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## **The Institution of Douglass North**

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Part 10 of 13:  
“The Institution of Douglass  
North”

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*Bourgeois Dignity and Liberty:  
Why Economics  
Can't Explain  
the Modern World*

[Vol. 2 of The Bourgeois Era]

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To Readers: The argument is, I fancy, complete, but some details in footnotes and references, and occasionally matters of routine calculation in the main body, need to be cleaned up.

**Abstract:** North, with many other Samuelsonian economists, thinks of “institutions” as budget constraints in a maximization problem. But as Clifford Geertz put it, an institution such as a toll for safe passage is “rather more than a mere payment,” that is, a mere

monetary constraint. “It was part of a whole complex of moral rituals, customs with the force of law and the weight of sanctity.” The Geertzian metaphor of negotiation and ritual makes more sense than the metaphor of a mere budget constraint. Meaning matters. North in particular thinks that the budget line of anti-property violence was shifted in the late 17<sup>th</sup> century. It was not: on the contrary, England was a land of property rights from the beginning. So “institutional change” does not explain the Industrial Revolution. The timing is wrong. Incentive (Prudence Only) is not the main story, and cannot be the main story without contradiction: if it was Prudence Only the Industrial Revolution would have happened earlier, or elsewhere. Other virtues and vices mattered – not only prudence, beloved of the Samuelsonians; but temperance, courage, justice, faith, hope, and love, which changed radically in their disposition in the seventeenth and eighteenth centuries. Sheer commercial expansion is routine and predictable and ill-suited therefore to explaining the greatest surprise in economic history. The Glorious Revolution of 1689, which North and Weingast have cast in a central role, merely made the British state effective. It did not change property rights, as economists such as Darin Acemoglu have supposed, on the basis of North’s tale. North praises patents and incorporation laws, neither of which had much impact in the Industrial Revolution. The 18<sup>th</sup> century, in other words, was *not* a century of “institutional change.” Nor is the entire absence of property relevant to the place or period. Richard Pipes argued it was relevant, on the basis of the Russian case. Yet only in society’s dominated by Steppe nomads was property weak---in Europe in the 16<sup>th</sup> and 17<sup>th</sup> centuries, as in China then, it had been strong for centuries past. The Stuarts were not princes of Muscovy. And indeed private property characterizes all settled human societies.

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## **Chapter 26:**

# **Institutions Cannot be Viewed Merely as Incentive- Providing Constraints**

Douglass North (b. 1920) is an astonishing economist who has repeatedly reinvented himself. The heir to an insurance fortune, merchant seaman during the War, apprentice photographer to Dorothea Lange, fishing buddy of Perry Como, in his youth he was a Marxist—as were many of us of a certain age—but became from the study of economics an advocate of markets and their innovation. As a young professor at the University of Washington in the 1950s he was one of the chief entrepreneurs of the so-called “new” economic history, that is, the application of economic theory and statistics to historical questions, such as how regional growth happened in the United States before the Civil War. For this he was in 1993 awarded with Robert Fogel the Nobel Memorial Prize in Economic Science.

North’s pioneering study of ocean freight rates from the seventeenth to the eighteenth century (North 1968) led him in the 1970s to ponder the evolution of what had in an economics influenced by Ronald Coase come to be called “transaction costs,” that is, the costs of doing business. Moving cotton from Savannah to Liverpool entails transportation costs, obviously. Less obviously—the point was made by Coase in all his work from the 1930s on—moving a piece of property from

Mr. Jones to Ms. Brown entails *transaction* costs, such as the cost of arriving at a satisfactory contract to do so and the cost of insuring against its failure. By North's own account, in 1966 he had decided to switch from American to European economic history. With collaborators at Washington like Robert Paul Thomas, S. N. S. Cheung, Yoram Barzel, Barry Weingast, and John Wallis, North developed a story of the "rise of West" focusing on the gradual fall in such transaction costs. Since the 1980s, now at Washington University of St. Louis (he favors places named after the first president of the United States), North has argued that Western Europe in the eighteenth and nineteenth centuries benefited uniquely from good institutions that held transaction costs in check, such as Britain's unwritten constitution of 1689 and the United States' written one of 1789.

North defines institutions as "the humanly devised constraints that structure political, economic and social interaction."<sup>1</sup> The economist Depak Lal says in similar terms that the "institutional infrastructure . . . consists of informal constraints like cultural norms . . . and the more formal ones."<sup>2</sup> The word "constraints" here matters a lot, because North and Lal mean what all Samuelsonian economists mean by it. (North and Lal are Samuelsonian economists right down to their wing-tipped shoes.) Consumers and producers, economists say, maximize utility "subject to constraints," such as the laws against murder and theft, or the regulations of the Internal Revenue Service, or the customs of Bedouin hospitality, or the Ford Way of doing business. In other words, the main character in North's story is always Max U, that unlovely

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<sup>1</sup> North 1991, p. 97 and everywhere in his writings since the 1980s.

<sup>2</sup> Lal 2006, p. 151.

maximizer of Utility, *Homo prudens* – never *Homo ludens* or *Homo faber* or *Homo hierarchus* or, as I and most non-economist social scientists would claim, *Homo loquens*, the speaking humanoid.

“Max U,” you see, is a man with the last name “U” who has peopled the arguments of economists since Paul Samuelson in the late 1930s elevated him to a leading role. The joke is that the only way that an economist knows how to think about life after Samuelson is to watch Mr. Max U *Max*-imizing a *Utility* function,  $U(X,Y)$ . Ha, ha. Max U cares only for the virtue of prudence, and even “prudence” defined in an especially narrow way, that is, “knowing what your appetites are and knowing how to satisfy them.” Never mind what the novelist Samuel Butler truly wrote around 1880: “There is no greater sign of a fool than the thinking that he can tell at once and easily what it is that pleases him.”<sup>3</sup> In Yiddish such a fool would be a *goyisher kop*, a gentile jerk, by which is meant a man without learning or reflection or prayer. He just “chooses” to eat or drink or fight or whatever, intemperately, without consulting the impartial spectator of his conscience or of his education or of the Torah or the Mishnah or the Talmud. He has “tastes,” as the economists put it in their Samuelsonian way, about which one should not dispute. (Note by the way the contradiction in “caring for,” that is, loving prudence, that is, loving the hypothesis of non-love. But rhetorical consistency is not a strong point of Samuelsonian economics.)

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<sup>3</sup> Butler 1912, p. 263.

The “institutions” stop a person, or at any rate a *goyisher kop*, from doing certain things, such as shoplifting from the local grocery store or turning away hungry travelers. “As soon as we talk about constraining human behavior,” Lal notes, “we are implicitly acknowledging that there is some basic ‘human nature’ to be constrained. . . . As a first cut we can accept the economists’ model of ‘Homo economicus’ which assumes that people are self-interested and rational.”<sup>4</sup> And as a second cut, and a third, and an N<sup>th</sup>. The constraints are like money budgets. Then we can get on with prudent exchange. They are fences, good or bad, “limiting self-seeking behavior,” as Lal puts it. From the individual’s point of view the fences fall from the sky.

North and Lal and other economists do not usually notice that other observers of society do not agree with their metaphor of “constraint.” The non-economists on the contrary think of culture, like language, as simultaneously constraint and creation, as a negotiation and an art, as a community and a conversation. Institutions do not merely constrain human behavior. They express it, giving it meaning. Thus for example the “distinction” that Pierre Bourdieu examined in his dissection of the bourgeois and working classes in France is not merely an external constraint.<sup>5</sup> You don’t merely get to a higher level of utility if you can identify the composer of “the Well-Tempered Clavier.” You actively distinguish yourself from people with fewer academic qualifications, in a qualification-obsessed France. You are playing a social game in which each move has meaning.

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<sup>4</sup> Lal 2006, p. 151.

<sup>5</sup> Bourdieu 1979.



The historian Margaret Jacob has characterized the “instrumental” view, by contrast, as imagining “de-cultured free and free-willed agents [who] naturally pursue their self-interest.” The recent economist’s “institution” understood in the language of the asylum as “constraints” is what the sociologist Erving Goffman studied – “the social situation of mental patients and other inmates, “under an order “imposed from above by a system of explicit formal rulings and a body of officials.”<sup>6</sup> Institutional budget lines, like rules of the asylum in the movie “One Flew Over the Cuckoo’s Nest,” are not negotiable, not at least according to Nurse Ratched. North’s asylum talk, and the talk of the Samuelsonian economists about “institutions,” puts one in mind of the American comedienne Mae West: “I admire the institution of marriage. But I’m not ready for an institution.”

North adopts unawares a liberal, as against what the intellectual historian Quentin Skinner calls a neo-Roman, theory of constraints, namely, the liberal notion of unfreedom as being only the actually exercised external impediments to action, such as a prohibition on slave marriage or the demand by a landlord to vote for him for Parliament.<sup>7</sup> By contrast the neo-Roman English theorists of government just before Locke such as John Milton, James Harrington, and Algernon Sidney, with echoes and restorations later (Thomas Jefferson, the driver of slaves, for example), noted that mere dependency itself was a scandal – even though a potential rather than an exercised impediment. An actual impediment is a constraint; a potential

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<sup>6</sup> Goffman 1961, subtitle and p. 7.

<sup>7</sup> Skinner 1998, p. 98, from where my learning below comes.

impediment is a symbol and a shame, not captured by the notion of a constraint. It would often show itself through internalized self-contempt. It would show itself as self-censorship in a court, or in the dependency of a democratic mob on employers or advertisers. "Nothing denotes a slave," wrote Sidney in reply to advocacy of absolute monarchy, "but a dependency on the will of another." Dependency such as employment in a corporation, then, or an assistant professorship without tenure, would be slavery of a sort. What matters to a free person in the neo-Roman theory is the *potential* for damage (not the actual damages emphasized in liberal utilitarianism). It is a matter of meaning, not budget constraints. Robert Burns sang, "The coward slave we pass him by:/ We dare be poor for a' that." So likewise Sidney dared to refuse to plead when faced with charges of treason before Charles II's pet judges, and died for it.

North much admires the anthropologist the late Clifford Geertz. It is hard not to. But North reads Geertz and his co-authors as supporting the economic notion that in caravan trade, such as in Morocco around 1900, in North's formulation, "informal constraints [on, say, robbing the next caravan to pass by]. . . made trade possible in a world where protection was essential and no organized state existed." He misses the non-instrumental, shame-and-honor, non-Max-U language in which Geertz in fact specialized, and misses therefore the dance between internal motives and external impediments to action, between the dignity of a self-shaping Roman citizen and the merely utilitarian "constraints." The toll for safe passage in the deserts of Morocco, Geertz and his co-authors actually wrote, in explicit rejection of

Max U, was “rather more than a mere payment,” that is, a mere monetary constraint, a budget line, a fence, an “institution” in North’s reduced definition. “It was part of a whole complex,” they wrote, “of *moral rituals*, customs with the force of law and the weight of *sanctity*.”<sup>8</sup>

“Sanctity” doesn’t mean anything to North the economist, who for example in a 2005 book treats religion with a contempt worthy of Richard Dawkins or Christopher Hitchens (“Ditchens”).<sup>9</sup> Religion to North means just another “institution” in his utilitarian, subject-to-constraints sense, that is, rules for an asylum. Religion to him is not about sanctity or the transcendent, not about faithful identity, not about giving lives a meaning through moral rituals. It is certainly not an on-going conversation about God’s love, not to speak of an on-going conversation *with* God. Religion is just another set of constraints on doing business, whether the business is in the market or in the temple or in the desert. In this he agrees with the economist Gary Becker’s followers when they come to study religion – religion to them is a mere social club, with costs and benefits, not an identity or a conversation. (Anyone who has actually belonged to a social club, by the way, knows that it soon develops into “moral rituals, customs with the force of law and the weight of sanctity.”) North asserts, for example, that in a pre-legal stage “religious precepts . . . imposed standards of conduct on the [business] players.”<sup>10</sup> The world-view that goes

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<sup>8</sup> Geertz, Geertz, and Rosen 1979, p. 137, quoted in North 1991, p. 104, italics supplied.

