

Why Neo-Institutionalism Can't Explain the Modern World: A Pamphlet

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Chapter 33 Institutions Cannot Be Viewed Merely as Incentive-Providing Constraints

Douglass North (b. 1920) is an astonishing economist and historian who has repeatedly reinvented himself. The heir to an insurance fortune, merchant seaman during the War, apprentice photographer to Dorothea Lange, deep-sea fishing buddy of the pop singer 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.¹

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

1. It is perhaps worth noting that the citation for the prize (which I partly wrote) does *not* praise the work I am criticizing here, but North's earlier and more strictly cliometric work.

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 the 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.”² The economist Deepak Lal says in similar terms that the “institutional infrastructure. . . consists of informal constraints like cultural norms. . . and the more formal ones.”³ Steven Levitt and Stephen Dubner write in their second “freakonomics” book that “people are people, and they respond to incentives. They can nearly always be manipulated—for good or ill—if only you find the right levers.”⁴ That’s how recent economists have come to think of laws, churches, manners, families, companies. Levers. Manipulations. The words “constraints” and “incentives” here matter a lot, because North and Lal and Levitt mean what all Samuelsonian economists mean by them. (North and Lal and Levitt are Samuelsonian economists right down to their wing-tipped shoes.) Consumers and producers, the economists say, maximize utility “subject to constraints,” or “in view of the incentives,” 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, and the story of the other Samuelsonians, is always Max U, that unlovely maximizer of Utility, *Homo prudens*, the prudent human—never *Homo ludens* (the playful human, whom the economists Schumpeter and Knight emphasized) or *Homo faber* (the making human, Marx’s man) or *Homo hierarchus* (the ranking human, irritating to Veblen and recently to the economists Hirsch and Frank) or, as I and most noneconomist social scientists would claim, *Homo loquens*, the speaking human.

“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

2. North 1991, p. 97, and everywhere in his writings since the 1980s.

3. Lal 2006, p. 151.

4. Levitt and Dubner 2009, p. 125.

life after Samuelson is to watch Mr. Max U coldly *Max*-imizing a *Utility* function, $U(X, Y)$. Ha, ha. Max U is a pot-of-pleasure sort of fellow. He cares only for the virtue of prudence, and “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 wrote truly 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.”⁵ 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 having strong feelings about not disputing the hypothesis of not having strong feelings, and being passionately in favor of coldly calculating. The American economist J. N. Clark called it long ago the “irrational passion for dispassionate rationality.” But rhetorical consistency is not a strong point of Samuelsonian economics.)

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.”⁶ And as a second cut, and a third. 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 Levitt and other economists do not usually notice that other observers of society emphatically do not agree with the Samuelsonian metaphor of “constraint” or “incentive.” The noneconomists think of cultural rhetoric, like language, as simultaneously constraint and creation, as an incentive and an impulse, as a negotiation and an art, as a community and a conversation. Institutions do not merely constrain human behavior, giving prices to which people have an incentive to respond. They express humanness, giving it meaning.

Levitt and Dubner — though on balance, I guess, a force for good in stretching economics, and explaining the stretch to noneconomists — miss the point. They drag all human behavior under the lamppost of “incentives” simply by defining all of it as

5. Butler 1912, p. 263.

6. Lal 2006, p. 151.

“rational.” They declare that “human behavior is influenced by a dazzlingly complex set of *incentives*, social norms, framing references, and the lessons gleaned from past experience, in a word, context. We act as we do because, *from the choices and incentives at play* in a particular circumstance, *it seems most productive* to act that way. This is also known as rational behavior, which is what economics is all about.”⁷ Yes, it is what Samuelsonian economics is all about. And that’s the problem, because it ain’t so.

When we buy a car or go to a prostitute it is sometimes useful to frame it as rational, a case of “we act as we do because. . . it seems most productive.” Fine. But wait a minute. The “framing references” are what sociology is all about, which leaves “incentives” aside. When the social values change fast—as they did in the early years of the Bourgeois Revaluation, for example, or in the 1960s—they become the relevant scientific explanations. When a stone is falling in quicksand rather than air at sea level, the 32 feet per second squared is not the relevant figure for its acceleration. To assume that the quicksand behaves like air because the assumption is convenient, or because Lucas or Mas-Colell have taught it to us in our first year graduate program, is not science. It is dogma. When the demand curve for investments is stable, then marching down the demand curve in response to incentives such as foreign trade is the correct scientific story. But if the demand curve is whizzing out for sociological or political reasons, leading to massive innovation, the story of incentives is for the most part scientifically irrelevant. If the ideology of labor force participation by women quickly changes, as it did in the 1960s, then the ideology should be emphasized, rather than merely routine matters of supply and demand.⁸

Levitt and Dubner in the same chapter give a lucid description of the results from economic experiments, especially by John List. But they don’t realize that their examples, and especially List’s, point to the importance of how people talk to themselves or others about “context” or “a particular circumstance.” The police in the notorious Kitty Genovese murder of 1964, Levitt and Dubner argue, lied in order to cover up their unhurried response to the emergency calls (calls from neighbors, reported in the *New York Times* story as not happening at all)—the police of course had an “incentive” to do so, and the journalists involved had “incentives” to lie about the police in order to draw attention to what they wished to see as the horrible decline of social ethics during the disturbing 1960s. But the very facts show that people are self-constructing beings—in this case the police constructing stories on the spot about “merely a domestic dispute” and later “our loyalties to one another as members of the force,” and two weeks later the journalists literally constructing the story within larger

7. Levitt and Dubner 2009, p. 122, italics supplied.

8. See for example McCloskey 2001.

stories about the decline of social cohesion, or a story of their journalistic professionalism, or lack of it.

Behavior is sometimes best described scientifically as being about incentives given to the social actors. But sometimes it is best described as Second-City improvisational comedy, with or without suggestions from the audience. The joke is on the economist. Rakesh Khurana, for instance, gives a typically sociological definition of institutions as “complex and interacting system of norms, structures, and cultural understandings that shape individual and organizational behavior.”⁹ That’s not a budget line facing someone who can tell at once and easily what it is that pleases him. 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.¹⁰ You don’t only get to a higher level of utility if you can name (on a pop quiz set by the sociologist) the composer of *The Well-Tempered Clavier*. By doing so 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. “Johann Sebastian Bach.” “Ah, one of Us. Welcome.”

The historian Margaret Jacob has characterized the economic, “instrumental” view, by contrast, as imagining “de-cultured free and free-willed agents [who] naturally pursue their self-interest.” The economic notion of “institution” understood as “constraints” was studied by the sociologist Erving Goffman. He spoke of “the social situation of mental patients and other inmates,” under constraints “imposed from above by a system of explicit formal rulings and a body of officials.”¹¹ 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 (Goffman: “Society is an insane asylum run by the inmates”). North’s asylum talk, and the talk of the other Samuelsonian economists about “incentives” being the same as “institutions,” puts one in mind of the American comedian Mae West: “I admire the institution of marriage. But I’m not ready for an institution.”

North speaks highly of the anthropologist the late Clifford Geertz. It is hard not to. North reads Geertz and his coauthors, though, 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.” North 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

9. Khurana 2007, p. 5.

10. Bourdieu 1979 (1984).

11. Goffman 1961, subtitle and p. 7.

external impediments to action, between the dignity of a self-shaping citizen-not-a-slave and the merely utilitarian “constraints.” The toll for safe passage in the deserts of Morocco, Geertz and his coauthors 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 incentive, an “institution” in the reduced definition of Samuelsonian economics. “It was part of a whole complex,” the anthropologists actually wrote, “of *moral rituals*, customs with the force of law and the weight of *sanctity*.”¹²

“Sanctity” doesn’t mean anything to North the economist, who for example in a 2005 book treats religion with an unlettered contempt worthy of Richard Dawkins or Christopher Hitchens (“Ditchkins,” says Terry Eagleton).¹³ Religion to North means just another “institution” in his utilitarian, subject-to-constraints sense, that is, rules for an asylum. He labels religion repeatedly “nonrational.” 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 ongoing intellectual and rational conversation about God’s love, not to speak of an ongoing 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 North agrees with the astonishing economist Laurence Iannaccone and his followers when they come to study religion—religion to them is a social club, with costs and benefits, not an identity or a conversation.¹⁴ (Anyone who has actually belonged to a social club, of course, knows that it soon develops into “moral rituals, customs with the force of law and the weight of sanctity.” I could instance as such a club the Chicago School of economics during its great days in the 1970s. One of our sanctified rituals was to repeat *De gustibus non est disputandum*, while passionately advocating a very particular intellectual *gustus*.)¹⁵ North asserts, for example, that in a prelegal stage “religious precepts. . . imposed standards of conduct on the [business] players.”¹⁶ He spurns the worldview that goes

12. Geertz, Geertz, and Rosen 1979, p. 137; quoted in North 1991, p. 104, italics supplied.

13. North 2005, for example, pp. 16 (“non-rational explanations embodied in witchcraft, magic, religions”), 18–19 (“non-rational beliefs. . . belief in religions is illustration”), 30, 40 (“superstitions, myths, dogmas, and religions”), 41 (“non-rational and supernatural beliefs”), 42, 44, 45, 72, 83, 102, 167, and elsewhere, always in repeated incantations. One is led to ask who is “irrational,” the village atheist with incantations formulated at age fourteen and unamended by any later study on the one hand; or St. Thomas Aquinas, Richard Hooker, and Martin Buber on the other. Stanley Fish called Dawkins and Hitchens “Ditchkins” in a *New York Times* column in May 2009, commenting on Eagleton 2009.

14. Iannaccone, who is a good friend of mine, is more sophisticated than his theory: he does not carry the theory into his own church, and has worried deeply about the limits of the Beckerian model he employs.

15. Becker and Stigler 1977.

16. North 1991, p. 99.

with religious faith. (His own religion of Science, of course, is in fact nothing like a mere constraint. He construes it as his 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.)

The economic historian Avner Greif, North's ally in what is known as the New Institutionalism, calls culture "informal institutions," and North tries to talk this way as well. The "informality," however, would make such "institutions" very different from asylum-type "rules of the game." One does not negotiate the rules of chess. But informality *is* continuously negotiated—that is what the word "informality" means, exactly the degree of setting aside rules that distinguishes a backyard barbecue from a state dinner. How to behave at the barbecue? (Hint: do not jump naked into the bushes.) 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 in such cases makes the Samuelsonian metaphor of constraints inapt. One does not have to deny that an ethical persuasion is often influenced by incentives to believe that once it becomes part of a person's identity it has an effect independent of incentives. Once someone is corrupted by life in a communist country, for example, it is hard to reset her ethics. She goes on relying on the "bureau" model of human interaction as against the market. Once you are educated in Samuelsonian economics it is hard to reset your intellectual life. You go on thinking of every social situation in terms of Max U's mechanical reaction instead of a socially constructed dance. But the Geertzian metaphor of negotiation and ritual often makes more sense.¹⁷ "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 and the old institutionalists managed to escape, Houdini-like, from the straightjacket that Douglass North, Gary Becker, Deepak Lal, Avner Greif, Steven Levitt, Max U, and their friends have so eagerly donned. The Austrian economist Ludwig Lachmann (1906–1990), for example, spoke of "certain superindividual 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."¹⁸ 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.

