

Is American Capitalism Dead?

J. R. T. Hughes
Northwestern University

I.

Perhaps not, but it certainly has changed. By official count we had 13.6 million business enterprises in this country in 1973 -- 10.6 million proprietorships, 1.0 million partnerships, and 1.9 million corporations. Most business done in volume was in the corporate sector, which gained \$2,993 billion in gross receipts, compared with \$311 billion for proprietorships, and \$124 billion for partnerships. In manufacturing and finance the concentration within the corporate sector was impressive. Of 313,000 manufacturing firms the top 50 (0.006 percent) companies employed 17 percent of the workers and created 25 percent of value added. The largest 200 companies (a mere 0.06 of 1 percent) employed 46 percent of workers, produced 43 percent of value added. Of 14,657 commercial banks, the 50 largest, 0.34 percent, held 26 percent of total bank assets, and of 1,790 life insurance companies, the largest 50, less than 3 percent, owned 80 percent of the assets. In 1975 there were 328,000 new incorporations and 254,000 bankruptcies. (All data are from the *Statistical Abstract of the US* (Washington: US Superintendent of Documents).)

By such measures, depending upon how you feel about concentration and corporations, American capitalism may seem robust enough; but such measures are not the relevant ones for our purposes. The questions we ask are qualitative regarding power over property and control of its uses. So "how much" capitalism there is depends upon *who* makes the important decisions about economic life. Given our constitution and history, private ownership and millions of firms are almost the only nonutopian arrangements we *could* have.

Karl Marx predicted that capitalism would be destroyed because of its failures. Joseph Schumpeter thought it would likely drown in its own successes. Other writers before and after Marx and Schumpeter noted the prospective fall of capitalism. The only

questions were how and when? These were reasonable speculative assessments. After all, capitalism, the private ownership and control of productive resources, is a social system, and there are many different social systems known to man, now and in history.

Taking the long view, the few millennia of recorded history, social systems come and go. The rate of interest existed in Hammurabi's time, in the Old Testament, in ancient Rome; people in antiquity clearly held some of their productive resources privately and profited from them. Slavery, for example, was nearly universal in antiquity. Elements of capitalism have thus been present in the world for thousands of years. As a force in history, capitalism has waxed and waned more than once. Present-day capitalism reached its zenith in conjunction with the industrial revolution. There is no reason to suppose that American capitalism, in its vital form, should last forever. Indeed, the future without it has been clamoring impatiently in writing since St. Simon. Ready-made future systems, Edward Bellamy [1], Aldous Huxley [16], or, worse luck, George Orwell [24], have long been waiting in the wings. How long must the future wait? Surely a good question for anticapitalists to ask. American capitalism grew out of the mercantilism of the British colonization over here, and now, 370 years after Jamestown, and over two centuries after our national independence was declared, we find ourselves in what seems to be a strange world, in which our version of capitalism is wobbling markedly.

The problem with discussing this is that we are trapped in a distorted self-image. Most of the important ideas about capitalism are pre-1900 [14]. This is true of opposition as well as intellectual justification of the system. The unofficial ideal in this country, the desideratum, if you listen to mainstream American business, labor and government leaders, and some academic economists [5], is something called free-enterprise capitalism. Reality is terribly different. Some 40 percent of the GNP is now expended by governments (all levels) for their purposes; 80 percent of the GNP produced in the private sector is subject to the behavioral controls of our antitrust acts [23], and a portion, conventionally estimated at 10 percent of GNP, is subject to direct government regulation by the old-style industry regulatory agencies [25]. No one seems yet to have ventured an estimate of the coverage of the new blanket controls such as those of the Environmental Protection Agency [27]. It is perplexing. We have to wonder why, if we really are striving to maintain a free enterprise system of private capitalism, we have this huge apparatus of government waxing fatter year after year, while uncontrolled areas of our economic life continue to contract and vanish.

II.

