

The Betrayal of Government

By Mark Ahlseen

Abandoned: The Betrayal of the American Middle Class Since World War II, by William J. Quirk & R. Randall Bridwell (Madison Books, 1993)

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This book attempts to demonstrate that the federal government's policies since 1965 have burdened America's middle class (defined by the authors as those families with incomes between \$25,000 and \$85,000). The authors, William J. Quirk and R. Randall Bridwell, are professors at the University of South Carolina's School of Law—which may explain why this reviewer found their section on law and the courts to be the most stimulating. Their contention is that America's constitutions, both official and unwritten, valued the individual and maintained the integrity of the middle class. Since 1965, and before in some instances, the federal government has abandoned the middle class and, in many cases, blamed them for America's problems.

The authors categorize this abandonment into four areas: 1) Money Abandonment (including tax abandonment), 2) Political Abandonment, 3) Legal Abandonment, and 4) Academic Abandonment. It is in the first area that their analysis occasionally becomes suspect as well as verbose, utilizing 200 of the book's 438 pages. The analysis begins with a local situation in the state of New York. According to its state constitution, government borrowing is only allowed if a) it is for a capital project and b) a majority approve it via a referendum. This obviously limits the state's spending capabilities to the desires of the middle class which makes up the bulk of the populace. But beginning in the early 1960s Nelson Rockefeller needed a scheme to get around this constitutional restraint for his grandiose spending schemes. He found an accomplice in John Mitchell (of Watergate fame) who devised the “moral obligation” bond and the lease-financing device. In essence, the latter requires the sale of public assets, resulting in revenue for the state, and then leasing them back. Many times this sale was to a quasi-corporation created by the state. The problem with this type of financing is that eventually the state runs out of assets to sell.

At this point the authors expound on two particular transactions. First, the Urban Development Corporation, established by the government, purchased Attica prison from

the state with borrowed money and then leased it back to the state. The corporation could issue bonds, even though a prison has no revenue sources, because of the state's promise to pay "rent" on the prison. Secondly, in 1976, Donald Trump found a way to circumvent the constitutional restraint and provide financing for New York City. He purchased the Commodore Hotel for \$10 million and then sold it to the defunct UDC, which still had statutory powers and privileges, for \$1. The UDC turned around and leased it back to Trump for 99 years. This may sound generous, but it is estimated that Mr. Trump saved over \$150 million during the course of the deal for one of the UDC's privileges was that it did not have to pay city taxes on property it owned. Quoting the authors (p. 43), "The court of appeals had said they didn't want to strain themselves to find illegality in such imaginative programs."

It is the authors' convictions, to which I concur, that if the constitution had been obeyed, New York City's financial crisis would never have occurred. Yet it was decided that the people did not know what was best and needed the enlightenment of politicians. As the authors note, government debt is essentially anti-democratic since it restrains the freedom of future generations without their consent. Undoubtedly, the will of the people of New York was circumvented by the politicians and the courts.

Similar unethical practices occur at the federal level, a prime example being the bank and savings and loan bailouts. Much of their analysis here is correct but much is also faulty. In a nutshell, government regulations and policies resulted in a heads the bank (or S & L) wins, tails the taxpayer loses situation. The bank bailout is easier to analyze. Simply, the banks made bad loans to the third world and when they defaulted the taxpayer picked up the tab. But why did banks lend money to the third world instead of to domestic producers and consumers? Because the government guaranteed the loans. Therefore lend money at 15-20% and if they pay it back, great; if not, the taxpayer will. The savings and loan situation is slightly different. Regulations prevent S & Ls from offering high returns to depositors. But this resulted in lower interest rates for mortgages to the middle class. The government regulations are not a problem in periods of low and stable inflation. But the 1970s witnessed the opposite. As depositors sought higher returns elsewhere, many regulations were dropped. Eventually, the S & Ls made bad loans as well (the highly subsidized deposit insurance contributed to this) requiring taxpayer bailouts.

