

BOOKS

The Roads to Modernity: The British, French, and American Enlightenments

by Gertrude Himmelfarb

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by *Richard M. Ebeling*

In 1945, Austrian economist F. A. Hayek delivered a lecture on what he called “Individualism: True and False.” The gist of his argument was that there had been a great deal of confusion and misunderstanding concerning the relationship between the individual and society, both in terms of social theory and practical politics.

He juxtaposed what he suggested could be considered two traditions of social and political individualism: the British and the French. The British tradition included such thinkers as John Locke, Bernard Mandeville, Edmund Burke, David Hume, Adam Smith, and Adam Ferguson (the last three of whom were among those often referred to as the Scottish moral philosophers). For these British thinkers, social theory began with a focus on the individual because they understood that “society” is not an entity separate from the interactions of the individuals who comprise it. To understand the origin and evolution of society, we must understand the logic and interactive processes of human action.

Furthermore, in this British tradition the conception of man is not that of a rational calculator presumed to possess perfect knowledge and guided only by a narrow material notion of “self-interest.” Instead, man was seen as motivated by passions as much as by cool reason, with imperfect and limited knowledge. The social order and many of its institutional traditions, customs, and rules of interaction have evolved slowly and in unanticipated and unpredictable ways over many human lifetimes. Much of what is called human society and civilization is seen

as “the result of human action, but not the execution of any human design” (to use the phrase coined by Ferguson and often quoted by Hayek).

Thus the British tradition of individualism had little confidence in the ability to plan society. And particularly because of man’s imperfections and foibles, these thinkers were reluctant to see power centralized in the hands of government. Far better to decentralize decision-making in the private competitive market so as to limit the potential damage from error and abuse.

In the alternative French tradition represented by thinkers such as Descartes, Hayek argued, there was a tendency toward hyper-rationality, a belief that man through his reason could understand clearly and definitely how to remake society. All social institutions and traditions not “provable” through logic and rational reflection to be “useful” or “good” were to be criticized and torn down. In their place would be constructed a new world according to a politically planned design. In many of his writings over the years, Hayek tried to show the “fatal conceit” in those who presumed to possess the knowledge and ability to reconstruct man and society in their own “enlightened” image.

From a different conceptual vantage point and with other interpretative purposes in mind, the historian Gertrude Himmelfarb offers a similar contrast between these two traditions in her recent book, *The Roads to Modernity*. She highlights those aspects of the French Enlightenment that emphasized the power of man’s reason to comprehend not only the natural world, but the social order as well. Superstition—and all religion in the eyes of many of these French thinkers represented superstition—blinded man from seeing the world as it really is. Pure reason could cut through the jungle of irrational tradition and custom to clear the way for man to remold society to his liking. But such reasoning was not open to all men, most of whom were mired in ignorance and unable to think clearly. An elite of enlightened thinkers could be trusted to design a utopia for mankind. Himmelfarb reminds us that

such hubris led to the reign of terror and dictatorship in the wake of the French Revolution.

She points out that while the Enlightenment is often identified with this circle of French thinkers, there were two other eighteenth-century Enlightenment traditions, the British and the American. Himmelfarb argues that rather than being a cult of reason, the British tradition was concerned with understanding society and its foundations in the character and nature of men. Besides his unique reasoning quality, man also possesses a social and moral sense that makes him sensitive to the circumstances of his fellow human beings.

While the degree of religious faith varied among these British thinkers, they all believed that man's potential for personal and social virtue was an outgrowth of and inseparable from an understanding of his relationship to a higher Being who breathed these qualities into the human character. This fostered a sense of individual responsibility and a spirit of benevolence and charity toward others that generated a vast array of voluntary philanthropic associations to assist in alleviating the hardships of the less fortunate in society. As Himmelfarb points out, this was neither inconsistent with nor antagonistic to a general acceptance of Adam Smith's conception of a "system of natural liberty," in which men normally interacted in a network of free-market commerce and exchange.

The unique quality of the American Enlightenment, she says, was its development of institutions for the preservation of political liberty. The constitutional order that the Founding Fathers produced encapsulated their vision of a system that would leave men free to pursue their personal and social virtues without the heavy-handed presence of political domination. She gives special attention to the extent to which the Founding Fathers considered that the spirit and practice of freedom were grounded in religious conviction.

Equally important, Himmelfarb points out the role that self-interest was seen to play in maintaining a free and good society.