As I have noted in another place [10], the American economy of 1870 would have been largely illegal a century earlier and would be largely illegal a century afterward. Harry Schreiber [26], Morton Horwitz [9], and others have explained how the legal revolution, called by Horwitz the *transformation* of American law, made possible the appearance of classical American capitalism on the stage of history in the 19th century. James Willard Hurst [15], Alfred Chandler [4], and the whole guild of business historians showed us how that capitalism proliferated into the characteristic giants of American economic history. Others have shown how our social and political system responded to envelop that structure of corporate enterprise in an ever tightening and everlasting web of nonmarket control [27, 20, and 11].

Just as the colonial world of established markets, indentured servitude, slavery, government-supported religion, sumptuary laws, prohibitions against the use of joint stock companies for financial purposes, ancient lights, unfettered rights of "private enjoyment" of real property [12; and 9, Chs. 1 and 2] vanished when classical American capitalism emerged and created the 19th century American economy, so has that system, the social and economic milieu of our Vanderbilts, Morgans, and Carnegies -- given way before the rise of our own regulated economy.

We have clung to the notion that we are somehow still a capitalist economy, despite all, yet we have been forced to temper the description with new phrases: "mixed economy," "welfare state," "new industrial state," "postindustrial society," and what have you. We really ought to think about this. It is as if a chocolate cream pie had been slowly transmogrified into lemon meringue, but the cook has refused to alter the words used to describe it on the menu, and the patrons, knowing in their souls that it is no longer chocolate cream, have been too polite to ask for a frank accounting of the ingredients. Perhaps they fear that lemon meringue causes cancer, so it is better not to ask.

Yet the unease remains. We know that we are not living in classical capitalism any more. A witty colleague of mine, F.M. Scherer, noted that in 1977 we were celebrating the centennial of *Munn v. Illinois*, that great legal landmark between the past and the present. I fear he was the only one who attended the ceremonies and the ballroom was otherwise empty. The change has been going on a long time. We know, however, that the socialism, utopia, or nightmare promised by Marx, Bellamy, and Orwell never came (yet). Stanley Lebergott has recently shown us [19] that there is not a great deal of welfare in our welfare state, and Murray Weidenbaum has demonstrated that ours is a "mixed econ-

omy," about like water might adequately be described as a mixture of hydrogen and oxygen. Or that Chateau Lafitte Rothschild is fermented grape juice. As for the new industrial state, J.K. Galbraith has few true believers following the trail he blazed. Who knows, after all, the name of the General Motors chief executive anymore? Who cares? But we all know who Ralph Nader is, and the whole world (judging by media exposure) cares what he thinks.

III.

Modern theorists seem to be pretty well agreed that the irreducible definition of private property rights is exclusivity [3], the state-supported power to exclude others from the enjoyment of that to which one has title or other evidence of ownership. The boundary, shifting and nebulous, between private and public goods can be said to be defined by exclusivity. With public goods free riders cannot in theory be excluded (although circumstances make complete publicness fairly rare). Nevertheless, the distinction is clear enough, in the rough and so, it seems to me, is what has been happening to privateness, the basis of capitalism in this country: it has increasingly been endowed with the characteristics of public goods, and exclusivity has been perforce giving way to its antithesis, inclusivity. What the changes we have described have amounted to is loss of privacy, over income, over use of property, over its economic transformation. We always have had such nonmarket controls potted here and there in the American economy, so far as I can tell, *all* the way back. The question is one of *balance*. The classical balance of American capitalism by 1870, included no income tax, virtually no federal controls, with the Granger laws of the states about to enter the stage of history. Then the change began. Part of the public domain was reserved with Yellowstone Park in 1872, the revival over here of the King's forest. That movement continued until now further sales by the government of the public domain have nearly ceased. Permanent federal nonmarket controls of business were dramatically extended during 1887-1914, then augmented immensely in the succeeding decades [11]. The federal income tax appeared in 1913 and in World War II became the progressively structured check-off system we know today. Municipal zoning ordinances of the late 19th century have now become our ubiquitous system of federal and state environmental controls. Liberties in the Constitution became the civil rights movement and are now enforced by the federal arm. The "free wage contract" became in the 1930s government establishment of labor unions and ever widening areas of compulsory collective bargaining.

