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The laws of economics are not suspended for Hoosiers any more than for Zimbabweans.

Predictive Journalism and Why Property Rights Are Such a Big Deal

Journalism is nothing if not predictive argued the late Robert Bartley, editor of *the Wall Street Journal.*

Mr. Bartley was rejecting the trend to advocacy or "teaching" journalism so popular in recent years.

Officers here think Mr. Bartley was right. The membership would be poorly served if it could not depend on this journal to make sense of tomorrow's news. Among our more persistent predications:

• Indiana's government schools are proficient at hiring adults and issuing construction bonds but not at teaching children. Performance will not improve until repeal of the state Collective Bargaining Law.

• Equality of opportunity, on social issues no less than economic ones, will be sacrificed in pursuit of equality of results.

• Electing better people to office will not be a solution if the system itself is flawed and its economic incentives work against objectives.

• Legal permission or not, those Indiana cities and counties where property is treated as a mere revenue source, in ignorance of its profound role in economic history, will fail to prosper.

"Zimbabwe Seizes Farms; Abolishes Land Ownership"

— June 9, 2003, the Associated Press

"Food Prices Skyrocket in Zimbabwe: Country's President Backtracks, Says Nation on Verge of Famine"

— May 29, 2005, the Associated Press

With regard to that last, a member sends a clipping datelined Harare, Zimbabwe. He wrote to remind us of something published on these pages years ago:

> The economic policies of Zimbabwe, once a breadbasket of southern Africa, will continue to move its people toward impoverishment, perhaps famine. Can future dispatches from Harare be anything but grim?

Why was a journal dedicated to Indiana municipal and state issues writing about Zimbabwe? It was using an extreme but real-life example of what the Supreme Court now dismisses as a hypothetical point — *property rights are a big deal.*

Two years later we know that democracy in Zimbabwe is on a default setting, one where envy justifies tyranny, the price of corn rises 52 percent overnight, famine is imminent and the police take steps to "deter protest."

Two years later in Indiana we still are fat and free. However, our position relative to the other states worsens.

For when respect for private property falters, bad things happen. Incrementally or suddenly, people lose their savings, lose their jobs, lose the ability to support their families and, in Zimbabwe at least, they lose their lives.

The laws of economics are not suspended for Hoosiers any more than for Zimbabweans. Someone — in the legislature, in the governor's office, in your city council, in your political party — must stand for the right of property.

It is the one stance that encourages not only hometown businesses, where most jobs are created, but attracts critical outside investment. The economic arguments for this are well marshalled by the adjunct scholars writing in this special issue.

But those in public office are not convinced. Worse, there is no general discussion of the importance of property rights to our well-being, be we rich or poor.

The media, consumed with teaching us how to be more compassionate, more fair-minded, are just beginning to make the connection.

Thus the government grows to Leviathan — completely in tyranny, proportional in democracy, but always to ruin.

— tcl

Rex A. Lamm, a great friend of this page and a former director of the Medical Protective Company of Fort Wayne, died May 31 at age 76. Mr. Lamm is beloved here for his humility, his common sense, his indefatigable spirit and the clarity of his observations on events of the day, observations delivered with the keenest of wit. He is sorely missed.

EMINENT DOMAIN AND PRIVATE PROPERTY

An appreciation for clear title brought Indiana the 16th U.S. President and the Indianapolis Colts

by SAM STALEY

WHY PROPERTY RIGHTS ARE SUCH A BIG DEAL

The setting would have been ideal for an action film featuring international intrigue. In the mid-1980s, at the height of the Cold War, a private businessman is faced with the seizure of his business by a government. He is rescued in the middle of the night as his property and business are smuggled to safety in a nearby state.

The plot could entice the best and brightest — Harrison Ford, Matt Damon, Angelina Jolie, Tom Cruise — the Hollywood A-list. But those stars are unlikely to sign onto this film because the plot, though real, isn't based on international intrigue.

The scene was vivid enough — dozens of Indianapolis-based Mayflower vans packed up the equipment of the NFL Colts in a midnight move to Indiana. The dramatic action was set in motion not by some East German bureaucracy but by the state of Maryland. Its legislature would have used its power of eminent domain to seize, or "take," the football team for public use in Baltimore. By moving the team's assets to Indiana, the business stayed private.

The protection of property rights has been a key element of Indiana's economic success over the years. Thomas Lincoln, father of our 16th president, moved to Indiana from Kentucky 200 years ago because he could buy farmland and make an honest go at a profitable business here.

In Kentucky, poorly defined and enforced property rights had resulted in three failed farms for the elder Lincoln. He couldn't afford to stick around any longer.

The federal Land Ordinance of 1785 required consistent measurements for land and established the township system of surveying, assuring clear title in Indiana. According to the National Park Service, Abraham Lincoln recalled that his father moved from Kentucky to Indiana "partly on account of slavery, but chiefly on account of the difficulty of land titles in Kentucky." Thousands of others moved "west" to Indiana at the time for the same reason.

Property rights have not fared so well in recent years. Eminent domain is the legal authority of governments to seize, or "take," private property for public use. The action

Abraham Lincoln recalled that his father moved from Kentucky to Indiana "partly on account of slavery, but chiefly on account of the difficulty of land titles in Kentucky."

Samuel R. Staley, Ph.D., an adjunct scholar with the foundation, is director of Urban and Land Use Policy at the Reason Foundation (http:www.rppi.org). He is co-author, with economist John P. Blair of "Eminent Domain, Private Property and Redevelopment: An Economic Development Analysis," recently published by the Reason Foundation. This is an adaptation of that policy report.

The City of Indianapolis, which benefited from Maryland's indifference to property rights, is now using the threat of eminent domain to make way for a stadium parking lot.

is part of the police power and is explicitly granted to governments in the U.S. and Indiana constitutions so long as the taking is for public use and private property owners are given "just compensation." Unfortunately, the courts have interpreted the term "public use" so broadly that even professional football teams can fall into the category.

Indiana's General Assembly and Indiana cities are increasingly following in the footsteps of other cities and states in using eminent domain to seize private property for whatever local government might covet.

"Indiana is growing more aggressive in its use of eminent domain to benefit private parties," notes attorney Dana Berliner in "Public Power, Private Gain," a survey of state and local actions to condemn and take private property for private interests. Berliner defends private property owners in eminent domain cases for the Washington, D.C.-based Institute for Justice. Nationwide, she identified 10,282 cases of "filed or threatened condemnations" for private uses over a five year period in her report. In Indiana, she found at least four instances where cases were filed and 51 cases where eminent domain was threatened.

Cases crop up in big and small cities. In Indianapolis, the city got tired of trying to negotiate with a parking garage owner and seized the property so the city could sell the land to private developers. It served the city's redevelopment goals.

In Mishawaka, the county government used the threat of eminent domain to close the deal on 51 homes that stood in the way of AM General's plan to expand an automobile manufacturing facility.

In Indianapolis, the city, ironically, is now using the threat of eminent domain to remove a 60-year Indianapolis business so as to make way for a parking lot for the new Colts stadium. Apparently, the desire to keep the Colts is more important than preserving and protecting the property rights of longtime residents and businesses.

The message in Indiana as well as the rest of the nation is clear: Private property is not safe if the government wants it, even if the benefits are going primarily to other private businesses and property owners.

The U.S. Supreme Court hasn't been any help either.

One of the most significant cases addressing eminent domain in years, *Kelo vs. City of New London,* was decided this summer. The case pitted property owners against New London's redevelopment authority and the city's plans to revitalize a neighborhood. The city wanted to buy the properties, many of them historic, raze them to the ground, and sell the land at steeply discounted prices to private developers who would build new shops and offices to support a nearby Pfizer research facility.

The city condemned the properties even though it didn't have clear plans or projects for the use of the property at the time. Most of the neighborhood was already gone, but a few residents and business owners dug their heels in and tried to hold on, setting *Kelo vs. City of New London* in motion.

During oral arguments in February, questioning by the U.S. Supreme Court justices was vigorous and heated. At the end of the day, however, the Court did not overturn previous precedent. It continued to grant wide latitude to cities, counties and state legislatures over when and how they can use eminent domain for redevelopment purposes. It would seem that cities now have no limits in this regard.

That would leave everyone's property at risk. As courts have become less and less willing to question the substance of government eminent domain decisions, the targets have moved from poor to middle-income homeowners and businesses, from rundown neighborhoods to stable and growing neighborhoods. Virtually anything in the way of a government redevelopment project can be taken.

A recent case from Mesa, Arizona, illustrates how the process works.

Randy Bailey owned and operated a brake repair shop at the corner of Country Club Drive and Main Street in Mesa, Arizona. The owner of the local ACE Hardware store, Ken Lenhart, wanted to expand his franchise. He thought Bailey's site would be

'City Sees Empty Lots as Assets'

This intriguing headline appeared in the May 8 Fort Wayne Journal Gazette. It describes an article in which the paper's government reporter tries mightily to explain why it is good economic news that City Hall lays claim to 174 vacant lots, all properties left suspended after the collapse of a public housing scheme. It is both ironic and profound that many of the lots are incumbered by government regulations rendering their titles either unsalable or untransferable.

ideal. The city saw this as an opportunity to further revitalize its downtown. It offered to use eminent domain to take the properties and provide them to the hardware store and other private developers. The fact that the property was outside the city's designated redevelopment area was considered a technical matter.

Once Lenhart decided that Bailey's property was suitable for the expansion of his hardware store, the city redrafted Mesa's redevelopment plan to include the land at Country Club and Main. They designated the property "Site 24" and issued a request for proposals to redevelop it.

Three development companies submitted plans. One was Redstone Development, owned by Lenhart. Another was Palm Court Investment, owned by Mesa Discount. The third was Watt Commercial Properties, a national operation, which proposed a complete redesign of the property, including 50,000 square feet of new retail and office space.

The city consolidated the proposals submitted by Palm Court and Redstone, rejecting Watt's bid altogether. It then negotiated a development agreement that included the terms for sale of the property to Lenhart and Mesa Discount once it was acquired by the city. It also agreed to acquire Lenhart's old building and land as part of a land swap.

At the request of Palm Court and Redstone Development, the city proceeded to condemn 21 of the site's 26 parcels, including Randy Bailey's business, which represented half the assessed value of the land. Lenhart was asking the city to acquire property worth two-thirds of the assessed value of his share of the development project.

At first glance, the process seems exceptional. Indiana cities aren't usually as brazen as Mesa. But the process is not all that different from what one finds here, particularly in cases such as AM General that have clearly identified business plans that include expansion. As long as a site is identified as a redevelopment area, cities have wide latitude for using eminent domain for economic development purposes. Existing private property owners are considered incidental to the development process.

This process is indicative of redevelopment efforts in more and more cities throughout the state. Currently, the state of Indiana and city of Indianapolis are facilitating the acquisition of land for the new Colts stadium, even though the primary beneficiaries will be a privately owned NFL team.

Again, city development plans almost always trump private efforts. Local Indianapolis businessman Bob Parker, to provide another illustration, assembled properties in the mid-1980s to develop an industrial park, notes attorney Dana Berliner.

However, the city of Indianapolis later decided it would develop its own industrial park, but its plans were bigger and more expansive. So, rather than incorporate Parker's properties into the larger plan, the city condemned his land and 70 additional acres to create the Keystone Enterprise Park.

Condemnations are just the tip of the iceberg. Often, cities appraise properties well below their value on the open market. In Bob Parker's case, the city offered $349,950 for his 10 acres although he estimated its market value at $3.8 million. The owner of a property in Indianapolis in the way of the Colts Stadium project was offered well below the listed price of $350,000, according to a recent report in *the Indianapolis Star*.

Low-balling appraised values, or providing highly leveraged and subsidized property to private developers, is not unique to Indiana. The city of Mesa's redevelopment agreement with private developers for Bailey's property would have amounted to effective subsidies ranging from $176,000 to $592,000.

In Indiana, at least, property owners are most often approached by local governments before their property is taken. The Baileys, in contrast, were never approached by the owner of ACE Hardware, the City of Mesa or any of the other investors about selling their property before or during the process in which the city issued its request for proposals to redevelop the site. The small businesses affected by the redevelopment project were effectively shut out of the process.

