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Can We *Finally* Give Free Markets a Chance?

by Mary L. G. Theroux*



A theory of “market failure” is widely touted as the cause of our current economic woes, despite the theory’s own failure and the inherent shortcomings of its various incarnations, as revealed in the

Independent Institute’s book, *Market Failure or Success*. Rather, systemic government failure is the far more consistent explanation for disasters such as the 2008 financial crash, as detailed in “Anatomy of a Train Wreck: Causes of the Mortgage Meltdown”—a chapter in our recent book, *Housing America*—which shows the role of government failure in creating the financial bubble that misdirected resources into inherently unsustainable activities.

Indeed, we see such failure at nearly every turn when we examine government operations: thirty years of centralized, command-and-control at the U.S. Department of Education has produced

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worse schools with fewer graduates, at a massively higher cost. The Department of Defense’s failure to provide for the common defense resulted only in the addition of *more* bureaucracy in the form of the

Department of Homeland Security. And, most recently, we have the inept response of the Environmental Protection Agency—tasked by law since 1994 to plan for and be first responder to oil spills—and other federal agencies to the BP blowout. And the list goes on.

Such continued acceptance of government failure must result from a false assumption that since government provides a service now, government must be necessary for that service’s provision—i.e., these are “public goods” that a market would not provide—or at least, not sufficiently—if government did not provide them.

Which brings us to the significance of the Independent Institute’s logo, the lighthouse, and the promise it is meant to convey. For, contrary to the long-accepted assumption that lighthouses—with services available to all regardless of their paying—would be provided only if the government provided them, Nobel Prize-winning economist Ronald Coase revealed their actual history, showing that, when allowed, lighthouses were privately established and operated until the government took them over.

The stark fact is that markets have been fettered, regulated, and stifled by government control for decades, with resultant handicapped abilities to respond to our needs and desires. Research and topical commentary by the Institute’s array of scholars provide sound, workable, market-based answers for society’s concerns:

- Prior to government involvement, literacy and

(continued on page 7)

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IN THIS ISSUE

Give Free Markets a Chance.....	1
President’s Letter	2
<i>The Independent Review</i>	3
Independent Institute in the News	4
New Book: <i>Property Rights</i>	5
Independent Policy Forum.....	5
Government Cost Calculator	6
Why I Give: Sally S. Harris.....	8



President's Letter

"Regime Uncertainty"

The recession continues with official unemployment nearly 10% nationally, reaching 12.3% in California, and Treasury Secretary Timothy Geithner expects the jobless rate to increase further as private sector hiring weakens. Meanwhile, total federal debt has climbed to \$13.4 trillion with no end in sight as Washington politicians push for even greater profligacy.

According to the *Washington Post*:

"[A]s analysts ponder the mystery of weak private-sector hiring despite signs of economic growth, it's worth asking what role is played by government-induced uncertainty. With the federal government promoting major changes in health care, financial regulation and energy law, it wouldn't be surprising if some companies are more inclined to wait and see than they might otherwise be. And that's especially true when they look at looming American indebtedness and the effect that could have on long-term interest rates."

Exactly! And this profound insight, "regime uncertainty," was first explained by Senior Fellow **Robert Higgs** and then featured in his Institute book *Depression, War, and Cold War*. Just as FDR's New Deal prolonged and deepened the Great Depression, so too have George W. Bush's TARP bailout and Barack Obama's "stimulus" hampered economic recovery. Big Government is hardly *better* government.

Now, the stunning magnitude of the accumulated U.S. fiscal insolvency is made vividly clear in our new **Government Cost Calculator (MyGovCost.org, p. 6)** that enables anyone to determine their share of the cost of major federal programs and what one's share of those costs would have produced if invested privately.

We believe unique tools such as the Government Cost Calculator can be immensely helpful in creating the climate of opinion needed for major reform, and we invite you to join as an **Independent Associate Member**. With your tax-deductible membership, you can receive a **FREE** copy of *The Civilian and the Military* and other publications, including our quarterly journal, *The Independent Review* (p. 3), plus other benefits (see attached envelope).



