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GOOD INTENTIONS—BAD RESULTS: THE ECONOMY PASTORAL AND AMERICA'S DISADVANTAGED

WALTER E. WILLIAMS*

Morality and the character of relationships among men are rightfully a concern to all of us, especially the Church. To their credit, American churches have been at the forefront of care and concern for humankind both abroad and at home. Our churches have played a pivotal role in the organization of charity; in the sixties, they awakened Americans to the plight of disenfranchised minorities; American churches have often been the critical difference between starvation and life in many parts of the world.

Through most of its history in the United States, the Church has recognized the morality of capitalism, private property rights, voluntary exchange and the dispersion of power that results from limited government. In recent years, church leadership has become increasingly hostile to basic principles of capitalism. Church leaders, in their well-intended effort to pursue what they see as divine mandate, have ignored the strong ethical dimensions of capitalism. The National Conference of Catholic Bishops' "Pastoral Letter on Catholic Social Teaching and the U.S. Economy" is an excellent example of increasing hostility to capitalism, our form of social organization.

Since the bishops' letter attacks capitalism and its attributes, such as private property and voluntary exchange, this article will first highlight the basic features of capitalism. What does capitalism imply about man's relationship to man and about his responsibility as steward of the earth's scarce resources?

Capitalism

Capitalism and free enterprise are synonyms which "refer to a system in which people have private-property rights to production and consumption goods.¹ Private property

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1. A. ALCHIAN & W. ALLEN, EXCHANGE AND PRODUCTION: COMPETI-

rights are the dominant distinguishing feature of capitalism. Private property rights refer to "an assignment of exclusive authority to some individual to choose any use of the goods deemed to be his private property. In other words, the 'owners', who are assigned the right to make the choice, have an unrestricted right to the choice of use of specific goods."²

To say that a person has private property rights means that he, and no one else, has the right to make use of that property in ways which are not prohibited. If I own leather, my private property right to that good means that I can make shoes, handbags and belts out of it. Still, it does not mean that I can use the leather in any way. If I hit you with a leather belt or throw a shoe through your window, I violate your property rights in your body or window and deny you your choice to use your goods in a nonprohibited manner.

The ownership of private property necessarily implies that people will voluntarily exchange possessions, consenting to these exchanges before their occurrences. An exchange represents a transfer of property rights. When we purchase coffee, in effect, we tell the grocer, "I will transfer my authority (or title) to use three dollars to you if you transfer your authority to use a one-pound can of coffee to me." Both buying and selling are acts that transfer property rights, and the transfer is 'voluntary' if all parties to the exchange have given their consent to the transaction.

When people voluntarily enter exchanges, both parties, in *their own* estimation, improve their welfare. Were this not the case, we could not explain why one would voluntarily give up his rights to continue to hold, as in our example, the three dollars. Obviously, when the transfer occurs, we can safely infer that the ownership of the coffee rather than of the three dollars was more pleasing to the buyer. Likewise, owning the three dollars rather than the coffee was more pleasing to the seller.

Of course, not all transfers of property are voluntary; some entail an involuntary component. Theft involves this involuntary transfer since at least one of the parties does not consent to the transfer: the thief agrees to the transfer, but the victim does not. In involuntary exchanges, one person's gain comes at the expense of another's loss.

TION, COERCION, AND CONTROL 10 (1977).

2. Alchian, *Some Economics of Property Rights*, 30 IL POLITICO 816, 818 (1965).

Alternative Forms of Property Rights

Most discussions ignore the social consequences of different forms of property rights. We can contrast the differences by comparing *private* property rights to public or *communal* property rights.

The distinguishing features of a system of private property rights are ownership, transferability and excludability. Excludability is the right to exclude others from using the resource. In contrast to the private property right of excludability, communal rights recognize the rights of *all* members of the "community" to use its resources. No one can be excluded. The working arrangement for a system of communal rights is that neither the state nor its citizens can exclude others from using a given resource. Modern examples of communal rights include rights to use city sidewalks, "public" roads, hunting grounds and air. In some countries, the rights to till the land and to cultivate and harvest crops are communally held.

Systems of communal property rights have shortcomings. First, these systems fail to encourage individuals to consider the effect of their use of a given resource on others. Second, they breed neither concern for the future value of a resource nor a recognition of how present use of a resource will impact that value.³

The world offers many examples of the consequences of communal rights. In the United States, hunting rights to buffalo were communally held and led to near extinction of the buffalo at a time when cows (privately held property) flourished. Fishing rights in the ocean are communally held by all nations. Consequently, several fish species, as well as whales, are threatened with extinction. Communally held hunting rights in the Gulf of St. Lawrence led to brutal capture techniques and near extermination of seals. Communally held rights to land are an important factor in soil erosion, deforestation and overgrazing in many parts of Africa, problems which have aggravated its recent drought.

