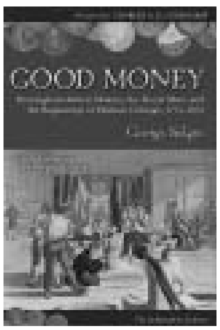
Book Reviews

Good Money: Birmingham Button Makers, the Royal Mint, and the Beginnings of Modern Coinage, 1775–1821

by George Selgin

Independent Institute and University of Michigan Press • 2008 • 368 pages • $40.00

Reviewed by George Leef



Most people suppose, without having thought much about it, that money must be provided by government. That belief comes in for a sound thrashing in University of Georgia professor George Selgin's book *Good Money,* which tells the story of Britain's experience with private coinage during the Industrial Revolution. Selgin's research shows that the government had failed to produce enough money of small denominations, how private enterprise solved the problem, and finally how the government reasserted its monopoly to put an end to the nation's free-market money episode.

Good Money has an intriguing origin. While reading a book by nineteenth-century British economist William Stanley Jevons, Selgin came across a passage taking issue with Herbert Spencer's argument that the production of money could be entrusted to the free market. Jevons wrote that in his view "there is nothing less fit to be left to the action of competition than money," adding that the nation's experience with privately minted coins in the late eighteenth century "amply confirmed" his opinion. Selgin wanted to know just what that experience was and investigated: "What I discovered amazed me, not the least because, instead of confirming Jevons's position, it did just the opposite."

Among other great changes it brought, the Industrial Revolution caused a huge increase in the demand for money. In pre-industrial England relatively few workers were paid money wages. As industrialization increased, however, more workers left feudal agriculture for manufacturing employment, and business owners had to pay them in money. But because there was a shortage of small coins, factory owners had to devote a lot of time and effort to coming up with the money necessary to meet their payrolls. Furthermore, much of the money they were able to acquire was questionable because many coins were badly worn, had been clipped (some of the metal had been sheared away), or were counterfeit.

The Royal Mint was indifferent. Its job was to coin money—mostly gold—for the upper classes. It wasn't averse to silver, but no silver had been coined for decades before 1775. The culprit was that favorite of economics professors, Gresham's Law. The government's official rate for silver was well below the market price elsewhere in Europe, so silver flowed out of the country. Selgin here performs a valuable service in explaining the true meaning of Gresham's Law. It is not that "bad money drives out good money," but rather that when government artificially overvalues one kind of money relative to another, people will spend the overvalued and hoard or export the undervalued.

What about copper coins for small transactions? The Royal Mint hadn't bothered coining copper for years. Small change was regarded as "unworthy" of the highbrow mint since copper was merely money for the common folk.

In 1761 copper was discovered on Anglesey Island, off the coast of Wales, and within a few years over a thousand miners were employed there. Owner Thomas Williams faced the problem discussed above—how to come up with enough coins to pay his men.

Williams approached the government with a plan to collaborate in the production of new copper coins, but it wasn't interested. So he began producing his own coins. They were exquisite, but the key thing was that they were accepted as payment by the workers, then in trade by merchants. Soon the coins were circulating on the mainland. Williams heightened demand for his product by stamping on them that they were promises to pay and setting up redemption offices in London and Liverpool. People's confidence in this new money rapidly grew.

So great was his success in coinage that Williams soon opened another mint and employed experts to improve efficiency. Private enterprise brought the high technology of the day to the business of making money while the government continued using old-fashioned methods.

Eventually other coin producers entered the market, offering quite a variety of money. It wasn't uniform, but businesses and workers adapted without difficulty. Almost 200 years before F. A. Hayek's advocacy of choice in currency, the British had it.

The story, alas, has an unhappy ending. By 1812 Royal Mint officials wanted their monopoly back and Parliament obliged in 1813. The economy was thrown into a tailspin, yet the government dithered for three years before starting to supply more small coinage itself.

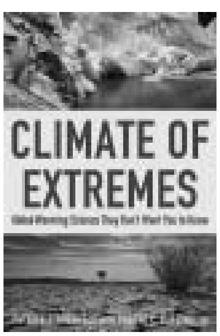
Good Money is a thought-provoking book. It's also beautifully written and embellished with several glossy pages of illustrations of the coins, people, and buildings central to the story. Whether you use good money or bad, buy this wonderful book.

George Leef (georgeleef@aol.com) is book review editor of The Freeman.