17. Compare Hiser 2003.

18. Lachmann 1977, p. 62, quoted in Boettke and Storr 2002, p. 171.

North, like the numerous other economists such as Levitt who have settled into the straightjacket, talks a good deal about meaning-free “incentives,” because that is what Samuelsonian economics can deal with. The constraints. The budget lines. The relative price. Yet one can agree that when the price of crime goes up (that is, the incentives change in the direction of, say, harsher punishment) less of it will be supplied, yet nonetheless affirm that crime is more than a passionless business proposition. (If you don’t believe it, tune into one of the numerous prison reality shows, and watch the inmates struggling with the guards, with mad purpose though prudent means; or listen to Ishmael on Captain Ahab: “in his heart, Ahab had some glimpse of this, namely: all my means are sane, my motive and my object mad.”) The Broken Windows Effect is that major crime goes down if you punish immediately 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.¹⁹ If crime is more than utterly passionless calculations by Max U, then changing the ethics of criminals and their acquaintances 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” consumer durables such as refrigerators have been useful. Neat stuff. But they don’t do the whole job.

Prudence is a virtue. It is a virtue characteristic of a human seeking purely monetary profit—but also of a rat seeking cheese and of a blade of grass seeking light. Consider that temperance and courage and love and justice and hope and faith are also virtues, and that they are the ones defining of humans. Unlike prudence, which characterizes every form of life and quasi-life down to bacteria and viruses, the nonprudence virtues are characteristic of humans uniquely, and of human languages and meanings. In no sense is a prudent blade of grass “courageous,” or a prudent rat “faithful” (outside of the movie *Ratatouille*, whose humor turns on the irony of the rat hero being more faithful, and less motivated by Prudence Only, than many of the humans). As Hugo de Groot, Grotius, put it in 1625, “The saying that every creature is led by nature to seek its own private advantage, expressed thus universally, must not be granted. . . . [The human animal] has received from nature a peculiar instrument, that is, the use of speech; I say that he has besides that a faculty of knowing and acting according to some general principles; so that what relates to this faculty is not common to all animals, but properly and peculiarly agrees to mankind.”²⁰ North, however, will

19. Kelling and Wilson 1982; Keizer et al. 2008.

20. Grotius 1625, propositions vi and vii.

have none of human speech and meanings and acting according to some general principle aside from one's own private interest. His positivistic talk about "constraints" and "rules of the game" misses what he could have learned from Geertz, Weber, Smith, Aquinas, Cicero, Confucius, Moses, or his mother (North's mother, or Moses'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.²¹

Take for example so trivial an institution for providing incentives as a traffic light.²² 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 demands to know 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 your 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.

Yet the red light has meaning to humans, who are more than rats in a Prudence Only experiment facing food incentives. Among other things it means state dominance over drivers. It signals the presence of civilization, and the legitimacy granted to the state that a civilization entails. (Test: you are struggling through a pathless jungle and come upon. . . a traffic light: "Mr. Civilization, I presume.") 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 toward the state, toward mechanical inventions, toward 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 3:00 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.

21. Lachmann 1977, p. 141; quoted in Boettke and Storr 2002, p. 171.

22. I learned after I wrote this that Erving Goffman in 1971 made the same point about traffic lights. Behavior is not just behavior. To the people involved, in the situation they believe they are in, it has meaning.

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.”²³ 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 (and after him George Akerlof and Robert Shiller) called “animal spirits” and what Sen calls “commitment” and what I call “virtues and corresponding vices other than Prudence Only.”²⁴

Or take the governance of the modern American corporation. Rakesh Khurana shows that the “agency theory” of the economists in business schools replaced after the 1970s the “managerialist ideology” that had provided the very reason for business schools in the first place:

Agency theory dissolved the idea that executives should be held—on the basis of notions such as stewardship, stakeholder interests, or promotion of the common good—to any standard stricter than sheer self-interest. How could they if they were incapable of adhering to such a standard in the first place? Students were now taught that managers, as a matter of *economic principle*, could not be trusted: in the words of Oliver Williamson, they were “opportunistic with guile.” . . . [Agency theory, Khurana continues,] represented, within the confines of a “professional school,” a thorough repudiation of professionalism.²⁵

Agency theory in the business-school form can be dated from an article by Milton Friedman, reprinted in the *New York Times* magazine in 1970, with a truncated title supplied by the editors: “The Social Responsibility of Business Is to Increase Its Profits.” Khurana cites Michael Jensen, one of the chief proponents of the new and corrosive theory, as taking Friedman’s article as the manifesto of the movement—though, by the way, Khurana and Jensen and most other people have read too hurriedly the crucial sentence, in which Friedman says that managers should increase the stock value of the firm *subject to the norms and laws of the society*—which is a rather different principle than “the public be damned.” They might better have read Friedman—or Mill, or Smith—more widely.

23. Aaron Keuhn, letter to the editor, *Chicago Tribune*, March 7, 2008, p. 20.

24. Keynes 1936, pp. 161–162; compare pp. 157, 170; Akerlof and Shiller 2009, p. 1; Sen 1985.

25. Khurana 2007, pp. 323–324. My thanks to Eduard Bonet of the Escuela Superior de Administración y Dirección de Empresas in Barcelona for drawing my attention to this fine book.

Yet the tendency in the Chicago School of the 1970s cannot be doubted. The same notion that all actors are creatures of Prudence Only had animated the “public choice school” founded at the University of Virginia a decade earlier by James Buchanan (PhD Chicago) and Gordon Tullock (JD, and honorary doctorate in economics, Chicago). It animated, too, the “property-rights” economics inspired by Ronald Coase (who was a bridge between Virginia and the University of Chicago), and perfected by Armen Alchian of UCLA and Harold Demsetz of Chicago and then UCLA. Prudence Only lies behind the cynical interpretation of professionalism by Reuben Kessel at Chicago (left-wing sociologists such as Randall Collins and Magali Larson agreed: the left and the right joined in saying that doctors operate on one’s wallet). The “law and economics” movement founded then by Coase, Aaron Director (Friedman’s brother-in-law, and long at the Law School of the University of Chicago), and in extreme Max U form by Richard Posner (at Chicago and judge of the Seventh Circuit Court) takes Prudence Only as its motto, as does the “economic theory of regulation” founded again in the 1970s by George Stigler and Sam Peltzman at Chicago (with helpful supplements from the left by the historian Gabriel Kolko). My own school of “new economic history,” invented by North at Washington (another Chicago School department at the time) and by Fogel, who was at Rochester (still another Chicago School department) and then at Chicago itself, tried to find out how far Prudence Only would go in history (Fogel at length concluded: only so far). The “quantitative finance” invented in the 1970s by Robert Merton at Pennsylvania and by Myron Scholes and Fischer Black at Chicago was another influential venture in agency theory and Prudence Only. The “new labor economics” was, too, invented in the 1970s by Jacob Mincer at Columbia and H. Gregg Lewis at Chicago and Gary Becker at Chicago and Columbia and then Chicago again. And the “rational expectations” approach to macroeconomics founded in the 1970s by Thomas Sargent at Minnesota and Robert Lucas at Carnegie and then Chicago brought Max U into the economics of business cycles and inflation. (You can see from the shower of “Chicago” and “the 1970s” in the list why the University of Chicago during the 1970s was the most exciting place for a young economist to work, comparable to Cambridge, England during the 1930s in its effect on the science. All the Chicago economists strode past meaning—love, temperance, courage, justice, faith, hope—and fixed on the individual agent’s prudent self-interest, like a prudent blade of grass. In his study of marriage, for example, Becker elevated self-interested exchange between agents he called “M” and “F” to the whole purpose of the institution, and put the word “love” in scare quotes.)

Yet meaning matters in business as much as love in a marriage or courage in an army or justice in a court of law. “The [agency] theory,” Khurana notes, “has nothing to say about the stubborn, unavoidable fact that agents remain in touch with one another

within an organization, and that this contact—like other sustained human contact—becomes layered with affect, content, and meaning.”²⁶ Remember the club and its sacred rules. On the contrary, declared the economists teaching in business schools from the 1970s on: Align the incentives of managers with the interests of the stockholders. That is all ye know on earth, and all ye need to know. The Great Recession gave us all some perspective on how agency theory works.

Khurana does not mention, however, the deepest problem in agency theory in any of its forms (public choice, law and economics, finance, whatever). It declares that one has an “obligation” to make profit (and further that the economic analyst has an “obligation” to articulate such a theory, always, and has an “obligation” not to talk about the ethics of managerial or scientific obligation, since these are matters of value about which one has an obligation not to dispute). But where does the obligation come from? It comes in fact from the ethical responsibilities of a manager to her professionalism, her stewardship, her stakeholders’ interests, or her promotion of the common good. The agent is not a pure Prudence Only, Max U creature after all. In the very theory that denies ethics to the agent she is imagined to be driven by an ethic, albeit a tacit and abbreviated one. Immanuel Kant fell into a similar self-contradiction when he claimed to base ethics on reason alone, yet gave no account of the reasons an agent would *want* to act on reason.²⁷ In truth, the agent wants to act because she attributes meaning to her life, as a manager or a civil servant or an economist or an ethical philosopher. She is a human with an identity, not a Max U calculating machine like grass or bacteria or rats. Ask any businessperson. I know personally a very successful one, a banker, who tells me that she has never been good at “saluting,” that is, going along with whatever imprudent or unjust plan her boss proposes. She’s not a yes-woman, and is valuable in some businesses precisely because of that ethical identity beyond Maxine U. It’s not always good for her career, not always maximizing her personal prudence. But she can look at herself in the mirror in the morning.

Or take a still more elevated issue, that of liberty. The neo-Roman theory that the intellectual historian Quentin 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 (but not in England) from the twelfth century on of Roman law. Macfarlane

26. Khurana 2007, p. 325, a bow to the liberal discourse theory that I among many others would stress. Khurana adds that an organization also involves “power, coercion, and exploitation,” which is a bow to Marxist conflict theory.

27. I discuss the point about Kant in McCloskey 2006a, pp. 179–280, 338.

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 [the rigidities of inherited] ‘status.’”²⁸ “The Roman law,” wrote Tocqueville bitterly, “was a slave law.”²⁹ The *neo*-Roman theorists of liberty attacked the assignment of hierarchical status that has so long defaced the Roman legal tradition. That a person had the status of a slave in Roman law was itself an insult, no matter how cleverly he could manipulate his master to achieve maximum utility, in the style of Roman comedies down to *The Comedy of Errors*, *The Marriage of Figaro*, and *A Funny Thing Happened on the Way to the Forum*. Liberty in a 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 a wife in a marriage. By contrast, 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 John Milton (though no feminist) in his first treatise on divorce.

