RELIGION & LIBERTY

July and August • 1999 A Publication of the Acton Institute for the Study of Religion and Liberty Volume 9 • Number 4

The Free Society Requires a Moral Sense, Social Capital

Interview: James Q. Wilson

James Q. Wilson, Ph.D., is an emeritus professor at the Anderson Graduate School of Management at the University of California–Los Angeles. He is the author or coauthor of twelve books, including *The Moral Sense* and, his most recent, *Moral Judgement.* In 1990 he received the James Madison Award for distinguished scholarship from the American Political Science Association.

R&L: Unlike defenders of capitalism such as Friedrich von Hayek and Philip Johnson, who view capitalism as a morally neutral system, you see a clear relationship between morality and the free market. To your way of thinking, what is the connection between capitalism and morality?

Wilson: To me, capitalism is neither immoral nor amoral but, on balance, a moralizing force. True competition gives to businesspeople an incentive to acquire a good reputation, and to clerks an incentive to treat customers fairly. These incentives, I think, produce more than mere pretense; they actually change behavior. Imagine working at McDonald's where you must say "Yes, ma'am" or "Yes, sir" to every customer. People working for minimum wage will do this countless times a day and, in time, I suspect, will do it even when off the job. Or imagine competing for customers with Burger King, Taco Bell, and Wendy's. Each firm must work hard to please customers by serving fresh food with no harmful consequences. Successful retail competitors act as if they are—and, I imagine, in fact, really are—more attractive people than unsuccessful ones, but some of the latter learn to be the former.

R&L: What other examples can you offer of ways that capitalist structures act as a moralizing influence in a free society?

Wilson: Capitalism seeks ways to minimize costs, so it will find racial discrimination burdensome, thus helping put an end to it. Gary Becker, the Nobel laureate, showed how costly bigotry is. It shuts a firm off from many potential customers and from many potential workers, thus lowering sales and raising labor costs. The costs of segregation can be withstood when law and custom mandate it, but when segregation ended in the South, business firms desegregated much more quickly than government entities, such as schools.

R&L: You have noted that the free market cannot function well without certain kinds of moral and social capital—trust, diligence, and frugality, for example. Where does this capital come from and how is it preserved?

Wilson: Free-market systems require, obviously, certain personal qualities, including trust in those who borrow from you, a willingness to invest (that is, to defer present enjoyments for future benefits), and a readiness to take the demands of customers seriously. This

social capital arises from long-sustained competition, from a culture that assigns a high value to making human character decent, and from a political system that refrains from rewarding people for their power rather than for their performance.

Capitalism alone cannot produce sufficient social capital. Culture and government must add their share by giving people incentives to be civil, by rewarding savings, and by encouraging trust. Because culture and government are so important, successfully capitalistic nations tend to be democratic states with a strong culture. This is why democracy and capitalism together make some nations so much richer than others.

R&L: What role does religion have in the formation of social capital?

Wilson: All important religions require you to do to others as you would have them do to you. In this way religion expands the range of human obligation from self and family to neighbors, visitors, and strangers. Without this wider sense of obligation, society can never expand beyond the boundaries of a family, a village, or an ethnic group. Since ethnic rivalries are the chief cause of human discord today, it is obvious how difficult it is for the Golden Rule to make headway.

In addition, religion must coexist with human freedom, and this relationship, of necessity, requires religious freedom. With such freedom, many sects will prosper, and none will be the sole state church. But religious freedom does not mean religious weakness, since virtually every church—Christian, Jewish, or Islamic—teaches the same fundamental moral lessons.

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R&L: Some have argued—Joseph Schumpeter, most notably—that capitalism contains the seeds of its destruction within its successes; in other words, that it tends to destroy the very social capital it needs to survive. How do you respond to this claim?

Wilson: Joseph Schumpeter's claim that capitalism would be destroyed by its successes rests in part on his unusual definition of capitalism. To him, capitalism was not simply a system of people who own private property and who engage in voluntary transactions; it was that, plus a reliance on credit to finance innovations.

I think he was wrong. Credit creation has not had the effects he suspected of killing technological innovation and rewarding only the largest and most powerful firms. Because he was wrong about this, he was wrong to predict that socialism would, in time, replace capitalism.

R&L: Do the changes that capitalism precipitates in the social and cultural orders, though, create certain challenges for capitalism?

Wilson: Capitalism, narrowly defined, has, in fact, created its own opponents. It requires the maintenance of universities and the free exchange of expertise, and these, in turn, give rise to an intellectual class that to a great degree is hostile to capitalism. This is the New Class that lives off of ideas more than practical affairs and that sees bourgeois society—the great social creation of capitalism—as hopelessly flawed. There are, of course, intellectuals who favor capitalism and bourgeois society, but they are usually a minority.

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A Publication of the Acton Institute for the Study of Religion and Liberty

Volume 9 • Number 4

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R&L: You have written, "If we wish prosperity, we must embrace freedom, and freedom means religious heterodoxy, not religious orthodoxy, a secular rather than a religious state, and a somewhat self-indulgent popular culture." This statement seems to indicate that you hold a rather pessimistic perspective of the role of religion in the free society. Is this so?

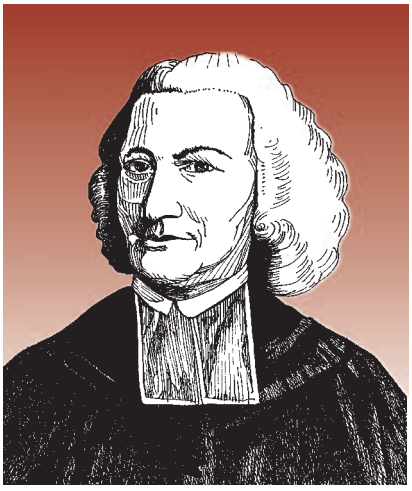
Wilson: I do not at all hold a pessimistic view of religion in society, only a pessimistic view of a society that embraces one church—I should say, one sect—as its preferred one. By "religious orthodoxy" I mean a single, state-sponsored church. This inevitably erodes human freedom, and reduced freedom will, in time, harm religion.

R&L: What would you offer as an example of a more optimistic view of religion's role in the free society?

In The Liberal Tradition

Samuel Cooper (1725–1783)

"As piety and virtue support the honor and happiness of every community, they are peculiarly requisite in a free government. Virtue is the spirit of a republic; for where all power is derived from the people, all depends on their good disposition. If they are impious … all is lost."