<sup>9</sup> North 2005, for example pp. \*\*\* **Get North 2005 book upstairs and do to prove.** Stanley Fish calls Dawkins and Hitchens “Ditchens” (in a *New York Times* column in May, 2009.

<sup>10</sup> North 1991, p. 99.

with faith is not his concern. (His own religion of Science, of course, is in fact nothing like a mere constraint. It is North's identity, his moral ritual, his sanctity – in short, the meaning of his life, negotiated continuously over its extraordinary course. But ethical consistency is not a strong point of Samuelsonian economics.)

Avner Greif, North's ally in the New Institutionalism, calls culture "informal institutions," and North tries to talk this way as well. But the "informality" would make such "institutions" very different from asylum-type "rules of the game." Informality is continuously negotiated. Just how far can a man go in teasing his mates? Just how intimate can a woman be with her girlfriends? The rules are constructed and reconstructed on the spot, which makes the Samuelsonian metaphor of constraints inapt. The Geertzian metaphor of negotiation and ritual makes more sense. "O body swayed to music, o brightening glance,/ How can we know the dancer from the dance?"

Some economists grasp that institutions have to do with human meaning, not merely Northian "constraints." The Austrians or the old institutionalists have managed to escape, Houdini-like, from the straight-jacket in which Douglass North, Depak Lal, Avner Greif, Max U, and their friends happily gurgled. The Austrian economist Ludwig Lachmann (1906-1990), for example, spoke of "certain super-individual schemes of thought, namely, *institutions*, to which schemes of thought of the first order [notice that to the Austrians the economy *is* thought, all the way down], the plans, must be oriented, and which serve therefore, to some extent, the

coordination of individual plans.”<sup>11</sup> Thus a language is a scheme of thought, backed by social approval and conversational implicatures. Thus too is a courtroom of the common law a scheme of thought, backed by bailiffs and law books.

North, like the numerous economists who have settled into the straight-jacket, talks a good deal about meaning-free “incentives” because that is what Samuelsonian economics can deal with. The constraints. The budget lines. But one can agree that when the price of crime goes up (that is, the incentives change) less of it will be supplied, yet nonetheless affirm that crime is more than a passionless business proposition. (If you don’t believe so, tune into one of the numerous prison reality shows, and watch the inmates struggling utterly irrationally with the guards.) The Broken Windows Effect is that major crime goes up if you ignore minor crimes like breaking windows or painting graffiti. The Effect has little to do with price and a lot to do with shame and social imitation.<sup>12</sup> If crime is more than utterly passionless calculations by Max U, then changing ethics can affect it—ethics that do change, sometimes quickly (crime rates fall dramatically during a big war, for example, at any rate on the home front). The metaphors of crime as being “like” employment as a taxi driver, or of a marriage as being “like” a trade between husband and wife, or of children being “like” refrigerators have been useful. But they don’t do the whole job.

Prudence is a virtue, and is one characteristic of a human seeking profit—and of a rat seeking cheese and of a blade of grass seeking light. But so are temperance and love and courage and justice and hope and faith, and these other virtues are

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<sup>11</sup> Lachmann 1977, p. 62, quoted in Boettke and Storr 2002, p. 171.

<sup>12</sup> Kelling and Wilson 1982; Keizer et al. 2008.

defining of humans. Unlike prudence they are characteristic of humans uniquely, and of human languages and meanings. In no sense is a blade of grass “courageous,” or a rat “faithful” (outside of the movie *Ratatouille*, whose humor turns on the paradox of the rats being more faithful than many of the humans). North will have none of human languages and meanings. His positivistic talk about “constraints” and “rules of the game” misses what he could have learned from Geertz, Weber, Smith, Aquinas, Cicero, Confucius, or Moses, or his mother (Moses’ or North’s)—that social rules expressed in human languages have human meanings. They are instruments as well as constraints, as Lachmann says, playthings as well as fences, communities as much as ward rules.<sup>13</sup>

Take for example so obvious an institution for providing incentives as a traffic light. When it turns red it surely does create incentives to stop. For one thing, the rule is self-enforcing, because the cross traffic has the green. (In the old joke a New York City taxi driver drives at high speed through every red light but screeches to a halt at every green. His terrified passenger asks why. “Today my brother is driving, too, and he *always* goes through red lights!”) For another, the police may be watching, or the automatic camera may capture ones license plate. The red light is a fence, a constraint, a rule of the game, or of the asylum. So far goes North, and with him most economists.

But among other things the red light also signals—that is, has meaning to humans, who are more than rats in a prudence-only experiment facing food

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<sup>13</sup>

Lachmann 1971, p. 141, quoted in Boettke and Storr 2002, p. 171.

incentives – the meaning of state dominance over drivers. It signals the presence of civilization, and the legitimacy granted to the state that a civilization entails. It signals, too, the rise of mechanical means of regulation, in contrast to a human traffic officer on a raised stand with white gloves. The red light is in Lachmann's terms a system of thought. It is a system that some drivers find comforting and others find irritating, depending on their attitudes towards the state, towards mechanical inventions, towards traffic officers. For a responsible citizen, or an Iowan, or indeed for a fascist conformist, the red light means the keeping of rules. She will wait for the green even at 3 a.m. at an intersection obviously clear in all directions, an intersection lacking a license-plate camera or police person in attendance, or a reliably irresponsible brother on the road, even when she's in a bit of a hurry. Incentives be damned. But for a principled social rebel, or a Bostonian, or indeed for a sociopath, the red light is a challenge to his autonomy, a state-sponsored insult. Again, incentives be damned. If the Broken-Window policy is applied *too* vigorously it could well evoke an angry reaction from potential criminals, and could result in more, not less, crime, or at any rate widespread resentment of the police.

Meaning matters. A cyclist in Chicago writing to the newspaper in 2008 about a fellow cyclist killed when he ran a red light declared that "when the traffic light changes color, the streets of our cities become an every-man-for-himself, anything-goes killing zone, where anyone who dares enter will be caught in a stream of intentionally more-deadly, high-mass projectiles, controlled by operators who are

given a license to kill when the light turns green.”<sup>14</sup> The motorist who unintentionally hit the cyclist probably gave a different meaning to the event. A good deal of life and politics and exchange takes place in the damning of incentives and the assertion of meaning—the mother’s love or the politician’s integrity or the teacher’s enthusiasm, what Keynes called “animal spirits” and what Sen calls “commitment” and what I call “virtues and corresponding vices other than Prudence Only.”

Or take a more elevated issue, that of liberty. The neo-Roman theory that Skinner identifies can be thought of as turning on status, not contract. The neo-Roman theory is old fashioned in one sense, dating in Continental legal theory back to Justinian. But in another sense, as the liberal theorists Montesquieu and Tocqueville insisted, gazing with envy at the common law of England, the neo-Roman theory was a novelty implied by the reception on the Continent from the twelfth century on of Roman law (and not in England). Macfarlane notes that on the Continent down to the French Revolution “civilization moved away from a ‘feudal’ one based on the flexibility of ‘contract,’ to an *ancien régime* one based on ‘status’.”<sup>15</sup> “The Roman law,” wrote Tocqueville bitterly, “was a slave law.”<sup>16</sup> That a person was a slave in Roman law was itself an insult, no matter how cleverly he could manipulate his master, in the style of Roman comedies down to *The Comedy of Errors*, *The Marriage of Figaro*, and *Guess What Happened on the Way to the Forum*. Liberty in a

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<sup>14</sup> A letter by a Mr. Keuhn, 2008, in the *Chicago Tribune*, p. 20—but I have lost the date.

<sup>15</sup> Macfarlane 2000, p. 278.

<sup>16</sup> Tocqueville 1856 (1955), p. 223.



sense that, say, John Milton would have understood is not about how much stuff you get, or where you are on your budget line, or how far out the “constraints” are. It is about whether you are under the orders of some other mortal, for example a husband or wife in a marriage. By contrast, the economist Gary Becker’s theory of marriage takes the benevolent husband as absorbing the welfare of his wife, and thinks it no slavery. After all, she gets all the diamonds she wants. A feminist would object, as did Milton in his first treatise on divorce.

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In any event, with the Max U Only character in mind North believes he has equipped himself to explain the modern world. The axiom is that “economic actors have an incentive to invest their time, resources [in the economist’s broad sense as means for achieving ends], and [personal] energy in knowledge and skills that will improve their material status.”<sup>17</sup> The question, North observes, is whether Max U’s “investment” will be in swords with which to steal money, or in machines with which to spin cotton. Both investments improve Max U’s material status.

Which path for our *goyisher kop* Max U? North puts his finger on a major problem facing political economy from the caves to the highest of civilizations, namely, the solidity of property rights. But he commits a logical error, known as begging the question. “Economic history,” he declares, “is overwhelmingly a story of economies that failed to produce a set of economic rules of the game (with

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<sup>17</sup> North 1991, p. 101.

enforcement) that induce sustained economic growth.”<sup>18</sup> The phrase “that induce sustained economic growth” transforms the argument into a circle (which is what “begging the question” means, not as most people seem to think nowadays “suggests the further question”). An institution is not the institution he has in mind until it does cause the Industrial Revolution. He has assumed his conclusion, namely, that a change in property rights – his “institutions” – made the Industrial Revolution. The argument is immune to refutation, because he is only concerned with changes in property rights that (he assumes without evidence) caused the Industrial Revolution.<sup>19</sup> North is assuming changes in rules induced sustained economic growth, rather than investment or foreign trade or, more plausibly, ideological development. Making his statement into a meaningful hypothesis requires splitting it in two. Make part one into an empirical statement that “many economies failed to make rules.” Then one could ask whether “the change in rules in, say, seventeenth-century England was large enough to actually induce sustained economic growth.”

But of course numerous societies have produced rules of property. English kings, for example, asserted in the Middle Ages the primacy of royal courts over local and sometimes arbitrary authority. Indeed, no society does well if it does not have such rules. As the prophet Micah (7.2,3) said in the late eighth century B.C.E, “The good man is perished out of the earth: and there is none upright among men: they all

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<sup>18</sup> North 1991, p. 98.

<sup>19</sup> Gregory Clark makes a similar point in Clark 2007 (p. 7) about an argument in North and Thomas (1973) that “new institutional arrangements will not be set up unless the private benefits of their creation promise to exceed the costs” (North and Thomas 1973, p. 6). On which Clark comments: “This has an air of certainty that perhaps only truism can deliver.”

lie in wait for blood; they hunt every man his brother with a net. That they may do evil with both hands earnestly, the prince asketh and the judge asketh for a reward.” One is reminded of the anarchic and pre-Christian Norsemen, who when they approached a coast had to decide whether to kill the natives or to trade with them. They were, a Samuelsonian economist might suppose, Max U characters, largely indifferent between the options – whatever maximized material utility. Thus A. A. Milne’s “Bad Sir Brian Botany” who “went among the villagers and blipped them on the head,” but received his comeuppance, and became “quite a different person now he hasn’t got his spurs on,/ And he goes about the village as B. Botany, Esquire,” *not* blipping on the head. The move from bad to good Sir Botany is what North has in mind as the alleged cause of the Industrial Revolution.

But the trouble is that it had already happened – that shift to Good Sir Botany. Likewise the wild Norsemen of Bergen became Hansa merchants, or at any rate welcomed German and Frisian merchants into the wooden warehouses of the Hansa, many hundreds of years before the final end of blipping on the head and violent rent-seeking in North’s unhistorical account is supposed to have happened in, of all places, England. As late as the seventeenth century in England, North is claiming, Max U saw his best chance in violence or influence, not in voluntary exchange. The claim is factually mistaken. Violence had been blocked by law and politics in England for centuries. Even the barons had at length been denied their independent armies, by the early Tudor kings. Ordinary violence and theft was pursued by the hue and cry. England was drenched in laws, of property and tort and merchants and

what you will, in manorial courts and the King's courts. And of course every ordered community since Moses or Solon or Sargon the Great or the First Emperor of China has enforced property rights and prevented people from hunting their brothers with nets. A lack of defined property perhaps characterizes some parts of Europe during the ninth century – though consider Charlemagne or Alfred the Great – but certainly not England in the seventeenth century, as North to the contrary suggests. England was a nation of ordinary property laws even when the Stuart kings were undermining the independence of the judiciary in order to extract the odd pound with which to have a foreign policy.

