Economics and Law: Two Cultures in Tension

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I want to preface my remarks by saying something about the kind of talk this is going to be. As my title says, I shall speak mainly about economics and law, which I shall examine as forms of thought and life, or what I shall call cultures. With law, about which in fact I shall speak rather briefly, I am naturally familiar by training and experience. But with economics I am familiar only as an observer—as a general reader who reads the newspaper, as a lawyer who has followed a little of the law and economics literature, and as one who has lived among those interested in the field. I thus speak about it as an outsider, and, as you will see, I speak largely about features of economic thought that I find disturbing. What I say, then, should be taken as tentative, subject to correction and response from those who know what I do not. In this sense the work I am offering you is unfinished. On the other hand, it does reflect a good many years of thinking about these questions, and it says what I think. It is tentative, then, not in the sense that I do not mean what I say, for I do, but in the sense that I recognize that about much of this I might someday have to change my mind.

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I. Economics and the Way We Think

To say that I shall speak about "economics" may be somewhat misleading, for I shall actually focus my attention on only one branch of it, namely microeconomics of the neoclassical kind. This is the economics of the "Law and Economics" school—the economics that is proposed as offering a solution to the problems of choice inherent both in the law and in public life more generally—and it is perhaps the dominant mode of thought among other economists as well. (It is the hope of many macroeconomists, for example, to be able to rest their work on a microeconomic foundation.) To use "economics" to refer to this branch of the field, as I do, may be a solecism, but for a lawyer in the 1980's it is an easy and perhaps forgivable one, since this is the terminology generally used by those who have been most energetic, and successful, in recommending this mode of thought to us.¹

¹ The work that established law and economics as a generally visible field was Richard A. Posner, Economic Analysis of Law (1973). For an introduction to the methodology of microeconomics see Donald N. McCloskey, The Applied Theory of Price (2d ed. 1985). This is a particularly valuable book because the author is highly critical of the "scientific" claims of economics, but nonetheless devoted to it as a method. See also Donald N. McCloskey, The Rhetoric of Economics (1985).

A useful attempt to locate the way modern economists think and talk more globally, especially in their disagreements, is Arjo Klamer, Conversations With Economists (1983). For a recent book that locates economic analysis in the context of a particular kind of capitalist economy, and subjects both to intelligent criticism, see Robert L. Heilbroner, The Nature and Logic of Capitalism (1985). An interesting attempt to apply the reasoning of economics to the "non-economic" use of one's time is found in S.B. Linder, The Harried Leisure Class (1970).

But this branch of economics is interesting and important for reasons that extend beyond its own merits or demerits, for it exemplifies, in a rather pure and distilled form, certain larger dispositions of thought that are reflected as well in other forms of economics, in certain branches of political science, and in contemporary social thought both academic and popular. While at one level, then, I take my subject to be the kind of microeconomics I shall mainly speak of, and my audience to be the lawyers and judges to whom this kind of economics is offered as a model of thought, at another I wish to speak about certain deeper features of our general culture, to an audience more generously defined. Indeed my most important aim today is to draw your attention to certain features of our culture, certain habits of thought and expression that are so natural to us that they may seem to be a part of nature itself, not cultural at all. But cultural they are, and my questions are how to identify, how to understand, and how to judge this part of our common life.

To put it another way, I think that neoclassical microeconomics rests upon a broad base in our culture, to which it owes much of its intelligibility and appeal. It reflects a general view of human nature and human reason, of community and the world, that goes back at least to Bentham, and that underlies, in the law, the traditions we call Sociological Jurisprudence and Legal Realism, as well as Law and Economics. More immediately, the ground for what we now call an “economic” view of law was laid by those academics of the twenties and thirties who, seeing that legal questions involved questions of policy as well as of rights, began to speak as though all legal questions were simply policy questions, and by those Supreme Court opinions, somewhat later in time, that began to resolve cases by “balancing” one “interest” against another, thus engaging in a crude form of the kind of cost-benefit analysis that is the grammar of modern economics.

What is more, certain versions of the kind of thought I seek to identify are present not only in the law but in our public, political, and philosophical discourse more generally, and have been for a long time. Among philosophers the maker of the modern tradition in this respect I think is Hobbes, and this in two ways. First, in the famous opening paragraph of Leibniz he says that man is the creator of his social and political world in exactly the same way that God is the creator of the natural world and of man. This claim of human possibility, enormously important and liberating in its time, has a depreciated modern version that is our current dogma, namely that

"we" can make ourselves and our world be whatever "we" want, a view that underlies much of the field of policy studies, of which economics is a branch. While economics has in some ways resisted these claims, insisting on the necessity of costs and the reality of scarcity, in a deeper sense its promise is similarly utopian. Second, Hobbes established a method of reasoning about social life that is still with us, and of which economics is perhaps the most fully elaborated form, namely that of using the models of mathematics. Once our terms are defined with sufficient precision, all thought can be reduced to a kind of calculation: for Hobbes, to what he calls subtraction and addition, and for the moderns, to forms of mathematical analysis that are more complex but that rest upon the same fundamental assumptions. Hobbes—or a part of him; there is also the side that Leo Strauss made so much of, which is prudential and Thucydidean in character—thus forms a surprising and powerful alliance with Bentham, in other ways so different, for both think that language can be made transparent and that all intellectual activity can be reduced, or elevated, to a single form of thought.

In a sense, then, we are all, among other things, "economists" now, and have been so for a long time. My questions are what this has meant, what we can make it mean, and what we can keep it from meaning.

My own view is that there is a deep conflict between the sort of economics that is most often recommended to us as lawyers and the intellectual and social practices that have characterized American law from the beginning. I think, therefore, that we should not accept the invitation to convert our legal culture—or at a more general level our political culture—into an economic one, as many urge, but vigorously resist it.

The development of this position is the aim of my talk as a whole, and I shall say no more about it now except to observe that I shall criticize the culture of economics, and defend the culture of law, in part on political grounds. When I speak of politics I do not mean Democrats vs. Republicans or anything like that, but I do mean to suggest that modern economics of the sort I shall talk about is imbued with largely unrecognized ethical and political implications, many of which in fact have wide currency; that these can be analyzed and criticized as such; and that the same is true of law as well. Indeed it could hardly be otherwise, for whenever we talk, we commit ourselves to views of the world, of human nature—of ourselves and our relations to others—that entail or enact a kind of politics. This is in fact true of the talk I am giving right now, and it is partly as an ethical and political text, in the expanded sense I am giving those terms, that I wish it to be judged.

II. Economics as a Total Culture

As a way of working out my position I wish to engage in a kind of thought-experiment, an act of the imagination, in which we ask
what things would be like if the language of this sort of economics, and the habits of perception, feeling, and thought that it realizes, were our only language, our only habits. Economics, after all, is a way of imagining the world and we can ask what life would be like on the terms it provides: Who are the actors in this universe, with what relations to each other and to the natural world? In what social and intellectual practices do they engage? What possibilities for meaning—for community, for self-understanding, for art—what motives for action, what conceptions of happiness are enacted in this discourse? What, in short, would things be like if economics were our total culture?

I propose this experiment partly because some practitioners of economics seem to want to make it our total culture, and this is a way of thinking about what they offer us; but more importantly as a way of making visible the nature and consequences of certain habits of mind and expression that are integral to economics and in more attenuated ways have a place deep in the minds of all of us. My object is not to make the world turn in horror from what economics has to teach, or economists turn in horror from themselves—unlikely scene—but to identify certain dangers against which we, and they, should be on guard, to expose what it is we start to commit ourselves to when we think or speak in these ways. The idea is not that economics should be obliterated, but that it should be understood for what it is and placed in a proper relation to other languages, to other cultures, of quite a different kind.

When I speak of the “dangers” of a particular language or culture, I point to nothing peculiar to economics but to a condition of all life, all language. Think, for example, of the language of the computer, or of arms control, or of medicine, or of the institution where you work: what would it mean to use that language to construct a whole world? What total culture would it make? As some of you know, this is the question I asked about law in The Legal Imagination, and it could be asked of any discipline, any specialized set of linguistic and intellectual practices. Here I propose to ask it about economics. I am interested in what happens to one’s mind and self as one increasingly comes to speak the language of economics, and in the nature of the world, and the community, that this talking makes.

Some would no doubt respond that nothing happens to the mind or to the community, that language is only a tool, and that economics does not make a culture but only adds to our knowledge in certain ways. Language no more affects the individual mind than the use of a hammer or a saw might do. Language is, or can be, purely instrumental; we look through it to the real world that it describes

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or manipulates. I think that is not right either as to language or as to tools, that in important ways we become the languages we use—the language of computer analysis or military domination or economics—and that our habitual practices, whether with computers or jackhammers, rifles or flyrods, help to make us what we are, both as individuals and as communities.

In making this investigation, then, I start from the position that the languages we speak, and the cultural practices they at once reflect and make possible, form our minds by habituating them to certain modes of attention, certain ways of seeing and conceiving of oneself and of the world. This is, in fact, why we learn them. Of course I do not mean that every lawyer or doctor or economist or engineer or baseball scout or harbor pilot is the same as every other. The case is quite the reverse, for in each instance the full art of the life in question involves the assertion and mobilization of what is individual in the actor. But it is true that the language and practices of a particular professional (or other) culture create many of the conditions upon which that part of life will be led, and that these conditions are much, though not completely, the same for everybody within it.

A second premise, related to the first, is that all cultural and linguistic systems have limits and lacunae, aspects of life that they leave out or distort. Languages function as resources that are relatively well adapted to some purposes, to some forms of life, badly to others. There is no such thing as a language that does everything, for whatever can be done by the languages it excludes are of necessity excluded from the world it creates and the practices it validates.

For me the major art of intellectual life is accordingly to discover, and to try to control, the ways in which our languages capture and drive our minds, so that we may recognize what they leave out or distort, both in ourselves and in others, subjecting them to the discipline of other forms of thought and expression. Control of such a kind is most difficult, for it is at heart a species of self-control: when we speak our languages we cannot help believing them; we cannot help participating, emotionally and ethically and politically, in the worlds they create and in the structures of perception and feeling they offer us. In time the soldier wants to go to war.

Many people think of economics solely as a scientific, conceptual, and cognitive system, apparently unaware that there are any other dimensions of meaning in economic talk. But all expression is loaded with values, ethical and otherwise; all expression defines a self and another and proposes a relation between them; all expression remakes its language; in these senses all expression proposes the creation of a community and a culture. All expression, in short, is ethical, cultural, and political, and it can be analyzed and judged as such. To claim that economics is a science is perhaps to claim that it cannot be judged in such terms. But "sciences" are cultures too, with their own created worlds and values. One way to describe my aim in this talk,
then, is to say that it reverses the usual flow: we are used to economic analyses of this or that aspect of our common life—voting, the family, war, etc. I propose here to begin what I would call a rhetorical or cultural analysis of a certain kind of economics.