To add insult to injury, Lenhart bought a property adjoining Bailey's building and proceeded to board it up. The set of small office spaces had gone unused for years, contributing to the rundown character of the corner. In a cynical twist, Lenhart, as landlord, was contributing to the blight that the city cited to justify condemning Bailey's

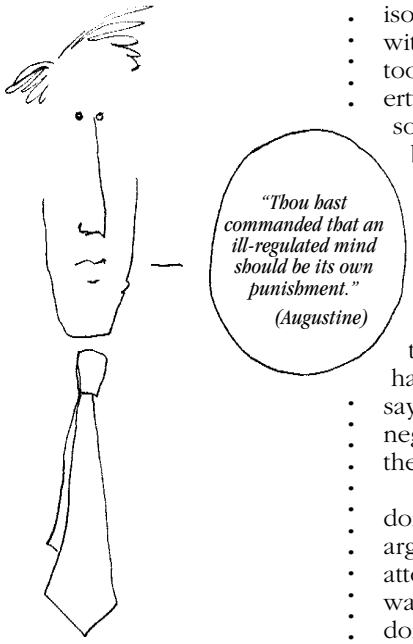
City development plans almost always trump private efforts. Ask Bob Parker about his Indianapolis industrial park.

Legislation was introduced several years ago in the Indiana General Assembly to allow "quick takes" of private property.

property. What distinguishes the current era of condemnations is the degree to which local governments are willing to use this power to achieve ever widening public-policy goals. Sometimes they succeed.

Sometimes they're driven back by public protest or the courts. In Lakewood, Ohio, a growing neighborhood was saved from the wrecking ball only after a city-wide vote that rejected the city's development plan for the area. But cities, counties and states across the nation are pushing the boundaries.

Jeff Finkle, president of the International Economic Development Council, a trade association representing development and redevelopment organizations and agencies, believes eminent domain is critical to the revitalization of cities. He argues that few projects in urban areas occur on small, isolated lots, and the costs of negotiating with dozens of property owners are simply too high. In addition, he says, some property owners refuse to sell or set an unreasonable price, scuttling projects with large benefits for the community.



"Lose eminent domain in urban settings," Finkle told Reason magazine, "and the only land that will be developed is green space on the edge of cities."

Even Finkle, however, recognizes that the power of eminent domain should have limits. Taking private property, he says, "should be the last possible tool. If negotiations fail, if the bully pulpit fails, then you go to a takings case."

But Finkle's view is not necessarily the dominant one. When pressed during oral arguments in *Kelo vs. City of New London,* attorneys for the city admitted that they wanted enough freedom to use eminent domain so they could replace a low-budget hotel such as Motel 6 with a luxury hotel such as the Ritz-Carlton. A goal, of course, is more tax revenue.

In the current climate, many of the traditional constraints on public takings of private property have disappeared. Most redevelopment laws explicitly acknowledge that land can be taken even if the beneficiaries will be other private parties. This principle is even articulated in federal law through the 1954 Supreme Court decision *Berman vs. Parker,* which allowed local governments to condemn land for urban renewal and then transfer title to private parties. But even then, local governments didn't have carte blanche; they had to justify the taking as a way to mitigate "urban blight."

Over the years, however, that term has become little more than a name for property a government wants to take. Today, redevelopment agencies enjoy more discretion than ever, and eminent domain is their tool of choice.

In Indiana, legislation was introduced several years ago in the Indiana General Assembly to allow "quick takes" of private property. The legislation was said to be necessary to facilitate government attempts to redevelop land. The bill died in committee but the sentiment is alive.

While a ruling in favor of property owners in *Kelo vs. New London* would have restored substantive judicial review of eminent domain, most protections still would have had to come on the local level. In that respect, there are positive signs.

In 2004, the Michigan Supreme Court reversed its infamous decision in *Poletown vs. City of Detroit,* which unleashed the new wave of takings for economic development purposes. The Poletown decision allowed the city to clear an entire neighborhood so General Motors could build an automobile factory on the site. Economic development was the sole purpose of the taking. In *County of Wayne vs. Edward Hathcock,* the Michigan Court ruled that takings could be justified only for a clear public use and the mere creation of jobs was not sufficient justification.

More courts at least require cities to follow proper legal procedures before they take private property. The Arizona Supreme Court agreed that Mesa could not take Bailey's Brake Service because they had not made a determination of "blight" before condemning the property. Of course, if the City of Mesa had officially determined that Bailey's property was "blighted," the taking would have been legal.

During oral arguments in *Kelo vs. New London,* U.S. Supreme Court justices were clearly sympathetic to the economic development arguments. "More than tax revenue was at stake," Justice Ruth Bader Ginsburg said. "The Town had gone down and down" economically.

Unfortunately, the legal definition of blight and what qualifies for economic development, has become broad. The City of Lakewood, Ohio, condemned an entire neighborhood, declaring it blighted even though the average home there sold for $146,605 and assessed valuation increased 15 percent between 1994 and 2000. Nonetheless, the city argued that eminent domain was justified because it would be able to redevelop the neighborhood and potentially increase the total value of real estate to between $80 million and $131 million (up from an existing total value of $31 million).

Clearly, property rights currently do not get the same level of protection as other fundamental liberties such as free speech, the right to assemble or the right to an impartial jury. Restrictions on other rights have to meet a "means-ends" test, *i.e.,* there has to be a compelling government interest to justify them.

"In eminent domain," notes Notre Dame law professor Nicole Garnett, "there is no means-end scrutiny at all. (The courts) don't even bother to check to see if the government is advancing a public use. They wash their hands of it. They don't ask if economic development could be done another way."

Supporters of eminent domain disagree. "The fact is that in the average community in the typical state, the system is working well," claims the American Planning Association's policy guide to takings. "Property rights advocates are waging a guerrilla war of sound bites, misleading 'spin doctoring' and power politics which characterizes government at every level as evil empires of bad intent."

Finkle, the president of the International Economic Development Council, echoed these concerns. The Institute for Justice in particular, he claims, has "done a great job of taking the absolute horror cases and publicizing them." For the most part, Finkle and other redevelopment advocates claim, eminent domain is used reasonably and appropriately.

Nevertheless, a few recent court cases may signify a trend toward stricter scrutiny of local government decisions. The fact that the U.S. Supreme Court heard *Kelo vs. New London* at least recognized there are several substantive issues that need to be clarified. The courts, however, are unlikely to be much help in reining in abuses of eminent domain. The courts "don't feel comfortable saying, 'We know better than the government' on public use," observes Garnett. When courts intervene, they usually "pick up procedural aspects of the implementation of the law."

For example, in oral arguments in *Kelo vs. New London* Justice Sandra Day O'Conner was uncomfortable with the idea that the U.S. Supreme Court (or any court) should "second-guess" decisions by state and local governments on the substantive importance of eminent domain.

That leaves legislative action as a remedy. The Indiana General Assembly recently passed House Bill 1063, establishing a commission to review the use of eminent domain and takings at the state and local level.

As this commission convenes over the summer to deliberate on reform of these statutes, members may want to consider the following guidelines. They would reassure, regardless of the Supreme Court ruling, that Indiana statutes properly balance private property rights and the public interest:

Require a Clear Public Use

Lawmakers should ensure that eminent domain is used only when there is a clear public use that will result from the project. Projects should have public access, or provide a public service or facility (or "public good") that cannot be provided by the private sector.

Use Only as a Tool of Last Resort

Legislators should make certain that eminent domain is used only when other, voluntary options have been exhausted and where the acquisition of the property is essential for the project to move forward.

Use When Faced With Imminent Public Endangerment

Ensure Private Benefits Are Incidental to the Project

Finally, private benefits should not be the primary consequence or benefit of the eminent domain action, nor should it be the primary purpose or intent.

"In eminent domain, there is no means-end scrutiny at all. (The courts) don't even bother to check to see if the government is advancing a public use."

— Nicole Garnett, Notre Dame School of Law

THE COURT AND PROPERTY

Less scrutiny for eminent domain

The 5th Amendment's limitation on eminent domain should guard against the abuse of public authority and the corruption of our democratic process.

The Supreme Court ruled in a 5-4 decision last month that local governments may seize homes and businesses for private economic development. Justice Sandra Day O'Connor wrote the dissent, arguing that cities shouldn't have unlimited authority to take property simply to accommodate wealthy developers.

"Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random," Justice O'Connor wrote. "The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms."

She was joined by Chief Justice William Rehnquist, as well as Justices Antonin Scalia and Clarence Thomas.

This foundation had joined the Cascade Policy Institute as amici curiae in support of the petitioners in the related City of New London vs. New London Development Corporation. The following is a summary of the argument made in that brief.

This U.S. Supreme Court's standard of review in regulatory takings cases should be applied in eminent domain cases.

The reasons that call for heightened scrutiny when a regulatory taking is alleged apply with equal force when the government seeks to condemn private property through its eminent domain powers.

While the public purposes that might be served by eminent domain are the same as those that might be served through the general police power, the eminent domain power is limited by the public use requirement of the 5th Amendment. This limitation serves to protect property owners from being singled out, recognizes that fair market value will often not make property owners whole, assures that the fundamental right to exclude will not be violated without a compelling public purpose, and guards against the abuse of public authority and the corruption of our democratic process.

Reliance on heightened scrutiny in eminent domain cases will not significantly handicap the government in the pursuit of its legitimate purposes. Numerous states have applied heightened scrutiny on the basis of their reading of either the 5th Amendment or of the comparable provisions of their own constitutions. Notwithstanding their heightened scrutiny in public-use cases, all of these states have been able to promote economic development, protect their environments, and pursue other public purposes in competition with the other states.

In reviewing the claims of property owners under the public use limitation of the 5th Amendment, the Court should demand that governments utilize the least burdensome means available. In the instant case, the Court should find that the City of New London has exceeded its legitimate authority in condemning the petitioners' property for immediate lease to private developers. Individual lives and livelihoods should not be so easily sacrificed to the profits of other private parties and the abstract prospect of economic development and increased tax revenues.

SCRIPTURE AND PROPERTY

Has anyone read the 8th Commandment lately?

by ERIC SCHANSBERG

Despite the public's focus on welfare programs for the poor, the bulk of government's property redistributive efforts are actually targeted elsewhere — to help other special-interest groups whose members are typically in the middle and upper classes.

How does this work and why do people tolerate it?

To help explain this, we will use a simple, hypothetical government program where a total of $280 million is taken from 280 million citizens through taxes to give to 10,000 people. The cost to each person would be a dollar; the benefit to each recipient would be $28,000.

First, think about those paying for the program — the general public. The cost for a family of four would be four dollars per year or $.33 per month. Who would notice such a minor expense? Now imagine that instead, the four dollars are extracted through slightly higher prices for something bought throughout the year. Who would notice the higher price and attribute its cause to the government program? These costs would be extremely subtle. Further, even if one did notice the additional cost, who would devote time and energy to oppose the government program? Only the most outraged would bother. In these matters, the public is usually "rationally ignorant and apathetic" — ignorant because they typically fail to see the small and subtle costs imposed upon them, apathetic because the expected benefits of taking action are easily outweighed by the costs, and rationally so, because the small per-person costs are not worth the time and effort required for individuals to learn about them and to pursue their removal.

Now, consider those receiving the transfer. As opposed to the apathetic general public, this group will be "especially interested." There is probably no other public policy issue that they will care about more. They have an incentive to 1) be selective with or to twist information in any public debate; 2) create compelling stories for why the redistribution should occur; and 3) support those in government who make the transfer possible through a bloc of votes, campaign contributions of time and money, or even bribes.[1]

In sum, members of the special-interest group receive sizable benefits. Another small group that facilitates the transfers — politicians and bureaucrats administering the program — reaps obvious benefits as well. And there is a large group — the general public — whose members absorb relatively small and subtle costs. The latter

"Justice being taken away, then, what are kingdoms but great robberies?
But what are robberies themselves, but little kingdoms?

— Augustine

D. Eric Schansberg, Ph.D., an adjunct scholar with the foundation, is a professor of economics at Indiana University (New Albany). This is excerpted from his book Turn Neither to the Right Nor to the Left: A Thinking Christian's Guide to Politics and Public Policy, reviewed on page 28.

1. For a brilliant description of why the costs of organizing have decreased and the benefits of organizing have increased over time, see: J. Rauch, Demosclerosis: The Silent Killer of American Government, Random House: New York, 1994, p. 50-58.

The first problem that comes to mind after reading a pointed description of political market activity is that it seems to violate the 8th Commandment.

group hardly notices the loss while the first two groups pursue such intervention with great vigor.[2] This is mutually beneficial trade between government officials and the special-interest group — at the expense of the general public.

Note also that the recipients don't have to be needy or deserving in any sense; the mechanism is equally adept at transferring wealth to Bill Gates or to a homeless man. In fact, many of the redistributive schemes transfer money from the poor to the non-poor.

