

Of Crooks and Governments

The legal basis of prosperity

By Albert S. Frank, LL.B.

Justified Trust

The work of our lawyers and our Courts is an often-overlooked basis of our prosperity. We take law for granted.

Our prosperity is based on whether we can trust. When we send our money, will we get the goods? When we send our goods, will we get the money?

In the absence of a reliable legal system to enforce contracts and to punish crime, who would dare to trade or work with strangers? Farewell to doing business with people in other cities, let alone people in other countries.

With lawyers to draw up contracts and other documentation and Courts to provide enforcement, there is a reasonable chance of getting what one has bargained for. Otherwise, we would be reduced to having only what we could produce ourselves or trade for with our neighbors. The devastating effect this would have on our standard of living should be obvious.

Currently, two forces seem particularly threatening to this trust: private

dishonesty and rapacious government. The private dishonesty goes all the way from sharp practice to flat-out crime. Rapacious government is causing its harm in various ways, including the regulatory burden and taxation.

Dishonesty

The farmer who expects raiders to take the harvested crop has little incentive to cultivate the crop in the first place. The same principle applies to work and trade generally. Production drops, and with it prosperity.

Even those who trust when they should not trust, will not maintain their production indefinitely. Even if they wanted to, their losses would reduce or eliminate their ability to do so. Embezzlers, for example, have destroyed companies in the past and shall do so again in the future.

As for investors in Enron, they are suffering for their misguided trust in Enron's management and auditors. They have lost much of their invested capital so it is unavailable for other ventures.

Unfortunately, our legal system is sometimes less of a help than one might expect. Fraud, for example, is of little interest to our police. Even when fairly brazen fraud is reported to them, they generally say "Sorry, can't help you – that sounds like a civil dispute." As for

the Courts, they treat fraud allegations like Loch Ness monster sightings – as something requiring extremely rigorous proof.

Regulatory Burden

*If you have ten thousand regulations, you
destroy all respect for the law. Sir
Winston Churchill*

Governments and bureaucracies seem to believe that the regulatory burden they impose on business is free. It is not free – the burden drains time, energy, and money. The burden saps our prosperity.

It seems that there is always another new and elaborate form to fill and file. This is supposedly all for some good cause. Perhaps if we chopped down every last tree for the paper to answer in detail every last government question, the government could use the information to develop a plan to protect our forests.

Reducing smoking is a worthy goal. In pursuit of that goal do governments really have to impose regulations that threaten the livelihood of restaurant and bar owners?

Is the drinking of milk such an evil that we really need a government-imposed quota system that raises the cost of milk?

Taxation

*An unlimited power to tax involves,
necessarily, the power to destroy.*

Daniel Webster

One of the great innovations in the history of agriculture was the invention of the horse collar. The horse collar let the horse pull strongly without choking itself. How heavy are taxes in Canada? Heavy enough to choke a horse.

Heavy taxes discourage productive activity, and encourage vigorous tax avoidance and evasion.

Capital that could be used to expand businesses is sucked up by government, and then we wonder why Canadian business often suffers from being undercapitalized.

There is a common attitude that Canadians' money really belongs to the government, and we should be grateful for anything we are allowed to keep. Thus there was widespread anger when a rich family was able to move much of its capital out of the country a few years ago. This reminds me of the old Soviet block attitude that anyone who tries to escape over the Berlin Wall deserves to be shot.

Perhaps we should be asking why people would want to move their capital out of Canada, and make conditions here more

attractive. Until then, we should be grateful to the accountants and tax lawyers who devote their careers to helping Canadians keep enough money to have some incentive and capacity to work and do business. They help us to prosper.

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The above article originally appeared in the April, 2002 issue of *The Bottom Line* under the title ***Government Regulation Not Answer To Fraud.***

Research has NOT been done to see if this article is still good law. Also, this is general information that might not apply to your particular situation.

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