

## Musgrave and Buchanan On the Role of the State

Reviewed by Wallace E. Oates

**PUBLIC FINANCE AND PUBLIC CHOICE: Two Contrasting Visions of the State**

By James M. Buchanan and  
Richard A. Musgrave

264 pp. Cambridge, Mass.: MIT Press, 1999

**W**HEN I WAS A GRADUATE student at Stanford in the early 1960s, Richard Musgrave's monumental treatise *The Theory of Public Finance* was our bible for the field of public finance. Published in 1959, the tome provided the first comprehensive, systematic, and rigorous treatment of the field. Moreover, it embodied a very activist and positive perspective on the role of the public sector in the economy. Musgrave defined three major economic roles for government: the provision of public goods and other measures to correct for "market failure" in the allocation of resources; the redistribution of income to achieve an equitable distribution of societal output among households; and the use of Keynesian policies to attain high levels of employment with reasonable stability of prices.

Musgrave's vision of the public sector was thus a very activist one: a market economy is subject to serious malfunctioning in several basic respects and it is the job of the government to provide needed corrective measures to put things on the right course. From this perspective, the decade of the 1960s was a heady time to be a young public-

finance economist. The new Kennedy Administration lent a willing ear to advice from the Walter Heller-led Council of Economic Advisors. This resulted, among other things, in a large tax cut (in spite of an existing budgetary deficit) to get the economy going. Later in the decade, the federal government introduced major new programs to address poverty, the problems of the cities, and environmental concerns.

In the course of my studies at Stanford, I also came across a small volume by James Buchanan and Gordon Tullock, *The Calculus of Consent* (1962). Buchanan and Tullock suggested a rather different and much less sanguine view of the public sector. The book's theme was the potentially deleterious effects of majoritarian politics on the economy and society. Buchanan and Tullock argued that special interest groups and coalitions push government to institute programs that promote the groups' interests at the expense of society and the economy at large. The result is a powerful tendency toward public sector over-expansion, with rising tax rates accompanying the increasing levels of (sometimes implicit) transfer payments. For this reason, Buchanan and Tullock counseled government to adopt a set of "rules" or a constitution that would effectively constrain public sector expansion. Far from supporting an activist view, Buchanan and Tullock's message was one of combating government intervention in the market.

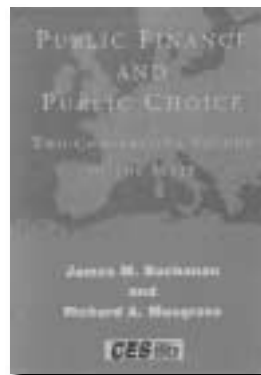
The subsequent decades have brought recognition to Musgrave and Buchanan as two of the most distinguished members of the economics profession. Musgrave has had a long and enormously productive career that reaches back to Munich and Heidelberg in the 1930s and then across the Atlantic to the United States, where he taught at Swarthmore, Michigan, Johns Hopkins, Princeton, and Harvard. Buchanan received the 1986 Nobel Prize in Economics for his founding and development of public choice. He has turned out a steady stream of important books and articles around which the public choice movement has coalesced, and

he has taught at the University of Virginia, UCLA, the Virginia Polytechnic Institute, and most recently at George Mason University.

It was thus a major event in March of 1998 when Buchanan and Musgrave squared off before a select audience of economists in Munich for a weeklong debate on their "visions of

the state." Musgrave, then 87 years old, and Buchanan, then 78, followed a carefully structured form of debate. On the first day, each presented his own fascinating intellectual history, describing the origins and evolution of his view of the state. In the subsequent days, one presented a paper on a specific topic, to which the other responded. This exchange was then followed by general discussion with the audience.

The proceedings of this debate, including the discussion from the floor, have been published in a quite remarkable and striking book, *Public Finance and Public Choice: Two Contrasting Visions of the State*, (MIT Press, 1999). Rarely are we provided such a setting in which two major scholars explore in a leisure-



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ly way their different approaches to understanding the world. As the debate continues, it evolves; by the end, readers are able to delineate with increasing clarity the points on which Musgrave and Buchanan see eye-to-eye and those where they go different ways. As Nobel Laureate Robert Solow puts it on the dust jacket, “Who could resist the chance to eavesdrop on their reflections? Certainly not anyone who cares about the role of government in modern society.”

### COLLECTIVE ACTION: GOOD OR BAD?

FOR THE INTELLECTUAL POINT OF DEPARTURE, both economists employ an individualistic and contractarian philosophical framework. Neither of them sees the state as an organic unit unto itself; as Musgrave puts it, “I think of the state as an association of individuals engaged in a cooperative venture, formed to resolve problems of social coexistence and to do so in a democratic and fair fashion” (p. 31). Despite this agreement, the two quickly move off on different paths. For Musgrave, the public sector has its own legitimacy alongside the market. It is not to be seen as an “aberration” from the “natural order,” but rather as “a natural means of addressing a different set of problems” (p. 31). The private and public sectors, from this perspective, are natural complements to one another that play in tandem their roles in promoting social welfare.