And influence in Parliament replaced influence at Court. After North's favored date of 1688 there is a case to be made that the opportunities for rent-seeking increased rather than decreased, if not by violence (though tell that one to the citizens of York in 1745, or for that matter to the citizens of New York in 1776). In the early eighteenth century the cash value of influence at a Court now able to borrow from Dutchmen, or the gains from a transcendently powerful Parliament from stealing the goose from an enriching population, were greater than they had been under Charles I. The pioneers of analytic studies of such matters, Robert Ekelund and Robert Tollison, have persuasively argued that when the power to protect domestic interests shifted from the King – and grants of monopoly – to Parliament – and protective tariffs – mercantilism became more expensive.<sup>20</sup> Yet the King still had extensive powers of appointment (Adam Smith himself was in his maturity appointed

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<sup>20</sup> Ekelund and Tollison 1981, p. 223.

inspector of the very customs duties that he excoriated in *The Wealth of Nations*). The relative price of protection against foreign competition may have risen, but the total to be gained by corrupting King or Parliament together does not appear to have markedly fallen. Private bills, increasingly common in the eighteenth century, were ideally suited for extracting rents from ones fellow citizens directly – never mind the new abilities of Parliament to “protect” from foreigners like the French, in order to enrich West Indian landlords with a higher price for Jamaican sugar. In acts for agricultural enclosure the Parliamentary officials to be bribed with large sums were named in the very acts. Politics in eighteenth-century Britain was not called by William Cobbett “the old corruption” for nothing. Rent-seeking continued after industrialization, right down to Boeing’s bid in 2008 to build tanker aircraft for the U.S. government, and the exemption of chicken and hog farms from responsibility for their animals’ waste. Yet economic growth took place.

The long perspective is why North’s is an exceptionally poor argument for explaining the Industrial Revolution or the modern world. The choice to escape from growth-killing investing in swords or in influence at Court rather than investing in good textile machinery to make good woolen cloth, and in good organizations to administer the good machinery, has happened repeatedly in history – in China for whole centuries at a time, in Rome in the second century C.E., in much of Europe after the eleventh century. Something was radically different about the case of eighteenth-century Britain. But the difference was not the rearrangement of

incentives beloved of economists, those rules of the game. The incentives had already been rearranged, long before, and in many places.

## Chapter 27:

# Nor Did The Glorious Revolution

## Initiate Private Property

I want to initiate a discussion, to put the point another way, with my numerous friends in economics who have come to believe that all effects of ideas on the economy work mainly or exclusively or necessarily through incentive-summarizing “institutions.” They want this to be true because institutions-as-constraints fits easily with their training in Samuelsonian economics. Incentives are in the Samuelsonian view merely the prices – literally the slopes – built into budget lines. Identity, integrity, justice, temperance, professionalism, ideology, ideas, rhetoric have nothing to do with it, my friends in economics declare. I believe on the contrary, with Alexis de Tocqueville, that “institutions” as laws are not fundamental: “I accord institutions,” wrote Tocqueville in 1853, “only a secondary influence on the destiny of men. . . . Political societies are not what the laws make them, but what sentiments, beliefs, ideas, habits of the heart [in his famous phrase from *Democracy in America*], and the spirit of the men who form them prepare them in advance to be. . . . The sentiments, the ideas, the mores [*moeurs*] . . . alone can lead to public prosperity and liberty.”<sup>21</sup> Tocqueville’s and my belief finds support in the

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<sup>21</sup> Letter to Corcelle, Sept. 17, 1853, quoted in Swedberg 2009, p. 280.

magnificent tables of the *World Value Survey*, in which researchers such as Matteo Migheli have found evidence for example of great differences in attitudes towards state intervention in Western vs. formerly Communist Europe.<sup>22</sup>

In 1973 North and Robert Paul Thomas boldly stated the hypothesis that has so charmed other economists: “Efficient economic organization is the key to growth; the development of an efficient economic organization in Western Europe accounts for the rise of the West. Efficient organization entails the establishment of institutional arrangements and property rights that create an incentive to channel individual economic effort into activities that bring the private rate of return close to the social rate of return . . . . If a society does not grow it is because no incentives are provided for economic initiative.”<sup>23</sup> About that same time, inspired I think by such words, and certainly by Steve Cheung, my office mate at the University of Chicago, and Ronald Coase across the way at the Law School, I studied the English legal history of the eighteenth century with exactly the Samuelsonian prejudice about “constraints” North began then to exhibit. But I soon realized that the timing of institutional change in England fits poorly with its economic change. As many economic historians before and after me have noted, the institutions relevant to the *economy* of Britain in fact did not change much in the very late seventeenth century, or even over the long eighteenth century 1688-1815. The eminent economic historian Nicholas Crafts notes that the various models of endogenous growth proposed by the economic theorists do a poor job of accounting for what happened in the

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<sup>22</sup> Migheli 2009.

<sup>23</sup> North and Thomas 1973, pp. 2-3.



eighteenth and nineteenth centuries. And as to the Northian version, he continues, “there was no obvious improvement in institutions at the time of the Industrial Revolution.”<sup>24</sup> There *was* by contrast an obvious improvement in the dignity and liberty of the bourgeoisie, apparent for example in the invention of the science of political economy itself. But the surrounding institutions of the economy were old. The long eighteenth century begins with the Glorious Revolution, and the Revolution was surely glorious. It created the “transcendent power of Parliament,” as Maitland once called it, that could allow projects for canals, turnpikes, and enclosures to take from some to give to others, in the name of general efficiency. Economists call such trade or compulsion in aid of general efficiency the Hicks-Kaldor Criterion.

Dan Bogart has done some excellent research claiming that 1689 made for more cumbersome but more fair Parliamentary procedures for instituting projects of transportation improvement. Parliament “reduced uncertainty about the security of improvement rights.” By contrast, “for most of the seventeenth century, promoters turned to the Crown for patents or to Parliament for acts. Some undertakers lost their rights following major shifts in power like the Civil War and the Restoration.”<sup>25</sup> Well, yes: revolutions do turn things upside down. But the economics would require that people anticipated the Revolutions, for otherwise the prospective uncertainty is not increased by them. If 1642, and especially its outcome, was a surprise, it cannot be counted as a source of *ex ante* uncertainty. That 1689 was a

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<sup>24</sup> Crafts 2004, p. 10 of manuscript.

<sup>25</sup> Bogart 2009, p. 28.

settlement, true, would make for a more tranquil environment for investment. Well into the eighteenth century, though, the regime was uncertain – if not as uncertain as, say, the Commonwealth in September, 1558. But in any case, as Bogart acknowledges and as I have argued above, canals, turnpikes, and enclosures were routine investments in capital with modest social savings, not epoch-making innovations like steam engines or electricity or organic chemistry. They changed locations, not amounts. The legal changes attendant on the Glorious Revolution and its aftermath had essentially nothing to do with the wave of gadgets.

Before and after North's favored long eighteenth century the sheer economic institutions-as-constraints and the budget-line incentives changed more sharply than during it. Before it the Tudor administrative revolutions of the sixteenth century were as important for the actual economy as any institutional change in the eighteenth century. The defeat of the Armada in 1588 was as important for English economic liberties as the events of 1688. The English pattern of overseas settlement – England's decentralized and heavily populated empire – was set not in the decades after 1688 but in the few decades after the 1620s, a third of a million people leaving for Massachusetts, Virginia, and above all the West Indies, with consequences to follow. The big Revolution of 1642 as against the Glorious one of 1688 made ordinary people bold. They never forgot thereafter that they were free-born English people, free increasingly even to change jobs, even to invent machines – or free to behead an anointed king. (The English kings didn't forget, either.) And

anyway in England the claim of free-bornness was by 1688 hundreds of years old, whatever the actual incomes and privileges of a yeoman as against a duke.

And on the other side of the long eighteenth century the great Victorian codifications of commercial and property law did more to alter strictly economic incentives than anything that happened 1688-1815, as did the Victorian perfection of the common law of contract. Regulation of laissez faire began with the Victorian Factory Acts. The democratization of the British electorate after 1867, slowly, had heavier consequences for economic performance, such as the welfare state and the later nationalizations than any previous legal change, including even the triumph of Parliament in 1688. Most of the legal changes after 1815 occurred by way of statute, overcoming a common law romanticized in the Northian story, with more economic effect than all the Georgian enclosure bills and other strictly economic results of 1688 taken together.

And on a still wider view of what the professor of law Simon Deakin calls "the legal origin hypothesis" of North and his followers, one can see little evidence that the long history of English common law was causal for the Industrial Revolution. In the matters of employment contracts and joint stock companies, Deakin writes, "industrialization preceded legal change in Britain, whereas this relationship was reversed in France and Germany," merely because British law was imitated (he speaks of "sharing of legal ideas," another example of lateral transfer of cultural genes). And then after a lag the result of Continental civil law were imitated in common-law regimes in the British Empire. Laws converged. Legal

cultures did not matter for economic performance, at any rate in the England-admiring way that North's school wishes. Deakin concludes that "the picture is not one of a more market friendly common law contrasting with regulation in the civil law."<sup>26</sup> In a longer perspective, indeed, the point is obvious from the results – all rich countries have achieved essentially the same level of real national income per head, regardless of their supposedly inherited cultures of law. North has the same problem that Clark has: memes spread by imitation as much as or more than by inheritance. Countries such as France or Germany without the meme that he regards as an English uniqueness caught on, and commenced growing at modern rates.

The economists want the big change to be a matter of Northian "institutions" because they want incentive to be the main story of the Industrial Revolution and the modern world. But suppose incentive (Prudence Only) is not the main story, and cannot be the main story without contradiction: if it was Prudence Only the Industrial Revolution would have happened earlier, or elsewhere. Suppose that other virtues and vices matter a lot – not only prudence, beloved of the Samuelsonians; but temperance, courage, justice, faith, hope, and love, which changed radically in their disposition in the seventeenth and eighteenth centuries. Suppose that the ideology, the rhetoric, the public sphere mattered a great deal, and suppose that these like legal ideas were often and quickly shared across countries. Voltaire and Montesquieu looked across the Channel, with the result that

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<sup>26</sup>

Deakin 2008, pp. 2, 26.

Anglophilia governed one strain in French opinion, and in French public policy. Tom Paine wandered the world looking for places where men were not free, and shared revolution. Suppose that the spread of institutions, such as the dignity and liberty for the bourgeoisie, once revealed as efficacious, like reading, is as much horizontal across countries as vertical across time. Suppose that institutions viewed as incentives and constraints are not chiefly what mattered, but rather community and conversation.

That is what economist should consider. Insisting that every change in "institutions" is the same thing as a change in constraints, and insisting contrary to the evidence that the time of the Industrial Revolution depended on a revolution in property rights, has a sweetly Samuelsonian air. But it is not good history and it is not a good explanation of the unprecedented economic event we are seeking to explain.

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North's story resembles that of his friend the late Fernand Braudel (North is a francophone and a wine connoisseur among his many other accomplishments). As we have seen, Braudel argued that out of local markets came, with the expansion of trade, the age of high commerce, and that out of the age of high commerce came, with the expansion of trade, the Industrial Revolution. Likewise North writes, "long distance trade in early modern Europe from the eleventh to the sixteenth centuries

was a story of the sequentially more complex organization that eventually led to the rise of the western world."<sup>27</sup> Braudel was less celebratory than North has been about the progress from local to world-wide trade, and thence to industrial innovation, retaining the French intellectual's suspicion of *les bourgeois*.

