



# canadian student review

FREE

QUARTERLY  
STUDENT  
MAGAZINE

*Vol. 14, No. 2  
Summer/Fall*

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## Sacrificing free expression on the altar of “fairness”

*by Ryan O'Connor*

With a minority Parliament in Ottawa, Canadians face the prospect of heading to the polls sooner rather than later. Little known, however, is how recent changes to electoral law inhibit citizens' ability to engage in independent political discourse when this discourse has arguably the greatest impact—during a federal election campaign.

Most notable among these regulatory changes is the curtailment of third-party participation<sup>1</sup> in elections, enacted by Parliament in order to promote a fairer and more equitable political discourse. Ironically, this “egalitarian” model of election regulation may have the effect of undermining the very values that the regulatory regime supposedly promotes.

Specifically, the *Canada Elections Act* restricts the electoral participation of groups and individuals not affiliated with parties or candidates, mainly through mandatory registration guidelines and spending limits. These spending limits—arguably the most contentious part of the revised legislation—prohibit citizens or groups from spending

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## Fraser Institute names new executive director

On September 1, 2005, Dr. Michael Walker stepped down as Executive Director of the Fraser Institute. One of the founders when the Institute was established in 1974, Dr. Walker has directed the research program for 30 years. Dr. Walker will become President of the newly-established Fraser Institute Foundation and Senior Fellow at the Institute. As of September 1, Dr. Mark Mullins becomes The Fraser Institute's Executive Director. Dr. Mullins has been the Director of Ontario Policy Studies in the Ontario office of the Institute since 2003.



Michael Walker



Mark Mullins

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The Fraser Institute is an independent Canadian economic and social research and educational organization. It has as its objective the redirection of public attention to the role of competitive markets in providing for the well-being of Canadians. Where markets work, the Institute's interest lies in trying to discover prospects for improvement. Where markets do not work, its interest lies in finding the reasons. Where competitive markets have been replaced by government control, the interest of the Institute lies in documenting objectively the nature of the improvement or deterioration resulting from government intervention. The Fraser Institute is a national, federally chartered non-profit organization financed by the sale of its publications and the contributions of its supporters.

## A federal election: duty and privilege

by Troy Heibein

Recently, especially before the crucial May 19<sup>th</sup> vote in the House of Commons, I heard one identical phrase uttered both from "political commentators" in the media and from small handfuls of people on the street alike. The phrase goes as follows: "the people of Canada do not want an election right now; the cost is just too great." I would hope that I am not the only one to find such a statement absurd and ridiculous. How could supporting our political institutions and the very fabric of our democracy not be worth roughly eight dollars per Canadian? Though I concede the \$250 million federal election price tag may seem rather high, I believe people fail to realize that almost all of the money spent is not simply "wasted," but injected directly back into the Canadian economy.

Within the Constitution of Canada, and even since the theory of a modern democracy was first penned by the likes of Machiavelli and Locke, the ability to throw off the shackles of a government that is either corrupt or unable to function has always been at the centre of what makes our democracy work. What I believe the people of Canada are forgetting is that this aforementioned ability is not only a right, but also a privilege and grave responsibility that we as Canadians must make use of at every possible opportunity. For, as we all know, rights not often exercised have a mysterious way of being lost. So I ask all citizens of the country, regardless of political allegiance, to not be apprehensive of an upcoming federal election, but to embrace it as a privilege that not many in the world are as fortunate as we are to possess. ✍️

This excerpt comes from Troy Heibein's blog:  
<http://bettercanada.blogspot.com/>



Troy Heibein is a third-year Business and Political Science student at Mount Allison University in Sackville, NB. Originally from Regina, SK, Troy maintains a weekly editorial blog at <http://bettercanada.blogspot.com> on Canadian politics and the need for a more conservative Canada.

*Free expression sacrificed*  
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more than \$3,000 in a riding or \$150,000 nationwide during the course of a federal election (*Canada Elections Act*, 2000).

Seemingly contrary to the Charter of Rights guarantee to freedom of expression, the legal status of these spending limits, enacted in 2000, was called into doubt when Alberta courts ruled these restrictions were unconstitutional.<sup>2</sup> However, just prior to the last general election, the Supreme Court released its ruling in *Harper v. Canada (Attorney-General)* [2004],<sup>3</sup> in which it affirmed the constitutionality of these restrictions on third-party electoral participation. The Court acknowledged that while the impugned provisions of the act violated the *Charter*, they were nevertheless justified as promoting a laudable legislative objective—electoral fairness.

An examination of the restrictions reveals that virtually any expression in which a non-candidate is engaged during the course of an election could fall within the ambit of the regulation. In fact, citizens who publicly articulate an issue or position on which a candidate is associated are engaged by the *Act* (*Canada Elections Act*, 2000). Thinking of launching a campaign for better delivery of health care in your community? If a local candidate even mentions health care, the regulations could apply. Remember that these regulations are applicable *if a candidate or party is affiliated with an issue*; if an issue is of public importance in a particular riding, only a foolish candidate would

neglect to take a position on it. In so doing, citizens could run afoul of election regulations even if they, in good faith, attempted to comply with the law by articulating issues not originally espoused by or associated with a candidate or party.

While the Court majority was concerned with the disproportionate impact of wealth on electoral discourse, the restrictions could adversely affect issue-promoting groups who would most benefit from the public's increased attention during election campaigns. As Chief Justice McLachlin and Justice Major noted in their dissenting opinion in *Harper*, it costs \$425,000 to run a full-page advertisement in a national newspaper. Further, they indicated that citizens attempting to engage in riding-wide mail-based issue awareness would likely be prevented from so doing given that the cost is more than double the per-riding expenditure limit (*Harper*, 2004).

While established organizations may be able to avoid incurring these regulated expenses by attracting gratuitous media coverage or public attention to their causes, lesser-known or less popular third parties are severely hindered in their ability to raise awareness of their issues or causes, either locally or nationwide. Given the all-encompassing nature of the spending restrictions—and their broad wording which can subsume

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... the most fair and egalitarian model governing electoral participation may be the one with as little regulation as possible ...

## From the Editor

Welcome to the back-to-school edition of *CSR*! I am pleased to present a redesigned version for print and the web. I hope that you enjoy the new look, as well as a few new editorial features. *CSR* will continue to offer a fresh perspective on public policy for students across the country.

This year's essay contest examined the role of property rights in protecting the environment. We received entries from across Canada and around the world, and I am pleased to present the three winning essays in this issue. Maria Klimas from the University of Guelph took top honours in the post-secondary category, and Ron Podolny from York University won second place. In the high school category, Michael Beeler from Lester B. Pearson College of the Pacific won with his essay, "Putting our Future in the Right Hands." Stay tuned for details of the 2006 essay contest, which will be announced shortly.

Are you interested in circulating *CSR* on your campus? Volunteers across Canada distribute copies in common areas, lounges, and classrooms at their schools. For more information, please contact me.

We would like to thank the Lotte & John Hecht Memorial Foundation for their generous sponsorship of *CSR*.

Cheers, Vanessa (student@fraserinstitute.ca)

*Free expression sacrificed*  
continued from page 3

advocacy of virtually any social or political issue—smaller, less-established groups will have difficulty engaging in political discourse in any meaningful fashion. Meanwhile, popular, large, or recognizable groups can continue to have their views heard and disseminated through the access they already enjoy. Money, instead of being viewed as the harbinger of electoral unfairness, can be an emancipating force for some groups that espouse views garnering less public attention, and thus can be a necessary tool in the promotion of citizens' free expression.

The irony of this situation is rich. By disproportionately hindering the ability of less popular or non-established groups or perspectives to meaningfully participate in election discourse—in the name of fairness—Parliament and the Court may actually be undermining the very egalitarian participatory democracy that both institutions assert they are protecting.

Ultimately, if the government truly wishes to have its supposedly laudable goals realized, it might consider that the most fair and egalitarian model governing electoral participation may be the one with as little regulation as possible—resulting in the expansion of free expression, rather than its suppression.

## Notes

<sup>1</sup>The *Canada Elections Act* defines “third party” as “a person or a group, other than a candidate, registered party or electoral district association of a registered party.” See *Canada Elections Act*, S.C. 2000, c.9, s. 349.

<sup>2</sup>See *Harper v. Canada (Attorney-General)*, [2001] 9 W.W.R. 650, 295 A.R. 1 (Q.B.), and *Harper v. Canada (Attorney-General)*, [2002] 223 D.L.R. (4th) 275, [2003] 8 W.W.R. 595 (Alta. CA).

