HOW AND HOW NOT TO DEMONOPOLISE MEDICINE

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FOR LIFE, LIBERTY AND PROPERTY

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BRIAN MICKLETHWAIT

In Britain at the moment, there exist two broad schools of opinion about how medical care should be provided, both of them wrong.

Opinion number one states that the National Health Service sits on the right hand of God the Father Almighty, and that there is nothing wrong with it that a regular supply of ever bigger and ever blanker cheques cannot put right. Medical care, free (or as near to free as is politically possible) at the point of demand, is a sacred, non-negotiable principle. That people should be left to die for the mere lack of a few thousand quid for some machine that will mimic one of their organs is an abomination. We are falling behind our continental rivals, who spend a far higher proportion of their GNP on medical care. Public opinion has again and again revealed itself eager for more health care spending, and content to pay more in taxation to finance such increases. The idea of turning the whole show over to those overpriced peacocks in the medical private sector is appalling, not to say a recipe for the American health method, which is that if you get sick, you are either bankrupted or you die.

Opinion number two states that the National Heath Service sits on the left of the Devil, being a nationalised industry no less diabolical than any other. Price anything at zero (or thereabouts), and the queue for it will stretch out infinitely. Give a succession of blank cheques to any organisation and the people running the thing will tend to abscond with or waste most of the money, even as they complain about the stinginess of the cheque signers. However, the British public being so incomprehensibly wedded to the NHS, and so infuriatingly unimpressed by the medical private sector, they must not be told point blank and to their faces that the NHS ought to be closed down. No, one must be "realistic". One must instead speak of "reforming" the NHS, and of making it less wasteful and better managed. Instead of crowing about how much money is being cut from NHS budgets, one must grit one's teeth and trundle through long rigmaroles about how much *more* money is being spent in *real terms* this year compared to last year, this decade (one's own) compared to the previous one (presided over by the Labour Party). Pricing systems, "internal markets" and so forth, will be cunningly inserted into the system wherever possible, and during that phase of the political cycle when the next general election is too far ahead to be a big worry. The NHS will thus gradually be destroyed without too many voters noticing.

The truth lies far beyond both of these crudities. The NHS *is* a nationalised industry, with all that this automatically involves. But the medical private sector is little better. I have pro-free market friends who have convinced themselves and who try to convince me that "private" medicine is incomparably better than the NHS, but my experience is that the only significant difference is whether you prefer wasting time or wasting money. The private sector product is usually more classily and politely presented, and may on average be an improvement in actual medical essentials. But so far as I can see it's pot luck either way. You've no way of really knowing how good your doctor is in either case, unless you are plugged in to the relevant word of mouth gossip network, which compares the miraculous-cures-to-mysterious-deaths ratios of each of the rival medical providers to the community in question.

THE LEGAL BASIS OF THE MEDICAL MONOPOLY

The root of the problem is that British medicine, *all* British medicine, is a government sponsored monopoly.

I recall once asking a bunch of doctors - they were the speakers at a supposedly pro-free market medicine seminar - just what the law actually is with regard to their profession. Oh, they said, the law isn't the point. What matters is whether you get "struck off", by the General Medical Council or the General Medical Star Chamber or whatever they call it, which is run not by politicians but by doctors. You can't advertise, sexually assault your patients or gossip about their ailments on the radio, and if you do and you get caught you get struck off. And you'd probably be wise not to make too many waves generally about how things are done or you risk being struck off anyway on a pretext, like a pre-Glasnost Soviet poet being done for currency smuggling. So? What then? Well, then, er, I mean, you can't be a doctor. So? What *then?* What if you just carry on being a doctor anyway, struck off, disbarred, disrobed and unfrocked? Suppose that you just carry right on telling people what to do about their illnesses, that you continue cutting off their malfunctioning limbs, injecting them with this and reassuring them about that, and calling yourself a "paramedic" or some such Anglicised equivalent? Then what? Who, in the end and when you have told all of your professional brethren to go take an enema, comes for you with dogs and shotguns, and on what basis?

Those doctors never did explain what the big problem was about that. It was as if I had asked some mafia members what was wrong with one of them deciding to sell his unexpurgated memoirs to the police. One simply doesn't. What happens to you if you do is too awful to be spoken about, or even thought about. Truly, these people didn't know. They didn't understand the legal basis of their own professional lives. Or, if they did, then this knowledge was, so to speak, in another part of their brains to the place where they put the question, when I asked it of them.

