John R. Commons

Social Reformer and Institutional Economist

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IN VIEW OF THE ATTENTION given economic development recently, it is appropriate to re-examine the works of an early pioneer in the field, John R. Commons.[1] As an economist of the Institutionalist School, he insisted that cultural forces, legal institutions, religious influences, social customs, and many other ever-changing factors now considered by modern developmental economists be included in the field of economics. He would have found himself in sympathy with Benjamin Higgins who said, ". . . the Western economist, who finds himself assisting the government of an undeveloped country with its developmental planning, finds little in his specialized training to help him; hence he is apt to flounder. The market provides little or no guidance."[2] Commons would have gone further to say that the economic theories of his contemporaries were not adequate for the study of America's developing economy.

In Commons' day most American economists lacked interest in developmental problems. Instead they focused their attention on the mechanism of the perfectly competitive market model. Using mostly deductive reasoning from a limited number of axiomatic propositions, they attempted to apply their model without adequately considering changes over time. Important as this model was for the development of economic analysis, it failed to satisfy a vocal minority of American economists, the Institutionalists.

I

COMMONS SHARED THIS DISSATISFACTION. Born in 1862, he reached graduate school at the Johns Hopkins University in 1888 while Richard T. Ely was attacking static, deductive economic thought.[3] Ely gave his students some of the point of view he had gained from his training in Germany. In this atmosphere Commons began his lifelong dissent against the main stream of economic thought.

[1] See my *John R. Commons: His Assault on Laissez-faire* (Corvallis, Oregon: Oregon State University Press, 1962).

[2] Benjamin Higgins, *Economic Development* (New York: W. W. Norton and Company, 1959), p. 453.

[3] Will Lissner, "John Commons, 82, Economist, Is Dead," *The New York Times*, May 13, 1945; Selig Perlman, "John R. Commons," *American Economic Review*, Vol. XXXV, September, 1945; John R. Commons, *Myself*, (New York: Macmillan Co., 1934).

Although he neglected to finish a Ph.D., he entered a life of academic teaching. After teaching at Wesleyan University, Oberlin College, University of Indiana, and Syracuse University, in 1904 he joined the faculty of the University of Wisconsin. There he remained until he retired in 1932. Few teachers have ever had as great an impact upon their students as did Commons. He trained a host of prominent students, most of whom considered themselves as Institutionalists.

Commons did not leave his economic protestantism to his classrooms. In Wisconsin, Progressives such as the LaFollettes engaged him to formulate ideas for legislation on work safety, workmen's compensation, unemployment compensation, minimum wages, civil service, and public utility regulation. He served on commissions for both the state and federal governments.

But Commons was more than a reformer; he was a major leader in a particularly American school of thought. In addition to influencing his students directly, he wrote prolifically. Much of what he wrote was on specific economic problems, but his major contributions were to institutional economics.

The Institutionalists were rebelling against what they considered was the excessively static nature of economic reasoning of their day. The revolt had already begun by German-trained American economists such as Ely in the nineteenth century. In fact, the American Economic Association was formed by this earlier group, but it soon slipped into more orthodox hands. However, many Institutionalists have been officers of the association.

Shortly after the turn of the century the Institutionalists emerged as an identifiable protest movement. The term "Institutional" gained currency shortly after Walton H. Hamilton introduced it at the 1918 meeting of the American Economic Association.[4] He explained that such Americans as Henry Carter Adams, Charles Horton Cooley, Thorstein Veblen, and Wesley Mitchell had already made significant contributions to this brand of economics. He might have mentioned others including John R. Commons, then the president of the American Economic Association.

There are three branches to Institutionalism corresponding to the influences of Mitchell, Commons, and Veblen. Emphasis on empirical studies, statistics, and economic fluctuations stem from Mitchell who left the National Bureau of Economic Research as a monument to his kind of economics. Commons joined him in the formation of the bureau and

[4] Walton Hamilton, "The Institutional Approach to Economic Theory," *American Economic Review*, May, 1919.

served with him as a director of it for many years.[5] Close as Mitchell was to Commons, Mitchell was even closer to Veblen who had been his teacher. Yet Mitchell remained aloof from the cleavage between Commons and Veblen. Although sympathetic with both, he preferred limiting his studies to what he could measure. Consequently any division between Institutionalists has tended to be between the followers of Veblen and Commons.