For Buchanan, in contrast, the public sector represents a serious threat. Making use of a simple but illuminating numerical model, Buchanan explains what he sees as the inherent tendencies in a majoritarian system for coalitions to raid “the common pool” of the tax system to their own benefit. Majoritarian politics, in Buchanan’s view, inevitably involves the emergence of majority coalitions that push through fiscal measures to redistribute resources in their favor. This leads to a destructive growth of the public sector that puts pressure on the tax base and has a wide variety of unfortunate social and economic effects.

From this perspective, the central

problem becomes one of constitutional design to constrain the overly expansive and destructive tendencies of government. Such constraints may take the form of departures from simple-majority rule that require a more inclusive majority (as Buchanan explored in *The Calculus of Consent*) or the constraints could be embodied in constitutional provisions requiring such things as a balanced budget. As a more pervasive principle, Buchanan argues for a “constraint of generality” that would effectively limit politicians to measures that are genuinely “public” in the sense of providing benefits more or less equally to all. This would eliminate specially targeted benefits and transfers that naturally emerge in a majoritarian setting. Underlying all this, Buchanan explains, is a fundamental objective: “[M]y concern and my primary motivation here in a normative sense is preventing the exploitation of man by man, or woman by woman, through the political process. That is what is driving my whole approach” (p. 152). Musgrave, although readily admitting the presence of inefficiencies and some misguided policies, does not see the essential issue as one of restraining government. For him, the role of “rules” is “not only to restrain, but to enable” (p. 51). Government, like the market, can make its own basic contribution to social well-being.

This disagreement, of course, results in quite different views about the size and scope of government. In a moment of admittedly vast oversimplification, Buchanan observes that “[Musgrave] places considerably more relative weight on the ‘good’ that collective action can do, whereas I place more relative weight on the ‘bad’ that unconstrained collective action might do” (p. 108).

In addition to the overall size of government, the divergent views lead to some important differences in preferred policy measures. In the spirit of his principle of generality, Buchanan has come to support a flat tax with “demogrants.” Under this proposal, all income would be subject to a single tax rate with transfers taking the form of equal grants per capita. Each individual would thus receive a fixed sum (the demogrant) and

then would pay taxes at a fixed rate on his or her income. Such a system could, in principle, be fairly redistributive depending on the agreed-upon level of the demogrant. Low-income individuals could receive a larger sum in the form of the grant than they pay in taxes so that they would receive a positive net transfer from the government. Musgrave vehemently opposes such a measure on the grounds that it could be extremely costly in budgetary terms. Further, it would exhibit virtually no progressivity as it reaches those with higher incomes. For Musgrave, the heart of the federal tax system should be a progressive individual income tax that results in what he sees as a more socially fair outcome.

### FISCAL FEDERALISM IN EUROPE

BECAUSE THE DEBATE TOOK PLACE IN Munich, much of the associated discussion turned to issues of European Union. This was especially evident on the fourth day of the debate when the topic was “fiscal federalism.” The evolution of the New Europe is a major issue among public-finance economists there; the critical issue involves the roles to be played by the national governments of the member countries and the new “central government” in Brussels. The term “fiscal federalism” (a technical term used in the field of public finance) refers to the economics of the vertical structure of the public sector. It thus addresses issues of the division of fiscal responsibility among different levels of government, the assignment of tax bases to central, provincial (state), and local governments, and various matters of intergovernmental finance such as the design of grant systems and revenue sharing.

The Maastricht Treaty governing European Union explicitly adopts the “principle of subsidiarity” that appears to establish a presumption in favor of decentralized governance with the condition that public policy and its implementation should be assigned to the lowest level of government capable of achieving the objectives. However, the principle provides no operational criteria for making decisions about the assignment of responsibility, so the

landscape is essentially clear for the evolution of the new public sector in Europe. The basic source of contention revolves around the role of fiscal competition among governments (in this case, member countries). Some economists see such competition as healthy, providing the same sort of disciplined guidance that competition provides in the private sector. Others see it as “destructive competition” that leads to public policies designed to attract new business investment and jobs that result in excessively low tax rates and an underprovision of public services. To avert such outcomes, many Europeans support a variety of cooperative measures — forms of “harmonization” — that might, for example, set a floor under value-added tax rates in all member countries.

Buchanan and Musgrave predictably take different sides on this issue. Buchanan’s approach is based on his political philosophy while Musgrave comes at this matter as a fiscal economist. For Buchanan, fiscal decentralization is a mechanism for disarming a huge central government with monopolistic powers. In a system of decentralized public finance, state or local governments must compete with one another for residents, firms, and tax base. Musgrave takes a more measured position: “I am not arguing for centralization but against destructive competition, and this requires some coordination among jurisdictions” (p. 202).