<sup>3</sup>*Harper v. Canada (Attorney-General)*, [2004] S.C.R. 827, 239 D.L.R. (4th) 193. [*Harper* cited to S.C.R.]

## References

*Canada Elections Act*, S.C. 2000, c.9. 🐾



Ryan O'Connor is entering his second year of Law School at Dalhousie University in Halifax, NS. He obtained his BA in Political Studies from the University of Waterloo, where he was involved in student government and provincial politics. This summer, Ryan was an intern at the Fraser Institute's Calgary office, working with Sylvia LeRoy on a review of Canada's Supreme Court decisions.

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November 19, 2005

Ramada Lodge Hotel

#### TORONTO

November 5, 2005

Sutton Place Hotel

#### CRANBROOK

November 25, 2005

Heritage Inn





# Hommage au guerrier de la liberté

par *Éric Duhaime*

*Summary: Michael Walker is retiring this Fall after 30 years as head of The Fraser Institute. This article published recently in Les Affaires (Quebec's main business paper) underlines Dr. Walker's contribution to Quebec and Canada as one of the greatest warriors of liberty of his generation.*

Michael Walker prendra sa retraite au cours des prochains jours après avoir passé plus de 30 ans à la tête de l'Institut Fraser et été l'un des plus importants promoteurs de la liberté au pays.

Monsieur Walker et quelques autres ont en effet fondé l'Institut Fraser à Vancouver en 1974, une période durant laquelle il était plus populaire de promouvoir l'intervention de l'État dans tout et pour tout. Une époque où pour plusieurs déficit rimait avec prospérité et hausse de taxes s'associait à hausse du niveau de vie. La vision social-démocrate dominait avec les libéraux et les néo-démocrates à Ottawa et était tellement considérée comme solution universelle à Québec que péquistes et libéraux devaient trouver un autre sujet de discorde pour débattre.

Peu de voix s'élevaient alors pour ramener une dose de réalisme sur la place publique et fournir des arguments convaincants pour dénoncer les effets néfastes d'un État de plus en plus obèse. C'est par des analyses économiques sérieuses et crédibles que Walker et son groupe furent les premiers à monter au front. Ils ont mesuré et documenté les impacts réels des politiques gouvernementales sur les individus, les entreprises et l'économie.

La contribution la plus noble de Monsieur Walker n'est pas simplement d'être le plus important guerrier de la liberté de sa génération mais plutôt d'avoir outillé la prochaine génération de conservateurs fiscaux à gagner la guerre des idées sur le champs de bataille intellectuel canadien.

Rappelons que c'est l'Institut Fraser qui publie annuellement, en compagnie de l'Institut économique de Montréal (IEDM), le classement des écoles dans l'Actualité. Un classement fort utile aux parents québécois que notre ministère de l'Éducation ne daigne produire.

C'est aussi grâce à cet institut de recherche que les Canadiens et les Québécois connaissent la « Tax Freedom

Day », c'est-à-dire le jour de l'année où on cesse de travailler pour le gouvernement et où on commence à vraiment travailler pour soi.

On doit également à l'Institut Fraser les premières mises à jour des listes d'attente de notre système de santé, où on comptabilise les millions d'heures perdues et attendues par les patients dans notre monopole gouvernemental de la santé. Il faudra attendre plus de 15 ans avant que nos gouvernements commencent à donner un peu d'information en ce sens et qu'un premier parti politique au Québec ouvre véritablement le débat sur la contribution du secteur privé en santé.

Comme Québécois, on peut aussi dire un gros MERCI à Michael Walker pour avoir personnellement contribué et aidé à la mise sur pied de l'IEDM, lui qui a compris beaucoup mieux que certains politiciens d'Ottawa la spécificité québécoise.

Une nouvelle génération d'idée est entrée dans les salles de nouvelles, les universités et les parlements au Canada et au Québec grâce, en grande partie, au travail de ces think tank. Nous sommes aujourd'hui nombreux les enfants du Fraser qui avons bénéficié des recherches et des idées que l'on retrouve trop peu souvent dans nos universités et collèges publics.

Michael Walker est peut-être un homme peu connu du grand public, particulièrement au Québec, mais son héritage idéologique fleurit un peu plus chaque jour. Le combat du plus grand guerrier de la liberté s'achève mais il nous lègue toutes les munitions pour mieux défendre notre prospérité et notre liberté. 🏠

*Éric Duhaime is a graduate of The Fraser Institute's student programs. He graduated with a Master's degree from the National School of Public Administration. He has worked in Quebec and Canadian politics for over 10 years as advisor, most recently for the former Leader of the Opposition in the House of Commons, Stockwell Day (2000-2002) and the Leader of the Action démocratique du Québec in the National Assembly, Mario Dumont (2003-2005).*



# Student Writer Op/Ed Contest



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Contest submissions must include a cover page with the following  
information: student name, mailing address, email address, phone  
number, and school information (school, degree program, major,  
year of graduation).

Each contest submission must also include a paragraph describing  
which newspaper the article would be submitted to, when, and why.  
This paragraph will serve to put the op/ed in context and will be  
considered in the judging of the contest. (Please note that contest-  
ants' articles **WILL NOT ACTUALLY BE SUBMITTED** to commercial  
newspapers.)

Submissions must be received by email at [student@fraserinstitute.ca](mailto:student@fraserinstitute.ca)  
by 5:00 pm on October 15<sup>th</sup>, 2005.



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**Winter deadline: October 15<sup>th</sup>**

# How to write an “op/ed”

## What is an op/ed?

Look at the opinion pages of your local or national newspaper. First, you will find editorials, usually placed on the left hand side of the page. These opinion articles are written by the editorial staff of the newspaper. They are not news articles, but rather are opinions reflecting the newspaper’s response to issues in the news.

You will also find columns, articles written by writers who appear regularly in the same spot, usually under the same heading.

The opinion pages are also the place for letters to the editor, short letters about recent news, or opinions that have appeared in the newspaper. They are submitted by members of the public.

Finally, op/eds (literally, opposite the editorials) are opinion articles written by outside authors, usually experts in their field. They provide an informed view on a newsworthy topic, and give the reader additional facts or anecdotes about the issue. They may reflect or counterbalance the newspaper’s own editorial slant.

## How do I write a good op/ed?

A few basic guidelines will help you to write an effective op/ed. There is also a wealth of information available on the internet (see Sources for some suggestions).

Your topic should be timely and relevant, often triggered by front page news. Make only one clear point in your article.

Have a clear viewpoint. This is an opinion piece, not an academic essay that must explore all sides. Don’t be wishy-washy.

Know the newspaper that you are writing for, and their readership. Adjust your scope and focus accordingly, especially with regard to regional or national issues.

Keep it brief. 500-800 words is just enough space to state your opinion, back it up with facts, and conclude. Make every word count.

Use clear, powerful, direct language that is easy to understand. The tone should be conversational and entertaining. Do not use technical language, jargon, or clichés. Appeal to the layperson. Reading an op/ed should not be hard work.

Humor can be a useful device, provided that it is appropriate to the topic.

Begin your op/ed with a powerful, eye-catching sentence that makes the reader want more. A careful turn of phrase or clever use of words can be very effective here. Use this opening sentence to clearly state your opinion on the topic—essentially you state your conclusion first and then fill in the facts.

Unlike an academic essay, you do not need to use the first paragraph to map out the structure of your article.

Follow up with solid information to support your opinion. Include facts, statistics, numbers, or anecdotes. Provide insight on the topic for the reader, but don’t be preachy.

Conclude by re-stating your opinion and issuing a call to action. End with a “bang.”

Include a one-sentence byline that describes who you are.

## Sources

Andrew Leigh, “So, you’d like to write for the opinion page?” Australian Policy Online. Posted August 12, 2004. Available digitally at [http://www.apo.org.au/webboard/results.shtml?filename\\_num=12329](http://www.apo.org.au/webboard/results.shtml?filename_num=12329) (retrieved August 16, 2005).

University Relations Office, “Tips from the University Relations Office on Writing Op/Eds,” McGill University. Last modified December 22, 2003. Available digitally at <http://www.mcgill.ca/public-relations/op-ed/> (retrieved August 16, 2005).

Media Matters, “What’s an “op-ed” Article—and Why Should You Want One?” and “Writing an op-ed, part 1,” The Center for an Accessible Society. October 9, 2002 and October 23, 2002. Available digitally at <http://www.accessiblesociety.org/mediamatters/mm16.html> and <http://www.accessiblesociety.org/mediamatters/mm17.html> (retrieved August 16, 2005).