A charming conversationalist, eloquent preacher, and empathetic counselor, Samuel Cooper was pastor of the influential and affluent Brattle Street Church in Boston, Massachusetts, from 1746 to his death. In this capacity, he was one of the chief, albeit behind-the-scenes, intellectual proponents of the American Revolution in that city. He was the pastor of patriots John Hancock, James Bowdoin, and John Adams; an intimate friend of Samuel Adams and James Otis; and a regular correspondent with Benjamin Frankin.

Cooper, as an ordained Christian minister, could be without reservation a partisan for American independence because he saw no fundamental conflict between liberal political principles and biblical principles. He came to this conclusion not only through his study of Scripture but also through his understanding of natural law. It was his conviction that there could be no contradiction between God's general revelation in nature and his special revelation in Scripture, as God is the author of both. In Cooper's words, "The sum and substance of both tables of the law is written on the heart of every man." Though biblical law never contradicts natural law, it does go beyond it. Many truths cannot be known through nature alone; thus, "from the book of nature, we must pass to the book of revelation." But, for Cooper, political principles are not of this class.

Thus, for Cooper, we do not need "a special revelation to teach us that men are born equal and free, that no man has a natural claim of dominion over his neighbors," and other such principles of republican government. These principles are written by God in the natural law and are therefore accessible to human reason apart from special revelation; they are, according to Cooper, "the plain dictates of that reason and common sense with which the common parent of men has informed the human bosom." Moreover, it is "a satisfaction" that these principles are also "confirmed and impressed … by the instructions, precepts, and examples given us in the sacred oracles." In this way, Cooper could conclude that "reason and Scripture will forever sanctify" America's Founding principles. A

Sources: *Political Sermons of the American Founding Era, 1730–1805,* edited by Ellis Sandoz (Liberty Fund, 1998), and "Samuel Cooper and Natural Law in Religious Context" by John G. Buchanan in *American Presbyterians* (Winter 1985).

Wilson: I am struck by the extent to which profound cultural problems in the United States have summoned forth a religious response. In 1999 we already hear the two most likely contenders for the presidency talking about faith-based approaches to crime, drug abuse, and illegitimacy.

That pattern is much less evident in European democracies. Abroad, faith in government solutions to cultural problems remains strong. But that faith is greatly exaggerated. Not only do nations such as England have higher property crime rates than does the United States, the rate of out-of-wedlock births is about as high in Europe as in America, even though their populations lack the problem of the experience of slavery, which left African Americans with weakened family systems. Moreover, the welfare state abroad has harmed the ability of those nations to compete in a world market, thus leaving their citizens worse off financially than Americans.

R&L: How, then, do you envision the role of religious faith in a free society?

Wilson: Most societies find that without a universalizing religion, human attachments remain focused on clan and village concerns. It was organized religion, combined with enlightened capitalism, that led Quaker merchants in England in the early part of the nineteenth century to become such staunch—and ultimately successful—foes of slavery. Much the same religious basis for the attack on slavery could be found in the United States.

It is difficult to imagine that voluntary as opposed to clan-arranged marriages could have been created without the Roman Catholic Church's insistence on voluntarism. The control of clans over marriages was a powerful force that not only inhibited free choice but also impeded the growth of capitalism by making all agricultural workers subordinate to a controlling clan or family. I should say, however, that religious faith is not always essential for the creation of a decent society.

R&L: How so?

Wilson: Japan, for example, is conspicuous for having a decent culture but little in the way of a real religion. Japan is an interesting exception to all of these generalizations, apparently because it has a culture, unlike any found in the West, that uses shame and group pressure to achieve what freedom and religion have produced here. But this is one product the Japanese cannot export.

> A free society requires a moral sense, something that it occasionally pretends it does not need. It needs it because freedom implies that important human relationships will be created out of spontaneous human contact and not decreed by some state authority.

R&L: How does a free society prevent liberty from degenerating into mere license? And can it be prevented without a strong religious culture?

Wilson: Every mass culture faces a powerful temptation to degenerate into self-indulgence, but there are two barriers to this descent: First, human moral intuitions naturally resist social license, the destruction of the family, and an unabashed creed of "doing your own thing." Second, religion offers a transforming experience to people who have resisted these moral intuitions and so have descended into pathology.

R&L: Let's look at these two barriers each in turn. First, what do you mean when you say that human moral intuitions resist license?

Wilson: Americans are optimistic about their nation but pessimistic about its culture. That pessimism reflects the belief that the United States is less moral than it ought to be. That this view persists in the face of an entertainment media that so widely and persistently endorses self-indulgence is remarkable—apt testimony, I think, to the value that the great majority of people attach to caring for their children, protecting their property, honoring their promises, and living a good life.

R&L: As for the second barrier, can you unpack for us what you mean by the transformative experience of religion?

Wilson: The greatest success story in American society is the power of Alcoholics Anonymous to reclaim the lives of addicts by suggesting to them the power of God and placing them in a human environment in which members reinforce one another's abstinence. On a less grand scale, countless people report on having overcome adversity by faith.

R&L: You have written extensively on the nature of the human moral sense. Is there any connection between your vision of the moral sense and the classical or medieval understanding of the natural law?

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The International Vocation of American Business

Michael Novak

Few today believe that socialist economics is the wave of the future, but most nations still find it difficult to root themselves in capitalism, democracy, and moral purpose. Most have little experience under the rule of law. Most of the countries of the former Soviet Union, most of Asia (emphatically including China), much of the Middle East, and most of Africa lack many of the cultural and political habits and institutions required for a successful capitalist system. What, then, is the proper conduct for United States businesses with respect to such countries? Let us invent a composite, fictional nation called Xandu and perform a case study.

A Test Case: Xandu

Suppose that Kavon (a fictional, new electronics firm) is scouting out the possibility of launching an operation in Xandu. The general rationale for such projects is that "constructive engagement" is the only way in which Xandu will be brought into the circle of democratic, capitalist, and law-governed nations. That rationale has merit, no doubt, but will its premises be realized? What must be done to make sure that they are?

The political system in Xandu is still a narrow, closed, paranoia-feeding system, whose elites remain in power only by maintaining total political and psychological control over their population. These elites are intelligent and have come to see that capitalist methods deliver abundance, whereas socialist methods deliver scarcity.

