



SCHOOL OF LAW
TEXAS A&M UNIVERSITY

Texas A&M University School of Law
Texas A&M Law Scholarship

Faculty Scholarship

2004

Symposium: The Roles of Markets and Governments: Introduction

Andrew P. Morriss

Texas A&M University School of Law, amorriss@law.tamu.edu

Follow this and additional works at: <https://scholarship.law.tamu.edu/facscholar>



Part of the [Law Commons](#)

Recommended Citation

Andrew P. Morriss, *Symposium: The Roles of Markets and Governments: Introduction*, 55 Case W. Res. L. Rev. 47 (2004).

Available at: <https://scholarship.law.tamu.edu/facscholar/60>

This Article is brought to you for free and open access by Texas A&M Law Scholarship. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Texas A&M Law Scholarship. For more information, please contact aretteen@law.tamu.edu.

SYMPOSIUM: THE ROLES OF MARKETS AND GOVERNMENTS

INTRODUCTION

In 2003-2004, the new Center for Business Law and Regulation at Case Western Reserve University School of Law sponsored four public lectures¹ on topics related to the roles of markets and regulation in American society. The *Case Western Reserve University Law Review* has kindly undertaken to publish the results in this volume. These four lectures examined the role of markets and governments from four different perspectives, but all four shared a common set of insights drawn from economic reasoning.

The first perspective was set forth by University of Maryland Professor Robert Nelson's critique of environmentalism as a religion. Public debate over environmental policy has rarely started from the perspective of understanding the structure of those lobbying for an increased role for government. Although some work has found connections between specific interest groups and particular regulatory measures,² much of the debate over environmental law and policy takes an overly simplistic "Earth versus economic activity" approach. Nelson, whose highly original work has examined both environmentalism and economics through the lens of religion,³ suggests the modern environmental movement is the equivalent of the great religious awakenings that have swept America in the past. Without demonizing the environmental movement, Nelson is critical of the connection of this new religion to the science needed to improve environmental quality, concluding that environmentalism as a religion is "in danger of going the way of Elmer Gantry."

¹ Three (Adler, Anderson, Nelson) were cosponsored by the Property & Environment Research Center and the Nord Family Foundation, one (Smith) funded by the Dean Lindsey Cowen Business Law Lecture fund.

² See, e.g., BRUCE A. ACKERMAN AND WILLIAM T. HASSLER, *CLEAN COAL/DIRTY AIR* (1981) (tracing linkages between coal miners unions, eastern coal interests, and environmental groups in the 1977 Clean Air Act Amendments).

³ See Robert H. Nelson, *How Much is God Worth?* (Competitive Enterprise Institute, 1996), available at <http://www.cei.org/gencon/025,01456.cfm> (last visited October 3, 2004); ROBERT H. NELSON, *ECONOMICS AS RELIGION: FROM SAMUELSON TO CHICAGO AND BEYOND* (2001).

The second perspective comes from economist Terry L. Anderson, of the Property & Environment Research Center and the Hoover Institution. Standing on the “market” side of the spectrum, Anderson stepped away from the question of whether the marginal costs of a particular regulation are equal to the marginal benefits produced by the regulation to examine the potential contribution of markets to solving environmental problems. In his address, Anderson, who together with others pioneered the “new resource economics” in the 1980s and, literally, wrote the book on “free market environmentalism,”⁴ examined the differences in how markets and governments respond to differences in preferences. Different interests wear different “hats,” as Anderson colorfully demonstrated in his remarks by donning a variety of headgear. Understanding how markets and politics differ is the first step in understanding the role of each in addressing environmental (and other) problems. The second is grasping the two key points behind Anderson’s advocacy of “free market environmentalism,” which can be summarized as (1) richer is greener and (2) incentives matter. By promoting growth, market-based economies have grown greener because their increasingly wealthy populations have been able to express their preferences for cleaner environments. By making environmental measures incentive compatible, as in the case studies described by Anderson, environmental quality is improved.

The third perspective came from Case Western Reserve Associate Professor Jonathan Adler. When Americans think about a government role in environmental regulation, they often think about the federal Environmental Protection Agency and debates in Congress over federal statutes. Professor Adler examined the origins of the federal role in environmental regulation and showed how the story of the federalization regulatory efforts is best described by interest group politics. In particular, Adler examined the “fable” of the 1969 Cuyahoga River fire and the rise of federal-level regulatory efforts in the late 1960s and early 1970s. By making clear the interest group origins of federal regulatory efforts, Adler made the case for rethinking the federal-state balance in environmental law, setting out the case for decentralization as an effective policy tool.

The final perspective came from 2002 Nobel Laureate and George Mason University Professor Vernon Smith. When regulatory policies are debated, the debate rarely considers exactly what is meant by a “market.” Dr. Smith, who pioneered the field of experimental eco-

⁴ TERRY L. ANDERSON AND DONALD R. LEAL, *FREE MARKET ENVIRONMENTALISM* (Rev. ed. 2001).

nomics, drew from his studies of market behavior in and outside of the laboratory to discuss the nature of human behavior in markets. He set forth a case for “mankind’s search for betterment and the worldwide expansion of resource specialization which is determined by the extent of market development” as the explanation for the growth of trade relations and the linkage between trade, prosperity and freedom.

Taken together, these four lectures offer four perspectives on the balance between markets and government that are often absent from public debate over regulatory policy. Considering these perspectives enriches the debate, which is an important goal of the Center for Business Law and Regulation.

ANDREW P. MORRISS[†]

[†] Galen J. Roush Professor of Business Law & Regulation and Director, Center for Business Law & Regulation, Case Western Reserve University School of Law; Senior Associate, Property & Environment Research Center, Bozeman, Montana.