North (like me a Chicago School economist) adopts unawares a liberal and consequentialist, as against what Skinner calls a neo-Roman, theory of constraints. The “liberal” notion of unfreedom, in this terminology, looks only at the actually exercised external impediments to action by solely self-interested agents, such as a prohibition on slave marriage or the demand by a landlord to vote for him for Parliament.³⁰ By contrast, the neo-Roman English theorists of liberty just before Locke, such as John Milton, James Harrington, and Algernon Sidney, with echoes and restorations later (Thomas Jefferson, for example, though a driver of slaves), noted that mere dependency itself was a scandal—even though a potential rather than an exercised impediment.

An actual impediment is a constraint, à la Max U. A potential impediment is a symbol and a shame, not captured by the meaning-less notion of a constraint or an alignment of incentives. It would often show itself, for example, through internalized self-contempt. It would show itself as self-censorship in a royal court, or as the dependency of a democratic mob on employers or advertisers. “Nothing denotes a slave,” wrote Sidney in reply to the advocates 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 of liberty is the *potential* for damage (not the actual damages emphasized in liberal utilitarianism). It is a matter of meaning, of dignity, not budget constraints. Robert Burns sang, “The coward slave we pass him by: / We dare

28. Macfarlane 2000, p. 278.

29. Tocqueville 1856 (1955), p. 223.

30. Skinner 1998, p. 98, from where my learning below comes.

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. He died for meaning and morality, not for Prudence Only and incentives.

Chapter 34

And So the Better Institutions, Such as Those Alleged for 1689, Don't Explain

In any event, with the Max U Only character in hand Douglass 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.”¹ The question, North observes, is whether Max U’s “investment” will be in sharp swords with which to steal money, or in efficient 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. On the way to pointing out the problem, however, he and his school commit a logical error, begging the question. “Economic history,” North declares, “is overwhelmingly a story of economies that failed to produce a set of economic rules of the game (with enforcement) that induce sustained economic growth.”² The phrase “that induce sustained economic growth” makes the argument circular. 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”—did make the Industrial Revolution. The argument is immune to refutation, because he is only concerned with changes in property rights that (he assumes without evidence) did in fact cause the Industrial Revolution.³ North is *assuming* that sustained economic growth was caused by changes in rules/institutions, rather than by investment or by foreign trade or, more plausibly, by ideological development.

Making his statement into a meaningful hypothesis requires splitting it in two.

1. North 1991, p. 101.

2. North 1991, p. 98.

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

Make part 1 into an empirical statement that “many economies failed to make rules,” adding some factual standard for knowing when a rule has been sufficiently “made.” (Which is going to be hard, because all societies have rules.) Then one could ask in part 2 whether “the change in rules in, say, seventeenth-century England was large enough to actually induce sustained economic growth.” (Which is going to be harder.)

North’s main example of growth-inducing institutions is 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 the relaxing of constraints, too, North wants to make endogenous, caused by the very growth. “Cuter,” say the economists in their charmingly innocent way. The Max U merchant’s “investment in knowledge and skills would gradually and incrementally alter the basic institutional framework.”⁴ Cool.

North’s endogenous story (he also has an exogenous one) resembles that of his friend Braudel. Braudel argued, as we have seen, that out of local markets there came, with the expansion of trade, the age of high commerce, and that out of the age of high commerce there 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.”⁵ Braudel was less celebratory than North has been about the progress from local to worldwide 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.”⁶ “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.”⁷ 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

4. North 1991, p. 109.

5. North 1991, p. 105.

6. North 1991, p. 106.

7. North 1991, p. 106.

increasing its volume.”⁸ The growth is endogenous because it is generated inside the economic sphere itself. Growth leads to growth, which leads to. . . growth. Neat.

But North’s story tells of *routine* search for better institutions. The search is “routine” because it is a pretty much predictable result of investment. If you reorganize at great expense the docklands of London, and arrange to collect some of the gain for yourself, then you or your heirs will reap the accounting profit. The society-wide economic gains, from which you extract some accounting profit, are that traffic gets in and out of port with less delay. Ropes and sails and ship timbers are more readily available. Information about cargoes coming and going is 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 sometimes make a error, and over- or underinvest in the new docks, or fail to secure your claim to some of the profits. But the prospect of net profit, while not perfectly predictable, is what motivates you in such a routine investment. There is only a small element of discovery and glory. 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, as I’ve said, 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.”⁹ The claim is that we grew as rich as we are by simply piling brick on brick, or in this case contract on contract. It was I have noted the usual way of thinking in economics from Smith in 1776 through 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.

8. North 1991, p. 107.

9. North 1991, p. 109

And that's the other, historical, problem, as I've also said. 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 at a time, and often for centuries. Its foreign trade was enormous. In the Roman Empire, likewise, the disturbances were usually palace uprisings in the city of Rome or battles out on the Germanic or Parthian frontier, minor matters economically speaking—nothing like the economy-disturbing invasions and especially plagues that finally overcame the West. The ancient Egyptians, too, had command over resources and had famously stable regimes. The Muslim empires in the two centuries after Muhammad grew at gigantic rates, in extent and in economies of scale. The Aztecs and before them the Maya had great trading empires, as did earlier civilizations still to be explored in the New World. All these became brilliant in economy and culture—yet nothing like to the startling degree of northwestern and then all of Europe 1700–2000 CE. 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? If the causes of growth are endogenous, as against "exogenous" (the Greek means "outwardly born"), then why didn't the same institutional changes happen in Egypt under the pharaohs, or for that matter in Peru under the Incas?

Endogeneity aside, North and numerous economists after him have focused, too, on the exogenous accident of the Glorious Revolution of 1688 and its settlement in 1689. North praises, as would many economists, including me, a "credible commitment to secure property rights."¹⁰ 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, 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."¹¹ It doesn't seem so. It shows rather how a state can become powerful by reliably paying its debts to citizens and to foreigners, as Venice, Genoa, Lübeck, Hamburg, and the Dutch Republic had long shown.¹² Continentals were stunned when well-financed British armies of conquest and occupation such as the Duke of Marlborough's *paid* for their supplies instead of simply stealing them. The novel and bourgeois practice gradually changed the image of Englishmen from barbarity to gentlemanliness.¹³ But Robert Ekelund, in

10. North 1991, p. 101.

11. North and Weingast 1989, p. 831.

12. Israel 1989, p. 412.

13. Langford 2000, pp. 140–141.

the style of North, claims that “the credible commitments. . . were required of new institutions [namely, the English and then British national debt]. . . [and led] to modern capitalism.”¹⁴ 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 event may have been weighed, perhaps with less trouble, by wallowing a bit in the cultural mud of novels and newspapers and street ballads. Concerning the Jacobites, for example, one of the ballads sang, “To England then they went, / And Carlisle they ta’en’t [took it], / The Crown they fain would ha’en’t [have it], / but behold”). In supporting North and Weingast, however, Wells and Wills 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.”¹⁵ 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 promptly did. But the first half is at best unproven by any of the analytic narratives offered in its favor. In the subtitle of their paper Wells and Wills summarize how they see the threats from the Old and New Pretender out of France 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. In 1931 those founts of historical wisdom, Sellar and Yeatman, well anticipated the resulting mishmash: “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.”¹⁶

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 the bourgeois and Dutch method of drilling for loans, and building the Bank of England to refine them in. A historian of the English Parliament noted of its new transcendent power that “despotic power was only available intermittently before 1688, but it was always available thereafter.”¹⁷ Despotic power can be misused, to kill economic growth and political liberty. That after all was what the ideologists of the

14. Ekelund 2003, p. 366.

15. Wells and Wills 2000, p. 418.

16. Sellar and Yeatman 1931, p. 77.

17. Hoppit 1996, p. 126.

Glorious Revolution from Locke to Macaulay were chiefly worried about. 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.”¹⁸ 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. Good on them. But it is not the economy and it is not the modern world. As many histories do, the argument confuses economic enrichment with military victory.

What did matter was a change in political and economic rhetoric occurring 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 three Anglo-Dutch wars of 1652–1654, 1665–1667, 1672–1674 (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, and erroneous], are wont to inspire. . . was obtained by the memorable Revolution of 1688, which completed. . . a government of a more popular nature.”¹⁹ Secure possession of property is necessary. But it had little to do with the financial innovations that North and Weingast stress, or with the political liberty that Millar and other Whigs 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.

But there is a deeper problem with North’s glorification of the Glorious Revolution. It is: numerous societies—in fact, all of them, or else they are not societies but wars of all against all—have produced rules of property. The Code of Hammurabi early in the second millennium BCE did so. English kings, to leap over millennia of strict enforcement of property rights by Chinese and Romans, asserted in the Middle Ages the primacy of royal courts for free men over local and sometimes arbitrary authority. And the barons and the petty lords themselves were bound by traditional law, often bound hand and foot (as discovered for example in recent research by the historian and geographer of medieval agriculture, Bruce Campbell). 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 BCE, “The good man is perished out of the earth: and there is none

18. Reinhart and Rogoff 2008, p. 53.

19. Millar 1787 (1803), chap. 3.

upright among men: they all 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." 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.

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 when outside their own highly structured society in Norway—going with whatever maximized material utility on the coast of Ireland or the lands of the Rus. Thus A. A. Milne's "Bad Sir Brian Botany" "went among the villagers and blipped them on the head." Yet he 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.

The trouble is that it had already happened centuries before—that shift to good Sir Botany, with episodes of reversion to type. A lack of defined property perhaps characterizes some parts of Europe during the ninth century (though consider the ordered realms of Charlemagne or Alfred the Great) but certainly not England in the seventeenth century, as North to the contrary claims. 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, ending blipping on the head. Violent rent-seeking in North's unhistorical account is supposed to have happened in the seventeenth century in, of all unlikely places, England. As late as the seventeenth century in England, North is claiming, Max U saw his best chance in violence, 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 were pursued by the hue and cry: "Out! Out!" England (and every other civilized country) was drenched in laws, of property and tort and merchants and what you will, in manorial courts and the king's courts.