The Xandunese leaders, however, have studied recent history and found that many societies that first pursued economic growth then awakened demands for political democracy. That was the sequence in such countries as Greece, Portugal, Spain, South Korea, the Philippines, Kenya, Chile, and Argentina. The Xandunese leaders can see that a system of economic liberties generates a desire for political liberties. The social mechanism seems to be as follows: Successful entrepreneurs learn by experience that they are smarter and in closer touch with some realities than political commissars. They resent being badly governed. They begin to demand republican institutions—that is, institutions of representative government.

In the Xandunese diagnosis, therefore, the business corporation is the camel's nose under the totalitarian tent. The Xandunese know that they need Western corporations, at least for the next twenty years, but they discern the essentially moral character of business and its subversive effect, since the corporation embodies principles of limited government, the rule of law, and high internal ideals of person and community. Through the practices of business corporations, these ideas spread like a "disease," which Xandu wants to keep in quarantine. The Xandunese need the technical and moral *culture* of the corporation—the technology, the skills, the methods, the training. They do *not* want the *political* culture it gives rise to, however. They hope that by redoubling their efforts at control, they can quarantine liberty within the economic sphere. They want at all costs to prevent the principle of liberty from gradually seeping into the political life of Xandu.

By seven favorite devices, the Xandunese leaders attempt to control the efforts of Kavon and all the other foreign companies now bringing their factories, know-how, and new technologies to Xandu.

Seven Favorite Devices

First, the Xandunese insist that all employees of some new foreign firms be selected and "prepared" by a Xandunese personnel company. This company will be run by the Xandunese National Party, and this Party will insist on having an office on the site of the foreign firm to mediate any labor problems. From that office, it will also maintain strict political control over the workforce.

Second, to the extent that labor unions will be represented within the foreign firm, these will be limited to official Xandunese national unions and will also be used as instruments of political control.

Third, some foreign firms will be required to provide information about the behavior of their employees. For instance, showing signs of religious practice, having children beyond the mandated minimum, or reading certain political materials are matters about which the labor monitors want to be informed.

Fourth, foreign entrepreneurs who own small firms will be obliged to enter into "partnerships" with Xandunese firms owned either by the government or by freelancing officials. From time to time, in fact, a recalcitrant foreign entrepreneur has been arrested, thrown into jail, his assets seized, and communication with the outside world entirely cut off. One such imprisonment has been

known to last six years. Larger foreign firms will be expected to turn a blind eye.

Concerning the government, there is no rule of law. Even one or two large firms have been bilked out of large sums—$50 million in one deal, $100 million in another—when Xandunese partners (government officials or their proxies) walked away from losses caused by their own behavior.

Fifth, foreign firms are sometimes expected to accept suppliers assigned to them. Factories in Xandu, unhappily, are very often staffed with slave labor maintained in appalling conditions and forced to toil for years for the sole benefit of the ruling Party elite. To say that standards of nutrition, sanitation, and living quarters in the Xandunese labor camps are primitive is too weak. They are intended to humiliate and to intimidate. Details have been confirmed in texts smuggled out by survivors.

Sixth, Kavon and other high-tech companies will be requested, cajoled, and compelled to share with their counterparts in government firms important secrets of U.S. satellite, missile, metallurgic, or computer technology. Xandunese engineers, scientists, and technicians have learned enormous amounts from their American counterparts, particularly when their own rockets, hired to carry aloft U.S. satellites, blew up and when, to avoid more such heavy expenses, U.S. technicians coached the Xandunese in the details of more advanced rocket technology. The latest Xandunese rockets are now being sold to at least three sworn enemies of the United States.

Seventh, the government of Xandu regards religions of the Creator (such as Judaism, Christianity, and Islam) as threats to its own total power. Because the leadership is obscurely aware that respect for the individual arises from belief in a Creator who transcends the power of governments, the government of Xandu regards personal acts of religious piety as dangers to the regime. It discreetly watches over Xandunese employees of international firms for signs of religious deviation. It especially persecutes Christians.

The Need for Advance Precautions

Under conditions such as these, the mere presence of American firms in Xandu will not necessarily lead to social change for the better. "Constructive engagement" that is complicit in the practices described above can be a delusion. If American businesses blindly, unintelligently, and uncritically collaborate with leaders who implicate them in barbarous practices, they will destroy the reputation of capitalism, democracy, and their own declared moral purposes.

If, on the other hand, fully prepared for techniques such as those listed above and armed with countermeasures and a firm insistence on living up to their own international standards, American firms might well use their bargaining power (Xandu needs their know-how) to creative moral purposes.

A handful of American firms, for instance, are led by evangelical Christians with a strong commitment to following the practice of Jesus by taking their efforts to the whole world, no matter how unsavory the reputation of the regime. Such firms will need to have procedures in place to protect themselves against complicity and scandal, lest they be taken advantage of. So, also, will other firms whose interests are predominantly economic. There may be some firms whose leaders are so cynical that they make it a practice not to raise moral or political questions about potential business activities, yet even they will need to take precautions against the sort of abuses listed above, lest large sums be lost in crooked dealings.

Corrupt government officials are found all around the world. Some firms better than others know how to draw a bright line around the edges of their own dealings and to instruct their agents clearly to live by U.S. company standards. They do not enter negotiations expecting Sunday School, but they are prepared to spot and to avoid abuses in advance.

No doubt, few are the governments that *in the full range* of their attitudes and practices manifest all the behaviors ascribed above to this fictional country of Xandu, yet even within countries whose record, on the whole, is good, there are rogue operations that need to be checked.

Thus, in planning their operations in Xandu, the executives of Kavon might wish to consult a checklist of all the abuses of sound business ethics that have been reported in various countries. They should certainly prepare defensive tactics. They will need an ongoing capacity to gather accurate information about their business contacts. They will also need to be on guard against contractual provisions for any practices that they

The chief justification for encouraging American businesses to invest in foreign societies is to help build up an international civil society.

— Michael Novak

would not wish to expose to the world public. They need a set of positive proposals to suggest *in the place* of those they find objectionable.

The chief justification for encouraging American businesses to invest in foreign societies such as Xandu is to help build up an international civil society. If and when business corporations indulge in activities that injure or destroy civil society, then they commit a fourfold evil: (1) They do things evil in themselves; (2) they distort and damage the internal moral structure of the corporation; (3) they injure the moral reputation of their firm; and (4) they defile the model of the free society to which they swear allegiance, and in whose name they justify constructive engagement in the first place.

Maintaining Moral Self-Respect

By such practices, some companies *have* injured the moral reputation of capitalism around the world. They have acted as if all they were interested in was their own financial gain. They have allowed observers to infer that they were indifferent to the plight of human beings and to the immoral and oppressive structures of the lawless nations in which they operated.