As I said earlier, I shall speak mainly of neoclassical microeconomics, but shall occasionally consider more popular forms of thought as well; and at the end I shall widen the lens considerably to include tendencies far more broadly conceived. The reader will notice that I do not take a particular text or person as representative of the field of economics or any of its subfields, nor for the most part do I cite particular writers on particular points. This is not an oversight. My concern is with structure and tendency rather than detail, and I am not interested in engaging in disputes about the representative character of a particular passage, text, or mind. Instead, I invite the reader to check what I say against what he or she knows of the ways this kind of economics works, the ways it is offered to us as a model, and the ways in which it is connected to larger or more widespread habits of mind and feeling. Rather than making a case that is meant to stand or fall by the degree to which the unwilling are compelled to assent to it, as a lawyer or a scientist might, I mean to present a set of reflections, I hope in their own way persuasive, to be tested against the reader’s own.

III. Economics as a Language of Theory

Neoclassical microeconomics proceeds upon certain assumptions that can be summarized this way. The universe is populated by a number of discrete human actors, each of whom is competent, rational, and motivated solely by self-interest. External to the human actors is a natural universe that affords what are called “resources,” which are acted upon by human actors to create something called “wealth.” Partly for reasons of practicality, this kind of economics defines economic activity, and hence wealth, in terms of the process of exchange by which one actor exchanges some item within his dominion for an item within the dominion of another, or, far more commonly, for money which is the medium of exchange. To look at everything from the point of view of exchange is, naturally enough, to regard the universe as a collection of items for potential exchange, and in this sense to itemize it. When an exchange takes place these items enter the economic system and become part of what we mean by productivity. Where no exchange actually takes place—as where wealth is created and consumed by the same person, or where leisure is chosen over work—the economic effect of the actor's decision is not disregarded by professional economics, as it often is in popular economic thought, but it is still measured by the value of an imagined exchange, the one the actor has forgone. The central principle of the system is that everything is at least hypothetically interchangeable.
and thus of necessity quantifiable in ways that permit meaningful commensuration, at any rate by the actors who are faced with the choices to which economics speaks.

As the natural universe is itemized by these real or imagined exchanges, the social world is atomized, conceived of as a set of actors of equal competence, without race, gender, age, or culture. Each actor is assumed to be motivated by an unlimited desire to acquire or consume. Since each is interested only in its own welfare, each is in structural competition with all the others. This in turn creates a severe scarcity with respect to the resources. Where there is no scarcity, as there once was not with respect to clean air or water, there can be no economics of this kind. The final ingredient is money, a medium in which surplus can be accumulated with convenience and, in principle, without limit. So far as possible, all human interaction is reduced to the single model of exchange. Economics is the study of what life would be like on such assumptions.

Exchange is a method of determining value, which, tautologically, is said to be the price for which items are sold. This is the value that is put upon them by the economic system, and the only kind of value that economics can express. Obviously individuals may put different values on different items—indeed, this is ordinarily necessary for the exchange to occur in the first place—but although these private values drive the economic system, they are not directly expressible in its terms.

In the world of economics individual actors function according to what economists call “rationality.” This is a reasoning process that consists of identifying items of potential consumption or dominion in the world, calculating their value in dollar or other common terms, and then estimating various kinds of positive and negative risks. Reason is thus reducible to calculation and risk assessment. This is, of course, a drastically reduced conception of reason. Compare, for example, the eighteenth-century view of reason as the intelligent and wise response to all the conditions of human and external nature, as the full attainment of intellectual maturity and wisdom. The economists’ conception of the kind of reasoning that is at work in the world they describe or imagine is reinforced by the kind of reasoning they engage in themselves, which is logical and deductive in nature, and in its own way equally narrow.4

3. I speak here of total desire. Economics of course recognizes the declining marginal utility of particular items of consumption. And economics does not limit this desire to material goods, but includes whatever acquisitions will make the actor happy. But in this system happiness is quantified on the assumption that every actor wants the “most” that he can get and this is to speak of human life as acquisition or domination, not as development or growth. For discussion of the consequences of this line of thought, see generally LINDER, supra note 1, and SCITOVSKY, supra note 1.

4. At least this is what they claim. For a different view see DONALD N. McCLOSKEY, THE RHETORIC OF ECONOMICS (1985).
A. A Hypothetical Discourse?

Such is the image of social life used as the theoretical structure for economic analysis. One common and not very surprising response of the non-economist is to claim that this picture is simply false because it does not accurately and completely reflect the processes of social life as we know them. People do not in fact conceive of or organize their lives in this way: they are not fundamentally or exclusively self-interested, they have values other than those of acquisition and dominion, and they reason in ways that are far more complex and multidimensional than economics suggests they do, and than economists themselves do.

To this the economist gives answers of two general kinds. The first is to say, "No, of course it does not reflect the truth of social life as one experiences it. We know that human beings are not social atoms or discrete agents, that they are not always rational in the sense that we mean it, that they are not wholly self-interested, nor should they be. This theoretical structure is a system for the analysis and prediction of behavior, like those used by natural scientists. It can function as a theoretical system, indeed, only if it is in fact simpler than the phenomena it describes. By definition, therefore, it must be a reduction or simplification; this aspect of the theory is not a defect but a virtue.''

On this view the value of the theoretical structure lies not in its stating truths about human nature, but in its permitting us to carry out empirical investigations into the nature of the world, which will in turn tend to prove or disprove the usefulness of this system as a method of predicting human behavior. In other words economic analysis should be regarded simply as an elaborate set of assumptions that can be used to generate hypotheses which will ultimately be tested by the study of specific transactions, either individual or aggregative. On this view economics is ultimately the study of behavior. We think our system will provide a better basis for predicting behavior than any alternative simplification, say the economists, but we may be wrong, and in the spirit of science we will welcome correction as well as confirmation. And we want to stress that even if our theory is confirmed by the data, it will still not be an accurate and complete representation of the world. It will remain a deliberately reduced method of organizing data in order to make predictions—what Milton Friedman calls a "filing system"—not a picture of reality. By its nature this kind of theory is to be tested as a predictive tool, not as a description.

Economics is thus an attempt to apply the methodology of physics to social phenomena, in the spirit of logical positivism, and it has the familiar defects of such attempts, perhaps the most serious of which is that its behaviorism is in principle incapable of explaining the intellectual and discursive activity of economics itself, which necessarily operates on wholly different assumptions. While physicists must also worry about the tension between the determinism of their discipline and their experience as people, at least they are not themselves atoms in their deterministic systems. And while physics no doubt constitutes a culture and a politics of its own, physics, unlike economics, has no implicit political or moral view of the larger social world to purvey.

B. Real Commitments

That is one answer. But as you hear economists talk their view of their language as merely hypothetical often seems to disappear. I think it disappears in part because they really believe that it tells the truth about the world (or about their own feelings); this is why they talk this way and it is disingenuous to pretend that it is only a filing system. They think it is the right filing system, descriptively as well as predictively, or they wouldn't use it. And it disappears for another reason too, a psychological one: even if they begin as skeptics it is impossible for them to remain so. As lawyers know—to their cost—it is very difficult to say things habitually, even things one doubts, without coming to believe them. I think this necessarily happens to economists as well, and to those noneconomists who start speaking their language seriously.

Consider, for example, the use of what might be called technical terms, such as "self-interest" or "rich." The economist assumes that everyone is what he calls "self-interested." By this he does not necessarily mean "selfish," but only that each actor makes up his own mind about what his own values should be. These values may be profoundly altruistic, leading the individual to make charitable gifts to relieve the distresses of others or inspiring him to endow an institution that exists for the public benefit. Similarly they may be cultural, leading him to learn the cello, for example, or to become a greatly ambitious, if monetarily impoverished, artist. It is solely for the purpose of analyzing the activity of exchange that we assume that each person is "self-interested." Self-interest on this view is not the central human value (maybe not even a value at all), but simply the umbrella term that includes all the values, whatever they may happen to be, that individuals bring to their exchanges with others.

6. On this point see Coase, supra note 5, at 6-7.
Similarly, the word “rich” is used by economists to mean rich not only in money, but rich in “utility” or “happiness” too. It makes perfectly good sense that a person who is motivated by the desire to become “rich” in this sense might seek to imitate the life of Mother Theresa. The economist would say that such a person, however impoverished in material terms, is in fact “richer” than he would have been had he engaged in an alternative but more financially remunerative form of life. Likewise the clause “everything is for sale,” or actually “sold,” is said not to express a value, but to state what might be called an analytic fact: that we can analyze all transactions that actually occur between people, and those that do not, as if “sales” were contemplated and either consummated on not, even where the actor in question does not think of himself as willing to sell his honesty, his health, or his body for any price, or even where the two actors think of themselves not as self-interested negotiators but as friends eager to help one another.

In this way “self-interest” and “rich” and “for sale” and other similar terms can be claimed to be technical terms, which should be understood in a technical way and not taken to mean what they appear to mean. But can this work? I think one cannot habitually think of human action in such terms—especially in a culture like our own, which is so heavily dominated by the motive of self-interest in the usual sense, that of selfishness or self-centeredness—without in fact universalizing the ordinary rather than the technical meaning. The result is to validate both selfishness and the desire to acquire and consume. In the terms offered by this language, for example, one cannot criticize another for selfishness, or for wanting to be rich in grossly materialistic ways, for we are all “self-interested,” we all want to be “rich.” And the use of “self-interest” to comprise all motives, including altruism, the use of “wealth” to comprise all values, including ascetic ones, destroys distinctions that are essential to our ethical thought: between selfishness and generosity, for example, or between avarice and moderation. It is a very reduced idea of “altruism” to say that it is what apparently—but only apparently—serves someone else’s interest rather than one’s own. In such a language there can be neither the virtue nor the duty of charity.

I think, then, that the language of economics cannot remain merely an “abstract filing system,” in part because it isn’t one in the first place and in part because no language can make such a claim. It necessarily becomes a language to which those who think in its terms are committed; it affects what they say, what they see, how they think, what they feel, and what they are. If we use it, it

will affect us in these ways too. It is not, as some might claim, politically or culturally "empty," but a powerful political and cultural system in its own right. It is an ideology as well as a method. It is offered to the law, by some at least, as the language in which legal analysis should proceed—as the language in which lawyers and judges should think and converse—and to the public more generally as the language in which the polity should organize its life. For some of its practitioners and admirers it holds out the promise of universality, of being or becoming the one system in which all social phenomena can rationally be talked about, analyzed, and judged. Before accepting it we should think hard about what it promises. To repeat, what kind of culture does it offer us?