One need not question the morality of communal rights, or propose an alternative to them in order to recognize their critical flaw. No one can lay claim to or benefit from using a resource in a way which makes it more valuable now and in the future. The individual whaler who decides not to har-

3. Alchian & Demsetz, *The Property Right Paradigm*, J. ECON. HIST., Mar. 1973, at 17, 19-22.

poon a baby whale so that she will mature, become pregnant, and thereby raise the value of the herd, receives little or no benefit from his actions. In fact, the whaler's prudent behavior, not emulated by his competitors, will make him worse off because he provides more whales to his competitors.

A system of communal rights inherently includes a strong incentive to overuse resources. Differences in the behavior of whalers and ranchers, for example, help to explain how communal property rights encourage overuse of resources. Whalers do not own the whales that they hunt and kill them without concern for conservation of the whale. On the other hand, ranchers do not slaughter pregnant cows; their current actions *do* take into account the future value and size of their herd. The differences in the behavior of ranchers and whalers cannot be explained by the argument that ranchers are somehow a more moral people than whalers, but rather by the fact that ranchers have private property rights to their cows. The rancher personally benefits from *his* prudent actions and sacrifices that conserve and improve the future value of his herd. In addition, he is personally accountable for his actions that waste or lower the future value of his herd.

There are few differences in resource misallocation whether government owns and controls a resource or whether it is communally owned. Examples of government ownership and control of resources include the postal service, national parks, and many other natural and manmade resources in the United States. Government is an abstraction, and as such, it does not control and make decisions about resource usage. Government employees, such as politicians, bureaucrats and field representatives, make decisions.

When government employees make decisions, whether in good or in bad faith, the fact of business is that they neither bear the full cost nor reap the full benefit of their actions. If the owners of Disneyland Park ignore maintenance of grounds and facilities, or performance of duties by employees, or proper pricing and accounting procedures, they face direct, certain and swift personal penalties. Poor service leads to decreased patronage of the park; decreased patronage yields lower profits. Lower profits signal that Wall Street investors will abandon Disneyland. Disneyland would go out of business, or its low-valued stock would lead to the firing of managers *or* make Disneyland ripe for a "takeover" by some other enterprise which can more ably manage the facility.

Government ownership includes no such system of re-

wards and penalties. After all, what does a bureaucrat at the Interior Department lose when he charges the wrong fee, fails to detect workers shirking duties and otherwise inappropriately manages the resource? At worst he's fired, but he risks no personal wealth as does a private owner of resources in similar circumstances. The general citizenry bears the losses from inappropriate resource use by bureaucrats and their subordinates.

Both private owners and government employees have self-interest and seek to accumulate wealth through their work, but they realize that goal by very different means. The comparison of privately owned liquor stores with government-owned liquor stores provides a good example. In privately owned liquor stores, owners attempt to operate their establishments during all hours permitted by law. They prefer to provide customer services well into the evening, on holidays *and* on Sundays if permitted. Through higher sales and hence higher profits, private store owners personally reap the benefits from greater customer satisfaction.

Contrast such a reward and punishment structure, and the behavior it induces, to liquor stores that the government owns and controls. Since the benefits of greater sales and income do not accrue to government employees of liquor stores, they seek personal satisfaction in non-monetary forms, such as shorter work days, shorter work weeks and more work holidays. Furthermore, they have less incentive to become knowledgeable about wines and whiskeys, not because they are less intelligent than private workers and owners, but because they reap no benefit from learning about their trade.

The world is full of similar examples. The point is that under government ownership and control, pursuit of self-interest often comes *at the expense* of customers. Under private ownership and control, manager and worker pursuit of self-interest is in harmony with the interests of the customer.

Government need not actually own property in order to create the effects of government ownership of property. Government taxation of property can produce the same effects. The system of taxation represents partial government ownership of property in that it limits the uses of property. If a worker earns \$2,000 each month, and the government imposes a twenty-five percent tax on those earnings, the worker does not have private property rights to \$500. He cannot employ the value of his labor services in any way he wishes. Predictably, when a person is allowed to control less of his labor, he will labor less. Similarly, when government taxes any form

of property, labor, machines, land or savings, people will have less inducement to accumulate, improve and husband the world's scarce resources.

The Bishops' Attack

The bishops' letter is as thorough an attack on private property and personal liberty as any envisioned by a dictatorial regime. Contempt for personal liberty is the tone that pervades the document which states: "Everyone has a legitimate claim on economic benefits to at least the minimum level necessary for the social protection of human dignity."⁴ The bishops define their standard of human rights: "In the first place stand the rights to 'food, clothing, shelter, rest, medical care.'"⁵

If the bishops were *wishing*, they would be on solid common ground with most Americans who also *wish* their fellow man the barest of essentials. However, the assertion that food, clothing and shelter are *rights*, is itself a violation of the spirit, if not the letter, of the Constitution of the United States.

The violation of human liberty espoused by the bishops is inevitable when we acknowledge that government has no resources of its very own. We must acknowledge that the *only* way government can give one American a dollar is to confiscate, under intimidation, threats and coercion, a dollar from some other American.⁶

For one American to have a government-established right to food, shelter and clothing, some other American must be forcibly *denied* the right to the fruits of his labor. When the bishops say that one American has the right to a dollar, they imply that some other American *does not* have the right to one of the dollars he earns. That is a *necessary*, logical consequence of the fact that government has no resources of its own.