It is *because* business organizations are economic organizations rather than political or moral organizations, that they are allowed to function in totalitarian countries, while moral and political institutions are not. Nonetheless, business corporations are not *merely* economic institutions, for they develop to normal growth and in normal ways only within certain kinds of political regimes, and only in certain kinds of cultural ecology. In this sense, corporations are fragile plants; they grow only in certain kinds of soil. Corporations, therefore, cannot shed their commitment to law, liberty, and moral purpose as snakes shed their skin. Commitments to law, liberty, and moral purpose are part of their inner constitution.

It is therefore crucial for American and other Western firms to maintain their moral self-respect. They must become acutely conscious of their own moral and political identity, determined not to sell themselves as less than they are. Business corporations truly are the avant-garde of free societies. They represent the first wedge of the development of healthy civil societies, the rule of law, and the new birth of activities, associations, and organizations independent of government.

The first practical step for Kavon and other companies is to recognize that some rare nations may for a time, under a certain regime, be so bad that it would be a blunder for any self-respecting firm to collaborate with them. The second practical step is to outline new rules of engagement for our new international era. Such internal rules of behavior, including conditions of immediate dismissal for specified acts of wrongdoing, would guide internal corporate initiatives and practices. The cleaner the ethical principles within the company, the easier decisions are for executives in the field. They know in advance which sorts of behavior will receive moral support from the home office, and which will end in reprimand or dismissal.

Negatively, then, businesses must avoid those activities that injure or destroy the moral structure of civil society. Positively, they must proactively seek out ways—quiet ways—to nurture the political and moral soil that the universal growth of commerce requires. If they fail these responsibilities, they will win disdain from the very foreign tyrants who will welcome them like prostitutes bought and paid for. And they will not deserve to be honored by their fellow citizens back home.

By contrast, when firms fulfill their responsibilities to their own full identity, they strengthen commerce, and commerce is the foundation of a free polity. Commerce is the "commercial" half of "the commercial republic" envisioned by our founders. Commerce multiplies human opportunity and generates economic growth and thus opens upward pathways for the poor. Commerce promotes inventions and discovery. As new talents rise and obsolete technologies die, commerce constantly stirs the circulation of elites. Commerce helps to establish a complex system of checks and balances. Further, commerce makes resources available for projects outside the orbit of state activities and thickens social life while subtracting from the power of the central state. It gives incentives to enterprise and character and inculcates an important range (but not the full range) of moral virtue, especially the virtues necessary for prudent living and the rule of law.

A Highly Moral Profession

To summarize, the success of many new businesses from the bottom upward is crucial to economic growth. The success of these businesses is crucial to the success of democracy, especially where large majorities are poor. All these goods belong not solely to Americans, but to all people on earth. To help set in place the preconditions for the achievement of these great social goods—to help break the chains of worldwide poverty—is the international vocation of American business.

Being a business leader today, then, is a highly moral profession. The bad news is that one can fail at it. The good news is that one can succeed.

That is the human drama. That is the suspense. A

Michael Novak *holds the George Frederick Jewett Chair in Religion and Public Policy at the American Enterprise Institute. This essay is excerpted from The Hansen-Warner Memorial Lecture delivered at the University of Notre Dame on November 12, 1998.*

Common Law and the Free Society

David VanDrunen

Most would agree that the rule of law is an absolute requirement for any society wishing to enjoy order, prosperity, and freedom, but what is the nature of this law, that we claim ought to rule? The typical modern understanding is that law is something decreed by executive officials, legislative assemblies, or bureaucratic agencies. Often forgotten is that this view of law has not been the predominant perspective through most of Anglo-American history. Rather, the Anglo-American legal/political tradition has been marked by the predominance of *common* law, a law not created by government officials. A recovery of the common law, which has been so much eroded in recent generations, ought to be a high priority for all who seek the advance of ordered liberty in our societies.

The Character of Common Law

The key concept underlying the common-law tradition is that law, at its essence, is not something to be decreed but something that emerges spontaneously through the interaction of the members of society. According to this vision, communities of people have developed certain customs and habits over time. Most of these customs have not been imposed by government command but have been created through the trial and error of ordinary people seeking to cope with the challenges of life and to establish manners of dealing with each other in peaceful ways. As traditionally understood, common-law judges were to base their verdicts on these unwritten customs. This customary law was ordinarily discovered in precedents, the judicial decisions rendered in prior cases resembling the case currently before the court. It was felt that these precedents were usually the best evidence of what the relevant customs were. Common law recognized, however, that customs are modified over time, so, evidence of change in custom would occasionally prompt a judge to depart from precedent.

From this perspective, legislative statutes were viewed essentially as isolated outposts in a common-law world. Statutes were assumed to be consistent with the common law, and judges interpreted them in this way. The legal picture was painted on a common-law canvas, and statutes were like single brush strokes that may have slightly altered the details but did not change the portrait as a whole.

There is historical evidence that, at several times in Anglo-American history (for example, the Glorious Revolution of 1689 and the American War of Independence), a renewed appreciation of this legal heritage inspired those struggling for liberty against government encroachment. In recent generations, however, the supremacy of common law has been largely eclipsed by a burgeoning corpus of legislative codes and administrative regulations. If, in prior ages, statutes were seen as occasional adjustments of detail on the common-law canvas, now statutes themselves make up the canvas. The idea that law is law only if it is decreed by governmental authority has come to dominate our thinking and practice.

Preserving the historic function of common law ought to be a task of interest to people of various religious and political traditions. Despite their differences on many issues, both Protestants and Roman Catholics, both libertarians and conservatives, have reasons to appreciate the lost ideal of common law.

Common Law and Ordered Liberty

Catholics and Protestants both can find common-law principles present in the natural law theories of some of their most significant theologians. For example, Thomas Aquinas, still so important for Catholic social teaching, believed that human law should be derived from the natural law. Who, then, was actually to establish the human law? Aquinas taught that the people as a whole could be entrusted with this task, and, when they were, their customs were to have more authority than even the commands of the king. On the Protestant side, John Calvin also believed that human laws were to be based on the natural law. However, he thought sinful people would follow the natural law precepts only when they felt some selfish necessity for doing so. Yet it is exactly in the trenches of ordinary life—the precise place where customs are formed—that such necessity most makes itself felt.