Climate of Extremes: Global Warming Science They Don't Want You to Know

by Patrick J. Michaels and Robert C. Balling, Jr.
Cato Institute • 2009 • 267 pages • $21.95 hardcover; $15.95 paperback; $12.00 e-book

Reviewed by Tim Stonesifer



Is it getting hot in here or is it just me? Likely it's both, say Patrick J. Michaels and Robert C. Balling, Jr. in their book *Climate of Extremes*. Temperatures around the world are indeed rising due to global warming, they say. But contrary to popular belief, that is no reason for panic; it might even be good news. Michaels and Balling are more concerned with the demonstrated media bias toward publicizing unrealistically dire global-warming forecasts, and the equally appalling suppression of positive news regarding climate change.

Written in clear prose with only a hint of cynicism, *Climate of Extremes* provides an excellent source of scientific data for anyone more interested in climate-related facts than the usual partisan propaganda. Michaels and Balling present a comprehensive picture of earth's ever-changing climate, with a keen eye toward historical facts. Their research-rich conclusion: Global warming is not a harbinger of doom, but rather the latest in a long history of natural, mostly innocuous, climatic shifts.

The authors begin with a primer on global-warming science, explaining that data indicate two pronounced periods of warming over the last century. The first lasted from about 1910 through 1945 and the second from 1975 through the available 2005 data. Crucially, there's been *no* significant warming since a record-hot 1998.

But considerable problems arise when scientists try to project this global climate data forward. The vertical distribution of temperatures from the earth's surface to the stratosphere above resides at the center of any projection. If the upper temperatures are consistently cooler—and recent measurements show they are—that means more clouds and rain, which in turn means less warming.

Citing a 2007 study, Michaels and Balling say all climate models, including those of the Intergovernmental Panel on Climate Change (IPCC), have very real and quite pronounced discrepancies in vertical distribution. These invariably lead to a sizable overestimation of future warming.

"What's more," they write, "the fact that *none* of the IPCC's midrange models generates a warming-free 15-year period in the 21st century, which is happening right now, is very disturbing."

Climate of Extremes proceeds in subsequent chapters to explore the weather phenomena most cited by global-warming alarmists as indicative of future disasters. From hurricanes to sea-level rise, and from floods to heat waves, Michaels and Balling methodically challenge one climate claim after another.

In one particularly persuasive chapter, the authors analyze the "climate of death" hysteria following the record 2003 European heat wave. They cite a study that pegged the probability of such an event at a surprisingly high 1 in 333. Given the earth's massive size, summer 2003 in France and Germany was then more a tragically bad roll of the dice than a precursor of doom.

Michaels and Balling then cite the European heat wave of 2006 as evidence that global warming—and our response to it—might actually save lives. People learned from the 2003 anomaly, they explain, and were better prepared in 2006 with air conditioning and action plans. A study in the *Journal of Epidemiology* confirmed this theory, finding the death toll from summer 2006 was much lower than models predicted.

Furthermore, studies have consistently shown that climate-related death rates are higher in cold climates than in warm. So as temperatures continue to rise slowly, it's easy to see how an aging population might fare better with fewer bitterly cold nights and more moderate temperatures. Again, global warming might save lives.

Not that such good news is ever reported, say Michaels and Balling. More likely, because it challenges the global-warming status quo, it is ignored or buried. On writing for a copy of IPCC data used to calculate their temperature history, Australian researcher Warwick Hughes received this curt reply from IPCC-affiliated scientist Phil Jones, who in December stepped down as head of the Climate Research Unit while the University of East Anglia investigated the "climategate" email affair: "We have 25 years or so invested in the work. Why should I make the data available to you, when your aim is to try and find something wrong with it?"

Most people believe science only works through the free exchange of theories and ideas. *Climate of Extremes* demonstrates this is clearly not the case with scientists and bureaucrats who have a vested interest in propagating global-warming hysteria and for whom fact suppression to further a predetermined agenda is paramount.