That is not to say that the law was perfectly just or prompt. It became especially unjust and unprompt in periods of quarrels over who would be king. A chronicler in 1457 early in the Wars of the Roses versified on the matter: "In every shire with Jacks and salets clean / Misrule doth rise, and maketh neighbors war; / The weaker goeth beneath, as oft is seen, / The mightiest his quarrel will prefer."²⁰ In 1459 the Commons

20. Bennett 1921/1932 (1970), p. 166.

had pled to the King that “in divers parts of this realm great and abominable murders, robberies, extortions. . . [are] done by such persons as either be of great might or else favored under persons of great power.”²¹ They viewed the situation as a descent from previous law-abiding. The gentry family of Pastons at the time, recently enriched, were under constant threat from the thuggish mighty, such as Lord Molyne and the Duke of Norfolk. In 1469 the Duke seized the Paston’s Caister Castle with a force of 3,000 of his men. “England in the fifteenth century” wrote H. S. Bennett in 1921 describing the episode, “was too near the uncontrolled habits and customs of a more primitive civilization for men to have become peaceful or easily amenable to law. . . . The great lords themselves relied on the power of arms, rather than the pleas of their lawyers, and the rest of England took its lead from them.”²² And yet during all this, before Henry Tudor restored the rule of law in 1485, the law was at least honored in the breach. A commoner could bring suit against a great nobleman, and might win. If he had enough money and powerful friends he might even get a jury or judge corrupted to his side instead of the duke’s. *Omnia pro pecunia facta sunt*, they said: All things are done for money. But the money paid for lawyers, witnesses, sheriffs, jailors—not only for thugs. The field of play for the abominable murders and extortions in England was the law.

England when at peace, which was the usual case throughout its history, was a nation of ordinary property laws, no more or less corrupt than Chicago in 1925 or the American South under segregation, places in which innovation flourished. It was so, for example, 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 in a new age of standing armies and floating navies. And the amounts extracted, contrary to the Northian suggestion that the king owned everything, were by modern standards pathetically small. The figures offered by North and Weingast themselves 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 of Russia’s entire national income on war and domestic oppression, and shortly afterward the Hohenzollern learned how to spend comparable shares on the largest standing army in proportion to population in Europe.²³ 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.²⁴ The four forced “loans” from the rich of London 1604–1625 amounted to a trivial 1 percent of the

21. Bennett 1921/1932 (1970), p. 183.

22. Bennett 1921/1932 (1970), pp. 172, 181.

23. Hellie 2003, p. 416.

24. World Bank 2005.

national income earned over those years.²⁵

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 emboldened (as were many monarchs at the time) by the 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 eventually succeeded the Stuarts. 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 times more debt that the British state had by then issued.²⁶ By the end of the long century of struggle with the French, in 1815, the United Kingdom owed in its national debt a sum over twice its annual national income (which is over three times the ratio in the United States in 2009—though the American figure does not include the gigantic unfunded debt such as Social Security and, especially, Medicare; but these are modifiable promises, as government bonds are not so readily). Britain paid off the debt from the Napoleonic Wars by the 1840s, at the height of Political Economy.

North nonetheless stresses “the extent [to which] the state [after 1689] was bound by commitments that it would not confiscate assets.”²⁷ North and Weingast imply that the Stuart kings of England were on the contrary masters at confiscating their subjects’ wealth. But you can see from the figures that they weren’t. 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 of the modern bureaucratic state. Capitalists in the law-abiding, innovating United States were spooked in the 1930s, as the economic historian Robert Higgs has shown, by Roosevelt’s reiterated rhetoric of expropriating the economic royalists—which gained force by being promised at a time in which communist and especially fascist states had just done so.²⁸ And in 1946–1951 England itself, the very home since the year of Our Lord 1272 and before of credible commitments to secure property rights, 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 anticapitalist) controls on prices persisted. After a failed attempt to lift

25. North and Weingast 1989, tables 2 and 3, with their guess at national income of £41 million in 1642.

26. Macaulay 1830, pp. 186–187.

27. North 1991, p. 107.

28. Higgs 1997, 2006.

controls on sweets in 1949, rationing of them was dropped at last on February 5, 1953, as every British child of that time well remembers. And yet afterward for a while in the land of original free enterprise the sugar itself continued to be rationed.

No quantitative case can be made, in short, that it was after 1689 that England moved from predation to security of property. Predation characterized periods of disorder, the Wars of the Roses above all, but shorter episodes like the Civil War, too — though even then, as I said, sheer violence paid at least lip service to the law. But England was on the whole and for many centuries a nation of laws, with busy courts at all levels, from the time of *Quia Emptores* (1290), or Edward I (ruled 1272–1307), or earlier, and remained so under the Stuarts. 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.²⁹ And what then of secure Italian or for that matter Byzantine or Islamic or Chinese property rights? If property rights were the crucial novelty of 1689, why not industrialization before and elsewhere, in places in which property rights were also enforced?

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 the 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 Richard Pipes and Harold Demsetz and Richard Epstein and I warmly agree, in which a Bad Sir Botany can go around blipping people on the head and seizing whatever he wishes.³⁰ “Trade cannot live without mutual trust among private men,” wrote Temple in 1672.³¹ Otherwise we face a war of all against all. As Hobbes explained, “In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of 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.”³² North and Weingast correctly assert, with Millar, the importance of “the ability to engage in secure contracting across time and space.”³³ Private property is not optional, and “market socialism” is a contradiction

29. North and Weingast 1989, once again on that pregnant p. 831. Peter Murrell (2009) has shown with seventeenth- and eighteenth-century data that there is no break in 1689.

30. Demsetz 1967 is a fount for the insight.

31. Temple 1672, chap. 6.

32. Hobbes 1651, p. 186.

33. North and Weingast 1989, p. 831.

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 news 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 titled “Growth and Institutions” for *The New Palgrave Dictionary of Economics* (2008) by the economist Daron Acemoglu:³⁴

Consider the development of property rights in Europe during the Middle Ages. Lack of property rights for landowners, merchants and proto-industrialists. . .

No, as has been known by historians of medieval Europe for a hundred years. Property was very fully developed, especially in land and in personal possessions. For Italy, of course, the fact is obvious, and the evidence there of fully developed rights in all sorts of property is overwhelming. But a market even in land even in remote England functioned in large and small parcels. Exchange on secure terms took place there in all commodities and factors of production 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, as has been a commonplace among English medievalists since the 1950s at the latest.³⁵

was detrimental to economic growth during this epoch. . . .

No: lack of property rights had little to do with poor medieval productivity.³⁶

Consequently, economic institutions during the Middle Ages provided little incentive to invest in land, physical or human capital, or technology.

No: incentives of a strictly economic sort did not change between 1000 and 1800,

34. 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.

35. Edward Miller wrote in 1951 that “there was a very flourishing land market amongst the [southern English] peasantry. . . in the early thirteenth century” (p. 131). One of the leading recent 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 labor and land, and exchanging credit,” citing some of the numerous medievalists who agree (2005, p. 8). That does not mean that everything worked smoothly. Campbell 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 over many decades, is the opposite of the exploitation and the absence of markets posited by Acemoglu. The serfs owned the lords, not the other way around. Such a conclusion is found in most of the modern evidence-based literature on the peasantry in England, as for example in Raftis 1996, p. 4.

36. McCloskey 1975a. And Raftis 1996, p. 118: in the medieval historiography developing since the 1940s, “customary tenure [that is, serfdom] becomes no longer a block to [English] economic development but an instrument for such development. . . . Peasant progress occurred despite the limitations of the manorial system.”

not much.³⁷

and failed to foster economic growth.

Economic growth did not occur. But—outside of Russia—the absence was not because of a lack of property rights but because of a lack of massive innovation, and that in turn because of a lack of bourgeois dignity and liberty, and a lack of widespread education.

These economic institutions also ensured that the monarchs controlled a large fraction of the economic resources in society, . . .

No. Even in early modern times the percentage “controlled” by monarchs was small by modern or some ancient standards: think 5 percent of national income. Rents from royal estates, until sold off, would make the figure higher—but the estates are rental income, which is an affirmation rather than a violation of the rights of private property that any taxation represents. The *aristocracy* did “control” a large share of the land, though freeholders owned a great deal, too, and the serfs that Acemoglu thinks were part of the economic resources “controlled” by the “monarchs” were in fact largely independent—certainly from 1348 on, and in their ability to sell their labor and buy their long-leased land, earlier. But again it is ordinary property.

solidifying their political power and ensuring the continuation of the political regime. The seventeenth century, however, witnessed major changes in the economic institutions. . .

No. The *economic* institutions, if by that one means property rights, or even taxation, did not change much then, by comparison with changes in other centuries.

and political institutions. . .

Finally a partial truth, but only in England and Scotland and a few other places such as Poland: not in “Europe” as he claims.

that paved the way for the development of property rights. . .

No. Property rights, I repeat, were already developed, many centuries earlier.

and limits on monarchs’ power.

A truth, but a Dutch and later a British and still later a Polish and Swedish truth, and having nothing to do with an allegedly novel security of property—for all the self-interested talk against the modest taxation by the gentry at the time, from John Hampden to Thomas Jefferson. The share of British government taxes in national income did not fall in the eighteenth century: it strikingly rose.³⁸ Acemoglu in short has gotten the history embarrassingly wrong in every important detail, and his larger theme

37. Berman 2003; and again Raftis 1996, pp. 9–10, 7: The major customary tenants [were] the most active economic agents” even in the “purest type of manor.” A good, rough test of whether a student of the medieval economy actually knows the terrain is whether or not she is familiar with the work of Father Raftis (on this account see his own strictures on Robert Brenner [1996, p. 214n40]). Acemoglu and before him North, alas, fail the test.

38. O’Brien 1993, p. 126, table 6.1.

is wholly mistaken.

It is not his fault, however. The few economic historians he has consulted, especially North, have told the history to him mistakenly, since they, especially North, have not consulted the work of historians using primary sources and have not sufficiently doubted the tales told by nineteenth-century German Romantic historians about the Middle Ages and about the allegedly modern rise of rationality. 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 CE, and in some places in the thirteenth century BCE.³⁹ 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 and Japan had secure property. True, early in the short century of their rule the Mongols (Yuan dynasty, 1279–1368) put in place such antieconomisms 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 upon high and low, as they had been during most of Chinese history. Merchants appear to have been more, not less, secure on the roads of the Chinese Empire or the Tokugawa shogunate in recent centuries than they were in a Western Christendom plagued until the nineteenth century by pirates, or by 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, though with some difficulty.⁴⁰

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 around 2000 BCE 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 CE in Wessex mattered for economic incentives. But by 1688 such a development in England had happened centuries before. (And war chiefs themselves get into trouble if they violate their

39. Clark 2007a is good on this, pp. 10, 212.

40. Chaucer, *Canterbury Tales*, “General Prologue,” lines 276–277.

followers' property rights: witness wide-ruling Agamemnon's troubles after he seized Briseis from godlike Achilles.) It was not true in England, as Sellar and Yeatman asserted in their loony way, that only in the eighteenth century did people "discover that Trespassers could be Prosecuted."⁴¹

North's is therefore a 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 CE, 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.