My legal friends were hardly any more helpful, the English law on any particular thing usually being scattered about in half a dozen different acts of parliament. Nevertheless, after much asking around, I believe I now more or less understand the legal basis of the British medical profession. It is this:

To be a "doctor", you must be accepted as such by the "General Medical Council". To put it another way, the Government, on advice from doctors, chooses the doctors who choose (and unchoose) all the other doctors.[1]

Now for the bit that matters. If you are not or are no longer a "doctor" (as the government, advised by its preferred bunch of doctors, understands that word), then there are three things you may not do. These are, in ascending order

of importance: sign death certificates, prescribe drugs, and (in general) take medical risks.

PEOPLE SHOULD KEEP THEIR OWN RECORDS

Death certificates we can deal with quickly, and then forget. Basically, the government insists on knowing how many citizens it possesses at any moment, and it wants to know *that* citizen X is indeed dead so that it can bury the cadaver, in the absence of anyone else being willing to sort out the problem, and investigate any peculiar or suspicious circumstances surrounding the death. This makes some sense. It need not be a nationalised industry, and one can imagine an entirely freelance arrangement more like that described by Robert Heinlein in his novel *The Moon is a Harsh Mistress*.[2] On Heinlein's moon colony the authorities care nothing for the welfare of their colonists - who may live or die for all they care - so it's up to the families of the colonists themselves to keep whatever personal records they want to. But when in the British province of the planet earth we die, our more caring and concerned government insists that the proper government forms be duly filled in, and only a fully paid up British government sponsored doctor may sign such a form, and collect the government's fee. That's item number one of the medical monopoly.

DRUGS

Item two concerns drugs. In order to get pills or potions of any great medical significance from a chemist, you have to have a prescription from a doctor. Without such a prescription, no major pills, no serious potions. Fail to involve a "doctor" in any such arrangements and you are breaking the law. If alerted, the police will come and collect you, and if you force them to resort to such methods they'll bring their dogs and their guns.

RISK

And three, which is a the generalised version of the particular rule about drugs, only doctors may take serious medical risks and make serious medical mistakes. Just how major are the blunders that doctors may make is a vexed question, and it is hard to see how it could ever be completely otherwise. At what point does reasonable risk become negligence? When does the necessarily chancy business of fending off the angel of death become a licence to commit horrendous cock-ups? At present, the British rule is that "doctors" who have been certified by the government (that is, by the government sponsored medical oligarchy - this point can't be made too often for it is the essence of the matter) may take much more severe medical risks than may those who are only "doctors" in the opinion of their patients. If a (government certified) doctor carries out a medical operation of some sort and it goes wrong (as operations inevitably will from time to time), well, these things happen. You can't be a doctor and not commit the medical equivalent of mistiming the occasional cover drive, fumbling your lines or committing the occasional typographical error. On the other hand, if you aren't a "doctor" and you take medical risks, then even if all goes well, you are in legal trouble.

In other words, medicine is a government sponsored monopoly. You can't practise medicine in any significant way if you can only prescribe insignificant drugs or cures, and only take insignificant risks.

So far as I can judge it, things are approximately like this everywhere. In no country on earth is medicine uninterfered with by the local state.

In the United States of America, which is often held up as a dreadful warning to us Brits about the horrors of unregulated medicine, the matter of safety is dealt with even more restrictively. There, under the influence of a deranged generation of lawyers whose aim seems to be to bring civilisation itself to a standstill, *nobody* is now allowed to take medical risks, *not even doctors*.[3] If anything goes wrong with *any* medical procedure, then no matter how conscientiously the risks were explained to the patient and no matter how many forms he signed saying that yes he understood this and please could they get on with the operation, if things then go at all badly wrong, the patient - or if he dies his relatives - can then sue the doctor for double the doctor's life savings. To spell this out in plain English, what the American lawyers are engaged in doing is *making medicine illegal. All* medicine, even medicine practised by the one government favoured American medical trade union. Add this obsession with safety to the fact that the American Medical Association has the same armlock on American medicine as the BMA has here, and it is hardly to be wondered at if American medical services are cripplingly expensive, and are becoming more so.[4]

WHAT A REAL FREE MARKET IN MEDICINE WOULD BE LIKE

Meanwhile the argument now sputtering along in Britain about whether the NHS should continue ever onwards and ever more expensively, or instead be abolished, whether by stealth or with all the guns of free market rhetoric blazing away proudly, is actually an argument about whether the *administration of the medical monopoly* should or should not be a nationalised industry. It's an argument about how to remix the already hopelessly mixed medical economy.