But North and Braudel agree on the machinery involved. Expansion fueled it, they say, and so it awaited the late eighteenth century to come to fruition. Foreign trade is their engine of growth. "Increasing volume," writes North, "obviously made such institutional developments [as modern capital markets] possible."<sup>28</sup> "The size and scope of merchant empires" made arm's length transactions possible. "The volume of international trade and therefore . . . economies of scale" made for standardization and information."<sup>29</sup> The result was a virtuous spiral of economic forces: "the increasing volume of long distance trade raised the rate of return to merchants of devising effective mechanisms for enforcing contracts. In turn, the development of such mechanisms lowered the costs of contracting and made trade more profitable, thereby increasing its volume."<sup>30</sup> To use the jargon of the recent mathematical "theories of economic growth," the growth is "endogenous," generated inside the economic sphere itself. Growth leads to growth, which leads to . . . growth.

Note, however, that most of North's story tells of routine search for better institutions. The search is "routine" because it is a pretty much predictable result of

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<sup>27</sup> North 1991, p. 105.

<sup>28</sup> North 1991, p. 106.

<sup>29</sup> North 1991, p. 106.

<sup>30</sup> North 1991, p. 107.

investment. If you reorganize at great expense the docklands of London, and arrange to collect some of the gain for yourself, you or your heirs will reap some profit. The society-wide economic gains, from which you extract some profit, are that traffic gets in and out of port with less delay. Ship stores are more readily available. Information about cargoes coming and going are cheaper. Loss in storage is lower. North's best and Nobel-winning scientific work, on ocean freight rates before the nineteenth century, gives evidence for such effects. Doubtless you as a dockland investor might make a mistake, and over- or under-invest, or fail to secure your claim to some of the profits of the new docks. But the prospect of net profit, while not perfectly predictable, is what motivates you in such a routine investment. The improvement is like the draining 1848-1852 of the Haarlemmermeer (where Schiphol Airport now sits), one of the numerous great projects of Dutch water management. Cost: steam pumps. Benefit: farmland. *Goed idee.*

For such routine investment as an explanation of the modern world, however, there are two big problems. For one thing, there's an economic problem. Routine, incremental investments, naturally, yield routine, incremental returns. North writes that his Max-U merchant "would gain. . . from devising ways to bond fellow merchants, to establish merchant courts, to induce princes to protect goods from brigandage in return for revenue [note the quid pro quo: it is like hiring a policeman], to devise ways to discount bills of exchange."<sup>31</sup> The implied claim that we grew as rich as we are by simply piling brick on brick, or in this case contract on

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<sup>31</sup>

North 1991, p. 109

contract, was as I have noted the usual way of thinking in economics from Smith in 1776 through W. W. Rostow in 1960. After all, that's how we as individuals save for old age, and it is what we urge on our children. But no one, to repeat, grows *very* rich by routine investment, and neither did Western society 1800 to the present. The new American economic history of the 1960s, which North helped invent, and the old British economic history of the 1950s, which explored the same issue with less rigorous economics, showed it. Routine investment was a good idea, just as the draining of the Haarlemmermeer was *een goed idee*, and just as saving for your old age is a good idea – provide, provide. But the astounding growth after 1800 needs an astounding explanation.

And that's the other, historical problem. If routine investment explains the modern world, why didn't the modern world happen in ancient times? Routine is easy. That's why it is called "routine." Ancient China was peaceful and commercial for decades and often for centuries at a time. Its foreign trade was enormous. The disturbances in the Roman Empire were usually palace uprisings in the city of Rome or battles out on the Germanic or Parthian frontier, minor matters – nothing like the economy-disturbing invasions and especially the plagues that finally overcame the Empire. The ancient Egyptians had command over resources and had famously stable regimes as well. The Muslim empires in the two centuries after Mohammed grew at gigantic rates, in extent and in economies of scale. They became brilliant in economy and culture – yet nothing like to the startling degree of northwestern and then all of Europe 1700-2000 C.E. The Aztecs and before them the Maya had great



trading empires, as did earlier civilizations still to be explored in the New World. If growth produces growth, which produces growth, as the economists delight to hypothesize (the model is so beautiful), why did modern economic growth wait to happen in the eighteenth, nineteenth, and twentieth centuries, and then begin in a notably turbulent patch of the globe?

North's answer is the good institutions, such as the settlement of 1689 in England. That has seemed reasonable on its face to many economists, who "don't know much about the Middle Ages,/ Look at the pictures and turn the pages." They think, as I said, in terms of maximization *under constraints*, and therefore are fascinated by a claim that institutions just *are* constraints, which got relaxed in 1689. "Cute," they think. Some of these relaxing of constraints, too, North wants to make endogenous, caused by the very growth. "Cuter," say the economists in their unscientific innocence. The Max-U merchant's "investment in knowledge and skills would gradually and incrementally alter the basic institutional framework."<sup>32</sup> But if they are endogenous, as against "exogenous" (the Greek means "outwardly born"), then again why didn't the same institutional changes happen in Egypt under the pharaohs, or for that matter in Peru under the Incas?

North praises, as would many economists, including me, a "credible commitment to secure property rights."<sup>33</sup> But his seminal essay with Weingast in 1989 has been widely credited with claiming, as North and Weingast sometimes do and sometimes don't in their last few interesting but self-contradicting paragraphs,

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<sup>32</sup> North 1991, p. 109.

<sup>33</sup> North 1991, p. 101.

that the introduction of a Dutch-style national debt in the 1690s shows “how institutions played a necessary role in making possible economic growth and political freedom.”<sup>34</sup> It does not. It shows how a state can become powerful by reliably paying its debts to citizens and to foreigners. Robert Ekelund claims that “the credible commitments . . . were required of new institutions [namely, the English and then British national debt, and led]. . . to modern capitalism.”<sup>35</sup> No they didn’t. They allowed Dutch William to begin the 120 year war against France that characterized the long eighteenth century in Britain.

John Wells and Douglas Wills succeed in showing statistically that the Jacobite threat to the Protestant succession haunted early eighteenth-century politics in Britain (which may have been ascertained, perhaps with less trouble, by wallowing a bit in the cultural mud of novels and newspapers and street ballads). But in supporting North and Weingast they too claim offhandedly that “the resulting institutional changes [of 1688] ushered in financial developments that laid the foundation for the Industrial Revolution and ultimately established Britain as a world power.”<sup>36</sup> The second half of the claim, about power, is true. A parliamentary monarchy that could borrow reliably was one that could intervene in the balance of power on the Continent, and did. But the first half is at best unproven by any of the analytic narratives offered in its favor. In the title of their paper Wells and Wills summarize how they see the threats from the Old and New Pretender out of France

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<sup>34</sup> North and Weingast 1989, p. 831.

<sup>35</sup> Ekelund 2003, p. 366.

<sup>36</sup> Wells and Wills 2000, p. 418.

connecting with the claims of North and Weingast: “The Jacobite Threat to England’s Institutions [of financing the national debt] and [therefore] Economic Growth.” But the national – that is, governmental – debt had no demonstrated connection to economic growth. Those founts of historical wisdom, Sellar and Yeatman, well anticipated in 1931 the mishmash here: “It was William and Mary who first discovered the National Debt and had the memorable idea of building the Bank of England to put it in. The National Debt is a very Good Thing and it would be dangerous to pay it off, for fear of Political Economy.”<sup>37</sup>

That the British state did not then use the wealth acquired by such a Good Thing to obstruct economic growth and destroy political liberty – as so many states enriched by, say, drilling for oil have done – had nothing to do with the imitation under William III of bourgeois, Dutch methods of drilling for loans, and building the Bank of England to refine them in. An historian of Parliament noted of its transcendent power, “despotic power was only available intermittently before 1688, but it was always available thereafter.”<sup>38</sup> And as the economists Carmen Reinhart, and Kenneth Rogoff put the point, “It is not clear how well the institutional innovations noted by North and Weingast would have fared had Britain been a bit less fortunate in the many wars it fought in subsequent years.”<sup>39</sup> Britain got a military-financial complex up and running in the 1690s and had the good fortune of Churchills and Clives and Wolfes and Nelsons and Wellesleys in its operation.

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<sup>37</sup> Sellar and Yeatman 1931, p. 77.

<sup>38</sup> Hoppit 1996, p. 126.

<sup>39</sup> Reinhart and Rogoff 2008, p. 53.

Good on them. But it is not the modern world. The argument confuses – as we have seen many have – victory with enrichment.

What mattered had to do with the change in political and economic rhetoric about the same time that made the British state prudent in the financing of its wars of imperial adventure 1690 to 1815, as the Netherlands had earlier learned to be prudent in the financing of its wars of survival, 1568-1648 and (complements of the envious English) during the four Anglo-Dutch wars of 1652-54, 1665-67, 1672-74, 1680-84 (no wonder the Dutch and the English finally gave up their quarrels and adopted William as their joint stadhouder/king). In 1787 the professor of civil law at Glasgow, John Millar, had it more right than North does: the “energy and vigor which political liberty [my claim], and the secure possession and enjoyment of property [North and Weingast’s claim], are wont to inspire. . . . was obtained by the memorable Revolution of 1688, which completed. . . a government of a more popular nature.”<sup>40</sup> Secure possession of property is necessary. But it had little to do with the financial innovations that North and Weingast stress, because it had been established centuries before. A government of a more popular nature, and political liberty, and above all the energy and vigor that a new deal brought forth from England’s bourgeoisie, were what mattered.

The figures of North and Weingast imply that total central government *expenditure* under James I and Charles I was at most a mere 1.2 to 2.4 percent of national income. At the same time the Romanovs were spending nearly 15 percent

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<sup>40</sup> Millar 1787 (1803), Chp.III.

of Russia's entire national income on war, and shortly afterwards the Hohenzollerns learned how to spend comparable shares on the largest standing army in proportion to population in Europe.<sup>41</sup> We nowadays face central government expenditures among free countries ranging from the U.S.'s and South Korea's low of 21 percent to France's high of 46 percent.<sup>42</sup> The four forced "loans" from the rich of London 1604-1625 amounted to a trivial 1 percent of the national income earned over those years.<sup>43</sup> Of course, as the American case in the 1770s showed, a tax on stamps taking a tiny portion of income can trip off a revolution, and so here. But even the Stuart kings, grasping though they were, and enamored as were many monarchs at the time with a newly asserted divine right of kings, were nothing like as efficient in predation as modern governments – or indeed as were the Georgian kings of Great Britain and Ireland who succeeded them. Macaulay had in 1830 spoofed the alarm of "the patriots of 1640," who exclaimed, "A million a year will beggar us." By 1783, Macaulay noted, the alarm was instead over the £240 millions of debt that the British state could then command.<sup>44</sup> By the end of the long century of struggle with the French, in 1815, the United Kingdom owed in its national debt a sum twice its annual national income (over three times the ratio in the United States in 2009 – though the figure does not include the gigantic unfunded debt such as Social

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<sup>41</sup> Hellie 2003, p. 416

<sup>42</sup> World Bank for 2005, at [http://siteresources.worldbank.org/DATASTATISTICS/Resources/table4\\_10.pdf](http://siteresources.worldbank.org/DATASTATISTICS/Resources/table4_10.pdf)

<sup>43</sup> North and Weingast 1989, Tables 2 and 3, with their guess at national income of £41 millions in 1642.

<sup>44</sup> Macaulay 1830, pp. 186-187.

Security and especially Medicare). Britain paid off the debt by the 1840s, at the height of Political Economy.

No quantitative case can be made, in short, that it was after 1688 that England moved from predation to security of property. England was a nation of laws from the time of *Quia Emptores* (1290), or Edward I (ruled 1272-1307), or earlier. As North and Weingast themselves admit, “the fundamental strength of English property rights” could be dated from the Great Charter of 1215, and surely earlier.<sup>45</sup> And what then of Italian or for that matter Byzantine or Islamic or Chinese property rights?

In certain smallish matters the law of property was indeed improved by the Glorious Revolution – for example (not so small, actually) in 1689 and 1693 landlords were granted clear rights to tin, copper, iron, or lead under their properties, free of harassment for violating an old prerogative of the Crown (which claimed silver and gold thus extracted, even if incidental to the mining of the base metals). But there’s not much in it. Certainly no economy can prosper, as North and Pipes and Harold Demsetz and I warmly agree, in which a Bad Sir Botany can go around blipping people on the head and seizing whatever he wishes.<sup>46</sup> “Trade cannot live without mutual trust among private men,” wrote Temple in 1672.<sup>47</sup> Otherwise we face Hobbes’ war of all against all: “In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of

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<sup>45</sup> North and Weingast 1989, p. 831.