Jan Luiten van Zanden has recently in a brilliant survey (*The European Economy in a Global Perspective, 1000–1800*) agreed in part with such a California-School point, against the economists compressing institutional change into a few decades around 1700, and in England only. He argues that integration of markets and low interest rates betokened a good institutional context, and he pushes the drop in interest rate that Gregory Clark and I attributed to the fourteenth and fifteenth centuries back into the High Middle Ages.⁴² One can agree that if people are not stealing from each other, and not absconding with loans, and not bribing judges to make seizures of property legal, the interest rate will be lower than in chaotic times and places. Consult the interest rate charged on loans today in poor neighborhoods. (Yet low interest rates characterized sober merchants in Florence without leading to an industrial revolution.) Zanden ingeniously argues that the premium for high-skilled over low-skilled workers represents the interest costs of apprenticeships and the like, and collects the facts to back up his argument. Though he bows politely to the economists Acemoglu and Johnson, who follow North in believing that improvements of institutions happened just in time to explain the Industrial Revolution, he does not believe it.⁴³ He joins Henry Adams and Deepak Lal and Eric Jones in finding a European exceptionalism in the twelfth and thirteenth centuries.

But turning back to the High Middle Ages is, I believe, another timing (and placing) mistake. One can agree that the Greatest of Centuries (the thirteenth) witnessed a "spectacular investment boom," such as in Winchester Cathedral. But Zanden contradicts his own imaginatively assembled evidence that by the eighteenth

41. Sellar and Yeatman 1931, p. 94.

42. Zanden 2009, pp. 29–30.

43. Zanden 2009, pp. 29–31, where he summarizes his case.

century China and Japan were ready for economic growth, too. And China was ready much earlier (Zanden's argument does not extend much back into the Song), as was the Arab world in the same centuries, inspiring many of the admirable intellectual developments in the High Middle Ages among the retarded Franks.⁴⁴ Zanden in the end relies on human-capital arguments borrowed from the economic theorists. The trouble is that human capital is just another form of capital, and like bricks and mortar has been widely accumulated at various different times and places. What explains the modern world is not investment but innovation. Zanden's learned book in the end does not pay sufficient attention to discovery, invention, creativity. He wants to interpret history exclusively with efficiencies succeeding inefficiencies. His is the model of scarcity since Ricardo and Malthus that I am criticizing. Scarcity and prudence and investments do a splendid job of accounting for the pattern of tidal intrusions on skill levels and interest rates—Zanden provides hundreds of pages of elegant examples. But they leave the tide itself, and the modern world, unexplained.

44. Zanden gives a lucid review of the explanations for Arab decline in 2009, pp. 60–64, emphasizing the embourgeoisification of Europe. He admits on p. 293 that “late Ming and Qing China [and, one might ask, why not the Song?] and Tokugawa Japan had institutions, especially horizontal institutions [as against the ‘vertical’ institutions of state power] that were able to compete with those in Western Europe [one might ask, why not the north of Italy?].”

Chapter 35

And Anyway the Entire Absence of Property Is Not Relevant to the Place or Period

In his persuasive and wide-ranging book of 1999, *Property and Freedom*, the historian of Russia Richard Pipes ventures at one point on an analysis of seventeenth-century English history with a promarket purpose similar to North's, whose guidance he acknowledges, à la Acemoglu. His venture is instructive. Like North (this time with the support of many other historians who know the history because they have done the primary research, such as Mark Kishlansky), 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 nonmaritime English cities, certainly did raise up the Mother of Parliaments, for which we praise God. Political change in England was not "endogenous."

But Pipes, like North, then slips into the claim—it is not a major point in his book, and I admit to being picky in calling him on it—that the constitutional innovations of the very late seventeenth century somehow caused the economy of the modern world. It is a claim which we have seen is foggily seconded by a few other economic historians, so perhaps it's worth being picky. The Glorious Revolution surely had something to do with the Industrial Revolution indirectly, by way of the resulting freedom of discussion that made England into a land of conversation like Holland, even outside of aristocratic salons, and then a land of innovation, even outside of royal societies. "The Dutch invasion of 1688 by Prince William of Orange," writes the historian of the Netherlands Anne McCants, "remembered by the English as no invasion at all but as the 'Glorious Revolution,' was not the moment that Dutch culture ultimately swamped that of its close kin and rival. Instead, paradoxically, it was precisely the occasion on which the Dutch began to lose their own identity on the world stage, transferring their economic and political innovations to the very country whose throne they had usurped."¹ But it was not property rights that the Dutch transferred to the English. Both the Dutch and the English had them anciently. Yet North and in a careless moment Pipes (and Ekelund and Tollison, and Wells and Wills, and Acemoglu and others who keep springing up to offer reasoning beside the point), by contrast, want to claim that a perfection of property rights happened in the late seventeenth century and thereby improved incentives. Back to Max U and the constraints on his

1. McCants 2009.

asylum/institution.

The reason Pipes falls into the error of overemphasizing the Glorious Revolution is not the 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. He argues persuasively that the development of private property was short-circuited in Russia by the Mongol invasion of 1237, which subordinated the rulers of Muscovy in the two centuries afterward to the Golden Horde, called in Russian “Tatars.” When it first took direct control, the Horde governed from its camps on the lower Volga by absolute terror, as is the habit of conquering nomads, and brooked no countervailing powers or property rights. A Timur the Lame typifies nomad warfare, making pyramids of seventy thousand skulls in Isfahan. (On the way to his own conquests in 1395, by the way, he damagingly sideswiped the Golden Horde. Such warfare was reintroduced in another key by the Germans and Japanese and the Russians themselves in the 1940s.)

Pipes argues with ample documentation that the grand princes of Muscovy and their heirs after 1547, the tsars of all the Russias, were taught by the Mongols “patrimony” (“the father’s law,” the “patrimonial state” being a term from Weber).² Without the Mongols the commercial tradition of the powerful city state of Novgorod, founded by Swedish Vikings, 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 now 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.”³ In early modern times the Russian state enserfed 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: *Stadtluft macht frei*). The code “legally stratified the rest of society,” Hellie noted, “thus giving the government control over nearly all of Russia’s labor.”⁴

“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 amounted, one aristocrat put it, to “despotism tempered by assassination” (of Peter III, Paul I, Alexander II, Nicholas II).

2. Pipes 1999, pp. xi–xii, 101, 159–208 (esp. 162–166), 171, 180.

3. Hellie 2003, p. 415.

4. Hellie 2003, p. 416.

So long as the tsar survived the dagger or the pistol, everyone's property was at his disposal. Acemoglu'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, from Poland to Ireland. Once William the Conqueror divided up the land of England among his followers, they owned it, if in feudal theory "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 from the earliest times. 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).⁵ Historians such as Peter Perdue (2005), William McNeill (1964), Owen Lattimore (1940), 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.⁶ Perdue 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," by preying on it.⁷ 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 BCE or the barbarous Vikings in Europe in the late first millennium of our era.

Hellie argued that Russia became in response a "garrison state," a modern version of Sparta, partly because the remnants of the Golden Horde "raided Russia 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."⁸ In 1940 Owen Lattimore wrote 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

5. Peake and Fleure 1928.

6. 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).

7. Perdue 2003, p. 492.

8. Hellie 2003, p. 415.

so important in working the mechanism of Chinese history.”⁹ Until the time of the disintegration of the Golden Horde and the decline of Mughal power in India and finally the conquest of the Mongolian lands and other central Asian reservoirs 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’s 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.”¹⁰ Property in Russia conferred no Jeffersonian and neoRoman independence. In the lands of the sown by contrast it came gradually to do so, by immemorial custom.

Pipes rather struggles, though, when he extends the moral beyond Russia. He depends on surprisingly elderly historical opinion for his allegedly widespread examples outside Russia of “patrimony”—that is, in Pipes’s 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.¹¹ (He justifies his dependence on histories quite early in the professionalization of history with a doctrine that historical knowledge does not advance.)¹²

The case of India’s Mughal emperors, for example, ruling by their early adoption of gunpowder from 1526 until the British Raj, is sometimes said to be a good example of patrimony.¹³ The emperors were literally descendants 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

9. Lattimore 1940, pp. 6–7.

10. Montesquieu (1748), 4.14.

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

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

13. For example, Braudel 1979, p. 596, says so.

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 like that of the Romanovs, in 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 cast doubts on estimates that as much as half or more of national income flowed to the state, “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.”¹⁴ And after all, Bengali textiles were the wonder of the eighteenth-century world. Yet *if* it was true, then it surely had Russian consequences, and would have spoiled the economy.

But all this interesting historical assertion, whether true or false or merely memorable, is not relevant for explaining a change in Western Europe 1600–1800, or 1300–1900, or the lack of change in places comparable to Western Europe, such as Southern Europe, or China, or Japan, or the Ottoman Empire. 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 patriarchal 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 secure, 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 (it spread even to the Swiss Confederation, in the form of an asserted divine right of the patriciate to rule over the mere “settlers”) no monarch west of Russia believed he literally *owned* his subjects. On the contrary, Pipes’s main theme is that in England the existence of private property—though guaranteed by the state—was a bulwark of liberty—is certainly correct, as one can see through the exceptions in Russia and in parts of the rest of Europe; though one would like to know how slaves felt about the sanctity of their masters’ property. In the Middle Ages there developed in various countries of Europe a doctrine of “the king’s Jews.” In 1091 the wife of the prince of neighboring Moravia argued to the Duke of Prague that he should stop attacking his neighbors in search of gold, since he had Jewish and other merchants of his own, whose gold was his to take. She thoughtfully provided him with their addresses in the village close to his castle.¹⁵ But the doctrine was clearly an

14. Wink 2003, p. 27.

15. Demetz 1997, p. 41; compare p. 18.

exception, and confirms the rule that most of a lord's subjects were *not* his to use. 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 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 continues, "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; . . . I should show that they choose a king for their own sake."¹⁶ He might have added that English kings were anyway subject to law, and that the bad counsel was therefore an irrelevant wish for a patrimony not in the English cards.

In 1649 King Charles defended himself against the Rump Parliament in the trial for his life by declaring, quite truly, that "pretend what you will [oh Parliamentarians], I stand more for their [that is, 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*."¹⁷ At his hour of execution he declared again that English law protected property against power, whether of king or of 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 Stuart England, and even in the "absolutist" France of Richelieu and Louis, private property was itself absolute against the king—though taxed (incompetently) from time to time.

It is therefore misleading of Pipes to declare at one point, instructed by North, and contrary to his own evidence just assembled (Homer nods), that "thus, *in the course of the seventeenth century*, it became widely accepted in Western Europe that there exists a Law of Nature. . . [and that] one facet of the Law of Nature is the inviolability of property."¹⁸ It is true that more people *said* it in the seventeenth and especially in the eighteenth century, for which we are glad. It matters that people kept saying that "all men. . . have certain inherent natural rights. . . among which are. . . the means of acquiring and possessing property."¹⁹ 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

16. More 1516, p. 11.

17. Quoted in Blanning 2007, p. 197; the next quotation is from p. 198.

18. Pipes 1999, p. 29, my italics.

19. As George Mason wrote in the Virginia Declaration of Rights the month before the Committee of Five drafted the Declaration of Independence.