A free market would be something else entirely. In a free medical market, the very process of defining *who is and who is not a doctor would be negotiated entirely between the people offering themselves as doctors and the people deciding whether to submit themselves to these doctors as patients.* The only role for the lawyers and politicians would be in finding out, if and when arguments arise, about the nature of the original contract. Did the "doctor" tell the truth, albeit somewhat schematically, about the nature of his qualifications and skills? Did the patient understand the approximate nature of the risks he was taking? If in doubt, err towards the ancient and noble doctrine which says, in Latin: *caveat emptor*, and in English: "let the buyer beware". At the heart of the medical issue is the right of the individual to take whatever risks he wants to take and make deals on that basis, and the duty of any courts, lawyers and politicians to respect rather than retrospectively overturn these deals.

And, people would be able to take whatever drugs they wanted to, with or without whatever medical advice they choose to take on the subject.

SOME FOOLS WOULD PERISH FROM THEIR FOOLISHNESS

The above proposals are, I think you will agree, somewhat more radical than what usually passes for "free market medicine", and many will regard them as the very quintessence of irresponsibility and callousness. Obviously, the critical

chorus will proclaim, we can't allow such brutalities to reign unchecked. Obviously, there must be *some* government regulation. Obviously we can't have just anybody popping whatever pills they want to.

Far from it being obvious to me that a truly free medical market would be disastrous, I believe on the contrary that such arrangements would be of huge benefit to mankind, and that the sooner medicine is done this way the better.

Things would not, inevitably, be perfect. Some fools would make crass blunders, by ignoring manifestly superior medical services for the most frivolous of reasons, and by patronising the most notoriously incompetent. Some such fools would perish from their foolishness. Others would merely be unlucky. No law can prevent either stupidity or bad luck, although the world is now filled with the particular stupidity which consists of refusing to face this truth, and with the many luckless victims of this stupidity.

COMPETING STYLES

But this aspect - the worst aspect - of the new dispensation that I am proposing would involve no huge change from the way things are done now. The only difference is that nowadays the role of stupidity is relatively unimportant, while luck determines more or less everything.

It is in the middle and at the top end of the new, truly free, medical market that the improvements would be most dramatic. Given that for most people the avoidance of suicide rather than suicide is the objective, a truly free medical market would enable them, for the first time ever, to purchase steadily improving medical advice and medical help, and at a steadily diminishing price.

One of the most pernicious restrictions on medicine imposed by the current medical regime is the restriction of advertising. In a free market rival medical procedures, rival medical "philosophies", rival views on the relative importance of confidentiality, hygiene, speed of treatment, riskiness of treatment, and so forth, would all battle it out in the market place. "Alternative" therapists would be allowed to prescribe potentially dangerous drugs, as only government favoured therapists may now. It would be up to the patients to pick therapists who seemed to know what they were doing, and their look out if they chose badly. The already thriving medical periodical press would assist with voluminous comparative advice, praise and criticism.

In such a free market, any number of different medical styles could be practised, and patients would make their choices. Would Patient A, suffering from kidney disease, feel distressed and humiliated to be offered dirt cheap advice from the top man on how to use kidney machines, but in a large hall crammed with fellow sufferers, or would he prefer to pay extra and be helped in private? Would Patient B be willing to take part in clinical trials that might involve researchers solemnly watching him remain ill while he consumed a month's worth of mere placebos, on the off chance that he might eventually emerge cured, at no cost? Would Patient C tolerate being treated entirely by a computer? Would Patient D like to try *buying* such a computer, so that she could (perhaps, but perhaps not - best to read some reviews first) get state-of-the-art medical advice without ever leaving home, at very little cost? Would Patient E like to get his rare and dreadful skin condition abolished *at a profit*, by simultaneously starring in the video that will then appall the next generation of medical students? Is Patient F a Jehovah's witness? Does Patient G want to die with dignity, rather than be officiously kept alive, when the time comes, but does Patient H want to cheat the angel of death for as long as possible, by all possible means, damn the pain and damn the expense? Does Patient J want to earn some pocket money by offering some low grade "counselling" to fellow sufferers of her condition? Does Midwife K, irritated by the high tech male chauvinism of obstetricians, wish to respond not to their demands but to those of her patients?[5] Does Patient L want to have her baby in a swimming pool?