The authors suggest that the partial deregulation of banking and the subsequent bailouts was an abandonment of the middle class. Banks certainly received their share of government privilege but regulation is not the answer. The total deregulation of banking is the answer. If there is to be deposit insurance let private institutions provide it and charge premiums based on each individual bank's (or S & L's) lending record. Ironically, in regard to the S & L bailouts, I found little blame placed at the feet of the Federal Reserve. After all, who caused the high and volatile inflation rates of the 1970s? It was not the oil embargoes, as the authors contend, but the Federal Reserve's willingness to monetize part of the federal debt.

The authors clearly show their ignorance of international financial markets in a world of

fiat currencies. On page 52 they blame the Reagan and Bush administrations for destroying the value of the dollar. If the dollar has depreciated it is due to the increase of its supply relative to other currencies. They lament that the depreciation of the dollar has allowed foreigners to easily purchase United States assets. Given their concern for the middle class, what difference does this make (few of the middle class own large corporations)? Regardless of whether these excess dollars are used to purchase U.S. assets or U.S. goods, the money ends up in American hands. A free market trade deficit is not a concern. Most people, including the authors, fail to recognize that the extraordinary economic growth of the nineteenth century was usually accompanied by international trade deficits.

The authors next devote a chapter to Social Security. They accurately point out the substantial increases in taxes imposed on working Americans. However, they think it unjust to the middle class that this tax should cease at \$55,500 of labor income (for 1992). Obviously, they view Social Security as a welfare program. They do not accept, perhaps legitimately, the premise that Social Security is a retirement program—your benefits have some correlation to your lifetime taxes. The authors expose the fraud of the government action that was to make Social Security solvent well into the 21st century. With the retirement of baby boomers beginning in 2010, a surplus had to be generated now; hence the drastic increases in the tax rate and tax base beginning in the mid 1970s. However, most Americans are unaware that, beginning in the 1980s, this surplus was used to buy Treasury bonds and notes (i.e., financing for other government spending) and placed in a trust. The problem is: who is going to pay off these bonds in 2010 and 2030?

The authors present two possible retirement plans on page 141. Each require the same “contribution”. Plan A (Social Security) would pay \$16,000 per year for life beginning at age 65. Plan B (private savings) would pay \$150,000 to \$200,000 per year beginning at age 65 with any unused balance accruing to heirs. Undoubtedly, Social Security is a bankrupt system both literally and morally. Yet the authors support Senator Moynihan's 1991 proposal to reduce the Social Security tax. “It would return the system to its pre-1977 pay-as-you-go basis, which means money could just go to benefits. The money could not be diverted to other purposes like paying interest on the national debt.” (p. 145) Unfortunately, this ignores the horrific demographic problems that will begin in approximately 2020 when there will be two workers (i.e., social security taxpayers) for every one beneficiary.

In reading about the ever-increasing nature of income taxes in the authors' chapter on tax abandonment, I was reminded of Gary North's words in *Honest Money*: “At first, only rich people are supposed to be taxed at these higher rates. That's what the politicians promise. Cross their hearts and hope to die.” (p. 64) That taxes will continue to increase as long as taxpayers do not revolt cannot be denied. However, I was troubled by the authors' envy in their statement regarding the Tax Reform Act of 1986: “American taxpayers earning over \$200,000 per year, would receive an average tax cut of \$52,535.” (p. 116) Beside the fact that the “rich” were allowed to keep more of their *own* incomes, lower tax rates gave the incentive for many in the upper-middle class to take risks and

become “rich”. So even though the tax collected on an individual earning over \$200,000 fell, the amount collected on all individuals earning over \$200,000 increased.

Most of the section on Money Abandonment could be better explained using Public Choice Analysis. Whether or not the authors are familiar with this analysis is unclear but they hint that they are by describing pork barreling on page 127. Most of what they describe as abandonment of the middle class is really the government's abandonment of private property rights and the free market order in pursuit of appeasing special interest groups; thereby securing the next election. If the u.s. were to truly have free markets most of the issues and circumstances that trouble the authors would never have happened. The fact that they do indicates there are many middle class Americans benefitting from government pork.

The authors next devote 25 pages to the Political Abandonment of the middle class. Their abandonment comes in two forms: 1) the movement from local and state decision-making to national decision-making and 2) greater “legislative” activism by the courts. Under the first, the authors are concerned, and rightfully so, that more government programs are being initiated and funded at the national level when they are better off being decided at a more decentralized level.

