

Business Ethics: A Historian's Perspective

KENNETH J. LIPARTITO*

Commentary on the article by Gabriel Abend

“To the great despair of historians, men fail to change their vocabulary every time they change their customs.” So warned Marc Bloch (1953) in his famous meditation on the historical method, *The Historians Craft*, a book he would never finish, writing it on the run from the Nazi's who finally caught and executed him near the end of World War II. They are words for all historians to live by.

Gabriel Abend has composed something of a Bloch in reverse. He calls our attention to the consistency of language and asks, why despite long periods of time and presumably changing customs and practices, do the words of business ethicists – whether theoreticians or practical men and women in the marketplace – seem so consistent, so familiar to our own ears?

As a historian, I immediately return to my Bloch and ask, is this really so? Are the practices and indeed even meanings behind seemingly similar words really so unchanging? Many of the examples he gives suggest to me that using the historian's number one tool, context, they are in fact not consistent across time at all.

Let us look at a few examples. The claim that one should deal “fairly” all the time seems uncontroversial. Yet behind that bland language is a seething caldron of political conflict. Large retailers and chain stores were accused of “unfair dealing” by their ability to set far lower prices that local retailers and individual stores could not match – a form of predatory pricing claimed critics, even if consumers might benefit from those low prices. Unfair dealing led to the passage of the Robinson-Patman Act in 1936, designed to limit the competitive advantages and restrict the growth of chain stores.

“Speculating” is another freighted term. In the 19th century it might be used to question the legitimacy of new financial instruments such as common stocks or futures contracts. The idea that trading claims on the residual income of a corporation could be considered gambling or that futures contracts on wheat might be causing the price of “real” commodities to plunge might seem simply ignorant to us today. Yet they were real to the farmers and small town business people of the 19th and early 20th centuries, who looked upon Wall Street as den of thieves. Even if some people still think Wall Street is a den of thieves, their reasoning is probably much different. They accept the idea of futures contracts and paper shares representing a type of corporate ownership – they may even be owners of such paper themselves – but they are concerned about their destabilizing effects on the macro economy or the vast differences in wealth that finance

* Prof. Dr. Kenneth Lipartito, Department of History/Florida International University, Miami, FL-33199, Tel.: +1-(0)305-3481860. Fax: +1-(0)305-3483561. E-Mail: lipark@fiu.edu, Fields of Research: Economic History, Business History, History of Technology, Political Economy, Culture and the Economy.

may create. Some of those concerns might go back to an earlier century others may not, and others that were current in the 19th century have all but disappeared.¹

In the 19th century, critics of business behavior were often operating in a context that stressed concepts of virtue and independence that were ground in the labor theory of value. Unethical activity was connected to the corruption of those values. Big banks and corporations that monopolized whole industries were accused of siphoning off the wealth that belonged to the true producers – which started with men and women of the soil and included skilled artisans and small manufacturers, ending perhaps as far as local merchants, retailers, and bankers (Main Street not Wall Street).

It is impossible to make sense of this perspective in the abstract. Where did small producer end and large monopolist begin? How local did local bankers have to be before they ceased to be in the producer class? Why were skilled artisans considered virtuous citizens but not unskilled immigrant laborers? When we are immersed in the language and sources of the 19th century, the lived experience and practical logic of these positions comes into focus. The labor theory of value was not just immature economics; it was a moral position that connected politics and production. Virtue attached to people (realistically almost exclusively men) who had either land or skill that rendered them capable of economic independence – clearly something not possible for a mere “hireling” of another, to use Abraham Lincoln’s words.

Lincoln, like Marx, believed in the labor theory of value and the freedom from subordination and degraded labor it implied. But unlike the German revolutionary, the American president did not use it as a springboard to socialism. Rather, he, like American thinkers going back to the age of the American Revolution, argued that a free, independent class of yeoman farmers and sturdy artisans supported a republican form of government. Men (again, at this time only men) of independent means could rule themselves honestly, without undue influence, in stark contrast to slaves, women, children, and hired hands. They would support the institutions of governance that kept them free – schools for education that allowed everyone a chance, internal improvements that promoted the general flow of commerce, free trade that prevented unethical business behaviors – monopolizing, forestalling, adulterating, engrossing. These ethical concerns were connected to a broader political language and vision of independence and democracy. Allow wealth to accumulate without work (the siphoning off of profits by clever money manipulators and financiers), allow corporations to grow large and powerful, and you would bring this political economy crashing down.