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.²⁰ Bodin posits no serf or service class owned by a Timur or an Aurangzeb or an Ivan the Terrible. A Frenchman of the late sixteenth century was no item in the baggage of a propertyless nomad fondly remembering the wild life of the steppe.

As I said, in some ways modern economies—with their gigantic administrative states 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 a historical irony on which Pipes and North and Harold Demsetz and Richard Epstein and I would doubtless agree. An American government armed with the doctrine of eminent domain and the power to tax incomes at combined federal and state proportions of 35 percent, and with administrative agencies having broad powers over labor relations and air pollution, not to speak of unusual definitions of torture and the ability to tap telephones, and a passionate desire to limit people's consumption of recreational drugs, seems in this respect to be more, not less, like the Muscovy of old than did, say, France in 1576. The law professor Richard Epstein is pessimistic about the future of the administrative state, contrasting it with the liberties assured by common law.²¹ The economist Milton Friedman was fond of quoting Will Rogers: "Thank God we don't get all the government we pay for." But we don't because of our true liberal ideology, and the judges influenced by it, not because the machinery of government automatically protects us. The machinery of modern government, even more than ancient government, can grind exceedingly small.

To quote again the farsighted 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."²² 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, thank you, and the Roman state took little more than English Stuart's shares of national income for its purposes, 5 percent.²³ The Mughal state of popular fable, by contrast, erected on a principle of

20. Discussed in Pipes 1999, pp. 27–28.

21. Epstein 2009.

22. Macaulay 1830, p. 183.

23. Goldsmith 1984, p. 283.

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 hardwired 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, like that of any two-year old, 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 that “preinstitutional ‘natural’ private property has been observed in many species, in the form of the recognition of territorial possession.”²⁴ A classic 1976 paper in evolutionary biology by John Maynard Smith and Geoffrey A. Parker spoke of an evolutionary stable strategy as “bourgeois” if existing property among animals was used to settle disputes (they were 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). Two dogs recognize property rights by which the one who gets to the scrap first owns it, even against a larger dog capable of stealing it. A speckled wood butterfly, *Pararge aegeria*, intruding in a wood on a patch of sunlight on some 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 toward property, whether or not Leviathan enforces property rights.²⁵ 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—then even a communalist or tyrannical government will often start enforcing its privateness.²⁶ It does so unless, indeed, it is under the influence of some antibourgeois rhetoric, such as the personal loyalty of the steppe horseman to his chief, or the collectivist, Romantic, post-Christian, and pseudo-familial dreams of nineteenth-century Europeans, bearing fruit in twentieth-century authoritarianism of *der Führer* or the General Secretary.

24. Gintis 2006, p. 2.

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

26. See for example, among a large literature, Carlos and Lewis 1999 and Anderson and Hill 2004.

As an example of the scientific missteps in this literature, consider the famous “tragedy of the commons” about which in 1968 Garrett Hardin wrote (in aid, it should be recalled, of an authoritarian proposition usual in his time—and persisting now 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”).²⁷ 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 Hardin didn’t know that the European 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 acted in the way a “Cournot oligopolist” does, that is, if he mistakenly ignored the response of others when he put an extra cow on the commons.²⁸ As the historian Philip Hoffman concludes, “The moral here may well be that the group agricultural property rights one sees in small societies may be nearly optimal much of the time,” on account of “repeated interactions.”²⁹ As the great medievalist Ambrose Raftis puts it, against the obsolete notion of a three-field “system,” “the current recognition” among agricultural historians is that “local decision-making” is “necessary to efficient productivity.”³⁰

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 overharvesting of deer by a competing tribe. Hardin’s sole empirical argument for the relevance of his posited regime 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 farm the government, not merely the pastures, and therefore the public lands have always been underpriced and overgrazed. But in the medieval olden days of which Hardin speaks, such as the days of open-field agriculture, the land was private or was regulated when it mattered. As Jan Luiten van Zanden points out, “Typically, new contributions to this

27. Hardin 1968.

28. “Since, however, the effects of overgrazing are shared by all the herdsman, the negative utility for any particular decision-making herdsman is only a fraction of 1.” The mathematics works out to a rather large fraction of 1 if N is small.

29. Hoffman 2003a, p. 91.

30. Raftis 1996, p. 3.

literature have suggested that institutions [in medieval Europe] previously considered ‘conservative’ and ‘inefficient’—such as guilds and [in Hardin’s case] commons, manors, or sharecropping—were surprisingly efficient.”³¹ Certainly this is true of medieval field systems, though as Zanden adds, citing Sheilagh Ogilvie’s strictures on the late S. R. Epstein’s pioneering work on guilds and on North’s views of manorial arrangements, “Some have argued that this sounds too good to be true, and. . . ignores the ‘dark side’ of institutions such as guilds.”³² Quite possibly.

In any case, as the Nobel political scientist Elinor Ostrom has shown repeatedly, people cooperate, too: they do not always defect from the common good, as Hardin assumes they do.³³ It is one of the main findings of experimental economics in the decades after Hardin 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 and cooperation common.³⁴ Hardin, although an impressive scholar in some other ways, appears not to have looked into the evidence.

Likewise, if you look into the records in England of national and local regulations and legal cases in the thirteenth century, you will find private property enforced—even aside from the alternative of “preinstitutional ‘natural’ private property” enforced by shame and ostracism that Gintis talks about. North, although 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.”³⁵ Already, and not merely after 1689.

31. Zanden 2009, p. 17.

32. On open fields, McCloskey 1976. On guilds, Epstein 1991, 1998; on guilds and North’s panglossianism, Ogilvie 2004, 2007.

33. Ostrom 1990. The matter is to be discussed at length in Bowles and Gintis, *A Cooperative Species* (forthcoming).

34. Anderson and Hill 2004; McCloskey 1991b, esp. pp. 348–350.

35. Berman 2003, p. 377; compare p. ix; and Berman 1983. Berman is heavily relied on by Deepak Lal 1998 and 2006.

Chapter 36

And 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 political innovations alleged to lead to 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 put it, as indirect “evidence that such a necessary condition has been fulfilled.”¹ 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 a wider law merchant, and statutes against perpetuities, and the extension of the king's common law to all free-born Englishmen, especially when all of them 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 sufficiently secure that merchants could travel.”² 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 plans and misdeeds and papist allies), had reigned over one of the most law-dependent countries in Europe—though violent in duels and other affrays (Ben Jonson killed an actor in a duel), 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 done so 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 one of the most unusual events in human history under a routine of marginal benefit and marginal cost. Joel Mokyr has written a devastating essay surveying the historical

1. North and Weingast 1989, p. 831, a page which rewards rhetorical study as an example of how to claim in the conclusion of an essay propositions unconnected to the evidence offered.

2. Greif 2006, p. 3.

evidence on the matter. He asks, “What could be wrong with this picture [painted by North and, from North, by Acemoglu and other economists]? The answer is basically ‘almost everything.’”³ British patents for example were very expensive, a minimum of £100 (a respectable lower-middle-class annual income at the time: think of \$80,000 a year nowadays) 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 one’s credibility as an ingenious person—as someone to be admired, and to be paid to do all sorts of engineering work, or to be given a governmental sinecure. Patents were considered undignified by many inventors, and were treated by judges with suspicion until the 1830s, as constituting monopolies (as of course they do). Getting a head start in producing one’s idea, as usually also today, was a better assurance of fame and fortune. The economic theorists Aghion, Harris, Howitt, and Vickers have pointed out that weaker patent laws can make for fiercer competition to get there first—at least when the Grand Externality of according the dignity and liberty to innovate has already taken place.⁴ And it has long been realized that countries (or regions or firms or individuals) who can steal the spillover from knowledge can do very well indeed. Little countries like the Netherlands or Switzerland did well by free-riding off of British patents, and did not bother to have their own domestic patents until the late nineteenth century. Indeed the United States did not offer copyright protection for foreign books fully in compliance with the Berne Convention of 1888 until the centenary of the Convention. Patents and copyright sound neat, but they 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 a false 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.⁵

3. Mokyr 2008, p. 3.

4. Aghion, Harris, Howitt, and Vickers 2001.

5. Gilbert and Sullivan 1893, act 1, pp. 537–538, 532, 539.

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 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, calculated from 1800, fully 528 years in length (1800 minus 1272). Or else it is 44 negative years, 1800 minus 1844. Legal developments in England that happened many centuries before or many decades after (not to speak of their prevalence in China and Japan) cannot explain the exceptional applied innovations of northwestern Europe beginning in the late eighteenth century. Security of property was a very old story in the England of 1689, 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. As Alan Macfarlane declared in 1978, “England was as ‘capitalist’ in 1250 as it was in 1550 or 1750.”⁶ 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.⁷ 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.

But it is a different proposition to say, as North does, that “the state was a major player in the whole process.”⁸ Thankfully, it was not. State-guided growth was for a while after the 1930s highly thought of by economists and economic historians, and it has always been understandably popular among statesmen. In 1975, for 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 beyond the shade of the then dominate British: “By adding dynamism and history to classical [that is, 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.”⁹ So thought many economists in 1975, or many

6. Macfarlane 1978, p. 195.

7. Greenfeld 2001.

8. North 1991, p. 107.

9. De Cecco 1975, p. 11.

statesmen in 1841 (*Das nationale System der politischen Ökonomie*). But in the meantime Listian policies such as protection for “infant industries” (in 2009, for example, such wailing infants as General Motors Corporation) and “import substitution” (in Latin America under the influence of the Listian analysis of Raúl Prebisch [1959]) have had miserable 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 Revaluation at least at the level of rhetoric, no lasting modernization can happen. You can lead the Russian people by “collective action” into gigantic auto factories, but you can’t make them think. The Chinese and the Indians are now embourgeoisifying. That’s the ticket.

The model 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. But usually such intervention by the state reduces what could be achieved by bourgeois dignity and liberty. Of course, it doesn’t have to in logic. The disabilities of intervention are a matter of fact, not pure theory. In some imaginable worlds a Listian or even a Maoist economic policy would succeed. On a blackboard one can prove, indeed, as A. C. Pigou and after him Paul Samuelson insisted, that state intervention to deal with externalities *will* improve the performance of an economy—if the intervention is performed by perfect and disinterested social engineers, probably Swedes.¹⁰ But in the actual world, the actual interventions by actual states—American or Polish or South Asian—have usually not improved performance. Running an economy by the dictates of political pressure or the force of antibourgeois ideology has not normally led to decisions that were best for economic growth and for the incomes of the poor. Thus the Soviet Union kept its people antibourgeois, starving some six million petty-bourgeois peasants in Ukraine as a first step, and kept most Soviet citizens poor.