The bishops should not be allowed to skirt the moral

4. National Conference of Catholic Bishops, *Catholic Social Teaching and the U.S. Economy* para. 78 (First Draft 1984), reprinted in 14 ORIGINS 337 (1984) [hereinafter cited as *Pastoral Letter*]. See National Conference of Catholic Bishops, *Catholic Social Teaching and the U.S. Economy* para. 83 (Second Draft 1985), reprinted in 15 ORIGINS 257 (1985) [hereinafter cited as Second Draft].

5. *Pastoral Letter*, *supra* note 4, para. 79. See Second Draft, *supra* note 4, para. 84

6. For the reader who thinks these terms are excessive, let him tell the IRS he does not want his earnings taken and given to someone else.

question of whether one group of Americans should have the power to use government to take the property of one person and then give that property to another to whom it does not belong. In private conduct, when A uses force to confiscate B's property and then gives it to X, we call it theft, armed robbery or extortion, *and* we call X a recipient of stolen goods. Most Americans would morally condemn such conduct regardless of the needs of X. We must ask whether private behavior that has been deemed immoral suddenly becomes moral because it is done collectively, or whether immoral behavior becomes moral because it is legal. Finally, we must consider whether immoral behavior becomes moral because a majority of people have deemed it so.⁷

We all recognize that, as Thomas Paine said, "[G]overnment, even at its best state, is but a necessary evil."⁸ To preserve human liberty and to promote an orderly society, we need government. Government must prevent our fellow man, at home and abroad, from forcefully taking someone else's property; we need government to enforce contracts and adjudicate disputes. Government may also be required to undertake other functions such as road, power and highway construction. In other words, government may be necessary to provide for what the Framers of the Constitution called the *general* welfare. By general welfare, they meant those things that would benefit *all* Americans. All Americans benefit by the nation's having an army, navy and air force. In contrast, *individual* Americans benefit from government programs such as agricultural crop subsidies, food stamps and corporate bailouts.

Frederic Bastiat, the nineteenth century philosopher-economist, proposed the following test for moral government: "See if the law takes from some person what belongs to them and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime."⁹

Many call it charity for the government to provide for the poor, sick and elderly. Such a label perverts the meaning

7. Sometimes the response to these questions is, "We must have some form of government taxation (confiscation) to provide for the national defense, courts, roads and power projects." Notice that such a response uses legitimate government functions to justify illegitimate government functions.

8. T. PAINE, *COMMON SENSE* 65 (I. Kramnick ed. 1980) (1st ed. 1776).

9. F. BASTIAT, *THE LAW* 21 (1981).

of charity. Charity implies voluntary acts of conscience. Our government performs acts of coercion that are better described as legalized theft.

Confusion and Demagoguery Over the Sources of Income

The bishops' letter is rich with attacks on private property rights and individual wealth accumulation, and it frequently contradicts itself. The bishops, in mincing their support for private property, say, "This support of private property right does not mean that any individual, group, organization, or nation has the right to unlimited accumulation of wealth. . . . [T]he right to own must bow to the higher principles of stewardship and the common use of the goods of creation."¹⁰ The bishops add, "We believe the moment has come to examine in greater depth the need for true justice in the economic sphere, so that the poor in our country and the world will benefit more fully from God's gifts."¹¹

In most discussions, including the bishops' letter, we talk of income and wealth as being "distributed" or, to use the bishops' term, as a "gift" from God. Such an outlook suggests that differences in income and wealth between people and countries result from unfair practices of a racist, a sexist, an imperialist or a multinationalist "dealer" or distributor. According to this view, social justice demands that we use force to take dollars away from the person who has been "dealt" too many and that we then give dollars to the person "dealt" too few; in other words, there has to be a *redistribution* of income. Similarly, if income and wealth are viewed as "gifts" from God, the fact that one person has a large sum of money and another person has little or no money suggests that somebody stole God's gifts. Therefore, social justice demands that we use government to take "gifts" away from those with too many and return them to their "original" owners.

While the bishops are not as explicit as I, their reasoning reflects a gross misunderstanding about the sources of income and wealth. Most men are not "dealt" their income and wealth nor is their income a gift. Most individuals earn income and wealth through productive activity either as individuals or in groups such as partnerships, cooperatives or cor-

10. *Pastoral Letter*, *supra* note 4, para. 121. See Second Draft, *supra* note 4, para. 113.

11. *Pastoral Letter*, *supra* note 4, outline.

porations. In a free society, those who please their fellow men often acquire wealth. In fact, the quantity of income and wealth is a fairly good measure of how one has succeeded in pleasing his fellow man.