I need not dwell on such lists; they are familiar to all. But there are considerations that are not so obvious, and these relate to the uncanny way we are returning to the spirit of the 18th century balance of neighboring rights in real property, except that Blackstone's individual neighbor who might stop you from blotting out his ancient light, or damaging his original amenity by a lawsuit -- that troublesome spoilsport who was suppressed by Horwitz's early 19th century legal transformation [9, p. 30] -- has now returned; but in new clothes and with a power Blackstone never imagined. He is, through the myriad of controls of environment, safety, public health -- the state. He need not ask you, in the famous phrase "...to find some other place to do that act, where it will be less offensive..." [9, p. 30], he tells you where you can do it, and he may forbid you to do it at all, at any location.

Another facet is the perspective we get from the history of federal nonmarket control. We see now that the experience Louis Hacker [7] called the "triumph" of American capitalism in the late 19th century really was its climacteric in terms of its institutional freedom and development. Was the drift toward a controlled economy just a mindless sequence of small changes, each one reasonable in itself, until it added up to a critical mass? Or did American capitalism succumb to a death wish, beginning with the ICC, and demand regulation of itself in the interests of greater short-run profit as Gabriel Kolko [17] has suggested? Another alternative, of course, is that capitalism never had a real mind of its own, but was just the creature of the larger American society whose own shifting ambitions, expressed via democratic institutions, has produced the kind of economic system it really wants. A more farfetched idea would be to endow the American "state" with a brain, and then argue that whereas it once wanted a capitalist economy, it now wants something else, and is cancelling capitalism out.

IV.

One might suppose there were some built-in defenses of American capitalism's historical longevity in the major instruments of capitalist development; private rights in real, intangible, and incorporeal property, the corporation, and so forth. I do not think this view can carry much conviction. I think these sorts of institutions could mainly serve almost any social system based upon private ownership. Consider, for example, our form of tenure in real property. This is, at bottom, the one fundamental institution upon which all else was built.

What we now call fee simple began its career in this country as the ancient English land tenure, free and common socage.

Its distinguishing attributes were basically that (1) the "fruits of chivalry" could not be extracted from it, (2) there was direct inheritance without escheatment, (3) after 1541 property in this tenure could be devised by will, (4) there was right of free alienation, (5) incidents of it were fixed and certain, and (6) the tenure included right of waste. In all other respects it was subject to basic English land law including *quia emptores terrarum*, the law of 1285 which forbade creation of new feudal obligations by persons selling land [8; and 12, Chs. 3, 5, and 6]. For private buyers in this country the latter has actually been recently strengthened (private covenants are no longer enforceable). Right of waste -- the "abuse" of property by its owners -- has been limited now by land-use laws. Income taxes have also severely restricted the notion of private rights to the "fruits" of property. Land-use and zoning laws have also limited the right of alienation. Fixed and certain incidents are no longer so fixed and certain as property taxes and assessments have soared. Direct inheritance remains, right to devise by will remains, and so far the fruits of chivalry have not been reimposed -- although special assessments may sometimes remind one of feudal impositions to finance royal marriages, ransoms, and other official needs. Even though the private owner may sometimes feel as if he needs a new Magna Carta, the basic form of the tenure remains, however restricted, and serves now as it did for the Virginia charter, and as it did in England centuries before that. The technique of private ownership of real property remains even though the surrounding social milieu has changed again and again. It is not necessarily a buttress of any particular system, narrowly defined, so long as private ownership of real property exists at all. What capitalism seems to have required for its strength was *control* of what was privately owned. Ownership without control is something else -- as has been noted many times in the case of the modern corporation. But "management" in our case is government, not professional corporation executives.