There is much in common between the two economists even though their goals are different.[6] They were both impressed with the rapid economic changes which they and their generation witnessed. Both believed that the task of economists includes explaining economic development. They watched the biological sciences accept the Darwinian explanation of evolution and, in doing so, found what they thought was a fruitful methodology for economics.

Both Commons and Veblen believed that men live by habits and customs. Men even allocate their resources by habit and custom rather than on a rational basis. Not caring to think except under necessity, men prefer the security of established routines which develop into institutions. These institutions change, but only when subjected to the influences of strong forces.

The two men differed in their explanations of the cause and nature of change. While Commons stressed institutional adaptation to changing conditions, Veblen emphasized the reverse. He demonstrated how old habits and institutions inhibit adaptation to changes induced by technical innovations.[7] Old instincts, remnants from the days of savagery or barbarism, cause men to cling to practices and thoughts which would be ridiculous, if objectively viewed. But man is not rational: he is a creature of superstitious and anthropomorphic propensities.

Yet some men do think more rationally than others, because their jobs condition their minds. These are the industrial workers and technicians who work with machines. By watching cause-and-effect sequences they begin to shed notions which ascribe Divine intervention, luck, magic, or other supernatural explanations as causes. They are practical men who take pride in good and productive workmanship.[8]

[5] Wesley C. Mitchell, *The National Bureau's First Quarter-Century* (National Bureau of Economic Research, 1945.)

[6] David Hamilton, "Veblen and Commons: A Case of Theoretical Convergence," *Southwestern Social Science Quarterly*, September, 1953.

[7] Thorstein Veblen, *The Theory of the Leisure Class* (New York: Macmillan Co., 1899).

[8] Thorstein Veblen, *The Instinct of Workmanship and the State of Industrial Arts* (New York: Macmillan Co., 1914).

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Unfortunately, the more rational industrial workers (or engineers) are not in control of economic institutions. Instead, a leisure class controls both government and industry. This class, whose members avoid productive labor as being beneath them, has been shielded from the processes which produce rationality. Hence, they tend to be conservative (except in consumption) and attempt to inhibit any changes in the status quo.

Being throwbacks to the predatory class which dominated barbarian cultures, the members of the leisure class are more interested in their own pecuniary gain than in production. They engage in fraud, chicanery, and other predatory practices which undermine the stability of the economy. During boom times their fierce competition, their speculations, and their credit manipulations cause them to overtax the economy. Inevitably the credit structure collapses under their excesses. Exogenous forces may restore prosperity temporarily, but recovery cannot be permanent.

The pecuniary interests seek relief by combining into huge monopolies for the purpose of limiting production. This measure of stabilization is helpful in maintaining profits only temporarily. Finally it leads to a stalemate of declining production and employment. Veblen was not sure of the outcome. He thought the government might purchase enough armaments and other goods which might be produced with the excess capacity. By reverting to a warlike imperialism, a nation might find relief from chronic economic stagnation.[9]

The sensible alernative, he thought, was unlikely to happen in the calculable future. If the technicians and engineers, who actually run the industrial enterprise, would revolt from their financial masters, the businessmen, they would free the economy of the fetters which limit production. By cutting out waste, eliminating selling costs, by canceling financial claims of the vested interests, and by putting the idle to work, the engineers could increase production many times. Unfortunately, they "are a harmless and docile sort, well fed on the whole, and somewhat placidly content" with their lot.[10] Like most of the population, they are caught in a web of institutions which inhibit them from making drastic changes.

While Veblen stressed why men are tardy and incomplete in adapting their institutions to changing conditions, Commons explained how they do adapt. Furthermore, he said men have the power to take the initiative in

[9] Thorstein Veblen, *The Theory of Business Enterprise* (New York: Charles Scribner's Sons, 1904), p. 256.