She contrasts the ancient world's notion of heroism and great men with the American ideal of ordinary free men learning and practicing virtuous conduct through the interplay of commerce and industry. The marketplace fosters good and moral conduct that establishes standards in social affairs which help maintain the health of a free society.

In the concluding chapter, Himmelfarb highlights those features that have made the American experience unique and which she thinks still undergird the character and conduct of the American people today. She surely underestimates the extent to which the interventionist-welfare state has undermined the spirit of self-responsibility that existed in America, say, a hundred years ago. She also seems not to see the extent to which the welfare state (some aspects of which she clearly supports) is fundamentally inconsistent with her ideal of free and virtuous people.

Nonetheless, her book offers a useful and often insightful appreciation of the far-more-enlightened British and American Enlightenment traditions, which have been unfairly overshadowed by the French tradition. □

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You Can't Say That! The Growing Threat to Civil Liberties from Antidiscrimination Laws

by David E. Bernstein

Cato Institute • 2003 • 166 pages • \$20

Reviewed by George C. Leef

The chiseling away of constitutional limits on government power is a topic familiar to readers of these pages. For a long time the First Amendment's prohibition against laws that infringe freedom of speech remained relatively untouched by people who would like to use state power to silence their opponents. But as David Bernstein, a George Mason University law professor, reports in *You Can't Say That!* the First Amendment is now taking some heavy blows.

The old restrictions on free speech were mostly confined to “commercial” speech, communications by businesses. That was bad enough. The new threat to civil liberties, Bernstein argues, comes from America’s sweeping “antidiscrimination” laws, and almost anyone might find himself in trouble for his speech or thoughts. “Intolerant activists are determined to impose their moralistic views on all Americans, regardless of the consequences for civil liberties,” Bernstein writes.

Before discussing the numerous ways this new threat shows itself, Bernstein takes on the preliminary question: Should the First Amendment take priority over the supposed need to stop discrimination? That might seem like a “no-brainer,” but there are quite a few scholars who disagree, contending that, as Bernstein writes, “First Amendment rights should be subordinated to anti-discrimination claims because the ‘constitutional value’ of equality as reflected in the Fourteenth Amendment is in tension with the First Amendment ‘value’ of freedom of expression.”

Bernstein quickly dispatches that argument. The Fourteenth Amendment only applies to government. When an individual says even the most flagrantly racist things, the First Amendment protects him from government sanctions—or should. The alleged “tension” between the “values” of the two amendments is merely a thin excuse for giving the state power to punish anyone who harbors the wrong sentiments. Going beyond the Constitution, though, Bernstein maintains that freedom of speech is too important to entrust to bureaucrats, judges, and those intolerant activists. “Although much private speech is wrongheaded or even dangerous,” he writes, “it is even more dangerous to put the government in charge of policing it.”

The book is loaded with cases that illustrate the author’s concerns. For example, when the San Francisco Ballet’s preprofessional school rejected applicant Fredrika Keefer because she did not have the body type expected for ballerinas, her mother sued on the basis of a city ordinance banning dis-

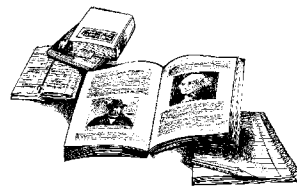
crimination based on weight and height. Even though Fredrika was able to dance elsewhere, the irate mother took the matter before the San Francisco Human Rights Commission. At the time of the book’s publication, the case was still pending, but Bernstein skewers the whole controversy: “Properly interpreted, the Constitution’s protection of free expression from government interference bars San Francisco from legislating ballet standards.”

Several cases deal with bureaucrats’ attempts to punish individuals for opposing their plans for remaking the world. In one egregious case from the early 1990s, several people spoke out against a public-housing proposal in Berkeley. Personnel in the Department of Housing and Urban Development (HUD) warned them that under the federal Fair Housing Act, they could be fined up to \$100,000 each and sentenced to a year in prison for acts of “discrimination against the disabled.”

Bad publicity over the prosecution caused HUD to back down, but then Assistant Attorney General Deval Patrick stepped in. Revealing the mindset of antidiscrimination zealots, Patrick drew an analogy between political leaflets and baseball bats, arguing that it would be as bad to use one as the other if your intent was to violate civil-rights laws. Fortunately, a federal judge tossed the case out, but it would be foolish to think that the wolf has been driven far from the door.