Michaels and Balling show global warming has become a sacred cow, the growing body of dissenting evidence be damned. That should be enough to prompt any concerned person to seek out the facts, even if it means getting a little hot under the collar in the process. FEE

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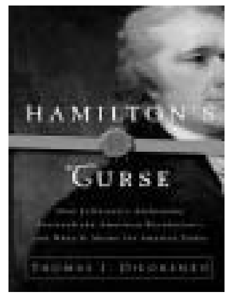
Hamilton's Curse: How Jefferson's Archenemy Betrayed the American Revolution—and What It Means for Americans Today

by Thomas DiLorenzo
Three Rivers • 2009 • 256 pages • $25.95 hardcover; $15.00 paperback and e-book

Reviewed by Art Carden



The more historical research I read and the more I contrast what economists write with what non-economists write, the more I am convinced that the bulk of history and biography should be redone. Thomas DiLorenzo, an economics professor at Loyola College in Maryland, explains why: "Most historians are not educated in the field of economics, and political biographers in particular tend to interpret a politician's actions in terms of his *stated* motives."

What DiLorenzo offers is not a biography of Hamilton, but instead a critical examination of his ideas and an historical exploration of how they have shaped American history. DiLorenzo contrasts the statist, mercantilist, and nationalist philosophy of Hamilton with the strict constitutionalism of Jefferson. He portrays Hamilton as a schemer, quoting contemporaries who felt that he was intentionally confusing in his economic proposals as a means of hoodwinking the uninitiated. Above all, DiLorenzo shows how Hamilton's interventionist ideas have had disastrous consequences for America up to the present.

Hamilton's vision for the nation included a strong sense of nationalism, zealous protectionism, enthusiasm for central banking, and methods of constitutional interpretation like the doctrine of "implied powers" that essentially stripped away the Constitution's restraints on the central government. DiLorenzo depicts Hamilton and his intellectual followers as technocrats who view society as a lump of clay for them to fashion with their expert hands. They couldn't grasp the spontaneous order of the free market.

To borrow a phrase from Adam Smith, Hamilton was the quintessential "man of system." In his ideal society he and others who were blessed with inside knowledge of "the common good" would arrange things *just so*, thereby creating the ideal society. DiLorenzo points out explicit parallels between Hamilton's thinking and Rousseau's idea of "the general will," under which government officials would "force people to be free." Individual liberty holds no importance for such people.

DiLorenzo employs Austrian and Public Choice insights to expose the lasting harm we have suffered owing to Hamilton's assortment of big-government ideas. Those ideas later metastasized into the "American System" of Henry Clay (the term was Hamilton's) and the wide-ranging interventionism of Abraham Lincoln. They reached their nadir in the disastrous year 1913, with the adoption of the Seventeenth Amendment (providing for direct election of U.S. senators), passage of the federal income tax, and the establishment of the Federal Reserve. DiLorenzo sees that terrible trio as destroying what was left of Jeffersonianism and shackling the nation, perhaps permanently, with Hamilton's ruinous vision.

The book makes a persuasive case about the harm we endure because of "the curse," but DiLorenzo left me wondering about the relative fragility and robustness of different institutional arrangements. He discusses how constitutional words and phrases like "necessary" and "general welfare" were either grossly misinterpreted or used to usher in all sorts of state interventions, and he refers to the Confederate States of America's attempts to remedy some of these problems in their own Constitution. But the kind of restraint that would have satisfied Jeffersonian strict construction begs to be explored in greater detail.

Only a few years elapsed between the ratification of the Constitution and the violent suppression of Pennsylvania tax rebels (which Hamilton himself led), and not too many years later the United States were (yes, the plural was once used) experimenting with central banking. How did we get so far from Jefferson's vision so quickly?

DiLorenzo blames "Hamilton's Disciple," Chief Justice John Marshall, for misreading the Constitution, but I have to wonder if his famous decisions were so obviously a misreading and misapplication. Some libertarians like to believe the Jeffersonian minimalist interpretation is the "real" Constitution while the expansive Hamiltonian view is indefensible, and DiLorenzo seems to accept that view without questioning it.