The most dominant feature of the capitalist system is its orientation toward pleasing the *common* man. Capitalist society is not utopia; but despite its critics and detractors, there are several unchallengeable attributes of the system. It was with the rise of capitalism that man treated his fellow man more humanely and that the common man became less subject to arbitrary actions by the strong. Women received better treatment. Criminals were punished more humanely. The insane and indigent were treated with more compassion. Also, the world's greatest philanthropic organizations, such as the Rockefeller, Ford and Carnegie Foundations rose with capitalism.

Another important, humane feature of capitalism, completely ignored by its critics, is that capitalism provided for peaceable accumulation of wealth. In the pre-capitalist days, men conquered and seized property in order to gain material wealth. Warriors captured people and land. They built and sustained empires by looting and plundering. The nobility used force to loot, to conscript and to tax as a means to private wealth.

Capitalism enabled men to become wealthy, not by seizing their neighbor's property but by diligently serving the needs of their fellow man, particularly those of the *common* man. Just a casual review of economic history shows that in the rise of capitalism, the production and trade of silks, exotic perfumes, rare spices and other goods to pamper the rich did not yield the largest fortunes. Instead, trade of goods used by the common man, such as woolens, cotton, tea, sugar and coffee, yielded great wealth.

Capitalism has a strong bias toward serving the common man. Henry Ford, who produced cars for the common man, amassed a much larger fortune than Bentley, who made cars for the rich. Companies which produce music to fit the tastes of the masses earn more than those which pamper the musical tastes of the elite. The parity in the marketplace, nonexistent in the political arena, could be the chief reason that the elite do not favor free markets. Political allocation of resources is, and always has been, strongly biased in favor of the elite.¹²

12. So-called "public" television is a good example. Commercial,

Intellectual Foundations for Totalitarianism

The real tragedy of the bishops' letter is that it contains features which are the intellectual foundations of totalitarianism. Nobel laureate Friedrich A. Hayek argued in his 1944 bestseller, *The Road to Serfdom*, that many totalitarian governments result from the attempt to put socialist ideas into operation. The focal point of Hayek's thesis was Nazi Germany.

Hayek argued that it was wrong to explain the horrors of Naziism by suggesting that Germans had some sort of congenital defect which caused them to commit unprecedented human savagery. To say Germans were inherently vicious, Hayek says,

dishonors the long series of Anglo-Saxon thinkers who during the last one hundred years have gladly taken over what was best, and not only what was best, in German thought. It overlooks the fact that when John Stuart Mill was writing his great essay *On Liberty* he drew his inspiration, more than from any other men, from two Germans, Goethe and Wilhelm von Humboldt. . . .¹³

Popular recollection of Jews in Germany focuses on the holocaust where over six million were slaughtered. However, in the decades prior to the collapse of the Weimar Republic, Germany was one of the most hospitable places for Jews throughout their history of persecution. Jews were disproportionately represented in German arts, sciences and the press. Furthermore, they played a role in politics. They were 1% of the population, but they were 10% of doctors and dentists, 17% of the lawyers, and they won 27% of Nobel laureates won by Germans between 1905 and 1975.

market-oriented, or what is derisively called capitalistic television is dominated by shows that cater to common tastes, such as "Phil Donahue," "Johnny Carson," "Archie Bunker," "Silver Spoons," and a host of soap operas. Furthermore, commercial television presents sports preferred by the common man, such as baseball, basketball, wrestling and football.

Commercial television does not pamper elite tastes. The elite satisfy their tastes by using government to tax the "common man" for "public broadcasting." By doing so, the elite have their shows such as "Poldark," "Upstairs, Downstairs," "Bolshoi," "MacNeil-Lehrer," and the "Boston Pops." "Public" television also allows the elite to view *their* sports such as cricket, tennis, and horsemanship. Further, elite children have "public" television to air "Sesame Street," and "Mister Rogers' Neighborhood," while commercial television provides the commoners' shows such as "Roadrunner" and "Bugs Bunny." See T. SOWELL, KNOWLEDGE AND DECISIONS 364-65 (1980).

13. F. HAYEK, *THE ROAD TO SERFDOM* 5 (1944).

German respect for persecuted minorities went beyond its borders. "German immigrants in early America likewise acquired a reputation for their ability to get along with American Indians. Germans also held the first anti-slavery meetings in America in the eighteenth century and were fervent supporters of Lincoln and the emancipation of blacks in the nineteenth century."¹⁴

If we accept that Germans are no more congenitally vicious than other nationalities, then what happened in German society to foster the rise of Naziism? Hayek explains,

It is significant that most important ancestors of National Socialism [Naziism]—Fichte, Rodbertus and Lassalle—are at the same time acknowledged fathers of socialism. While theoretical socialism in its Marxist form was directing the German labour movement, the authoritarian and nationalist element receded for a time into the background From 1914 onwards there arose from the ranks of Marxist socialism one teacher after another who led, not the conservatives and reactionaries, but the hardworking labourer and idealist youth into the National Socialist fold."¹⁵