North and Weingast’s article of 1989 praises the ability of the English and then British state to finance wars after 1689. 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.¹¹

10. Swedish friends assure me that if the Swedish bureaucrats had been presented with the opportunities that Tammany Hall politicians faced they would have taken them, too. But my friends have not lived in the Upper Midwest in the United States, filled with startlingly honest Scandinavians, where the experiment has in fact been tried of giving Swedish immigrants American-scale opportunities for corruption.

11. North and Weingast 1989, p. 831.

Ask the British investors incommoed by the unanticipated starting and stopping of Britain's long eighteenth-century struggle with France, 1689 to 1815, whether they felt secure in contracting. Patrick O'Brien's estimates of the share of British national income going to warfare bounced up and down, from a low of 2 percent in the quinquennium centered on 1685 (under the wretched, expropriating Stuarts) to a high of an astonishing 17.6 percent during the last five years of the American Revolution (as against 3.6 when briefly at peace with the French in the five years centered on 1770; the American Revolution figure is higher even than the 14.1 percent over the last five years of the Napoleonic Wars).¹² Interest rates bounced up and down correspondingly, as did insurance rates for shipping, and demand for naval stores. Some security.

North and Weingast might argue (as have some people, reading their work generously) that the creation of a deep capital market by the issuing of government bonds brought down the interest rate, which indicates a rise in the confidence of investors in the institutions of the capital market. No, not likely: it indicates, I repeat, a rise in the confidence that the British Treasury would honor its obligations to pay interest.

The historian Jonathan Israel attributes the low interest rates in Holland to "to the efficiency and meticulousness of the Dutch federal state. . . for low interest rates are not just an expression of the abundance of money but also of absence of risk in lending."¹³ But low interest rates in private commercial dealings are not produced by low interest rates on government debt. The "absence of risk" came from the credible commitment of the Dutch (and later the British) government to pay back its bonds issued for purposes of war, or at any rate to go on servicing them forever. If Europe supplied funds perfectly elastically with respect to interest rates at a given risk premium to any one portion of the European market, such as to private Dutch projects or to the Estates General, then introducing less risk in lending to the Estates General would have no impact on the interest rate on the private projects. That's what "perfectly elastically supplied" means: the interest rate is given. The government would pay less than it once did because the quality of its promises have improved. The quality of the private promises would not have changed, and so the private borrowers would go on paying the same rate as before. But if at the other extreme Europe supplied the funds perfectly *inelastically*—that is, if there was a fixed fund to be invested in Dutch private projects or the Estates General's debt—then obviously the now better loans to the Estates General would drain *away* funds from the private projects, driving *up* the interest rate the private projects faced. So the range of possible

12. O'Brien 1993, p. 126, table 6.1. O'Brien's figures are for half decades; only 11 out of 25 were peaceful.

13. Israel 1989, p. 413.

effects of more honest, bourgeois behavior by the government on the other, *private* interest rates is from no effect to a negative effect. It is never positive. The lowering of Dutch and then British interest rates on the asset relevant to economic growth—private bonds—is to be explained by the abundance of loanable funds (“money”), not by fresh commitments by the government to pay its debts—which worked in the opposite direction, if they worked at all.

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 antibourgeois 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 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. 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 and give to others, in the name of general efficiency. Economists call such trade or compulsion in aid of general efficiency the Hicks-Kaldor Criterion. But it didn’t always work out in such a sweet way. Influence in Parliament replaced influence at court, most particularly after the death in 1714 of Queen Anne (who was the last British sovereign to veto a bill from Parliament, for example). After North’s favored date of 1688, and after the formation of party politics in the 1680s, there is a case to be made that the opportunities for rent-seeking steadily 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 with the assent of Parliament to borrow from Dutchmen (look at the number of names beginning “van” in the subscribers to Bank of England stock), or the still larger gains from a transcendently powerful Parliament capable of 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.¹⁴ Yet the British king still had wide powers of appointment (Adam Smith himself was in his maturity appointed 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 taken together does not appear to have markedly fallen. Private bills, increasingly common in the eighteenth century, were ideally suited for extracting rents from one's 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 the journalist of Napoleonic-War times William Cobbett “the old corruption” for nothing. And rent-seeking from executive or legislature 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.

Dan Bogart has done some fine 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.”¹⁵ Well, yes: revolutions do turn the world upside down. But the economics would require that people had anticipated the Revolutions, for otherwise the prospective uncertainty is not increased by the world turnings. If 1642, and especially its outcome, was a surprise, it cannot be counted as a source of ex ante uncertainty. That 1689 was a settlement, true, would make for a more tranquil environment for investment. But far into the eighteenth century, as Wells and Wills showed, the regime felt itself uncertain—if not as uncertain as, say, the English Commonwealth in September 1658. 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. They increased efficiency, but did not increase incomes by a factor or two or sixteen or a quality-corrected one hundred. The legal changes attendant on the Glorious Revolution and its aftermath had essentially nothing to do with the revolutionizing wave of gadgets.

14. Ekelund and Tollison 1981, p. 223.

15. Bogart 2009, p. 28.

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 eighteenth and nineteenth centuries. And as to the Northian version, he states flatly that “there was no obvious improvement in institutions at the time of the Industrial Revolution.”¹⁶ 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. The ending of the Wars of the Roses in Henry Tudor’s victory at Bosworth Field in 1485 really did end many decades of Brave -Sir-Botany disregard for the laws of property—but that was more than two centuries before the Glorious Revolution, and three centuries before the Industrial Revolution. 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 their king. (The English kings didn’t forget, either.) And anyway in England the rhetoric of freebornness 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 since the Middle Ages, 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, and had more economic effect than all the Georgian enclosure bills and other strictly economic results of 1688 combined.

And on a still wider view of what the professor of law Simon Deakin calls “the

16. Crafts 2004 (2005), p. 10 of manuscript.

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 the “sharing of legal ideas,” another example of lateral transfer of cultural memes). And then after a lag the results 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.”¹⁷ 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 and varying cultures of law. North has the same problem that Gregory Clark has: memes move by imitation as much as or more than by inheritance. Countries such as France or Germany or Sweden or Japan or Taiwan, without the meme that he regards as an English uniqueness, caught on and commenced growing at modern rates.

In his 1991 essay North has a canny section describing the different fates of the lands “north and south of the Rio Grande.”¹⁸ “The gradual country-by-country reversion to centralized bureaucratic control characterized Latin America in the nineteenth century.”¹⁹ Yes, so it seems, and then in the twentieth century the Latin American centralized bureaucracies thus enabled carried out disastrously Listian policies. In other words, a national system of political economy has by no means always been good news for economic growth, and it is doubtful that Greenfeld is correct to credit even the Good Nation States (namely, Britain and the United States) with modern economic growth. Japan and Germany would have been much better off economically in 1945 without having gone through 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.”

17. Deakin 2008, pp. 2, 26.

18. North 1991, p. 110.

19. North 1991, p. 111.

Chapter 37

And So the Routine of Max U Doesn't Work

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.”¹²⁹ Indeed, the very idea that a mere inventor or merchant or 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 knew this 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.”¹³⁰ (France was his instance of “absolute” government. He should have visited 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.”¹³¹ That doesn't seem to be the case. Technology was invented in the service of the virtue of prudence, yes, but also the virtues of courage, hope, temperance, justice, love, and faith. Allen adopts a reductionism that has lately become a standard rhetorical move in Samuelsonian and Beckerian economics. In 1725 Bishop Butler was already complaining about “the strange [and recent] 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.”¹³² “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.”¹³³ Money mattered, but so did other motives. Mokyr emphasizes the glory of the game: “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.”¹³⁴ “When one loves science,” the chemist Claude Louis Berthollet wrote to James Watt, “one has little need for fortune which would risk one's

129. Mokyr 2010, p. 85.

130. Hume 1777 (1987), p. 93 (“Of Civil Liberty”), his italics.

131. Allen 2006, pp. 2, 3.

132. Butler 1725, p. 349.

133. Smith 1749 (1790) 7.2.4–12, p. 312.

134. Mokyr 2010, p. 90.

happiness,” though as George Grantham observes, Berthollet was in fact paid well as a high-ranking civil servant.¹³⁵ 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 of the road more happy than a prince.¹³⁶ Weak incentives that were fully present in the thirteenth century cannot explain frenetic innovation in the eighteenth and nineteenth centuries.

Allen himself admits that patents for invention, though available in England from 1624 on, were 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, because it “divided the costs and pooled the gains.” In computerese it was an open-source technology.¹³⁷ 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 monetary cost and benefit. Thomas Carlyle, the scourge of the classical economists, remarked in 1829 that people “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.”¹³⁸ Not “always”: we should not abandon prudence, with temperance. But often faith and love and hope and justice and courage figure, too.

An economist who is thinking like an economist, instead of like a technician knowing only Max U’s calculation of marginal balances, does not in fact find Carlyle’s point so terribly antieconomic. 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. It is precisely the nonprudential part of human motivation that makes surprises possible, such as the greatest economic surprise since the domestications of wheat and rice and cattle and horses. Mokyr, citing John Nye’s notion of “lucky fools,” notes that “a large number of important inventors died in obscurity and poverty, indicating that the private returns to a socially useful invention were low [after the invention], but that the effort was carried out anyway because inventors overestimated the private payoff.”¹³⁹ To do the science right in explaining the invention of invention you need to include more than prudence. You need to include hope and courage, too. Or so the economist would argue if he believed classical or neoclassical 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*

135. All this is from Mokyr 2008, pp. 90–93. Grantham 2009, p. 4.

136. Smith 1749 (1790), 4.1.10, p. 185; Horace, *Odes*, 1.4.13, 2.18.32–34, 3.1 entire.

137. Allen 2006, p. 3, referring to Allen 1983. Nuvolari 2004 applies Allen’s idea to Cornwall’s pumping engines.

138. Carlyle 1829, quoted in Bronk 2009, p. viii.

139. Mokyr 1990, pp. 158–159; Nye 1991.

saltum. Human affairs made a jump, a heroic and nonroutine event.

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.”¹⁴⁰ 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 those of us who don’t 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 routine profit. Two percent of the entire social gain from the separate-condenser and then the high-pressure steam engine is of course immense. But most inventions were, Mokyr notes, “micro,” that is, little improvements of existing inventions, the boy in 1713 inventing the self-acting device for the Newcomen atmospheric engine, not revolutions in the way of doing business.

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 Tollison). They became 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 a worldly philosophy called “political economy” grew up *pari passu*, considering that it claims to take precisely the national, or international, view above the struggle of interests. 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.”¹⁴¹ That is, both a theorized mercantilism and then a theorized *laissez-faire* are distinguished from what came before by their focus on the new idea of the economy as a separate thing. What McKeon describes as the change from the “old system of knowledge [self-consciously rhetorical and Christian] that distinguishes between categories without countenancing their separability” to the new one organized in anti-rhetoric and the *Encyclopedie* “according to separated and compartmentalized bodies of knowledge” is what T. S. Eliot called long ago the “dissociation of sensibilities” in the late seventeenth century.¹⁴² The sensibility of a unified life was dissociated into privacy, polity, society, economy.