John McLain, “How to Write an Op-Ed,” All About Public Relations web site. Available digitally at <http://aboutpublicrelations.net/ucmclain.htm> (retrieved August 16, 2005).

## *In addition to the above sources, readers may find useful information on the following sites:*

National Community Capital Association, “How to Write and Place an Effective Op-ed.” Available digitally at: [http://www.communitycapital.org/resources/strategy/quick\\_tips\\_op\\_ed.pdf](http://www.communitycapital.org/resources/strategy/quick_tips_op_ed.pdf).

Cover the Uninsured Week, “How to Write an Op-Ed.” Available digitally at: <http://covertheuninsuredweek.org/docs/print.php?DocID=6>.

DeWitt Wallace Center Op-Ed Resource, Duke University. Available digitally at: <http://www.pubpol.duke.edu/courses/op-ed/>. ✉

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## VICTORIA

Friday, October 28

### Policy Briefing

**The Polite Revolution:  
Perfecting the National Dream**

with **John Ibbitson**,  
Author & Columnist, *The Globe and Mail*

## TORONTO

Wednesday, September 7 - Policy Briefing

### Does Private Education Work for the Poor?

with **Dr. James Tooley**,  
Professor of Education Policy, *University of Newcastle*

Thursday, September 8 - Policy Briefing

### Economic Freedom: The Key to Peace and Prosperity?

with **Fred McMahon**,  
Director of Globalization Studies, *The Fraser Institute*

Friday, October 7 - Policy Briefing

### Global Effects of Russian Authoritarianism: The Case of YUKOS Oil

with **Robert Amsterdam**,  
Senior Partner, *Amsterdam & Peroff*

Tuesday, November 1 - Gala Dinner

### A Canada Strong & Free

with **Mike Harris & Preston Manning**,  
Senior Fellows, *The Fraser Institute*

*Metro Toronto Convention Centre*

Wednesday, November 2 - Policy Briefing Breakfast

### Accounting for Gomery: The Money Links Between the Federal Government, Political Parties, and Private Interests

with **Mark Mullins**,  
Executive Director, *The Fraser Institute*

Wednesday, November 23  
Awards Ceremony & Celebration Lunch

**The Donner Canadian Foundation Awards  
for Excellence in the Delivery of Social Services**  
*The Fairmont Royal York Hotel*

## VANCOUVER

Tuesday, September 13  
Policy Briefing

### China's Dragon: Why All Provinces Are Not Breathing Fire

with **Dr. Ding Lu**,  
Professor of Economics,  
*Sophia University (Japan)*

Thursday, September 15  
Policy Briefing

### How Good is Canadian Health Care and How Good Could it Be?

with **Nadeem Esmail**,  
Senior Health Policy Analyst and  
Manager, Health Data Systems,  
*The Fraser Institute*

Tuesday, September 20 - Open House

### Meet new Fraser Institute Executive Director Mark Mullins

Thursday, September 22  
Policy Briefing

### Two Pillars of Canadian Prosperity: Taxation and Labour Laws

with **Jason Clemens**, Director of Fiscal  
Studies and **Niels Veldhuis**, Senior  
Research Economist, *The Fraser Institute*

Wednesday, September 28  
Policy Briefing

### The Chaoulli Decision: Economic Liberty in the Canadian Context

with **John Carpay**,  
Executive Director,  
*The Canadian Constitution Foundation*

Tuesday, October 4  
Policy Briefing

### Collectivism: How to Create Immoral and Characterless Individuals

with **Jayant Bhandari**,  
Author and Entrepreneur, *Relishtrove Foods*

Wednesday, October 12  
Round Table Luncheon

### Update on the US Economy

with **Governor Mark Olson**,  
*US Federal Reserve Board*  
*The Hyatt Regency*

Tuesday, October 18  
Policy Briefing

### Government Failure in Canada 1992-2005: A Survey of Reports from the Auditor General

with **Jason Clemens**,  
Director of Fiscal Studies, *The Fraser Institute*

Tuesday, October 25  
Policy Briefing

### Economic Freedom: The Key to Peace and Prosperity?

with **Fred McMahon**,  
Director of Globalization Studies,  
*The Fraser Institute*

Thursday, October 27  
Policy Briefing

### The Polite Revolution: Perfecting the National Dream

with **John Ibbitson**,  
Author & Columnist, *The Globe and Mail*

Thursday, November 3  
Policy Briefing

### Accounting for Gomery: The Money Links Between the Federal Government, Political Parties, and Private Interests

with **Mark Mullins**,  
Executive Director, *The Fraser Institute*

Tuesday, November 8  
Awards Ceremony & Celebration Dinner

### The Garfield Weston Awards for Excellence in Education

*The Crowne Plaza Hotel Georgia*

Tuesday, November 15 - Gala Dinner

### A Roast of Mike Walker

featuring **Mike Harris**, **Terrance Corcoran**,  
**Ezra Levant**, **Preston Manning**, and  
many more. Emcee **Danielle Smith**  
*The Westin Bayshore*

## CALGARY

Monday, October 3  
Policy Briefing

### Global Effects of Russian Authoritarianism: The Case of YUKOS Oil

with **Robert Amsterdam**,  
Senior Partner, *Amsterdam & Peroff*

Wednesday, October 26  
Policy Briefing

### The Polite Revolution: Perfecting the National Dream

with **John Ibbitson**,  
Author & Columnist, *The Globe and Mail*

Wednesday, November 9  
Awards Ceremony &  
Celebration Dinner

### The Garfield Weston Awards for Excellence in Education

*The Hyatt Regency*



Robert Amsterdam



James Clemens



John Ibbitson



Fred McMahon



Mark Mullins



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Student Essay Contest: First Prize Winner

# Managing Nutrients with Property Rights: An Evaluation of Nutrient Management Under Central Planning and the Market

by Maria Klimas

Sparrow *et al.* (1984, p. 5) claim that the Canadian “federal and provincial departments of agriculture have considered increased production a major priority.” Furthermore, they state that, “farmers are encouraged to produce in greater quantities, on the same amount of land.” Nutrient use for crop fertilization has been a factor in increased agricultural productivity. However, it has also had detrimental impacts on the environment in the form of surface and groundwater contamination (Johnson and Ward, 2004, p. 1). This paper describes and evaluates the central planning and market approaches to nutrient management, revealing that private property rights, enforced by law, can achieve a level of nutrient management that best reflects the preferences of the parties involved.

## The central planning solution

The *Nutrient Management Act* (NMA) was passed on June 27, 2002. Most of its conditions and regulations for Ontario came into effect on September 30, 2003 (Ministry of the Environment, 2004). According to the Canadian Environmental Law Association (2004), the main goal of the *Nutrient Management Act* is “to control nutrients on farms so that they do not enter surface water or infiltrate groundwater. It is also designed to control pollution from biosolids (i.e., sludge from sewage treatment plants) when they are spread on land.”

The *Nutrient Management Act* is administered by government ministries (the Ontario Ministry of the Environment (MOE) and the Ontario Ministry of Agriculture and Food (OMAF)) and, as such, is a central-planning solution to nutrient management. I will now put forth an alternative that

focuses on property rights—the free-market solution—and I will contrast the two options to evaluate which is the superior approach to nutrient management.

## Market solution

### *Strict liability and property rights*

Rothbard (1990, p. 235) points out that from the two axioms of self-ownership and homesteading of libertarian political theory “stem the justification for the entire system of property rights titles in a free-market society.” It follows that “no action should be considered illicit or illegal unless it invades the person or just property of another” (Rothbard, 1990, p. 236). Rothbard further (1990, p. 248) states that pollution damage is an act of aggression (when proven beyond reasonable doubt) and that strict liability holds the polluter responsible to pay the affected party. Posser, quoted by Rothbard (1990, p. 251), lists “the pollution of a stream or of an underground water supply” as a nuisance (“an interference with [the plaintiff’s] use and enjoyment of [the land]”). Therefore, nutrient run-off can be classified as an aggression taking the form of a nuisance, and the defendant should pay any damages to the plaintiff.

### *Homesteading*

According to Rothbard (1990, p. 248), the homesteading principle of the theory of just property dictates that an airport emitting a noise level over empty land maintains the right to this noise level even after this land is developed. He applies this idea to air pollution, stating that “if a factory owned by A polluted originally unused property up to a certain amount of pollutant X, then A can be said to have homesteaded a pollution easement of a certain degree and type” (Rothbard, 1990, p. 249).

