

BOOKS

Adventures in Porkland: How Washington Wastes Your Money and Why They Won't Stop

by Brian Kelly

Villard Books • 1992 • 272 pages • \$23.00

Reviewed by John Attarian

This concise, angry, intensely readable result of a year's investigation of Congress should rouse every taxpayer's rage. A \$19 million study of cow flatulence; \$80 million for Steamtown, USA (a national railroad museum in Scranton, Pennsylvania); \$2 billion each for two useless waterways in Alabama and Louisiana—Brian Kelly's catalog of "pork" (federal money spent by Representatives and Senators for their own constituents) is outrageous. So is the way legislators sneak these boondoggles into appropriations bills, and squash attempts by "porkbusters" to stop it.

Since the House of Representatives was designed to be closely attentive, thanks to two-year terms, to the interests of voters in Congressional districts, the possibility for pork was built into the system. As America grew, so did possibilities for pork, which is now running hog wild. The 1987 highway bill had 152 pork projects costing \$1.3 billion; 1992 highway spending included 480 projects costing \$5.4 billion. Kelly puts the 1992 budget's total pork at \$97 billion.

Pork transcends party and ideology; free-spending Democrats like Senator Robert Byrd (who brought West Virginia \$2 billion in pork in two years) are matched by Republicans like Senator Alphonse D'Amato (known as "Senator Pothole" for getting public works pork for New York) and Representative Joe ("Steamtown") McDade. "Fiscally conservative" Congressmen both

accommodate and emulate porkbarreling colleagues.

The President has power to fight pork, but Kelly reveals George Bush as a weakling not above his own election-year porkbarreling. Former Budget Director Richard Darman comes off even worse: a Machiavellian pragmatist who greased the 1990 budget pact by horsetrading with Byrd, swapping pork for "spending caps."

Congressional greed bears much blame for pork, but Kelly rightly fingers the public as the real culprit. Congressmen bring pork home because voters want government to care for them at others' expense, and re-elect politicians who do it.

Is pork bad? "It depends on what you think the federal government is supposed to do for you and everyone else in the country . . . Evaluating pork requires you to ask some fundamental questions: Should the federal government *really* be doing this? . . . Just because a project or program sounds like a good idea, can we *afford* to do it? Just because it doesn't seem to cost me anything, is it *really* free?"

Kelly suggests voting porkbarreling incumbents out (good idea!); a balanced-budget amendment; a line-item veto; term limits; more vigorous Presidential leadership; a re-thinking of government's proper role; and a nationwide decision to forsake pork (my favorite).

Adventures in Porkland reveals a fatal flaw in the mixed economy: It is all too human for voters to want government to spend money on them, and politically sensible for politicians to do so, but the results are ruinous: a population addicted to hand-outs, a corrupt politics, an overspending legislature, and an economy enfeebled by the resultant debt burden. The only solution is to rout the paternalist philosophy of government, and *Adventures in Porkland* provides valuable ammunition for the fight. □

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Grand Theft and Petit Larceny, Property Rights in America

by Mark L. Pollot

Pacific Research Institute for Public Policy,
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Reviewed by Grant Thompson

For those who, like myself, are uninitiated in the intricacies and nuances of legal history, the language of the Fifth Amendment is straightforward: "nor shall private property be taken for public use, without just compensation." Mark Pollot's *Grand Theft and Petit Larceny* explains how courts gutted this seemingly explicit clause.

As an attorney in the Reagan White House, Pollot drew up an executive order that attempted to curb federal takings of private property. Although a discussion of his role might have been interesting, Pollot is too disciplined a writer to stray into politics.

Instead he limits himself to a thorough, if sometimes plodding, account of legal precedent and theory. Pollot defines a "taking" as interference with any portion of a property owner's rights, and notes that constitutional history and common law support this view. Reaching back to Magna Carta, he discusses the rationale for property rights and demolishes the contemporary myth that they are somehow inferior to other rights.

Justice Potter Stewart wrote, "property doesn't have rights, people have rights . . ." Pollot shows that in the minds of the founders, property rights were, if anything, more fundamental than other rights. Without the ability to be secure in one's person and possessions, all rights would be meaningless. Freedom of speech and religion, for example, mean little if the government can confiscate printing presses and churches.

The founders recognized this truism through hard experience. First under British rule and subsequently under the Articles of Confederation, Americans found themselves hounded by government interference at every turn. The founders scuttled the

Articles largely because state legislatures were blocking commerce, meddling in private contracts and succumbing to every sort of special interest. Yet today's courts regularly accept such legislative mischief.

The judiciary justifies this abdication of its responsibility with a bewildering array of sophistries. Modern court rulings often border on self-parody. For example, the courts have justified uncompensated takings because:

- the owner knew when he purchased property that the government might, in the future, ruin it through regulation;
- a builder was already compensated for harsh regulations because the government had "allowed" him to build in the first place;
- the builder was already compensated because the government granted him the privilege of using other properties as he wished;
- enforcing the Constitution would be too expensive.

Although Pollot limits his discussion to takings, he provides insights into other issues as well. For example, in a discussion of the founders' suspicion of legislatures, Pollot shares the following quote from James Madison: "If this spirit [that nourishes freedom] shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to accept everything but liberty." As Pollot notes, this is an especially telling statement considering that today's Congress exempts itself from dozens of laws, such as the Civil Rights Act of 1964 and the Occupational Safety and Health Act.

Pollot carefully dismantles the argument that paying compensation for takings would prevent vital regulations. First, if a regulation is truly vital, then the public can afford to shoulder its cost. Either a regulation's benefit is greater than its cost, in which case society reaps a profit even after paying compensation; or, a regulation's benefit is not greater than its cost, in which case the regulation should be discarded.

Second, as Pollot points out, courts must rule on what's constitutional, not what's