

## Brief Introduction to the American Edition: Back Home Again

IN OCTOBER 2003, I had the great honor to deliver the Wincott lecture in London. The lecture was entitled *Free Markets Under Siege*, and after it was given, an expanded version of the essay was published, along with a commentary by Professor Geoffrey Wood of the Cass Business School. The essay deals with some broad issues on the interaction of markets and regulation in the United States and England. As is evident from the table of contents, this essay is divided into theoretical and applied halves. The first portion, which deals with the larger questions of political organization, has as its central theme that the ultimate contest between classical liberal and socialist ideals depends on the ability of each to solve the large questions surrounding the production and distribution of goods. On that question, I argue that there is little doubt that the classical liberal solution, with its stress on limited government, strong property rights, and free exchange, will outperform any command-and-control economy. That judgment depends on how these rival systems respond to basic problems of production and exchange, even if we cannot be confident of the best response to some of the hardest issues of this or any other area—for example, what is the proper mode for the location of large public facilities, and how

should they be financed? If we get the big questions right, then we can survive the errors that we make on the remaining, difficult second-order questions.

The themes in question travel well. This essay has already been reproduced for the Australian and New Zealand markets. I am happy that it will now be published by the Hoover Institution for circulation in the American market. The publication of this volume at home makes perfect sense, because the book explores, in broad outline, the historical interplay between American constitutional doctrine and American economic development. It would be nice to report that our constitutional founders reached the right decision on every key point related to social and economic development, so that everything thereafter could be regarded as a fall from grace. But it is quite clear that they did not, for all great ventures contain their own fair share of mistakes. For example, the founders showed too great a willingness to allow the nation to be surrounded by a strong set of tariff walls. Although their efforts were far from perfect, however, they grasped, in large measure, the central truth about political organization. In general, they showed a lively appreciation for the risk of factions and, thus, sought to organize their political institutions in ways that would minimize these risks by dividing authority between state and national government and by separating the powers of the national government into three distinct branches, which made possible the use of checks and balances among them. The founders had a strong appreciation that a successful nation requires strong government that is focused in its operation of pro-

viding peace and security on the one hand and an adequate social infrastructure on the other. They were cognizant that the risk of too much government had to be balanced against the risk of too little.

Yet over time, many of these insights were lost. The rise of the New Deal was spurred by the dominant beliefs of the Progressive Era that strong government responses were required in order to overcome the excessive individualism, as it was termed, of an earlier age. Writers as notable as Louis Brandeis took deep exception to the proposition that the conceptions of liberty and property that had animated Adam Smith could work in the age of industrialization with its rapid technological progress. Early convictions that the role of the state was to preserve the notion of equal liberty of all under law were dismissed as formal conceptions that did not respond to the massive inequalities of wealth and economic power in the modern age. Instead, government had to serve as a conscious counterweight to large industrial interests. The Progressives were rightly suspicious of monopoly power, but they wrongly extended their suspicious attitude of the outcome of competitive processes, which they saw not as mutually beneficial but as exploitative of ordinary workers and small businessmen.

These high-minded concerns, I believe, led the Progressives sorely astray in their articulation of economic policy and constitutional law. The only device that they could come up with to deal with the economic realities of the New Age was the creation of state-protected monopolies, frequently in agricultural and labor markets. To implement this misguided economic vision, they

had to dismantle the constitutional structures that stood in their path. The earlier limitations on federal power had to be pushed aside. “Commerce among the several states” had to be read so broadly as to cover manufacturing and agriculture within each and every state; otherwise, industry and labor cartels could not be maintained. The extensive system of regulation also required limitations on the rights of private property and free contract, and these two went into eclipse under the influence of the Progressive movement. The original vision of the Constitution gave way under the pressure of an intellectual attack that was mounted both in the United States and in Great Britain. The changes in political philosophy led to a misguided transformation in constitutional worldview that offered few restraints on federal power and virtually no protections for economic liberties.

One purpose of this short volume is to trace the switch in worldview in both countries and to dispute its wisdom. The strength and innovation of competitive markets is a durable phenomenon that works as well in the twenty-first century as it did in the eighteenth. In this volume, I hope to expose the danger and folly of the deviation from those sound classical liberal principles that has led to these major constitutional and policy mistakes in the United States, as well as to parallel adjustments in the political practices in Great Britain. These issues that were once fought over are being refought on a nearly daily basis. I hope that this volume will make some small contribution toward restoring the proper constitutional and economic balance both here and abroad.