Most important of all, can Patients A, B, C and through to Z, read the advertisements, memoirs and general swanks and denunciations of the rival medical professions about how clever they are and how stupid and dangerous the other fellows are? Can Doctor Alpha become a great media celebrity and multi-millionaire, through her special genius in applying computers to medicine? Can Surgeon Beta operate live on TV, and simultaneously market his memoirs? Can Doctor Gamma explain just exactly why he truly believes Surgeon Omega to be a dangerous charlatan, and why he, Gamma, sacked him, Omega, from his, Gamma's, hospital? In other words, will the journalistic reviewers of medicine, the medical Egon Ronays, have some substantial claims and counterclaims to work with, instead of the blank wall of supercilious, take-it-or-leave-it, evasion that they face now?

In all other businesses where grasping tradesmen have been allowed to devise new hi-tech ways of doing things without having to jump through a million hoops held up in front of them by their more indolent, incompetent and risk-averse contemporaries and rivals, and by going direct to their customers, *the benefits have been stupendous*.

THE CONTRAST BETWEEN MUSIC AND MEDICINE

Consider domestic music. Consider the splendours of domestic hi-fi, late twentieth century style. Think of what it is, and what it costs. And think what similar toys were like thirty years ago and what they cost thirty years ago, and what they will be and will cost thirty years hence. Had music been run the way medicine is still run we'd be stuck between buying a battered old upright piano with more and more keys missing and more and more horrendously out of tune, supplied after months of waiting and at horrendous expense by the government, and on the other hand a very grand looking grand piano, costing the earth, but basically no easier to make effective use of than the appalling old upright.

The joyous realities of the more or less completely unregulated market in domestic music boxes, and of course all the other electrical delights we are supplied with and promised in the near future, give us a small taste of just how fabulously improved medicine might be if greedy capitalist exploiters were allowed to sink their claws into it and mix it around and generally make big changes in it and big money out of it. Computers to diagnose illnesses, and prescribe drugs, while checking for any side effects caused by mixing the wrong drugs and giving the resulting cocktail to the wrong patient with the wrong combination of rare diseases and rare allergies? Diagnosis at a distance, over the phone, with the patient sending photos to the doctor? Medical radio phone-ins, but with a doctor who is allowed really to cash in on the publicity and give his address and phone number at the end? New forms of medical finance and medical insurance? Robots doing innoculations or delivering babies, with special software to tell them when to send for a human?

Lots of these kinds of excitements are now talked about, and given that medicine is now a mixed economy rather than a totally state dominated arrangement (i.e. not a complete and unmitigated catastrophe) quite a few of these things may emerge in due course. But why not have the laws that would encourage instead of inhibit such wonders? And why not have the legal framework in which medico-financial decisions can be made in the light of sane price signals supplied by the market, based on real consumer tastes and true resource costs, instead of the way that medico-financial decisions are made now, by a mixture of political infighting and sheer guesswork?

LIFE AND DEATH

But medicine is different, say the state medics and their statist allies. Medicine is not a "product". Medicine is a matter of life and death.

But so would hi-fi equipment be, if it was legally administered the way medicine is now. If you seriously believe that the only reason why hi-fi equipment doesn't regularly explode, set fire to the curtains and shower the children with broken glass is that the government has laws saying that this mustn't happen, well, I can only say that in my opinion you should swap your obviously inadequate brain for a new one from Japan. In the bad old days of pre-Japanese TV sets, in a somnolent but still vaguely competitive British market, British TVs *did* conk out rather regularly, although not in such a way as to threaten life very seriously. Remember TV repair men? And then the market solved the problem and the British TV makers and TV repairers found other things to do which were more suited to their talents, such as TV importing, floor sweeping, etc.

Or what of food, which can likewise be a matter of life and death? Are we really to believe that only the law prevents the nation's supermarkets from committing regular bouts of mass murder? Is it *only* the fear of government retribution that stops capitalists killing all their customers? Come on.

THE MARKET SUPPLIES REGULATIONS

To repeat the point in the above paragraphs differently, the market doesn't just supply products and services; it also sells *regulations*. Japanese TV sets don't just perform flawlessly by a happy accident. They work because associated with each of those splendid Japanese brand names there is a great panoply of rules and regulations all of which must be obeyed before Japanese TV sets may leave the factory. People pay extra for Sony TV sets and Sony CD players because the Sony rule books now have such a fine reputation. The British TV industry, because it took a more lackadaisical attitude towards quality control - that is, to the making of and obeying of *rules* - was obliterated.

Unlike government rules, or "laws" as we so confusingly call them, private sector rules can automatically change, develop, be improved or be discontinued, as the ever changing commercial environment requires.