[10] Thorstein Veblen, *The Engineers and the Price System* (New York: B. W. Huebsch, Inc., 1921), p. 13.

reforming their institutions. His own career not only demonstrated this possibility but also displayed a practical strategy for reform.

Commons based his analysis of institutions on C. S. Peirce's pragmatic psychology as applied to individuals and groups.[11] His version of this psychology included a concept of thought processes.[12] Men experience repeated sensations and remember them. They begin to anticipate the end of a sequence of sensations by noticing the similarities in the beginning. When their expectations turn out to be wrong, they become aware of differences. Consequently the mind can organize its impressions by verifying the expectations. By reacting to stimuli in the manner in which they have had previous successes, men form habits. Such habits substitute order for random activity in men's behavior.

Just as individuals follow habits, groups follow customs. To do so provides security of expectations. Yet because groups and their members have wide ranges of differences, habits and customs come into conflict with one another. Conflicts also originate because there is a scarcity of goods in the world.[13] Yet these conflicts must be resolved for men to organize production efficiently. Working together, men both increase the goods available and create an interdependence upon one another.

When men combine into going concerns, they create mechanisms by which their conflicts can be resolved either by the group or by its leader. Case by case, the conflicts are solved in such a way that patterns are set up for the future.

II

THE TRANSACTION is the dynamic element in the functioning of our economy.[14] It is the means by which people, individually and collectively, determine the proportioning of resources, the extent of output, and the distribution of rights, duties, and benefits. Some transactions are strategic in that they become the basis for establishing customs, resolving conflicts of interests, and establishing working rules.[15] Others are merely routine, following the guidelines set down by the strategic transactions.

There are three ways a transaction can take place.[16] One method is

[11] Charles S. Peirce, "How to Make Our Ideas Clear," *Popular Science Monthly*, January, 1878.

[12] John R. Commons, *Institutional Economics* (New York: MacMillan Co., 1934), p. 153.

[13] *Ibid.*, p. 308.

[14] John R. Commons, *Legal Foundations of Capitalism* (New York: Macmillan Co., 1924), p. 5.

[15] Commons, *Institutional Economics*, *op. cit.*, p. 267.

[16] *Ibid.*, p. 65.

by the bargaining between the parties interested in the transaction. Such bargaining may determine prices, wages, and other considerations in a contract. In situations where a legal superior determines conditions for a legal inferior, Commons called them managerial transactions. The employer may issue an order which the employee is obliged to execute. Any transaction taking place within a firm, or between branches of a firm, would come under this category. The third type Commons used was what he called rationing transactions. This type is between a collective superior and individuals who are inferiors. He gave as illustrations logrolling activities, taxation, and tariffs in Congress and the legislatures; the decisions of an arbitrator; and the decrees of a dictator. Such transactions involve the rationing of wealth or purchasing power to subordinates without their participating in bargaining. In the process of arriving at a decision, the superior may be subjected to pressures of the inferiors in arguments and pleadings. Yet the ultimate decision remains in his hands. This particular type of transaction may include the laying down of "working rules" by the superior.

In Commons' analysis, the bargaining transactions play the greatest role. He focused his attention on the buyer and seller whose bids and offers are the closest as negotiations begin.[17] Each is assumed to have a next best opportunity which would set limits beyond which the final price could not go either above or below. In perfect competition these upper and lower bargaining limits would coincide with the market price so that bargaining would be unnecessary. To Commons, who was a labor economist, bilateral monopoly was the more general case.

Where, between the limits of bargaining, negotiations will finally fix the price depends upon the bargaining power of the negotiators. The ability of the bargainers to use duress, economic coercion, or persuasion will determine the relative bargaining power.[18]

In the background of every transaction stands the sovereign power of the State as exercised through the judicial system.[19] If physical coercion or duress were not suppressed by the State, transactions would be little more than robbery.[20] Private property could not exist if the State did not create the rights and duties connected with this institution and then guarantee them with the use of physical force, if necessary. Ownership of property

[17] Commons, *Legal Foundations*, *op. cit.*, p. 66.
[18] Commons, *Institutional Economics*, *op. cit.*, p. 337.
[19] *Ibid.*, p. 751.
[20] *Ibid.*, p. 684.

is the possession of certain rights connected with property. Corresponding to these rights are the duties of other individuals to respect those rights.[21] For example, the right to exclusive use of the crops of some land must be backed by the existence of the duty of others to refrain from appropriating those crops.