David Theroux

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The Independent Review

Constitutional Design • Crisis of Bioethics

The Summer 2010 issue of *The Independent Review* features numerous superb articles and reviews. Here is a summary of two.

Constitutional Design

The separation of powers has been among the most celebrated hallmarks of constitutional government for more than two centuries. One of the greatest defenders of liberal constitutionalism in the twentieth century—economist and political philosopher F. A. Hayek (1899–1992)—held a view more nuanced than most.

Hayek valued the separation of powers, but he believed that it cannot safeguard individual liberty unless the prevailing culture favors limited government, explains attorney **Scott A. Boykin** (“Hayek on Spontaneous Order and Constitutional Design”).

Constitutions are consciously designed, but a country’s culture is not, Hayek argued. Like a market economy, a culture is the by-product of the countless interactions of individuals who are not fully aware of how their activities affect society. Both market economies and cultures are examples of “spontaneous order,” but each uses a different mechanism to help coordinate the actions of individuals.

In a market economy, market prices play that role. Cultures, on the other hand, facilitate social coordination by means of (often unspoken) cultural “rules” that create rational expectations about human behavior. If enough people adopt rules and values that are inconsistent with the requirements of a free society, Hayek concluded, the constitutional separation of powers will eventually succumb to pressures that will erode liberty.

See www.independent.org/publications/tir/article.asp?a=786.

Classical Liberalism and Bioethics

Suppose the brain of a comatose hospital patient stops functioning, but his heart and lungs continue to function. If the doctors believe there is no chance of recovery, should the body be removed from life support? Or should life support continue until the bodily systems as a whole shut down, as the patient’s family might urge?

This scenario describes the tragic case of Motl Brody, a 12-year-old Brooklyn boy who died in 2008. In the weeks before his death, Motl’s parents battled the doctors over whether to keep him on life support or to pull the plug and let nature take its course.

The field of bioethics is supposed to identify ethical principles that would help improve decision-making in life-or-death situations such as this one, but during this episode the bioethics community contributed virtually nothing positive—a lapse common in recent years—argues political scientist **Lauren K. Hall** (Rochester Institute of Technology) in “A Classical Liberal Response to the Crisis of Bioethics.”

According to Hall, bioethics would become more relevant to those affected by biomedical technology if it were to apply classical-liberal insights about how to balance power—insights that John Locke, Adam Smith, James Madison, and others developed to limit government power—to the realm of biomedical decision-making.



The Independent Review, Summer 2010

A classical-liberal bioethics, Hall writes, “will be marked by humility, a recognition of the importance of individual interests, and the belief that a centralized sovereign authority (such as the courts or legislatures) is not the best agent for achieving the delicate balance that must be struck to preserve patient dignity and autonomy, physician obligations and responsibilities, and broader social interests.”

See www.independent.org/publications/tir/article.asp?a=788.

The Independent Institute in the News

Center on Law and Justice

“If [Supreme Court Justices are] going to exercise some sort of super legislative authority, then the people—and we believe certainly in America that the people are the fountain, the source of all power—well, they should have some role in electing these justices.” —Research Fellow **William Watkins** on NPR’s Talk of the Nation

Center on Peace and Liberty

“I think we’ve lost sight of the much larger and more important question, which is: why do we still need to be in Afghanistan? . . . We don’t have a political reason, a strategic national security reason to be in Afghanistan.” —Senior Fellow **Charles Peña**, on CNBC’s “Ron Insana show”

Center on Entrepreneurial Innovation

“The path that we should be pursuing is one of open trade borders, and more open immigration policies.” —Director **Emily Skarbek** on ABC 7 News



Center Director **Emily Schaeffer Skarbek** spoke at a recent Tea Party rally in San Jose, Calif.