In a free medical market, instead of there being just one set of medical rules administered by the one government sponsored oligarchy, there would arise rival sets of rules, and rival groups of medical practitioners with the proven ability to stick to those rules without incurring ludicrous expense. Only the good, the successful, the humane and the cost-efficient would flourish for any length of time. Undoubtedly the so-called "Hyppocratic" code would, at any rate to begin with, be one of the sets of rules on offer, but I suspect that this code may now be well past its prime. It dates from the long, long era when doctors did almost nothing but harm, and thus it made sense to instruct doctors above all that they must *not* do harm. However, doctors having quite recently become of some definite medical use, it makes sense for them regularly to risk harm if the benefits may be substantial.

Also, in this age of electronic information processing and information sharing, the Hyppocratic answer to the vexed question of medical confidentiality - that confidentiality is sacred - may now be a feature of medical service that can only be supplied at prohibitive extra expense. Personally I'd be quite content to have random secretaries, medical students, medical researchers, etc. gawping at my diseases on a computer screen and arguing about which medical software to attack them with, if that cut down on the bills as much as I believe it might. My belief is that medical confidentiality is mostly to do with protecting doctors from having their work scrutinised by their peers, rather than anything to do with the feelings or wishes of patients. If I'm wrong, then the free market is the proper place for me to be proved so.

To be patriotic for a moment, I'd say that my fellow Brits seem to have a real enthusiasm for medicine, which now, sadly, only manifests itself in the passion for saving the NHS against all its enemies, such as the Conservative Party, reality and so forth. Accordingly, a real and rapid deregulation of British medicine such as I am describing, as opposed to the mere abolition of the NHS while leaving the heart of the medical monopoly untouched, would unleash an economic miracle as well as merely a medical one.

IT IS RATIONAL TO FEAR THE ABOLITION OF THE NHS

On the other hand, *in the absence of a free market in medicine*, the public is probably displaying a lively sense of its true interests in fearing that a free market in mere medical administration would not be to its advantage. That the market is an efficient way of doing things is beyond doubt. But if the job it would be asked to perform would be the mere running of the present government sponsored medical monopoly to the maximum advantage of those in charge of it, would that be any sort of improvement from the public's point of view?

Historically, the nationalisation of British medicine occurred in several steps, not just in one. By the nineteenth century, medical "ethics" were already very restrictive about such things as criticising other doctors, but the consumer, in the form of the friendly societies (who were able to go into detail about just which doctors knew their business and which ones didn't, in the manner of *Which?* magazine nowadays) still held the whip hand. They paid the pipers and they called the tune, and a few pennies in subscription got all but the most abjectly poor patients in on this splendid arrangement. "Free market medicine" only became vitriolically unpopular with the masses after the *financing* of medicine had been nationalised by the Lloyd George Liberals (enthusiasiastically egged on by the doctors, who hated being told what was what by their mere customers) at the beginning of this century, and the government had replaced the people as the customer of the enterprise. The ultra-grand doctors who did the liasing between the profession and the government became the effective godfathers of the entire profession. They had the power to bestow upon or deny to a lesser doc-

tor an unprecendented gush of government largesse, according to whether he showed the proper degree of professional team spirit or not.

That having happened, it made perfect sense, in the middle of the century, for the the people, once again egged on by doctors (this time the kind of doctors who wanted poor people to get some sort of medical care again), to demand that Attlee's Labour government should get a grip on the doctors and force their prices to the patients back down again, even if that might mean paying more taxes. The experience of the twenties and thirties suggests to the people that a "free market" of the type now envisaged by most free marketeers would merely mean that the doctors would get cleverer at exploiting the same old medical monopoly.

Imagine a situation in which only the "police", trained much as now and in much the same numbers and in the same manner, were *allowed* to enforce the law, but in which it was *up to each of us to pay them again before they would actually do it*. Would that really be an improvement upon the admittedly very imperfect arrangement we have now? Although only the police may now enforce the law they are at least paid by the government and told by the government to enforce it without us having to give them yet more money. By and large, and just like doctors, the police do quite a lot of valuable work in among all the waste, chaos, overmanning and general pomposity and self congratulation, even if a truly free market in police services - real police, hired by the citizenry - would be far preferable to a monopoly police "profession" hired by the mere government.

That's the trouble with monopolies. People get habituated to them, to the point where they regard them as part of the natural order of things, and to the point where even those who fancy themselves as being opposed to monopolies recommend "anti-monopolistic" policies which don't actually get to the heart of the monopoly and which are all too likely to make things worse.