The exact, intended meaning of the Constitution—if that can even be discerned—is not the focus of DiLorenzo's book, however. *Hamilton's Curse* explores the intellectual history of some of the ideas that helped transform the United States from a country where the government mostly left people alone into one where the government interferes in their affairs constantly. DiLorenzo reminds us of Richard Weaver's famous quotation that "ideas have consequences" and proceeds to show the terrible consequences of Hamilton's ideas. FEE

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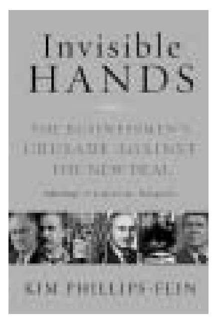
Invisible Hands: The Businessmen's Crusade Against the New Deal

by Kim Phillips-Fein

W.W. Norton • 2010 • 360 pages • $26.95 hardcover; $16.95 paperback

Reviewed by Bettina Bien Greaves



"He who wants to improve conditions must propagate a new mentality, not merely a new institution." –Ludwig von Mises, *New York Times*, January 1942

Invisible Hands by Kim Phillips-Fein, professor of American history at New York University's Gallatin School, is a well-researched and thorough account of resistance to government economic domination. It's also a veritable Who's Who of twentieth-century "conservatives" who have been trying, ever since FDR's New Deal, to "propagate a new mentality." Phillips-Fein provides an evenhanded investigation of the counterreaction, launched mainly by people in the business world, to the authoritarianism of the New Deal. While she deftly illuminates that part of the "conservative" movement, Phillips-Fein fails to note that the "conservatives" consisted not only of free-market stalwarts like Mises but also many corporate-state advocates who just thought the New Deal went too far.

Franklin D. Roosevelt took office after criticizing his predecessor for expanding government and increasing public spending. Yet once in office FDR embarked on new programs that increased spending, centralized power, and imposed many regulations and taxes. Roosevelt won over public opinion, but many Americans were alarmed by his programs and philosophy.

The book describes the founding of the American Liberty League by a group of businessmen who wanted to preserve "private enterprise" (but were no fans of laissez faire). The National Association of Manufacturers joined in the struggle and even claimed by 1940 that it was winning the battle against the New Deal. Then came World War II, and it became "unpatriotic" to criticize federal controls and regulations. Only at war's end were the varied "conservatives" able to resume the struggle to limit government power.

Phillips-Fein maintains that the decline of the "liberal" New Deal regime "lay not only in its inner tensions . . . but also in the slow preparation of an alternative agenda by its business opponents." She acknowledges the crucial role of economists such as Ludwig von Mises and Friedrich Hayek in guiding that agenda. Also influential were the ideas of Leonard E. Read, founder of FEE, and the international Mont Pelerin Society of free-market advocates.

Invisible Hands also covers religious groups that were formed to promote the freedom philosophy and oppose communism.

Some of the success of these groups came through the publishing of books and magazines to promote the free market and attack socialism. Chambers of commerce supported entrepreneurship and argued against interventionist government. Business groups introduced free-market materials in the schools and a few universities created courses in entrepreneurship.

Collective bargaining, as required by the National Labor Relations Act, led to conflict and strikes. Companies often gave way to union demands, but some fought back, and the book details the personalities and events. The Kohler Company withstood a long strike in 1954, operating with non-union workers. General Electric's Lemuel Boulware stood up to the unions, publicizing GE's best offer and saying, "Take it or leave it." Unfortunately, the courts declared his approach illegal.

The genial, articulate former movie actor Ronald Reagan proved an effective spokesman for GE and free enterprise. He had the common touch and spoke of providing jobs instead of encouraging capital formation. His attitude toward business? He was, the author writes, "the candidate of the entrepreneur, the farmer, the small businessman, the independent."

Phillips-Fein looks on Reagan's capture of the presidency in 1980 as a victory for "conservativism" and the anti-New Dealers she describes. "A great transformation of American politics began during the years that Ronald Reagan was in the White House," she writes. Reagan fired and replaced 11,000 air traffic controllers after their illegal strike in 1981. Strikes and union membership declined. The labor movement dwindled, and the left's statist agenda was held in check.

The author recognizes that Reagan failed to eliminate the welfare state or to shrink government bureaucracies. Still, she says, "the political cause for which they [market enthusiasts and business conservatives] labored has in large part been triumphant: the New Deal has been turned back."

But that conclusion is unwarranted. The New Deal mentality is still alive and well. The government is growing rapidly in scope and power. Advocates of limited government and free enterprise now face a new and perhaps even more daunting challenge in Barack Obama's "new New Deal."

Invisible Hands is a carefully researched history of the struggle to "propagate a new mentality" to replace statist thinking. The history is sound even if the writer's conclusions aren't always solid. FEE

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A Contemptible Congress and a Derelict Court

BY WALTER WILLIAMS

What can Congress do that the Supreme Court would find unconstitutional? Or, what can Congress do that a president would veto as unconstitutional? It is not much exaggeration to say that Congress can do whatever it can muster a majority vote for, whether it is constitutional or not. The members only have to worry about political fallout.