Bernstein concludes his book with a superb chapter on the American Civil Liberties Union. Once a formidable defender of First Amendment rights, in recent years the organization has largely succumbed to pressure from various “liberal” groups that want nothing to stand in the way of their agendas of increased state control. □

George Leef is book review editor for The Freeman.



Protecting America's Health: The FDA, Business, and One Hundred Years of Regulation

by Philip J. Hilts

Alfred A. Knopf/University of North Carolina Press • 2003/2004 • 410 pages • \$26.95 hardcover; \$14.95 paperback

Reviewed by Sam Kazman

George Stigler once compared regulating on the basis of corporate misdeeds to an audition at which the second singer is selected after only the first has sung. When it comes to food and health, Philip Hilts, a veteran medical reporter, runs the same sort of abbreviated audition. His latest book is an eminently readable, amply documented history of the U.S. Food and Drug Administration (FDA), from its origin nearly a century ago to its current status as regulator of nearly one quarter of American consumer expenditures. Unfortunately, it is also a frustratingly one-sided book.

Let's start with something simple, like ketchup. Hilts's first regulatory hero is Dr. Harvey Wiley, a government chemist who in the early 1900s began campaigning for a ban on many food preservatives. Wiley came close to getting President Theodore Roosevelt's backing for a prohibition on benzoate in ketchup, but failed. Hilts closes the chapter with Wiley supposedly being vindicated by history because some of the firms that originally opposed him eventually stopped using the chemical.

You won't learn it from this book, but Wiley's views of benzoate's risks turned out to be wrong; even today, the chemical is widely used as a preservative. Banning benzoates in Wiley's time might well have increased ptomaine poisonings. And finally (for you public-choice fans), it's likely that the few ketchup companies that *supported* Wiley, such as Heinz, had more than the public interest at heart. Yes, they used better tomatoes and production methods, but they also charged more—Heinz cost over twice as much as regular ketchup. Wiley's ban would have helped Heinz competitively, while pun-

ishing people who had better use for their money than high-priced ketchup.

Medicine is more complicated than ketchup, but Hilts's simplistic approach doesn't change here. In his world, corporate greed is to blame for all defective drugs, the FDA's incentives are always beneficial, and the few government mistakes he acknowledges could be cured by more funding. As for the lives lost due to FDA delays in approving new therapies, those are a figment of the New Right conspiracy to dismantle the agency.

For example, Hilts excuses the FDA's three-year delay in approving Interleukin-2 for advanced kidney cancer because, he claims, the drug "was useful to only a small number of patients" and during the delay the agency provided "early availability for those who felt they needed to take the risk." Now it's true that Interleukin-2 produced temporary remissions for only 15–20 percent of those taking it, and that the drug itself was highly dangerous. But many patients preferred that to the 100 percent death rate of the disease itself. As for its alleged pre-approval availability, the head of the National Kidney Cancer Association had a one-word comment at the time, a word we won't reproduce in this magazine.

Compare this to Hilts's stirring account of how the FDA took only six weeks to approve the first of the protease inhibitors for AIDS. The agency didn't insist on data of reduced mortality because such information would have taken far more time to collect and demanding it was viewed as unethical given the life-and-death situation of AIDS patients. Instead, the agency approved the drug on the basis of preliminary data that showed improved cellular function.

AIDS patients were highly organized; kidney cancer patients were not. If they had been, they probably would have been treated better by the FDA. When access to new therapies is controlled by government, political clout may well determine who gets better service. But this issue doesn't fit into Hilts's framework.

Corporate wrongdoing has certainly been a factor in such medical disasters as

thalidomide and the Dalkon Shield, but regulatory delays inflict at least as much damage. When the FDA approves a life-saving therapy, some number of people have to have died waiting for the agency to act. Hilts, however, refuses to even acknowledge this. He characterizes as “grotesque” the argument that the FDA’s focus on preventing bad drugs may lead it to delay or deny useful drugs. But this risk is clear. While defective drugs and drug delays both have adverse medical consequences, their political impacts are incredibly different. Drug recalls are the subject of news stories and congressional hearings. Drug delays, on the other hand, rarely get noticed; all that their victims know is that their doctors

can’t do more for them. The skewed regulatory incentives that result were acknowledged by former FDA head David Kessler, another of Hilts’s heroes, who wrote that “speeding access to urgently needed products was not nearly so deeply ingrained in our culture.”

In its emphasis on drug recalls and its rationalizations for drug delays, *Protecting America’s Health* unintentionally demonstrates this very point. It’s unfortunate that, in a book of this scope, this issue gets a bum’s rush. □

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