Similarly, the corporation as we know it is a creature of the state and in American history, the state during the period of capitalist expansion and development. Yet the diversity of ownership in the corporation need not be restricted to our experience of professional management -- it could just as well exist with worker management. Modern experience in western Europe demonstrates this. Corporate immortality could go with any form of management or even of worker ownership of the kind described by Peter Drucker. In fact Weidenbaum concludes that a new generation of corporate managers *outside* corporate employment altogether now rules decision-making processes [27, p. 286].

This time the shift is from the professional management selected by the corporation itself to the vast

cadres of government regulators who are influencing and often controlling the key managerial decisions of the typical business firm.

These are government officials enforcing the new blanket non-market controls over businesses. Limited liability, the gift of the state, would fit equally any form of ownership or control. So long as the corporation remains as "a being in contemplation of law," it could serve virtually any social system. Our corporation is uniquely American, but other countries have corporations too, with diverse ownership, immortality, and limited liability in corporations which far antedate the American corporation.

I see little in modern economic institutions which would necessarily protect capitalism from being transformed into something else, and I suspect that is basically why our present system has so fundamentally and peacefully changed in the past century that the word capitalism, if it fitted well in 1870, surely does not fit now. Moreover, it is striking, as Herman Krooss pointed out in his book, *Executive Opinion* [18], that our bad old robber barons gave up so easily. One suspects that some historians attributed more power to the great capitalists of old than was really justified.

V.

What is it, then, that we have created? We have changed, and continue to change, the balance between private dominion over property and obligations to "the public" regarding its use. The public obligations are defined by the state, and it has become increasingly active and inventive about those obligations. The idea that property rights involve public obligations was, of course, a fundamental of English feudalism.

The main characteristic of the new balance of rights and obligations is very extensive use of government power to expand, improve, and perfect the amount of public amenity -- the quality of life for all -- at the expense of exclusiveness of private property. We have done all this in economic life just as we used the same power to make civil rights accessible to those who could not realize them privately. The two movements accelerated in the 1960s, more or less simultaneously, and may well represent the same impatient and impulsive feature of the national psyche. We can see the possibility of desired improvements; natural processes, working through the market and normal civic development, are intolerably slow, so we impose nonmarket, or government controls to hasten "progress." For most of this century such progress has been a surefire vote-getter for politicians, and was exploited accordingly.

You will perhaps recall that Lord Bryce, back in 1893, predicted such a fate for laissez-faire in this country [2]. He said we had no fear of government power because we had no public conception of the state (*der Staat* in the European sense) and had too little experience with centralized power and its inevitable tyranny. He said we felt the machinery of government was ours, within our control by democratic procedures, and would not hesitate to use it in our rush to develop the country.

Lord Bryce was an honored prophet in his own time, and it strikes me now that Edward Mishan and the Galbraith of *The Affluent Society* may well become the real prophets of our era. It has been Mishan who has persisted most persuasively in arguments that individuals have a natural right to original amenity [22], which had been lost to industrialism and economic growth, and that it ought to be restored. But it was Galbraith [6] who argued that it must be restored *en bloc* by direct use of the public sector, and only that technique could clean up the mess. We are now experiencing the restoration of amenity (clean air, water, the restoration of silence); and the public sector, employing every sixth person in the labor force, when the *Federal budget alone is nearly double the amount of private investment*, must have surpassed Galbraith's wildest dreams.

What does one call this? As I said earlier, the words socialism, mixed economy, welfare state, postindustrial economy, do not fit any better than capitalism does, and "modern economy" begs the issue. I had thought of "Amenity Economy" but was told by my wife that most people would think I was referring to indoor plumbing. Someone will aptly name our present system.

Parts of old-time American capitalism survive within the structure of the new controlled economy, just as feudal land and social systems lived on (and still live on to some extent) into the age of industrial capitalism. As we have seen, our basic economic institutions might well continue to function after the last identifiable capitalist has disappeared beneath his environmental impact, HEW, and Form 1040 statements.