The ongoing debate among economists in Europe on this matter is in flux. A huge theoretical literature has emerged in the public-finance journals that explores various facets of competition among governments. But this literature is inconclusive. It is not difficult, for example, to envision settings (or to construct “models,” as economists like to call them) in which competition among governments is quite healthy and leads to outcomes that promote social welfare. But at the same time, some realistic modifications to such models bring to light potential distortions in public-sector choices that can result from such competition.

It is unclear at this juncture where

all this is headed. Buchanan, for his part, would like to see a “competitive federalism” in Europe. In fact, he thinks that, in light of the differences in languages and traditions, such a system “is almost going to necessarily emerge” (p. 182).

From a more traditional perspective, many of us are uneasy with the ongoing evolution of the public sector in Europe. On the one hand, the member countries are effectively giving up many of their fiscal powers. Having lost their monetary and exchange-rate prerogatives with monetary union, they have also seriously curtailed their fiscal capacities with restrictions on debt finance. Member countries thus have a much diminished capacity to carry out traditional macrostabilization policy.

Likewise, with the high degree of capital mobility and a growing mobility of labor (notably skilled labor), national governments will find themselves much more constrained in their ability to provide various social programs, especially those that support low-income households. In a competitive federalism, decentralized governments find it difficult to adopt such policies, inasmuch as generous support tends to attract poor households while the higher taxes needed to fund the programs provide an inducement for exit to those bearing the taxes.

Most countries address this problem by having the central government take on a primary role for these two functions. But in the emerging European setting, the central government will be too small. Its projected budget, perhaps on the order of 2 percent of GDP, will not be large enough to provide the built-in or discretionary stabilization measures needed to address cyclical movements in aggregate income. Member countries that find themselves subject to localized shocks to output and employment will (like states in the U.S.) have little scope for corrective policies. Likewise, no one sees the central government taking over the general function of income transfers and social services for the poor.

The fear is that the emerging structure of the public sector in Europe may be ill-suited to performing two of the traditional tasks of public finance. Musgrave shares these concerns: “It thus remains

to be seen whether the combination of unitary and decentralized features, now posited in the E.U. structure, will prove tenable — a fascinating experiment in federalism of importance not only to Europe but also elsewhere” (p. 175).

## EVALUATING THE PUBLIC SECTOR IN THE TWENTIETH CENTURY

ON THE FINAL DAY OF THE DEBATE, THE protagonists expanded the scope of the discussion well beyond strictly economic concerns to address explicitly “Morals, Politics, and Institutional Reform: Diagnosis and Prescription.” This provided a valuable opportunity to pull together much of the earlier argument in terms of its broader implications for social structure and reform.

For Buchanan, the twentieth century has been a “terrible century” that ushered in “the bloated welfare-transfer state” with serious moral consequences. “Trust in markets seems everywhere replaced by threat of litigation, and trust in politics can scarcely be sustained in the face of near-total corruption” (p. 216). Much of the “moral rot” is attributable to “the exaggerated size of the public sector relative to the total economy” (p. 217). There has been a serious depreciation of our stock of “social capital” that “was represented in personal attitudes of independence, obeying laws, self-reliance, hard work, self-confidence, a sense of permanence, trust, mutual respect, and tolerance” (p. 220).

Drawing on some idealized concepts of social moral structure, Buchanan proposes a number of reforms aimed at reducing the size of government and limiting, through his principle of generality, the capacity for majoritarian politics to exploit the common pool. But he is not optimistic. With the decline in the capacity of the modern nation-state to engender any sense of community or commitment, there seems “to be no discernible spark of moral-ethical renewal.”

Musgrave, in contrast, finds Buchanan’s perception of “moral collapse” to be “overly pessimistic.” From his perspective, “The taming of unbridled capitalism and the injection of social responsibility that began with

the New Deal was a step forward” (p. 228). For Musgrave, the emergence of the public sector over the past century has been primarily a response to changing needs and preferences in a democratic society for protection against the vagaries of economic ups and downs, the provision of a social safety net, and a more equitable distribution of the fruits of economic progress.

An evaluation of the twentieth century is a complicated matter. Any toting up of the good and bad produces a lengthy list with many items in both columns. Among the “goods,” for example, we find enormous increases in wealth, major improvements in health including extended longevity and greatly reduced rates of infant mortality, the fall of Communism, major advances in democratic institutions around the globe, improved conditions for minorities, and so on. But there are surely matters for concern emerging from the past century; these “bads” include not only Buchanan’s concerns with a growing public sector, but increased pressures on the planet’s environmental and natural resource capacities, threats from nuclear proliferation, continuing ethnic conflicts, the frightening prospects associated with the AIDS epidemic and other diseases, and on and on.

What is most striking is the remarkable divergence in how different observers read these tendencies. Some (one thinks, for example, of the late Julian Simon and his *The State of Humanity*) are exuberant over the advances of the twentieth century and the course of continuing progress. Others, like Buchanan, see a preponderant dark side. How do we assess the half-full glass?