IV. Economics as a System of Values

We can start with the question of value. In its purest form economics claims to be a value-free social science. But as I suggested earlier I think it in fact enacts a set of values, including political ones, values to which the speaker of the language cannot avoid finding himself at least in part committed.

A. In the World

Think, for example, of the way in which economics defines the economic actor and the processes by which he functions. He is for the most part assumed to be an individual of indeterminate age, sex, race and cultural background, but of adequate competence at manipulating economic relations. He acts as one who is both perfectly aware of his own wishes and wholly rational—in the special sense in which that term is used, to mean "calculating"—in his pursuit of them. He exists as an individual, not as part of a community, except insofar as he establishes contractual or exchange relations with others. He is assumed to be motivated by self-interest, which in turn is defined in terms of competition, acquisition, and dominion, at least in relation to resources and other actors, for in the process of exchange the self is reduced to those desires.

8. It is hard to exaggerate the magnitude of the claims that have been made for economics. In The Economic Approach to Human Behavior, for example, Gary Becker says that in his view "the economic approach provides a united framework for understanding behavior that has long been sought by and eluded Bentham, Comte, Marx, and others." Becker, supra note 1, at 12. Judge Easterbrook says that "economics is applied rationality." Easterbrook, Method, Result, and Authority: A Reply, 98 Harv. L. Rev. 622, 625 (1985). Or take this remark by George J. Stigler: "All of man's deliberative, forward-looking behavior follows the principles of economics." Convocation Address, The University of Chicago Record at 2 (June 1, 1981)
Of course a particular individual may have other values—indeed the economist insists that he must, calling them “tastes” or “preferences”—perhaps including a “taste” for altruism, for peace and quiet, for heavy metal music, for appreciating nature unspoiled, for beautiful or ugly art, and so forth. These values will drive his participation in the exchange process, or his decision to withdraw from it. But in either case they are themselves valued by the method of exchange: either by an actual exchange that takes place or by a hypothetical or imagined exchange that is forgone (or in a more complicated case by a combination of exchanges made and forgone). In both cases these external values are converted by the discourse into the acquisitive or instrumental values—the desire to extend the dominion of the will—that all economic actors are assumed to have, for this is the only kind of value about which economics can directly talk.

With respect to the external values in their original form, the system is purportedly “value neutral.” That is, it regards individual values as simply exogenous to the system itself. Economics of course recognizes that these values exist, but it demeans them by calling them “tastes” or “preferences,” names that imply that no serious conversation can proceed on such subjects. And economics itself is by definition not about those values, but about the process by which they are reflected in the activity of exchange. This means that economics cannot, in principle, talk about any value other than the acquisitive or instrumental one that it universalizes. (Indeed it does not talk about this value either, but merely assumes and acts upon it.) This is not to be “value free,” as its apologists claim, but to make self-interest the central, indeed almost the only, value, for it is the only one that can be talked about in these terms. To come at it the other way, it is to claim that all values can be talked about, at least for some purposes, as if they were selfish, quantifiable, and interchangeable.

As I suggested earlier, an economist might here respond that the values that lead the self to engage in acquisition may themselves be altruistic or spiritual—for example, a desire to help the poor or to make beautiful music—and that economics recognizes this fact. It just regards choices of that sort as the domain of the actor, not of the science of exchange. But this does not change my main point, for it remains true that economics talks about such private values in a language of self-interested individualism, and this is to erase them, if only for the time being, as what they are. The conventions of this discourse necessarily habituate its user to thinking in terms of self-
interest as a central principle, and in practice the "time being" is likely to stretch on forever. The reference to "altruistic selfishness" is a disclaimer in its way as unconvincing as Milton Friedman's claim that economics is only a filing system.

Yet economics is troubling not only for the self-interested values it directly asserts, but also for the very neutrality, the "value freedom," that it claims. It is in principle neutral on all questions of value that are external to the acquisitive and competitive ones enacted in the exchange game, which it lumps together as "tastes" or "preferences" among which no distinctions can be drawn. But this is to be silent on all the great questions of human life: questions of beauty and ugliness in art and music, sincerity and falsity in human relations, wisdom and folly in conduct and judgment, and the greatest of all questions, which is how we ought to lead our lives. Economic analysis assumes as a given the existence of "tastes" or "preferences" which drive the system, but economics as a language can provide no way of talking about these values, whether in oneself or another, no way of thinking about which to prefer and which not. To the extent that economics does reach out for these questions it may be worse than silent, for silence after all can be a mode of controlling a discourse. When economics tries to speak about these matters it does so in the only way it knows how to speak, in purely quantitative terms and on the assumption that all human transactions can be reduced to the model of exchange.

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For the purposes of economic analysis all human wishes and desires are thus reduced to the same level, as though no principled choices could be made among them, as though it didn't matter what choices one made. This in turn means that it is impossible to talk in these terms about our most important choices as individuals and communities, or about the education of mind or heart, for any impulse that we or others may happen to have is as good, valid, and entitled to respect as any other.

Viewed as a recipe for life this is of course impossible, as philosophers have repeatedly shown since Plato's original destruction of Callicles' adoption of such a position in the Gorgias. Socrates asked Callicles how high the pleasure of scratching an itch ranked

10. The only way an economist qua economist can judge the merit of a poem or a painting or a work of philosophy, — or even of economics? — is by asking how well it prevails in the market place. The test of excellence is what survives. This may be true, in a trite way, but to say so does nothing to tell us how to judge the excellence of a particular work, that is, whether or not we should contribute to its survival.
with him, or the pleasure of cowardice. Once these are demoted below other pleasures one has committed oneself to a scale of value, and the only question is what it shall be. To claim that this is a wholly private question, not the proper subject of shared conversation, is either to say that the question is trivial or that we cannot help each other address it, both of which are impossible positions. We must and do have preferences, as the economist knows; and these necessarily commit those who have them to the inquiry of better and worse, as well as to that of greater and less. To refuse to engage in this inquiry—to privatize it—as economics in its neutral phase necessarily does, is to deny an essential and necessary aspect of human life. To reduce all value to self-interest, as it does the rest of the time, is intellectually and ethically intolerable. How could one educate one’s children or oneself to live in a world that was neutral on all the great questions of life, except that it reduced them to acquisition, competition, and calculation?

B. Among Economists

There is another dimension to economics, as a discourse among economists. Here too, in the discourse, values are of necessity enacted. For example, economics necessarily values the reduction of life to terms such as I describe, for this is what it achieves. It values linear reasoning and competition for dominance. This last is especially so among economists, for it is ostensibly a premise of economic discourse, as a rule of proof appropriate to a science, that we will believe only what we are forced by logic and fact to believe. This means that economic conversations—like certain other academic discussions—are often attempts to compel others to submit to one’s views, or to resist such submission. In doing so they necessarily perform a claim that this is the most appropriate and valuable way to converse on these subjects, itself a most dubious position.

11. In this connection consider Thucydides’ History of the Peloponnesian War, which traces the effects of the Athenian decision to ground all public thought and conduct in self-interest. The result is the complete intellectual and moral collapse not only of the larger community of states but of the Athenian polity itself, and the consequent loss of Athens’ capacity to function rationally at all. One lesson of this text is that rational discourse about human choices must focus on the question of justice as well as that of expediency. Another might be that “self-interest” requires a different emphasis from the usual—“self-interest”—in recognition of the fact that coherence of character is essential to all success and that this coherence is always social in its origins and maintenance. A true “self-interest” would then require one to assert an interest in the culture and the community of which one was a part. For an elaboration on this point, and for further discussion of Plato’s treatment of Callicles in the Gorgias, see J. White, When Words Lose Their Meaning 53-113 (1984).
But the rule of proof just described applies only to conclusions reached from the assumed premises, not to the premises themselves. These are in fact chosen; and this choice expresses a wish or a value that should, like other choices, be subjected to critical examination. But in economics it is not and cannot be, for these are the premises of the discourse and cannot be questioned in its terms.

The claim that microeconomics is a value-free science is thus false in at least two ways. First, even as a science it is not value-free, for no science can be. It values the positivist and behaviorist premises from which it functions, the reduction of reason to calculation, the performed conversion of the world into quantifiable units, and so on. Second, economics attributes motives and values to its actors, those of acquisitiveness and self-interest, and invests itself in these attributions, which it assumes to be universal. This assumption is qualified by the recognition that one actor may choose to act for others, but in the end economics always reduces motive to self-interest, the only kind of motive it can conceive of and speak about. The reduction of all human interaction to the model of exchange, actual or imagined, simply erases whole fields of life and thought, from art to morals, for economics recognizes no ground, other than competitive survivability, upon which one can choose one form of life or one work of art over another, or even upon which one can choose to favor the market and its methods of analysis over others.

In saying that “value-free” economics is actually committed to certain values, both in the assumptions it makes about the world and in the conventions by which its own discourse operates, I do not mean to suggest that the field is in this respect peculiar. Quite the contrary. As I say above I think that all systems of discourse commit their users to values and do so in both domains, that is in one’s account of the “other world” one talks about and in the here-and-now world one creates by talking. Science does this, and so do law and literary criticism too. Economics is not to be blamed, then, for having values. But no one should be allowed to claim value-neutrality where it does not exist, and economics, like other disciplines, can be praised or blamed for the values it has. All of us, economists and lawyers and lecturers among the rest, should be held responsible for the values we enact in our talking.

All this is not to say that economics is wrong to do what it does, namely, to isolate the practices of exchange for study, especially when its results are applied to spheres of life that are in fact characterized by exchanges that take place on conditions roughly matching the assumptions of the discourse. This is, after all, a good deal of the economic life of the investor or entrepreneur in a capitalist economy. But it is to say that this study would lead to insanity unless it were premised on a recognition that these activities, and the culture they and their study together create, require subordination to other activities and cultures, both at the level of the individual and of the polity.
V. Economics as a Political System

An economist might agree with most of this and say that the language and practices in which he engages as an economist must somehow be put together with the languages and practices that make up the rest of his life, both public and private. This would raise the wonderfully interesting and important question, how this might be done, and with what effect on economics itself, a question to which I shall return below.

But another line of justification is possible as well, one that neither denies the political character of this discourse nor seeks to subordinate it to other languages and practices, but affirmatively celebrates the politics and ethics that this kind of economics entails, mainly on the ground that the market is affirmatively desirable both as a model of life and as a political and social institution. The premises of the analytic method, in other words, can be regarded as the proper premises upon which to build our collective life. In talking this way the economist moves off the ground of purportedly pure science. He begins to use his language not as a "filing system" but as a way of expressing overt social and political attitudes, largely in support of the institution of the market. I should stress that not all economists would take this step. But some would. They are of course perfectly entitled to do so, but only to the extent that their politics and ethics, not their economics, persuade us of the rightness of their vision.

