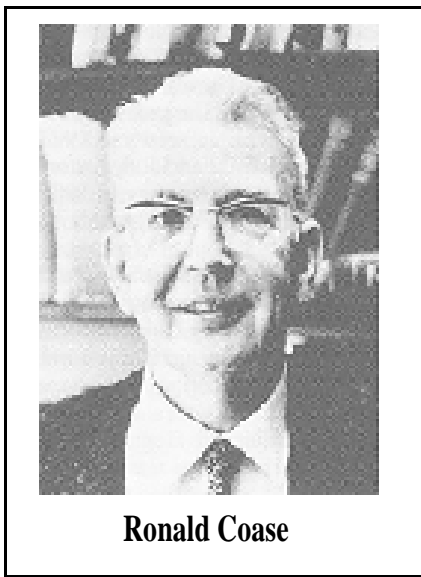


Private Property and the Rule of Law: Paul Craig Roberts III and The Spirit Of Friedrich Hayek

From *The Frank M. Engle Lecture, 1992*

The American College is pleased to present the 1992 Frank M. Engle Lecture in Economic Security, on the fifteenth anniversary of the series' inception. Frank Engle wanted to make a lasting contribution to The American College's mission of educating insurance and other financial services professionals. He wanted to fund a lecture series that dealt with big ideas, with urgent and contemporary matters that affect our lives and economic security.



Ronald Coase

The first Engle lecture took place in the library, where a dozen people sat around a table and listened to and dis-

cussed ideas with Sidney Weintraub. Since then the lecture has grown. Hundreds of us now meet in a formal lecture hall, and 8,000 copies of the lecture are published and distributed throughout the United States and abroad, where they are used from the classroom to the boardroom.

This lecture has a far larger audience and much greater impact than even Frank Engle first imagined. We are grateful to him for his gifts to the College. But we are most grateful to Frank for what he would modestly call a small idea—to talk about big ideas. Past Engle lectures have been delivered by notable scholars, commentators, and policymakers, including three Nobel Prize winners in economics. This year's Engle lecturer, Paul Craig Roberts III, is equally distinguished....

Something significant is afoot in economics—something big. Increasingly, economists are reincorporating fields of study that were once closely associated with their “dismal science”—disciplines of philosophy, law, human values, and social organization.

In 1991 Ronald Coase was awarded the Nobel Prize in economics for his analysis of the role of institutions in the economy—analysis that contained virtually no mathematics. His writings have generated new approaches to the relationship of economics and law and motivated



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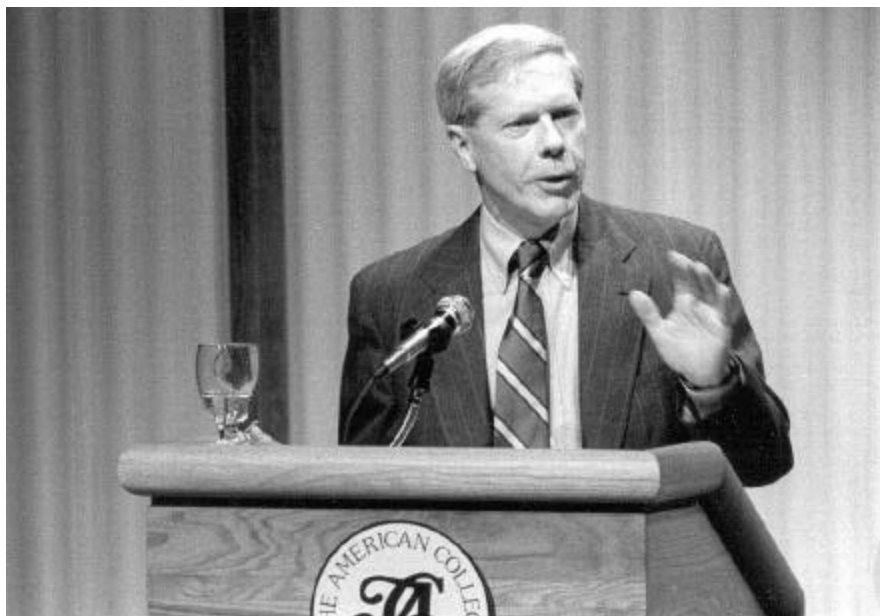
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Friedrich Hayek

many in the legal profession to examine the economic consequences of contract law, tort law, and liability judgments. Dr. Coase is a law school professor, yet ironically he doesn't have a formal law degree. But he has a genius, and that genius has led legal scholars to focus attention on the efficient operations of markets when freed from undue government influence and interference.

Another Nobel Laureate, Friedrich Hayek (who was born two years after Frank Engle), now seems ahead of his time for his prescient recognition of the dangers of encroaching government regu-



Paul Craig Roberts, III



David Hume

mathematical and statistical number-crunching. He sees it philosophically in the best sense of that word: as a form of human activity, acted out in realms of human creation, within a modern complex of cultural, legal, political, and social structures. And he places the human actors at the center of his discussions about economic security, defending their inviolable right to private property and their opportunity to attain economic security against what many view as an increasingly arbitrary and intrusive legal and regulatory system.

The title of Dr. Roberts' lecture is "'Takings,' the Economy, and Legal and Property Rights." I cannot think of a better topic to celebrate and honor this fifteenth anniversary of the Frank M. Engle Lecture. Dr. Roberts discusses the Fifth Amendment's "takings clause" and argues that legal developments are undermining the economy with "takings" that confiscate both legal and property rights. His ideas are provocative. And they are big. In the tradition of Adam Smith, Ronald Coase, and especially Friedrich Hayek, Dr. Roberts demonstrates the importance of the rule of law to economic security. I hope we will not, as Hayek lamented, rapidly forget this lesson.

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Adam Smith

lation and control. He advocated a climate of freedom for the cultivation of human dignity, prosperity, and economic security. For

this reason he was awarded the Presidential Medal of Freedom shortly before he died in March of this year.

Hayek was a leader of the Austrian school of economics, which affirmed the philosophical and qualitative nature of economic thought, not just mathematical modeling and statistical analysis. It "integrated human nature and economic science." It highlighted individual action in the best tradition of Adam Smith, who noted that "the property which every man has is his own labour; as it is the original foundation of all other property, so it is the most sacred and inviolable."

Hayek understood the importance of private property and recognized that the right to private property—as sacred as it

may be—and the chance for economic security—as desirable as it is—are dependent on "the certainty of the law," whose "significance...for the smooth and efficient working of economic life [cannot] be exaggerated."

Seeking to protect private property and the enforceability of private agreements or contracts, Hayek was quick to identify what some have called "the imperialism of regulation." He referred to "the legal limits of administrative discretion" as "the little gap at which in time man's liberty may go out." We must never forget, he said, Hume's admonition that "it is seldom that liberty of any kind is lost all at once."

"Few people have yet learned what the rule of law means—and they are rapidly forgetting it," Dr. Hayek wrote almost twenty years ago. "The important point is that all coercive action of government must be unambiguously determined by a permanent legal framework which enables the individual to plan with a degree of confidence and which reduces human uncertainty [and economic insecurity] as much as possible."

Dr. Roberts speaks from this tradition. He does not see economics purely as