Do Congressmen from California vote on whether someone from South Carolina pays more income tax, or whether he should assume liability for the S & Ls, or any other matter affecting his fortunes? Of course they do. Do the citizens of South Carolina vote on the senators and representatives from California? Of course they don't. It is impossible to combat the collective behavior of a body of 100 people when you can only vote for two, or the collective action of 435 when you can only vote for one. But—when the central power becomes unlimited—the result is that we have nationalized authority, but require only regional accountability.... Because of this lack of accountability, nobody in Congress pays a political price for even the most massive foul-up. (p. 209)

A Public Choice economist could not have stated it better. The authors' second concern is with the courts granting special privileges, rights, and protections to non-deserving groups. They assert that the middle class favors civil rights for all but does not favor affirmative action or quotas. The middle class favors due process for all but does not favor the coddling of criminals. Yet these have happened against the wishes of the majority. The section on Legal Abandonment is essentially an exposition of the second Political Abandonment mentioned above. The authors excellently document the evolution of the court beginning with Justice Story's 1835 proclamation that court decisions are opinions, not law. Justice Brandeis (1856-1941), though ostensibly a spokesman for judicial restraint, rejected the notion of law as anything other than the command of the sovereign. To him, judicial opinions are the law. The authors are critical of law schools which began, at the turn of the century, to replace traditional scholarship of learned treatises with reviewing current judicial opinion. Professor Arthur Miller tells us that the

Constitution is just a palimpsest, leaving us with the insight that nothing is really unconstitutional, just merely unpopular. If this is not bad enough, Archibald Cox's view is that the Supreme Court should act vigorously when needed reforms have not emerged from the legislative branch of government.

It is not surprising then when in 1990 federal district judge Russell Clark ordered the Kansas City (MO) School District to adopt a desegregation plan. When the school district responded that funds were not available the judge ordered that school property taxes be increased enough to cover the cost of the plan. This is obviously an erosion of the separation of powers and is a threat to all Americans, not just the middle class. The authors excellently document the abandonment of the individual in favor of groups. Before moving on, one statement from Justice Stevens must be quoted.

It is the judicial system, rather than the legislative process, that is best equipped to identify past wrongdoers and to fashion remedies that will create the conditions that presumably would have existed had no wrong been committed. Thus, in cases involving the review of judicial remedies imposed against persons who have been proved guilty of violations of law, I would allow the courts in racial discrimination cases the same broad discretion that chancellors enjoy in other areas of the law.... I believe it is more constructive to try to identify the characteristics of the advantaged and disadvantaged classes that may justify their disparate treatment. (p. 294)

The final abandonment is the Academic Abandonment. The authors note the greater centralizing of funding of public education which necessarily leads to greater federal control and a loss of accountability of local educators to their constituents. Unfortunately, the authors never question the legitimacy of public (read government) education in a free society. In fact, they appear to endorse the concept of public education. Given this lack of accountability, the remainder of this section delves into all that is political correctness.

After reading through 432 pages, I was, frankly, aghast at their solution. Their call is to return to the source of sovereignty—the people. I certainly do not want liberal elitists running my life, yet I also do not want the majority to run my life either. In a pure democracy, which the authors seem to call for rather than the rule of law, there can be no private property rights for at any moment the majority may decide to confiscate someone's property. To return sovereignty to the people, the authors call for a constitutional convention.

The American majority, in the second convention, will, in all likelihood, choose to return to a world based on the individual, rather than continue with the current Orwellian management of social classes. They will display more respect for each other than the Supreme Court and Congress have shown toward them. (pp. 437-438)

How can the authors ensure that the American majority's will, if we even want that, is

incorporated into a second constitution? I do not have the same confidence in the rule of the majority that the authors have. In a majority-ruled system I find the value of the individual, which the authors claim to support, being eroded.

In conclusion, I found no attempts to incorporate biblical principles into the analyses or conclusions; perhaps rightfully so given the authors' intended audience and/or the conditions of their eternal souls (of which I have no information). Much of their criticism of the abandonment of America's middle class has come from fallen man's ability to circumvent and corrupt the political system our forefather's established. What is needed is a return to a constitutional republic and to expound the virtue of individual freedom and responsibility that goes with that freedom.