## GOVERNMENT OUT, MARKETS IN?

AS I REFLECT ON THE DEBATE, I AM struck with the way in which the intellectual stage for such an exercise has shifted over recent decades. As I mentioned at the outset, the 1960s and 1970s were times of an activist public sector. The widespread acceptance of Keyne-

sian macroeconomic measures, the War on Poverty, and federal programs directing huge inputs of resources directly into the center cities indicate the intellectual tone, largely supported by academia, for policy-making in that era.

At that time, Buchanan found only a small audience to give him a sympathetic hearing. But things have changed dramatically. Our sense of the capacity of the government sector to address issues such as macroeconomic stabilization policy and the eradication of poverty has been seriously shaken. In fact, Buchanan and many of his public-

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choice colleagues have been part of a larger movement that challenges the underlying assumptions of the welfare state. We hear much less about “market failure”; indeed, a recent article in *Regulation* is entitled “The End of Market Failure” (Vol. 23, No. 2). Exemplifying a large body of recent literature, this article reconsiders an overly enthusiastic and not always securely founded view of public policy.

As John Kay has argued, with the advent of Ronald Reagan in the U.S. and Margaret Thatcher in the U.K. (among others), we have entered an era of “faith in market forces.” The key ideas driving public policy have become ones of deregulation, privatization, and devolution with a focus on “government failure” rather than on the limitations of the market. Indeed, a major theme of current policy design is the search for ways to integrate market incentives into public programs. One creative and quite successful measure of this kind is the market for sulfur-emissions allowances created under the 1990 amendments to the Clean Air Act to address the problem of acid rain.

The new century faces the challenge of finding the right balance between the private and public sectors. The decade of the 1990s was a good one for the overall U.S. economy. Since the recession in

March 1991, we have experienced one of the longest periods of uninterrupted economic growth on record. The decade has also been a time of low rates both of unemployment and price inflation and, equally impressive, a time when most government budgets moved from a condition of persistent deficit into surplus. And yet, all is not well.

While the continuing expansion has generated enormous increases in aggregate output and wealth, this growth has not spread evenly across the spectrum of households. Based on standard measures, there is general agreement that the degree of inequality in the distribution of income has widened over recent decades. In fact, the share of aggregate income going to the top five percent of households in the U.S. has risen fairly steadily since 1950 and now stands at

over 20 percent, its highest level over this period. In contrast, the share of the lowest five percent of families has fallen to its lowest level in this fifty-year span. And the poverty rate stood at a higher level in the late 1990s than in the early 1970s.

This, of course, is one of the problems of a free-market system: while it promotes growth and efficiency, it can at the same time increase risk and insecurity. The task facing us is one of finding effective ways to lift incomes at the bottom and to open up opportunity. This most certainly does not mean turning back from the efforts at welfare reform in the 1990s, but finding new ways to provide a social safety net through measures that encourage and subsidize work and that promote good schools.

Likewise, the much-cited “Graying of America” is forcing us to rethink and restructure programs to support the aged. The source of the problem is not hard to understand. In 1960, there were over five payroll-tax paying workers per Social Security beneficiary. By 1999, this ratio had fallen to 3.4. And by 2030, it is estimated that the ratio will be down to 2.1! This will force upon us what Rudolph Penner, Isabel Sawhill, and Timothy Taylor call “The Unavoidable Necessity of Renegotiating the Intergenerational Contract.” Society will have

to do more than just “fix” Social Security and Medicare; it will have to forge a complicated package of public and private efforts to provide retirement income and medical support for the aged. This package is likely to involve increased incentives for private saving and, perhaps, encouragement to stay on the job longer.

These are just two of the challenging issues that will require an appropriate blend of private and public activity over the coming decades. The market system is a powerful engine for generating economic growth, but it cannot do everything. There are, in fact, obvious cases where markets break down in their role of allocating society’s scarce resources efficiently.

To take one important example, market systems cause excessive air pollution for a straightforward reason: individual profit-seeking firms simply do not have any incentive to economize on their use of clean air (in contrast to their use of other scarce resources like labor and materials for which they must pay the social cost). Public policies to promote cleaner air are essential for societal welfare, but such policies must themselves be effective in correcting the problem.

Too often we have seen regulatory measures that either fail to achieve their objective or do so in an excessively costly way. We have come a long way in recent years, both in learning about sensible procedures for setting standards for environmental quality and in designing cost-effective ways to induce compliance from the sources of pollution. As with the environment, the solution to many of our economic and societal problems depends on our understanding of the strengths and limitations of both markets and government and on our capacity to design institutions that allow them to work together to produce welfare-enhancing outcomes.

The Musgrave-Buchanan exchange provides a valuable backdrop for thinking about these matters. Their views, sharply contrasting as they are, cover the gamut from the basic philosophy of government on the one hand, to specific policy measures on the other. It is rich fare for the reader. **R**

# Redirecting the Environmental Movement

Reviewed by Peter VanDoren

**HARD GREEN: Saving the Environment From the Environmentalists: A Conservative Manifesto**

By Peter Huber

224 pp. New York: Basic Books, 1999.