140. Nordhaus 2004. The quotation is from the abstract.

141. McKeon 1987 (2002), p. 201.

142. McKeon 1987 (2004), p. xxi; Eliot 1921.

The wise philosopher quoted earlier, Charles Taylor, asserts a similar emergence of the economy as an explicit object of concern in the seventeenth century. The historian 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.”¹⁴³ In Thomas Mun’s *England’s Treasure by Foreign Trade* (1621), Appleby wrote, “for the first time economic factors were clearly differentiated from their social and political entanglements.”¹⁴⁴ And the economist Albert Hirschman noted the semantic drift of the words “fortune,” “corruption,” and especially “interest(s)” towards those economic matters.¹⁴⁵

Sir William Temple in 1672 noted of the great nations of Europe that until the end of the Thirty Years’ War, “their trade was war.” But “since the Peace of Munster, 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.”¹⁴⁶ He was premature in announcing Christendom’s quiet. 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 to store it in a Bank of England. Other countries at the time had still more of a trade of war, most notably Prussia. Voltaire is said to have quipped that most nations had an army, but in Prussia the army had a state. Yet Temple was right in emphasizing the spread of the Dutchlike subordination of politics to trade at least in Britain, and then gradually in other places. 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.”¹⁴⁷ 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 English. The English and then the Scots, following the Dutch, came to be known in the world as unusually calculating—instead of as before unusually careless in calculating, and unusually brutal in carrying out their careless aggressions. No one in Europe in 1500 would have thought of the English as anything but arrogant and warlike, though they were minor players at the time outside their local sphere of influence. “See approach proud Edward’s power,” sang the nearby Scots, who experienced repeatedly such interventions in their business, “Chains and slavery.” As late as 1650, when the English had just executed their king, writes the historian Paul

143. Appleby 1978, p. 22.

144. Appleby 1978, p. 41.

145. Hirschman 1977, pp. 32-40.

146. Temple 1672, chap.6.

147. Montesquieu 1748, book 20, sec. 7.

Langford, they “had featured as Europe’s mavericks, their history one of violence, turbulence, and instability. . . . They constituted a standing reminder of the spasmodic vigor of a people still close to barbarism.”¹⁴⁸ Well: but going to law habitually, too.

The actual alteration in individual behavior in the direction of bourgeois values by around 1700 was perhaps not great. Well into the twentieth century the rest of the world had occasion to be shocked by the aristocratic/peasant “vigor” of British soldiers, quite unlike what one would expect from a nation of shopkeepers (the phrase, by the way, is Adam Smith’s invention, not Napoleon’s). Consider General Kitchener ordering Boer and black women and children into his new invention, the concentration camps, in which a quarter died of hunger and disease during 1900–1901 (the incident makes the point that not all new ideas are good ones). 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 alone. Aristocratic arrogance and ferocity among some of the British lasted long enough to staff the army with leaders, until in the First World War it became too large, requiring massive recruitment from the bourgeoisie (as Continental armies long had required). An early case was John Churchill (1650–1722), first Duke of Marlborough, a commoner by origin but notably aristocratic in bearing. Yet he carried over his bourgeois habits of punctiliousness in dealing with accounts and organizations for holding together an army of scattered allies, the better to beat the French aristocrats again and again and again.¹⁴⁹ The second sons of British aristocrats, such as Richard Howe, had long joined even the technically demanding and bourgeois navy. They stood on the quarterdecks facing enemy fire, as aristocrats should, but their fellow officers were the sons of lawyers or of clergymen (such as Sir Francis William Austen, Admiral of the Fleet in 1863 and Jane Austen’s brother, and Sir Charles Austin, another brother and another admiral). But the change in rhetoric toward bourgeois cooperation, under the influence of an evangelical Christianity spread by the newly dignified bourgeoisie, was permanent and finally softening.¹⁵⁰ I want to initiate a discussion, to put the point another way, with my numerous friends in economics and even in economic history who have come to believe that all effects of ideas on the economy work mainly or exclusively or necessarily or

148. Langford 2000, p. 5.

149. Barnett 1974, p. 264: “He was able by tact, perseverance and sheer talent for management to create out of a ramshackle coalition an instrument of war formidable enough to bring greatest monarchy in Europe to its knees.” Barnett argues persuasively that Marlborough’s youthful experience of being poor and dependent on the great made him hesitant in politics, “which contrasts so strangely with his behavior in the face of a French army” (p. 252), quite different (see p. 60) from the character of an aristocrat by birth such as Wellington (or for that matter Marlborough’s descendant Winston Churchill).

150. As Correlli Barnett complains in Barnett 1972 and subsequent works.

obviously through incentive-summarizing “institutions.” They want this to be true because the idea of the institution as a constraint 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, ethics, justice, temperance, professionalism, ideology, ideas, rhetoric, love, faith, justice, hope have nothing to do with anything economic, my misled friends declare.

I believe on the contrary, with Alexis de Tocqueville in 1853, that “institutions” such 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.”¹⁵¹ The Tocqueville/McCloskey hypothesis finds support, for example, in the magnificent tables of the *World Value Survey*, in which researchers such as Matteo Migheli have found evidence of great differences in attitudes toward state intervention in Western as against formerly Communist Europe.¹⁵² The economic results differ. Habits of the heart and mind and lip matter to economies. The economic historian Philip Hoffman has shown that what mattered most for rural France from 1450 to 1815 were not institutions, such as allegedly communal property, which peasants had ample experience in working around. What mattered most were markets and, especially, political decisions motivated by heart and mind and lip—which they could not work around.¹⁵³

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.”¹⁵⁴ We have seen what is wrong with such a claim, even in the imaginative and thorough books by the economic historians Greif or Zanden, or the dazzling articles by the economists Acemoglu, Johnson, and Robinson: that mere efficiency has little to do with massive innovation. It is the massive innovation, not a Harberger Triangle of gain from efficiency, that has transformed our lives. North and Thomas went on: “Efficient organization entails the establishment of institutional arrangements and property rights that create an incentive

151. Letter to Corcelle, Sept. 17, 1853, quoted in Swedberg 2009, p. 280. Of course, if you define “institutions” broadly enough, as North sometimes does, then they explain everything, because laws have been merged with *moeurs*, or with anything else outside the naked and unsocialized will that leads people to do things.

152. Migheli 2009.

153. Hoffman 1997.

154. North and Thomas 1973, pp. 2-3.

to channel individual economic effort into activities that bring the private rate of return close to the social rate of return.” True. That’s what efficiency means, though the definition offered does not give a scale on which to measure how close the returns need to be to be important. They conclude: “If a society does not grow it is because no incentives are provided for economic initiative.” Again no scale is provided for judging how close to “no incentives” a social provision might be. And anyway the conclusion is true (in their terms) only if incentives for efficiency make for growth, which as I said is dubious. Interpreted in my terms, as saying that the habits of the mind and lip must offer another sort of “incentive for economic initiative,” it is quite true—but irrelevant to matters of strict efficiency, and next door to a tautology: if there’s no growth, then there’s. . . no growth.

A few years before North and Thomas spoke out loud and bold, I myself, inspired by Steven N. S. Cheung (my office mate at the University of Chicago, and later an inspiring colleague of North’s at the University of Washington), and by Ronald Coase across the way at the Law School, studied the legal history of England during the eighteenth century with the Samuelsonian prejudice about economic “incentives” and “efficiency.” I wanted the story to be one of moving from bad allocation to good, from a point away from the intersection of supply-and-demand curves to that blessed intersection. The institutions simply let the intersection occur. The idea was delightful—and it was exactly what my Samuelsonian training and my Friedmanite employment told me. But I gradually realized that the timing of institutional change in England fits poorly with its economic change. The curves moved out violently, by a factor of two and then sixteen and more, far too much to be explained by routine changes in institutions, even educational institutions, which after all had come and gone many times before in human history. There did happen by contrast, I realized decades later, an obvious and historically unique improvement in the dignity and liberty of the bourgeoisie, apparent for example in the invention of the science of political economy itself. The surrounding *institutions* of the economy were centuries old.

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 paradox: if it was Prudence Only, then 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 during the seventeenth and eighteenth centuries. Suppose that the ideology, the rhetoric, the public sphere mattered a great deal, and suppose that these (like legal and economic ideas) were often and quickly shared across countries. Voltaire and

Montesquieu looked across the Channel, with the result that Anglophilia governed one strain in French opinion, and to some degree became an element in French public policy. Thomas Paine wandered the world looking for countries without liberty, and shared revolution. Suppose that the spread of habits of the heart and mind and lip, such as 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 my economic friends 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 era of the Industrial Revolution witnessed a revolution in property rights, has a cleverly 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. I am not saying that an economy will do well with rotten institutions. Nor am I saying that there are no places in the world with rotten institutions — Zimbabwe, to repeat, jumps out of the headlines. Zim would do a lot better if its government stopped stealing private property and then killing people who complain. What I am saying is that the rich countries in the actual historical event have pretty good economic institutions, whatever their history of similarity or difference on the scale of a law professor’s detailed definition of *perfect* property rights. Countries as varied in institutions as France and Australia have pretty much the same income per head. France has Roman law, medium labor freedom, and high product-market regulation. Australia has common law, the OECD’s greatest labor freedom, and its lowest product market regulation. Yet the two countries differ in real GDP per capita adjusted for purchasing power by only \$3,000 out of \$30,000.¹⁵⁵ That sort of Harbergian differential precisely does *not* explain the modern world. Once both countries earned \$8.22 per head per day, \$3000 a year in modern U.S. prices. Now they earn ten times as much, and have entered the modern world.

It does not seem, in short, that changes in “institutions” have much to do with the Industrial Revolution. Maybe you can believe that good institutions of property and contract divide us from hunter-gathers or herdsman, especially if you do not look too closely into the economic lives of hunter-gatherers or herdsman. But the institutions of property and contract do not happen to have changed much in the relevant period. Samuelsonian appeals to “institutional change,” in other words, come down to still another attempt to reduce one of the greatest surprises in human history to a materialist routine, a routine which can’t by its nature explain surprises. The attempt comes out of

155. The figures are taken from Munkhammar 2007, pp. 82, 107, 70. You are not to guess which is higher: the point is that the difference is so small that no powerful force is at work.

economics, the pure theory of prudent materialism. As Tocqueville wrote in 1834, “All the efforts in political economy seem today to be in the direction of materialism,” and so were the efforts in all the social sciences from 1890 to 1980, even beyond political economy itself. “I would like,” he continued, “to try to introduce ideas and moral feelings as elements of prosperity and happiness.”¹⁵⁶ Just so.

156. Letter to Louis de Kergorlay, Sept. 28, 1834, quoted in Swedberg 2009, p. 3.