Hayek continues,

The "German idea" of the state, as formulated by Fichte, Lassalle and Rodbertus, is that the state is neither founded nor formed by individuals, nor an aggregate of individuals, nor is its purpose to serve any interest of individuals. It is a *Volksgemeinschaft* in which the individual has no rights but only duties.¹⁶

While the intellectual foundations of totalitarianism had been laid, we must understand the reason that Naziism moved across the country at a lightning-like pace. The social democrats of the Weimar Republic created the elaborate superstructure needed by the Nazis for successful policy. Schuettinger and Butler argue: "More explicitly, the cartelization of the economy, state control of the banks, ownership of a sizeable fraction of industry, regulation of many aspects of business activity, incorporation of labor into organized units with central control working closely with government and intervention in foreign trade—all existed before

14. T. SOWELL, *THE ECONOMICS AND POLITICS OF RACE: AN INTERNATIONAL PERSPECTIVE* 254 (1983).

15. F. HAYEK, *supra* note 13, at 125.

16. *Id.* at 126.

Hitler."¹⁷

One of the clearest statements of the intellectual foundation of Naziism is by Paul Lensch, in his most successful book, *Three Years of World Revolution*. Lensch says the following about the opposition in Germany to the coming socialism:

This class of people, who unconsciously reason from English standards, comprises the whole German bourgeoisie. Their political notions of "freedom" and "civic right", of constitutionalism and parliamentarianism, are derived from that individualistic conception of the world, of which English Liberalism is a classical embodiment, and which was adopted by the spokesmen of the German bourgeoisie in the 'fifties, 'sixties and 'seventies of the nineteenth century. But these standards are old-fashioned and shattered, just as old-fashioned English Liberalism has been shattered by this war [World War I]. What has to be done now is to get rid of these inherited political ideas and to assist the growth of a new conception of State and Society. In this sphere also Socialism must present a *conscious and determined opposition to individualism*.¹⁸

In a nutshell, Nazi philosophy is expressed in the slogan, *Gemeinnutz geht vor Eigennutz*, (the common good comes before the private good). This sentiment was expressed by Adolf Hitler in *Mein Kampf*:

The Aryan is not greatest in his mental qualities as such, but in the extent of his willingness to put all his abilities in the service of the community. In him the instinct of self-preservation has reached the noblest form, since *he willingly subordinates his own ego to the community* and, if the hour demands, even sacrifices it.¹⁹

Comparing the Bishops

The bishops' letter contains many calls and admonishments for the subordination of the individual to the community: "There are forms of individual and group selfishness

17. R. SCHUETTINGER & E. BUTLER, FORTY CENTURIES OF WAGE AND PRICE CONTROLS: HOW *Not* TO FIGHT INFLATION 66 (1979).

18. P. LENSCH, THREE YEARS OF WORLD REVOLUTION (1918), *quoted in* F. HAYEK, *supra* note 13, at 130-31 (emphasis added).

19. A. HITLER, MEIN KAMPF 297 (R. Manheim trans. 1943), *cited in* L. PEIKOFF, THE OMINOUS PARALLELS: THE END OF FREEDOM OF AMERICA 66 (1982) (emphasis added).

present in the nation that undermine social solidarity and efforts to protect the economic rights of all.”²⁰ Citing Pius XI, the bishops write: “It is of the very essence of social justice to demand from each individual all that is necessary for the *common good*.”²¹ In their view of the principles that should be set for America, the bishops note: “They call our country to build on its past achievements and to direct its economy onto paths which will better serve both the national and international *common good*.”²² In reference to responsibility of government, the bishops add, “Catholic social thought has long held that one of government’s prime tasks is the coordination and regulation of the activities of diverse groups in society in a way that leads to the *common good* and the protection of basic rights.”²³

Pursuit of “social justice” and the “common good” is a recurring theme in the bishops’ letter. At the same time, the bishops express ambiguity about the role of government: “While affirming the positive role of government, Catholic social thought does not advocate a statist approach to economic policy. It resists excessive concentration of power in the hands of government, for this can itself threaten human rights and justice.”²⁴

The bishops’ ambiguity is indeed the dilemma faced by man. The pursuit of socialistic or collectivist goals has always required concentration of power in the hands of government. The basic nature of man is that he will not relinquish his property, his income and his pursuit of material gain to the extent demanded by socialists and collectivists. Therefore, extensive force is required to subordinate individual liberties, such as private property rights, freedom of movement, freedom of contract, freedom of speech and and the freedom of work, to the will of the elite who establish an all-powerful government.

Subordination of individual liberties lies at the heart of what has come to be known as *industrial planning*. Industrial planning is nothing more than the forcible superseding of

20. *Pastoral Letter*, *supra* note 4, para. 85.

21. Pius XI, *Divini Redemptoris*, no. 51 (1937), cited in *Pastoral Letter*, *supra* note 4, para. 95 (emphasis added). See Second Draft, *supra* note 4, para. 75.

22. *Pastoral Letter*, *supra* note 4, para. 107 (emphasis added).

23. *Id.* para. 124 (emphasis added). See Second Draft, *supra* note 4, para. 119.