Likewise, the common-law heritage provides a useful point of contact and source of dialogue for conservatives and libertarians, who represent two different, yet often allied, political traditions. Libertarians ought to appreciate its emphasis upon the spontaneous ordering of society and the way it allows people to shape the character of their own lives largely apart from government planning. Conservatives ought to appreciate its

respect for the wisdom of those who have lived before us and its recognition of the historical nature of the rights and privileges we enjoy.

One of the key benefits of a vibrant common law is that it reinforces the idea of the rule of law. By the rule of law we understand that members of society are to act according to certain known rules, which bind government officials as well as ordinary citizens. Without the rule of law acting to constrain the arbitrary whims of those in power, members of society cannot enjoy freedom in a meaningful way. In our own day, when we see legislatures and administrative agencies passing a plethora of statutes and regulations, it is obvious that the rule of law has become severely attenuated. Though we still like to think that our government officials are bound by the law, what does this really mean when these very government officials are decreeing nearly every law that exists? Here is where we can recognize part of the genius of a common-law system. Because the common law is not created by government officials but by the people as a whole as they freely interact with each other, it can serve as an external rule for constraining those in authority. When an independently generated common law governs the actions of government officials, their ability to exercise arbitrary power is curtailed.

Another way in which common law promotes the ordered liberty of society is by allowing people to plan confidently for the future. To develop one's skills effectively, choose one's occupation, or invest one's resources—key aspects of living in a free society—future conditions must be foreseeable with some degree of certainty. Obviously, life will never be wholly predictable, but such uncertainty about the future is only enhanced when the law is subject to legislative change at any time. Unlike current American law, common law is not prone to abrupt change. By its very nature, it can change only as quickly as society's own customs, which tend to change only gradually. In a society recognizing the centrality of common law, one can be relatively certain that the law of the near future will not look much different from the law of today. And this means that one can better prepare for what is to come.

The Inner Harmony of Common Law

Another characteristic of common law that promotes a free society is its tendency toward inner coherence. Ordered liberty requires a law that is a unified whole, not just a collection of isolated rules. The reason for this is that judges must constantly decide cases for which there is no clear, established rule that speaks directly on point. If there is no internal harmony to the law, no connection from one established rule to another, then judges have no predictable standard for deciding such cases and are left to their own arbitrary instincts. When the law consists almost entirely of statutes and regulations, drafted by many different people in a variety of rule-making bodies, inner coherence is inevitably impossible to attain. In contrast, the very manner in which common law develops gives it a tendency toward consistency. Judges discover the common law by analogizing present cases to previously adjudicated cases. Because exact precedents are rarely found, common-law judges must decide cases by synthesizing the results of prior cases most resembling the controversy currently at issue. In other words, common-law adjudication is based on the assumption that the rule governing one situation is to complement and even explain the rules for other situations. Rules of common law are recognized as such only because they fit well into the whole fabric of the law.

Our final consideration is that common law accounts well for the complexity of society and for the fact that no single person or group of people can possibly attain enough knowledge to understand exactly how all the parts of society fit and work together. Undeniably, many of the things most valuable to us were never created by anyone in particular but developed spontaneously over time through the free input of many people. For example, the intricate vocabulary and grammar of the world's languages were never decreed by a legislative body but have taken their current forms by the incremental and unplanned modifications of ordinary people discovering better ways to communicate with each other. No central planning committee could ever have enough knowledge or information to create a language as useful as the ones that now exist. Similar things could be said for the discovery of scientific laws or the establishment of prices for goods. Certainly the complexity of society suggests that the rules of our law should also develop spontaneously, apart from

Without the rule of law acting to constrain the arbitrary whims of those in power, members of society cannot enjoy freedom in a meaningful way.

— David VanDrunen

government dictation. A complex society requires complex rules for smooth and effective operation. Why should we have any more confidence in the ability of legislators or bureaucrats to produce such necessarily elaborate rules of law than we have confidence in their ability to determine the intricate rules of language? It is reasonable to believe that the spontaneous development of common law, utilizing the aggregate knowledge of all the members of society, will bring forth better results.

A Response to Objections

Before concluding, let us address briefly a few objections that are sometimes leveled against such pleas for a return to common law. One objection is that a common-law system is appropriate only for societies that are relatively cohesive and unified in their outlook on life. While this may have been the case in medieval England or colonial America, it does not seem to be true for modern pluralistic society. This objection does not really tell against the possibility of common law so much as against the possibility of society itself. Our society indeed is increasingly fractured, but as long as it is still society, we necessarily share common customs in our interactions with each other. As long as these customs exist, a common law is possible. When they cease to exist, not only common law but society itself is impossible.

Another objection is that even if common law is technically possible in today's world, we have gone down a path of no return by creating a statute-governed society. This objection, that the reestablishment of common law is unworkable in practice, is certainly serious in light of the current state of affairs, but creative solutions could surely be found. For example, we could introduce more constitutional restrictions on the ability of legislatures and administrative agencies to create rules. And common law is certainly capable of taking over as statutes are phased out. However, it would be necessary for the voting public to cease expecting their candidates to fix every perceived problem by means of new legislation.

A final objection for us to consider is that a common-law system grants too much power to judges. If the judicial usurpation of authority has been such a problem in recent years, why would we want to augment their power even further? This, too, is a legitimate concern. However, a common-law system would not in itself increase the power of judges. Though common law is sometimes referred to as "judge-made law," traditional common-law advocates, in fact, share the conviction that judges should not be making rules of law but only discovering and applying those that already exist. Judicial activism is a potential problem in any legal or political system. What a return to common law would do is not increase the power of judges so much as decrease the power of legislatures and bureaucracies.

The character of a society is intimately bound up with the character of its laws. Those who wish for the freedom, prosperity, and virtue of their communities cannot but deeply care about how their laws are created and how they benefit or hinder the communities' flourishing. Those who love the free society—both Protestants and Catholics, both libertarians and conservatives—ought to renew their appreciation for the common law. This vital, but frequently forgotten, part of our heritage is built upon principles echoing the concerns of those who desire the strengthening of ordered liberty. A

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Interview: James Q. Wilson

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Wilson: I certainly hope that my view reflects the natural law. My argument is that what serious people have defined as the natural law reflects in large measure the results of human evolution and human sociability.

We must live with other people, and so we must understand what the rules of that engagement will be. Over time, human evolution has rewarded—with survival—people who are naturally sociable and so are well-equipped to value and understand human sociability. Aristotle first made this argument; Saint Thomas Aquinas fleshed it out.