**S**HOULD WE CURB COAL-FIRED electricity production? Do we need to regulate farmers’ use of fertilizer in the Midwest? What benefits could we obtain from restricting diesel emissions? Peter Huber would recommend that scientific inquiry be used to ascertain the relationship between each of the three activities and adverse environmental effects. His implicit premise is that if the negative effects of coal and diesel emissions or fertilizer use are “real” then scientifically informed government intervention can “fix” the problem. And if the best science suggests that the causal links are problematic or non-existent, the implication is that environmental regulation is an example of illegitimate and unwarranted state action.

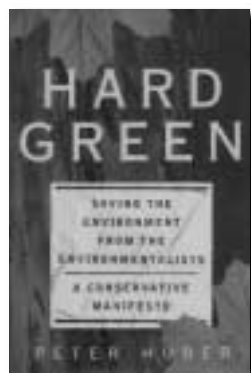
But what if citizens want clean air just because they want clean air, not because dirty air actually has any scientifically demonstrable effects? Why should government be environmental at all? Should government not just create and defend property rights and, thus, be neutral with respect to the life plans of citizens? Are preferences for clean air not just like preferences for pizza or cars? Put differently, is there anything about a simple libertarian view of government as creator and defender of property rights that does not allow those with environmental preferences to pursue their vision of the good life?

Such questions require an economic framework. Within an economic

framework, environmental policy disputes, like all policy disputes, are about the distribution of wealth and property rights, or about the ability of current market institutions to achieve efficiency. Thus, useful environmental policy books are those that explain the nature and possible resolution of wealth and efficiency disputes about the provision of environmental goods and the ability of markets to implement solutions.

Peter Huber’s new book, *Hard Green*

(New York: Basic Books), is a successful attack on the scientific basis for environmentalists’ policy preferences. His implicit premise is that sound scientific knowledge resolves policy disputes. But Huber himself abandons scientific analysis when it comes to his favorite environmental amenity — the wilderness



— and he undermines his own analysis by conceding that people have a right to their environmental preferences regardless of the preferences’ scientific validity. Huber does not follow the logical implications of his analysis and he avoids developing an economic analysis of environmental issues.

## THE HARDS AND THE SOFTS

Huber describes two archetypal groups of participants in the environmental policy morality play. The first group, whom he describes as Hard Green, emulates Theodore Roosevelt. Hard Greens want the government to own the most precious natural assets, like the Grand Canyon, Yosemite, and Yellowstone. They also want government to develop markets for the most obvious externalities to the air and water. But besides these actions, Hard Greens do not want government to become involved in environmental affairs.

The second group, whom he describes as Soft Green, has a more

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expansive agenda. The Soft Greens worry about *everything* in modern life, including chronic exposure to low levels of pesticides, the exhausting of energy resources, and explosive population growth.

Their solution to these problems is always the same: a tough governmental legal regime that tells people and firms not to do things that the Soft Greens define as bad, such as emitting carbon dioxide or having too many children. The Soft Greens also want government to tell people and firms to do “good” things such as recycle and use less energy.

To no one’s surprise, Huber likes the Hard Green perspective and has very little, if anything, good to say about the Soft Greens. Huber claims that the Softs’ views are not supported by the best scientific evidence. Further, he says, the Softs encourage government to manage behavior in ways that are too intrusive and difficult to achieve. The Hards, in contrast, want government to own some land and then leave it alone, and establish markets for “obvious” externalities. Huber believes these tasks are consistent with science as well as our government’s capabilities and our society’s limited tolerance for public control.

### THE LIMITATIONS OF SCIENTIFIC ANALYSIS

EVEN THOUGH HUBER’S CHARACTERIZATION of the two camps of environmental preferences is reasonably accurate in my view, what do we do if people cling to their preferences in the absence of scientific support? Even though much of Huber’s analysis of Hard and Soft Green viewpoints amounts to what I call “guys-in-white-coats-should-tell-us-what-to-do,” on occasion he recognizes that this mode of thinking may not be sufficient to resolve environmental policy disputes.

But the axiology of science, its priorities of investigation and research, the criteria for what to study and what not to, are matters of taste, budget, values, politics: everything but science itself. Scientific priorities... are themselves trans-scientific.... Science will never tell us just

## Huber’s analysis of Hard and Soft Green viewpoints amounts to what I call “guys-in-white-coats-should-tell-us-what-to-do.”

how much scrubber or converter to stick on a tailpipe or smokestack, how much sand and gravel at the end of sewer pipe, how much plastic and clay around the sides of the dump. Standards of “clean enough” don’t stand still, not in a society that is growing progressively richer. (p. xviii)

[E]ven the invisible can have value, even the innocuous can entail cost, if only because value and cost ultimately lie in the mind of the beholder. People are entitled to dislike chemicals in their drinking water simply because they dislike them, whether the distaste is for fluoride added deliberately by a meddlesome government or tetrachloroethylene added negligently by a noisome factory. People are perfectly entitled to prefer pure drinking water, even if contaminants cause them no harm, even if contaminants harden their teeth. (p. 136)

But if people are entitled to their preferences, do we not need an analysis of how markets process environmental preferences to arrive at choices? If markets cannot process such preferences into choices under certain circumstances, then what might be done? That is, don’t we need an economic policy analysis?

