

THE SANCTUARY SOCIETY AND ITS ENEMIES

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One law shall be to him that is homeborn, and unto the stranger that sojourneth among you.¹

At least two fundamental principles of Western law had their origin in Mosaic Israel. The first principle was the rule of law itself: every resident was to be protected equally by the civil law. The second principle was open immigration. The nation's treatment of the immigrant served as a touchstone in Israel of the nation's faithfulness to the first principle.

And if a stranger sojourn with thee in your land, ye shall not vex him. But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the LORD your God.²

The Mosaic law did place some limitations on non-Israelites who lived in the land of Israel, but not many. The main one was the system of inheritance governing rural land. Nevertheless, strangers and newcomers could buy, sell, bequeath, and inherit houses in walled cities.³ In general, the rule of law was to prevail. This made national Israel unique in the ancient world.

The rule of law was God's way of announcing His universality to all nations: His law was universal and just. The righteousness of God's law would be seen by strangers and praised.⁴ This was a form of international evangelism. Resident aliens could provide testimonials to the folks back home regarding the justness of Israel's law and Israel's God. Because of this aspect of the Mosaic legal order, it was a violation of the law for Israelites not to honor the rule of law. To do so constituted false evangelism, i.e., false testimony regarding the sovereignty of God over all men and nations as the Creator and Lawgiver.

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¹Exodus 12:49.

²Leviticus 19:33–34.

³Leviticus 25:29–30.

⁴Deuteronomy 4:5–8.

GEOGRAPHICAL SANCTUARY AS A FORM OF EVANGELISM

The sanctuary status of Israel was to serve as an international testimony to the righteousness of God. Fundamental to this sanctuary status were open borders. In a legal sense, Israel was supposed to become a refuge for the afflicted, even the runaway slave.

Thou shalt not deliver unto his master the servant which is escaped from his master unto thee: He shall dwell with thee, even among you in that place which he shall choose in one of thy gates, where it liketh him best: thou shalt not oppress him.⁵

The landless, oppressed alien had a sanctuary in Israel, if he could reach the borders of the land. Freedom was available to all by law in Israel, and this lure of freedom was designed to bring strangers into the nation.

Open immigration was an important means of evangelism. Strangers could come to Israel, settle there, buy houses in walled cities, become productive, and live in peace. They could obtain security of ownership for their property even though they were not citizens or members of the religious congregation. They even had access to the temple if they were willing to be circumcised, which was a unique openness in the ancient world. This was also part of the rule of law.

And if a stranger shall sojourn among you, and will keep the passover unto the LORD; according to the ordinance of the passover, and according to the manner thereof, so shall he do: ye shall have one ordinance, both for the stranger, and for him that was born in the land.⁶

The stranger was listed as one of the three representative classes that deserve honest treatment, along with orphans and widows.⁷

Thus, Israel was not just the Promised Land for Abraham and his heirs. It was supposed to remain the Promised Land for the oppressed of the world. And, in some periods, it really was.

AMERICA AS A SANCTUARY

Americans like to think of their nation as the “Land of the free, home of the brave.” Indeed, the image of America as a sanctuary was a dominant one in the nineteenth century and the early

⁵Deuteronomy 23:15-16.

⁶Numbers 9:14.

⁷Deuteronomy 10:17-19.

twentieth. This image goes back to the early colonies. It was the steamship, with its low-cost, relatively safe passage across the Atlantic, that made this image nearly universal. This new technology advanced especially after the Civil War, and it changed the character of the nation. It shifted the primary sources of immigrants from northwest, Protestant Europe to southern and central Europe.⁸

Nevertheless, this change in technology only accentuated and accelerated what had in principle been a valid image from the beginning. While the Puritans' Massachusetts Bay Colony in the first decade was judicially inhospitable to non-Calvinist and non-Congregationalist immigrants, even including Calvinistic Presbyterians, this began to change in the 1640s. In England, the two Parliaments, "Short" and "Long," began their resistance to Charles I in 1640, and immigration out of England slowed dramatically. This created America's first economic depression in New England, for immigrants had been a major source of new currency.