R&L: Finally, in your mind, what is the connection between the moral sense and the free society?

Wilson: A free society requires a moral sense, something that it occasionally pretends it does not need. It needs it because freedom implies that important human relationships will be created out of spontaneous human contact and not decreed by some state authority. But since, for some people, freedom implies license, the state must set some limits on how much self-indulgence is acceptable. We have laws against drug abuse; we worry when people wish to sleep on the streets; we think that pornography should be restrained.

People who love freedom alone object to many or all of these restrictions; people who wish to remake human nature object to much or all of this freedom. The contrast between the intellectual culture of some parts of the New Class and the ordinary culture of everyday people can be found in how they react to drug abuse, the homeless, and pornography.

The delicate and never-ending task of any society is to strike the right balance between enforcing morality and expanding freedom. A

Francis Fukuyama's Unhappy Optimism

Marc D. Guerra

Although the decade ended thirty years ago, the 1960s are in many ways still with us. Like Jacob Marley's ghost, they serve as a haunting reminder of who we once were and who we have become. That the 1960s continue to influence our society is acknowledged by partisans on both the Right and the Left. Thus, while conservatives trace many of our problems back to the liberationist ideologies of the 1960s, former radicals, now turned pillars of the establishment, praise the decade's revolutionary idealism in the hope that this will inspire today's youth to follow their lead.

All of this helps make the argument of Francis Fukuyama's latest book particularly provocative. *The Great Disruption* is less concerned with celebrating or rejecting the revolutionary "values" of the 1960s than with announcing their death. The author of the best-selling *The End of History and the Last Man* here presents yet another controversial thesis: The broad social turbulence of the previous three decades has come to an end, and Western societies are presently experiencing the beginning of a "Great Reconstruction."

The Great Disruption: Human Nature and the Reconstitution of Social Order
by Francis Fukuyama

The Free Press
1999. 368 pp. Cloth: $26.00

Disruptions Great and Small

Fukuyama's claim that the social upheaval of the past thirty years has been a "Great Disruption" in the normal rhythms of social life is hard to dispute. In a Herculean, scholarly effort, Fukuyama presents an overwhelming array of historical data that shows that the past three decades have witnessed the steady growth of rates of crime, abortion, divorce, and illegitimate births. Such social pathologies have eroded the levels of trust and social capital that civil society must necessarily rely upon for its stability and well-being.

But Fukuyama is interested in "History" more as a process than in the ordinary sense of that term. He is less concerned with locating the source of these eruptions in "specific American events," such as Watergate or Vietnam than in interpreting the historical forces that have caused the United States and other Western countries to experience such great societal disruptions.

Fukuyama examines several explanations for these disruptions—poverty, inequality, and failed governmental policies—and finally settles on two: the movement of Western societies from industrial- to information-based economies, and the invention of the Pill. That the technological revolution ushered in great social change does not surprise him. He points out that social upheaval occurred during the Industrial Revolution; it, too, replaced many of the old virtues with new ones and saw previously unthinkable social arrangements now become the norm.

The changes brought about by the Pill, however, were unprecedented. The ability to control fertility not only allowed women to enter the workforce—supported by an information-based economy—but also transformed the nature of male-female relations. Fukuyama takes "the main impact of the Pill" to be the change it caused in "*male* behavior." Access to effective birth control further eroded the already precarious natural ties that males felt toward family life; he notes, for example, that since its invention, the number of shotgun weddings has been cut in half. No longer worried whether sexual encounters would result in offspring, men found it easier to avoid their long-term familial responsibilities. Fukuyama makes a strong case that this is the real reason that rates of divorce, abortion, and illegitimacy have increased over the past thirty years.

The Eternal Return of Human Nature

Fukuyama argues in the latter part of his book, however, that the era of the Great Disruption has ended and that we are currently in the midst of a time of social self-healing. The impetus for this is not a nostalgic desire to return to the lost bourgeois morality but to the reassertion of human nature itself.

Fukuyama's argument is rather simple: Human nature desires social stability. Drawing on a number of biological, historical, psychological, and sociological sources, he argues that human beings naturally seek to instill order in society. Specifically, Fukuyama

uses the recent discoveries of evolutionary biology to argue that, like his primate ancestors, man is drawn to the kind of stasis that institutionalized rules of honesty, trust, and reciprocity provide. And, if he cannot find such rules, he "will spontaneously create [them] … without the benefit of a prophet … or a lawgiver to establish government."

Fukuyama is wary of "top-down" impositions of either religious or political forms of social order. Instead, he favors the "self-creating" stability that the efforts of decentralized human beings provide. (Accordingly, while his naturalistic defense of society leaves room for the voluntary associations that religions must rely upon in liberal societies, he remains suspicious of organized religion. In a laughably contemptuous yet revealing remark, he likens the possibility of a religiously inspired moral reconstruction of American society to "a Western version of the Ayatollah Khomeini's returning to Iran on a jetliner.") For Fukuyama, government plays a necessary and salutary role in society, but societal norms come principally from human nature itself; he points to the "message of male responsibility" preached by groups such as the Promise Keepers and the organizers of the Million Man March as examples of this phenomenon.

That the social and political turbulence of the Great Disruption had to come to an end was inevitable. Human nature found it too unbearable. Eventually human beings were forced "to create new rules to replace the ones that [had] been undercut."

While some will see his defense of the ineradicability of human nature and social life as merely a rediscovery of Aristotelian wisdom, this turns out not to be the case. On the one hand, Fukuyama affirms the existence of human nature; on the other, he relies upon New Age, materialistic evolutionary biology and psychology to explain it. Yet these two things are ultimately irreconcilable. Does Fukuyama finally think human nature is sempiternal or perpetually evolving? And, if it is always evolving, toward *what* is it evolving?

Fukuyama's Newfangled Aristotelianism

Similarly, Fukuyama's sociological framework and penchant for evolutionary theories cause him to exaggerate the autonomy of social life while simultaneously defining human sociality down. Thus, while he makes periodic references to man's political nature, he never really factors this into the analysis. Consequently, his account of sociality fails to do justice to the noble ends of politics *and* the religious and philosophic ends toward which political life itself points.

This is most visible in his account of car-pooling Washington civil servants known as "slugs." The practice of slugging arose "spontaneously." Originally designed to combat the oil crisis, slugging lets car-poolers shave twenty minutes off their commute. Slugs have established their own set of social rules: They cannot smoke, and their conversation must remain light—above all, slugs must avoid talking about "religion and politics."