A. Justifying the Market as a Model of Life

The institution of the market is celebrated by its proponents because in their view it is democratic—each person brings to the market his own values and can "maximize" them his own way—and because it is creative and open, leaving the widest room for individual choice and action. The market establishes a community based upon a competitive process that allows each person freedom to choose what to do with what is his. These merits mean, for some economists at least, that all social institutions ought to be modified to approximate the market—to conform to the analytic model of life as exchange—or at least to be analyzed and judged on that presumption.

The market is further justified, when such justification is thought necessary, in either of two rather conflicting ways. The first is to say

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12. It is usual for economists to draw a bright line between "positive" and "normative" economics, and of course there are differences in emphasis between studies that set out to examine "what is" and those that ask "what ought to be." But part of my point is that this is a difference of emphasis only, not a radical shift of category: "positive" economics enacts "norms," or what I have called values, and "normative" economics depends completely upon its claims that the world "is" a certain way.
that the market is good because it promotes efficiency, that is to say it maximizes the "welfare" of all participants in the process. It does this by definition, because each person participates in the process only because he thinks he gets more that way than he would any other way, and who are we to tell him differently? In maximizing the welfare of all participants it does the same for society as a whole, which is nothing more or less than the sum of all the participants in the market. The obvious trouble with this is that it takes for granted not only the existing values (or "tastes") of the actors, but also the existing distributions among them of wealth, capacity, and entitlement, which it has no way of criticizing. Yet these may of course be eminently criticizable.

The "welfare" defense of the market would justify all transactions—including the sale of oneself into slavery or prostitution—that are not in an obvious sense "coerced" by another because they are marginal improvements for the actors involved. But an economy might provide a different set of starting points for its actors, so that such degrading activities would no longer be "improvements" for anyone. We would all benefit from living in such a world. But the economist has no way of saying this. On the premises I have described he cannot deny the desirability of redistribution, but he cannot affirm it either. Even to discuss the question requires a shift of discourse, to ways of talking that economics of the sort I have been discussing excludes.

The second ground upon which the market is justified is that not of its gross effects but of its fairness. In one version this justification rests upon the ethical standing of voluntary action and holds that the results of the market process are justified with respect to every actor because the choices by which the market works are voluntary. In another version, it becomes the affirmative celebration of autonomy or liberty: whether or not it is efficient, the market is good because it gives the widest possible range to freedom of choice and action. Here the claim moves beyond justifying market results by the voluntary character of the choices upon which they rest to the point of asserting autonomy as the central social and political value. The obvious trouble with this line of defense, in both of its forms, is that it assumes that all exchanges are for all actors equally voluntary and equally expressive of autonomy, a position that common sense denies.

B. Voluntariness and Autonomy

Let us begin with the "voluntariness" of the exchanges studied, which is essential both to the "welfare" and to the "autonomy" justifications. It is one thing to construct an analytic model that assumes voluntary choice as a way of working out what the consequences of such an exchange system would be if it existed, and for those purposes to write off constraints on conduct as one writes off
abnormal incompetence and so forth. It is quite another to say that all human behavior not obviously coerced should be regarded as having the ethical or moral status of wholly free, autonomous action, which is entitled to our respect if anything is. Obviously most human choice is greatly constrained, some of itcripplingly so. It may be true that I sell my labor for the minimum wage, working at a noisy, ugly, demeaning, boring, and perhaps dangerous job, but only because that is the best I can do. I do not want that choice to be given the sort of standing that an investor’s choice to go for stocks rather than bonds, or my own choice to spend Saturday afternoon on the river or at the museum, should be given. Not only are we are differently situated economically, and in ways that deeply affect the voluntariness of our choices, we are unequally situated psychologically as well. Some of us are much freer from conflicts, compulsions, and similar afflictions than others are. The choices of such people are entitled to a different kind of respect from, say, the decision of an addict to continue a drug, or of a prostitute to continue living the life of abuse to which self-hatred commits him. Close inspection of criminal conduct makes it very hard to rest the validity of punishment comfortably on the basis of the free and autonomous moral choices made by those we punish. The “voluntary choice” model may be useful for analyzing certain kinds of conduct—especially that of the self-conscious and competent professional risk-taker who operates in a universe of quantitative symbols, such as the capitalist investor whose modes of thought so deeply shape the discourse of economics—but it does not adequately describe most human behavior. In making ethical judgments, including judgments about social institutions, it is of central importance to keep vivid our sense of the different degrees and kinds of freedom that different actors have—and these are exactly those differences to which the “voluntary choice” model is systematically blind.

At a different level, to reduce the ideas of voluntary action, autonomy, and liberty to mere freedom from restraint, or, even more narrowly, to freedom from governmental restraint, as these justifications do, is deeply impoverishing. For us political liberty has not meant merely freedom from restraint but enablement or capacitation, and this is always social and communal in character. The question is not only how far people are free or restrained in their exercise of dominion over the assets that nature and society give them, but far more importantly, what our community enables its people to do or do.

13. My point here goes beyond the issue of constraint to the assumption of economics that all choices are comparable. In fact, choosing what to do with one’s money is radically different from choosing what to do with one’s body, one’s time, or one’s mind. To deny this assumes a commensurability of human decisions that experience denies.
to become. What range of responsibilities and participations, what opportunities for self-development and education, what roles in self-government, does this community offer its members? These are the serious questions about liberty—defining the kind of liberty one could imagine fighting and perhaps dying for, liberty as an aspect of community. To speak to such questions one needs a standard of human and political excellence of a kind that economics by its nature cannot have.

C. Self-Transformation and Education

The incapacity of economics to reflect degrees of voluntariness is actually a particular instance of a larger feature of the discourse, one that derives from its quasi-mathematical character. Its use of labels is inherently binary. One either is or is not "competent," an action is or is not "voluntary," because the formulas that are the stuff of economic thought require that a particular person, object, or event either be, or not be, an "A" or a "B" or whatever other label is used. This is a ruling principle of the sort of logic upon which economics depends. Of course, our actual experience is not of binary or dichotomous phenomena but of degree and of change; our ordinary language, in its imprecisions and overlappings, reflects that fact. But none of this can be reflected in the language of economics.

The consequences are serious, and reach beyond the issue of voluntariness to the whole conception of the human being that this discourse makes possible. I put aside for the moment the question of motive (reduced to self-interest) and intellectual process (reduced to calculation) and focus on something even more basic, the fact that in our actual lives all human beings are engaged in a never-completed process of growth and change, from infancy to old age. We start, and often end, in total dependence on others; our capacities gradually develop and shift, and some of them necessarily deteriorate; illness, in one form or another is nearly universal; and death lies always at the end. Our lives are a process of organic growth and decay. The development of wisdom, judgment, taste, and character; of the capacity for meaningful action and meaningful speech; of an intelligible identity in relation to others—this is the stuff of human life.

It makes no sense of this experience to speak as if each point on the curve of life is exactly the same as every other point, except for those before and after some arbitrarily chosen lines of "competence." Full competence is never attained; weakness and misunderstanding and internal conflict are parts of every human life. To speak of what

14. It is of course true that in talking about the relations among the entities it thus creates, economics speaks not in "either/or" terms but in continuous functions, but this does not change my point in the text.
we do as if all, or almost all, human conduct is equally competent, voluntary, and rational and entitled to respect as such, is to establish a vision that denies the central process of life, the transformation of the self through interactive experience with others. The human individual is not an integer, a feature of a mathematical system, as economics assumes, but—fortunately for us—is instead the locus of conflict, tension, and growth, a place where many selves live together, sometimes in harmony, sometimes not. On the economic view, however, the individual is reduced to a single unit, supposed to know its own values and how best to pursue them. This means that education—for the rest of us the process by which character and value are formed—is reduced to the acquisition of information. True education of the mind and self is in such terms completely unimaginable; so too is the conception of the polity as a means of collective education.

D. Dollar Democracy

I wish now to consider more fully the point made above that the language of economics is blind to the differences of wealth among different actors in the real world and hence to what many of us would regard as the inherent unfairness of the transactions in which they engage. One response to this point is to say that the distribution of wealth is not an economic but a political question, and that society ought simply to decide what it wants to do about unequal distribution and then do it. The economist as such has no special wisdom on that matter, and thus no objection in principle to any political decisions made, including those involving radical redistribution. If sincerely meant this position is, so far, unobjectionable. But how can one happily continue to study and play the game, and impliedly assert its fairness, without ever asking what its premises are? If one cannot ask such a question “as an economist” one can ask it as an independent mind, and should not one’s answer show up in one’s life and work, one way or another?

Another response of the economist is simply to make the assumption formal, give it a name—the marginal utility of money—and then claim that a dollar is worth the same to a rich man as a poor man, or at least that we cannot claim that it is worth less. This is said to be required by the primary assumption of the discourse that utility, or value, is individually determined, a matter on which

15. If not, what is one saying about economics: that it can exist as a wholly distinct discourse, in the mind or in the culture, without interaction with other discourses? But what one knows as a person can and should show up in what one says as an economist. By what process, upon what understandings, and subject to what kinds of control can this happen? This is a centrally important question, to which I briefly return at the end of this paper.
therefore the economist, as an economist, cannot speak. If so, the transactions between rich and poor are not unfair in the sense claimed. This justification appears to rest on other-respecting agnosticism—Who am I to speak about the experience of others?—but I think it is so unrealistic that it must be rooted in desire, either in the desire not to think about such things or in the desire to see, and participate in, real differences in wealth and power. (Who am I to say that this chocolate eclair is not worth more to the fat rich man than this loaf of bread is to the poor woman with three hungry children?)

The position on the marginal utility of money itself is easily refutable, and not only by appealing to one's capacity to imagine with sympathy the plight of others. Think, for example, of one voluntary institution that does in fact work by exchange and risk-assessment: the poker game. The poker game depends entirely upon the rough economic equality of the participants. Otherwise the process of bluffing and betting becomes both unfair and uninteresting and the poorer player quits. The rich man has the edge every time, for what he risks is worth less to him than the same amount to his poorer neighbor, and everyone knows it. The same is true of the market itself. To the claim that the market is a fair game and its results entitled to ethical respect, one can respond that this game would be fair, if at all, only if the conditions on which we played it were roughly similar for all of us, which they patently are not.

The market purports to rest upon an assumption of the equality of all the actors in the system. In fact, it rests upon a different assumption, namely, the equality of every dollar in the system. Since some players have many more dollars, and through this fact are at a competitive advantage, it is a system that actively supports inequality among its actors.