### ECONOMIC ANALYSIS

A careful economic analysis would ask whether disputes about environmental goods are about the distribution of property rights or about efficiency, and whether the goods are private or public. It would take preferences as given and ask whether markets can satisfy them.

For those private goods for which property rights already exist, normal market forces serve peoples’ preferences under most circumstances. This makes irrelevant any discussions about the scientific validity of people’s preferences; as long as “environmental” and “non-environmental” goods (energy-efficient

cars and gas guzzlers, or biotech and organic foods, for example) are simultaneously available in markets, people with varied preferences can purchase the commodities they prefer.

**Can Markets Supply Wilderness?** Is wilderness a private good subject to the arguments of the last paragraph? Huber does not think so, but he does not employ scientific analysis to support his view. Instead he invokes economic analysis by assertion.

With all ordinary kinds of property, the fence contributes to the value and preserves it. With wilderness, it is the other way around. We consider great, wide-open, public spaces to be valuable (economically valuable, if you insist) precisely because they are great and open.

From an economic perspective, in other words, we love them for entirely negative reasons: because they are not contained, not tamed, not productive, not private.... With such things, to privatize is to destroy. (p. 90)

The whole point of conservation is to be anti-economic. (p. 92)

What should we make of such claims? Can markets provide empty, unused space?

Markets can provide any commodity as long as people are willing to pay the owner more than the opportunity cost of using the assets for something else, and the consumption of the commodity can be restricted to those who pay the owner. Because public parks charge fees to users, the issue of restricting consumption to those who pay would not seem to be an issue.

However, people’s willingness to pay more than the opportunity costs of other uses is more problematic. To compensate an owner for all the second homes or ski resorts that could be built or the mineral or timber extraction that could take place would be very expensive in some locations. The private forest lands of northern Maine offer insight into this issue. The owners allow people to use them for hiking, fishing, and camping, in exchange for fees. But the

owners do extract timber, which suggests that the willingness of people to pay enough for access is not sufficient to offset the profits from timber. To eliminate timber production and create an unused wilderness, we could raise funds and then compensate the forest owners for eliminating timber production. Such programs could be public (we already have programs to pay farmers not to farm their land) or private (Nature Conservancy). We could simply extend them to forests. Hence, public ownership of forests is not necessary.

The important difference between government ownership, as proposed by Huber, and either public or private compensation plans is that compensation plans would make the opportunity costs of alternative uses transparent to taxpayers or donors. Such transparency would transform the lofty rhetoric about conservation affirming our collective values to rhetoric that better reflected economic reality: wilderness is actually an expensive commodity to provide (because of its high opportunity costs) and its consumers don't want to pay for it. Even Huber seems to understand that his rhetoric about wilderness masks some of the reality.

As a recreational hunter [Theodore Roosevelt] knew exactly why he needed to conserve the wilderness. That was where the game lived. Where else would he find a cougar to shoot? (p. 88)

If the political demand for public ownership of wilderness is about avoiding a discussion of opportunity costs rather than preserving collective values, why is conservation more deserving of subsidy than bowling or NASCAR? I use the language of Dale Oesterle because he captures my thinking on this issue so well.

In other words hiking, unlike bowling, elevates people.

[Such an] argument generates self-righteousness and, in truth, self-serving positions on rationing the scarce resource. Hikers seem quite comfortable with the following analysis: hikers (other than those in wheelchairs and those who are out of shape) and wildlife watchers (other than those in helicopters) are

more deserving than campers (other than backpackers, see hikers), who (with the exception of those driving recreational vehicles) are more deserving than mountain bikers, who are more deserving than downhill (but not cross-country) skiers, who are more deserving than hunters (but not fishpersons, see hikers), who are more deserving than off-road motorcyclists....

Throw into the mix those who trump even low-impact hikers by advocating that all people should be kept off federal lands so as to preserve the lands' wilderness (this argument is usually buttressed by a reference to the welfare of children and grandchildren) and arguments on policy start taking on ugly overtones of elitism. (*Controlling Industrial Pollution*, pp. 549-550)

Thus, Huber's arguments about the special nature of preferences for wilderness and the inability of markets to satisfy the demand for conservation do not seem to stand up to scrutiny. Huber employs the rhetoric that all people use when they would like government to accommodate their preferences: the commodity in question is very special and markets cannot provide it.

**Air and Water Quality** Air quality and water quality environmental disputes are more challenging to analyze than the supply of wilderness for two reasons. First, property rights do not exist for air and water, as they do for land. Thus, the initial creation of such rights leads to wealth disputes. Second, both air and water quality are "local" public goods rather than private goods. This eliminates the primary method of reducing conflict associated with private goods: individual differences in consumption. Instead, everyone's varied preferences can only result in one outcome, which implies that even an efficient solution, difficult to achieve in itself, would leave most people unhappy relative to their preferred outcome.