In the 1640s, immigrants began to be perceived as too valuable to be sent back, and Oliver Cromwell's declaration of liberty of religious worship for all Protestants in the 1650s made religious discrimination more difficult in New England.⁹ The restoration of Charles II to the throne in 1660, a little over a year after Cromwell's death, cemented the new order inside New England, although in England itself, the King re-established the supremacy of the Church of England.¹⁰ To avoid interference from the King, New England established religious liberty for all Protestants. Maryland granted it to Roman Catholics as well.

The other English colonies had been much more open to immigrants from the beginning. After 1660, the English began a century-long extension of their control in North America. Quebec remained French, and so did much of the land west of the Allegheny Mountains, but on the American coast north of Florida, the English triumphed. The English colonial principle of open immigration from Europe remained dominant in the United States until the immigration laws of the 1920s.

Americans retained the image of America as a New Jerusalem or New Israel through World War I.¹¹ One aspect of this

⁸Thomas Sowell, *Ethnic America: A History* (New York: Basic Books, 1981), pp. 12–13.

⁹John Van Til, *Liberty of Conscience: The History of a Puritan Idea* (Nutley, N.J.: Craig Press, 1972), pp. 100–5.

¹⁰Van Til, *Liberty of Conscience*, chap. 5.

¹¹Ernest Lee Tuveson, *Redeemer Nation: The Idea of America's Millennial Role* (Chicago: University of Chicago Press, 1968).

image was of America as a sanctuary. Emma Lazarus's famous poem at the base of the Statue of Liberty was consistent with this earlier, highly religious image.

THE NEW PRIESTHOOD

In ancient Israel, there was a national priesthood, which was assumed to be the primary agency of cultural assimilation for immigrants. This is why immigrants were allowed to become Israelites through circumcision.¹² Political citizenship followed in three generations for Egyptians and Edomites,¹³ and in ten generations for Moabites and Ammonites.¹⁴ Confession, circumcision, and Passover were the initial means of assimilation. That is, the assimilation process began with religion. The same outlook long prevailed in the West, with the Christian church serving as the priesthood. The church was the primary means of cultural assimilation.

There never was a national priesthood in the North American colonies. In New England, citizenship was officially based on religious confession and local church membership, but this legal restriction was changed by Charles II as soon as he ascended to the throne.¹⁵ Land ownership was substituted for church membership as the basis of the franchise. Even those colonies that used tax money to support the churches never suggested, after 1660, that the established denomination should enjoy monopoly status. A century later, the mere hint that the Church of England might send a bishop to the colonies, who could ordain Anglican pastors here, was a major factor in origin of the War of Independence.¹⁶ By the end of the 1830s, no state still supported churches. The national religious revival known in retrospect as the Second Great Awakening (1797–1840), which was conducted mostly by Baptists, Methodists, and other Independents, ended the political acceptability of a state-established church. Even Massachusetts and Connecticut finally capitulated in the 1830s.

This did not mean that there was no priesthood after 1830. A new established church was substituted for the old: the public schools. There was also a new priesthood: the teachers. Under

¹²Exodus 12:48.

¹³Deuteronomy 23:8.

¹⁴Deuteronomy 23:3.

¹⁵T.H. Breen, *The Character of the Good Ruler: A Study of Puritan Ideas in New England, 1630–1730* (New Haven, Conn.: Yale University Press, 1970), p. 90.

¹⁶Carl Bridenbaugh, *Mitre and Scepter: Transatlantic Faiths, Ideas, Personalities, and Politics* (New York: Oxford University Press, 1962).

the guidance of Horace Mann, Massachusetts created a comprehensive tax-supported public school system. It was designed by Mann to inculcate a common national morality rather than sectarian religion.¹⁷ Church historian Sidney Mead put it quite bluntly in 1963: “the public-school system of the United States *is* its established church.”¹⁸ To this new established church fell the responsibility of assimilating the flood of immigrants for the next nine decades. Only with the Immigration Acts of 1921 and 1924 was faith in the power of the public school as assimilator finally called into question.