Rothbard’s homesteading principle is a basis for a free-market solution to nutrient management. A farmer has a riparian right to the groundwater that he first drills. This



*Maria Klimas is a student at the University of Guelph. She obtained her BSc in Environmental Sciences this spring, and is beginning an MSc program in the Department of Agricultural Economics and Business this fall. Her essay garnered her the first prize in The Fraser Institute’s 2005 Student Essay Contest.*

ownership structure determines that a polluter of that homesteaded water is liable for the damages of its contamination to the homesteader. Similarly, a farmer's right to emit nutrients into surrounding areas is protected, by the homesteading principle, if he first emitted the nutrients into empty surroundings.

### **The market approach: voluntary conservation, public land, and multiple sources of pollution**

When nutrient management results in damages to private property owners, the law can ensure that the plaintiff is paid accordingly. In this case, farmers have an economic incentive to minimize run-off of pollutants, by either restricting nutrient use or taking the appropriate steps to reduce externalities.

Moreover, a set of prices arises from the negotiations between the emitter and affected party, since they will take into consideration the alternatives of their actions, and their individual best-cost solutions. According to Pasour, "the crucial role of entrepreneurship is to identify superior resource combinations and uses, taking into account expectations of the future" (1983, p. 134). Thus, expected costs of nuisance liability and costs of conservation techniques relay to farmers the information they need to decide how they value tradeoffs.

What if damage is widespread to public land? Brubaker suggests that when financial incentives to preserve are not sufficient, "environmental groups can intervene, increasing incentives to conserve" (1995, p. 194). This idea of interest groups buying rights to pollute can be applied to nutrient run-off. If a conservation group values the preservation of public waterways or lands enough, it will be willing to pay the farmer responsible to set up barriers to run-off, or to subsidize his decrease in yields due to lower nutrient use.

A problem with property rights and liability occurs when there are several polluters involved in causing damage. However, Epstein (1985, p. 260) suggests that a market share liability solution can be implemented in such cases. Applying this principle to nutrient management could mean that emitters pay a portion of damages to plaintiffs based on the fraction of nutrient emissions they are responsible for relative to other emitters.

### **Evaluation of central and market nutrient management**

#### *The information problem*

According to Pasour (1983, p. 128), central planning is possible if data on resources, production alternatives, and con-

sumer preferences are known. However, he concedes that planners cannot obtain this data. Pasour points to Hayek's argument that "since information in the real world is vast, detailed, constantly changing, and specialized to the decision maker, the information that motivates individual choice cannot be neatly summarized in objective demand and cost functions for use by central planners" (Pasour, 1983, p. 130). Pasour's critique of general central planning can be applied to nutrient management planning. The *Nutrient Management Act* cannot be a reflection of consumer preferences since the information problem is inherent to central planning policies.

Pasour states that "all political decisions confer benefits on some people and impose losses on others, and there is no objective way to measure the benefits and costs" (1983, p. 133). If the *Nutrient Management Act* is a central solution based on public interest, a criterion often used in political planning, Pasour's argument (1983, p. 133) raises the question of whose interests the policy is based upon. If the ministries administering the act are aiming to reach an overall maximum satisfaction, they have no means of objectively and fairly calculating the trade-offs between farmers' decreased satisfaction and the benefits of pollution prevention.

The information problem in nutrient management can be resolved with a market approach. According to Pasour (1983, p. 131), no collective information is needed in a market approach to management since "by coordinating and transmitting widely dispersed information, prices act to harmonize the separate actions of different people." Pasour (1983) indicates that prices in a market reflect the subjective tradeoffs of individuals, without the need of a third party to aggregate the dispersed information, a task that is unfeasible.

### **Philosophical justifications for central planning and market approaches**

#### *Utilitarianism and central planning*

According to Fox and Ivy, "utilitarianism is the ethical foundation of modern welfare economics and cost-benefit analysis" (1998, p. 2). Utilitarians such as Coase and Bentham gave the job of achieving the utilitarian goal of "the greatest happiness of the greatest number" to the government (Fox and Ivy, 1998, p. 2). Fox and Ivy outline that, under utilitarian central planning, actions are immoral if they cause harm to others, since "such actions diminish the level of total happiness in a community" (1998, p. 2). Similarly, utilitarianism allows for sanctions against such harmful actions to

prevent diminished utility (Fox and Ivy, 1998, p. 2). The *Nutrient Management Act* is a centrally planned solution to prevent pollution by nutrients of surface and groundwater, and as such, is justified under utilitarian theory.

### Libertarianism and the market

According to Rothbard (1997, p. 287), “the free-market economy, as complex as the system appears to be on the surface, is yet nothing more than a vast network of voluntary and mutually agreed upon two-person or two-party exchanges of property rights.” Furthermore, he claims that, “the free-market economist must have some sort of theory of justice in property rights” (1997, p. 275). Rothbard further states that although utilitarians avoid applying justice to their theory of property rights, they inadvertently adopt a view that “whatever government defines as legal is right” (1997, p. 276). However, Rothbard criticizes utilitarianism for its failure to meet its own criterion of “social and economic efficiency” (1997, p. 278) since rapid, arbitrary and politically biased government allocation leads to uncertainty in property rights. Since rational calculation within a central framework is not feasible, as stressed by Pasour (1983, p. 18), utilitarianism cannot be ethical. Rothbard (1997, p. 279) concludes that a theory of justice in property must be used instead of utilitarianism for a free-market economy, and he points to libertarianism as the proper theory.

### Legislation under libertarian theory

According to Rothbard, “in libertarian theory, it is only permissible to proceed coercively against someone if he is a proven aggressor, and that aggression must be proven in court (or in arbitration) beyond a reasonable doubt” (1990, p. 257). He therefore concludes that legislation, such as the *Clean Air Act* of 1970, and, likewise, the *Nutrient Management Act* of 2002, is “illegitimate, and itself invasive and a criminal interference with the property rights of non-criminals” (1990, pp. 257-58). Thus, under libertarian theory, a centrally-planned solution to nutrient management is unethical, since the government does not prove that an aggression has taken place by farmers using nutrients, and the alternative, a market solution, justified under libertarian theory, is the superior option.

Brubaker also acknowledges the basis of property rights and law in pollution regulation. She states, “many provisions of the common law function as environmental protection laws... Any invasion of another’s land—whether by people, flood-waters, structures, or pollutants—constitutes

a trespass” (1995, p. 31). The availability of environmental management techniques within the law demonstrates that government intervention is not warranted.

### Conclusion

The government has taken it upon itself to implement regulation to control how nutrients are managed. However, the regulation has inherent information problems, and is illegitimate and unjustified under libertarian theory.

Private property rights, enforced by law, can resolve cases in which clear damage is caused by emitters of excess nutrients to surrounding property owners. When public land is involved, and voluntary conservation becomes insufficient, interest groups can increase economic incentives. Finally, problems associated with the non-point source nature of nutrient water contamination can be resolved with the principle of market share liability.

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# Student Programs Alumni Interview with Sonia Arrison, Former Student Intern

Sonia Arrison is director of Technology Studies at the California-based Pacific Research Institute (PRI) where she researches and writes on the intersection of new technologies and public policy. Her specific areas of interest include privacy policy, e-government, intellectual property, nano-technology, evolutionary theory, and telecommunications.

She is a regular columnist for *Tech Central Station* and *Tech News World*. Her work has appeared in many publications including *CBS MarketWatch*, *CNN*, *Los Angeles Times*, *Sacramento Bee*, *San Francisco Chronicle*, *San Jose Mercury News*, *The National Post*, *Washington Times*, and *Consumer Research Magazine*. A frequent media guest and National Press Club First Amendment Scholar, Ms. Arrison has appeared on National Public Radio's *Forum*, Tech TV, CBC's *The National*, and CNN's *Headline News*. She was also recently the host of a radio show called "digital dialogue" on the Voice America network.

Arrison is author of several major PRI studies including *Canning Spam: An Economic Solution to Unwanted Email*, *Being Served: Broadband Competition in the Small and Medium Sized Business Market*, and *Consumer Privacy: A Free Choice Approach*. She is co-author of *Punishing Innovation: A Report on California Legislators' Anti-Tech Voting*, *Internet Taxes: What California Legislators Should Know*, and editor of *Telecrisis: How Regulation Stifles High Speed Internet Access*.

Often asked for advice on technology issues, Arrison has given testimony and served as an expert witness for various government committees such as the Congressional Advisory Commission on Electronic Commerce and the California Commission on Internet Political Practices. She is also on

the technology advisory board for the Institute for the Study of Accelerating Change.

Prior to joining PRI, Arrison focused on Canadian-US regulatory and political issues at the Donner Canadian Foundation. She also worked at The Fraser Institute, where she specialized in regulatory policy and privatization. She received her BA from the University of Calgary and an MA from the University of British Columbia.