For example, consider Social Security. Its taxes are regressive since they are not imposed above a certain income level. Its benefits are also regressive to the extent that those with lower income typically die sooner. (On average, black males actually earn a negative rate of return on their "investments" in the system.[3]) Assuming today's workers will be paid benefits when they retire, the poor and lower-middle classes have been forced to put most of their nest eggs into a "retirement plan" that yields, on average, a one percent rate of return.

All of this makes Social Security reform an ethical as well as an economic and political issue. And deficit financing yields benefits for recipients today at the expense of the unborn who will bear the burden of that debt tomorrow. As Jonathan Rauch notes, "politicians and lobbies look to transfer money from a group that won't organize to defend itself . . . out of the mouths of babes and into the mouths of interest groups."[4]

James Schlesinger aptly describes the goal of this game: to extract resources from the general taxpayer with minimum offense and to distribute the proceeds among innumerable claimants in such a way as to maximize support at the polls. "Politics . . . represents the art of calculated cheating — or more precisely, how to cheat without being caught."[5] As such, politicians and interest groups look for ways to transfer wealth while making the costs invisible.

The first problem that comes to mind after reading a pointed description of political market activity is that it seems to violate the 8th Commandment.[6]

"Since government produces no goods, it can distribute only what it takes from others. This process is indistinguishable from theft."[7]

Notably, Libertarians consistently describe taxation for most types of government spending as "legalized theft."[8]

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2. In other words, people have a greater interest in the relatively few things they sell (their income) as opposed to the innumerable things they buy.

3. "Poor Returns," Wall Street Journal, April 13, 1998.

4. Rauch, Demosclerosis, op. cit., p. 153-154.

5. J. Schlesinger, "Systems Analysis and the Political Process," Journal of Law and Economics, October 1968, p. 281.

6. The 10th Commandment, injunctions against moving boundary stones (Deuteronomy 19:14, Proverbs 23:10, Hosea 5:10), and the concepts of tithing and sacrifice (out of what one owns and controls) also support strong property rights. See also: Micah 4:4, Matthew 25:14-30 and Genesis 3's original sin which centered around theft.

7. H. Schlossberg, Idols for Destruction: The Conflict of Christian Faith and American Culture, Crossway Books: Wheaton, IL, 1990, p. 118. See also: Ecclesiastes 4:1, 5:8-9. Augustine said that the only difference between the state and a band of highwaymen is its justice and supposed legitimacy: "Justice being taken away, then, what are kingdoms but great robberies? But what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince; it is knit together by the pact of the confederacy; the booty is divided by the law agreed upon." (Quoted in D. Bandow, "The Necessity of Limited Government," in Caesar's Coin Revisited: Christians and the Limits of Government, ed. M. Cromartie, Eerdmans: Grand Rapids, 1996, p. 147.)

8. There is one category that is different — when the money is used to support the common good, rather than simply to redistribute from A to B. To promote coercive ends, Joseph McKinney cites Joseph's advice to Pharaoh to tax the Egyptian harvests by 20 percent during the years of plenty to prepare for the years of famine (Genesis 41). But even if an appropriate prescription, the ends were to promote the general welfare good and not at all to promote any private interests. Note also that for the prescription to be practical required omniscience and a benevolent dictator — an unlikely combination. ("The Public Sector and the Poor," in Political Principles and Economics: The Foundations, volume 2, ed. R. Chewning, Navpress: Colorado Summers, 1989, p. 235.) Isaiah 22:10 may provide another example. For confusion in labeling health care as what economists call a "public good," see: C. Cochran, "Health Policy and the Poverty Trap: Finding a Way Out," in Toward a Just and Caring Society: Christian Responses to Poverty in America, ed. D. Gushee, Baker Books: Grand Rapids, 1999, p. 236-239, 244.

As Robert Heinlein asks, "under what circumstances is it moral for a group to do that which is not moral for a member of that group to do alone?"[9] Is theft appropriate as long as it's accompanied by a majority vote? In the late 19th century, President Grover Cleveland aptly described what was then a more dominant ideology: "I will not be a party to stealing money from one group of citizens to give to another group of citizens, no matter what the need or apparent justification."[10] And with the proliferation of government activity over the last 35 years, Herbert Schlossberg notes that "it requires unusual decadence for an entire population to acquiesce in mutual pick-pocketing, to allow itself, that is, to be bribed with its own money."[11] It seems odd that we would invoke on ourselves what David wished for one of his enemies: "May strangers plunder the fruit of his labors."[12]

In criticizing attempts to "legislate justice" through government redistribution, David Chilton argues that "The mark of a Christian movement is its willingness to submit to the demands of Scripture . . . 'You shall not steal,' for instance . . . must not be relativized on the mere excuse that the thief has no bread. It must not be transgressed with the spurious rationale that the thief should have been given bread in the first place." As before, to pursue any goals with ungodly methods is not an appropriate option.

Doug Bandow argues that "the political process has become a system of legalized theft, with personal gain rather than public interest becoming the standard for government action."[13] This use of force cannot be motivated from a Christian perspective, unless the government spending is for the "general interest" or the "common good" — a narrow set of examples when economic markets do not function well (as with pollution and national defense).[14]

But it's not clear whether Christians should vocally endorse even those efforts. And certainly, Christians should eschew the use of government to appropriate funds from the general public to benefit special interests — or especially, themselves.

Why would we invoke on ourselves what David wished for one of his enemies: "May strangers plunder the fruit of his labors" ?

9. R. Heinlein, The Moon Is a Harsh Mistress, Ace Books: New York, 1965, p. 63.

10. Quoted in L. Burkett, The Coming Economic Earthquake, Moody Press: Chicago, 1991, p. 33. Dwight Lee draws an analogy to shortening the life of every American by five seconds in order to lengthen a friend's life by 41 years. ("The Perversity of Doing Good at Others' Expense," The Freeman, September 1997, p. 525-528.) Grover Cleveland: "When we consider that the theory of our institutions guarantees to every citizen the full enjoyment of all the fruits of his industry and enterprise, with only such deduction as may be his share toward the careful and economical maintenance of the government which protects him, it is plain that the extraction of more than this is indefensible extortion and a culpable betrayal of American fairness and justice." (Quoted in R. Higgs, Crisis and Leviathan.)

11. H. Schlossberg, Idols for Destruction, op. cit., p. 281. Wilhelm Roepke: "The morally edifying character of a policy which robs Peter in order to pay Paul cannot be said to be immediately obvious. But it degenerates into an absurd two-way pumping of money when the state robs nearly everybody and pays nearly everybody, so that no one knows in the end whether he has gained or lost in the game." (A Humane Economy: The Social Framework of the Free Market, 3rd ed., ISI Books: Wilmington, DE, 1998, p. 165.)

12. Psalm 109:11. "If one does not acknowledge transcendent truth, then the force of power takes over, and each person tends to make full use of the means at his disposal in order to impose his own interests or his own opinion, with no regard for the rights of others. People are then respected only to the extent that they can be exploited for selfish ends." (John Paul II, Centesimus Annus, #44-45, 1991; in The Social Agenda: A Collection of Magisterial Texts, eds. R. Sirico and M. Zieba, Pontifical Council for Justice and Peace: Vatican City, 2000, p. 99.)

13. D. Bandow, Beyond Good Intentions: A Biblical View of Politics, Crossway Books: Wheaton, IL, 1988, p. 51.

14. Even avid libertarians recognize that economic markets aren't particularly adept at dealing with: 1) Externalities such as pollution, because of the existence of substantial costs (or benefits) external to, and usually ignored by, the agent making the decisions. In such cases, the market produces more (or less) than the socially optimal level; and 2) public goods such as infrastructure or national defense. Here, the market can produce the optimal amount, but because providers cannot exclude those who do not pay, we may observe free-riding (why should I pay if I can sponge off my neighbor's purchase?). Thus, the supplier may not be able to collect revenues adequately enough for economic markets to provide this effectively. In such cases, government (political markets) can be "efficiency-enhancing" or "socially optimal"; they may be capable of doing a better job than economic markets. However, efficiency-enhancing is not at all assured. For example, in the provision of national defense, Congress might approve money for a weapon system that is ineffective for defending the country but accomplishes political purposes.

LOCAL GOVERNMENT AND PROPERTY

Catch-22s and qualifications drag this councilman toward a 'common good'

If there is an area of civic life characterized by greater emotion and less judgment than the planning and zoning process, I am unfamiliar with it.

This essay seeks to answer how property rights are defined and how they are protected in a typical Indiana city. Although the author, a Terre Haute councilman, relies on the experiences of his own community, it is a good bet that the situation is similar in your city or town.

by RYAN CUMMINS

The right of property is a misunderstood subject in Indiana.

Maybe "misunderstood" is the wrong word. Property rights are often understood well enough, simply not respected. Indeed, it seems that protecting them, fighting for them, is considered an impediment to progress — or economic development, or planning or whatever euphemism is in fashion.

It makes sense to begin by defining private property and property rights. It is summed up in an excerpt from an *Indiana Policy Review* article:

Private property turns out to be an absolute. It cannot be fiddled with. It cannot be rationalized. It is what it is — yours or mine, his or hers, for better or worse.

The ability to determine for yourself what will be done with the fruits of your own labor, *i.e.,* private property, is as fundamental a right to a Hoosier as is life or liberty. More and more, however, this is not the view of our neighbors.

Except for the socialists among us, most of the citizens with whom we live and work don't directly challenge the idea of property rights as an elementary right of every American. Rather, they qualify property rights within a context of societal needs.

A professor at Indiana State University, in a recent e-mail discussion, summed up this idea of qualified property rights thus: ". . . the community good trumps the private good . . . in a civic setting."

Ryan J. Cummins, a business owner and longtime member of the foundation, represents the 2nd Council District of Terre Haute, one of the state's most Democratic cities. He first won office in 1999 running against a captain in the powerful city fire department, a collective bargaining unit credited with engineering a Democratic landslide in the mayoral race that same year. Most recently, he won re-election against a popular former chairman of the Vigo Democratic Party, a career politician associated with Evan Bayh, Frank O'Bannon and Joe Kernan. Again, the collective bargaining units of the police and fire departments mobilized at the polls against Cummins, who had questioned the city's system of compensating public-safety workers. He won with 2,100 votes out of the about 3,500 cast.

It is this qualification that allows otherwise well-meaning Terre Hauteans to render property rights irrelevant. It is this qualification that poses the greatest danger to the prosperity of my city and yours.

Planning and Zoning

If you want to see how your elected officials view property rights, take in a few debates over zoning petitions at your local council or commissioner's meeting. If there is an area of civic life characterized by greater emotion and less judgment, I am unfamiliar with it. The arbitrary and capricious nature of zoning laws is part and parcel to ordinances of this type.

Recently, the Terre Haute City Council dealt with a petition by an owner to rezone property for a commercial laundry. The individual had already made investments in renovation of these properties in the same areas, both residential and commercial. Neighbors had congratulated him on his efforts in this regard.

The tracts in question were vacant lots located on a busy main street in Terre Haute. The area included a mixture of businesses and residences. About half of the properties was made up of older homes, some single family and some converted into multiple apartments. The other half was made up of businesses ranging from bars to funeral homes to insurance agencies to convenience stores. This property also happened to be within the boundaries of a designated historical district.

The objections to this zoning petition were vigorous, emotional and wide-ranging. They fell into two categories:

The first included the negative externalities and their effect on the residential parts of the neighborhood (no one seemed to care if they affected the business parts of the neighborhood). The trash, crime and traffic generated by the proposed commercial laundry, it was argued, would ruin the character and value of the surrounding residential property.

The second maintained that the mere existence of a common laundry would denigrate the historical district.

The citizens and council members who made these arguments were sincere, honest and forthright. While there could be no doubt that they believed in rule of law, they also were willing to have property rights, although outlined and protected by this rule of law, modified. They were willing to have them modified in this case and in many other cases to suit their civic vision. The virtues of the free market were ignored.

The Discussion

The rebuttals to the first arguments about trash, crime and traffic were little more than common sense. Most folks, when they think about it, understand that laundry customers are no more likely to randomly discard trash, commit crimes or drive recklessly than any other person. If a different business were put here, its patrons might or might not cause similar problems. If a residential property were put here, the same could be said of homeowners or apartment-dwellers.

The logical conclusion should have been that a mere zoning decision could not prevent such problems in itself. In any case, laws that deal with these concerns (trash, crime, traffic and such) already are on the books and would come into play to deal with these issues.

The objection in the name of the historical district was answered perfectly if inadvertently in a local newspaper article.