“When it comes to the movies capitalism never seems to get a fair shake . . . Lots of movies feature people in soul-destroying jobs who finally escape to realize their true selves . . . Hollywood chooses for its villains people who strive for social dominance through the pursuit of wealth . . . But the ordinary business of capitalism is much more egalitarian: It’s about finding meaning and enjoyment in work and production.” —Research Director **Alexander Tabarrok**, *The Wall Street Journal*

“Any time fanatics carry the day against free expression, something essential is lost . . . MTV Networks’ right to broadcast what it wants is beyond question . . . this only makes the decision to bow to the threats all the more mean-

ingful . . . One does not need to admire its content to appreciate its moral superiority over those who forced the self-censorship on MTV Networks and the need to stand behind creative freedom.” —Senior Fellow **Alvaro Vargas Llosa**, *The Dallas Morning News*



Senior Fellow **Alvaro Vargas Llosa** appears on Fox News’ Hannity.

“Someone who holds a job only because Congress has appropriated the money . . . is not creating wealth but is merely the recipient of an income transfer . . . people holding make-work positions “created” by stimulus spending . . . are counted as employed. If they weren’t . . . the unemployment rate would be much higher than 10 percent.” —Senior Fellow **William F. Shughart II**, *The Washington Times*

“If President Obama’s Oval Office speech made one thing clear, it is that his administration and the activists who back it view the Gulf oil spill as simply an opportunity to advance their pre-existing agenda . . . Environmentalists and others seeking tighter restrictions on offshore drilling express no concern for the tens of thousands of people who will be put out of work . . .” —Senior Fellow **Robert Higgs**, *The Washington Times*

Center on Culture and Civil Society

“Modern science . . . [has] given humans the power to play God with the world. But there is a common fear today that we may have overreached . . . Large oil spills, symbolically involving human beings tampering with primitive nature . . . heighten such fears . . . [However,] the reality is that we cannot avoid our basic dependence on oil and other energy sources. American energy policy must therefore be grounded in hard analysis of needs and circumstances, rather than surrogate religious experiences.” —Senior Fellow **Robert Nelson**, *The Minneapolis Star Tribune* •

New Book

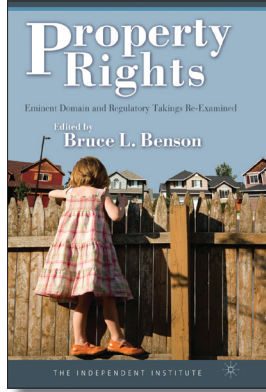
Property Rights and the Folly of Eminent Domain

In 2005, the U.S. Supreme Court upheld the authority of a local government to transfer property to a private developer. The case, *Kelo v. City of New London*, sparked a public backlash, with several states enacting laws voters hoped would better protect property rights from government takings.

Will those reforms succeed? Does the “holdout problem” justify the government’s powers of eminent domain? How do government takings affect entrepreneurship and economic development?

Property Rights: Eminent Domain and Regulatory Takings Re-Examined, edited by Independent Institute Senior Fellow **Bruce L. Benson** (co-published by the Independent Institute and Palgrave Macmillan), addresses these questions and more.

Property Rights amounts to a powerful economic and legal critique of government takings and defense of the private property that America’s



Founders considered to be “the guarantor of liberty.” Its recommendations range from “mending, not ending” eminent domain to the contention that involuntary takings are incompatible with “just compensation.” Here are two proposals discussed:

- To reduce the harm inflicted upon uncompensated owners of condemned property, the property owners could be given an equity stake in the redevelopment project.
- To reduce any political opportunism stemming from government takings, the takings process itself could be tightly regulated. For example, eminent domain could be

given the go-ahead only if (1) true economic blight is present; (2) holdout problems are demonstrated; (3) the resulting redevelopment project will have broad public benefits; (4) the takings process is transparent; and (5) it is the method of “last resort.”

(continued on page 7)

Policy Forum

Halbrook Lauded for Defense of Right to Bear Arms

In June, the U.S. Supreme Court ruled in *McDonald v. Chicago* that the Second Amendment prohibits the states and their jurisdictions from infringing upon the constitutional right to keep and bear arms. What led to the Court’s landmark decision? What’s next?

On June 8, **Stephen P. Halbrook** (Research Fellow, The Independent Institute) and **Nelson Lund** (Professor at George Mason University School of Law) discussed these issues at “The Supreme Court and the Battle for Second Amendment Rights,” a forum held at the Independent Institute’s conference center in Washington, D.C.