Huber argues that one possible solution to the initial-distribution-of-property-rights problem is to define the status quo emissions as having property rights and then let the trading begin.

He [the capitalist] might prefer not to have to think about pollution at all, but hand him a tradable permit, and he will instantly begin inventing ways to turn it into profit (p. 126).... So the best thing to do is to issue permits for the status quo, but not for anything that will make things worse. Innovation will then depreciate the value of the permits year by year, and they will be torn up in the end. (p. 127)

The United States took Huber's advice when the federal government allocated rights to electric power plants for sulfur dioxide emissions. But the decision to grant existing "dirty" plants the right to emit forever has drawn relentless political criticism. Enormous political capital has been expended to put the system in place. Huber offers no insight as to why it has been so difficult to implement market solutions using his initial rights scheme.

**Reallocating Rights** One possible impediment to the implementation of market solutions is that there are efficiency effects to the initial ownership of property rights to air and water emissions. That is, these property rights are so valuable relative to other assets that their initial allocation alters the willingness of people to pay for trades and thus affects how much pollution exists once equilibrium is reached. In such cases, the initial distribution is the whole ballgame because it determines the resulting equilibrium air and water quality.

Under many circumstances, the initial allocation of property rights does not affect the evolution of trades and thus does not affect efficiency. For example, the FCC held a lottery to give away analog cellular phone licenses. Non-telecom companies that won licenses quickly sold them to telecom companies that then built cellular phone systems. This arbitrary initial allocation of property rights did not affect the efficiency of the cellular phone market.

But the environment may be different. Initial ownership of the status quo by the Sierra Club might shut down industrial society because the members of the Sierra Club would not accept

money in return for allowing Los Angeles to exist (or, at least, not with the city's current air quality). Sierra Club members value environmental quality much more than other people and much more than other assets that they possess. Conversely if polluters had unlimited rights to pollute, pollution levels would remain high because the willingness of environmentalists to pay polluters to restrict emissions would be much less than the compensation they would demand in the previous case. Thus, Huber's casual discussion of allocating existing rights to polluters masks the possible large consequences that flow from that decision.

**Free Rider Problem** One reason the Sierra Club may be unwilling to pay for these rights is because any air quality gains obtained with Sierra Club funds would not be restricted to those who contributed to restrict emissions. Conversely, if Congress created additional emissions rights, all emitters would benefit from the lower prices that would result from the increased supply. But those benefits could not be confined to firms that paid (lobbied) to create the additional rights.

The creation of additional emissions rights faces another obstacle: the firms most likely to benefit from the right to emit are potential, rather than existing, firms. In fact, Robert Crandall has argued that existing firms have strong incentives to use environmental protection as an entry barrier to new firms.

The free-rider problem could easily magnify the struggle over initial property-rights ownership. To be more precise, concern over the effects of the free-rider problem motivates continued political resistance by environmentalists to the creation of initial rights. If firms gained the right to pollute and citizens had to buy firms' rights to do so, the free-rider problem easily could result in too little purchase of rights by environmental groups and too much pollution relative to the efficient level. Conversely, if citizens had the right to a pristine environment and firms had to purchase pollution rights or com-

pen-  
pense citizens for the creation of additional rights, some firms would gain free rides on the efforts of others, and too little pollution relative to the efficient level would occur. Firms would likely face fewer free-rider problems than citizens, but the potential firms that would benefit most from emissions expansion would face difficulties similar to those faced by citizens.

What should be done about the "free-rider" problem? One possibility would be to accept the inefficient libertarian "solution" of allowing voluntary groups to solicit contributions to pay to increase (by paying citizens to accept pollution) or reduce (by pur-

## Congress can declare that people have a "right" to pristine environments, but let people trade that right.

chasing existing emission rights) the supply of emission rights.

Another possibility would be to raise revenues to purchase emissions rights through the legislative process. Some might see this solution as no different than the status quo policy of appropriating money for the EPA for environmental protection, but emissions-rights purchases would make the relationship between costs and benefits more transparent and incremental. Congress would debate whether an extra \$50 million to buy so many pounds of emissions rights was worth the reduction in ambient exposure or whether acceptance of \$50 million from polluters was sufficient compensation for increased ambient exposure. In such a debate, the costs of reduced pollution would not be hidden as they are now. Under current policy, standards are changed as if the resulting benefits were free goods.

**Disputing Property Rights** Huber's insight about allocating initial emission rights to incumbent polluters is difficult to implement, not only because the initial allocation of rights may affect efficiency, but also because there is always dispute over the definition of property rights that delineates what you can con-

sume and dispose of without third parties consent.