Although the State does not prevent all economic coercion, it does set upper and lower limits. For example, where an individual or organization has a monopoly of a commodity necessary to society, the State sets an upper limit on the price which may be charged.[22] Public utility companies must gain permission from the State before raising their rates. At the same time, courts prevent the state governments from reducing rates of the public utility companies to the point where the result would constitute confiscation of property. In between these points, rates or prices would be considered by the courts as "reasonable."

The State limits its interference with the exercise of persuasion to the prevention of fraud, misrepresentation, or unfair use of pressure.[23] A minor, or someone not mentally competent, is protected from someone else who would take advantage of his weakness. Furthermore, the State suppresses fraudulent advertising and requires sellers to list ingredients in the products which they sell.

Where the State does not limit powers of persuasion and economic coercion, private associations are in many cases organized to equalize the power of the bargainers. Professional organizations develop sets of "Professional Ethics" which, to a considerable extent, are attempts to prevent unfair methods of persuasion by advertising or unfair pressure on the client.[24] Businessmen have their business ethics, while trade-union men have their union ethics.

To equalize bargaining power and control competition, workers form unions while businessmen form employers' associations and other organizations both formal and informal. According to Commons, control of competition has two directions. One is to equalize the bargaining power between the buyer and seller. The other is to equalize the power of the competitors on one or sometimes both sides of the transaction. Trade unions, for example, owe their existence to the desire to control competition among workers as much as they do to equalize the bargaining power with that of the employers. Unions attempt to control workers so that

[21] Commons, *Legal Foundations, op. cit.*, p. 90.
[22] *Ibid.*, p. 357.
[23] Commons, *Institutional Economics, op. cit.*, p. 338.
[24] *Ibid.*, p. 339.

employers may not take advantage of the differences between workers. In this attempt the unions do not allow the workers to make special arrangements with the employers, because if they did, collective bargaining would be more difficult. Businessmen also will attempt to control competition among themselves unless restrained by the State.

In many cases the State has encouraged organizations whose purposes are to increase the bargaining power of groups which would otherwise be inferior. Unions among workingmen, co-operative marketing organizations among farmers, and co-operatives among consumers have been encouraged. Yet the State has suppressed organizations whose primary purpose is to control competition. The antitrust laws aim at preventing combinations which would be in unreasonable restraint of trade. The law even interferes with vigorous competition which might lead eventually to greater inequality of bargaining power. Commons' ideal of promoting greater equality of bargaining power can be applied with greater consistency than the ideal of perfect competition held by other economists of his day.

Commons did not believe in controlling the economy, not even to the extent a number of other Institutionalists would. He would merely set reasonable limits within which individuals would be free to bargain.[25] Exactly what those limits would be is not something an economist can determine precisely. But when the injustices of the status quo are aired, the rights of vested interests duly considered and provided for, and all other pertinent facts are explored, compromises are possible.[26] Precedent establishing strategic transactions can provide break-throughs for economic and social progress.

III

COMMONS HAD A STRATEGY for social reform.[27] It consisted of adaptations of economic institutions in our capitalistic system in such a way that businessmen and others would have economic incentives to improve the conditions of the working class. Furthermore, he believed that reforms could be organized in such a manner that they would benefit even the employer.

As an example of his method of campaigning for reforms, consider his efforts to sell "workmen's compensation" coupled with a safety program. The first step consisted of finding a few enlightened employers who were convinced of the wisdom of safety programs. These were publicized as

[25] *Ibid.*, p. 89.
[26] Commons, *Legal Foundations*, *op. cit.*, p. 348.
[27] Harter, op. cit., p. 42.

examples for others to follow, thereby demonstrating that compensation to injured workmen, regardless of legal obligations, paid dividends in improved morale of the workers. Commons then persuaded the enlightened employers to help him sell similar measures to other firms. Then when commissioned by Wisconsin Progressives, he persuaded employers to join with labor leaders on committees to help in drafting a state law to require all employers to accept his principles. By giving both sides the impression that some type of law on the subject was inevitable, he induced them to compromise their differences. This joint product was then perfected for submission to the legislature.[28] At the legislative hearings on the proposed law, both the "enlightened employers" and labor leaders testified on behalf of his proposals. Their testimony created the impression that a large group of employers and labor leaders were in favor of the bill.