Fukuyama praises the slugs for creating "social capital," but what kind of social capital have they created? The slugs have fashioned a world in which they live together without living together. They can speak to each other but not about the highest things. They are, in other words, not Aristotelian citizens engaged in the pursuit of the good life but the kind of apathetic individuals that Tocqueville feared and that Nietzsche identified as "Last Men." Fukuyama's slugs live in a world where everything is social and, thus, where nothing is social.

Interestingly, in a recent essay in the *National Interest* appropriately titled "Second Thoughts," Fukuyama observes that today the most radical threat to human society comes from biotechnology. Popular pharmaceuticals like Ritalin and Prozac "threaten" us with "the Last Man in a Bottle." Through prescription narcotics we shall live in a world of sedated human beings where "everyone is the same." One wonders why Fukuyama chose not to temper his book's essentially "optimistic view" of the future with these perceptive insights; that is, one has to wonder how, or even whether, his two different appraisals of the Last Man fit together.

This brings us to the larger question that Fukuyama's book raises. While his claim that Western societies will continue to witness economic and political progress is compelling, must we also embrace the lowered social and moral standards that his book is willing to accept? Or would we not be better off sharing some of his article's more sober "second thoughts" about the human desirability of such a future? And, if we answer yes to this last question, will we not have to reconsider whether the great disruption in human society has, in fact, come to an end? A

While Fukuyama's claim that Western societies will continue to witness economic and political progress is compelling, must we also embrace the lowered social and moral standards that his book is willing to accept?

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Adam Smith and the Virtues of Enlightenment

by Charles L. Griswold, Jr.

Cambridge University Press, 1999. 448 pp. Paperback: $21.95

Review by Ingrid A. Merikoski

Adam Smith (1723–1790) is best remembered today as the celebrated author of *The Wealth of Nations* (1776), who defined the workings of market economies and defended principles of liberty. To his contemporaries, particularly his fellow thinkers of the Scottish Enlightenment, Smith was recognized first for his profoundly original contributions to moral philosophy and natural jurisprudence.

In an important new book, *Adam Smith and the Virtues of Enlightenment*, Charles Griswold, professor of philosophy at Boston University, challenges readers to look again at Smith's work in its entirety. He argues that the enthusiasm with which Smith has been adopted as a pioneering economist has not been balanced by careful study of Smith's full teachings. Griswold seeks to redress this imbalance by providing a comprehensive and penetrating analysis of Smith's moral and political philosophy as it appeared in Smith's first published work, *The Theory of Moral Sentiments* (1759).

Until recently, *The Theory of Moral Sentiments* has been overshadowed by *The Wealth of Nations*. Yet, in terms of Smith's overriding wish to articulate a theory of society that described the ethos of the commercial culture that evolved in eighteenth-century Britain, *The Theory of Moral Sentiments* is in an important sense Smith's integral text. In its pages, Smith describes a moral vision that serves as the best guarantor of civility in commercial society. This vision is based on the cultivation of virtue, the "bettering of our condition," and permits individuals to overcome selfish impulses that many believe permeate commercial culture. The necessary tools for the cultivation of virtue include impartiality, sympathy, and reason.

Smith was well-aware of the potential risks involved in advocating commercial activity, should motivations for it be reduced to avarice or love of luxury. By developing what Griswold calls "an achievable notion of virtue" available to nearly all responsible individuals, Smith provides an innovative means for overcoming vulnerabilities in human nature that often lead to corruption and social disorder. Smith's arguments in favor of the possibility of widespread moral and social improvement include the pursuit of such "fundamental goods" as reputation, health, and property. Furthermore, his moral vision extends ideas of aristocratic excellence to members of the merchant and trading classes of society.

Griswold's analysis of Smith's thought occurs on a number of levels. Griswold places his book in the context of a continuing historical and philosophical discussion about the nature of the Enlightenment and modernity. He focuses readers' attention on Smith's defense of liberal moral and political views, with special reference to Smith's treatment of ancient philosophers, particularly Plato, Epictetus, and the later Roman Stoics. Griswold examines Smith's use of rhetoric and method with a view to illustrating how Smith formulated his arguments in *The Theory of Moral Sentiments*. Readers are then prepared to move on to a discussion of the mechanisms through which virtue is cultivated: sympathy, selfishness, imagination, and passion—all of which Smith deemed central to human life.

It is one of the strengths of Griswold's work that he confronts the complexity of Smith's thought directly, particulary concerning these very mechanisms, for none of them are completely reliable guides in and of themselves. For example, as Griswold points out, sympathy permits an individual to reflect upon the consequences of a given action based upon the amount of pleasure or pain it may cause another. The virtuous person avoids taking action that will result in negative consequences, for he does not wish to be seen as selfish or unruly. In this instance, feelings of sympathy restrain self-interest. In other circumstances, however, feelings of sympathy may actually be motivated by self-love or vanity, in which case, sympathy does not contribute to virtue. Smith believed human beings are naturally inclined to view themselves as others see them. The manner in which we behave is directly related to how our actions will be perceived by others.

This "spectatorial vision" was one of the unique facets of Smith's moral system. From it, Smith developed his notion of the *Impartial Spectator*, the ultimate arbiter of conduct that rivals the Invisible Hand as one of Smith's most original creations. The Impartial Spectator could not be swayed by emotional impulses on moral questions. Griswold explains that Smith relied on the combination of the following facts to define the Impartial Spectator: "We view ourselves through the eyes of others; we learn to distinguish between praise and blame actually given and that which ought to be given; we praise and blame others, and thus, ourselves, with qualities we take to be praise- or blame-

worthy; we thus become capable of viewing ourselves through the eyes of an 'ideal' other (an impartial spectator)." Conscience, in turn, is the "internalized impartial spectator."

Conscience could be a useful and necessary tool in human life, Smith acknowledged, but is susceptible to confusion, for it comes from "mortal extraction." Griswold notes that Smith's understanding of conscience highlights his "acute sense of the dangers of corruption inherent in the interplay among social morality, conscience, rules, and religion."Smith recognized that social institutions, including religious ones, could contribute to "the evolution of conscience,"but that such encouragement could also lead to religious fanaticism.

As Griswold expands his discussion of the application of Smith's moral thought to practical life, readers are guided through Smith's treatment of justice, commerce, and religion. Smith ordered the destruction of his lecture notes and unfinished manuscripts upon his death; therefore, his lectures on religion are lost. Griswold adds to current discussion about Smith on religion in terms that take readers beyond the traditional identification of Smith as a deist. This is particularly helpful to those interested in how matters of faith, liberty, and conduct intermingle.