<sup>46</sup> Demsetz 1967 is a fount for the insight.

<sup>47</sup> Temple 1672, Chp. VI.

the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society."<sup>48</sup> North and Weingast correctly assert, with Millar, the importance of "the ability to engage in secure contracting across time and space."<sup>49</sup> Private property is not optional, and market socialism is a contradiction in terms. Even some Marxists nowadays, especially the economists among them, agree on the point. But the problem is, as I have said, that there was little recently new in British property rights around 1700 that can explain its subsequent economic success.

The Northian story has passed into conventional thinking, as for example in an alarming article on "Growth and Institutions" for *The New Palgrave Dictionary of Economics* (2008) by the economist Darin Acemoglu:

Consider the development of property rights in Europe during the Middle Ages. Lack of property rights for landowners, merchants and proto-industrialists [*An error: property was very fully developed, especially in land and in personal possessions; land markets functioned in large and small parcels; exchange on secure terms took place in all commodities, at the latest from the Normans and their lawyers, or outside the King's court in leet courts registering peasant deals in the thirteenth century, and in most respects hundreds of years earlier*<sup>50</sup>] was detrimental to economic growth during this epoch [*No: lack of*

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<sup>48</sup> Hobbes, p. NNN\*\*\*

<sup>49</sup> North and Weingast 1989, p. 831.

<sup>50</sup> One of the leading students of medieval English agriculture, Bruce Campbell notes that "Tenants of all sorts were active participants in the market, trading in commodities, buying and selling labour and land, and exchanging credit," citing some of the numerous medievalists who agree (Campbell 2005, p. 8). That does not mean that everything worked smoothly. Campbell

*property rights had nothing to do with poor medieval productivity*<sup>51</sup>. . . .

Consequently, economic institutions during the Middle Ages provided little incentive to invest in land, physical or human capital, or technology [Another error: incentives of a strictly economic sort did not change between 1000 and 1800, not much<sup>52</sup>], and failed to foster economic growth [Economic growth did not occur, but – outside of Russia – not because of lack of property rights]. These economic institutions also ensured that the monarchs controlled a large fraction of the economic resources in society [An error: even in early modern times the percentage ‘controlled’ by monarchs was small by modern or some ancient standards: think 5 percent of national income, though rents from royal estates, until sold off, would make the figure higher; but the estates are rental income, an affirmation rather than a violation of the rights of private property], solidifying their political power and ensuring the continuation of the political regime. The seventeenth century, however, witnessed major changes in the economic [An error: the economic institutions, if by that one means property rights, or even taxation, did not change much then] and political institutions [Finally a partial truth, at least in England and Scotland: not in “Europe” as he claims] that paved the way for the development of property rights [An error: property rights were already developed, centuries earlier] and limits on monarchs' power [A truth, but a British and later a Swedish truth, and having nothing to do with an allegedly

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argues that the fourteenth century was characterized by “rural congestion engendered by the lax tenurial control exercised by most landlords” (p. 10). But anyway his picture, based on the best scholarship, is the opposite of the exploitation and the absence of markets posited by Acemoglu. The serfs owned the lords, not the other way around.

<sup>51</sup> McCloskey 1975a.

<sup>52</sup> Berman 2003.



*novel security of property, for all the self-interested talk by the gentry at the time, from John Hampden to Thomas Jefferson; and the share of British government taxes in national income did not fall in the eighteenth century: it strikingly rose].<sup>53</sup>*

Acemoglu in short has gotten the story embarrassingly wrong in every important fact.

It is not his fault, though, since the historians he has consulted, especially North, have told the story to him wrongly. The problem is, to say it yet again, that much of Europe – or for that matter much of China or India, not to speak of the Iroquois or the Khoisan, when it mattered – had credible commitments to secure property rights in the thirteenth century C.E., and in some places in the thirteenth century B.C.E.<sup>54</sup> China, for example, has had secure property in land and in commercial goods for millennia. And in the centuries in which the economists claim that Europe surged ahead in legal guarantees for property the evidence is overwhelming that China had secure property. True, early in their rule (Yuan, 1279-1368) the Mongols put in place such anti-economisms of bad property rights as prohibiting autumn planting . . . in order to give ample grazing for Mongol horses. But even the Mongols eventually realized that a prosperous and property-respecting China made a more profitable cash cow. And under the Ming and Qing (1368-1911), property and contract laws were enforced on high and low. Merchants were more, not less, secure on the roads of the Chinese Empire than a western Christendom

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<sup>53</sup> Acemoglu 2008; compare Acemoglu, Johnson, and Robinson 2005, citing for example R. H. Tawney, unaware it appears that his Fabian views have largely been overturned.

<sup>54</sup> Clark 2007 is good on this, pp. 10, 212.

plagued until the nineteenth century by pirates, or highwaymen riding up to the old inn door. Chaucer's merchant in 1387 "wished the sea were kept [free of pirates] for anything/ Betwixt Middleburg [in Zeeland] and Orwell [in Lincolnshire]," as the Chinese and the Japanese and the Ottomans had already long kept their seas.<sup>55</sup> After all, the necessary condition for the creation of *any* economy is the ability to engage in secure contracting across time and space. No Mesopotamian merchant could buy copper from Anatolia without property rights, whether enforced by the state or more powerfully by the customs of the merchants themselves. North and Weingast and their student Acemoglu are letting their chronology get radically and misleadingly compressed. Certainly the development of property rights away from the arbitrary rule of a war chief in, say, 588 C.E. in Wessex mattered for economic incentives. But by 1688 such a development in England had long, long occurred. It was not true, as Sellar and Yeatman asserted in their loony way, that "there was an Agricultural Revolution which was caused by the invention of turnips and the discovery that Trespassers could be Prosecuted. This was a Good Thing, too, because previously the Land has all been rather common, and it was called the Enclosure movement and was the origin of Keeping off the Grass, . . . [culminating] in the vast Royal Enclosure at Ascot."<sup>56</sup>

What is true, however, is that during the decades up to 1700 the effective rulers of Britain became in theory and practice more and more mercantilist, and then by the end of the eighteenth century even a little bit free trading (thus Ekelund and

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<sup>55</sup> Chaucer, *Canterbury Tales*, "General Prologue," ll. 276-277.

<sup>56</sup> Sellar and Yeatman 1931, p. 94.

Tollison) – anyway more and more after the late seventeenth century concerned with *national* profit and loss, instead of ensuring this man’s monopoly profit and that woman’s church attendance. No wonder that the worldly philosophy called “political economy” grew up *pari passu*, considering that it is precisely the national, or international, view above the struggle of interests that economics claims to take. The wise professor of English quoted earlier, Michael McKeon, put it this way: the mercantilist pretense of “state control of the economy becomes intelligible as one stage in a long process in which the power to modify the heavenly laws . . . and to reform the environment is vouchsafed to increasingly autonomous and individualized human agency.”<sup>57</sup> That is, both mercantilism and *laissez faire* are distinguished from what came before by their focus on a new idea of the economy as a separate thing. The wise philosopher quoted earlier, Charles Taylor, asserts a similar emergence of The Economy as an explicit object of concern in the seventeenth century, and Joyce Appleby gave the story in detail of how by the time Hume and Smith took up their pens “economic life had been successfully differentiated from the society it served.”<sup>58</sup> In Thomas Mun’s *England’s Treasure by Foreign Trade* (1621), Appleby writes, “for the first time economic factors were clearly differentiated from their social and political entanglements.”<sup>59</sup>\*\*\***Give quote.**

Sir William Temple noted of the great nations of Europe in 1672 that until the end of the Thirty Years War “their trade was war.” But “since the Peace of Munster,

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<sup>57</sup> McKeon 1987 (2002), p. 201.

<sup>58</sup> Appleby 1978, p. 22.

<sup>59</sup> Appleby 1978, p. 41.

which restored the quiet of Christendom in 1648, not only Sweden and Denmark but France and England have more particularly than ever before busied the thoughts and counsels of their several governments. . . about the matters of trade."<sup>60</sup> He was premature in announcing Christendom's quiet, since William's and then Anne's and then the Georges' eighteenth-century epic against the French was to begin in earnest after Dutch William III taught the undisciplined English to have a national debt and store it in the Bank of England. Other countries at the time had more of a trade of war. Voltaire said of Prussia that most nations had an army, but in Prussia the army had a state. But Temple was right in emphasizing the spread of the Dutchlike subordination of politics to trade at least in Britain. As Montesquieu put it in 1748, "other nations have made the interests of commerce yield to those of politics; the English, on the contrary, have ever made their political interests give way to those of commerce."<sup>61</sup> Well. . . not "ever," but by 1748 often.

Such an ordering of ideas was second nature to the Dutch in 1600. It had to be learned by the British. The British following the Dutch came to be known in the world as unusually calculating—instead of as before unusually careless in calculating. No one in Europe in 1500 would have thought of the English as anything but arrogant and warlike: "See approach proud Edward's power," sang the Scots, who had occasion to know, about a much earlier intervention of the English, "Chains and slavery." The actual alteration in individual behavior in the direction of bourgeois values by around 1700 was not great. Well into the twentieth

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<sup>60</sup> Temple 1672, Chp. VI

<sup>61</sup> Montesquieu 1748, Book XX, sec. 7.

century the rest of the world had occasion to be shocked by the aristocratic/peasant brutality of British soldiers. Consider General Kitchener ordering Boer and black women and children into concentration camps, in which a quarter died of hunger and disease in 1900-1901. Consider the massacre at Amritsar in British India in 1919, or the bold Black and Tans suppressing Irish rebellion in 1920. A little if rich island did not paint a quarter of the world red, or win two world wars (with a little help), by sweetly bourgeois persuasion. But the change in rhetoric towards bourgeois cooperation was permanent and finally softening, and in any case the sociological change in the direction of a new dignity and liberty for the bourgeoisie made innovation commendable and possible.

## Chapter 28:

### And So the Chronology of Property and Incentives Has Been Mismeasured

That is to say, to return to the theme of North and Weingast's work, the innovations of the Financial Revolution in late seventeenth- and early eighteenth-century Britain have no important connection to secure contracting – not even, as North and Weingast somewhat desperately aver, as indirect “evidence that such a necessary condition has been fulfilled.”<sup>62</sup> Frederick Pollock and F. M. Maitland's great book of 1895 was *The History of English Law before the Time of Edward the First*. By the year 1272, they (principally Maitland) showed, English common law was firmly in place – though of course the endogenous elaborations, such as statutes against perpetuities and a wider law merchant and the extension of the King's common law to all free-born Englishmen when they became in fact free-born, remained to be accomplished. Avner Greif begins his long-awaited book on the subject by reporting that “On March 28, 1210, Rubeus de Campo of Genoa agreed to pay a debt of 100 marks sterling in London on behalf of Vivianus Jordanus of Lucca. There was nothing unusual about this agreement. . . . Impersonal lending among traders from remote corners of Europe prevailed and property rights were

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<sup>62</sup> North and Weingast, p. 831, a page which rewards rhetorical study as an example of how to claim in the conclusion of an essay propositions that bear no connection to the evidence offered.

sufficiently secure that merchants could travel.”<sup>63</sup> Exactly, and so also in China and the Middle East and South Asia. The Glorious Revolution brought no unprecedented rule of property law. It was a constitutional, not a common-law or statute-law, revolution. The earlier James of England (the first Stuart and the grandfather of the James deposed in 1688 for his proposal that Catholics might be tolerated), had reigned over one of the most law-dependent countries in Europe—though violent in duels and other affrays, and certainly not so peaceful as the Bourgeois Era would make it. English people went habitually to law, with all its delays, because it worked, and had for centuries.