On the day the council was to vote on the petition, there was a front-page story in *the Herald-Times* about other property owners in Bloomington who, in 2000, had sought and received a designation as historic for their building. They sought this designation because they thought it would make the property attractive to potential buyers (there are various taxpayer-funded incentives associated with a historic designation).

However, as the law of unintended consequences decrees, the opposite happened — no buyers were found. It turned out that the restrictions associated with a historic building acted as a deterrent to profitable development. The property owners in the newspaper account were now seeking to tear their building down.

In a Catch-22, they were prevented from doing so by the Council because the property now was "historic." Moreover, the local historic preservation commission wanted the property placed within its jurisdiction, further eroding the owners' rights of use and disposition.

While there could be no doubt that the citizens and council members believed in rule of law, they also were willing to have property rights, although outlined and protected by this rule of law, modified to suit their civic vision.

Does it strike you odd that elected officials today never refer to the money each of us earns as our private property?

What made some in council chambers chuckle was the nature of the building described in the newspaper that day. It was a historic . . . yes, a historic commercial laundry.

The Asset of Home Ownership

A home is the largest asset claimed by many folks. The ability to liquidate this asset to fund needs in later life is a big part of the retirement plan for many. When zoning-and-planning ordinances impede this ability to liquidate, the results can be severe, especially for those unlucky enough to own a home in an area that might be transitioning from residential to commercial.

My family business is located in exactly such an area, one that was mostly residential but over the years has become nearly all commercial.

Several nearby properties were purchased by the business from elderly residents who were ready to make a move to a condominium, an apartment, a senior-living community or similar situation. They needed the funds provided by the sale to make this move. In this situation, the sellers turned their property into cash and the buyer got an opportunity to expand his business. The free market worked for all parties.

Inject the City Council into this process and prospects change significantly.

One Parking Lot Too Far

A local business owner on one of the main commercial routes needed more parking for the improvement and expansion of his business. Adjacent to his property, on the other side of an alley, was a residential area. Some of the homes were well-kept, others less so.

The business owner purchased a residential property across the alley from his. As a residence, it was not worth that much. As a parking lot, it was worth more — substantially more. The residential owner sold the property for a higher value than it was worth as a residence. The business owner was able to expand his enterprise. Again, the free market works for all parties.

Certain citizens in our community consider parking lots adjacent to residential property to be offensive. This is so even though a parking lot does not prevent neighboring owners from using their property; that is, their property rights are not infringed.

Nonetheless, a council member was contacted. The result was an ordinance that eliminated this "loophole" in the zoning laws. But one man's loophole is another man's opportunity.

The Council's action was unfortunate, for the reality was that the parking lot was much nicer than the house it replaced. What's more, the parking lot likely increased the property values of the adjacent houses in addition to allowing a business to expand and thereby adding to the assessed value of the city — all in all, a desirable outcome.

Why would a city do something so self-defeating?

Again, it is the arbitrary nature of these types of ordinances, based not on the sanctity of property or contract but on the personal whims and preferences of a small group of people.

The damage to the city at large should have been apparent. There are literally hundreds of pieces of residential property in Terre Haute that now came under this restriction. The ability of the owners to realize the value of their property was diminished for no good reason, and they probably didn't even know it.

They would learn about it, however, when they set in motion their retirement plans or started looking for the down-payment on that dream boat. They will find that their property rights, and their retirement expectations, will have been abrogated by their local government. They will have to settle for a lot less than they had planned on, and so will the guy who sells boats.

Common Good or Free Market?

It is a foolish government that doesn't plan. However, it also is a foolish government that controls private property for some nebulous "common good." It is a wise government that plans only in order to improve the choices made by each of us in the free exchange of the market.

Does it strike you odd that elected officials and bureaucrats today never refer to the money each of us earns as our private property?

I always considered my money as my property — yes, to be used and disposed of as I see fit. Alas, this is not the prevalent view among Indiana politicians.

When the talk among these politicians turns to economic "development," know that your property is in danger. Although the number of economic development schemes are apparently endless, they have one thing in common — your money and mine, our property rights.

Tax abatement, TIF (Tax Increment Financing), CRED (Community Revitalization Enhancement District), among others, all share a characteristic that imposes a burden on the property rights of Hoosiers. That is, they all are predicated on the assumption that local officials can pick and choose the winners in the job-creation and redevelopment game. They force taxpaying citizens to become unwilling investors in the chosen entity or company, unwilling players in the game.

Investing means putting up your money in hopes of a return, which is exactly what is done. But those making the decision are using someone else's money to complete the transaction. These types of schemes are an example of what the economist Bastiat called "legal plunder," the use of political power to achieve what one is unable to achieve in the free market.

Taxes in Three Easy Pieces

One must understand how the property tax system — and now, the local income tax system — works in Indiana to see how it affects property rights.

When a city such as Terre Haute decides via its budget process how much money it will need to operate, it necessarily puts together one-third of the property tax puzzle. Adding up the Net Assessed Valuation (NAV) is the second third. The last part is figured by dividing the first into the second.

Whenever some portion of the NAV is kept out of the equation, the rate must increase beyond what it would have been. All others pay more so one can pay less.

Of course, it is never ever put in those terms. At a City Council meeting, only glowing adjectives are used to describe the entity seeking a tax consideration. Council members will be told of the good jobs that will be forthcoming on approval of the abatement or other incentive. They will hear of the economic multiplier that the abated jobs represent. There will be consensus that prosperity is just an abatement away.

Sometimes, I almost feel bad opposing these proposals. However, I get over it when I do the math.

You see, what is never mentioned are the opportunity costs of increasing taxes on all other payers. For if taxes are too high to justify an investment for this person, then taxes must be too high to justify their investments for *all* persons.

Most of all, it is taboo to state that the protection of the property rights of all citizens simply prohibits such actions.

The good news is that this point is stated clearly by certain council members and certain citizens throughout Indiana. The bad news is that time after time it is summarily dismissed by the political and informational establishments.

When a councilman is elected, there is no magical transformation that enables him to suddenly be able to choose correctly which entities should receive taxpayer dollars — dollars paid involuntarily, by the way.

The magic does exist, though. It exists in the infinite number of decisions made by individuals acting in their own interest in a free and unfettered market. It is there that true economic development takes place, within the framework of protected property rights.

Economic "Development"

One of the more egregious tools of the governmental trades is the local income tax. It comes in several forms. Here in Terre Haute we have the Combined Adjusted Gross Income Tax (CAGIT) and Economic Development Income Tax (EDIT).

These taxes, as far as taxes go, are constructed so that they are a relatively fair way to collect money for the operation of government. In effect, they are a flat tax. Everyone pays the same rate and receives the same exemptions.

However, nothing more good can be said of them.

Sold on a promise of fairness, these taxes simply become new money to be spent by the local governments that impose them. For example, CAGIT is imposed on the promise that it will replace property taxes.

Econonic development taxes are predicated on the assumption that local officials can pick and choose the winners in the job-creation and redevelopment game.

Whenever local government strays from the fundamental purposes of the protection of life, liberty and property, the result is the degradation of individual rights. And history shows that one of those rights, property rights, is essential to prosperity.

That is true to an extent. It also is true that the replacement value is applied to but a small percentage of total property taxes, and that percentage goes down every year as collections go up.

The foundation has not been able to find a single city or county in Indiana that applies 100 percent of CAGIT or its sister, COIT (County Option Income Tax) to property tax relief.

A discussion of property rights and local taxes must include an honest description of EDIT. The participants must therefore come to understand that what is called "economic development" can mean literally anything.

EDIT is collected from the paychecks of all wage earners in Vigo County. What is done with this property is illustrative of the law of unintended consequences — dishearteningly so.

Eating Our Own

In Terre Haute, there is a locally owned grocery store that is quite popular. The owner worked hard for years putting himself into a position where he could build a new store.

Meanwhile, he and his employees had paid the EDIT, believing the tax would be used for what the name implied, economic development.

Over the first year, one could calculate fairly accurately just how much these folks paid in EDIT. Business was good, customers were coming in the door, and maybe this economic development thing was actually working.

The free market being what it is, however, good fortune attracts competition. In this case, Wal-Mart set up on the same side of town.

The local owner's studies indicated he faced a tough fight against a super store. Even so, he was known as a good competitor and given a level playing field could be expected to hold his own.

He did not foresee, however, that his own City Council would use a half-million in EDIT dollars to build a road leading directly to the new Wal-Mart Supercenter.

The local business owner and his staff were required to subsidize the establishment of the Wal-Mart Supercenter as their new competitor. Moreover, every other competitor to Wal-Mart was required to do the same.

If you would have asked the mayor or any member of the Council if they intended to do such a thing, you would have received an immediate, indignant, emphatic "no." Yet, that is exactly and specifically what was done. And all the while it was being done, it was couched in that cloak of respectability known as "economic development."

To add insult to injury, the local grocer also had to help pay $4.64 million in state taxes used to establish his competitor's distribution center in Gas City, IN., (it's dangerous to one's property rights to be a state taxpayer, too).

The answer for our local business is not to lobby the Council or the Legislature to get its own commercial road or distribution center. The answer is for local government, by respecting property rights, to ensure a level playing field for the free market.

Even Sam Walton would have agreed with that.

Conclusion

Whenever local government strays from the fundamental purposes of the protection of life, liberty and property, the result is the degradation of individual rights. And history shows that one of those rights, property rights, is essential to the prosperity of all modern societies. Only tragedy awaits those who forget its importance.

This is not some lofty principle applicable only to discussions in the salons of Washington. It is vitally important to every city hall and county courthouse in Indiana. Vigorous protection of property rights is intertwined with local growth, prosperity and opportunity at the most local levels.

Next week, every meeting of every council or commission in every Indiana town will deal with an issue affecting property rights.

It is a good wager that none will embrace fully and absolutely the protection of property.

But it also is a good wager that the first one to do so will leave the others in the dust, becoming a magnet for prosperity and opportunity.

You can only work toward that end and that hope for your city and for your state.

THE NEW AMERICAN PIE

The grandson of immigrants is reminded of another hot summer day at another work site

by JOE SQUADRITO

Several years ago, my young son and I worked on a house to be displayed during Fort Wayne's prestigious Parade of Homes. Directly across the street sat another luxury house, one that looked about a week behind the parade's schedule. Some trades people would be putting in long hours to get things ready by show time.

The house where I was working was in its final stages. The air conditioning was on, and in two full days I'd be on my way to the next job. It was seven o'clock in the morning and the temperature was well above 90 degrees. The humidity was just about the same. The crew across the street had arrived long before me, and from the looks of things would be there long after I went home.

My son, at age 14, had been on many sites by then and pretty much knew the different stages of construction. As we carried our tools and equipment from the truck, he looked at the work still to be done across the street and said, "Oh man, Dad, I'm glad we're not them."

Throughout the day, my young son's words stuck with me but I didn't know why. I had been to many job sites in recent years that were behind schedule, and I had put in some long hours in extreme weather conditions. However, something my son said reminded me of an earlier time.

The air conditioning felt good, and except for trips back and forth to my miter saw we worked in ideal conditions all day long. Occasionally, I would glance across the street to the incomplete house. Drywall installers were carrying materials in and out. They looked ghost-like, covered with drywall dust; the only skin visible was below the sweat lines on their brows and forearms.

On the south side of the house were three shirtless men on scaffolding applying stucco. There are many skilled trades involved in building a house, but this was among the most labor-intensive. It was backbreaking work.

I could not help but feel guilty. At the same time, I admired these men for their work ethic and endurance. In spite of the heat, humidity and dust, they worked at a steady pace with only an occasional trip to the fire hydrant to get a drink of water or to wash the grime from their faces.

As our workday ended, my son and I loaded our tools and sat for a moment in my air-conditioned truck to watch the stucco

Joseph M. Squadrito, a founding member and a former sheriff of Allen County, is a custom carpenter in Fort Wayne.

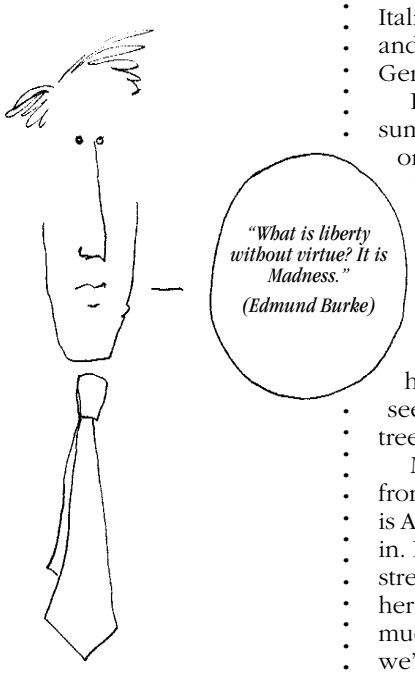
"In spite of the heat, humidity and dust, they worked at a steady pace with only an occasional trip to the fire hydrant to get a drink of water or to wash the grime from their faces."