Finally, after the Wisconsin legislature enacted the proposals into law, he served a term as one of the commissioners administering the law.[29] He began the practice of using representatives of both employers and union leaders on an advisory board to aid in the administration. In doing this he recognized that the selling of the program was not over when it became part of the law. He continued to educate both employers and workers as to the fairness of the program and the need for successful administration.

Before the success of the Wisconsin program was known, he pushed on to extend the campaign into other states. Through the American Association for Labor Legislation, the National Consumer's League, and the National Safety Council, organizations in which he was an important pioneer, he joined many others in selling his reform to other states.

In the case of workmen's compensation, the program not only relieved the injured workmen with compensation, but it also relieved the employer of liability from potentially expensive lawsuits. The employer continued to pay insurance premiums, but now he had something more than mere protection against unpredictable liabilities. He had the assurance that any of his employees, if injured, would be compensated.

Along with the compensation program went an intensive safety program aimed at cutting premiums for those employers who were successful in limiting injuries to their employees. At the same time Commons' precedent-shattering contribution to the law pointed a constitutional way to permit administrative commissions instead of legislatures to devise safety

[28] A. J. Altmeyer, *The Industrial Commission of Wisconsin* (Madison: University of Wisconsin Press, 1932).

[29] Commons, *op. cit.*

regulations. Consequently, with the reduced accident rates, workmen's compensation insurance would be provided at lower cost than could the insurance against liability. Thus all concerned benefited from this reform.[30]

Commons used the same techniques to sell unemployment compensation. Many of the features of our present program, for good or bad, can be traced to his concepts and his method of campaigning for it. Wisconsin's pioneer law set a pattern which could not be ignored when our national law was formed.[31] Furthermore, many of Commons' students, including Edwin E. Witte, the Executive Director of the President's Committee on Economic Security, held key roles in devising our entire social security program in 1935.

Besides these last two laws, Commons also had a large part in the preparation of Wisconsin's civil service act, its pioneer public utility law (which served as a national model), its co-operative act, its minimum-wage act, and its child-labor law.[32] He helped draft the national law valuing railroad property, and he served as an expert for a Congressional Committee studying the banking system.

Commons began as an adviser to Robert M. LaFollette Sr., but he continued on for other Wisconsin Progressives. He served as a commissioner for Wisconsin's Industrial Commission and for the United States Commission on Industrial Relations during Wilson's administration. Besides such participation in government, he was a professor of economics at the University of Wisconsin. A prolific writer, he is known more for his contributions to labor economics and history than for his work in general economics. However, as an Institutional economist he ranks close to Veblen.

Commons would have the State play the role of the wise and kindly father. It would jealously guard the welfare of its citizens by maintaining a healthy economic climate. By monetary means, it would keep the economy on an even keel. Through all types of trouble, it would protect the workers by providing them with security of incomes by means of a comprehensive social security program. Yet, like the wise father, the State would limit its interference with the activities of its citizens. It would refrain from imposing such direct controls as would seriously re-

[30] Altmeyer, *op. cit.*

[31] Edwin E. Witte, "The Development of Unemployment Compensation," *Yale Law Journal*, December, 1945.

[32] Edwin E. Witte, "John R. Commons as a Teacher, Economist, and Public Servant," Remarks at the John R. Commons Birthday Dinner, October 10, 1950, Madison, Wisconsin.

duce the area of the citizen's freedom. He believed that forbearance and the spirit of fair play and compromise among the people can be used to reduce the amount of interference necessary. Thus Commons was neither an advocate of State control nor a defender of laissez-faire. He kept one eye on the future and one on the continuity provided by the past. He did his best to hurry along economic evolution to levels of "stability and fairness to all."

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