Halbrook began with a short critique of Supreme Court Justice Elena Kagan’s efforts during the Clinton administration to limit the right to own

firearms. The bulk of his presentation, however, focused on the history of the Fourteenth Amendment, a story he chronicles in *Securing Civil Rights: Freedmen, the Fourteenth Amendment, and the Right to Bear Arms*—a book repeatedly cited by the

Supreme Court’s majority decision in *McDonald* and its precursor, *District of Columbia v. Heller*.

After the Civil War, the Southern states banned firearm possession for African Americans, making them vulnerable to attacks by the Ku Klux Klan and others, Halbrook

explained. The Fourteenth Amendment was created to ensure that states and municipalities would not infringe on protections guaranteed by the Bill of Rights, including the right to keep and bear arms.

(continued on page 7)



Stephen P. Halbrook and Nelson Lund address the Independent Policy Forum on June 8.



MyGovCost.org

Government Cost Calculator

What is Government Costing You?

One of the most important insights generated by the Public Choice and Austrian Schools of economics is that politicians promote passage of their legislation by concentrating benefits to interest groups and dispersing costs to the public. As the next election cycle nears, candidates will invariably laud the benefits of their pet programs while trying to distance themselves from any question as to how these programs will be paid for.

Bank and auto bailouts, stimulus spending, and Obamacare—what are future taxes going to look like to pay for these programs? For the first time, taxpayers have the unique opportunity to calculate their liabilities resulting from such egregious levels of government borrowing. Given a few basic inputs, the Independent Institute's **Government Cost Calculator** at MyGovCost.org will generate for any American a uniquely tailored estimate of future tax burden in a real dollar output.

A project of the Institute's Center on Entrepreneurial Innovation, the Government Cost Calculator is a valuable tool for current taxpayers, but it is even more important for people soon to be entering the workforce who will be coerced into spending their entire careers paying for these government liabilities. In addition to budgeting out payments for debt incurred during school, graduates will now be saddled with higher taxes as a direct result of wasteful government spending. With unprecedented clarity, MyGovCost.org now makes it possible to quantify how current government spending will effect future generations.

As the saying goes, "You can fool some of the people all of the time, and all of the people some of the time, but you cannot fool all of the people

all of the time." MyGovCost.org is the first step in ensuring that we are no longer duped by the sheer size of government spending. Make no mistake: government debt necessarily results in taxation—either directly through the IRS or indirectly through inflation. MyGovCost.org is a major step in educating the public about the real effects of trillions of dollars of government spending.

MyGovCost.org's director **Emily Schaeffer Skarbek**, (Research Fellow, the Independent Institute) together with a team of leading economists, has transformed untold hours of research into a simple click of the mouse. By providing the public with concrete dollar amounts of what they will owe the government, our hope is that the Calculator will spark outrage and action against the growth of government and give everyone who visits MyGov-

Cost.org a foundation to discuss the costs of unbridled borrowing.

For the first time, individuals will be able to confront the crowding out of their own spending and consider the ramifications wasteful legislation will have on their future livelihood and sense

of well-being. If all dollars compete against each other, the big question becomes: what will the government force you to give up?

Everyone at the Independent Institute agrees that we have already given Big Government far more than its due! If you share our sentiments, we urge you to please consider joining with us now as we launch MyGovCost.org. With your help, this new program may very well be the instrumental piece to curbing Leviathan's seemingly insatiable appetite for your hard-earned dollars!

To donate to this important work, please visit <http://independent.org/membership/>.



Mary Theroux: Can We Finally Give Free Markets a Chance?

(continued from page 1)

school attendance rates in the United States were 90 percent and rising. Today, private education is enjoying a remarkable renaissance in many developing countries in which a large private-education industry, often aimed at serving the poorest of students, exists to alleviate the failure of government-run schools.