16. See Cooter & Rappoport, Were the Ordinalists Wrong About Welfare Economics?, 22 J. Econ. Litt. 507 (1984) (discussing the difference between this kind of "agnostic" economics and an earlier one that saw certain needs, such as food, shelter, and health, as primary).

17. The poor man, out of desperation, will often engage in other sorts of gambling, from numbers to slot machines. But poker, like the market, is a game not of luck but of skill on certain conditions, and the player with limited funds faces a worse fate than simply having numerical odds against him. How would you respond to an invitation to spend a pleasant evening playing Monopoly, on the understanding that one of the players started with three-quarters of the total wealth?

The shifting value of money can be suggested by a question of another kind: how would you like to be given one million dollars? Ten million? A billion or a hundred billion? At some point it would run, and ruin, your life. For all of us who are not insane—I think of Ferdinand Marcos here—the value of money ultimately becomes negative.

18. At this point, as I suggested above, some apologists for economics would concede the point and say that it is not our object to make people equal but to
It is not too much to say, I think, that the modern celebration of the market as the central social institution—the most fair, the most respecting of autonomy, and the most efficient—threatens to destroy the single greatest achievement of Western political culture: the discovery that a community can govern itself through a rule of law that attempts to create a fundamental moral and political equality among human beings. The great phrase in the Declaration of Independence—“all men are created equal”—is partly a theological statement about the conditions under which we are created and partly a political statement about the obligation of the government to acknowledge, indeed to create or recreate, that equality. This value is the heart of what is meant both by equality under law and by our democratic institutions more generally, resting as they do on the premise that each person’s vote is worth exactly what everyone else’s is. The ideology of the market, if it prevailed in its desire to convert all institutions into markets, would destroy this set of political relations and would create another in its stead, based upon the dollar.

From the point of view of the market and its proponents the government is not what our legal and constitutional tradition insists it is, an institution of self-government, but an alien force, not expressing the judgment of the people, not constituting them as a polity, but interfering in their affairs. To talk about “governmental intervention,” for example, is implicitly to assume that there is a pre-governmental state of nature called the market, into which the government intrudes. But this is obviously silly. The entire process depends upon the protection of government, as the proponents of the market should know, for without it they could not hold on to what the social system gives them. Boiled down to essentials, then, the argument really is not that the government should not “intervene,” but that it should do so solely on behalf of the market, to reinforce its methods and results, including its inequalities.

A related mythology is that the results of the market system are to be regarded as immutable because any “interference” with them would violate the rights of the possessors to the enjoyment and use of what they had acquired, including its further use in the market to maximize efficiency, “not to distribute wealth but to create it.” If inequality promotes that, we are as a group by hypothesis better off. This move demonstrates one of the peculiarities of economic reasoning alluded to above: its necessary emptiness on philosophical and moral questions. Two economists may agree on the beauty of the market system, one grounding his belief in an unarticulated, or barely articulated, statement about the value of autonomy or liberty, the other on a similarly conclusory statement about the value of efficiency. But it is a consequence of the value-neutrality described above that the economists as economists have no way of talking about these important differences. These remain external to economic discourse, just as other values do. Economic discourse, though radically value-laden, is incapable of transforming itself into a discourse about value.
increase their wealth and power. These rights are often spoken of as “natural rights,” as though each of us had wrung his wealth from the soil by the sweat of his brow. But the truth is that wealth is always social, produced not only by one’s own labors but by the contributions of many others, upon whom both its acquisition and retention alike depend. It is not I alone who have earned what I make, for I could not make it without the constant cooperation of others, who are often paid far less than I.

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The market ideology claims to be radically democratic and egalitarian because it leaves every person free to do with her own what she will. But this freedom of choice is not equally distributed among all people. The market is democratic not on the principle of one person one vote, but on the far different principle of one dollar, one vote. One could hardly make a greater mistake than to equate, as so much modern public talk carelessly does, the “free market” with democracy.

There are two distinct points here. First, the exchange transactions that the market celebrates are not entitled to the special respect claimed for them as free and voluntary, and hence fair, unless each person has roughly the same amount of money and the same competence and freedom in its use, which is demonstrably not the case. The accumulations of wealth it permits thus cannot be justified by the fairness of the transactions by which the accumulation occurs. Second, if the advocates of the market succeeded in converting other institutions into markets, the result would be to transfer to those who have wealth not only the economic power that inescapably follows it but also the political power that in our democratic tradition the people have claimed for themselves and have exercised through the institutions of self-government. This would validate and institutionalize private economic power held by one person over another, of the rich over the poor. If we were to yield entirely to its claims, we would gradually find our traditional government, which operates by collective deliberation on a premise of fundamental equality of

19. The neutrality of economic discourse as to gender, race, class, and so on, is structurally similar to its neutrality on questions of value, discussed above. The surface neutrality, which seems to make it an egalitarian system, is in practice simply a mask for the validation of whatever inequalities actually exist in the world, which it leaves untouched. I would of course not want to deny that our democratic polity can itself exploit, oppress, and disempower, for of course it can and does. But it does so against its own ideals, against the pressure of its institutions and languages, not in accordance with them.
citizens, replaced by a private-sector government of the few over the many, wholly unregulated by collective judgment.

VI. Economics as a System of Economic Analysis

But it is not only as a system of value and politics that this kind of economics, and the ways of thought it encourages, are troubling. I think that it is distorted and unrealistic as a way of imagining, thinking about, and shaping the processes of production and exchange that we think of as the economy itself.

A. The Social and Natural Matrix

The first distortion I wish to consider has to do with the relationship between the exchange system and the cultural and natural world that it necessarily presupposes. What I mean is this. The economic activity of exchange takes place under natural and cultural conditions that are absolutely essential to it, but about which economics has no way of talking except by itemization, quantification, and conversion into the material of actual or hypothetical exchange. All talk about exchanges, that is, necessarily presupposes that the exchangers live in the natural world of sun, air, and water, subject to the powers of growth and health and disease, a world the organization of which is complex far beyond our understanding. Each of the exchangers is part of that world in another sense as well, for each is himself an organism, and one that incompletely understands both himself and his relation to the natural world upon which he absolutely depends for his existence. The language of economics similarly assumes the existence of a society and culture, a set of human understandings and expectations upon which each exchanger can rely: that promises will normally be kept, that one can get one's money home without being robbed, that it is worth thinking about the future, for oneself or for one's children, and so on. What is more, the actor's motives or values (what the economists call his "preferences") are themselves formed by interactions both with his culture and with nature. This is how we are made as individuals, how we cohere as a community, and how we connect ourselves to the past and to the future.

But on all this economics is silent, for it begins to speak only when an actor has, at least in his mind, identified some item in the world and begun to think of exchanging it for something else. It is his judgment of its worth, in exchanging it or in declining to do so, that is for the economist its value. But what confidence can we have in such judgments of worth, by actors necessarily imperfectly aware both of themselves and of the cultural and natural worlds they inhabit? To put it in epistemological terms, the economist assumes that there is nothing to be known about the natural or cultural world
that cannot be known through the process of exchange itself. But in
order to judge the value of an item now, or to predict one for the
future (which is very much the same thing), one must make estimates
about possible changes in the social, cultural, and natural matrix in
which all exchange takes place, and about the effect of this and
similar exchanges upon that matrix. There is no reason to be espe-
cially confident in anyone’s capacity to make such estimates.

Another way to put this point is to say that economics sees all
value in terms of margins, comparisons, and differences and has no
way of talking directly about the matters or items that it compares.
Thus it sees the difference between what beans cost at the store and
what they cost to grow, but it has no way to value either base upon
which that difference rests, either the socio-cultural base that enables
the grocer to function securely or the natural base that produces the
beans. Predictions of future value depend upon a continued stability
in the base, which is not and cannot be measured by the value-as-
margin method.

This is to talk about it in terms of knowledge, the knowledge
that the economist assumes we have. But it can be cast in terms of
value as well, for the language of economics assumes that the relation
between humanity and nature should be one of dominion, that the
expanded assertion of control by individual actors over nature—
called “natural resources”—is inherently a good thing. But why
should one grant such an assumption? As Wendell Berry repeatedly
points out in his works on agricultural economics, modern agricul-
ture can be considered a great technological success only if one uses
the measure of present-day output per man-hour, disregarding both
the destructive effects of modern farming on soil and water and the
costs, natural and economic, of the fossil fuels used for both fertilizer
and power. If productivity over decades or per acre is the test, as in
a world of five billion perhaps it should be, our agriculture falls well
below that of many more “primitive” peoples. If one includes the
meaning of the work the farmer does, its rhythms and its harmonies
or disharmonies with nature, the picture is complicated further; still
further if one asks how important it is in a nuclear age for a
particular polity, or for humanity, that the capacity for fruitful and
stable survival on a small scale be maintained. Economic language
assumes, with what a theologian like James Gustafson might call a
foolish pride, that man’s wants and wishes are the ultimate measure
of value; it then claims that these wishes are constrained only in ways

20. See generally Wendell Berry, The Gift of Good Land (1981); Wendell
Berry, The Unsettling of America (1977). See also Farm Achieves Natural

that traders can see and account for. These are assumptions of fact and value that one might generously regard as dubious.

The only kind of meaning economics can reflect is one that can be expressed in the medium of exchange, that is, quantifiable and comparative. This is in turn to give the world itself a meaning of a new kind, reflected in the Japanese phrase for the blue sky that can rarely be seen over Tokyo these days: it is called a "recession sky."22

B. Permanent and Renewable Resources

Another way to come at this question is to assume for the moment the validity of the language of "resources" and "valuation," and ask how adequately the market values resources that have a long or indefinite life. I think that it systematically undervalues them and that the reason has to do with the nature of an exchange-for-money economy. Because for this kind of economics all value is ultimately exchange value and hence, in our world, money value; and because money has its own value, determined by supply and demand for present capital; and because money value is always a rent, that is

22. Think in this connection of Thoreau's Walden, which expresses something of what a life of marginal agriculture meant to the person doing it, and consider how little of what that book and life are about could be expressed in economic terms. This is true not only of his "noneconomic" activities, but of the agricultural work itself, about which Thoreau is very explicit (especially in the first two chapters). In "The Bean Field," he says:

When my toe tinkled against the stones, that music echoed to the woods and to the sky, and was an accompaniment to my labor that yielded an instant and immeasurable crop. It was no longer beans that I hoed or that I hoed beans; and I remembered with as much pity as pride, if I remembered them at all, my acquaintances who had gone to the city to attend the oratorios.