North also praises patents. Many economists have been intrigued by the simple logic entailed: make innovation into property and, *voilà*, innovation will be pursued as routinely as is plowing or building. It is another attempt by economists to bring the most unusual event in human history under a routine of marginal benefit and marginal cost. Joel Mokyr has written a devastating essay surveying the historical evidence on the matter. He asks, “what could be wrong with this picture [painted by North and, from North, by Acemoglou and other economists]? The answer is basically ‘almost everything’.”<sup>64</sup> British patents were very expensive, a minimum of £100 (a respectable lower-middle class annual income at the time) and requiring many months of attendance on law courts in London. Therefore they were taken out as only one of many alternative ways of establishing ones credibility as an ingenious person—someone to be admired, and to be paid to do all sorts of

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<sup>63</sup> Greif 2006, p. 3.

<sup>64</sup> Mokyr 2008, p. 3.

engineering work, or to be given a governmental sinecure. Patents were considered undignified by many inventors, and were often treated with suspicion by judges, as constituting monopolies (as they do). Getting a head start in producing according to ones idea was then, as usually also today, better assurance of fame and fortune.

Patents sound neat, but were not.

And North admires, too, “laws permitting a wide latitude of organizational structures,” such as incorporation laws. But general incorporation laws were passed only in the middle of the nineteenth century (the first in 1844), and were taken up unevenly – many companies were mere shells, or dissolved quickly.

Businesspeople, it appears, were not much constrained by the earlier lack of permission to incorporate. As late as 1893 Gilbert and Sullivan were spoofing general incorporation, as a foolish flower of progress:

Some seven men form an Association  
(If possible all Peers and Baronets),  
They start out with a public declaration  
To what extent they mean to pay their debts.  
That’s called their Capital. . . .  
When it’s left to you to say  
What amount you mean to pay,  
Why, the lower you can put it at, the better.<sup>65</sup>

The anglophile king of Utopia, eager to adopt all the elements that “have tended to make England the powerful, happy, and blameless country which the consensus of

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<sup>65</sup> Gilbert and Sullivan 1893, Act I, pp. 537-538; and pp. 532, 539



European civilization has declared it to be,” inquires further: “And do I understand you that Great Britain / Upon this Joint Stock principle is governed?” To which Mr. Goldbury of the stock exchange replies: “We haven’t come to that exactly – but / We’re tending rapidly in that direction.”

And so an embarrassing North Gap in the explanation of an economic revolution opens up, fully 528 years in length calculated from 1800, 1800 minus 1272. Or else it is 100 negative years, 1800 minus 1844. Legal developments in England that happened many centuries before or man decades after cannot explain the exceptional applied innovations of northwestern Europe 1700-1848. Security of property was a very old story in the England of 1600, as it was in the Chinese or Ottoman Empires at the same time. The depredations by the Stuarts were minor, if infuriating to the wealthier Londoners of a non-Conformist disposition. The merely prudential incentives to innovate were just as great in the thirteenth century as in the eighteenth. Property rights, that is, were pretty full at both dates. Money was to be made. (The fact is contrary to the Romantic and then Marxist-influenced tale that the feudal era knew not the use of money or property or wages or trade or capital.) As Alan Macfarlane declared in 1978, “England was as ‘capitalist’ in 1250 as it was in 1550 or 1750.”<sup>66</sup>

What actually changed between the thirteenth and the eighteenth centuries was, as Joel Mokyr puts it, “the mental world of the British economic and technological elite.”<sup>67</sup> Indeed, the very idea that a mere inventor or merchant or

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<sup>66</sup> Macfarlane 1978, p. 195.

<sup>67</sup> Mokyr 2008, p. 94 \*\*\*or so.

manufacturer could be part of an “elite” was entirely novel in England in 1700, following the Dutch example of the Golden (and Gold-Earning) Age. What was new after 1688 in England was a new *honor* for trade. Hume had this right in 1741: “commerce, therefore, in my opinion, is apt to decay in absolute governments, not because it is there less *secure*, but because it is less *honorable*. A subordination of ranks is absolutely necessary to the support of monarchy. Birth, titles, and place must be honored above industry and riches.”<sup>68</sup> (France was his instance of “absolute” government; he should have seen Russia.)

And even then the so-called “incentive” to innovate was plainly not only the making of money. Robert Allen asserts that “technology was invented by people in order to make money,” and therefore that “invention was an economic activity.”<sup>69</sup> No, it wasn’t, not by any means entirely. Allen adopts a reductionism that has lately become a standard rhetorical move in Samuelsonian and Beckerian economics. In 1725 Bishop Butler complained about “the strange affection of many people of explaining away all particular affections and representing the whole of life as nothing but one continued exercise of self-love.”<sup>70</sup> “It is the great fallacy of Dr. Mandeville’s book,” wrote Adam Smith in 1759, “to represent every passion as wholly vicious [that is, a mere matter of profit-making prudence and self-interest] which is so in any degree and any direction.”<sup>71</sup> Money mattered. But so did other motives. Joel Mokyr emphasizes the glory of the game. Allen himself admits that

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<sup>68</sup> Hume 1741; 1777 (1987), p. 93 (“Of Civil Liberty”)

<sup>69</sup> Allen 2006, pp. 2, 3.

<sup>70</sup> Butler, *Fifteen Sermons*, 1725, Preface, p. 349.

<sup>71</sup> Smith 1749 (1790) VII. ii. 4. 12., p. 312.

patents for invention, though available in England from 1624 on, were in fact as I've noted little used, which would be odd if making money were all that was involved. And he argued long ago and persuasively, as also noted, that "collective invention" was often the ticket, which "divided the costs and pooled the gains," open source technology.<sup>72</sup> Ben Franklin gave away his inventions, such as the lightning rod and the Franklin stove. So did Michael Faraday. Such examples argue against the reduction of innovation to cost and benefit. Thomas Carlyle, the scourge of the classical economists, remarked in 1829 that "with men: that they have never been roused into deep, thorough, all-pervading efforts by any computable prospect of Profit and Loss, for any visible, finite object; but always for some invisible and infinite one."<sup>73</sup>

An economist who is thinking like an economist, instead of like a fourth-rate applied mathematician who knows only the use of Max U and Max's marginal balances, does not in fact find it so strange. Computable prospects would already have been discovered. Routine balances of profit and loss cannot have motivated the sudden, unique, and gigantic lurch forward 1700-1900. Or so the economist would argue if he believed classical or neo-classical or even Samuelsonian economics *after* equilibrium. The margin of cultivation did not move out by just a little bit – it leapt forward. *Illa humanitatis fecerunt saltum*. Human affairs made a jump.

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<sup>72</sup> Allen 2006, p. 3, referring to Allen 1983. Nuvolari 2004 applies Allen's idea to Cornwall's pumping engines.

<sup>73</sup> Carlyle 1829, quoted in Bronk 2009, p. viii.

A recent calculation by the ever-useful economist William Nordhaus reveals that nowadays an inventor gets a mere 2.2 percent of the economic gain from an invention: “only a miniscule fraction of the social returns from technological advances over the 1948-2001 period was captured by producers, indicating that most of the benefits of technological change are passed on to consumers rather than captured by producers.”<sup>74</sup> The inventor had better get such a low share, or else economic growth would be a grim story of the Walt Disney Corporation getting richer and richer on its novelties, with no gain at all to we who do not own Walt Disney stock. The argument is another way of seeing that the Modern Jump cannot have been the result of the mere seizing of computable prospects of profit. Two percent of the entire social gain from the high-pressure steam engine is of course immense. But most inventions were, Mokyr note, “micro,” that is, little improvements of existing inventions, not revolutions in the way of doing business. As Mokyr then says, “the standard pecuniary incentive system [which does not in any case explain what it is meant to explain] was supplemented by a more complex one that included peer recognition and the sheer satisfaction of being able to do what one desires.” “When one loves science,” the chemist Claude Louis Berthollet wrote to James Watt, “one has little need for fortune which would risk ones happiness,” though as George Grantham observes Berthollet was in fact paid well as a high civil servant.<sup>75</sup> Horace could not have put it better, or Adam Smith, the supposed prophet of profit, who declared the poor man sunning himself by the side

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<sup>74</sup> Nordhaus 2004. The quotation is from the abstract.

<sup>75</sup> All this is from Mokyr 2008, p. 95-97 \*\*\*or so. Grantham 2009, p. 4.

of the road more happy than a prince. Weak incentives that were fully present in the thirteenth century cannot explain frenetic innovation in the eighteenth and nineteenth centuries.

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One way of getting around the North Gap and the feeble economic “incentives” in North’s argument and the strange assertion that the financial revolution after 1689 was just the same as the introduction of secure property rights is to emphasize the modern state as a source of growth. North would then join with the political scientist Liah Greenfeld in elevating nationalism to a cause of modern economic growth.<sup>76</sup> The Greenfeld hypothesis has the merit of *not* depending entirely on monetary incentives. People can innovate for the honor of Britain. Some few probably did. Rule Britannia.

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<sup>76</sup> Greenfeld 2001.

But it is a different proposition to say, as North does, that “the state was a major player in the whole process.”<sup>77</sup> Thank the Lord, I would say, it was not. State-guided growth was once highly thought of by economists and economic historians, and has always been popular among statesmen. In 1975, for the example, the eminent economic historian Marcello de Cecco wrote in praise of the “national economy” of Friedrich List (1789-1846), which sought a place in the sun for Germany outside the shade of the then-dominant British: “By adding dynamism and history to classical [i.e. Ricardo’s] analysis, List obtains a strategy for fast economic growth that is perfectly suitable to the socio-economic conditions of countries which want to undergo a process of modernization.”<sup>78</sup> So thought many in 1975, or in 1841 (*Das Nationale System der Politischen Ökonomie*). But in the meantime Listian policies such as protection for “infant industries” (such wailing infants as General Motors in 2009) and “import substitution” (in Latin America under the influence of the the Listian analysis of Raúl Prebisch [1959]) have proven unhappy in results. De Cecco goes on: “We can clearly see . . . [List’s realization] of the impossibility of founding a modernization on a bourgeois revolution, i.e. on the English model, and of the ensuing need to find a different ‘national way,’ based on collective action.” I say on the contrary that without something like a bourgeois revolution at least at the level of rhetoric no lasting modernization can happen. You can lead by “collective action” the Russian people into gigantic auto factories, but you can’t make them think. The Chinese and the Indians are embourgeoisifying. That’s the way forward.

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<sup>77</sup> North 1991, p. 107.

<sup>78</sup> De Cecco 1975, p. 11.

My model on the contrary is of technological causation, the technology being caused by the coming of bourgeois dignity and liberty. Many who advocate industrial policy and other economic planning by experts would disagree. I would claim that such intervention by the state typically reduces what could be achieved by bourgeois dignity and liberty. It doesn't have to. It's a matter of fact, not pure theory. In some worlds it would not. On a blackboard one can prove, indeed, that state intervention to deal with externalities *will* improve the performance of an economy. But in the actual world, the actual interventions by actual states have usually not improved performance. Running an economy by the dictates of political pressure and the force of anti-bourgeois ideology has not normally led to decisions that were best for economic growth and for the future of the poor. Thus the Soviet Union after World War II kept its people anti-bourgeois, and poor.

North and Weingast's article of 1989 praises the ability of the English and then British state to finance wars after 1694. They take it to be a Good Thing (except presumably from the French and Indian point of view). But financing wars is not the same thing – in fact, it is rather the opposite – of “the secure contracting over time and space” that North and Weingast anachronistically attach to the Financial Revolution.<sup>79</sup> Ask the British investors incommoded by the unanticipated starting and stopping of Britain's long eighteenth-century struggle with France, 1692 to 1815, whether they felt secure in contracting. Interest rates bounced up and down, as did insurance rates for shipping, and demand for naval stores. Some security.

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<sup>79</sup> North and Weingast 1989, p. 831.

True, as I have repeatedly noted, contracting *with the British state* became more secure over time and space. But the state thus enabled can turn in a moment into a Frankenstein's monster, and often has. North well understands the point, when he is not trying to connect the Glorious Revolution to the Industrial Revolution. Greenfeld sometimes appears not to emphasize it quite as much as a native Russian might. The change in rhetoric that up-valued bourgeois virtues, fortunately, kept the British state from becoming an anti-bourgeois monster like the Russian state in 1649 or the French state in 1700 or the German state in 1871, or the Japanese state when it, too, in the late nineteenth century went on the gold standard and was suddenly able to finance wars of aggression. The Russian state after 1917, by contrast, was at least for a while confined by its inability to borrow massively abroad to merely domestic violence – until Hitler's imprudent invasion brought American credits for the Soviets, and the West's salvation, and Eastern Europe's woe.