To Pledge Allegiance

The pledge of allegiance to the American flag was a daily part of this process of cultural assimilation. The pledge was written anonymously in 1892 by Francis Bellamy, who was a staff member of *Youth Companion*, which published the pledge. The original words pledged allegiance to “my flag,” but in 1923 this was changed to “the flag of the United States of America.”¹⁹ The pledge became popular as a daily recitation in public schools as a way to bring a sense of a national covenant membership to immigrant school children. (One of the great ironies of this tradition is that today, the Christian day-school movement adheres to the daily pledge far more than the public schools do.)

The year before the pledge of allegiance was written, the Maine Annual Conference of the Methodist Episcopal Church announced a problem with mass immigration:

Unsaved millions of foreigners are coming to our shores, forcing upon us one of the greatest missionary questions of modern evangelism, viz.—shall America be unamericanized, or shall the millions of our North American citizens be brought into sympathy with our Christian institutions through the church of Jesus Christ?²⁰

The common assumption here was that to be a good American was to be a good Christian, and a Protestant at that. But the proper means of Christianization was unclear to the Protestant establishment. Evangelism was one way, but there was no common program, no common confession, no common priesthood binding the

¹⁷R.J. Rushdoony, *The Messianic Character of American Education: Studies in the History of the Philosophy of Education* (Nutley, N.J.: Craig Press, 1963), chap. 3.

¹⁸Sidney E. Mead, *The Lively Experiment: The Shaping of Christianity in America* (New York: Harper and Row, 1963), p. 68.

¹⁹“Pledge of Allegiance,” *Grolier’s Encyclopedia* (1990).

²⁰Cited in Paul Kleppner, *The Third Electoral System, 1853–1892: Parties, Voters, and Political Cultures* (Chapel Hill: University of North Carolina Press, 1979), p. 198.

denominations of America. There was only the public school system. A common confession still seemed possible, but not through denominationalism, which Protestants held sacred. This forced them to hold the public schools sacred: a common voice of authority.

The problem was, and remains, the fact that government-funded public education is not neutral. It is not religiously neutral, ideologically neutral, or tax neutral. Each political group with a vision of what America should be has seen control over the public school system as vital to the success of its mission. The quest for power has led to a quest for authority over the primary agency of assimilation. The continuing call for the centralization of public school standards, textbooks, and funding is part of this quest. It is less expensive for a dedicated ideological group to take control over one national school system than over thousands of local school systems.

THE QUESTION OF CIVIL COVENANT

The religious question of every civil covenant is the question of the terms of confession. Immigrants who seek naturalization—U.S. citizenship—are asked to swear allegiance to the Constitution. But it is the states that impose and enforce this oath under the Constitution. The Constitution is national, but the oath is administered locally by states.

Article VI, Section III of the Constitution forbids the imposition of religious oaths as conditions of any Federal office holders. By means of the Fourteenth Amendment, this Federal restriction has been extended downward by the courts, until in 1961 it was applied by the U.S. Supreme Court to the lowest civil office in the land: the notary public.²¹ Thus, the national confession has been secularized. This was not true of most of the colonies prior to 1776. A new national experiment began in 1788, one which had its roots in Roger Williams's Rhode Island over a century earlier: religiously neutral civil government. This experiment is being tested today throughout the world. The loyalty oath demands loyalty to the Constitution.

For immigrants who are unwilling or unable to meet the various state standards for citizenship, there is another way to become part of America: procreation. The Fourteenth Amendment declares that everyone born inside the United States automatically becomes a citizen. At the age of legal maturity, he or she

²¹The case was *Torcaso v. Watkins*.

may lawfully vote. The children of the immigrant can attain automatic citizenship if they are born here.

The civil covenant is by confession for adult immigrants, but it is by birth for their children. This has led to an ever-increasing political problem: the barriers to entry into citizenship facing adult immigrants do not restrict entry by their children. Covenant membership by confession is replaced by covenant membership by public school assimilation—or in some cases, no assimilation at all. Pregnant women, especially from Latin America, fly into the United States, bear their children, and fly back. Their children are now eligible for citizenship at age eighteen. The jet airplane has replaced the steamship as the technology of choice for would-be immigrants. Meanwhile, Mexican women who can bear their children on the U.S. side of the border do not even need a plane.²² At age eighteen, these children can come to the United States, and U.S. immigration law generally favors subsequent entrance by close relatives.