— Squadrito

IIMMIGRATION

"Back then, when I was almost my son's age, those men on that hot south wall would have been Italian immigrants, and before them Irish, and before them Poles, and before them Germans."

— Squadrito



crew work its way up that south wall. I knew they would be there until dark. And leaving the driveway, I noticed drywallers near the hydrant getting buckets of water to mix more drywall compound. They looked up and waved. We waved back.

As we rounded the corner, my son said something else that I will always remember: "Dad, I sure feel sorry for those Mexican guys."

Then I realized what had been bothering me. I pulled to the curb and began to explain something my father, 50 years earlier, had explained to me. Back then, when I was almost my son's age, those men on that hot south wall would have been Italian immigrants, and before them Irish, and before them Poles, and before them Germans.

It all came back to me. It was another hot summer day. My father and I were working on a huge house for a textile baron. We were covered with sawdust and it was almost dark. As we climbed into the truck, the sweat made the sawdust stick to us in spite of best efforts to brush it off.

I remember asking my dad why it was that just Italians worked on this house, and why did only the English seem to live in these big houses with big trees all around and giant swing sets.

My father laughed, brushed the sawdust from his bright red hair, and said: "Son, this is America, and we Italians are the last ones in. Before I came to America, I thought the streets were paved with gold. When I got here I found out that they were mostly still mud, and because we're the last ones over, we're expected to pave them."

In essence, what my immigrant father was telling me in his own fashion was that the last man in gets the shovel — and in cheerfully picking up that shovel, he paves the way for a better life for his family's next generation.

My father's words, like it or not, are still true today. Each ethnic migration has faced and climbed the same social and economic ladder. From Plymouth Rock until now, such people came to America seeking nothing except an opportunity.

They knew that with few exceptions they would have to start at the bottom. They knew they would have to work harder, longer and under conditions that were more adverse. They did so knowing that their posterity would move even farther up that ladder.

What others saw as an unpaved muddy road, they saw as opportunity — and regardless of perils, they made the best of it. They knew that with the sweat of their brow their sons and daughters could become tomorrow's Iacocca, Scalia, Condoleezza Rice or Jonas Salk.

I am torn by today's arguments on so-called illegal immigrants, as are many of my friends and neighbors. Frankly, I do not have an answer. I am encouraged to know that most of these men and women are trying to make their own way and pull their own load. If you doubt that, look to this country's history. Specifically, look to its war heroes. Mexican-American families currently hold the greatest number of Congressional Medals of Honor.

Yet, I am concerned about the number of illegals who, because of criminal acts, fill our jails and prisons. Each of America's ethnic groups, however, has had its share of trouble.

America's generosity and benevolence go unnoticed and unappreciated around the globe. At the same time, our willingness to give so many different people a chance has brought us blessings and abundance.

I sincerely believe those Mexican immigrants laboring on that south wall fighting to meet the Parade of Homes deadline will become a part of America's greatness. They are contributing even today, and, as they climb the ladder, will contribute more than we can now imagine.

The Power Company's Trees

by Jim McClure and Norman Van Cott

So, you've cleared your yard of ice storm debris and are ready to move on. Think again. The worst is yet to come. A man-made disaster is in the offing. Having learned that ice storms can lead to power outages, American Electric Power (AEP) and its local subsidiary Indiana Michigan Power (I&M) have announced a plan to purge a forest-worth of trees in Muncie and Delaware County.

According to Seth Slabaugh's May 23 article in *the Muncie Star-Press,* "The new (AEP/I&M) policy is to clear trees within 15 feet on either side of a three-phase power

line and within 10 feet on either side of a single-phase line." Note that AEP will be cutting your trees. Trees that beautify your property. Trees that shade your property in the summer and shield your property from winter winds. Trees that increase your privacy. In short, trees that make your property more valuable.

If you think AEP's "plan" includes meaningful compensation to homeowners for eroding their property values, think again. AEP is like the proverbial poacher, taking what does not belong to it in order to serve its own narrow ends. If AEP had to pay homeowners enough to get them to willingly surrender the above tree-related amenities, those who agreed to let their trees be cut would not be left with a sour taste in their mouths. "Meaningful compensation" requires more than throwing homeowners some $50 nursery voucher after having removed a tree worth hundreds of dollars to the homeowner. Moreover, having to pay homeowners to cut their trees would certainly make AEP less anxious to fire up those chainsaws, wouldn't it?

AEP's ongoing rhetoric about its environmental concern is just that, rhetoric. In the final analysis, AEP won't walk the environmental walk when it comes to your trees until your trees affect their bottom line. That is, AEP must be forced to confront the full costs of its actions — which include homeowners' losses of tree-related amenities — if it's to exercise responsible environmental stewardship.

This is not to deny the importance of reliable electric service. Indeed, such service, like trees, contributes to real estate values. But AEP's pursuit of reliable electric service without considering the adverse economic effects of deforestation is a decision made in a vacuum. This side of Eden, good stewardship follows when decision-makers confront the full costs of their actions.

Can anything be done? Can AEP be made to face up to the costs that deforestation will impose on homeowners? What about homeowners banding together to legally challenge this planned deforestation? Community action projects always sound great at their inception, but generally fail when the rubber meets the road.

The problem, all too frequently, is that community members have an incentive to sit back, let others do the work, and reap all the benefits without lifting a finger or spending a dime. Hence, a few people end up making half-hearted, under-funded attempts at what would otherwise be worthwhile projects.

We are well aware that the Lone Ranger still risks life and limb for the good of society on late-night television. But if you think some beneficent "urban cowboy" is going to ride into "Middletown USA" and shoot it out single-handedly with AEP to make up for all the slackers, you've been watching too much TV.

Political scientists and economists have long argued that governments are instituted to deal with situations exactly like that which local homeowners now face. It's time for our government officials to make AEP accountable for the adverse consequences of their tree-cutting plan. If the current roster of officials don't step up to the plate, then when the next election occurs voters should think again.

T. Norman Van Cott, Ph.D., at left, and James E. McClure, Ph.D., founding members, are professors of economics at Ball State University. This article was posted April 27 on Mises.org.

UNIGOV

"Critics of Mayor Peterson's 'Indianapolis Works' plan were wrong to focus on saving township governments instead of the fact that the fiscal benefits did not warrant such across-the-board government consolidation."

— Staley

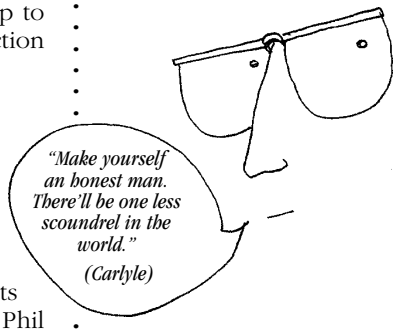
'Indianapolis Works' Won't

by Sam Staley

Controversy swirled around Indianapolis Mayor Bart Peterson's proposal to consolidate county, city and township governments under one roof. Skeptics, including Phil Hinkle, chairman of the House Local Government Committee, weren't so sure. The experience of other cities pursuing local government consolidation suggests he and other skeptics were right.

The mayor's proposal was as ambitious as it was problematic. Mayor Peterson's team claimed the so-called "Indianapolis Works" would save Marion County residents $35 million per year.

Critics focused almost exclusively on the benefits of keeping township governments.



UNIGOV

"Bigger bureaucracies almost always follow bigger governments. The small-town fire chief is replaced by a deputy fire chief who makes as much if not more money. Similarly, relatively less-skilled township tax assessors are replaced by more highly paid accountants."

— Staley

This was unfortunate, because the academic research suggested that not even the fiscal benefits of consolidation would materialize. For most citizens following this debate, it may seem like an odd claim. That's because the Indianapolis Works Action Plan used to promote the idea doesn't cite or list most major academic studies critical of consolidation.

For example, George Boyne, a British researcher doing work on consolidation as part of the United Kingdom's effort to localize government services, reviewed more than two dozen academic studies on local government spending, consolidation and fragmentation. His conclusion? Most studies showed fragmented governments spend less than consolidated ones. Boyne's article appeared more than 10 years ago in the academic journal *Public Administration,* but a careful reader wouldn't know it by searching the references in the mayor's action plan.

This is one reason why local government consolidations virtually stopped decades ago. While Louisville-Jefferson County merged in 2003, the consolidation effort was not driven by efficiency concerns. Rather, supporters believed a consolidated government would be good for economic development.

Even here, however, academic research supports the skeptics. An analysis of economic development in nine consolidated local governments by two economists, Jered Fleck and Richard Feiock, in *Urban Affairs Review* found only one experienced significant growth after consolidation — Carson City, Ormsby County, Nevada.

In Indianapolis, retail and service employment seemed to increase in the post-consolidation period, supporting the theory that UniGov's primary effect was to enable a substantial investment in the city's image and downtown. But even this effect was not significant once state growth trends were considered. In short, Fleck and Feiock found "the fact these governments were consolidated simply did not matter."

In another study of 97 metropolitan areas by two political scientists, David Morgan and Patrice Mareschal, large consolidated governments did equalize metropolitan incomes. In fact, central city fiscal health improved as their share of the region's population diminished.

What should Indianapolis citizens, local elected officials and legislators make of this information?

First, they should not take the $35 million savings on face value. Simply "completing" the consolidation will not translate into dollars. Bigger bureaucracies almost always follow bigger governments. The small-town fire chief is often replaced by a deputy fire chief who makes as much if not more money. Similarly, relatively less-skilled township tax assessors may be replaced by more highly paid accountants.

Second, governments are bureaucracies rather than for-profit companies. They don't face the rigor of market competition to keep overhead low. Thus, more often than not, administrative costs are higher, not lower, when consolidations occur. When divisions are merged, typically the higher wage rate, not the lower one, is used as the standard.

Third, consolidation inevitably means less representation and electoral accountability. Township supporters are correct when they claim townships are more accountable to the general public. This is because the population base is smaller. Townships tend to operate more like small towns as a result.

Does this mean Indianapolis policymakers should jettison all consolidation proposals? Not necessarily. The research increasingly makes clear that some services may be more efficiently provided at a regional level. What is consolidated is more important than how much.

Poor relief, for example, probably falls into that category. Welfare functions are increasingly provided on a regional level, and counties have become effective administrators of these programs.

But these decisions should be made on a service-by-service basis, not as part of a sweeping restructuring of local government. Rather than seeking across the board consolidation, Indianapolis and Marion County residents should be asking another ques-

Samuel R. Staley, Ph.D., an adjunct scholar with the foundation, is director of Urban and Land Use Policy at the Reason Foundation. He has written numerous articles on local government efficiency and planning for this and other journals.

tion: What services should be provided locally and which ones should be provided regionally?

This would allow a more useful and effective approach for achieving government service efficiency. Perhaps some services, such as neighborhood local law enforcement, should be more decentralized, not more centralized.

Indianapolis Works is a bold, ambitious plan. Unfortunately, academic research and the experience of other cities strongly suggest the fiscal benefits will not materialize.

Too Many Hospitals?

by Eric Schansberg

There has been discussion in recent months about moratoriums on building Indiana hospitals, particularly in my region — Clark, Floyd and Harrison counties.

Local government officials there have been listening to the competing interests of existing county-run hospitals and those who would like to enter the market for hospital services.

On the surface, it's difficult to imagine why one would want to prevent a hospital from opening. A hospital is not a toxic-waste dump. Building and operating a hospital is not much of a zoning issue; one could seemingly find a suitable place to allow a hospital to operate somewhere within a county. The best explanation is a common one in the intersection between economics and politics: Suppliers would eliminate or restrict competition for the goods or services they sell, and they may find government a cooperative ally.

Unfortunately, restricting competition is only in the interests of the provider who wishes to maintain or extend monopoly power. Consumers and society as a whole will not benefit from having fewer options and less competition in a market. Because the general public is intuitively aware that restricting competition is not a good thing, so the producers and their politicians must tell "good stories" — rationales to explain why less of a good thing is supposedly better. In Harrison County, they're worried about "sky-rocketing health care costs." But how would a lower supply and less competition keep costs down? They've also expressed concern that another facility will "undermine the health, welfare and economic well-being of county residents." But how would more health care options be a detriment to county residents? Even health care employees would benefit — with more employment alternatives.