24. *Pastoral Letter*, *supra* note 4, para. 127. See Second Draft, *supra* note 4, para. 118, 122.

someone else's plan by the powerful elite. For example, one person *plans* to use some of his earnings to buy clothing. Powerful government says, "No, that part of your earnings will be sent to the IRS and be used for food stamps or business subsidies." One person *plans* to buy a Honda. Powerful government says, "No, the 'common good' requires that you buy a Ford." A refrigerator manufacturer *plans* to buy his sheet metal from an inexpensive Belgian firm rather than from an expensive domestic producer. Powerful government says, "No, in order to have a 'just society,' where there is full employment for American steelworkers, we are going to force you to buy your sheet metal from a domestic producer."

There is nothing more common in the history of man than the notion that we must restrain or eliminate voluntary transactions in order to pursue the "common good." Suppression of personal liberty is an inevitable consequence of the attempt to implement socialist goals.

Alexis de Tocqueville captured the essentials of democratic societies versus socialistic ones: "Democracy attaches all possible value to each man; socialism makes each man a mere agent, a mere number. Democracy and socialism have nothing in common but one word: equality. But notice the difference. While democracy seeks equality in liberty, socialism seeks equality in restraint and servitude."²⁵

Collusions Against the Poor

The bishops' letter correctly argues that there are unacceptable levels of unemployment, dependence and poverty in the United States. The bishops fail to recognize, however, that federal, state and local government policies cause or aggravate the problem. On the one hand, these government policies are advocated by decent people who are misguided or misinformed. On the other hand, they are also advocated by people seeking to promote personal economic interests at the expense of the politically and economically weak or disorganized segments of our society. More tragic than politicians' susceptibility to powerful interest groups (often to the disadvantage of the weak) is that these interest groups successfully enlist the support of decent people to achieve selfish, collu-

25. De Tocqueville, Speech in the Constituent Assembly (September 12, 1848), in J. BARTLETT, *BARTLETT'S FAMILIAR QUOTATIONS* 506 (E.M. Beck ed. 1980).

sive goals.

Formula for Collusion

The reason that collusions are so successfully formed is that good people do not understand them and hence fall easy prey to charlatans and economic manipulators. Therefore, we may gain profitable understanding from a brief discussion of collusions.

Collusive activity is an attempt, most often by sellers of a product or service, to restrict competition. The product of restricted competition is the ability to charge higher prices (interest, rent, wages and profits) as a means to higher income. The target of collusive strategy is always another actual or potential *seller*. Sellers always find opportunities to raise their prices if they can limit either the output of competitors or the number of substitutes for their products.

A drug manufacturer's competitors are *other* drug manufacturers. It can charge monopoly prices and earn monopoly income if it can politically reduce competition. The means to achieve this goal are numerous. An exclusive franchise may be sought from the government to be the only seller in a market. The entry cost to potential competitors may be raised by pressing the legislature for licensing laws that restrict the number of sellers, or laws that impose onerous entry requirements. The manufacturer may also seek laws that set minimum prices for a product. The stated intention for such measures will usually be couched in public spirited language, such as "to promote the public health, safety and welfare," while the *effect* of the measures is to restrict competition.

An especially effective strategy for collusion is to set minimum prices through political intervention. Tariffs on imported goods are a widely known device for reducing foreign competition. Domestic producers faced with competition from foreign producers find that if the prices of imported products can be politically raised through tariffs, they can charge higher prices for their products. In recent years, United States auto manufacturers have sought higher tariffs on Japanese autos. The tariff (tax) raises the price of Japanese-produced autos to the benefit of domestic producers.

Quite often, as was the case with autos, labor unions politically support manufacturer initiatives to lobby for import tariffs. Unions help because import tariffs serve the interests of their members. Restricted foreign competition brings

higher product prices; higher prices mean that labor unions can negotiate higher wages and secure higher employment for their members.²⁶

Youth Unemployment: A Union Collusion

No one will disagree with the bishops' comment, "[a]mong black teen-agers aged 16 to 19 who are seeking jobs unemployment reaches the tragic figure of 41.7 percent, while for blacks aged 20 to 24 it is a discouraging 26.3 percent."²⁷ In all the national debate on teenage unemployment, little attention is paid to statistics from earlier periods. In the late forties and early fifties, black teenage unemployment was either *equal to* or *less than* white teen unemployment. Furthermore, blacks in *every* age group were more active in the world of work than whites.²⁸

The massive decrease in employment opportunities for black teenagers cannot be explained by allegations of racial discrimination. The answer is simple. Teenagers in general, and black teenagers in particular, are the victims of government-backed collusion. The minimum wage law of the Fair Labor Standards Act is the tool.

When we analyze the minimum wage law, we must look at its *effect* and not its stated *intent*. Its effect is clear if we put ourselves in the place of employers and ask: "If I must pay \$3.35 per hour, is it worth it to hire the worker who has skills that permit him to produce only \$2.00 worth of output per hour?" Most employers would find that this would be a losing proposition. Therefore, the effect of the minimum wage law is to discriminate against employment of low-skilled workers. However, such a worker could be employed, and receive on-the-job training, if he could be paid \$2.00 per hour, the value of his output.