The problem here is political: it is a matter of citizenship. It raises economic questions because of the nature of modern politics. A very big question is this one: in a nation that allows wealth redistribution through politics, what is to protect today's property owners from tomorrow's voters? When people can vote for a living, what prevents the arrival of an army of new voters, many with their eyes on the politically transferable wealth of the Promised Land? Even if they do not understand how wealth is transferred politically when they arrive, another army of salaried welfare professionals will soon teach them. After all, their jobs depend on a continuing stream of recipients.

A great debate is now taking place between economists over whether immigrants absorb more welfare money than they contribute through taxes. This question is interesting, and an answer—if possible to achieve—would surely be useful, but not for the reasons suggested by most economists. The more important question is this: why do immigrants from some nations or religious backgrounds resist the lure of the welfare state better than others? The answer to this question should not be used to halt immigration from certain countries, as if blanket restrictions were morally just. It should be used, rather, to begin to re-think our own moral standards, as individuals and as a nation. How can we better imitate those who resist?

²²Matt Moffett, "Border Midwives Bring Baby Boom in Texas," *Wall Street Journal* (October 16, 1991): 1.

COVENANTS AND CONTRACTS

A covenant is a contract that is sealed by an oath. A marriage contract is in fact a covenant, and was regarded as such until the days of no-fault divorce. It once had more rigorous rules associated with it than a business contract did.

Similarly, a civil covenant is more binding than an employment contract. To break an employment contract is not normally regarded as equal in importance to renouncing one's citizenship or committing treason. The presence of a binding oath makes the difference. Swearing in a court of law—people used to swear on a Bible—imposes restrictions on us that are more binding than promising an employer that we will be at work on time from now on.

Consider the case of an employer who wants to hire more employees. He likes to face a market in which there are more and more potential employees to choose from. Since employees compete against other employees and potential employees, this lowers the cost of the scarce economic resource he wants to buy, i.e., labor. This is beneficial for the employer of labor.

But what if there were an additional factor involved? What if the civil government has recently passed a law saying that after a certain number of years, these newly arrived potential employees could vote themselves part ownership in the business? What if ownership were determined by the ballot box? Would the employer be equally happy about a recent influx of potential employees? Or would he prefer to restrict the supply of potential employees to those people who promise not to vote, or to those who can prove that they have subscribed for over five years to *The Journal of Libertarian Studies*?

Freedom of contract is always a question of the civil laws governing the enforcement of contracts. That is, the question of private contracts is always a question of the civil covenant. In a social order in which the civil covenant does not protect private property, the question of who is given access to membership in the civil covenant takes on special meaning. The freedom of contract, which implies open immigration, could lead to the destruction of freedom. This is the problem of civil covenants and contracts.

A WAR AGAINST PROPERTY

Nations sometimes go to war against each other. Armies battle armies for the power of politicians to impose the terms of another nation's civil covenant. In a declared war, the question of

borders becomes paramount. Who is allowed to cross a border? Is the person seeking entry a friend or a foe? Ludwig von Mises, a recently arrived Jewish immigrant from Austria by way of Switzerland, who had fled for his life from the Nazis, wrote in 1944:

Unrestrictedly opening the doors of the Americas, of Australia, and of Western Europe to immigrants would today be the equivalent of opening the doors to the vanguards of the armies of Germany, Italy, and Japan.²³

That was wartime. Different rules prevail in wartime than in peacetime, when the very survival of national covenants is seen by most people as more important than the defense of private contracts. But when peace arrives, can these same wartime rules be legitimately maintained? Mises said *no*, just so long as the state was not a redistributivist state, which admittedly begs the question in this interventionist century.²⁴

In contrast, Wilhelm Röpke, Mises's former pupil and a defender of free market economics, always opposed open borders. A German who fled to Switzerland in World War II, he perceived the threat to the Swiss tradition of closed borders which had long defended the private property order. More than this, he argued that nations are more than a series of voluntary private contracts. In other words, he argued that the cultural foundations of civil covenants are more important than the terms of exchange in contracts. As he wrote in 1942,

it would be a great mistake and altogether bad psychology to overrate the influence of purely economic interests on the content of ideologies and the belief extended to them. Man does not live by bread alone.²⁵

In 1959, Röpke commented on the ideal of the free mobility of capital and labor across borders. It was a fine ideal, he said, but “it would be an unreal assumption to think that—in their choice of a place of residence—men would only be influenced by economic calculations.”²⁶ National sovereignty, meaning covenantal independence, is at stake here, for “every land must have the right to

²³Ludwig von Mises, *Omnipotent Government: The Rise of the Total State and Total War* (New Haven, Conn.: Yale University Press, 1944), p. 10.