D. Eric Schansberg, Ph.D., an adjunct scholar with the foundation, teaches economics at Indiana University (New Albany).

The best of the good stories is that a moratorium would "prevent unfair competition." Private-sector hospitals are accused of cherry-picking and skimming profits by avoiding less-profitable patients — in particular, the indigent and those in prison.

Doubtless this is true to an extent, and some cause for concern. But a better way to deal with this issue is to directly subsidize the care of those who cannot pay — wherever they receive their care — rather than setting up an arbitrary monopoly. Moreover, proponents of the moratoriums fail to mention that county-run facilities have lower tax burdens. A truly level playing field would also eliminate such subsidies.

In a sense, it is comforting to see politicians be so consistent. Most of them work to foster the monopoly power of government-run schools and the post office. Many of them vote for tariffs and quotas to restrict competitors in product markets. So, why should the market for hospital care be any different? Likewise, the business community proclaims its love for the free market. But its love is often fickle — wanting competitive markets for the inputs they purchase and open access to foreign markets, but clamoring for restrictions on competitors in the particular domestic markets where they sell product.

Perhaps the most ironic thing in the discussion about hospitals is this: The county hospitals are fighting to maintain their local turf while seeming to ignore the far larger market. At present, hospitals in southern Indiana already face their most significant competition from hospitals across the river in Louisville. What difference would it make to have a few more facilities in Floyd, Clark and Harrison counties? To note, despite all

HEALTH CARE

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— Schansberg

GOVERNMENT GAMBLING

"The primary danger of state-sponsored gambling is long-term. State and local government officials are prone to grow dependent on this revenue source and unlikely to account for competitive forces."

— Schansberg

GOVERNMENT GAMBLING

"Because the extra-legal arrangement permitting gambling is not a contract enforceable by the courts, local governments are vulnerable to the whims of state officials."

— Schansberg

of the competition in Jefferson County, Louisville has a robust market for hospital services. In a word, moratoriums on hospitals are not what the doctor ordered.

Why the State Likes Gambling

by Eric Schansberg

It is easy to see why taxes on gambling are so attractive to Indiana politicians. First, they are a relatively subtle form of raising revenue. The state sells exclusive regional rights to casinos, which are interested in purchasing monopoly power in exchange for an extra tax burden. Then, to some extent, casinos pass the burden to their customers through lower payoffs.

Second, gambling taxes please those in interest groups who would like to impose sin taxes on certain activities. Third, it's a relatively voluntary way to raise revenues — in comparison with most other taxes.

The primary danger, however, is long-term. State and local government officials are prone to grow dependent on this revenue source. And they are unlikely to account for increasing competition cutting into their future revenues as more and more gambling outlets become available. And recent events in Indiana highlight another danger of depending on gambling revenues for local government: What the state gives, it can also take away.

When gambling is approved, local communities make an extra-legal arrangement with their state government. Since it is not a contract, enforceable by the courts, local governments are vulnerable to the whims of their state's elected officials. Now, under the premise of a tight state budget, state lawmakers in Indiana are looking lustfully at the gambling revenues of certain local communities.

It is also easy to see why many Indiana state legislators would find it relatively attractive to take gambling revenues from politically selected local communities. Few politicians enjoy increasing taxes, but given the choice of increasing taxes or decreasing spending, tax hikes are often more palatable. And among potential tax increases, taking money from a few less-populous counties — especially when "they don't deserve it" and when the activity being taxed is not viewed as fully legitimate — is not likely to cause significant electoral damage. Under proposals before this General Assembly, the four hardest-hit counties (Harrison, Dearborn, Ohio and Switzerland) are mostly rural, representing only 1.6 percent of Indiana's population. Their residents would lose $582 per person under the Senate plan. The three other casino counties represent 12.4 percent of the population and their residents would only lose $24 per person. (And of course, the vast majority of Indiana's population is "non-casino" and would bear no cost at all.)

If the state lawmakers impose the bulk of the cost on these less-populous counties, there may be a small political firestorm but it's not the sort of issue likely to carry much weight by the time of the next statewide election. And among individual legislators, those in the affected counties will probably have opposed it anyway, earning the respect (and votes) of their constituents.

A casino's impact on a local economy is more complicated than that of many other businesses. On the one hand, as with any other business, casinos generate economic growth and jobs. And casinos often attract money from outside the local community, acting as a type of tourism. On the other hand, casinos are said to create the need for more infrastructure, including resources for law enforcement. (But most new businesses — and economic growth in general — rely on additional infrastructure.)

In any case, how bad can it be? If a community is, on net, damaged by a casino, then the community's leaders were foolish to invite the casino in the first place. In that sense, much or all of the special tax revenue that local communities receive is "extra." In sum, why do either state or local governments have a right to any extra tax revenues from gambling?

Rep. Troy Woodruff of Vincennes wants to redistribute the casino revenues. He says his community has no money to make infrastructure improvements. The truth is that the people of Vincennes have plenty of money, but Rep. Woodruff prefers using other people's money to pay for those improvements. Indeed, when asked by a fellow legislator if he wanted a casino in his county, Woodruff replied: "I just want the money."

This candid quote takes us to the heart of the matter. There has been a lot of talk about fairness but fairness is always in the

eyes of the beholder. Opponents of this proposal complain about the inequity of state government "stealing" money from local government. But why is it equitable for state and local governments to take so much money from casinos and their customers in the first place?

So, the local government takes from the casino and now the state government wants to take from the locals. Perhaps the most fitting end to this episode would be a headline in next year's newspapers, one announcing legislation passed by President Bush and the U.S. Congress to deal with their own budget woes by taking Indiana's gambling revenues.

A 'Wonderful' Retirement?

by Eric Schansberg

In the movie, "It's a Wonderful Life," an angel shows a frustrated George Bailey how life would have been different had he never lived. We in the Midwest, spiritual descendents of the good Mr. Bailey, still like to break things down to their basics.

It is often the best way to address life's most complex problems. For instance: How would life be different if we didn't have Social Security? What would be the public reaction if it were proposed today?

For starters, try to imagine the political reception for a plan that would cause a single parent with two children and an income at the poverty line to lose more than $2,400 to a new 12.4 percent tax.

Under this "new" proposal, a household with $40,000 in income would lose nearly $5,000 and a household with $90,000 in income would lose more than $11,000. And the amount of the tax would not increase any further for those earning more than $90,000 or so.

Any modern politician who dared advocate any of this would be shouted down as a heartless oppressor of the poor. But this is the structure of Social Security taxation.

Imagine next that legislation is proposed that requires lower-income and middle-income workers to save a significant proportion of their income — keeping in mind that many people lack the discipline and foresight to voluntarily save enough money for their own retirement. (Upper-income workers would only be forced to save a smaller proportion of their incomes.)

Assume further that Congress wants to mandate that these savings only be allowed to go into a single investment vehicle — one with a puny one percent rate of return at that. Keep in mind that a person who worked from age 18 to 64 for 40 hours per week, earning only minimum wage but investing the equivalent of the Social Security tax at a rate of return equal to the historic average of the stock market, would have a nest egg of $600,000.

A modern politician trying to defend the comparatively miserly return of the Social Security tax could expect only scorn.

Or what if George Bailey and his wife had died before drawing a Social Security check? George's family would not have benefited at all from his "contributions" to Social Security. Moreover, some public policy analyst would make the point that people in groups who tend to die early — for example, African-Americans — would be penalized by this provision. Yet, this is the current arrangement.

Why, then, was Social Security ever attractive?

The answer is that any such pay-as-you-go system can work for a generation or two. Instead of a retirement plan where workers finance their own retirements, Social Security transfers income from current workers to current retirees. For the first generations within such a system, retirees contribute relatively little but reap a lot.

However, once the system reaches maturity, it is unlikely to provide an impressive rate of return. It also becomes vulnerable to demographic changes that alter the number of workers or retirees, as we now see.

Our friends in Washington tell us it's too late to take this idea behind the barn and shoot it. The only options are to tweak a bad system (change the retirement age, reduce benefits or increase taxes) or attempt some form of privatization (with a potentially thorny transition).

At the least, policymakers should relieve the oppressive Social Security taxes imposed on George Bailey's most socially insecure neighbors — the working poor. And the pathetic rate of return should be increased and the inequities in payouts addressed.

Without these Social Security reforms, that "wonderful retirement" will never be what it should be.

SOCIAL SECURITY

"Try to imagine the political reception for a "new" plan that would cause a single parent with two children and an income at the poverty line to lose more than $2,400 to a 12.4 percent tax."

— Schansberg

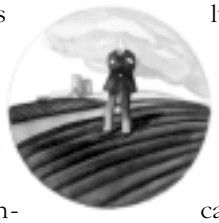
NEGOTIATING WITH YOUR DOG

Stadiums, convention centers and other up-to-date boondoggles

Politically influential groups have discovered legal ways to construct their own playgrounds and parlors using other people's money.

The humorist, P.J. O'Rourke, observes that doing business with the government is like negotiating with your dog. By that he means the two parties are working with impossibly different agendas, timetables and abilities.

In Indiana this year, there has been a lot of negotiating with the dog. Fort Wayne officials were expected to announce plans to subsidize yet another downtown hotel, this one designed to be the convention headquarters for the newly expanded Grand Wayne Convention Center.



In Indianapolis, of course, there is the joint city-state subsidy of a new football stadium. There is talk of an expanded convention center and a new companion hotel.

And now Carmel will build an $80-million concert hall. It is necessary, we are told, to "cement a sense of place" as the centerpiece, illogically, of a suburban downtown (a hotel is coming later).[1]

Be aware that all of these projects are going forward in demonstrably adverse markets. At best, they are examples of the misjudgments that occur when even the most well-meaning public officials spend other people's money. At worst, they seem driven by political ambition and the lure of bonding fees.

What can taxpayers expect when attorneys for developers, practiced in due diligence and closing tactics, sit down to decide who pays for what with public functionaries operating on political rather than business timelines?

Yes, a huge bill.

Moreover, common sense tells you that if Indianapolis, say, outbid much larger cities to keep a sports franchise, then Indianapolis bid too much.

It is obvious that the yield for Indianapolis cannot match the yield from Los Angeles or any of the other megatropolises always in the market for this sort of thing. And that is especially so when the real-life economic impact of a professional sports team is equivalent to no more than two Wal-Marts. [2]

There is an economic limit to how much a football team or a even a concert hall is worth to a community — in any regard, business or civic.

Yet, none of the officials express curiosity about where that limit might be. They dismiss economic arguments not with facts but with assertions of pride and simplistic cheerleading.

As for taxpayer subsidies of convention centers and hotels, there is plenty of credentialed testimony from a variety of sources that it is bad policy — so much so that it is

1. Editorial. "Carmel Arts Center Strikes Right Chord." The Indianapolis Star, June 3, 2005.

2. Cecil Bohanon and Noah Peconga. "The Colts and Opportunity Costs: Boosterism Meets Economics." The Indiana Policy Review, Summer 2003.

Journalistic Myopia

Rare is the newspaper that doesn't condemn suburban 'sprawl,' support heavily subsidized rail transit (to and from downtown), boost tax-funded convention centers and sports arenas (located downtown) and emphasize downtown politicians, downtown cultural attractions and downtown problems. 'Standing up for the home town and standing up for the downtown are seen as one and the same,' says Peter Gordon, urban planning professor at the University of Southern California.

Because they own downtown real estate, newspapers often have a financial interest in boosterism. More important, reporters and editors work downtown. So they hear its stories and sympathize with its redevelopment schemes. They can easily come to see their work neighborhood as the center and symbol of the city as a whole. . . .

Newspaper writers 'still operate under the old "monocentric" city paradigm where the city center is the economic, social, cultural and political engine for the regional economy,' notes Sam Staley, director of the Urban Futures Program of the Reason Public Policy Institute. And businesspeople can be equally blind. Corporate bosses, says Staley, 'still talk about downtown revitalization as if it is citywide revitalization.'

— Virginia Postrel, Reason magazine, February 2000

defended almost solely by persons who directly benefit from the public funding. For these projects have little or nothing to do with economic development. Indeed, it is estimated that $1 billion in additional assessed property value will have to be generated by that Carmel concert hall to even pay off the bonds.[3]

Rather, groups in Indianapolis and Fort Wayne simply discovered legal ways to construct their own playgrounds and parlors using other people's money. (The role of bonding attorneys in all this must await examination by others, preferably others with subpoena power.)

Such civic self-dealing may be too common to inspire public outrage. Blame just doesn't stick to the mayors, the legislators or other elected officials who put these ruinous deals together.

As the political consultant Dick Morris says of the Clintons, they do it because they can.