VI.

One hears talk about deregulation, and the restoration of American capitalism to something like its vital form. Neither can I take that seriously. Such talk is currently good politics (Carter, Ford, even Nixon) like antitrust once was, or redistribution of income once was. It is not really possible. Consider the simplest ratio. In 1929 private investment (capital formation) was *five times* the size of the federal budget, and public control was limited to the old federal agencies (GNP in 1929 (at current prices) was \$104.4 billion, private investment \$16.2

billion, and federal expenditures \$3.3 billion). To restore that world boggles the mind. We would now need a federal budget cut of 87 percent, to a mere \$60 billion, with our present level of private investment, or private investment would have to equal \$2 trillion (instead of \$265 billion) in 1977 with our present federal budget (\$460 billion, 1977 estimates) to return to even the aggregate financial structure of 1929. The resources, the people, the power, all have shifted now. The public sector has become the source of action, where the media focus, where the glamor is, where bright young people long to devote their lives. The private sector now serves and finances the interests of the public sector and will continue so to do. The decisive economic power no longer is in the hands of private interests. Big business is now merely a powerful lobby in Washington, where once it was supposed to be the main power in the land.

To some these changes are obnoxious, and to some they are wonderful improvements. I do not intend to take sides here; but I would point out that the situation is not without some humor. Realization that American capitalism has vanished would be a real blow to the hopes and dreams of Marxians and leftists everywhere, since the opposing specter of American capitalism has long justified to them the continued existence of the brutal police states of the "socialist" world. One thing seems certain to me about the future, here and in the socialist world, and that is that anarchism of all varieties must logically become the foundation of future social criticism. What we see here, in the Soviet sphere, in China, in Cuba, is that as social systems change, the state remains. The modern state, in control of military power, most of the weapons, central banks (money creation), and central data sources (information control) is invincible, no matter what is the "mode of production." Marx got that all backwards. It is the military state of Russia-cum-USSR that has survived everything. Our Carnegies, Fords, and Morgans are just memories now. We all work to support the state, its needs, its personnel, and its decisions.

VII.

Finally, economic historians must consider the matter of the entrepreneurial role. So long as technological changes exist, and we live in an international economy, *someone* must assume that role. The American economy until perhaps the 1930s had its technological foundation developed and structured by our entrepreneurial capitalists -- the economy was the sum over time of their decisions [13]. As the shift to federal nonmarket control of the private sector accelerated and the fiscal power of government mushroomed, the entrepreneurial role seemed increasingly to fall

between two stools. We were into Seymour Melman's world [21], with American technological genius pouring out the products of the new state power, weapon systems, space hardware, and social reorganization. The old cities and industries languish, and the time has come when the great American industries such as steel, autos, and electronics have joined our ancient "infant industries," the carpet makers, the glass and pottery makers, the woolen industry, crying out for protection from foreign competition, while our aircraft, our weapons, and quasi-military technologies sweep all before them in international competition. If the decision-making power of economic life is to be centered in government, then the entrepreneurial role must be assumed by that sector, which now occupies directly some 40 percent of the economic space in this country. We cannot have much of a technological future in the civilian economy if only the remaining 60 percent of currently produced income is available for entrepreneurial experimentation, and even that proportion is disposed by private organizations hobbled by controls. In military technology the fusion of the state and private entrepreneurship has long been the basic paradigm in this country. Medicine and university research in many directions have also been proceeding under the federal fescue for decades. More purely civilian technology must go that route too. In fact, that development is increasingly visible now as federal agencies themselves are financing research in such novelties as windmills, solar energy, long lasting and energy-saving lightbulbs, oil from shale, and so on. These are developments which follow the logic of our modern history. It is not capitalism, if that is what we used to have, but it works, or at least one hopes it does. That seems to be the only future before us.

Is American capitalism dead? The heart and lungs have been kept going by Keynesian medical machinery, but there have been no signs of brain waves for a long time.

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