²⁴Ludwig von Mises, *Liberalism in the Classical Tradition* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, [1927] 1985), p. 142. On Mises's view of immigration, see Ralph Raico, “Mises on Fascism, Democracy, and Other Questions,” *Journal of Libertarian Studies* 12 (Spring 1996): 24–25.

²⁵Wilhelm Röpke, *International Economic Disintegration* (London: Hodge, [1942] 1950), p. 93.

²⁶Wilhelm Röpke, *International Economic Order and Economic Integration* (Dordrecht, Holland: Reidel, 1959), p. 141.

protect its intellectual and political tradition from an influx of immigrants, who might endanger it by their incapacity to be assimilated or even by their sheer numbers.”²⁷ Every country has a right to “protect its biological and intellectual inheritance.”²⁸

The Welfare State

Röpke also understood the threat of the welfare state:

The more we leave the responsibility for our welfare to the national government—in reality of course the collective total of the tax-payers—the more jealously we shall watch over the numbers of those who must share in the booty. The more the passport becomes by means of the extensions of the social services a gratuitous insurance policy, all the less tolerant shall we be in the issuing of such a document, and in the end anyone who is not firmly attached to a national community is lost.²⁹

In short, where the welfare state is deeply entrenched, a nation will no longer be willing to serve as a sanctuary. It costs too much. If the welfare state ever becomes universal, locked-in populations will also become universal. There will be no escape from tyranny because of the border guards who keep would-be refugees from crossing the border into greater freedom.

A nation’s voters may seek to vote themselves wealth from their fellows, but in doing so they create an engine of plunder that evil men will seek to control. When Hayek wrote Chapter 10 of *The Road to Serfdom* in 1944, “Why the Worst Get on Top,” he had in mind just such a system of plunder. Those who conduct the plunder in the name of the economically oppressed often welcome additions to the list of oppressed, at least until the welfare state’s existence is threatened by the outflow of funds. In a few years, immigrants will vote, and the lure of such votes is nearly irresistible to power seekers. Meanwhile, the worst of the newly arrived immigrants will see their opportunities, too. They will begin their climb toward the top.

When civil covenants become covenants of plunder, then the threat to the right of voluntary contract escalates. When a war against property begins, those who command the plundering troops seek new recruits. Immigrants who are struggling hard just to get by economically make very good potential recruits. The moral will to resist the offer of free goods from the state may not

²⁷Röpke, *International Economic Order and Economic Integration*, p. 141.

²⁸Röpke, *International Economic Order and Economic Integration*, p. 142.

²⁹Röpke, *International Economic Order and Economic Integration*, p. 147.

be strong in certain cultures, and immigrants from those cultures may not be ready to resist the lure of free goods. Röpke's critique of open borders went beyond a critique of the welfare state. His was a moral-based, i.e. *confession-based*, critique.

BY WHAT STANDARD?

Politicians impose quotas on goods and services in terms of their political advantage. So do they also impose immigration quotas. Are the two kinds of imports the same? They are not. People are far more complex than capital, goods, and services. Also, people vote.

So, in a democracy, the immigrant becomes a political issue. (This includes those other unwashed would-be immigrants who sometimes face determined border guards: unborn babies.) Who sets the standards? Who says which moral heritage is valid and which must be resisted? Who predicts which immigrants will threaten the system, and which will not? Immigration quotas that discriminate against the people of any nation are public testimonies: "Your kind are not what we want." This is why immigration quotas are matters of foreign relations as well as domestic policy. Discrimination that would not be tolerated by a domestic court system is inherent in the very existence of a national immigration quota system.