Indeed, malfeasance is rarely prosecuted these days. It has become the profession of politicians, after all, to extract small, almost painless amounts of money from the largest possible group of taxpayers and funnel it through their particular corridors of power.

More difficult to understand is the timidity of the metropolitan newspapers. There is no hint of challenge to such transparent boosterism, a fighting word in newsrooms of old.

Papers in Indianapolis and Fort Wayne threw only softballs, publishing narrowly focused articles portraying their cities as happy exceptions to an obviously gloomy larger economic picture.

That should disappoint, for the privileges of the First Amendment are enjoyed on the assumption that the media keep the powerful accountable.

An urban affairs reporter was asked if he had a copy of a Brookings Institute study contradicting local political sources in his articles. He responded that the study did not apply to his city, Indianapolis. But if we were reading the same report, Indianapolis was used as a primary example of a city that had overbuilt its convention facilities. [4]

In Fort Wayne, a *Journal Gazette* article quoted a few carefully selected local officials on the Brookings study. The officials, all with career investment in the $39-million expansion to the Grand Wayne Center, also maintained that the evidence did not apply. The Grand Wayne would be in a smaller, more stable niche market, the officials said.

In fact, the square footage of the expanded Grand Wayne is close to the median square footage of the centers shown to be failing.[5]

Throughout the coverage in both cities, editors treated the self-interested opinions of local officials as equal to empirical data gathered by independent national researchers. And their articles did not cite comparable research, only estimates from business plans, optimistic by genre.

The author of the Brookings Study, Dr. Heywood Sanders, was asked by a reporter if Fort Wayne could be an exception to the rule.

"Of course," the exasperated researcher replied, "But it's also the case that everybody says they're different. It's as if they're reading from exactly the same script."

Sanders's study did not find a case where, despite the protestations of local convention center managers or tourist bureau officials, a city was immune to the larger national trends he and others had identified.[6]

However, a *Journal Gazette* reader would have had to suffer through 50 paragraphs of boosterism to get to that critical observation. An *Indianapolis Star* reader could not have found it at all.

Subscribers were left to sort out the complex economic incentives on their own. And given the bum information available in their morning papers, many concluded that opposition to these projects was opposition to progress itself.

Chalk up a couple for the dog. — *tcl*

3. Lesley Barrett. "Carmel Concert Hall Wins in a Squeaker." The Indianapolis Star, June 1, 2005.

4. Heywood Sanders. "Space Available: The Realities of Convention Centers as Economic Development Strategy." Department of Public Administration, University of Texas, San Antonio, 2005.

5. Dan Stockman. "Grand Wayne Update Inspires City Optimism: Convention Center Study Discounted." The Fort Wayne Journal Gazette, April 23, 2005.

6. Sanders, op. cit.

IPR TELECONFERENCE

The foundation will host a telephone conference on this topic, offering members a chance to exchange ideas with our Ron Reinking, CPA. The conference begins at 3 p.m., July 27. At that time, members may join us at the teleconference center at 866/371-3115. (For the passcode, e-mail us at rr@inpolicy.org or call 317/236-7360.)

It has become the profession of politicians to extract small, almost painless amounts of money from the largest possible group of taxpayers and funnel it through their particular corridors of power.

THE 2005 SESSION

Property taxes are still rising but they're 'studying' education

Nobody "voted" for higher taxes, but they're the direct result of a vote to freeze the property tax replacement credit that has been eating up more and more state dollars for over a decade.

Unfinished business from the 2005 Legislature means higher property taxes for Hoosiers.

Although lawmakers came close to giving Gov. Mitch Daniels the balanced budget he wanted, they failed to address the property tax predicament building around the state for local government.

"I tried," said Sen. Luke Kenley, R-Noblesville, who suggested a proposal mid-session to let locals replace property tax funds with county income tax dollars.

Fellow senators bought the idea, but resistance was strong in the House where Republicans told Kenley, "We don't want to vote for anything that causes anybody to raise taxes," he said.

The irony is that property taxes are going up anyway. Nobody "voted" for higher taxes, but they're the direct result of a vote to freeze the property tax replacement credit that has been eating up more and more state dollars for over a decade. In 2005, the state will spend almost 18 percent of its budget — $2.05 billion — to subsidize local property taxes. That's compared with $568.2 million, or 10.3 percent of the budget, in 1990.

The state will maintain the 2005 level of reimbursement but provide no additional subsidy as local property tax levies grow. That means taxpayers can count on bigger bills unless local governments hold the line on spending.

Without the freeze, property taxes would go up about four percent statewide. With the freeze it'll be closer to five percent. Among other things, lawmakers gave schools greater flexibility to tap property taxes for transportation and general funds.

The significance of the legislature's action was noted by the Indiana Fiscal Policy Institute in a briefing paper, which said, "The capping of property tax relief represents a monumental shift in state policy…"

Property taxpayers didn't raise the roof last session, but Kenley predicts the pressure will build from citizens as they look over their bills.

Indiana has a reputation as a low-tax state due to our relatively modest 3.4 percent income tax. The truth is that Hoosiers pay an above-average local tax burden, much of it funded by property taxes.

According to the Tax Foundation, Indiana's local property taxes are 13th-highest in the nation per capita and 10th-highest as a percentage of income.

Kenley co-chaired the Property Tax Replacement Study Commission that last fall recommended Indiana stop using property

Andrea Neal, M.A., formerly editorial page editor of the Indianapolis Star, writes a weekly column for the foundation as an adjunct scholar. Neal won the "Best of Gannett" award for commentary and was recognized three years in a row as Indiana's top editorial writer. She holds the National Award for Education Writing and the National Historical Society Prize. This is the editor's selection of recent columns.

taxes to fund school general funds and welfare. The cost, about $1 billion, would have to be made up by other sources.

That's the rub that kept so many lawmakers from endorsing Kenley's plan to let local authorities use income taxes to replace property taxes. There's just no way to reduce the property tax burden without increasing a burden somewhere else.

The Indiana Association of Cities and Towns called Kenley's measure "too restrictive with too many unknowns." It said it would continue to work with Kenley to come up with something for 2006.

Rep. Larry Buell, R-Indianapolis, predicts the issue will be back, noting there's "still quite a bit of sentiment to do away with property taxes."

"I'm not completely satisfied with what we did," he said of the 2005 session. "We really didn't solve the property tax problem."

Equally dissatisfied are homeowners across Indiana hit hardest by the 2003 reassessment, which was intended to move Indiana closer to a market-based property valuation system. New rules were supposed to be fairer and more uniform, but in some ways proved as arbitrary as ever. Lawmakers could and should have done something to repeal the so-called neighborhood factor, which forces homeowners in almost identical houses to pay dramatically different bills depending on a neighborhood's perceived worth.

Lawmakers did make one concession by giving counties the ability to cap property taxes at two percent of a home's taxable value. So far, only Lake County has signaled it will take advantage of the law, making up lost revenues with some kind of income tax.

As for Kenley, he's planning to tackle the issue again in 2006 with a goal of making property taxes the source of about one-fifth of the state's revenue, rather than a third. Because they're such a stable source, it's unlikely they'd be eliminated entirely.

—May 11

Of all the education proposals discussed in this year's legislature, only one contained the kernel of an idea that could improve every Indiana public school.

Unfortunately, HB 1799 didn't act on its good idea of creating financial incentives to attract and retain the best people into the profession. It sent it to the Education Roundtable for "study," the code word for "too controversial to consider this time around."

Despite successful initiatives in individual schools and other states, paying teachers based on effectiveness remains too controversial in Indiana, where collective bargaining determines wages and working conditions of all. The result? A single salary schedule that rewards teachers for degrees and years of experience, but has no connection to how well they teach.

If one idea can improve our schools quickly, it is figuring out how to give every student the best possible teacher. Research is clear that teacher effectiveness affects student achievement more than any other factor, including a child's socioeconomic status or family background.

How damaging can a bad teacher be? More than 10 years of data collected by University of Tennessee researchers William L. Sanders and June C. Rivers paint a stunning picture.

"In the extreme, fifth-grade students experiencing highly ineffective teachers in grades three through five scored about 50 percentile points below their peers of comparable previous achievements," they conclude in "Teacher Quality and Equity in Educational Opportunity: Findings and Policy Implications."

What policy lessons should Hoosier lawmakers take away from the University of Tennessee research?

- First, ISTEP will be of more value if it is used by school districts to measure and compare teacher effectiveness among different schools and grade levels.

- Second, school districts must reduce disparities in teacher effectiveness. This can be accomplished in part by teaming up the best teachers as mentors to less effective ones and by targeting professional development to the least effective.

- Third, it's possible an analysis will uncover a correlation between teacher salaries by district and teacher effectiveness. If so, a remedy could be designed to address this specific inequality.

— Feb. 22

Paying teachers based on effectiveness remains too controversial in Indiana, where collective bargaining determines wages and working conditions of all.

Turn Neither to the Right Nor to the Left:
A Thinking Christian's Guide to Politics and Public Policy
(Greenville, S.C., Alertness Books)

GOVERNMENT AND THE GOSPEL

How much morality can we reasonably coerce?

Church and state don't mix well; they have different ends and use fundamentally different means.

by CECIL E. BOHANON

"Communist propaganda would sometimes include statements such as 'we include almost all the commandments of the Gospel in our ideology.' The difference is that the Gospel asks all this to be achieved through love, through self-limitation, but socialism only uses coercion."

— Alexander Solzhenitsyn
from an interview
with Joseph Pearce, 2003

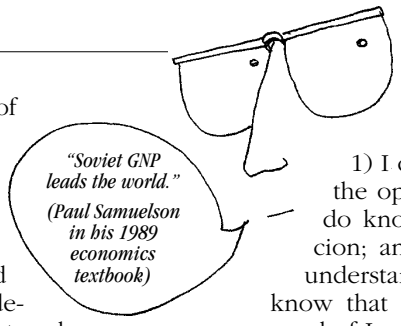
The history of Christian interaction with the state is varied. Christ told his followers to "Render therefore unto Caesar the things which are Caesar's." (Matthew 22:21, KJV) St. Paul told early followers to obey the law — influencing Roman domestic or foreign policy was not on the agenda of the early church.

Of course, the notion that a small Jewish-based sect could have exerted any political influence on the despotic Roman Empire would have been laughable. Yet, within a couple of centuries, Christianity was the official religion of Rome, and the question of how believers interacted with the state had changed. Now, Christians were running the state in the name of Christ.

After the fall of Rome, many Christians lived under the yoke of non-Christian rule. But it is a historical fact that "Christian States" were the norm for more than a millennia in European cultures until around two centuries ago. (Remnants of Christian establishment still linger in a number of secular European countries where the state explicitly supports a national church.)

It was not Protestantism that severed the church-state tie. Martin Luther and his followers sought the protection of numerous German princes and John Calvin ruled a theocratic Geneva. Rather, it was the Enlightenment thinking of the 18th century that led to the formal separation of church and state in both the United States and France, and eventually to the informal separation elsewhere in Christendom.

Cecil E. Bohanon, Ph.D., an adjunct scholar, teaches economics at Ball State University. He wrote this for the foundation.



Despite the fears of some of my more paranoid secular friends, the Law of Moses is not going to become the explicit law of the land in the United States. That is true independent of what courts rule about where the Ten Commandments can be posted in the public square.

However, individual Christians, Christian groups, Christian ethics and Christian rhetoric always will have an influence on policy formulation in the United States — and for good reason. The nation is overwhelmingly Christian (80 percent by most reckonings) and theistic (90-plus percent in most surveys). Moreover, the most prominent non-Christian religious groups in the United States, Jews and Muslims, share a common Abrahamic heritage with the Christian majority.

The Law of Moses may not become our secular law but it is the foundation of the moral sensibilities of most Americans. We form our personal and social ethics at our houses of worship. That we can or should somehow forget about "all that" when executing our obligations as citizens is ludicrous.

This is not to say that such interactions are non-problematic. On one hand, there is the real risk of moral sensibilities morphing into moral pride. When favored policies become "God's will" and the state becomes the instrument of bringing the "Kingdom of God" to earth, ends will inevitably justify means. Christian despotism is no more attractive than its secular counterpart. One only need list the horrors done throughout history "in the name of Christ" to see the problem.

On the other hand, a highly politicized Christianity risks being co-opted by the secular state. The prophetic witness of the church can be muted and compromised when the church is too close to the state. The complicity of certain elements of the German and Russian churches with the Nazi and Communist powers in the 20th century is as much a source of shame to Christianity as the Spanish Inquisition of the 15th and 16th centuries.