Laws that discriminate against low-skilled workers will naturally have their greatest impact on teenagers. Teenagers, lacking experience, maturity and employment stability, are disproportionately represented in the low-skilled end of the labor market. For reasons such as low socioeconomic characteristics and grossly inferior primary and secondary schooling, black teenagers are disproportionately represented

26. See A. ALCHIAN & W. ALLEN, *supra* note 1 (especially ch. 14).

27. *Pastoral Letter*, *supra* note 4, para. 162. See Second Draft, *supra* note 4, para. 139.

28. See, STAFF OF JOINT ECONOMIC COMM., 95TH CONG., 1ST SESS., YOUTH AND MINORITY UNEMPLOYMENT (Comm. Print 1977).

among low-skill teens.

The small income that a teenager could earn from part-time work pales in comparison to what he learns from that work. Early work experiences teach young people promptness, respect for supervisors, and job location skills. All of these lessons make the teenager a more valuable worker in the future regardless of the job in which he learns these lessons. Moreover, early work experiences give young people a sense of pride and self-respect that results from some degree of financial independence.

Decent people support the minimum wage law because they think it will help the teenager, the poor and the low skilled. But the people who back their support for the minimum wage law with millions of lobby dollars are labor unions. Most members of labor unions earn considerably more than the minimum wage. Such a "sense of concern" for low-skilled workers may be perplexing, but it is understandable when one considers the principles of collusive strategy and the fact that low-skilled workers can be substituted for higher skilled workers.

Consider an employer who can produce 100 yards of fence per day by using either one of two productive techniques. The first technique requires that he employ one high-skilled worker at a daily wage of \$38. The second technique requires that he employ three low-skilled workers to whom he would pay \$13 each, per day, making labor costs \$39. In order to maximize profits, the employer would minimize costs by using the first technique — he would hire the high-skilled worker and pay \$38 in wages.

If the high-skilled worker were to demand a higher wage, perhaps \$55 per day, the employer would switch to the second technique and hire the three low-skilled workers at a cost of \$39. After all, the employer can produce 100 yards of fence with either technique.

The high-skilled worker would correctly anticipate the employer's response to a demand for higher wages. Therefore, it would pay the worker to organize with others like himself to politically control the labor market. The organization would lobby Congress for a minimum wage in the fencing industry. They would plead for moral backing for political intervention as follows: "Employers exploit low-skilled workers with a \$13 wage" and "A decent standard of living demands a decent wage." With the help of church groups and civic organizations, the labor organization may persuade Congress to enact a \$20 per day minimum wage in the fenc-

ing industry.

The statutory minimum wage means that the second technique, employing three low-skilled workers, now costs \$60. After the minimum wage law has passed, the high-skilled worker can demand \$55 per day and have a greater chance of keeping his job. His success is a direct result of his organization's ability to use the government to price lower-skilled and lower-priced competition out of the market.

A minimum wage law does *not* require a discriminatory intent to have this discriminatory effect. Most Americans would not lend their political support if employment discrimination against the poor and low-skilled was the stated intention behind the minimum wage law. However, at earlier times in the United States labor movement, discrimination against black, low-skilled workers was the stated intention for minimum wage laws via the mechanism of collective bargaining laws.²⁹ In South Africa, the stated intention of racist unions behind their support for minimum wage laws, called "rate for the job," is to discriminate against low-skill, low-wage, black workers.³⁰

Truth Versus Rhetoric

The establishment of laws that mandate higher-than-market prices always represent a seller collusion. Despite the cry that "Labor is not a commodity," which was used to exempt unions from prosecution under the provisions of the Sherman Antitrust Act, the laws of supply and demand apply to labor services as well as to any other good or service. However, since unions "sell" labor services, they would have us believe that economic laws do not apply to labor as they do to non-human items like cars, clothing and foods. Such a position is analogous to a refutation of the law of gravity as applied to humans by the cry, "Man is not an object!"

It is interesting, however, to note the differences in candor when labor unions lobby to politically raise the price of foreign cars and when they lobby to raise the price of labor. When unions lobby Congress to politically raise wages, they say lobby for the poor, the disadvantaged and the teenager.

29. Equal pay for equal work, collective bargaining established wage minima, and so-called "comparable worth" produce the same economic effects as the minimum wage law. See W. WILLIAMS, *THE STATE AGAINST BLACKS* 103-07 (1982).

30. *Id.* at 43-44; W. HUTT, *THE ECONOMICS OF THE COLOUR BAR* (1964).

However, when they lobby to politically raise the price of Japanese autos, they do not mention a desire to help the Japanese. In the case of raising the price of cars, unions are honest in emphasizing that they wish to help secure more employment and higher wages for the members of their unions.