For this reason, immigration quotas are a great moral dilemma for modern liberalism. The existence of immigration quotas points to an underlying assumption that modern defenders of cultural relativism prefer not to admit: some cultures are morally inferior to others. To suggest such a state of affairs in public is to violate the canons of liberalism, but to deny it is to demand open borders.

This is not to say that cultural supremacists must always come out for closed borders. Moses was surely a cultural supremacist when it came to evaluating the cultures of Moab and Ammon. Nevertheless, he honored God's law: refugees from both nations had access to the sanctuary of Israel. The crucial boundary was citizenship, not the border. Who became a judge in Israel was of far greater concern than who became a resident.

Do we trust our politicians to set the proper standards regarding who has access to America's sanctuary and who doesn't? We trust them with respect to citizenship, but citizenship is established by the U.S. Constitution, not this week's majority in Congress. Citizenship is a matter of Constitutional law, not temporary political alliances.

The issue of “them” vs. “us” is an inescapable one in civil affairs. The politics of plunder makes this issue a matter of compulsion. When “they” can vote their way into “our” wallets, “we” begin to reconsider the possibility of finding ways to restrict the number of “them.” The welfare state inevitably extends to the international scene the domestic political battle over the distribution of the plunder.

If everyone with the price of air fare can gain lawful access to this plunder, there will soon be nothing left to redistribute. The implications of this fact do pose a threat to the defenders of political plunder. It becomes clear to all that the supply of confiscated wealth will not survive the arrival of a flood of immigrants in search of state security. It makes it clear that at zero price, there is more demand for scarce economic resources than supply. So, those who demand even more state welfare programs can be found defending immigration quotas. “This plunder must go on; no need to bankrupt the system prematurely!”

TO BREAK THE BANK

The sanctuary status of a free society is one of its greatest moral strengths. It constitutes a major aspect of its high moral ground. “Live free with us!” is a powerful, compelling promise. “Live free of charge with us!” is its antithesis.

A sanctuary must be able to defend itself from external aggression. It must also be able to defend itself from internal revolution. But far more important, it must be able to defend itself against internal conquest by people who support the politics of plunder, which will inevitably destroy the economic foundation of the sanctuary.

The sanctuary society is based on an indispensable pair of beliefs: the moral superiority of the free society and the illegitimacy of the politics of plunder. The right of voluntary contract is basic to the free society. If a rival view of the civil covenant replaces the sanctuary’s covenant of limited civil government, then the right of contract will be undermined. With it will go the sanctuary society.

The moral superiority of the free society is hard to defend in an era of moral relativism. Similarly, the right of contract is hard to defend in an era of political plunder. The immigration issue is now forcing the hands of those who believe in the moral superiority of the free society. It is also forcing the hand of those who believe in cultural relativism. The former are fearful of an

invasion of people who have an insufficient understanding of freedom, who will gain access to the franchise. The latter are fearful of an invasion of people whose numbers are sufficient to break the bank of the welfare state and thereby end the domestic politics of plunder.

One of the greatest ironies about this debate over immigration is that the public education system has become the main focus of concern. The hoped-for assimilator of immigrants is now being torn apart. First, its budgets are threatened by too many immigrant children, as well as by “white flight,” meaning middle-class flight out of the schools. Second, the moral relativism inculcated by the secular teacher training institutions is now undermining the public school’s older, more patriotic integrating function. Third, cultural relativism has now led to the implementation of second language programs, which is beginning to undermine the unity required of any system of cultural assimilation. America’s established church is visibly breaking down. Faith in it is waning, though this faith has not yet departed completely. The arrival of tens of millions of immigrants, legal or illegal, would unquestionably destroy this faith, which would in turn threaten the survival of the humanistic world view that the public schools inculcate.

When critics of open immigration tell me that these newcomers will bankrupt the state welfare systems, I am not sent into a state of despair. When they also tell me that the public schools could not stand the pressure, I am also not sent into despair. At zero price, there is greater demand than supply. The larger the demand, the faster the bankruptcy. If voters begin to perceive that immigrants are not morally entitled to the welfare state’s entitlement programs, I can only concur. It then becomes easier to make my point: no one else is entitled to them, either.