MEDICAL SELF HELP AND HOW IT ENDED

David G. Green, for example, runs the broadly pro-free market IEA Health Unit, which is a subdivision of the broadly pro-free market IEA. His book *Working Class Patients and the Medical Establishment* (subtitled "Self-help in Britain from the mid-nineteenth century to 1948") is superb, and explains in splendid detail the significance of the changes that were made just before the First World War. The government had grandly introduced "National Insurance". But, says Green:

> ... one of the chief results of the 1911 Act was that it stimulated the medical profession to unite at the expense of the consumer. Doctors organized a great campaign to transform the National Insurance scheme into one that benefited them at the expense of the medical consumers, and particularly friendly society members. As a result of their agitation between 1910 and 1912 the doctors made very considerable gains at the expense of the consumer: most notably, they freed themselves from lay control, insinuated themselves into the machinery of the state, and nearly doubled their incomes.[6]

In his next paragraph Green spells out the difference between a profession that operates in something like a free market and a profession that has gained the backing of its government. I quote it in full:

> Once the state entered the scene, the organized profession found their ability to extract concessions at the expense of the consumer vastly increased. Compared with the marketplace the state offered greatly increased opportunities for the exercise of professional power. A brief but, for the doctors, all too common, illustration must suffice. The *Lancet* special commissioner described how difficult it was to maintain a cartel in the marketplace of the 1890s. In Hull the local medical society campaign enjoyed the backing of over 90 percent of local doctors, but it took only two or three medical men 'to upset the whole combination'. For instance, it was agreed not to accept club appointments at below 4s and all but one doctor supported the minimum. This doctor entered into a secret agreement with local societies to work for less. As a result he secured a very large increase in his club patients. Soon, colleagues noticed his success and suspicions were aroused. One by one other doctors abandoned the minimum and payments dropped to 2s 6d. Two medical society members even started to use handbills. They were called to account for themselves before the branch, but simply resigned. However, a complaint was made to their licensing authority, and 'they were duly warned' with the result that no further handbills were issued. But the cartel was broken (*Lancet*, 16 November 1895, p. 1256). The state was no pushover, as the conflict over pay from 1920 to 1924 showed, but pay increases were far more easy to obtain than in the market.[7]

Fine. The pre-1911 situation was an altogether more satisfactory mixture of the mixed economy than we now suffer under. But notice that Green actually describes a situation in which a doctor can be hauled up before the "licensing authority" and "duly warned", after which "no further handbills were issued" as "the market"! Who the hell made up this "licensing authority" and what damned right did they have to suppress advertising, even though, like all advertising, it was of self evident benefit to the potential customers?

Green hits every part of the target but the bullseye, the nail everywhere but on the head. He assembles all the vital evidence, and then fails to spell out the conclusion that follow inexorably from the story he himself tells so well.

"SOME REGULATION IS NECESSARY ..."

For, consider what Green *does* conclude at the end of his IEA Research Monograph 40, entitled, in the typically jokey and unhelpful IEA fashion, *Which Doctor?* (but subtitled much more promisingly: "A critical analysis of the professional barriers to competition in health care"), published in 1985.[8]

> 1. The emerging supply-side argument that the National Health Service is vital to counterbalance the power of the medical profession mistakenly attributes some defects ... to the market whereas their real cause is imprudent state intervention.

True.

> 2. The power of the medical profession in Britain stands in the path of all reformers, whether they merely seek detailed improvements within the NHS structure, or more radical reforms to promote competition in health-care supply.

Quite so.

3. ... the market can promote cost-effective medical care, especially if the barriers against 'unorthodox' medicine are removed.

Exactly.

4. Professional monopoly power in America - as in Britain - is in large measure the result, not of inherent weaknesses in the market ...

Good.

> ... but of the failure of government to regulate the market in the consumer's interests.

What! The failure of government to regulate? It is the failure of the government *not* to regulate that is the heart of the problem. It is the failure of government to step aside and allow medical people and medical customers to come up with their own regulations and fight it all out in the market that is the problem.

And then you get the ancient, ancient cry of the "free marketeer" who lacks the courage of his non-convictions:

5. Some regulation of medicine is necessary ...

By which, I'm sorry to say, Green means *government* regulation.

> ... but the regulatory regime should do more to protect the consumer against the capture of the regulatory agency by self-interested producers.

And pigs should attempt more strenuously to fly.

DRUGS

The next conclusion starts promisingly enough.

6. The General Medical Council should be abolished ...

Sounds good.

> ... and replaced by a new agency ...

Oh Lord. Another new agency. I thought the idea of the market was to get rid of "agencies".

> ... whose members would have the status of trustees, forbidden to gain financially from the performance of their duties and be liable in law for failure to discharge them properly.

Political hacks in other words.