More Hurtful Policies

There are many government policies that hurt the poor. Most of them, in one way or another, are characterized by provisions that make entry to jobs prohibitively expensive. They set artificial qualifications or demand qualifications that are unattainable and that therefore banish the job. Poor people who own cars could, for example, go into the taxi business. But in most cities, they would have to buy a license that could cost up to \$65,000.³¹ They could find work as hairdressers, landscapers or as other sorts of tradesmen; but they need a license. Many licensing tests require knowledge which has little or nothing to do with the ability to adequately perform the skills of the trade.³² Certain jobs, like that of a street peddler, are banned in some cities, and where they are not banned, the authorities harass the peddlers. Street peddlers have followed a traditional American avenue for upward mobility. If the authorities had banned such street peddlers as Gimbel, B. Altman, J.C. Penney, John Wanamaker, Levi Strauss, Richard Sears, and Marshall Field, one wonders what would have become of their futures.

Some policies are harmful to the poor in more insidious and hypocritical ways. Over the last year, there has been considerable debate, charges and counter-charges, gnashing of the teeth, and the wringing of hands over the issue of hunger in America. Politicians are always anxious to take the stand and condemn the presence of hunger in this land of plenty. No matter how persuasive their oratory, there is a ring of emptiness to their pleas when one considers the activities of the same politicians in the privacy of their offices. Most senators and congressmen, under the influence of strong pressure groups, vote for hundreds of laws that call for agricultural price supports, acreage restrictions, agricultural import restrictions, collusive marketing boards, dairy price supports and many other political manipulations of the food industry.

Whatever the intentions behind the political manipula-

31. W. WILLIAMS, *supra* note 29, ch. 6.

32. *Id.* ch. 5.

tion of the food industry, the effect is to raise the price of food. There is no question that government policies which raise the price of food have an adverse effect on the poor and hurt consumers in general. Perhaps even more tragic, the policy leads to billions of dollars worth of surplus food, much of it rotting, while millions in the world starve to death.

Conclusion

On the whole, the bishops' letter is an exercise in fantasy. Much of what the bishops say has merit only if we view the attainment of Utopia, or a heaven-on-earth, as a real possibility. But, of course, no such possibility exists. Therefore, man is left to choose the best system among the actual alternatives that face him. Whatever the critics may say of capitalism, the undeniable fact is that capitalism has done the best job of solving man's traditional problems, such as famine, disease, and gross poverty. The fact that capitalism wins hands down in comparison to any other system does not mean that we do not have problems in America. But, as suggested throughout this discussion, capitalism has been the most successful system in the history of mankind in bringing him the material means for his spiritual development.

The bishops truly demean and insult this moral and spiritual achievement when they say, "There are forms of individual and group selfishness present in the nation that undermine social solidarity and efforts to protect the economic rights of all."³³ Such an accusation does not square with the facts of American generosity. "Few aspects of American society are more characteristically or more famously American than the nation's array of voluntary organizations, and the support in both time and money that is given to them by its citizens."³⁴ According to Commission estimates, Americans gave more than \$50 billion in money, time and labor in 1974.³⁵ More recent estimates set American giving at more than \$62 billion, most of which comes in small amounts from many private individuals.

Americans have always been generous, as evidenced by the fact that the world's greatest philanthropic organizations began in the United States, including the Carnegie, Rockefeller and Ford Foundations. In world disasters, the American

33. *Pastoral Letter*, *supra* note 4, para. 85.

34. COMMITTEE ON PRIVATE PHILANTHROPY AND PUBLIC NEEDS, GIVING IN AMERICA 9 (1975).

35. *Id.* at 10.

Red Cross is often first on the scene with needed medical supplies and food. Of all the giving in the world, Americans do eighty percent of it.

For the bishops to say that there are forms of “individual and group selfishness” implies that Americans are somehow deficient in their generosity. In this respect, the bishops must answer the question: Americans are selfish compared to what? But a greater affront to American generosity is the bishops’ ingratitude, manifested by the fact that religious organizations are the greatest recipients of *most* American generosity.

A society that produces plenty for its members is not a result of good intentions and charity. It is a result of individual members having the private incentives to do voluntarily those things consistent with the social good. Motivated by the pursuit of private gain, which the bishops denounce as greed, individuals promote the public welfare.

Adam Smith, who wrote the *Wealth of Nations* in 1776, a treatise just as important to our young nation as the Declaration of Independence, pointed out the virtues of voluntary relationships among men and the pursuit of wealth:

He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. . . . [H]e intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this . . . led by an invisible hand to promote an end which was no part of his intention. . . . By pursuing his own interest he frequently promotes that of society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good.³⁶

Indeed, in a free society, personal wealth is evidence that one has promoted the public good. People who have produced items from computers and airplanes to Barbie Dolls and designer jeans became wealthy because they pleased others. Too often, wealthy people are ridiculed and scorned while non-productive people are idolized. It does not require much imagination to predict the ominous direction for the nation if we punish the productive and honor the non-productive.

36. A. SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 423 (E. Cannan ed. 1937) (1st ed. London 1776).

