

habilitates, then its only possible rationale is retribution, and retribution is uncivilized. This assertion is not an argument; nor is it persuasive.

It is by no means self-evident that retribution is uncivilized. Retribution is applied indignation. Retribution need not be blind irrational vengeance. It can be a studied, rational response to injury. Indignation can be noble when it is in response to the violation of precious decencies. Indeed, a society incapable of indignation is itself uncivilized. Rightful retribution is the application of civilized indignation. There is no *a priori* reason why capital punishment cannot be such an application. Indeed, it recently was in the case of Adolph Eichmann.

Another argument for abolishing capital punishment is that we should eliminate any practice that does not express reverence for life. Certainly our sensitivity has been blunted by the mass slaughter in this century. But there is a problem with this.

Are we sensibly reverent when we

spare the life of (say) a heroin pusher? Might we be more truly reverent if we stigmatized his cruel destruction of life by taking his life? The retributive function of punishment expresses the conscience of society. In taking the pusher's life we can express the seriousness with which we view his assault on human life and dignity.

Common sense suggests that a punishment may be "cruel" if there is not a rough moral symmetry with the crime to which it attaches. A five-year prison term would be a "cruel" sentence for jaywalking. Perhaps there is not an appropriate symmetry between most murder and capital punishment. But murder by heroin is another matter.

And there is a final consideration. Throughout recorded history people have perceived a moral symmetry between the crime of killing and the imposition of capital punishment. What stroke of sociological revelation should convince us that this enduring perception has been uncivilized? □

Business' Recipe for Cooked Goose

To Nationalize Rails or not to Nationalize Rails That is the Question

Thomas G. Moore

A FUNNY THING happened to the railroads on the way to the gravy train: they went bankrupt. Since the dead hand of government regulation is chiefly responsible for their financial mess, it is natural that clear-sighted idealists, such as United Transportation Union officials, should advocate a governmental takeover of the roads in order to provide sufficient subsidies to satisfy the needs of the downtrodden and poverty-stricken railroad engineers and helpers (firemen). A recent *Wall Street Journal* article has claimed considerable support among labor, Congress and the Department of Transportation for establishing a new government corporation — to be modeled after the United States Postal Corporation, no doubt, and probably to be called the Bureau of Transportation, Conveyance, and Haul (BOTCH).

To discover the origins of the pending debacle, this author launched an exhaustive study with a grant of fifteen cents from his son's piggy bank. The following incredible tale was unearthed:

Once upon a time there were many railroads each doing its own thing — that is, attempting to secure traffic in whatever way each found profitable. Sometimes this meant that rates were cut very low; sometimes it meant that fast efficient service was offered; often it meant that the railroads had to compete vigorously for business. But such independence reduced profits, with the result that the masters of the railroads looked and found competition wanting. "Such behavior can only benefit the shipper and the public," they deduced.

So they reasoned together on the appropriate rates. But each time, lo and behold, even though all were honorable men, some railroad would offer concessions and the rates agreed upon would not last.

So at last, having failed to rationalize price and bring stability to their industry, they turned to Congress. Give us this day a commission, they asked. A commission that can make us abide by our published rates, a commission that can force us to raise the competitive long haul rates to the level of our short haul ones.

So the Congress, in the ninth decade of the 19th century after Christ, gave them a commission and called it the Interstate Commerce Commission. And the ICC, as it became affectionately known to its many friends in the railroad industry, ordered the railroads to abide by their published rates, required the roads to charge as much for a long haul as a short (except when it was in the interest of all railroads to charge less), and forced any railroad that lowered its rates to secure additional traffic to maintain the lower rates in the future. Thus the leaders of the industry found that as honorable men they could now trust one another: no railroad would be so foolish as to publish lower rates which could easily be matched and which would have to be maintained. Therefore the railroads looked at the Commission and found it good; and so the railroads rested. Competition was eliminated.