How, then, do Christians navigate these shoals?

I do not know. However, I do think two things: 1) I don't know everything about the operation of government but I do know that government is coercion; and 2) I don't have a perfect understanding of Christianity but I do know that coercion is not part of the gospel of Jesus Christ.

Most simply, it boils down to this: Church and state don't mix well; they have different ends and use fundamentally different means.

Nonetheless, this simple common-sense libertarian take on the church-state relationship is *not* prominent in most discussions. Yet, it is the central thesis of Eric Shansberg's book Turn Neither to the Right nor to the Left: A Thinking Christian's Guide to Politics and Public Policy, a book that is a welcome addition to this important and difficult subject. Whether libertarian, conservative or liberal, whether agnostic or theist, Catholic or Protestant, theologically liberal or conservative, it is worth reading and thinking about.

Shansberg is a professor of economics at Indiana University (New Albany). In his own words, the book reflects "a synthesis of my theological, political views and training in economics."

Noting that his arguments will be "less persuasive" to non-Christians and Christians who take (the Bible) to be less authoritative," he proceeds to outline a case that Christians should be cautious and circumspect about lobbying the state on social and economic issues. Such political activism by the church risks being divisive, detracts from the spiritual focus of the church and is a potential source of corruption as Christians succumb to the temptations for secular power.

Such lobbying, however, is quite common among many Christians.

Just the other day I received two e-mails, interestingly one just after the other. The first was from the National Council of Churches urging me to speak up for universal health insurance. The second was from the Christian Coalition urging me to support legal restrictions on computer file-sharing.

Both issues are complex. I am sure they do not neatly reduce to whether one supports "providing health care for children" or whether one favors "stopping child por-

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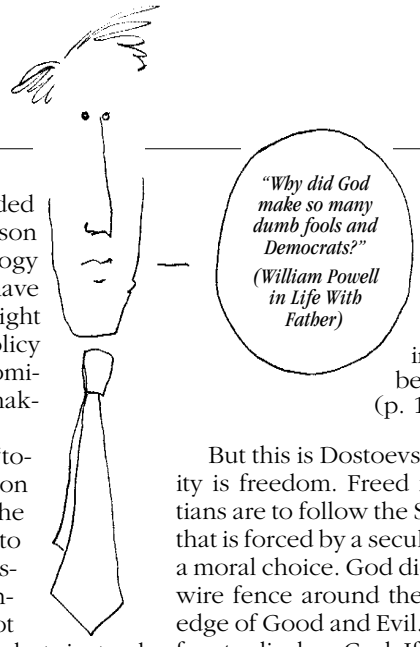

A moral choice that is forced by a secular authority is hardly a moral choice. God did not build a barbed-wire fence around the Tree of the Knowledge of Good and Evil.

nography," as the e-mails tended to suggest. I know of no reason why anyone trained in theology or biblical scholarship would have any special expertise or insight into these nuts-and-bolts policy issues. Yet, here are two prominent religious organizations making pronouncements.

As Shansberg points out: "today the Religious Left focuses on using government to protect the environment and especially, to try to help the poor — to legislate economic justice . . . Meanwhile, the Religious Right is not excited about that agenda, but instead promotes the use of government to legislate social morality . . ." (p. 24). Schansberg goes on to organize most of the rest of his book around two themes: legislating morality and legislating justice.

Chapters 2 through 7 detail a number of cogent and reasonable arguments as to why Christians should not attempt to pass laws that preclude adult activities that are primarily private and consensual. This covers consensual sex, gambling, drug and alcohol use and pornography.

At one level, such legislation is unlikely to be effective. The American experiment in alcohol prohibition in the 1920s and the ongoing war against drugs demonstrate this well. As a practical matter, such state-directed coercion is likely to generate other evils worse than the ones the prohibition is attempting to cure. Al Capone and current inner-city drug wars make that case.

At another more philosophical level, legislating morality goes against the Christian notion that for moral choice to be salutary to the spiritual development of the individual it must be voluntarily embraced by the individual.

I am reminded of Dostoevsky's Grand Inquisitor in the Brothers Karimazov. In the story, Christ returns to earth in the 14th century only to be tried and convicted by the religious authorities for heresy. Jesus had supposedly failed to articulate the legalistic moral code the organized church supported. The Grand Inquisitor accuses Christ:

> Instead of taking possession of men's freedom Thou didst increase it . . . in place of the rigid ancient law, man must hereafter with free heart decide for himself what is good and what is evil, having only Thy image before him as a guide (p. 132).

But this is Dostoevsky's point: Christianity is freedom. Freed from the law, Christians are to follow the Spirit. A moral choice that is forced by a secular authority is hardly a moral choice. God did not build a barbed-wire fence around the Tree of the Knowledge of Good and Evil. Adam and Eve were free to disobey God. If God allowed choice on private matters, should not the state do likewise?

Although I tend to agree with Shansberg that both the efficacy and freedom argument work against the wisdom of legislating morality, I am not sure that I agree that the Bible categorically prohibits attempts to improve social morality by state sanction. St. Paul's view of the state is not that of John Locke or Thomas Jefferson. Paul didn't offer a political theory that rested on the "consent of the governed." Consider his words to the early church in Romans 13:1-3 (NIV):

> Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. . . . he who rebels against the authority is rebelling against what God has instituted. . . . For rulers hold no terror for those who do right, but for those who do wrong. Do you want to be free from fear of the one in authority? Then do what is right and he will commend you.

Imagine a first-century Roman government that went on a legal crusade against consensual sex orgies in public bathhouses. One would be hard-pressed to imagine the same St. Paul who penned the lines above having much objection to using secular power to promote such a moral end.

Although St. Paul did not instruct the Roman church to lobby for such a crusade, it is hard to imagine that he would have argued it should lobby against the crusade on the grounds that government intervention coerces the promiscuous.

In the second section of the book, Shansberg examines the case for legislating

economic justice. Although the headings on the opposite pages of this section read "Why Christians Shouldn't Legislate Justice," each chapter heading reads "Why and How Christians Should Legislate Justice." This is *not* a misprint. Nor is it a contradiction.

Shansberg argues that Christians should be arm in arm with the state when it legislates what he see as true justice: the defense of legitimate individual rights. For Shansberg, ensuring and protecting God-given rights to life, liberty and legitimately held property is the divinely sanctioned role of government. He, however, draws a bright line between government activities that protect rights and liberty and those that simply redistribute income or create economic entitlements and privileges. The former are legitimate. The latter are at best fraught with great difficulty and at worst become a means of injustice and oppression.

Drawing on much of his earlier work, Shansberg convincingly demonstrates that many government programs, putatively designed to promote the seemingly worthy goal of redistributing income to the poor and needy, in fact redistribute from the poor- and middle-classes to the rich.

For example, farm subsidies do little to save the family farm and tend to help wealthy farmers. They raise the price of food products (a large portion of a poor household's food budget) and are a drain on public revenues. The bottom line is they redistribute *from the poor to the rich*.

Shansberg points out that such perverse results are not simply an accident that will somehow be self-correcting in a democratic setting. They are rather the natural by-product of democratic action, especially when the public sector has wide latitude to engage in income redistribution.

It is *not* a matter of choosing saintly legislators who will promise to only redistribute from the rich to the poor. Legislators respond to political influence and information. Groups that are well-organized and well-heeled, from public employee unions to large visible corporate entities, wield both influence and information and have a disproportionate influence on public policy. This can only be stemmed by limits on the scope of government activity, not by better representation.

At another level, Shansberg questions the morality of using government as a method of redistributing from the rich to the poor. It is one thing for a Christian to use his income to help the poor. And it may be praiseworthy for a Christian to use his influence to try to convince others to use their income to help the poor. It is quite another thing, however, to force others to make contributions to the poor by use of the coercive power of the state.

Finally, Shansberg points out that true Christian charity goes beyond posturing for good causes, or even writing checks for good causes. Rather, it lies in actual engagement with those in need. Quoting Geoffrey Brennan, "Will it, I wonder, be any response to Christ's charge to visit prisoners, or feed the hungry, to respond 'Well no, Lord, I didn't. But I did pay my taxes and I did vote for prison reform and food stamps'?" (p. 205), Shansberg calls for the Church to take the rhetoric of Christian compassion seriously by devoting its time, wealth and energy to voluntary programs to help the poor.

The book is well-written and lively in its discussion. It requires neither economic nor theological expertise yet its analysis is neither shallow nor glib. It is the kind of book that will give the reader a wealth of insight and information and one that covers a lot of ground. This is a great strength but also a weakness. There is a sense that Shansberg tries to cover too much. Nevertheless, it is a book you will find yourself quoting or using as a reference for further reading.

It is often said that polite conversation should avoid the topics of religion and politics. Growing up in my family, we thought those were the only two topics really worth talking about. Although a dogmatic linking of religion and politics is problematic (considering how the two interface with one another is intellectually necessary and challenging), people of faith should examine their thinking on public-sector policies in the light of economic theory, humbly recognizing that good and reasonable people can differ.

In the same vein, social scientists should be open to what religious wisdom might imply for social and economic policy.

Eric Shansberg offers a valuable contribution to both ends.

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— Geoffrey Brennan

ABUSES AND USURPATIONS*

"The things that will destroy us are: politics without principle; pleasure without conscience; wealth without work; knowledge without character; business without morality; science without humanity; and worship without sacrifice."

— *Mahatma Mohandas Gandhi*

"Everybody is for the concept (of saving money) but I invited them to look at the numbers and said I was willing to come by and bring a CPA with me."

— Rep. Mike Murphy calling the bluff of a group of Indianapolis boosters supporting further consolidation of local government

• *Legislator of the Session:* State Rep. Mike Murphy, R-Indianapolis, for exposing a group of 37 Indianapolis boosters. Murphy offered to prove that support for Mayor Bart Peterson's consolidation plan was not rooted in economic reality. In an April 10 report in *the Indianapolis Star,* Murphy noted that consolidation in government is different than in business and can cost instead of save money. "Everybody is for the concept (of saving money) but I invited them to look at the numbers and said I was willing to come by and bring a CPA with me." The executives have referred Murphy's offer to their public relations departments.

• Schools in Indiana, along with Texas, Pennsylvania and Mississippi, appear to be backing off their much-publicized "zero-tolerance" policies on weapons and drugs. The regulations, which often defined a fingernail file as a knife and aspirin as a drug, cannot be shown to have reduced either drug abuse or violence. That should not surprise. Administrators applied the regulations so as to numerically balance disciplinary actions among ethnic groups.

"College faculties, long assumed to be a liberal bastion, lean further to the left than even the most conspiratorial conservatives might have imagined."

— Washington Post, March 29

• No less an authority than *the Washington Post* has discovered what readers of this journal have long known — that university faculties are uncommonly liberal. "College faculties, long assumed to be a liberal bastion, lean further to the left than even the most conspiratorial conservatives might have imagined," the newspaper reported March 29. "By their own description, 72 percent of those teaching at American universities and colleges are liberal and 15 percent are conservative. The imbalance is almost as striking in partisan terms, with 50 percent of the faculty members surveyed identifying themselves as Democrats and 11 percent as Republicans." (At Indiana University, using primary voting records, we found the percentage of Democrats to be nearer 80 percent.**)

• Most Amercians still think well of teacher unions but they are beginning to have doubts. An article, "Do Americans Support Labor Unions?" published in the June 2004 edition of *Labor Watch* reported that by a 46 to 38 margin the public believe teacher unions had "helped raise standards and improve the quality of public education." However, the "not sure" response was 17 percent, the highest percentage of any of the questions in that section of the survey. Also, people who live in suburbs were less likely to view teacher unions positively than those in the cities.

• The police department in Ypsilanti Township in Michigan faces fines and other state sanctions after three officers ran into a burning building to pull several people to safety. The three may have violated state workplace safety regulations.

• An early Steve Martin routine suggested that the childhood favorite, "I forgot," be intitutionalized as a criminal defense. Here's a new one: "I'm innocent because I knew it was wrong." That was the official judgment when a Hillsborough County, Fla., sheriff's deputy ran a stop sign and crashed into another car, injuring the driver. "You don't cite people to punish them," the sheriff's spokesperson explained to *the St. Petersburg Times*. "You cite them to teach them something. In this case, the deputy knew what she did was wrong."

** Compiled with Hoosiers in mind by the Outstater from various sources, local and national (a special thanks to the editors at the Cato Institute and Reason Magazine).*

*** See Charles M. Freeland's "Is There Diversity in College Faculties? Tenure and Party Affiliation at Indiana University," The Indiana Policy Review, Summer 2003.*