North nonetheless stresses "the extent [to which] the state was bound by commitments that it would not confiscate assets."<sup>80</sup> We have seen the quantitative flaws in the North and Weingast claim that the Stuart kings of England were masters at confiscating their subjects' wealth. It was a good thing, not a bad thing, that the Stuarts were in fact such tyros in expropriation, suffering the indignity of frequent breakdowns of their credit with bankers, and in 1672 actual bankruptcy. James I and II and Charles I and II were in fact stumbling amateurs by the standards

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<sup>80</sup>

North 1991, p. 107.



of the modern bureaucratic state. Capitalists in the law-abiding, innovating United States were haunted in the 1930s, as the economic historian Robert Higgs has shown, by Roosevelt's repeated gestures towards expropriating the economic royalists – which gained force by being promised at a time in which communist and especially fascist states had actually just done so.<sup>81</sup> And in 1946-51 the very home since the year of Our Lord 1272 and before of credible commitments to secure property rights, England itself, proceeded to nationalize in succession the Bank of England, coal, inland transport, gas, steel, health services, and much else. Even under the Conservatives, who reassumed power in 1951, the nationalization was only partly overturned, and the wartime (and anti-capitalist) controls on prices persisted. After a failed attempt to lift controls on sweets in 1949, rationing of them was dropped at last in February 5, 1953, as every British person born between, say, 1941 and 1949 well remembers. And yet afterwards for a while in the land of original free enterprise the sugar itself continued to be rationed.

In his 1991 essay North has a canny section describing the different fates of the lands “north and south of the Rio Grande.”<sup>82</sup> “The gradual country-by-country reversion to centralized bureaucratic control characterized Latin America in the nineteenth century.”<sup>83</sup> Yes, and then, thus enabled, in the twentieth century the Latin American states carried out disastrously Listian policies. In other words, the nation state has by no means always been good news for economic growth, and it is

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<sup>81</sup> Higgs 1997, 2006.

<sup>82</sup> North 1991, p. 110.

<sup>83</sup> North 1991, p. 111.

doubtful that Greenfeld is correct to credit the Good Nation States (namely, Britain and the United States) with modern economic growth. The Japanese and German nation states would have been much better off economically in 1945 without having had their defeated nationalisms. We all agree that abstaining from violating property rights through seizing or taxing all the gains from trade is a necessary condition for any economic growth. Witness Zimbabwean agriculture in recent times. But refraining from catastrophic intervention in the economy is not the same as being in an admirable sense “a major player in the whole process.”

It does not seem, in short, that changes in “institutions” have much to do with the Industrial Revolution. On the contrary, institutional change appears to be still another attempt to reduce a great historical surprise to a materialist routine. As Tocqueville wrote in 1834, “all the efforts in political economy seem today to be in the direction of materialism,” and so they were 1890-1980. “I would like,” he continued, “to try to introduce ideas and moral feelings as elements of prosperity and happiness.”<sup>84</sup> Just so.

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<sup>84</sup> Letter to Louis de Kergorlay, Sept. 28, 1834, quoted in Swedberg 2009, p. 3.

## Chapter 29:

### And Anyway the Entire Absence of Property is not Relevant to the Place or Period

In his book of 1999, *Property and Freedom*, the historian of Russia Richard Pipes ventures on an analysis of seventeenth-century English history with a similar pro-market purpose as North's, whose guidance, alas, he acknowledges, à la Acemoglou.<sup>85</sup> Like North and many other historians, Pipes correctly attributes the supremacy of the English Parliament to a long series of accidents in the provisioning of the monarchy. Fiscal crises, such as Charles I's crisis over "ship money" imposed on non-maritime English cities, certainly did raise up the Mother of Parliaments, for which we praise God. But Pipes, like North, then slips into the claim, which we have seen is foggily seconded by a few economic historians themselves, that the constitutional innovations of the very late seventeenth century were somehow connected with the Industrial Revolution. Indirectly they surely were, by way of the resulting freedom of discussion that made first Holland and then England into lands of innovation. But North and Pipes (and Ekelund and Tollison and Wells and Wills and Acemoglou and others who keep springing up to offer evidence beside the point), by contrast, want to claim that an alleged perfection of property rights in the

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Pipes acknowledges the advice of a small group of people (Pipes 1999, p. ix). Of the five he mentions, Richard Epstein and Mark Kishlansky get the Aunt Deirdre Seal of Approval. But on such matters not Douglass North.

late seventeenth century improved incentives. Back to Max U and the constraints on his asylum/institution.

The reason Richard Pipes, though, falls into the error of overemphasizing the Glorious Revolution is not a Northian compression of chronology but an irrelevant comparison. Quite understandably, since Russian history is his profession, he has always in mind the dismal Russian case. True, Pipes depends on surprisingly elderly historical opinion for his allegedly widespread examples outside Russia of “patrimony” – that is, in Pipes’ usage, the literal ownership of the nation by the king, contrary for example to the history of China (except for the First Emperor or the early Mongol period or other and rare upheavals) or, for that matter, the history of the ancient Israelites. His references are centered on the 1920s, and likewise throughout his book for all manner of non-Russian facts.<sup>86</sup> (He justifies his dependence on histories quite early in the professionalization of history with the surprising doctrine that historical knowledge does not advance.)<sup>87</sup>

But at least on Russia he can be taken without too many grains of salt. He argues persuasively that the development of private property was short-circuited in Russia by the Mongol invasion of 1237, which subordinated the princelings of Muscovy in the two centuries afterwards to the Golden Horde, called “Tartars.” When it first took direct control, the Horde governed from its camps on the lower

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<sup>86</sup> For example, Pipes 1999, p. 103 on Alexander’s successor states. One is startled to find the backing in the footnotes 134-137 to consist of books published in 1934, 1906 (twice), 1941, as though we have learned nothing about the Hellenistic world for 70 years.

<sup>87</sup> He defends such practices on p. 149, railing against such recent and execrable fashions in historiography as “deconstructionism” (the spelling and scare quotes are his), about which he appears to know little. “It is for this reason,” he asserts without offering evidence, “that the last word on any given historical subject is often the first.”

Volga by absolute terror, as is the habit of conquering nomads, and brooked no countervailing powers or property rights. A Timur the Lame making pyramids of 70,000 skulls in Isfahan – who by the way damagingly sideswiped the Golden Horde in 1395 on the way to his own conquests – typifies nomad warfare, reintroduced in another key by the Germans and Japanese and the Russians themselves in the 1940s.

Pipes argues that the grand princes of Muscovy and their heirs after 1547, the tsars of all the Russias, learned “patrimony” from the Mongols. Without the Mongols the old commercial tradition of Novgorod would have triumphed, he says, as similarly bourgeois habits did elsewhere in Europe. But unhappily the bourgeois habits lost out, and instead in 1478 a warlike and property-despising Muscovy annexed Novgorod, and a century later Ivan the Terrible methodically dispersed its bourgeoisie. As the leading historian of early modern Russia, the late Richard Hellie, put it, “by 1650 Moscow [that is, the Tsar personally] had nearly complete control over two of the major economic factors, land and labor, and had substantial control over the third, capital, as well.”<sup>88</sup> In early modern times the Russian state enserved the peasants just when serfdom was eroding in Western Europe. The Law Code of 1649 repealed a statute of limitations on recovering runaway serfs (compare the year-and-day custom in the West – city air makes one free). The Code “legally stratified the rest of society,” Hellie noted, “thus giving the government control over nearly all of Russia’s labor.”<sup>89</sup>

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<sup>88</sup> Hellie 2003, p. 415.

<sup>89</sup> Hellie 2003, p. 416.

“The rest of society” included its top. A mercantilist Peter the Great, and even an enlightened and physiocratic Catherine the Great, says Pipes, treated everyone in Russia from lowest to highest as in effect serfs. It was, as one aristocrat put it, “despotism tempered by assassination” (of Peter III, Paul I, Alexander II, Nicholas II). So long as the tsar survived the dagger or the pistol, everyone’s property was at his disposal. Acemoglou’s erroneous belief, acquired from North, that in *Western Europe* “economic institutions also ensured that the monarchs controlled a large fraction of the economic resources in society,” is correct for Russia – but nowhere else in Europe. Once William the Conqueror divided up the land of England among his followers, they owned it, though “of” the king. The aristocrat paid knight service, as the serf paid six capons, but knight and peasant owned the land, and bought and sold it with enthusiasm. Even the arrogant Prussian dukes-margraves-kings were limited by property and customary law. But a great Russian lord, however arrogant and French-speaking, was still merely of the “service” class.

The Pipes history of Russia fits smoothly with that of “the Steppe and the Sown” (as the title of a famous book in 1928 expressed it).<sup>90</sup> Historians such as Peter Perdue (2005), William McNeill (1964), Owen Lattimore (1942), back to the Muslim historian Ibn-Khaldūn (1377) – with the example of Timur literally before him – have emphasized the role played again and again by conquerors from the steppe.<sup>91</sup> Perdue

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<sup>90</sup> Peake and Fleure 1928.

<sup>91</sup> Perdue argues persuasively that on China’s western marches “one last nomadic state. . . held out against the military forces closing in on the steppe. . . . [The] true world historical transformation that tipped the balance against unfettered nomadism happened from 1680 to 1760,” in the victories by the gunpowder armies of the Qing (Perdue 2005, p. 11).

notes “that like good bank robbers, nomadic state builders went where the wealth was. As China centralized under a new dynasty [sometimes itself descended from the Steppe], a nomadic state often rose along with it.”<sup>92</sup> The stolid agriculturalists of Mesopotamia or Rome or the Ganges Plain or China or the Indus Valley were repeatedly subject to waves of barbarians on horses (or from dry areas, camels) riding out of central Asia, with a nautical variation on the theme around the edges, such as the barbarous Sea People in the Eastern Mediterranean in the late second millennium B.C.E. or the barbarous Vikings in Europe in the late first millennium of our era.

Richard Hellie argued that Russia became in response a “garrison state,” a modern version of Sparta, partly because the remnants of the Golden Horde “raided Russian ceaselessly in a search for slaves. . . . Had Moscow not taken effective countermeasures, all its population would have been sold through the Crimea into the slave markets of the Middle East and the Mediterranean.”<sup>93</sup> In 1942 Owen Lattimore wrote, again, that “the Manchu conquest of China in the seventeenth century was the last rush of the tide [he spoke in watery metaphors of a ‘reservoir’ of ‘border nomads’ sophisticated in the ways of both steppe and sown] whose ebb and flow along the Great Wall Frontier had been so important in working the mechanism of Chinese history.”<sup>94</sup> Until the time of the disintegration of the Golden Horde and the decline of Mughal power in India and finally the conquest of the Mongols and

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<sup>92</sup> Perdue 2003, p. 492.

<sup>93</sup> Hellie 2003, p. 415.

<sup>94</sup> Lattimore 1940, pp. 6-7.

other central Asian threats by the Qing Chinese – that is, until the coming of massed and disciplined gunpowder infantry – the wild horsemen ruled from time to time, and sometimes for quite a long time (Ibn-Khaldūn reckoned their time as forty years). If they did not become conquered in economic ideas by the city-dwelling proto-bourgeoisie they had conquered, which was what usually happened, they brought the propertyless rule of the Steppe along with them. That is Pipes’ grim claim for Russia. The Russian tsar (called today “the president,” or sometimes the “prime minister”), he argues, owned everybody, all the way up to princes of the blood and arrogant oil millionaires. “Muscovy has tried to leave its despotism,” wrote Montesquieu. “It cannot.”<sup>95</sup> Property there was no independence, as in the lands of the Sown it came gradually to be by immemorial custom.