But there were evil men lurking in the competitive jungle outside the protected womb of the ICC. These men

invented the automobile and the autotruck, and some of these men found it worthwhile to sell the automobile and the autotruck at low prices. And while the railroads slept, cities and states built roads and highways.

In due course the railroads perceived a fall in traffic, especially in their most profitable cargo. Verily along with the fall in freight occurred a reduction in profits and to many railroads even losses. And so the railroads looked to the ICC but found no help there. Reasoning together, they agreed to higher rates, but lo and behold, Congress had failed to repeal the laws of demand and supply and they carried less business.

And so in the third decade of this century railroads found themselves with shrinking traffic and disappearing profits. Meanwhile, a great depression had set in throughout the land, and times were hard all over. The new and growing motor carrier business found times hard also. Now the Commission looked at railroads and found the situation bad; it looked at trucking and found the situation there also bad. It reasoned that what had been good for the railroads half a century earlier would be good for railroads and trucking today.

Therefore, in the middle of the third decade of this century, the railroads asked Congress to extend the same benefits of high prices and lessened competition to the new industry. And the new industry welcomed such help, while the ICC assured all that it would be friendly to its new charges and would help them as well as the railroads. Congress, therefore, ever mindful of its charge to aid the poor and protect the weak, extended the blessings of regulation first to motor carriers and then, in order not to be discriminatory, to water carriers.



But a time of troubles was on the Commission. Each of the 89,371 motor carriers had to be given a certificate telling the company what it might carry, where it could carry it from and to and how it must travel. Unfortunately, not all the carriers were honorable men: some were old-fashioned and believed they had a right to carry any cargo at any price; some believed that the prices agreed to by the big firms were too high and so offered lower rates; others, who did not have a certificate, petitioned that friend of the poor and humble — the ICC — to be allowed to participate in the game. And

so the Commission was kept busy.

The railroads also found that all was still not profitable. The private automobile and the public airplane were taking their passengers, and the private truck, as well as the public regulated truck, were taking much of their freight. Having experimented with higher rates and found that the laws of demand were still valid, the railroads had an original idea. Who first proposed it is unknown to history and even today it is not accepted by much of the industry, yet those that have managed to experiment with it have found it added to profits. The idea was "lower prices." But such lower rates brought on the wrath of their erst-while friends at the Commission who were now concerned about their new friends, the owners of trucks and barges. Moreover, such views were heresy, for the dogma according to the ICC denied the validity of the laws of supply and demand; thus the Commission wrote in the third chapter, fourth verse, that higher rates for all would bring succor to the poor.

For the railroads, though, the ICC recommended stiff medicine: let the weak railroads merge with the strong; combine the roads into larger firms. Notwithstanding the evidence that larger railroads are not more profitable than smaller, the Commission encouraged the formation of mighty railroads companies. It reasoned that if two big railroads with duplicate trackage, such as the Pennsylvania and the New York Central, were combined, it should be obvious that the resulting firm would be more profitable, more innovative and more viable than its constituent parts.

Thus in recent years the gospel according to the ICC has promoted mergers of large railroads, prevented or delayed innovative price reductions by railroads, encouraged the Congress to nationalize railroad passenger transportation, and put the northeast part of the United States in danger of losing all rail transportation unless the taxpayers aid the system.

In the course of the research for this scholarly article, the author discovered there are two alternative solutions to the problem created by the government. Put the government farther into transportation or put the government out of transportation.

Removing the government from regulating transportation would obviously lead to many problems. While rates would fall considerably — some studies indicate as much as twenty per cent — much of the staff of the Interstate Commerce Commission would have to find new employment, which would not be easy since many have never done useful work in their lives. Freed from regulation, trucking firms would be able to fill many now empty backhauls while driving fewer miles by going the most direct route; thus some truck drivers would be displaced and would consequently be forced to give up the maternal protection of the teamsters. Eliminating regulation would also cause problems for railroads: they would have

to start actively competing for business, they might find that lower rates for some commodities would require innovative investments. While service would improve rates would decline, shippers would suffer from having to deal with a fluid competitive situation for transportation as well as for raw materials.