What this history teaches us is that the language of ethics is always, in part at least, a political language of contending interests and parties. There is a danger in seeing a linguistic sameness in the past, or of postulating “a public moral normativity” (p. 43), the danger of writing a consensus history where we all share the same values and experiences, regardless of our surface differences in class, identity or social position.

Consider for example one of the most powerful words of the nineteenth and early twentieth century political economy: “antimonopoly”. It was both an analytical economic concept and a political slogan. In regards to the first, it fits into the labor theory of value,

¹ On the language of speculation and on controversies over futures trading, see Jonathan Levy (2012) and Kenneth Lipartito (1983).

indicating a commitment to a fair distribution of the income, wealth and profit. But fair was not a subjective term – an approximation of what might be socially desirable. It meant strictly that each producer earned the full value of what he produced – by the sweat of his brow. When that income went into the pockets of financiers or was seized by high freight rates charged by monopolistic railroad corporations or slipped away into the pockets of large price slashing chain stores, the eternal laws of the market had been subverted. When voters and politicians declaimed against monopolies and promised to remedy their ills by passing laws (the Sherman Antitrust law went on the books in 1890 and before that state antitrust laws), or arresting the nefarious business men (Henry Clews’ preferred solution), they were articulating a political platform (see Lipartito 2014).

Starting with the rise of big corporations in manufacturing, distribution, transportation, communication and retail, antimonopoly language grew, and indeed kept on growing through the twentieth century. Even here though the meaning did not remain constant. After 1911 the Supreme Court “rule of reason” decision in the Standard Oil Antitrust case, antimonopoly came to be more restricted – to behavior that intended to monopolize or control a business sector. The idea that large corporations and the financial practices that accompanied them were inherently unethical because they violated fundamental principles of economics and republican politics dissipated. The courts likewise ruled that futures contracts were not gambling – an illicit and immoral activity, after all – but just another type of market transaction. The language of speculation remained, still carried opprobrium, but where it could be applied shifted to other activities. The form remained, but the content subtly shifted.

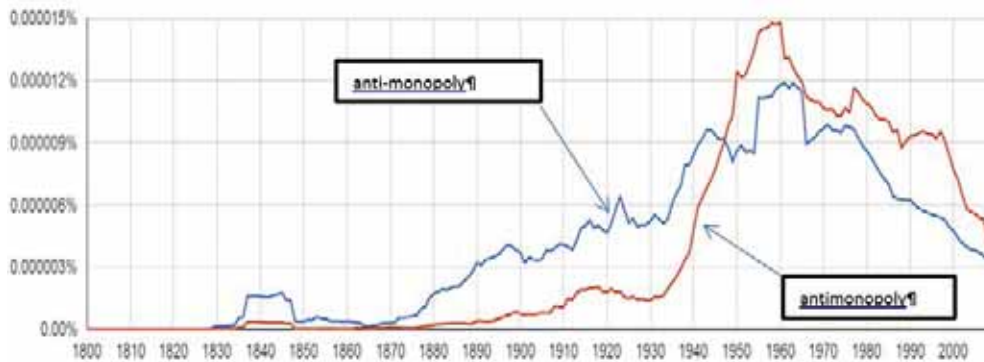


Figure 1: Appearance of the word “Antimonopoly” in American English Language Texts, 1800–2000 (Source: Google Ngram)

The language itself finally changed in the 1960s. Antimonopoly lost this moral-political connotation, something helped along by new legal theorists following neoclassical economics, predominately legal scholar Robert Bork. Bork argued and eventually persuaded the courts and the Justice Department that monopoly was only a technical economic matter – a case against consumer welfare, not the political position and moral authority of the producer. So by the 1960s, even when people were still using the words “anti-monopoly” the new concept of protecting the interests of consumers, rather than producers, had already begun to creep into the world of meanings.