7. The new agency's powers should be limited to reviewing training requirements, with no authority to ban courses, and to maintaining a list of drugs obtainable only on prescription.

The idea of "reviewing" training requirements is a piece of flannel. If the new agency has "no authority to ban courses" (or to deny them government funding, which amounts to the same thing), then what power does it actually have over training? Either it can blacklist medical college X, and announce that its products aren't doctors, or it can't in which case why would its opinions about training count for anything? On the other hand, if it *can* blacklist medical college X (and Y and Z, and P and Q and R) then this "new" agency is able to control entry into the medical profession just like the agency it is to replace.

As for "maintaining a list of drugs", that *is* the medical monopoly, for heavens sake! Not abolishing this list makes nonsense of Green's triumphant final conclusion:

10. There should be no state medical service in which jobs are reserved for practitioners licensed by the state.

For if "prescription" is to mean anything at all, it must mean that only certain people are allowed to do it. So who is? And who decides who? Once you have a list of drugs which only a "doctor" may prescribe, you are right back to the situation of *the government deciding what a doctor is*, instead of the citizenry sorting it out amongst themselves and the government only intervening if the people come to blows.

In short, Mr. Green, all decked out as he is in the plumage of a free marketeer, with the ancient and noble flag of the Institute of Economic Affairs itself fluttering over everything he says, having written an excellent book on the history of the matter, and making all kinds of virtuous incidental noises about restrictive practices and such like, funks every important issue and leaves the central core of the enemy's position untouched.

Worse, the fact that "even an extreme free marketeer like David Green of the IEA" turns out to be unwilling to argue for a free market in medicine provides powerful polemical ammunition to the anti-marketeers. Such a surrender will strongly suggest to the casual observer of this argument that a free medical market is either unimaginably wicked, or else simply unimaginable.

THE NEW FRONTIER OF POLICY DEBATE

Why has an institution as splendid as the IEA sunk to the point where it will produce such pointless and self-contradictory publications as *Which Doctor?* by David Green?

More generally, here we are in the new year of 1991, with our newly installed Prime Minister Mr. Major, and there is a palpable feeling abroad that the case for the free market is running out of steam. Why?

The new frontier of policy debate is in the land of the "social" issues, like health, education and welfare, and the general atmosphere is not one of radical liberalisation or privatisation, but of blank cheques and "compassion". Even as I write Mr Major can be heard through the din of battle in the Persian Gulf, making speeches on the television about how he wishes to pursue "quality" in our public services. Is it merely that Arthur Seldon and Ralph Harris are past it? Is it just that the Adam Smith Institute finds it more exciting to be privatising Eastern Europe, rather than merely privatising boring old recession-ridden Britain? Was the fall of Thatcher the decisive moment?

I think that there is a more fundamental problem here than the mere accident of who's young or old, energetically present or preoccupied and absent, and who's in or out of this or that job.

Basically, when the saving remnant of free marketeers got their act together in the fifties and started churning out radical free market ideas, they consciously decided that they weren't going to be *too* radical. I don't blame them for this. They wanted to make the "respectable" bits of the case for free market economics truly respectable again, and for this they needed cash, from respectable people. They got the cash, and they succeeded. But now the intellectual chickens are coming home to roost. Public debate is moving on from such obvious ideas as the government ceasing to wreck the British car industry. The debate now is about what the IEA has always tended so disastrously to describe as "public

goods". It concerns issues where the IEA formula of reducing everything to mere "economics" will no longer work.

Arguing for free market medicine is not like arguing for the denationalisation of British Steel or for the abolition of exchange controls. If you are truly going to "denationalise" medicine, then that means also talking about liberalising drugs, including and especially drugs which if mishandled might kill you. It means tackling the whole issue of *risk*, and the rights of individuals to take risks of the most lurid, most dangerous and most newsworthy kind.

It is, in particular, utterly mistaken to suppose that a nice, safe, respectable debate about free market medicine can proceed without the related issue of "recreational" drugs being dealt with. Medical care is not only about the objective, physical course of illnesses; it is crucially concerned with the subjective experiences of patients. It is sometimes about cures and bodily corrections, administered much as one mends a machine. But just as commonly if not more so it is concerned with making the patient more comfortable, and taking his mind off his bodily misfortunes. It is about making people *happier*. Prescribing one of the so-called "recreational" drugs is often a fine way to achieve such happiness. For many centuries, giving people "drugs" was about the only worthwhile thing that doctors ever did.