- Would the more effective response to the attacks of 9/11 have been to authorize bonded privateers to pursue al Qaeda via constitutionally provided Letters of Marque and Reprisal? Privateers wreaked so much havoc on Britain in the War of 1812 that Lloyd's of London ceased offering maritime insurance except at ruinously high premiums. No wonder Thomas Jefferson said, "Every possible encouragement should be given to privateering in time of war."
- Private environmental-protection groups such as the Audubon Society and the Nature Conservancy

license oil and gas drilling in environmentally sensitive preserves they own, responsibly weighing the risks against the benefits as measured by the income derived from drilling. At the same time, private developers on southern coastal barrier islands are protecting sensitive shorelines more effectively than has the government. Institute studies show the tremendous promise of property-rights approaches to conservation for protecting offshore resources and other sensitive habitat, as well as endangered species.

And so it is for myriad other services that governments "must" provide. In case after case, Independent Institute studies provide consistently conclusive, peer-reviewed evidence that society is better cared for and protected by the free flow of information among voluntary actors—individuals and entrepreneurs—freely allowed to innovate and exchange. In short, free markets. Can we finally give them a chance? •

New Book: Property Rights

(continued from page 5)

In addition to Benson, the book's contributors include Jonathan Adler, Peter Boettke, Matthew Brown, Scott Bullock, Christopher Coyne, Steven Eagle, Wallace Kaufman, Peter Leeson, Edward López, Thomas Means, Paul Niemann, Perry Shapiro, Ilya Somin, Samuel Staley, Edward Stringham, and Richard Stroup.

To order this book, see the enclosed envelope or go to www.independent.org/store/book_detail.asp?bookID=87. •

Praise for *Property Rights*

"Professional and lay readers alike can profit from the different perspective contained in this thoughtful book."

—Richard A. Epstein, James Parker Hall
Distinguished Professor of Law, U. of Chicago

"Property Rights contributes to the understanding of the competing contentions of those who respectively favor and oppose the use and misuse of eminent domain."

—Gideon Kanner, Professor Emeritus of Law,
Loyola Marymount University

Policy Forum: Securing Civil Rights

(continued from page 5)

Nelson Lund focused on Justice Antonin Scalia's majority decision in the 2008 *Heller* case. Although the decision affirmed that Second Amendment rights pertained to individuals, not just collectives such as a militia, it left a lot to be desired, Lund argued. Scalia failed to identify any textual or historical evidence about the scope of Second Amendment rights. Moreover, Scalia's case against the gun ban relied less on principle and more on

the current popularity of handguns as weapons for self-defense.

Lund concluded by predicting that the books by Dr. Halbrook would have a growing influence. "To whatever degree the courts prove willing to protect our constitutional rights in this area," he said, "I think we will all owe Steve Halbrook a large debt of gratitude."

For the event video, audio, and transcript, see www.independent.org/events/detail.asp?eventID=146. •

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Why I Give: Sally S. Harris

Independent Institute Is “Beacon of Light”

I believe the country is going in the wrong direction; our ship of state is headed full steam ahead for the rocks. I find the current administration disingenuous, possibly incompetent. Thankfully, the Independent Institute serves as a lighthouse. True to its logo, its ideas are a beacon of light that warns and guides this nation.

I am an independent. I have voted for Democrats, Republicans, and Ross Perot. I look for independent thought in word and deed.

The work of the Independent Institute expresses the quality of research necessary to arrive at reasonable solutions to the complex problems we face as a country. From their publications I have learned why the stimulus won't work, the reasons for concern over the danger of Hugo Chavez, and the Founders' intent for the Second Amendment.

Integrity is the Institute's most compelling attribute. Its point of view is focused, its subjects are timely, and the quality is consistent.



Sally S. Harris

At a time when it is difficult to know where to make a safe investment, the Independent Institute guarantees me low risk and high yield for a brighter future; something I cannot expect from a politician. Political arguments are about left and right, not right and wrong. I want to show my support beyond my subscription to increase the leverage that the Institute can bring to “boldly advance peaceful, prosperous, free societies, grounded in human worth and dignity.”

I am deeply impressed and grateful. This is why I give.

Sally S. Harris serves as a member of the Independent Institute's Board of Directors. The Institute and its staff would like to thank Sally and all our Associate Members for their support. If you would like to share why you give to the Institute or discuss ways you can support our mission, please call **Julia Anna Jelinek**, our Development Director, at 510-632-1366, or email jjelinek@independent.org.

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