It was not always this way. Up until the 1930s the Supreme Court ruled unconstitutional many state, local, and congressional acts. Among them: minimum-wage laws, licensure laws, and much of FDR's New Deal legislation.

President James Madison vetoed a public-works bill, saying, "Having considered the bill this day presented to me . . . which sets apart and pledges funds 'for constructing roads and canals, and improving the navigation of water courses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense,' I am constrained by the insuperable difficulty I feel in reconciling the bill with the Constitution. . . ."

In vetoing a bill for charity relief, President Grover Cleveland said, "I can find no warrant for such an appropriation in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering which is in no manner properly related to the public service or benefit."

President Franklin Pierce's 1854 veto of a measure to help the mentally ill read, "I cannot find any authority in the Constitution for public charity. [To approve the measure] would be contrary to the letter and spirit of the Constitution and subversive to the whole theory upon which the Union of these States is founded."

That Was Then, This Is Now

For the better part of a century Congress, the president, and the Supreme Court have run roughshod over the constitutional limitations placed on them, using the pretense that their actions are constitutional under the General Welfare Clause or the Commerce Clause. Public complicity or ignorance allows them to get away with it. *Wickard v. Filburn*, a 1942 Supreme Court case, is a particularly egregious use of the Commerce Clause. Filburn was charged with exceeding his wheat acreage allotment in violation of the Agricultural Adjustment Act (AAA). He argued that since the wheat he grew was for his own consumption and not involved in interstate commerce, the AAA didn't apply to him. The Court disagreed, saying that since Filburn grew wheat for his own use, he would not be buying it in the market; therefore his actions did affect interstate commerce. That ruling made it possible for Congress to escape just about every limit placed on it by the Constitution. With such reasoning there is absolutely nothing anyone can do that does not, in one way or another, affect interstate commerce and therefore give Congress the grounds to regulate it.

For the better part of a century the government has used the General Welfare Clause or the Commerce Clause to run roughshod over constitutional limits.

By permitting Congress to regulate so much of our lives under the Commerce Clause, the Supreme Court has changed the federal government from one of lim-

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ited and enumerated powers to one with few exceptions to its power.

This vision in part provides the case for Congress to control our health care system. Some supporters of mandated health insurance assert that such a mandate lies within the power of Congress to regulate interstate commerce. Others have argued that the General Welfare Clause bestows that power. Yet others have pointed out that most states require car insurance, every challenge to which has failed.

The term "general welfare," found in the introduction to the enumerated powers of Article I, Section 8, was never intended to extend Congress's power to regulate, tax, and spend. James Madison, the acknowledged father of our Constitution, said, in a letter to Edmund Pendleton, "If Congress can do whatever in their discretion can be done by money, and will promote the General Welfare, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one subject to particular exceptions." He virtually repeated himself in a letter to James Robertson: "With respect to the two words 'general welfare,' I have always regarded them as qualified by the detail of powers connected with them. To take them in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creators." Thomas Jefferson, in a letter to Albert Gallatin, said, "Congress has not unlimited powers to provide for the general welfare, but only those specifically enumerated."

What about mandatory car insurance? To operate a motor vehicle one must obtain permission from the state, a driver's license. One who engages in that licensed activity must comply with the conditions of the licensing body, which can include, among other things, being old enough, passing a driver's test, and purchasing auto insurance. The driver simply agrees to the conditions. Auto insurance is a special requirement not a general one like Congress's mandate that everybody sign a contract with a health insurer or face fines and/or imprisonment.

What about the penalty Congress proposes for companies and individuals who refuse to provide or buy health insurance? This is unconstitutional on its face. Article I, Section 8, giving Congress the power "To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States," is for the purpose of raising revenue to pay for the enumerated responsibilities of Congress. It was not written for the purpose of permitting Congress to punish those who did not establish congressionally mandated contracts.

> What about the penalty Congress proposes for companies and individuals who refuse to set up contracts with a health insurance company? This is unconstitutional on its face.

Madison, in arguing for ratification of the Constitution, wrote Federalist 45, titled "Alleged Danger From the Powers of the Union to the State Governments Considered." He explained, "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

That vision is completely the opposite of what exists today. One wonders, what constitution did our congressmen and President swear to uphold and defend? FEE