CSR interviewed Sonia recently in her office at PRI.

*Canadian Student Review:* Why do you think it's important for students and youth to be informed about public policy?

*Sonia Arrison:* Public policy today will shape tomorrow's world. The future is something most youth should care about.

*CSR:* How do you think a deeper understanding of markets and the role they play in society has affected your professional life?

*SA:* It's helped me make cogent arguments concerning freedom, which is an important part of my job.

*CSR:* Have you always believed in markets and freedom, or, like many students, were you more "socialist" when you were younger? If your views changed, how and why did they do so?

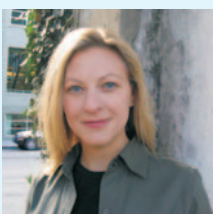
*SA:* I suppose I am an exception to the general rule that people are socialist when they are younger. But it's not because, as they say, I had "no heart." It's because I grew up in a small town where I saw the tyranny of the majority up close.

*CSR:* If you could make one policy change with the snap of your fingers, what would it be?

*SA:* I would eliminate all current taxes and institute a single flat tax at a very low rate.

*CSR:* What is your favourite book about freedom?

*SA:* *Red China Blues* by Jan Wong is one of my favorite books about freedom because it wasn't meant to be. It's a memoir of a Canadian woman who set off in 1972 to live in Maoist China. The abuse of govern-



*Sonia Arrison is director of Technology Studies at the California-based Pacific Research Institute (PRI). She was a Fraser Institute student intern in 1995.*



ment power in the name of creating a better society screams from her pages.

*CSR: If you could recommend one book to our readers what would it be?*

*SA: Capitalism and Freedom by Milton Friedman.*

*CSR: Do you feel optimistic about the future of public policy in Canada? Why?*

*SA: The continued existence of The Fraser Institute offers cause to be optimistic about the future, but there is much work to be done.*

*CSR: What are the biggest challenges in Canadian public policy?*

*SA: Educating the public and dispelling myths that have been perpetuated by an elite class of socialists. One of the great scams of all time is how a doomed, clunky, health care system was held up as a symbol of the nation.*

*CSR: How does your job influence public policy?*

*SA: My work is read by legislators, the media, and the general public. By helping to educate these groups about important public policy questions, I help to change the policy landscape.*

*CSR: What advice do you have for young people considering a career in the world of ideas?*

*SA: I think it's incredibly important to consider many different ideas and avoid being dogmatic. However, that said, one's open mind should not be so open that one's brain falls out.*

*CSR: What economic or public policy idea has had the greatest influence on you?*

*SA: Adam Smith's idea that self-interest can be harnessed for the common good shines with wonderful brilliance.*

*CSR: What's the best decision you've made in the last six months?*

*SA: Undergoing laser eye surgery. It's a permanent correction to my vision and speaks to my belief in using technology to improve the future.*

*CSR: We often hear that young people are less interested in voting or entering public service than older generations. Do you agree? If so, how do you recommend getting youth motivated to become more involved?*

*SA: I don't think Canada's youth are less interested in making the world a better place, but I do think that the traditional channels are not the most interesting anymore. This is especially true in a country like Canada that desperately needs to reform its system of representation. When I tell people from other countries that Canada's senate isn't elected, they generally express great shock.*

*CSR: How do you think technology has influenced, and will continue to influence, public policy in Canada?*

*SA: Technology has made it easier to communicate, which helps shine light on the country's policy machinery. This sunshine should continue to push Canada in a better direction.*

*CSR: Where do you see your career going from here?*

*SA: My career will always follow a path that works to make the world a better place, whether I am writing about policy or actually involved in making it. ☞*

*"It is easy to think the State has a lot of different objects—military, political, economic, and what not. But in a way things are much simpler than that. The State exists simply to promote and to protect the ordinary happiness of human beings in this life. A husband and wife chatting over a fire, a couple of friends having a game of darts in a pub, a man reading a book in his own room or digging in his own garden—that is what the State is there for. And unless they are helping to increase and prolong and protect such moments, all the laws, parliaments, armies, courts, police, economics, etc., are simply a waste of time."*

*—C. S. Lewis (1898-1963), British writer*

Student Essay Contest: High School Category Winner

# Putting our Future in the Right Hands

by Michael Beeler

One entity produces exponentially more goods and services than any multinational corporation or wealthy state. Every year it filters thousands of cubic kilometers of freshwater, it generates millions of tons of rich topsoil, and it filters countless pollutants from the air. Even if technologically possible, completely replacing it would be economically impossible. This industrious, productive entity is none other than the biosphere, or more simply, the environment. As biological beings, our human health and prosperity is intrinsically tied to the condition of our biosphere; moreover, the biosphere's condition has become increasingly affected by human economic activity. The dynamic connection between humans and the environment is widely acknowledged, as is the need for environmental conservation and sustainable resource use for the benefit and longevity of humanity. There is far less consensus on the issue of how economic activity should be structured in order to achieve these ends. In general, there are two different approaches, both with strengths and limitations—a property-rights-based approach and a regulation-based approach. Contrary to common belief, rights-based conservation can protect and has protected the environment, often more effectively than government-run regulatory regimes.

Nobel laureate Paul Samuelson argued that unregulated markets cannot protect the environment because air, water, and ecosystems are indivisible, non-transferable, collectively-owned and consumed forms of wealth, making it impossible for markets to allow their exchange or assign them prices (1998, pp. 351-3). Thus, because it is difficult to claim private ownership of these commodities, they are widely considered “public goods.” To illustrate, it is impractical to claim ownership over a cubic kilometre of free

floating air, for the air cannot be tracked; moreover, property rights over air molecules themselves are unenforceable; it is impractical to sue those who unknowingly breathe “owned” air as it floats by.

The conclusion of Samuelson's argument concurs with what Dr. Garrett Hardin described in a 1968 paper as the “Tragedy of the Commons.” It is a tragedy whereby valuable shared resources are overexploited by anyone with access to them, while no one is willing to pay the cost of preserving those resources alone. The explanation is simple. Individuals will take care of their own resources in order to maximize their value. A resource's value reflects its ability to generate wealth, not only in the present, but in the future, thereby making the preservation of the resource in an individual's interest. With shared resources, individuals cannot assume that the resource will be conserved by others, so there is a tendency to aggressively overuse the resource in order to maximize the wealth obtained from it in the short term in case others fail to conserve it in the long term; the tendency is self-perpetuating, for this very reaction encourages the same reaction in others. Samuelson further argues that in unregulated markets polluters do not internalize the cost of pollution—that cost is thrown upon society in many



*Michael Beeler is a student in the IB program at Lester B. Pearson College of the Pacific in Victoria, BC. He is originally from Dartmouth, NS. His essay, “Putting Our Future in the Right Hands,” won the high school category of the Fraser Institute's 2005 Student Essay Contest.*

forms, such as through increased rates of respiratory illness from smog and the need for more expensive water sanitation due to agricultural run-off.

While unregulated markets are limited in their ability to protect the environment in some scenarios, government regulation-based approaches to conservation can be worse. They are often plagued by environmentally dangerous concessions to resource-industry lobbyists. For example, the United States Forestry Service, the bureau responsible for protecting the nation's forests, is estimated to have built three times as many access roads for logging as roads for public recreation—a testament to successful lobbying by logging companies (Burton). As well, despite dwindling fish stocks in Southeast Asia's waters, Hong Kong fishermen lobbied successfully for government subsidies (*The Economist*, May 4, 2005). Furthermore, governments are usually not as long-sighted as individual property owners; the harmful effects of poor environmental stewardship during a political term may be fully felt only long after a politician is out of office. It is in a politician's self-interest to appease wealthy special interest groups, such as those in the resource sector, in return for election campaign donations, while boasting of short term economic gains that may be reaped at the environment's expense, and therefore at the expense of our long term economic well-being. Rather than attempt to change the political system to limit lobbyists' power and political short-sightedness, strengthening and extending property rights can help markets protect the environment without the inefficiencies of extensive, inconsistent, and often dubious government regulation.

The first task of a property-rights regime is to overcome the tragedy of the commons. Often, indivisibility and shared access are not intrinsic to commodities themselves, but to our perspectives. By expanding our definition of property, formerly shared resources can become semi-private: individuals can have defined, finite rights of access to unshared, and therefore unexploited, resources. For example, while the ocean's water and much of its marine life are in a constant state of flux, like the air, areas of space over ocean are divisible and discrete, and could be treated like property. In the case of shrimp fishing in the Gulf of Mexico, in the early 1900s shrimp fishermen assented to pre-

vent excess fishing by claiming exclusive fishing rights over regions of ocean. The fishermen did not exhaust stocks in their own region because sustainable harvests were more profitable in the long term. When the American government dissolved the system and introduced a nearly unenforceable quota, shrimp became a shared resource, leading to overfishing (Burton). Although satellite technologies could make a quota system more enforceable than in 1900, a property-rights system could grant exclusive fishing rights in different regions of ocean to specific fishing firms, without the fishing firms actually owning the ocean space itself. The latter system would see firms conserve their own stocks without government intervention.