The Theory of Moral Sentiments went through six editions in Smith's lifetime, and this eminent thinker spent his last years refining the final version of the book. There is a certain poignancy to the fact that Smith concluded his life's work where it began—with the study of human morality. A

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Book News

Financing the American Dream: A Cultural History of Consumer Credit
Lendol Calder
Princeton University Press, 1999
377 pp. Hardcover: $ 29.95

The conventional wisdom despises the development of consumer credit; blames it for weakening old-fashioned virtues such as diligence, thrift, and delayed gratification; and, consequently, declares it the primary engine of consumerism and hedonism. The reality, according to Lendol Calder, is much more complicated and ambiguous. In pursuit of a better-grounded perspective, he presents a well-articulated, well-balanced, and thoroughly researched history of, in his words, "how consumer credit was invented and how it helped to make the culture of consumption what it is today." His striking and original conclusion is that, rather than producing hedonism and instant gratification, consumer credit in fact drives people to greater discipline, hard work, and productivity.

In the Beginning: Foundations of Creation Theology
Herman Bavinck
Baker Books, 1999
291 pp. Paperback: $15.99

Herman Bavinck's *Reformed Dogmatics* (in four volumes first published in the years 1895 through 1901) stands as the pinnacle of four hundred years of fertile theological thought in the Dutch reformed tradition. Previously available only in Dutch, this magisterial work presently is being translated into English and published incrementally as sections are completed. *In the Beginning,* which outlines Bavinck's theology of creation, is the second section to have been published, following *The Last Things: Hope for This World and the Next*, which was published in 1996.

Bavinck, while firmly ensconced in reformed orthodoxy, interacts fruitfully with other traditions, such as Roman Catholicism and liberal Protestantism, and draws deeply from the church fathers and medieval schoolmen. Further, an attentive reading of *In the Beginning* yields essential insights for Christian social teaching, especially Bavinck's treatment of the nature of the created order established by the triune God, of the human person created in the image of God, and of God's fatherly care of the world through divine providence.

Uncommon Grounds: The History of Coffee and How It Transformed Our World
Mark Pendergrast
Basic Books, 1999
542 pp. Hardcover: $27.50

Coffee, after oil, is the second most valuable legal commodity in the world. *Uncommon Grounds* presents a panoramic view of the history of this remarkable commodity, from its discovery in Ethiopia in the sixth century up to the present day. In the course of telling this tale, Mark Pendergrast shows how coffee has transformed culture, fomented revolution, started or averted wars, and generally influenced the course of world politics and the development of global economics. Further, this history invites reflection on the relationship between economics, politics, and culture and the great influence each has on the others.

—Gregory Dunn

Rev. Robert A. Sirico

Rediscovering the Sacred in Secular Spaces

A French woman was raised a Roman Catholic but reveals that today she no longer considers herself one. Indeed, she has taken herself off the church rolls. When asked why, one might expect from her the sorts of complaints usually leveled against established religion. But not in this case. Her answer came directly and without qualification: She could no longer afford to pay the taxes. It turns out that in France, to be a member of a church means to pay tribute to the state, which, in turn, supports various religious institutions. This lady simply decided to give herself a tax cut by ceasing to identify herself as a Catholic, in the same way someone might decide to save money by forgoing a night on the town.

Why doesn't this woman think of her religious identity as a fundamental spiritual issue on which rests the fate of her soul? Why doesn't she see that Christianity is not simply about being a part of a social group but, rather, about the most fundamental issue of our lives: the relationship between man and God?

Seeds of the sacred are scattered throughout the secular landscape, waiting to be discovered.

It seems to me that what she has lost sight of—and this is true with Western culture in general—is the meaning and mystery of the sacred. This is a widespread problem in our day, when large institutions in society seem to deliver only secular messages. In response, religious leaders shift between two extremes: on the one hand, an aggressive triumphalism that seeks to battle the secular world through political action; on the other, a passive quietism that despairs of the world and counsels retreat into small sects of pietistic purity. In the spirit of Saint Thomas More, who said, "The times are never so bad that a good man cannot live in them," I would like to suggest a third option. Seeds of the sacred are scattered throughout the secular cultural landscape, waiting to be discovered.

For example: One outstanding mark of our times is the dramatic economic change the world has undergone in the last ten years, change that has grown more conspicuous as the nightmare of communism recedes into memory. Today, there is no longer any serious dispute that markets, prices, and private property—not government control—are the foundation of economic development.

Yet many Christians remain suspicious of the free market and, especially, of anything that smacks of "commercialization" or "commodification." They are not, however, making all the proper distinctions. It is one thing to remind of the traditional teaching that wealth is not an inherent good; it is quite another to say that wealth is capable of no good at all.

The material world cannot offer us salvation, to be sure, but it does not then follow that it is inherently corrupt. Christians make a grave error when they hold that commercial culture has no redeeming value. This is why the Acton Institute continues to look for seeds of the sacred in the secular space of commercial culture.

For example, through work, we learn service. Through entrepreneurship, we learn creativity. Through the personal responsibility required by the free economy—akin to the personal responsibility at the heart of our faith—we learn prudence and thrift. And through the expansion of international markets, we learn how to cooperate in commerce, in knowledge, and in the building of a peaceful and just world.

It is no accident that Jesus did not use simply wheat and grapes—the work of the earth untransformed—at the Last Supper. No, he used natural elements from earth transformed through human labor into bread and wine, which are then transformed again into our spiritual food and drink. Their use at the Lord's Table teaches us that the work of our hands is not unfitting but, rather, especially fitting for sacred purposes. It teaches us how to discover beneath the seemingly inescapably mundane, secular world the transcendent beauty and power of God's grace. *A*

Rev. Robert A. Sirico *is a Roman Catholic priest and the president and co-founder of the Acton Institute. This essay is adapted from his remarks at the Acton Institute's ninth annual dinner on June 9, 1999, in Grand Rapids, Mich.*

"… the sea is good in the eyes of God … because it brings together the most distant parts of the earth and facilitates the intercommunication of mariners. By this means it gives us the boon of general information, supplies the merchant with his wealth, and easily provides for the necessities of life, allowing the rich to export their superfluities, and blessing the poor with the supply of what they lack."

—Saint Basil the Great—

RELIGION & LIBERTY

A Publication of the Acton Institute for the Study of Religion and Liberty

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