Henry David Thoreau, Walden 143 (Mod. Libr. ed. 1950). Or think of what Joseph Conrad, in his nautical novels and in his two volumes of autobiography, has managed to make of an activity—sailing a ship—which in economic terms is simply the transport of goods for a price. In The Mirror of the Sea, for example, he talks about the difference between sail and steam in these terms:

History repeats itself, but the special call of an art which has passed away is never reproduced. It is as utterly gone out of the world as the song of a destroyed wild bird. Nothing will awaken the same response of pleasureable emotion or conscientious endeavor. And the sailing of any vessel afloat is an art whose fine form seems already receding from us on its way to the overshadowed Valley of Oblivion. The taking of a modern steamship around the world (though one would not minimize its responsibilities) has not the same quality of intimacy with nature, which, after all, is the indispensable condition for the building up of an art. It is less personal and a more exact calling; less arduous, but also less gratifying in the lack of close communion with the artist and the medium of his art. It is, in short, less a matter of love.

measured against time; and because the exchange method generates the conception of income over time as the definition of wealth; this kind of economics can have no way to measure any "resource" that has a permanent value. In an environment in which individuals can invest their capital in financial markets and obtain a return of so much per year, all other investments that do not produce that income per year are automatically unreasonable (unless they will produce some exploding balloon of income in the not too distant future). The investment of money for a return thus becomes the model to which all other investments are assimilated. On this method the present value of anything that will come into possession very far in the future, say fifty years hence, is nearly zero, even though in ways not reflected in the income-over-time method of measuring wealth its value in fact may be incalculable. This is true most obviously of natural resources of the renewable kind (fisheries, forests, the soil itself, and so on), but certainly no less so of the social and cultural resources of which I spoke above.23 What is more, the value of money (or other medium of exchange) is itself completely dependent upon the larger social, natural, and cultural context of which economic exchange is only a part. This means that there is a kind of structural paradox: the possibility of money rent in a capitalist system forces all other investments to that model; but that model is itself parasitic upon other sources of value that are not accurately reflected in it.

The "noneconomic background" that economics assumes to be stable, and which it does not regard as a form of wealth (for it cannot be appropriated and exchanged), is actually not stable at all but in perpetual flux. It is our most important form of wealth. It begins with soil and water and air, all of which we are now damaging in ways we cannot possibly understand. It includes the mysteries of vegetable and animal life, from microbes to mammals, and the value of differentiation into species, which on principle cannot be known until the crisis arrives—the change of weather or the spread of a virus—that will destroy one adaptation and make room for another. It extends to all the social instincts and habits that make collective life possible, including our respect for law, our sense of civic obligation, and our desire to cooperate with others. In our own culture it includes the habits of self-government—of respect for the majority and minority alike—that run so deep within us, showing up as they

23. One response to this line of argument is to say that if the future is misvalued, it is only through the use of an inappropriate discount rate. But the difficulty cannot be solved by simply changing the discount rate, for, owing to the uncertainty as to the cultural and social base upon which wealth ultimately depends, it is impossible to have any rate in which one can have confidence over an extended period of time.
do in our competence at organizing ourselves into self-governing communities.

"Exchange," upon which economics focuses so much, is a secondary rather than primary mode of life. It presupposes another world, in which it is embedded and which it can strengthen or weaken. Yet economics focuses only on exchange and has no way of talking about this larger world, which operates on such wholly different principles, let alone about the arts of social and communal life by which it is maintained and remade.\footnote{One of the most important of these is the law.}

C. False Segmentation

Even within the zone to which it speaks, economic language, like the activity of exchange itself, requires the segmentation of the universe in a way that is false to human experience and sometimes destructive of it. Take for example the man or woman maintaining a family garden: for the economist, though perhaps not for his journalistic or political cousin, such a person is engaged in productive work. But how is that work talked about? Our reasons for growing beans rather than buying them (such as the pleasure of helping things grow) are given value by being quantified, through the process of hypothetical or constructive exchange.

But this requires a segmentation of experience that leads to a false understanding and valuation both of what is segmented and what cannot be, and denies the meaning of our activities as parts of a larger life. I once heard an economist say that people obviously

\footnote{24. It is of course true that one achievement of modern economics has been to think seriously about the ways in which an activity or enterprise exacts costs from others that are not reflected in the market price of the goods or services produced. The market ideology I have been discussing, at least in its welfare rather than its libertarian mode, naturally regards this, like any market imperfection, as a bad thing: people should pay for what they get, or the whole calculus of competing utilities is upset and we lose our confidence that market exchanges increase the total welfare. In this sense economics does make an attempt to think about what I call the social and natural matrix, and much of what has been done along these lines has been helpful, particularly I suppose in environmental law. But when it does so, it thinks not in terms of the community or the natural world that may be injured or improved, but in terms of individuals suffering gains or losses. Its basic view of the relation between humankind and nature, its reduction of community to individuals, and its methods of valuation remain the same, and these tend to be skewed in the way I suggest in the text.}

One way to frame this point is in terms of responsibility: the tendency of economic discourse is to deny responsibility for maintaining the natural and cultural base of wealth, just as it is to deny responsibility for the poor and incompetent. But, putting aside the question of morality, the assumption that one can safely do these things is hardly plausible. Compare Krier & Gillette, \textit{The Uneasy Case for Technological Optimism}, 84 Mich. L. Rev. 405 (1985).
did not mind polluted air as much as was thought, citing the foul air of Hammond, Indiana, where people were willing to live, as his proof. But for many of them Hammond was home, and their living there may be taken to show not how little they cared about the air they breathed but how much they cared about their neighborhood, their families and friends, features of life that could not be duplicated, by market or other means, in some other place, and which could not adequately be reflected in the market economy. Or take the false segmentation implicit in reducing what doctors and lawyers do to medical or legal "services," which can be "delivered," as though all of life could be reduced to a set of functions that are in principle replaceable just like the parts of Mr. Colt's rifle—as though there were no question of individual judgment, or knowledge, or history in the professional relationship. Can we similarly reduce teaching, or being a parent, to a set of functions and services?

The segmentation of the exchange model tends to misvalue the work we do for ourselves, which is most of the traditional work of women, and much of men's work as well. If we hire each other to do our work we see economic activity and growth, because presumably there is a beneficial difference in the exchange. If we do our own work there is in terms of this kind of economics (though not of our tax laws) still productivity, but since this productivity can be measured only by the exchanges forgone, the valuation is false to the meaning and nature of our activities looked at as parts of whole lives. This is especially true of people who raise their own children. Such work cannot be segmented into functions and then made the material of the market process, actual or hypothetical, for what the child requires is the sustained presence of, and interaction with, a loving and respectful person, something no alternative can supply. Similarly, housework has a different meaning when one is maintaining one's own home rather than acting as a servant for others. And volunteer work, upon which much of the health of our community depends, will be valued either not at all, as a kind of consumption, or by the opportunities forgone, but in any event not for what it is.

* * *

At the level of the national economy, this kind of economics naturally tends to value what it calls economic "growth," that is to say the expansion of the exchange system by the conversion of what is outside it into its terms. It is a kind of steam shovel chewing away at the natural and social world. Another kind of economics might value not growth but conservation, not change or progress but stability, not reduction of nature to commodity but the maintenance of a harmonious relation between humanity and nature, between the domain of exchange and the other domains of human
It is a truism for economists that “we” are much “richer” than we were thirty years ago. But is that so obviously true if one takes into account the value of safe streets, healthy food, clean air and water, unspoiled scenery, a supportive community, or a sensible pace of life? What is really meant by the economist who says such things is that we have managed to turn more things into commodities.

The enormous matrix of productive human life and meaningful activity that lies outside the practices of exchange, like the matrix of the natural world, is simply excluded from the exchange mentality; or, if it is included, it is on terms that destroy its meaning. Economics of the kind I have been discussing is thus defective even as an economics, for it in principle abstracts from a larger context a set of activities that depend upon, and interact with, that context. A proper economics—in its Greek root meaning household management—would respect and reflect the conditions, natural and cultural, upon which the exchange system itself depends, and would seek to value properly what that system by its nature radically undervalues.

D. Erasing Community

For similar reasons this kind of economics has the greatest difficulty in reflecting the reality of human community and the value of communal institutions. Its necessary tendency seems to be to destroy the idea of public action, indeed the idea of community itself. This is partly because this methodology tends to resolve all communities and organizations into the individual human actors who constitute them, partly because commitment to the market system leads one to think that everything that can be made the subject of the market should be. The idea is that every economic actor should pay for what he wants, and should not have to pay for what he doesn’t want. But this tends to destroy our public institutions, all of which extend benefits far beyond those who would pay (if they were reduced to markets) or who do pay (when they are supported by taxes). Such institutions reflect a communal judgment that we need to educate ourselves and each other, that our “tastes” are not all of equal value but need to be formed, and formed well rather than badly. Public universities, libraries, orchestras, museums, parks—

25. In this sense the modern economics of which I speak is radical—revolutionary really—rather than conservative. Compare the economics of Edmund Burke, for example, which included in its purvey the need for the improvement and conservation of both the culture and the land as well as their productive uses. See generally EDMUND BURKE, REFLECTIONS ON THE REVOLUTION IN FRANCE (1790), discussed in J. WHITE, WHEN WORDS LOSE THEIR MEANING 192-230 (1984).

26. I include in the term “public” not only those facilities owned or managed by public agencies, but those (almost all the rest) that are subsidized by our tax system.
all these would fall before the ideology that denies the existence and reality of community and reduces all institutions, all human production, to the language of the market.27

Think here of the way economists explain why people who will probably never visit, say, the Everglades or an art museum are happy to have their taxes used to maintain them. The economist says it is because the actor wants to maintain the option of visiting them some day, and calls this an "option demand." But may it not be that the voter simply takes pleasure in what other people have and in what other people can do, in belonging to a community that is good for all its members? Or that he respects their desires and wants a community based on that kind of mutual respect? This possibility is systematically denied by the assumption of economic talk, that individuals and communities are in principle incapable of generosity, or more precisely, that "altruism" can adequately be talked about as a species of selfishness.

The language of self and self-interest not only fails to reflect the reality of community and of shared interests, it draws attention away from those aspects of life and devalues them. To continue to talk on these assumptions, even hypothetically, is to encourage "self-interest" in an ethical sense and to erode the commitments we have to each other that underlie such essential practices of citizenship as the willingness to pay taxes, to work for the local school, or to serve in the army, upon which everything depends. To adopt the economic view would in fact threaten the very existence of community, for on these premises no one would conceivably die or seriously risk his life for his community: at the point of danger one's self-interest in survival would outweigh all other self-interests. And to speak of all "tastes" as if they were equivalent is to invite oneself and others to think that they are, and to confirm the premises of our culture, already drummed into the mind by the consumer economy, that the consumer is king, that whatever you happen to want is a good that

27. This at least is the tendency of the popularized version of this kind of economics. In its more sophisticated forms it seeks to describe and explain cooperation—this is what the literature on the institution of the firm is about, for example—but it does so in its familiar terms, those of individual actors pursuing individual interests. The force and reality and presence of institutions as entities in our lives tends to be denied. And of course there is no way to judge them, except as they approximate the market.