In addition to broadening property-rights protection to avoid the tragedy of shared resources, the environment can also benefit from strengthening common-law property rights through riparian and liability laws. Substantial property rights encourage property owners either to demand pollution cessation or sue polluters when pollution damages their health or property. Polluters, wanting to avoid such costly court cases and liabilities, will have an incentive to reduce pollution. Several legal precedents have been set in Canada where property owners held polluters liable for environmental damage, only to have governments intervene and side with the polluters through legislation that weakened property rights. For example, in 1946, Kalamazoo Vegetable Parchment Company's pulp and paper mill in Espanola, Ontario released contaminated effluent that rendered the Spanish River's water undrinkable and its fish dead. A coalition of six property owners successfully sued the company, although the Ontario government later passed a law that allowed similar property rights violations if the polluter is deemed economically valuable to the local community—valuable in the short term, that is (Slick). The case demonstrates that ordinary citizens have the means to protect both their property and society against pollution by creating disincentives for pollution when and if property rights are upheld.

There are limitations to using the justice system to protect the environment through property rights. First, low-income citizens who reside in neighbourhoods where pollution levels devalue their land are less likely to have the solvency required to successfully conduct litigation. As well, successful claims against polluters depend on clearly demonstrating damage caused by pollution and clearly identifying the source of pollution, as in the Kalamazoo case. Unfortunately, environmental harm is sometimes shared among entire industries and suffered so gradually by so many people that it

... ordinary citizens  
have the means to  
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property and society  
against pollution ...

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is nearly impossible and unrealistic to pinpoint a single source as liable, such as in the case of nitrous oxide and carbon dioxide emissions from factories, automobiles, and power plants. Widespread air pollution epitomizes an externality, and requires its own set of solutions.

The conventional approach to externalities, or “spill-over costs,” is to ban them or regulate their levels by legislating emission cuts. These bans and cuts can be difficult to enforce, or when enforced, are costly to implement. A market-based approach mitigates this cost and allows for emissions reductions to occur more efficiently. The approach is known as “cap and trade,” where maximum emission levels are legislated, but polluters who reduce emissions below the maximum can sell pollution credits to other firms who need more time to adjust or wish to expand production. Thus, pollution credits make the right to pollute a form of property sold on markets. Such a system is being tested in the EU for carbon dioxide and has a long history in the United States for sulphur dioxide emissions (*The Economist*, April 21, 2005). Treating pollution rights as property helps enforce and quickly fulfill emissions caps, thereby reducing air pollution better than through regulation alone.

Both property rights-based approaches and regulatory approaches to environmental protection have strengths and limitations. Contrary to Samuelson’s wisdom, a free market has an abundance of potential to protect the environment if backed by substantial property rights. Given the generally poor record of governments in protecting the environment through regulations, it would be imprudent to place our biosphere, our very future, anywhere but in the hands of those who care for it most—individual citizens.

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# Things Folks Know...

by Nicholas Schneider

## What folks know ...

Canada and other developed nations are not doing their share to reduce greenhouse gas emissions as targeted under the Kyoto Protocol.

## Why it ain't so...

A recent story by Peter Calamai (2005) in the *Toronto Star* reported that, "Canada is losing ground in the climate change battle." But what about other countries that have ratified the Kyoto Protocol?

Under the Kyoto Protocol, developed countries and some economy-in-transition countries, collectively referred to as Annex-1 countries, set targets to reduce their national greenhouse gas emissions by various amounts relative to their estimated 1990 levels. Overall, the aggregate reduction in greenhouse gas emissions agreed to by Annex-1 countries is 5.2 percent below 1990 levels. Canada's target was a 6 percent reduction. Canada is not progressing well toward compliance with its emission reduction targets, although Spain, Portugal, and Ireland are doing worse (see table 1).

However, since the atmosphere is a global commons and greenhouse gases circulate globally, progress toward the *overall* emission reduction target is an important measure of performance. Taken as a whole, how much progress have the Annex-1 countries made in aggregate toward the total emission reduction goal? The United Nations Framework Convention on Climate Change (UNFCCC) has tabled greenhouse gas emissions inventories for Annex-1 countries from 1990 to 2002. The results are surprising.

The Annex-1 countries that ratified the Kyoto Protocol had achieved aggregate emission reductions of 269 percent of the goal set out in the Protocol by 2002. In fact, their aggregate emission reductions have exceeded their commitment targets every year since 1991 (see figure 1).

For all of the Annex-1 countries, including those that chose not to ratify the Protocol, 69 percent of the target reduction in greenhouse gas emissions had been achieved, in aggregate, by 2002. Their total emission reductions exceeded the aggregate Kyoto targets from 1992 to 1999.

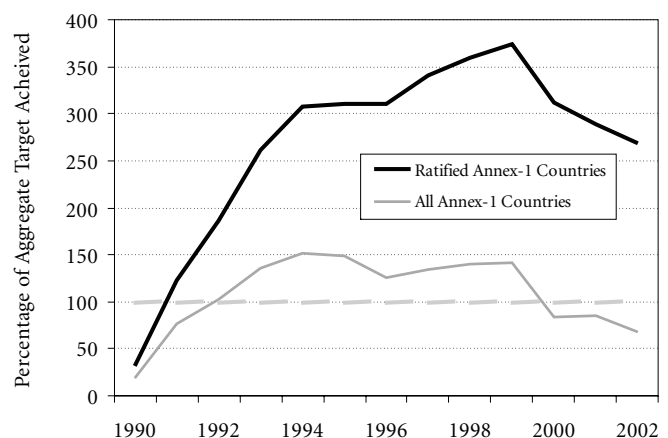
Much of the reduction in aggregate greenhouse gas emissions can be attributed to an economic downturn in the for-

mer Soviet Bloc countries, with the Russian Federation and Ukraine being the two largest reducers of emissions. The economic downturn led to less energy consumption, and thus less greenhouse gas emissions. Reimund Schwarze (2002) has reported that, because these reductions were not the result of purposeful abatement, critics have pejoratively referred to them as "hot air." Nevertheless, incidental emission reductions are still reductions.

Open emissions trading among the Annex-1 countries would provide an incentive for the Russian Federation and similarly situated countries to maintain the emission reductions that they have achieved. Emissions trading would allow countries that have exceeded their targets to trade "credits" to other nations that have yet to meet their targets. Restrictions on such trading, on the other hand, would send the opposite signal. Why hold credits if they cannot be sold, since this renders them essentially worthless?

Furthermore, as Schwarze has noted, incidental "hot air" emissions reductions are practically indistinguishable from intentional abatement, so efforts to block the sale of credits based on incidental emissions reductions would undermine the trading of all credits. On the other hand, given the suc-

**Figure 1: Suplus Emissions Reductions Among Annex-1 Countries, 1990 to 2002**



Source: Calculated from United Nations Framework Convention on Climate Change [undated.] Table B.1. Digital version available at <http://ghg.unfccc.int/ghgtables90-02.zip> (Accessed on June 10, 2005.)