The case of India’s Mughal emperors, ruling from 1526 until the British Raj, is instructive. They were descendents of Timur, and never lost the conviction, it is said, that having conquered northern and then all of India they owned it outright, lock, stock, and barrel. Mughal India was glorious in many ways. Yet innovation, except to serve the tastes of the Emperor and his present selection of favorites, had a thin market. South Asia, though in 1526 in many parts much more sophisticated economically than the Western infidels, remained poor while Europe began to innovate. The conventional view of the Mughals is that every citizen from highest to lowest was subject to having all his wealth taken in a trice – in order, say, to construct the Taj Mahal to commemorate the Emperor’s favorite wife. True, recent work has

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<sup>95</sup> \*\*\*find: Spirit: IV, xiv.



suggested that “earlier estimates of one-third to one-half or more [of national income flowing to the state are questionable]. . . thereby raising the issue of whether the Indo-Muslim state was, in fact, the crushing Leviathan that it has been made out to be. . . . There was . . . the growth of property rights in land.”<sup>96</sup> And after all, Bengali textiles were the wonder of the eighteenth-century world.

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But all this interesting historical assertion, whether true or false or merely Memorable, is irrelevant to explaining a change in Europe 1600-1800, or 1300-1900. The sad Russian and Mughal cases teach us that private property is essential for human flourishing beyond the patriarch’s tent. They usefully warn against a socialism that analogizes to a whole nation an idealized family (and in practice often an abusive family) – such as Papa Joe Stalin, the pipe-smoking father of the nation. But in places like Holland and Britain and France in 1600 the private property of people was solid, and sold, and neither the father nor the mother of the nation could seize it without due process of law.

Pipes himself points out that for all the talk of the divine right of kings in Western Europe in the seventeenth century, no monarch west of Russia believed he literally *owned* his subjects. Thomas More in 1516 had one of his characters in *Utopia* complain that bad counselors tell the king “that all property is in him, not excepting the very persons of his subjects: and that no man has any other property, but that

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<sup>96</sup> Wink 2003, p. 27.

which the King out of his goodness thinks fit to leave him; . . . that . . . it were his advantage that his people should have neither riches nor liberty; since . . . necessity and poverty blunt them, make them patient, beat them down, and break that height of spirit." But, he declares, "I should rise up and assert, that such councils were both unbecoming a king, and mischievous to him: and that not only his honor but his safety consisted more in his people's wealth, than in his own; if I should show that they choose a king for their own sake."<sup>97</sup> He might have added that English kings were anyway subject to law, and the bad counsel was therefore an irrelevant wish for a patrimony not in the English cards. In 1649 Charles defended himself against the Rump Parliament in the trial for his life in 1649 by declaring, quite truly, that "pretend what you will [oh Parliamentarians], I stand more for their [i.e. the people's] liberties. If power without law may alter the fundamental laws of the kingdom [for example, by executing an anointed king], I do not know what subject he is in England that can be sure of his life, or *anything he calls his own*."<sup>98</sup> At his hour of execution he said again that English law protected property against anyone, King or Commons: "liberty and freedom consists in having of government those laws by which their life and their goods may be most their own." Certainly in England, and even in "absolutist" France, private property was itself absolute against the king.

It is therefore misleading of Pipes to declare in the style of North, and contrary to his own evidence just assembled, that "thus, *in the course of the seventeenth century*, it became widely accepted in Western Europe that there exists a

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<sup>97</sup> More 1516, p. 11.

<sup>98</sup> Quoted in Blanning 2007, p. 197; the next quotation is from p. 198.

Law of Nature . . . [and that] one facet of the Law of Nature is the inviolability of property.”<sup>99</sup> It is true that more people *said* it in the seventeenth and especially in the eighteenth century, for which we are glad. Saying matters. But Pipes himself shows that the idea and especially the practice was already many centuries old, in English law, in the writings of Aquinas, and, as he notes in the paragraph preceding his Northian and behavioral declaration, in those of Seneca of Rome. Pipes had just argued that even Jean Bodin, the influential French theorist of absolutism and of the divine right of kings, declared in 1576 that private property was a law of nature, secure against the grandest sovereign, citing Seneca to the same effect.<sup>100</sup> Bodin posits no serf or service class owned by a Timur or an Ivan the Terrible. A Frenchman of the late sixteenth century was no item in the baggage of a propertyless nomad of the Steppe.

In some ways modern economies – with their gigantic governments spending half of national income, and regulating still wider fields of economic activity – create less, not more, security of property than a feudal economy with diffuse centers of power, or than an early modern state such as Stuart England with a less-than-impressive ability to tax. The fact is an historical irony on which Pipes and North and Harold Demsetz and I would doubtless agree. An American state armed with the doctrine of eminent domain and the power to tax incomes at combined rates of 35 percent, not to speak of unusual definitions of torture and the ability to tap telephones, and having a passionate desire to limit people’s consumption of

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<sup>99</sup> Pipes 1999, p. 29, my italics.

<sup>100</sup> Discussed in Pipes 1999, pp. 27-28.

recreational drugs, looks at least in the matter of state power more, not less, like the Muscovy of old than did, say, France in 1576. The economist Milton Friedman was fond of saying, “Just be glad you don’t get the government you pay for.”

To quote again the far-sighted Macaulay in 1830, against Robert Southey’s proto-socialism: Southey would suggest that “the calamities arising from the collection of wealth in the hands of a few capitalists are to be remedied by collecting it in the hands of one great capitalist, who has no conceivable motive to use it better than other capitalists, the all-devouring state.”<sup>101</sup> But in Western Europe in 1200 or 1700 a right to property that protected in Lockean fashion against an all-devouring state was nothing new. Roman law had protected property very well, and the Roman state took little more than English Stuart’s shares of national income for its purposes, 5 percent.<sup>102</sup> The Mughal state, by contrast, erected on a principle of patrimony that would look reasonable to a tyrannical socialist state nowadays, is asserted (we have seen that the assertion might be wrong) to have taken 50 percent.

Ownership anyway is not a modern idea and not an exclusively bourgeois idea, though the town-dwellers have worked most vigorously to extend the meaning of “property.” Feelings of private property are hard-wired into humans, or so anyone who has raised a two-year old would attest. Little Daniel needs to be *taught* to play nice and to share in a sweetly socialist way – his instincts are brutally selfish, the worst of capitalism, very much more interested in Mine than in Thine. The economist Herbert Gintis speaks of a “private property equilibrium,” noting

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<sup>101</sup> Macaulay 1830, p. 183.

<sup>102</sup> Goldsmith 1984, p. 283.

that “preinstitutional ‘natural’ private property has been observed in many species, in the form of the recognition of territorial possession.”<sup>103</sup> Indeed, a classic 1976 paper in evolutionary biology by John Maynard Smith and Geoffrey A. Parker spoke of an evolutionary stable strategy as “bourgeois” (following the marxoid assumption widespread among the clerisy of the day that so far as humans are concerned private property is a new and novel stage of history) if existing property among animals was used to settle disputes. A speckled wood butterfly, *Pararge aegeria*, intruding in a wood on a patch of sunlight on ground already the property of another speckled wood butterfly would be inclined by evolution to yield. Gintis makes the Smith-Parker argument more precise and brings to bear other evidence that animals and two-year old humans in fact have incentives to take a “bourgeois” attitude towards property, whether or not Leviathan enforces property rights.<sup>104</sup> And repeatedly it has been observed that when property comes to matter – that is, when the beaver or the acre of land or the right to take water from the Colorado River becomes valuable enough that its misallocation would cause substantial social loss – even a communalist or tyrannical government will often start enforcing its privateness.<sup>105</sup> It does so unless, indeed, it is under the influence of some anti-bourgeois rhetoric, such as the fierce personal loyalty of the Steppe horseman to his chief, or the collectivist, Romantic, post-Christian, and pseudo-familial dreams of

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<sup>103</sup> Gintis 2006, p. 2.

<sup>104</sup> Gintis 2006, p. 7. On the other hand, Alan Grafen argued plausibly in 1987 that an intruder who will never get a place in the sun if he does not fight the bourgeois (and who, if not fought, will be possession of the place for a long time becomes a desperado (the Spanish means “hopeless one”), having every evolutionary (and revolutionary) incentive to expropriate the expropriators.

<sup>105</sup> See for example, among a large literature, Carlos and Lewis 1999 and Anderson and Hill 2004.

nineteenth-century Europeans, bearing fruit in twentieth-century authoritarianism of *der Führer* or the General Secretary.

As an example of the scientific missteps in this literature, consider the famous “tragedy of the commons” on which in 1968 Garrett Hardin wrote (in aid, it should be remembered, of an authoritarian proposition usual in his time – and persisting still among radical environmentalists – that freedom to have a family is intolerable and that population policy should be, as he put it, “mutual coercion mutually agreed upon”).<sup>106</sup> True, as Hardin asserted, if villages in Europe allowed the common fields to be overstocked, there would be a loss of efficiency, because the sheep and cattle would tread down the grass, and eat up the early shoots renewing it. But the villagers in question, not surprisingly, understood the point as well as modern academics do, maybe even better, and to prevent the loss they introduced limitations (“stinting”). The loss from not stinting the commons would be gigantic at small numbers of grazers if, as Hardin assumes, each grazer acts as a Cournot oligopolist, that is, if he idiotically ignores the response of others when he puts an extra cow on the commons.<sup>107</sup> Hardin admits that “in an approximate way, the logic of the commons has been understood for a long time, perhaps since the discovery of agriculture or the invention of private property in real estate.” Perhaps. And perhaps it was understood even among hunter-gatherers irritated by the

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<sup>106</sup> Hardin 1968.

<sup>107</sup> “Since, however, the effects of overgrazing are shared by all the herdsmen, the negative utility for any particular decisionmaking herdsman is only a fraction of 1.” The mathematics works out to a rather large fraction of 1 if N is small.

overharvesting of deer by a competing tribe. Hardin's sole empirical argument for the relevance of his posited régime of non-property-even-when-it-matters is that still "at this late date, cattlemen leasing national land on the Western ranges demonstrate no more than an ambivalent understanding, in constantly pressuring federal authorities to increase the head count to the point where overgrazing produces erosion and weed-dominance." Of course they do: they are farming the government, not merely the pastures, and the public lands are therefore nowadays overgrazed. But in olden days, such as the days of open-field agriculture, the land was private or was regulated when it mattered. And in any case, as the political scientist Elinor Ostrom has shown repeatedly, people cooperate, too: they do not always defect from the common good, as assumed by Hardin.<sup>108</sup> It is one of the main findings of experimental economics that people cooperate much more than the prudence-only model Hardin was using would imply. Anyone who troubles to examine local regulations or legal cases in the not-so-wild West, or in English villages in the fourteenth century, will find stinting enforced.<sup>109</sup> Hardin, though an impressive scholar in some other ways, appears not to have looked into the evidence.

Likewise, if you look into the national and local regulations and legal cases in thirteenth century England you will find private property enforced – and never mind the alternative of "preinstitutional 'natural' private property" enforced by

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<sup>108</sup> Ostrom 1990. The matter is to be discussed at length in Bowles and Gintis, *A Cooperative Species* (forthcoming).

<sup>109</sup> Anderson and Hill 2004; McCloskey 1991b, esp. pp. 348-350.

shame and ostracism that Gintis talks about. North, though an impressive scholar in some other ways, appears not to have looked into the evidence. The legal historian Harold Berman, whom North might have consulted, and on whom Pipes wisely depends, has no doubts on the matter: “Modern English, German, French, Italian, Swedish, Dutch, Polish, and other national European legal systems were initially formed in the twelfth and thirteenth centuries under the influence . . . of the new canon law. . . [and] of the discovery . . . [of] Justinian’s Roman law and of the parallel . . . development of systems of [law] . . . not covered by canon law,” such as the law merchant. The medieval foundations survived. “For example,” Berman goes on to say, “the elaborate rules of contract law and of credit transactions . . . survived successive economic changes and were an essential foundation of the laissez-faire capitalist economy that emerged in the nineteenth century.”<sup>110</sup>

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<sup>110</sup> Berman 2003, p. 377; compare p. ix. Berman is heavily relied on by Depak Lal 1998 and 2006.



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