

Where Will It All End?

by Scott C. Matthew

It seems clear that one reason bad ideas catch on—even become law—is that the short-term effects appear to be so good. Without a clear, cool look at the long-range consequences of a proposal, we can be made to fall for all sorts of destructive programs. And so, bit by bit, our freedom and our treasured way of life are surrendered. With every “good deed” proposal we need to ask: “But where will it all end?” Let me give you an example of a court case in which “doing good” in the near term leads to such destructive results.

It’s early evening. An elderly man, Mr. Johnston, approaches the front door to his apartment building. This is a high crime area. The building’s front porch is dimly lit and the outer door is never locked. As Mr. Johnston is about to enter the building, the door is jerked open by a youth who has been hiding inside. The youth strikes and robs Mr. Johnston. Mr. Johnston brings a lawsuit against Mr. Harris, the landlord, claiming that the lighting and lack of locks were to blame for the assault. The trial judge throws the case out, but the Supreme Court of Michigan allows the case to go on. They find reasonable the idea that the landlord had created conditions to which criminals would be attracted—that Mr. Harris had in effect set a trap for Johnston! (*Johnston v. Harris*, 387 Mich. 569)

We all feel very sorry for Mr. Johnston. The assault was a terrible and deplorable act. But we should ask: How do the blame and responsibility for that assault find their way to Mr. Harris, and will placing the blame on him really help all the other Mr. Johnstons in the world? Let’s play “do-gooder” and find out.

First, let’s not give Mr. Harris any benefit of the doubt. Let’s forget what the words “high crime area” imply about the ability to maintain a building. Let’s not consider the possibility that every one of the last ten locks he installed had been broken within days. Let’s not ask if the lights were often vandalized by tenants and others, so that he was hardly able to keep the area lit at all. Let’s figure he simply didn’t make these changes due to their costs. Rotten old Mr. Harris.

So due to *Johnston v. Harris*, Mr. Harris is now forced to add new, better locks and lights. We have done some good today, and we can go home, right?

But Mr. Harris cannot go home. He has to worry about what the next court will decide.

And what will the next court find? We already have set the standard that tenants are entitled to security for which they have not paid or been promised. (I say “not paid” because Johnston could have moved to a more expensive building that had these features. And I say “not promised” because Johnston claimed only that these features were inadequate, not that they were left unrepaired. No, this building was just what Mr. Johnston knew it was when he moved in—cheap.)

Where Does It End?

But where will it end? Mr. Harris is now faced with meeting standards which may not be set until after some mishap occurs. As has been noted elsewhere, one will give wide berth when walking near barbed wire, but wider still when walking near it in the dark.

So time passes, and Mr. Harris and other landlords, upon advice of counsel or the force of future court judgments, significantly upgrade their apartments. The wary landlord or future judicial legislator may well deem it the reasonable thing to have bars on all windows, motion detectors on the roof, a key card system at the door, cameras in the hallways and elevator—maybe even a guard on duty. How about alarm buttons in each room wired to the police station? That would be great. And a personal health and safety beeper each tenant could wear? We can expect insurance companies to respond to *Johnston v. Harris* by providing in-

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surance at higher rates, and only to those with secure buildings. Now that the courts have set the standard of “not exposing others to foreseeable criminal activities” even if they don’t pay for or expect that service, where will it all end? Wherever the exact point is, I believe we can reasonably agree that it won’t end until we have much more secure buildings.

We know very well that buildings don’t become significantly safer by wishes. Time and money must be spent. A wide range of levels of safety are possible, and the landlord and tenant normally choose the proper level for them through a mysterious and wonderful process called “the market.”

But now the market has been fiddled with. We, as do-gooders, will be convinced that the courts have made it better. Still, if Mr. Harris now must make significant payments for security measures, he either will have to increase his rents or receive a lower return on his investment. We can assume that there is relatively free entry into the local market (no government limits on numbers of units) so that he already is making pretty much the minimum acceptable return—if there were lots of money to be made, others would enter the market and drive rents down to that minimum point. So Mr. Harris, with the changes and expenses required, must raise rents.