The attempt to destroy the idea, and value, of institutions can extend even to governmental institutions. This can be seen in the attempts of some "public choice" theorists to treat legislation as if it were always merely a deal between competing interest groups, and never shaped by higher or more general considerations. See, e.g., Easterbrook, The Supreme Court, 1983 Term—Foreword: The Court and the Economic System, 98 Harv. L. Rev. 4 (1984). But see Macey, Promoting Public-Regarding Legislation Through Statutory Interpretation: An Interest-Group Model, 86 Colum. L. Rev. 223 (1986).
you should seek to satisfy, that no distinction can be drawn between the beautiful and ugly, the wise and foolish, and so on. It is to confirm a vulgar view of democracy that makes the preference or will supreme, as if we functioned by instant referendum. It erases the sense that a democracy is a mode of communal self-constitution and self-education that may have higher ends than the satisfaction of wants, namely the creation of a community of a certain sort, at once based upon a set of responsibilities and offering us a set of opportunities for civic and social action.

E. The Only Possibility?

What other kinds of economy, and of economic analysis, would be possible? The usual thing is to think of Marxism as the only alternative. It is obviously true that Marx offers a critical and creative intelligence of enormous power, but the kind of "Marxism" claimed by certain antidemocratic totalitarian states obviously offers no relief. In fact, in certain respects—I think of Marx's attitudes towards the relations between humanity and nature—the ideology of such economics rather closely parallels our own.28

But there are other human possibilities as well. Here, for example, is E. F. Schumacher's brief description of Buddhist economic life as practiced in Burma:

The Buddhist point of view takes the function of work to be at least threefold: to give a man a chance to utilize and develop his faculties; to enable him to overcome his ego-centeredness by joining with other people in a common task; and to bring forth the goods and services needed for a becoming existence.... [T]he consequences that flow from this view are endless. To organize work in such a manner that it becomes meaningless, boring, stultifying, or nerve-racking for the worker would be little short of criminal; it would indicate a greater concern with goods than with people, an evil lack of compassion and a soul-destroying degree of attachment to the most primitive side of this worldly existence. Equally, to strive for leisure as an alternative to work would be considered a complete misunderstanding of one of the basic truths of human existence, namely that work and leisure are complementary parts of the same living process and cannot be separated without destroying the joy of work and the bliss of leisure.... It is clear, therefore, that Buddhist economics must be very different from the economics

28. See ISAAC D. BALBUS, MARXISM AND DOMINATION (1982). On the other hand Marx is always interested in the meaning of economic activity for the actors, in the power relations built into the forms of economic life, and in the problem of cultural criticism. For a helpful attempt to look at our own economic ideology from a point of view that might be described as eclectically Marxist, see ROBERT HEILBRONER, THE NATURE AND LOGIC OF CAPITALISM (1985).
of modern materialism, since the Buddhist sees the essence of civilization not in a multiplication of wants but in the purification of human character. Character, at the same time, is formed primarily by a man’s work. And work, properly conducted in conditions of human dignity and freedom, blesses those who do it and equally their products.

* * *

While the materialist is mainly interested in goods, the Buddhist is mainly interested in liberation. But Buddhism is “The Middle Way” and therefore in no way antagonistic to physical well-being. It is not wealth that stands in the way of liberation but the attachment to wealth; not the enjoyment of pleasurable things but the craving for them. The keynote of Buddhist economics, therefore, is simplicity and non-violence. From an economist’s point of view, the marvel of the Buddhist way of life is the utter rationality of its pattern—amazingly small means leading to extraordinarily satisfactory results.

For the modern economist this is very difficult to understand. He is used to measuring the “standard of living” by the amount of annual consumption, assuming all the time that a man who consumes more is “better off” than a man who consumes less. A Buddhist economist would consider this approach excessively irrational: since consumption is merely a means to human well-being, the aim should be to obtain the maximum of well-being with the minimum of consumption.29

I am not now concerned with the question whether this is an accurate description of Burmese attitudes, but with the helplessness of modern economic language before patterns of this kind. Here we have described for us a life based upon desire not for objects or resources, for which there is competition and a market, but for meanings and relations. The “good” or excellence of life desired is not in principle limited in quantity; its “scarcity” is not to be reduced by increased production or managed by market exchanges, but must be dealt with by each person as he faces the limits of his mind and circumstances, alone or with others.

* * *

The language of neoclassical microeconomics is not a universal language of descriptive analysis, let alone of judgment, but is deeply rooted in the practices of a capitalist industrial and commercial economy. Much of its plausibility derives from the fact that the assumptions it makes about human behavior and reasoning fit rather well with the acquisitive values and calculating rationality of the economic sphere of our own larger culture. If one approves those

aspects of our culture and wishes to extend them, as many do, there is perhaps no difficulty with this; but if one wishes to think about whether or not to approve them, this kind of economics does not afford a language in which to do so, since it is by its very premises committed to them. There is thus a double relation between this method of economic analysis and our larger culture: the dissemination of this way of talking tends to confirm attitudes and conduct that conform to it, the prevalence of which are in turn taken to confirm the rightness of the method—all on the assumption that the premises of our own economy are built into the nature of humanity. In this sense the "politics" of this kind of economic discourse is directly continuous with politics of another, more obvious kind.

VII. CONTROLLING THE DISCOURSE

What has happened in this thought-experiment is that I have asked you to begin to think about economics as a total culture, about what it would mean to make one feature of our shared existence, namely economic exchange, the dominant metaphor for all of our shared existence. For me at least the results are impossible. I have described economics as a political system and as an economic system. A full account would go further and describe it as a psychological system, a religious system, a linguistic system, a system of high

30. For helpful assistance in thinking about the psychology of this system, and other social systems too, see DONALD W. WINNICOTT, HOME IS WHERE WE START FROM: ESSAYS BY A PSYCHOANALYST 239-60 (1986), where he argues that democracy at once depends upon the emotional health and maturity of the citizen and contributes to those things. An ideology based on consumption, on strategies for maximizing, on a view of human tastes as of equal value and of their satisfaction as an unqualified good thing, is hardly a recipe for health and maturity.

31. One object of religion is to draw our attention away from the apparent meaning of our activities and towards something deeper, towards what in the view of the religion in question is "really going on" while we lead our daily lives of work and play. The religion speaks to what can be seen only from a distant point, from which life can be seen as a whole. It normally does this against our desires to deny certain features of our lives, especially the fact that we are mortal and that all object-oriented satisfactions are certain to end in failure. The idea is to bring us face to face with what we normally deny about our nature and our circumstances, with the idea of helping us live on those terms, that is to say, more truly. This I think is true of all religions with which I am at all familiar.

What would happen if one tried to make a religion of, economics? It is true that the economist wants to penetrate the forms of life to reach a deeper truth, but economics works in the opposite way from religion, namely to narrow our range of vision and increase our denials—it denies not only what we repress but also what we know in our daily lives—with the effect of stimulating or increasing object-oriented behavior.

Similarly, while religious language is typically transcendental—a way of pointing or leading to a mystery in the world or in the self that cannot be described or
culture and education, a system of reason, and so on. I have not done that in any detail, but you can perhaps see the lines along which such analyses would begin.

Fortunately, as I said at the outset, the picture of economics as a total culture, even apart from any errors of understanding I may have made, is at most an extrapolation, an exaggerated rendition of certain implications of economic talk. No economist makes economics his only language; no one could. It must in the end bear some reciprocal relation to the rest of the culture, and the question is what that relation should be.

The economist, as insider, has to ask himself how this language, to which he is deeply committed, can and should be integrated with other languages, what other aspects of the culture should be mobilized and kept alive in his mind and talk. For us as outsiders the question is both harder and simpler: harder because we know less about the language, but also simpler, for we are less committed to it. We can thus regard our main tasks as establishing habits of caution and circumspection before adopting its modes of thought and expression, and as learning to insist upon their subordination to the practices of the larger culture, including the legal culture, of which we are a part.

A. The Place of Economics

I assume that the language of market economics, properly controlled, can be instructive and useful for the analysis of those activities that proceed on its assumptions: where there is a market with easy exit and entry, where the itemization by which the market proceeds involves no serious denial of complexity, where there are adequate substitutes for the items exchanged (hence elasticity of supply and demand), where the motives of the traders are in fact wealth-

reproduced in language, one that is beyond the reach of the "rational" mind—economics tends to claim not only that everything can be reduced to the power of reason but that it can be reduced to a very small number of mental functions indeed. Instead of ennobling humanity by recognizing our every capacity and the limits beyond, it reduces humanity to a tiny slice of experience and thought. If economics were a total culture, then, and its language treated as adequate to all occasions, it would create an anti-religion, turning people away from trying to understand the meaning of their activities in a larger context, as fundamentally ethical and relational, and towards a reduced understanding of them, as activities defined in terms of goals or objects.

This can of course be presented as a kind of hard-headed realism, an aversion to mushy talk about "meaning" and the like. But here as elsewhere, materialism is chosen for non-material ends that can themselves be seen and evaluated. Economic discourse expresses the deep desire to live in a world of objects and instruments, a world in which human actors compete for acquisition, prestige, and domination.

32. I say something about the economists' view of language at pages 170-72 supra and page 201 infra.
maximizing, where most or all agree that the relevant values translate into dollars or some other medium of exchange, where the actors are more or less equally situated with respect to wealth, competence, and other constraints, and so on. In such cases the law may sensibly speak in economic terms; and when the legislature has chosen to do so, lawyers and judges should accept that judgment. But even here, where it works best, economics has the political and ethical implications, and some of the economic failings, that I describe above, and as I shall say more fully below it should be continuously subordinated to, and perhaps modified by, the discourse that defines our political and constitutional tradition.

Economics has made real contributions to the law as well, in teaching us, as Ronald Coase has done, that we should focus our attention on the degree to which any arrangements we try to impose may be bargained away,33 or, as Judge Posner has done, that there are new ways to think about “negligence” and “strict liability,”34 or, more traditionally, that the actual burden of a tax may fall upon someone different from the one who pays it in the first instance. I think the greatest contribution of economics has been to complicate our sense of our own language, and of the world, by showing us that other, often paradoxical, formulations are possible. It offers some of the mischievous pleasure of disturbing settled views. As one voice among many, one way of claiming meaning among many, it thus has a place in the legal process even outside the economic zone.