**Table 1: A Comparison of Greenhouse Gas Emissions Reduction Targets and Actual Emissions Reductions as of 2002 for Annex-1 Countries**

<b>Annex-1 Countries</b>	<b>1990 GHG Emissions<sup>1</sup> (Gg CO<sub>2</sub>-eq.)</b>	<b>2002 GHG Emissions<sup>2</sup> (Gg CO<sub>2</sub>-eq.)</b>	<b>Target Percentage Change in Emissions for 2008-2012<sup>3</sup> (%)</b>	<b>Target Absolute Change in Emissions for 2008-2012 (Gg CO<sub>2</sub>-eq.)</b>	<b>Actual Change 1990-2002 (Gg CO<sub>2</sub>-eq.)</b>	<b>Percentage of Reduction Commitment Achieved as of 2002<sup>4</sup> (%)</b>
<i>Ratified</i>						
Spain	284,556	399,732	-8%	-22,764	115,176	-506
Portugal	58,362	81,982	-8%	-4,669	23,620	-506
Ireland	53,418	68,875	-8%	-4,273	15,457	-362
Canada	608,704	731,209	-6%	-36,522	122,506	-335
Greece	107,149	134,992	-8%	-8,572	27,843	-325
Japan	1,187,269	1,330,793	-6%	-71,236	143,524	-201
Austria	77,746	84,621	-8%	-6,220	6,875	-111
Italy	509,078	553,781	-8%	-40,726	44,702	-110
Finland	76,770	81,963	-8%	-6,142	5,193	-85
Iceland	3,322	3,181	10%	332	-141	-42
Belgium	146,067	150,311	-8%	-11,685	4,244	-36
Netherlands	211,384	213,765	-8%	-16,911	2,380	-14
Liechtenstein	218	218	-8%	-17	0	0
Denmark	68,750	68,491	-8%	-5,500	-259	5
Slovenia	20,601	20,383	-8%	-1,648	-218	13
Switzerland	53,137	52,254	-8%	-4,251	-883	21
France	564,233	553,410	-8%	-45,139	-10,823	24
Sweden	72,140	69,601	-8%	-5,771	-2,538	44
United Kingdom	742,639	634,858	-8%	-59,411	-107,781	181
Germany	1,246,816	1,014,627	-8%	-99,745	-232,189	233
Luxembourg	13,448	10,833	-8%	-1,076	-2,616	243
Czech Republic	192,019	142,895	-8%	-15,362	-49,124	320
Slovakia	72,436	51,896	-8%	-5,795	-20,540	354
Hungary	113,074	78,002	-6%	-6,784	-35,072	517
Poland	564,419	380,779	-6%	-33,865	-183,640	542
Romania	262,833	136,559	-8%	-21,027	-126,274	601
Norway	52,136	55,343	1%	521	3,206	615
Estonia	43,494	19,502	-8%	-3,480	-23,992	690
Bulgaria	141,821	62,429	-8%	-11,346	-79,393	700
Latvia	28,921	10,756	-8%	-2,314	-18,164	785
Lithuania	50,134	17,215	-8%	-4,011	-32,919	821
New Zealand	61,640	74,976	0%	0	13,336	—
Russian Federation	3,050,000	2,390,337	0%	0	-659,663	—
Ukraine	919,189	483,525	0%	0	-435,664	—
<b>Total for Ratified Countries</b>	<b>11,657,925</b>	<b>10,164,092</b>		<b>-555,408</b>	<b>-1,493,833</b>	<b>269</b>

continued next page ...

**Table 1: A Comparison of Greenhouse Gas Emissions Reduction Targets and Actual Emissions Reductions as of 2002 for Annex-1 Countries**

Annex-1 Countries	1990 GHG Emissions <sup>1</sup> (Gg CO <sub>2</sub> -eq.)	2002 GHG Emissions <sup>2</sup> (Gg CO <sub>2</sub> -eq.)	Target Percentage Change in Emissions for 2008-2012 <sup>3</sup> (%)	Target Absolute Change in Emissions for 2008-2012 (Gg CO <sub>2</sub> -eq.)	Actual Change 1990-2002 (Gg CO <sub>2</sub> -eq.)	Percentage of Reduction Commitment Achieved as of 2002 <sup>4</sup> (%)
<i>Non-Ratified</i>						
Monaco	73	96	-8%	-6	23	-396
United States	6,129,118	6,934,562	-7%	-429,038	805,444	-188
Croatia	31,609	27,962	-5%	-1,580	-3,647	231
Australia	430,513	526,042	8%	34,441	95,529	277
Belarus <sup>5</sup>	126,574	70,356	0%	0	-56	219
Total for all Annex-1 Countries	18,375,812	17,723,110		-951,592	-652,702	69

*Notes:*

<sup>1</sup>Emissions are stated for 1990 except Bulgaria (1988); Hungary (average of 1985-1987); Poland (1988); Romania (1989); and Slovenia (1986).

<sup>2</sup>Year 2002 emissions have been estimated for Poland, Russia, and Liechtenstein. See text for details.

<sup>3</sup>A positive value represents a target that would be an increase in national greenhouse gas (GHG) emissions relative to 1990. For example, the target set for Norway means that its GHG emissions cannot increase by more than 1 percent relative to 1990.

<sup>4</sup>New Zealand, Russian Federation, Ukraine, and Belarus did not commit to any change in greenhouse gas emissions, therefore, it is not possible to calculate a percentage of the change. The relative position of Iceland, Norway, and Australia in this column is influenced by the fact that these countries negotiated increases in their greenhouse emissions for their Kyoto target.

<sup>5</sup>Although party to the UNFCCC, Belarus never stated an emissions reduction target. For purposes of calculation of an aggregate in the table, we assumed a 0 percent reduction due to the geographical and economic similarities to the Russian Federation and Ukraine, which also set a reduction target of 0 percent.

Source: Calculated from United Nations Framework Convention on Climate Change [undated]. Table B.1. Digital version available at <http://ghg.unfccc.int/ghgtables90-02.zip> (Accessed on June 10, 2005.)

cess that had been achieved by 2002 by the Annex-1 countries that have ratified the Kyoto Protocol, if there are 269 credits on the supply side for every 100 credits on the demand side, the prospects for positive prices for credits in a genuinely open market for credits among the Annex-1 countries are not great.

Despite rising greenhouse gas emissions in Canada, emissions in other countries party to the Kyoto Protocol have been decreasing quite substantially. As of 2002, aggregate emissions for countries that have ratified the Kyoto Protocol were well below the required targets. Even considering all

of the Annex-1 countries in total, 69 percent progress seems astonishing. However, we are left with a question. One of the stated goals of the UNFCCC (undated) is to “gather and share information on greenhouse gas emissions.” Why does virtually no one know about this dramatic success? With such a momentous win occurring for the Kyoto Protocol, where’s the party?

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Student Essay Contest: Second Prize Winner

# Washing a Rented Car: Property Rights and Environmental Protection

by Ron Podolny

“Governments of all political stripes have given us thousands of reasons not to trust them to protect the environment: they’ve licensed—and bankrolled—polluters, turned forests into wastelands, emptied oceans of fish, and damned rivers that were once magnificent” (Brubaker, 1995, p. 20). In light of this damning assessment by the eminent Canadian environmentalist Elizabeth Brubaker, it is quite puzzling that the majority of environmental groups continue to lobby politicians to enact more legislation, in the vain hope that greater regulation will improve the quality of the environment (Brubaker, 1995, p. 7). Believing that the “free market offers no strong continuous incentive to innovate for the sake of improving environmental quality” (Dreisen, 2003, p. 9), many environmentalists now support a top-down regulatory approach, in which government imposes legislative restrictions upon polluters. In this model, citizens and businesses cannot target individual offenders, as they surrender their common law rights to protect their own property to the government. The central authority then takes on the role of an environmental watchdog and regulator.

Governments, however, have competing priorities. Far too often in the past, “jobs preceded environmental protection on the government’s agenda” (Brubaker, 1995, p. 77) and competing priorities resulted in the neglect of the envi-

ronmental exigencies. In one of the most striking examples of such conflicts of interest, the federal government’s desire to raise employment rates in Newfoundland completely outweighed its concern about depleting fish stocks, leading to the virtual extinction of Atlantic cod. Given the historical record of governmental regulation, “we must do better than presume that public interest will dominate” (Anderson, 2000, p. 14) the government’s considerations of environmental policies.<sup>1</sup>

Therefore, an alternative approach, one based on individual property rights, holds much promise. Property rights, deeply rooted in common law, “give potential victims the power to fight polluters, independently of the government’s programs” (Brubaker, 1995, p. 11). They enable a victim of pollution to sue the polluter directly, thus making it prohibitively expensive to contaminate the environment.

English common law, upon which both the Canadian and American legal systems are based, confers upon every landowner the right to sue a party whose activities constitute a “nuisance,” i.e., the offending party creates pollution, noise, or contamination, on his or her property. For centuries, landowners successfully defended their rights to a clean environment by resorting to “nuisance law.” Guided by the principle that “one may not harm his neighbour’s property,” (Brubaker, 1995, p. 48) common law courts in England have imposed sanctions on polluters, from hoghouses to railroads, and forced them to relocate or cease operations altogether.