Now Mr. Harris will enter a somewhat different housing market—one where the apartments are roughly the same as his, but where greater security has been so important to the tenants that they have been willing to spend more of their limited resources for that security. And we would find, if we looked, that such buildings have been readily available to those willing to pay for that service—and if a person won’t pay for a service, is it right or efficient to give it to him? As do-gooders, we’ll try not to think about that.

As we notice for the first time those buildings similar to Mr. Harris’s but with more security and higher rents, we might begin to wonder why Mr. Johnston didn’t choose to live in one of those apartments. There seem to be two possibilities. If he didn’t desire such security based upon its price—perhaps he is not risk-averse and was willing to take the chance of assault to save the money, just as some choose not to

carry insurance—then Mr. Harris gave him just the kind of apartment he wanted. For Mr. Johnston now to demand more than he was willing to pay for is wrong, and this type of claim should not be accepted.

But wait—what if Mr. Johnston were poor and couldn’t afford those more expensive apartments? In that case Mr. Harris provided Mr. Johnston an apartment that he could afford, so that he wasn’t left out on the street. If in some societal sense we feel that it is morally wrong for Mr. Johnston to have to live in these lesser conditions—in other words, the conditions he can afford—then shouldn’t we take that burden upon ourselves? Do we have the right to force Mr. Harris to bear this burden alone? Is his property ours simply to give to others at our whim? But suppose we say, “He’s just a greedy landlord, let’s make him carry this burden that we profess to feel.” Here’s how we will do it.

The first step is to rule, in this lawsuit, for Mr. Johnston. Now, without having to have paid for security, he is compensated for its lack. How will Mr. Harris and other landlords respond? They will “upgrade” their apartments as described above (and raise the rents, of course). Now there will be *no* inexpensive apartments for people who choose to do without security measures.

Now all who can afford to pay the higher rents will be forced to live in the more expensive “secure” buildings. Of course, they had been able to afford the rent for these buildings all along and had chosen not to live there, so we have just saved them from themselves. Good for us.

And now all who cannot afford to pay these higher rents will be out on the street. No cheaper apartments will be available. We can fix that, right?

Sure, we can give the poor extra money to pay Mr. Harris’s higher rents. The problem is that as do-gooders, we already are spending lots of the public’s money on these people, as well as plenty of other things, and the taxpayers just won’t stand for any more. Budgets that don’t balance are hard on re-election—and higher taxes are harder still. We just can’t come up with the money—don’t want to either, really—to pay those higher rents we have caused. So?

We can fix it. We can require, through our

ruling in *Johnston v. Harris*, that buildings be improved in terms of safety, but add to that our ace in the hole—rent control. We have it in our power to see a need (more secure buildings), fill that need, and—here’s the beauty of it—we can single out a small, unpopular group known as “slumlords” and make *them* pay for it.

I know what you’re thinking—what if someone uses words like “due process,” “no taking without just compensation,” “equal protection,” that kind of stuff? We’ll do what we always do—we’ll just say they don’t apply here. Wasn’t that simple? So it ends *here*, right?

Maybe not. How do those citizens, whom we are plundering due to their chosen occupation of landlord, react to all this? How would you react? As best you could, I expect. First, you’d make all the required changes if you could afford to, because the power behind government controls is really the power of a gun, and the money isn’t worth time in prison. Next, you’d try to get out of this silly business—who needs that kind of hassle? Life’s too short, and you never know just what else the do-gooders might have in mind. Now that they have singled out “landlord” as a class ripe for confiscation, why be a landlord? You’re smart—you can always do something else. So you’d try to sell your apartments.

And who would want to buy them? Well, just about anyone who likes to be the target of unpredictable persecution, that’s who. It seems likely that at some price, probably much below their value before *Johnston v. Harris*, someone would take the chance. So your wealth—the difference between the pre-*Johnston* value of your property and what you sell for—will either be transferred to others (the new buyer, the tenants, the state) or it will be destroyed. Either way, you will be out of luck. Well, you were a slumlord anyway, so we have done a good thing. People will have safer apartments for the same old price, someone else will run them, and you can deliver pizzas. Thank you for your co-operation in this matter. So, is this where it all ends? I wouldn’t think so.