The other alternative, nationalizing the railroads, is of course very attractive. For labor it would mean at last demanding and receiving almost adequate wages — probably Congress would set a limit at no more than a congressman makes. For the Department of Transportation it would mean conversion into the largest corporation

in the world, unconstrained by the need to cover costs. For Congress it would mean a new agency to staff with friends and relations and new congressional committees which could hold hearings on the inevitable deterioration in service and the inevitable inflation in rates.

On balance, therefore, nationalization seems the wave of the future. Labor, DOT and Congress would all gain, while the only people hurt by such a step would be shippers, taxpayers and consumers. □

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Frank Meyer, RIP

IT WAS THE saddest funeral I have ever attended, and I didn't know why. When a man of 62 dies and his friends gather to mark his passing, there is always a sense of loss to be sure. But the knowledge of a life lived with purpose for six decades, with wonderful moments and friends packed into those many days, usually mitigates that sense of loss. Why was it not possible to lift a smile from the heart and dwell upon a very good life lived to the fullest?

Surely it was not the cold, the sombre steel-grey sky. No, the sky was frequently pierced by bright shafts of golden sunlight. How like the day the man we mourned was: sombre as he told of the barbarian and its advance against the weak defenses of the West — yet always radiant with hope that the men of the West would raise themselves, victorious when called for the Last Battle.

The Last Battle. Frank Meyer, friend, teacher, comrade in arms, died April 1, 1972 not knowing the outcome of the earthly struggle between Evil and those whose heritage has conscripted them to the standard of the Good, the True and the Beautiful. "The old warrior is gone," someone said at the gravesite, gone before the earthly struggle between Communism and the West was resolved. The uncertain outcome of that struggle and the knowledge that Frank was no longer himself a part of it — teaching, hectoring, directing — was surely why sadness bore down on those who were there to say farewell.

Reflecting several weeks later upon that strange sadness, it seems a special, quiet tribute to a great man. For more than twenty years he had been preparing us — who now carry on as "conservatives" — exhorting us for that Last Battle in our time. "No matter how black the progress of events may seem, as the barbarian hammers on the gate from Laos to Cuba, from Berlin to the tower of infamy on the East River; as within our walls principle seems lost in our political life; as we slip bemusedly into acquiescence in collectivism and

the tyranny of bureaucracy at home and into acquiescence in appeasement and dishonor in the face of our implacable enemy abroad — the hope of the future is being born before our eyes.

It is ideas and beliefs that decide how men will act. I do not underestimate the hard, steel strength of power. Whether for good or evil, it is power which has the next to the last word in the affairs of men — but not the last word. Power is wielded by men, controlled by men, limited by men, as they are guided and inspired by the ideas and beliefs they hold. And this I submit as the truth of the human condition — in the teeth of the prevailing mythology of our century, in the teeth of the behavioral scientists, the psychoanalytic delvers, the Machiavellian calculators of pure power, who stifle the thought of an era with their epicene research and masochistic obeisance to whatever ideas or whatever men possess for the moment transitory influence and authority. It is ideas and beliefs that truly reflect the nature of man and his destiny that will in the end decide our future.

Such ideas, such beliefs are on the ascendant. The turn has come. This is no guarantee of victory. It is not for temporal success that we are promised that the Gates of Hell shall not prevail against us. For final certainty we can only know that we fight for the right. But the possibility of temporal victory is taking shape; the weapons are being forged; the issue rests in our stamina and courage.

The West, and freedom have been at bay before. Persian and Carthaginian, Arab and Turk, as they have felt final victory in their grasp, have been flung back and destroyed, when the West, reinvigorated in its inborn love of freedom, has struck out and conquered. Thermopylae and Salamis, Poitiers and Lepanto, tell the tale.

For men of courage it is never totally black. We can take example from many a battle against high odds in our long heritage. The Spartans who defended the pass at Thermopylae against the countless myriads of Xerxes died at their post — and saved the