Labels like "externality" and its rough opposite, "privacy," settle nothing. The rancher whose land abuts Yellowstone sees a federally protected wolf straying from the park to hunt his sheep. The rancher wants the wolf removed, at once, and by force if necessary. And how philosophically, is he very different from a woman with an unwelcome fetus in her uterus? Both can speak indignantly about autonomy and personal freedom. And each will face an outsider who replies: The space is not yours alone; I too have an interest in it... With pregnancy, as elsewhere, the "internal" gives way to the "external" where society says it does, no sooner or later. (p. 134)

Policy areas clearly vary as to how much the definition of property is up for grabs.

And I think Huber is clearly correct that the environmental area is one of the least settled.

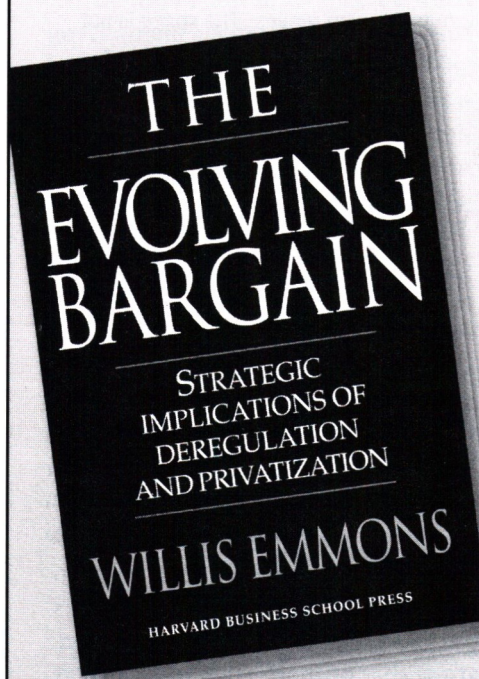
Although he does not make his own view of this contestability clear, Huber presumably is troubled by the continued political disputes over how to define what is outside the state's purview. Others, like Cass Sunstein, argue that property rights are always being redefined by the political system, and this is as it should be because it could not be otherwise. Sunstein approvingly quotes an economist from the 1920s named Robert Hale who wrote, "Laissez-faire is a utopian dream which never has been, and never can be realized." Presumably, this is not a conclusion that Huber would wish to draw, but his reasoning is similar to Sunstein's. The two differ only in where Huber would draw the line between public and private.

**Is There a Solution?** Like Huber, I favor the creation of tradable emission rights. I differ only in that I see real impediments to the implementation of such schemes because the allocation of rights may affect efficiency, causing participants to fight to the death over initial allocation. I also believe the total



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amount of emissions should be changeable in both directions: environmentalists should be able to buy rights to decrease the supply of emissions and polluters should be able to pay affected populations to accept an increased supply.

I agree with Huber and Sunstein that politics is in the business of allocating and reallocating property rights. If Congress wants to declare that the people have a “right” to pristine industrial environments, as it does in Superfund legislation, then let Congress declare that right. But give people the right to trade that right.

The insight that one can gain from all the studies that demonstrate the expense and irrationality of Superfund site cleanups is that companies would pay a reasonable amount to avoid cleanup and the alleged “victims” of pollution would accept such a payment rather than have no industrial activity and no employment on the affected site. The initial allocation of cellular phone rights was “irrational” in that government gave those rights to people who did not know how to build a cellular phone system, but the irrationality made no difference because phone companies easily purchased those rights.

The biggest irrationality of Superfund is not its creation of rights, but its not allowing the initial “irrationality” to be eliminated by subsequent trading. As a consequence, we have unused industrial sites surrounded by unemployed people, while a number of environmental lawyers have lucrative practices. In a world in which people could trade these politically created rights, we would have utilized industrial sites, richer neighbors of industrial sites who sold their right to a pristine restored environment, more employed people, and fewer lawyers with environmental practices.

Huber’s book contains numerous observations with which I agree. Softs do worry too much about everything and focus on risks and damages that are unimportant. Hards seem more sensible and their demands seem more in line with the capabilities of a limited government. And Huber’s

views would seem to reflect the best scientific evidence. But, as he recognizes, science can only go so far in convincing people that their preferences are not sensible.

Economic analysis does not examine the validity of preferences. Instead, it asks whether policy disputes are about the allocation of property rights or efficiency and whether the disputes are about private or public goods. For private goods, market forces clearly can serve Hard and Soft preferences simultaneously. And, despite Huber’s claims to the contrary, I see no impediment to the private supply of wilderness other than that its potential consumers do not want to pay the high opportunity costs of its provision.

Public goods present greater obstacles. One obstacle standing in the way of implementing market solutions is the initial distribution of emission rights. Firms want rights to their status quo emission behavior. Environmentalists do not want that to occur. Both believe that they have only a limited ability to purchase rights that would secure their preferred outcome relative to the status quo. And they may be correct in their assessment.

Thus, the main impediment to the creation of environmental markets may be the unwillingness of the participants to accept any definition of initial property rights. They prefer to use the political system to engage in continuous disputes about wealth and property rights. The real Hard Green task is to channel the energies of environmentalists and polluters into creating and then trading emission rights rather than publishing pamphlets and lobbying. **R**

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