Even though the people who owned buildings have either sold them or are eating the losses, there is that small problem known as “the future.” The demand for apartments—secure and less secure—continues to rise over time.

With a growing population, we’ll need a constant supply of new apartments and replacement apartments for old, inefficient buildings. So now, in the face of rent control and a history of persecution, predict the likelihood that adequate resources will be devoted to apartment construction. Pretty high, right?

Actually, what you’re likely to have is a virtual absence of construction of just the kind of lower-income apartment you were improving with *Johnston v. Harris*. Also, figure on buildings simply being abandoned by their owners as a sinkhole for money they no longer have. And with rents controlled for present tenants, fewer of them will want to move—why give up a “good thing”? As the rental market grows tighter, it will become increasingly difficult for average people to make a move of any kind. People will either become trapped in an inappropriate apartment or won’t be able to find a place to live.

Now this “cure” seems somewhat worse than the poor lighting we set out to fix with the *Johnston v. Harris* precedent. So will this finally end with an overturning of *Johnston v. Harris*—an admission of our mistake? I doubt it, because we have the power to “fix” the housing shortage too! We’ll let government build the houses that “the market fails to provide.”

Finally, we’ve arrived at the “just” result *Johnston v. Harris* was destined to produce. Here is where it “ends.” Remember, landlords offered rental property of a type *we* would not choose to rent, so we forbade its rental. The changes we demanded tended to raise rents, so we forbade the raising. The rent control reduced available housing, so we built the housing. Now, instead of an entire range of options, from the least expensive and least comfortable to the most expensive and comfortable, people have a few, stark choices. There are plenty of very expensive apartments, there are some cheap apartments that are never available for rent, and there is lots of public housing. And it finally ends—with unsafe, poorly maintained, self-respect-draining dumps, used to warehouse the poor in conditions *we* would not choose to rent. *Johnston v. Harris* claimed the power to improve the lighting, and left the people in darkness. □

Who Are the Problem-Solvers?

by James L. Payne

The following is the author's reply to a correspondent who wrote him urging greater use of government to right social wrongs.

Dear Mr. _____:

You write that you are disturbed by the suffering and unfairness you see in society. I am also concerned about many such problems. The question is, how should we go about making the world a better place?

The usual method is to turn to government. For example, you feel that doctors overcharge the poor. Following the political approach, you would contact politicians and ask them to pass a law reducing physicians' fees. I disagree with this approach. First, it is based on coercion, and I don't think coercion is an appropriate remedy for most things. This is a fundamental problem with government action. Governments raise their money through coercion, and impose their will through policemen and soldiers. When we turn to it, we are turning to the sword. Maybe this method can't be avoided for some particularly intractable problems, but forward-looking reformers should hesitate to use it.

A second problem with government is that it relies on bureaucracy: large, complex organizations that are handicapped by self-defeating rules and staffed by less-than-dedicated employees. Bureaucracies cost a lot, often fail to

solve problems, and frequently make things worse.

A third problem with government action is that it is insensitive. Government acts through universal prescriptions, laws that apply to everyone. It therefore attempts to regulate situations it does not know anything about. For example, how can anybody claim enough understanding to declare what all doctors should be paid? There are millions of different doctor-patient situations. Unless we study each one, we cannot make a wise and fair determination of the proper prices to be charged. Government will not and cannot study each one; therefore it is bound to impose unfairness and inefficiency in many, many cases.

The alternative method of dealing with social problems is voluntarism—laying aside the use of coercion and depending on individual action, persuasion, and voluntary organization. For example, if you felt physicians were charging too much, your first step would be to look into the matter and find out what doctors' costs were, why they were charging what they were charging, and so on. A next step might be to approach physicians and try to persuade them to charge less. This would engage you directly with the problem, exposing you to the complexities of the issue and perhaps revealing gaps and intolerance in your own views. A third step might be to form a voluntary organization aimed at persuading doctors to charge less, or aimed at helping the poor to pay medical bills.

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