THE VOTERS ARE NOT MORONS

The IEA's ommissions have now worked their way through to the arena of day-to-day political debate. Those "politicial impossibilities" that they have felt able to discuss are now considered possible, and some have even been done. Whatever they have shied away from remains politically impossible even now.

So now the onward march of privatisation is running out of respectable free market policies that anyone of any political grandeur is now prepared to be publicly in favour of. It's one thing to sell off British Steel or British Telecom, while saying: "Yes, you're right, I *am* in favour of a free market in steel products and telephone services, and yes it's fine if foreigners want to buy shares, and yes if British Steel sacks half its workforce, so be it, that's how it should be, and how right you are, British Telecom *ought indeed* to be demonopolised as soon as possible, and how nice that even non-free-marketeers are now saying this." It is quite another to be surreptitiously beavering away with supposedly free market notions in health care or education while in public denying everything. The voters may not be geniuses, but neither are they complete morons. They know what's going on. Yet if all these fudges and half-measures involving such things as "vouchers" and "opting out" are not leading to any destination that anyone is prepared to argue for in public, then why bother with them?

Well, you can see where I'm leading. Only libertarians of the most defiantly non-respectable sort are in any way prepared even to *have* such arguments, let alone win them. People who think that the only way to win an argument for any particular bit of the free market is to start an "institute" or a "unit" and to start buying offices and secretaries and computers and signing up rich donors - thereafter spending the rest of their lives trying not to upset such donors - well, they don't stand a chance.

Personally I prefer to get to the heart of the issue with what I write - damn the fundraising and damn the distribution - and to do boring old fashioned work in order to get money, and to keep these two enterprises separate until such time as people will pay me *because* I am saying exactly what I want to say. In other words I prefer being a libertarian to being a mere "free marketeer".

THE GLORIOUS VISION

The next step in the battle to demonopolise medicine in Britain and unleash medical capitalism in all its transforming glory is for all who share this glorious vision to go into opposition and say exactly what demonopolised medicine means and exactly why it would be so splendid. We should be candid about exactly what risks are associated with this glorious enterprise, and we should be candid about the desirability of these risks being taken. In the meantime the *only* virtue - although I do admit that it is a very substantial virtue - of "internal markets", "health units" and other such flimflam, is that these devices will focus the minds of all concerned on the inadequacy of such half-measures. "Free market medicine" at the moment is all about getting from A to B, or if you are real bare-knuckle operator getting from A to C, but with everybody terrified of talking about what Z would be like. It is obsessively tactical, but utterly lacking in overall vision.

In thirty years time, or whenever, when the case for free market medicine - the genuine article - has achieved hegemony amongst the ruling class - i.e. when we've won - then major steps can be taken, knocking this lot of drugs but not that lot off that list, licensing several other medical professions (like ITV in television, or Mercury in telecommunications) to compete with the one we've got, and so forth, leading in the fullness of time to a totally free medical market. Maybe those vouchers that the IEA seems to spend about half its life burbling on about might even prove of some use. But that stuff comes later. The route isn't the problem. What matters now is to argue loud and clear for the right destination.

NOTES

1. At leat I think I understand the legal position. In an earlier version of this I put BMA here instead of GMC, i.e. I said that the union (the British Medical Association) literally runs the show. Early readers were understandably critical, but the essence of what I'm saying in this is unaffected.
2. Robert A. Heinlein, *The Moon is a Harsh Mistress*, New English Library, Sevenoaks, Kent, 1969.
3. See for example, Richard A. Epstein, *Medical Malpractice: The Case For Contract*, Center For Libertarian Studies, New York, 1979; or Peter W. Huber, *Liability: The Legal Revolution and Its Consequences*, Basic Books, New York, 1988.
4. For a collection of essays on the issues of voluntary and state health from a largely US viewpoint, but also including comparisons with Britain, see George B. de Huszar ed., *Fundamentals of Voluntary Health Care*, The Caxton Printers Ltd., Caldwell, Idaho, 1962. Also recommended is Ronald Hamowy, *Canadian Medicine, A Study in Restricted Entry*, Fraser Institute, Toronto, 1984, which speaks for itself.
5. This question was prompted by the Wendy Savage affair, for details of which see Wendy Savage, *A Savage Enquiry: Who Controls Childbirth?*, Virago, London, 1986.
6. David G. Green, *Working Class Patients and the Medical Establishment: Self-help in Britain from the mid-nineteenth century to 1948*, Gower, Aldershot, Hampshire, 1985, p. 114.
7. Ibid., p. 114-5.
8. David G. Green, *Which Doctor? A critical analysis of the professional barriers to competition in health care*, IEA, London, 1985.