Similarly, riparian laws conferred upon “riparians”—the individuals owning land adjacent to bodies of water—the right to an uninterrupted flow of water beside or through their properties. Thus, downstream landowners sued polluters upstream, as judges held that “it is not permissible... for



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a man to use his own property so as to injure the property of his neighbour.”<sup>2</sup>

Nevertheless, in the 20<sup>th</sup> century, “nuisance law” and “riparian rights” were severely curtailed. Governments became increasingly ready to eliminate the individual rights of landowners in the interest of the “public good.” Thus, today “those living downstream from sewage treatment plants share a fate with countless others living besides railroads, nuclear power plants and other nuisances” (Brubaker, 1995, p. 91). Laws, such as the Canadian Nuclear Liability Act, effectively deprive such unlucky landowners of their common law rights. In general, “statutes authorizing nuisances now abound. Their forms are legion. Sometimes they are quite frank” (Brubaker, 1995, p. 103). In the absence of constitutional protection for private property, the individual landowners’ ability to defend their environment is severely restricted.

An example of the crisis created by governmental regulation and lack of private ownership rights is the plight of Canadian fisheries. For decades, “governments... failed to adequately protect fishers in the Great Lakes and East Coast” (Brubaker, 1995, p. 209). In Ottawa, “the wrong people have been making the wrong decisions for the wrong reasons,” (Brubaker, 2000, p. 99) resulting in catastrophic depletion of fish stocks and the ruin of the Atlantic fishing industry. Despite these abysmal results, no politicians or bureaucrats have been held accountable in any way for the collapse of the Atlantic fisheries.

Could such a crisis have happened had fisheries been private enterprises? As Elizabeth Brubaker asserts: “Unquestionably not” (Brubaker, 2000, p. 183). For decades, the federal government saw Atlantic fisheries primarily as an instrument of job creation. Hence, considerations of employment overrode environmental concerns, paving the way for catastrophic over-fishing. In government run fisheries, fishermen also follow a short-term agenda, as self-interest drives them to increase their revenues at the expense of fish stocks over which they have no control. Owners of private fisheries, on the other hand, would have a powerful incentive to conserve fish, as they would recognize that “it doesn’t pay to kill the goose that lays the golden eggs” (Brubaker, 2000, p. 202). Indeed, “a number of studies on private fisheries around the world confirm that property rights promote sustainable behaviour” (Brubaker, 2000, p. 203).

Furthermore, local owners, rather than bureaucrats in Ottawa, would be more familiar with local conditions and make more informed decisions. Finally, private ownership eliminates the possibility of a financial helpline being extended from the federal government and forces fisheries owners to think for the long term. Therefore, the only environmentally sound solution for regions where fishing represents the main industry is to strengthen individual property rights and to “put those who fish in charge of fisheries” (Brubaker, 2000, p. 202).

National parks are another victim of the legislative approach to environmental protection. Canadian experience

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shows that government conservation initiatives “can actually work against long-term conservation goals, both publicly and privately” (LeRoy and Green, 2005). By subsidizing user fees in the national parks, the government contributes to their overcrowding. Centrally-run national parks experience the same accountability deficiencies that federally-run fisheries do. Only by privatizing Crown lands can incentives be created to promote conservation. Only secure rights to property can establish a new class of enviro-capitalists, able to “do good while doing well” (Anderson and Leal, 1997). These entrepreneurs see conservation as being in their own best interest for maximizing the profit from the land—from tourism, fishing, and other business ventures. Finally, the government must lower taxes on land, as “excessive taxation on private land encourages its exploitation” (Brubaker, 1995, pp. 152-153), leading to deforestation. By heavily taxing private land, the government finds itself in a conflict of interest, with its policy goals of environmental protection colliding with the desire for increased revenues. Therefore, a low level of land taxation would be consistent with the larger environmental policy goals advocated by most modern governments.

Stronger protection for property rights can also lead to cleaner sewage and drinking water. Tragedies resulting from contaminated drinking water in Walkerton, Ontario, and North Battleford, Saskatchewan, exemplify the horrible human and monetary cost of public utilities mismanagement. Inquiries conducted in the wake of the Walkerton disaster “revealed deficiencies in sampling, maintenance, training, or performance at 357 of Ontario’s 645 water treatment plants” (Brubaker, 2002, p. 65). In light of the government’s apparent inability to properly supervise the drinking water and sewage plants, the only solution lies in privatizing these utilities. A plant operated by a private company would be more vulnerable to legal actions to enforce its contractual obligations towards its customers. It would also have to adhere to a high standard of care in order to obtain and preserve its license and renew of its contract with the government. A private corporation is much more legally vulnerable than the government, and the results of a class action lawsuit brought against it by victims of a disas-

ter such as Walkerton would be catastrophic. Hence, as seen in countless other cases, the threat of legal accountability would force a private business, the utility operator, to enforce a more rigid safety standard than the government. “Conversely, immunizing people or industries from risk and responsibility decreases their level of care” (Brubaker, 1995, p. 106), as the nearly immune provincial government has demonstrated in the Walkerton disaster. From freeing up funds for other priorities, to improving safety and environmental standards, privatization of utilities makes good economic and political sense and, following considerable success in Europe and the developing world, should be adopted in Canada.

A saying, attributed to Harvard University president Larry Summers, states: “In the history of the world, no one has ever washed a rented car” (Friedman, 2003, p. 273). Indeed, only protection of ownership can ensure responsible exploitation of any resource. A landowner whose rights are protected will not hesitate to defend his air and water against pollution by his neighbour, a fishery owner will not exploit her cod stocks to extinction for short term profit, and an owner of a forest will not destroy it, if more money can be made through careful management. From national parks to ocean fisheries and sewage-treatment plants, increased protection for private property will lead to more responsible and sustainable utilization of natural resources. This is the free-market answer to the futile over-regulation that has characterized Canadian environmental policy for far too long. Indeed, “because political environmentalism does not always work the way we wish it would, perhaps the time has come to give free market environmentalism a chance”(Anderson, 2000, p. 15).


## Notes

<sup>1</sup>Moreover, in urging the government to enact more regulatory legislation, “environmental special interest groups provide the moral high ground for economic special interest groups that stand to gain from legislation that hampers competitors,” willingly or unwillingly playing the role of “Baptists” to environmental “bootleggers” (see Anderson, p. 9).

<sup>2</sup>A British law lord’s decision from 1893, quoted in Brubaker, 1995, p. 57.

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## Meet Our Summer Interns

This summer, 12 interns worked in the Vancouver, Calgary, and Toronto offices of The Fraser Institute on a specific research project, under the supervision of a senior policy analyst.

- Michael Cust is an MA candidate in political science at the University of Waterloo under the guidance of Professor Jan Narveson. His summer project was the annual survey of mining companies.
- Lindsay Donders is a 4th year economics student at Simon Fraser University. This summer Lindsay worked in the Department of School Performance Studies.
- Todd Gabel has a Bachelor of Science degree from SFU with a double major in Economics and Chemistry. This summer, Todd returned for his second internship, working with Jason Clemens examining fiscal policies across Canada.
- Sophia Genyk graduated with a B.A. in Political Science from the University of Waterloo in 2004. This summer, she was researching US and Canadian drug pricing under the supervision of Brett Skinner.
- Keith Godin has a Bachelor's degree in Economics from Simon Fraser University, where he is currently enrolled in the new Master in Public Policy program. Keith has been an intern in the Fiscal Studies department since November 2003.
- Reza Hasmath is currently completing a PhD in Social and Political Studies at the University of Cambridge. This summer he worked with Mark Mullins on a regulatory index for Auto Insurance by province and state.
- Jonathan Hayes recently graduated from the University of Victoria with an Honours BA in Political Science. For the second summer in a row, Jonathan worked with Jason Clemens delving into the Auditor General's Reports.
- Peter Jaworski will begin his Ph.D. in Applied Ethics, Social and Political Philosophy at Bowling Green State University this September. A returning intern, Peter worked on the Children First Grants Program.
- Ryan O'Connor is a law student at Dalhousie University. This summer he worked with Sylvia LeRoy in our Calgary office reviewing Canada's Supreme Court Decisions.
- Rena Menaker has an MSc in Physiology and Cellular Microbiology from the University of Toronto and a BSc in Physiology from McGill University. Rena has been helping analyze data on the quality of hospital care in Ontario.
- Milagros Palacios has an MSc (with distinction) in Natural Resources and Environmental Economics from the University of Concepcion, Chile. Milagros has been working on the Institute's Annual Environmental Indicators project.
- Carl Shulman is an Philosophy undergraduate student at Harvard University, where he is the editor of the *Harvard Review of Philosophy*. This summer Carl analyzed the effectiveness of private schools for lower income Canadians.



Some Fraser Institute summer 2005 interns gather in Vancouver in May: front row, L-R: Rena Menaker, Reza Hasmath, Jonathan Hayes, Milagros Palacios, Lindsay Donders. Back row, L-R: Carl Shulman, Keith Godin, Michael Cust, Todd Gabel.

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