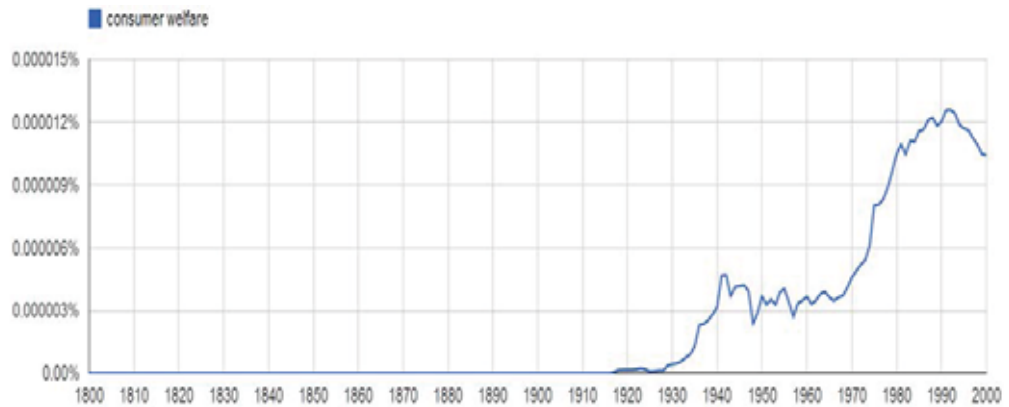


Figure 2: Appearance of the words “Consumer Welfare” in American English Language Texts, 1800–2000 (Source: Google Ngram)

To some degree the language of consumer protection and consumer welfare carries moral weight as well. In the 1960s and 70s, new laws regulating the safety of consumer products, of drugs and comestibles, of children’s toys, clothing, of household chemicals, came on the books. Companies took note and accepted, or had thrust upon them, a whole new set of responsibilities for the health, safety and indeed eventually the entire environmental lifecycle of their products. Such laws were not conjured out of thin air, of course. One of the first and still most important consumer oriented laws, the Pure Food and Drug Act, was passed in 1906. But today the consumerist orientation of corporate social responsibility and antitrust has made for a far different moral universe than a century ago when the ethical behavior of business was linked to a labor theory of economics and a conception of the virtuous citizen producer. Not just the language but the connotations of words changes as one context disappears and other is born.²

Gabriel is well aware of the slippage of language, which is what the second half of his paper is about: what he calls the underlying moral background. Perhaps the difference

² Issues surrounding the treatment of labor, the monetary system and the responsibility to consumers have also mattered and they have their own lineage that should be excavated as well. But in each case, it is the lineage, the context, which will determine what the same sounding words are going to actually mean, how they resonated in the ears of those who heard them. For an overview see Archie B. Carroll et al. (2012).

between what he is doing and what I am suggesting is a matter of disciplinary tradition and methodology. His sociological-philosophical model for studying business ethics is more synchronic whereas mine is more diachronic. He is placing the conditions of possibility within differing cultural contexts, where I am placing them in a changing historical one. Both have value to be sure.

My only critique, however, is that there is a danger of essentializing the different cultural contexts of language, as though Argentines and Uruguayans had differing meaning systems that were both timeless and holistic. Historians try to unpack differences, to look beyond the immediate language. That is what Gabriel is doing as well, but if we think of differences in the moral background as common across a culture (or a period of time) we risk losing the contested, political nature of moral and ethical language. Yes, certainly language structures what is possible, the “conditions of possibility” as Gabriel puts it (pp. 54; 59). But those structures are permeable, often shaky, usually under siege from a variety of contending forces. I would attend more to the contestations of forces, the always unsettled nature of moral and ethical claims made by and against business, than to the presumed stasis of language or the cohesive structure of the background moral order.

References

- Bloch, M.* (1953): *The Historian's Craft*, New York: Alfred A. Knopf.
- Carroll, A. B./Lipartito, K./Post, J./Werhane, P.* (2012): *Corporate Responsibility: The American Experience*, Cambridge: Cambridge University Press.
- Levy, J.* (2012): *Freaks of Fortune: The Emerging World of Capitalism and Risk in America*, Cambridge (MA): Harvard University Press.
- Lipartito, K.* (1983): *The New York Cotton Exchange and the Development of the Cotton Futures Market*, in: *The Business History Review*, No. 57/Vol. 1, 50–72.
- Lipartito, K.* (2014): *The Antimonopoly Tradition*, in: *University of St. Thomas Law Review*, Vol. 33/No. 4, 991–1012.