CONCLUSION

The sanctuary status of the United States visibly began to fade with the 1920s immigration laws. But, in fact, the moral basis of this sanctuary status had been undermined generations earlier, with the advent of the public schools as a replacement for the churches and voluntary agencies of charity as the primary means of cultural assimilation. The states exchanged one tax-funded church system for another, but the replacement system has been rapacious and demanding beyond anything dreamed by New England Congregationalists in 1830. The Congregationalists faced resistance from all the other denominations, not to mention

non-attendees who wanted lower taxes. The public schools still maintain the allegiance of the vast majority of voters. This established church is far more resistant to criticism, and far more trusted, than any denomination ever was. It may take ten million new immigrants to break its hypnotic spell, not to mention its finances. This is a very strong argument for open borders.

The main problem, however, is not the statist welfare system as such, but the doctrine of the civil covenant. The state possesses the power of coercion. It is not established by a voluntary contract enforceable by law; it is itself the enforcer. There is a difference between adherence to the terms of a voluntary contract and obedience to civil law. There is a difference between voting with your money and voting with your ballot. A consumer's legal authority to withhold his financial support from a seller of goods and services affects him, the seller, and the agent who may be holding the cash, e.g., a banker and his clients. A citizen's decision to support or not support a candidate or a proposed constitutional revision affects others, but in an all-or-nothing way. The shunned seller in an economic transaction can legally seek another buyer. A defeated special-interest group after an election may no longer possess this legal option. The all-or-nothing, winner-take-all aspect of civil law places it in a different category from a voluntary contract.

When the immigrant can soon gain access to citizenship, but without any confession of faith other than his promise to obey the law and the Constitution, he thereby gains the authority to participate in the changing of both the law and the Constitution. He can seek to make the law and the Constitution conform to his confession of faith. This is the heart of the matter; this is the heart of the problem.

In Mosaic Israel, the immigrant could not become a citizen until he became a member of the congregation by confession and circumcision—major barriers to entry! The nation of Israel tested the commitment of the immigrant family's confession of faith before it granted to the grandson the right to declare the law as a civil judge. In short, he had to grow up in a family that was under the national covenant before he could declare the law and legally enforce it in the name of God.

In the United States today, the waiting period for citizenship is as short as five years. The waiting period is similar in other democratic nations. This, not the threat of economic competition, is the problem of immigration for the free society. Because the citizen authoritatively declares the law and seeks to

impose it on others, he can become a threat to the free society. The problem is the moral content of his confession of faith and his possession of civil sanctions, not his productivity and his possession of economic sanctions. Mises was short-sighted here: a nineteenth-century, anti-clerical, would-be value-free analyst, i.e., a liberal. It is not the welfare state as such that creates the problem of immigration; rather, it is the confession of faith of the would-be immigrants. If their confession inherently threatens the moral and judicial foundations of the free society, then immigration is a problem, with or without the presence today of a welfare state. Freedom is based on more than private contracts. It is based on a moral vision, which includes a vision of the moral boundaries of the state.

For a society to continue to serve as a sanctuary, it must preserve its commitment to both economic freedom and the rule of law. If it transfers the judicial authority of citizenship to recent immigrants who came seeking economic benefits—the fruits of liberty—apart from their steadfast commitment to the moral and judicial bases of economic freedom, then it risks losing its economic freedom. This is far worse than inviting a would-be thief into your home, for the thief has a limited ability to carry off your wealth. It is more like granting the thief the power of attorney over your estate and your children's trusts, and then inviting in the neighbors and encouraging them to do the same.

Free trade in goods—the output of labor—is not the same as free trade in labor itself. Things may cross borders, but men are not mere things. They make confessions, and often seek to extend the influence of these confessions by means of state coercion. Citizenship is more than consumership. In an age of democracy, when all who dwell inside the borders of a nation are assumed to have a moral right to seek to implement their confessions through coercive state action, granting a person citizenship is like leaving your cash-filled wallet in the street. You had better find out in advance to what degree the would-be citizen is committed to the philosophy of “finders, keepers; losers, weepers.” If you don't, you should prepare yourself for a lot of weeping.