But this is a far cry from speaking of all transactions as if they were exchanges, or offering the language of market-economics as our central social metaphor, or conceiving of the world upon which the law works in such terms.

The point of my remarks is not that the market, or its study, should be abolished, but that both should be subordinated to the values and practices of our larger culture.35 When I look at our country I see a community of great virtue and strength, as well as considerable vice and weakness; when I look at economics I see a language that is deeply inadequate for talking about what is best in our shared existence; indeed, I think it is destructive of it. The greatest achievements of our country have in my view been legal and

35. I should perhaps also add that I am not at all opposed to the continuation of our market economy, especially by comparison with its polar opposite, the centrally planned bureaucratic one. But I favor it on pragmatic, not dogmatic grounds—there is no better alternative; it provides some source of power to resist the excesses of centralized government—and I certainly do not regard its results as entitled to any special veneration or respect if they seem, as they often do, on independent grounds to be undesirable.
political, not economic. It is not upon the fact that we have so much wealth that our claims to respect and self-respect should rest, but upon the fact that we have, or have had, a new kind of politics, a new set of relations among the citizens and between the citizens and their government. Our object should not be to achieve maximum "growth" but to try to insure that each human being is able to realize his or her potential for a meaningful life in community with others. Ours should be an "economy" that has as its central value the meaning of our individual and collective activities and relations, not the production and consumption of goods and services.

B. A Problem of Writing

I have said that economics should be integrated with, and in important respects subordinated to, the rest of our culture, to the rest of what we know and value. But how, and with what effects, is this to be done?

The forces against which we must work are powerful ones, for the conversion of theory into ideology, the movement from a set of obviously false assumptions to a picture of our social world thought to be true, is a natural process—anyone tends to universalize his language and its assumptions—and one that it is hard to resist, perhaps impossible to resist completely. But I think I know where in the effort we should focus our attention, and that is on the attitude we have towards the language we are using. The conversion of theory into ideology works by a literary process, and I think the most important method of resistance for economists and others alike is literary too: it is to keep alive the recognition that not everything can be said in economic terms, that there are other languages, other cultures, with which it must have a relation, and to which it should on many occasions submit.

This is not just a matter of saying, "Oh, yes I know all that," and proceeding as usual. Sensitivity to the political and ethical significance of the discourse, and to its intellectual limitations, if it is real, will show up not merely in appendices or prolegomena but also in our actual writing and talking. This means that the discourse itself will inevitably undergo transformation of kinds now impossible to foresee. Not only, then, are those of us who stand in the general culture wise ourselves to resist the imperialism of economics; we can properly insist as well that in speaking to us the economist integrate what he knows as an economist with what he knows in the rest of life, and reflect this knowledge in his talk about the nature of our community and its future. I am not trying to suggest that economists should stop their trade—far from it—but that they should become something else as well, rhetorical and cultural critics of their own discourse. When they do, I believe they will find ways to harmonize more fully the ways in which they conceive of the world
as economists and the other ways in which people act and talk.

Even if my account of the sort of economic thought with which I have been concerned is erroneous, or misleading, or unduly alarmist, there remains at least this to say, of which I am sure: whatever its merits, the language and practice of economics cannot be justified in its own terms. Whoever is to think and speak seriously about this matter must in the end turn to some other discourse, some other language, than economics. When that happens one necessarily affirms a view of self and language for which economics itself is insufficient. This is to take the single step I think most essential, to begin to think in more than one language, more than one voice, and thus to locate the particular practices of a discourse in the larger context of the rest of what we know and are.

To put my point even more strongly: when the economist speaks to us he is acting not as an economic actor himself, engaging in arms-length exchanges designed to increase his utility, but as one mind speaking to another, seeking to persuade to particular conclusions, to a language, to a view of life. He speaks as a person asking to believed. He is engaged, that is, in the rhetorical and communal practices of conversation, in which he asks to be listened to as one who seeks the truth, and these are activities for the description and criticism of which his own language as an economist is wholly inadequate.

C. The Culture of the Law

I think that one especially important “other culture” is the law; and that it is critically important that law not collapse, as it is so earnestly invited to do, into the economic mode of thought that operates on such different premises. Indeed, I think that law might well serve as a model for judgment in the economic field, rather than the other way around.

How is law different? To give an account of the law and its methods has been the major aim of my other work, and here I can be no more than sketchily suggestive. But some distinguishing features of legal discourse, in its ideal form, are that it assumes an equality of actors and speakers, not of dollars; that it provides a set of speaking-places where real differences of view and interest can be defined and addressed; that the language of law is not self-applying but leaves room for argument both ways; that it is continuous with ordinary language and politics, and thus necessarily respects the culture it acts upon and out of; that its methods of reasoning are not linear but multidimensional; that its conversations take place among a plurality of voices; and that it is inherently idealizing, taking as its constant subject what we ought to do, who we ought to be.

What the law insists upon is that we are a discoursing community, committed to talking with each other about our differences of per-
ception, feeling, and value, our differences of language and experience. The task of law is to provide a place and a set of institutions and methods where this conversational process can go on, as well as a second conversation by which the first is criticized and judged. In law, political power is divided up among separate actors under circumstances requiring that they talk to each other. It thus creates an occasion and necessity for deliberative and institutional politics, a method of collective thought, that is in principle wholly different from the expression of want or desire in the instant referendum of the market. This process is not reducible to the metaphor of exchange, to a conception of humanity as consisting of self-interested atoms trading at arm's length, or to a view of the institution—or "firm"—as such a trade set up on a permanent basis. Institutions are part of the culture that makes us what we are; they provide talking-places of special kinds and a kind of collective memory too. The method for the analysis of this process is rhetorical, the standards ethical and political and cultural: Who are we to each other? How do we address our differences in language and situation? How can we best bring our inherited resources to bear upon this case or this situation, and in so doing affirm and transform them?

The discipline of economics, by contrast, is single-voiced, and in the legal context tends to reduce all questions to the single dimension of policy. As a "policy" discipline economics cannot take over the law without destroying certain of its essential features: its multivocality, its attitude toward limits and ignorance, and its sense of the authoritative. To reduce law to policy, that is, whether of the old-fashioned liberal or neoclassical economic or some other kind, is to cut through the complexity and reality of legal thought, at the center of which lies fidelity to judgments made by others. This point has in the past been well and repeatedly made in opposing the view that the judiciary should regard themselves primarily as policy-makers; it can be made again with at least equal force in the present context.

One can put it this way: To ask, "What policy should we follow?" is to pose a question that lawyers and judges must address, but it is not the distinctive legal question. That question is, "How should this case, under this set of authoritative texts, be decided?" Of course this question raises what are called policy issues, and with those issues economics and the other policy sciences can be helpful, as can other forms of discourse altogether, based upon intuition, for example, or a sense of character or fundamental value. The lawyer's task, and the judge's too, is to bring to bear upon the case the whole range of available languages, testing them against each other, on the understanding that one is to be continuously faithful to those sources of authority, external to the self and to the present moment, that are expressed in the texts that define the law. The force of economic discourse, at its most extreme, is to destroy the law and replace it with something else.

For an elegant discussion of the central place of the authoritative in our conception of law, see Joseph Vining, The Authoritative and The Authoritarian (1986).
practice they are located in a complex context of competing arguments, cast in other terms. Much of the meaning of law lies in the tension it creates among various ways of speaking; one of its great tasks is to locate policy discourse, including economics, in a context that cannot be accounted for in its terms.

The difference between law and economics is perhaps most sharp on the central matter I have been addressing, the attitude towards one's own language and world. This I think can be posed as a question of attitude towards translation and translatability. Economics goes most seriously off the rails when its practitioners assume that everything can be said in its terms, that it is an adequate language for constructing the central metaphors of our social life. This is to speak as if one's language is transparent or conceptual, and has no force of its own. What is real to such a speaker are the objects in the world and the people who desire those objects and struggle with each other, one way or another, to obtain them. The function of language is to represent this world. Language has no independent social or cultural or political reality. It is simply a transparent system for identifying the actors and those objects in the world that are the objects of desire or disdain, or for pointing towards the concepts, existing above or beyond language itself, that create the mathematical entity called an economy. The language of economics is thus assumed to be a super-language, or an authoritative meta-language, in two dimensions: it describes the world the only way the world can be described; and it creates a set of conceptual structures which, if they meet the test of economics themselves, are the only accurate conceptual structures for thinking about the world. Everything that is real can be said in, or translated into, this language.

The other attitude to have towards language, including one's own—I call it a literary view, though many physicists and biologists would recognize it too—is that all languages are limited; that none says the whole truth; that full translation from one to the other is always in a deep sense impossible. This means that the most profound obligation of each of us in using his or her language is to try to recognize what it leaves out, to point to the silence that surrounds it—to acknowledge the terrible incompleteness of all speech, and thus to leave oneself open to hearing other truths, in other languages. At its best the law does this, or strives to do so, for it is a constant

37. Legal language has conceptual elements too, but the tendency of the law to become a purely conceptual system is systematically undercut by the pressures of the particular case, by the recognition that our terms can (and will) be perpetually redefined, and by the knowledge that each case has two sides. The law is a system for the change of language as well as its application.
linguistic competition. How to characterize the facts and the law, how to conceive of and feel about the case, and what, therefore, to do about it, are the central questions of a legal hearing. The lawyer knows that her categories are those of argument and judgment, not simple factual description. The terms of her language itself are always arguable. The legal conversation must therefore proceed, if it is to proceed well, with a kind of structural tentativeness about itself. The law, at its best, is a system of translation that acknowledges its own inadequacies. It should listen to economics, regarding it as one language, one set of metaphors, among many, and be willing to use it when appropriate and with appropriate qualifications. But the last thing it should do is turn itself over to this other culture, working on such different linguistic, social, and political principles.

To return to the most general version of my question and ask by what central metaphors we should conceive of our world, our motives and our relations, I think we should turn to the traditional constitutional conception of humankind living in a natural world beyond our full comprehension, bound together by law, the first principle of which is the equal value of each human being, and under a set of governments that democracy aims to make communities as well. We can conceive of human beings as living in time, in cultural and social contexts; as growing from childhood to maturity; as having children of their own; as people with a variety of languages and voices; and we can do so with a sense of the limits of their minds and ours. We can conceive of the material universe as fundamentally organic and we can acknowledge our dependence, economically and otherwise, upon it. Law, as we have traditionally conceived and practiced it—as a rhetorical and cultural activity, as an art of language and of life—has been based upon such a view of human life. It has the great merit of drawing our attention constantly to the limits of our own point of view, of our own language, and towards the unknown merits of another. We should not abandon it.