

CONSUMER PROTECTION LEGISLATION VS. LIBERTY

By Barbara Keating-Edh

Barbara Keating-Edh is the founder and president of Consumer Alert, a non-profit membership organization which describes itself as "a new voice to help protect your interests as private individuals, as citizens, and as consumers from excesses of both business and government."

Prior to the founding of Consumer Alert in 1977, Mrs. Keating-Edh was a Conservative Party candidate for the U.S. Senate in New York in 1974. After her senatorial defeat she became a special assistant to Senator James Buckley and later a member of his re-election staff.

She is the mother of five children whom she raised by herself after the Vietnam War death of her first husband Major Daniel Keating, USMC.

Mrs. Keating-Edh delivered this presentation at Hillsdale during the Center for Constructive Alternatives seminar, "The Law: An Erosion or Enhancement of Freedom?"

Thank you so much for inviting me to Hillsdale College. This is more than an honor for me. I am among the many who have long known about and admired what is going on here at Hillsdale. For 136 years you have been an island of liberty, holding out against an encroaching federal government that would serve our every need in the interest of what is considered "good" for society as a whole. You offer us hope.

Some people's view of liberty lies in a totally different vein from the view embraced here at Hillsdale. I know of no better example than the following imaginary conversation written by Roger Castonguay, entitled "So You Want to Borrow Money!"



A man went into a bank to borrow money. The loan officer said, "Good morning," and the man replied:

"Good morning, I'm here to apply for a loan, the purpose of which I choose not to divulge. You do not have the right to remain silent. Anything you say or do will be held against you in a court of law under the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Credit Billing Act, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, the Civil Rights Act, and the State and Local Commissions thereof.

"Also, the Consumer Protection Act, the Privacy Act, the Federal Trade Commission Holder in Due Course Regulation, the proposed Unfair and Deceptive Credit Practices Regulation or under one or more of the regulations issued by the Departments of the

im•pri•mis (im-pri-mis) adv. In the first place. Middle English, from Latin in primis, among the first (things)....

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Treasury, Housing and Urban Development, Health, Education and Welfare, Defense, Labor, Army, Navy, Federal Reserve Board, Internal Revenue Service, Securities and Exchange Commission and Social Security Administration.

"You have the right to talk to a lawyer and have him present while you are being questioned about my loan application, but it is doubtful that he can protect you from all of the above-mentioned regulations and regulatory agencies. For your information, you cannot use established credit criteria such as my ability to repay, collateral, stability of employment, personal habits (alcoholism for instance) past credit experience, or general credit ratings to approve or deny my application.

"You must use the criteria developed by Congress and the above agencies in their infinite wisdom. If your credit scoring system rejects me, you must reveal the weights given to each item on my application, especially the lack of a savings account. I have a dollar in my pocket to open such an account which will allow your computer to score me high on it. When I become delinquent, you cannot discuss this with me unless I bring it up first, and remember, I am still holding the Federal Bankruptcy Act in reserve."

That, my dear friends, represents liberty in the view of some. Unfortunately, it's much closer to fact than fantasy in today's world, since every one of those regulations named actually exists and has a bearing on one's credit-worthiness.

I appreciate this opportunity to share with you my findings with regard to this movement which has come to be called "consumerism." The birth of the movement we witness today flew in on the "Unsafe at Any Speed" wheels of one Mr. Ralph Nader. Prior to his vitriolic attack on the Corvair, the consumer movement was comprised of a few individuals devoted to identifying hazards in the marketplace through information to the public. Certain assurances of safety in food and drug preparation and consistency in weights and measures had become the responsibility of states and federal government. These protections and some others were and are welcomed by the majority of Americans, even by those who are skeptical of *anything* the federal government does for us in the name of health and safety.

The Corvair was eventually cleared of all charges, but Nader's type of economics had been launched as a national crusade under the self-proclaimed appealing label of "consumerism." With pretended concern, under the semblance of "protecting the American public from the uncaring and unethical pursuits of capitalists," the Nader movement finds it easy to sell its solutions—more government and more restraint of commerce. Though consumers are as varied in their shopping selections as they are in their political

viewpoints, the movement blithely ignores the fact that there is no such thing as a single, monolithic consumer viewpoint. It seeks out only the flaws of free enterprise and dramatizes them in order to bring about coercive marketing. The movement has succeeded in intervening between buyer and seller. As a third party participant, it compels both manufacturer and shopper, and promotes suspicion of the profit incentive, claiming that the desire for profit usually overrides health and safety considerations.

True consumer protection, it stands to reason, is that which advocates free market solutions, opposing any action by government or business which discourages competition—because competition surely is what provides the consumer with his advantage in the marketplace. One can assume, then, that anything that interferes with the voluntary interaction between competing producers and discerning shoppers *should* be avoided. The inability of small business to challenge the larger corporation while ensnared in a mindless array of bureaucratic regulation, the discouragement of innovative design, and the erection of barriers to the development and introduction of new products are the inevitable results of government intervention working against the shopper's interests. In nearly every instance in which government has sought to regulate business for the sake of protecting somebody, it has been responsible for higher prices and reduction in consumer choice. In addition, government action has resulted in such inefficient practices as mandated circuitous trucking routes and price supports or floors below which consumer prices cannot drop.

We well remember the banning of DDT, the recall of cranberries, tuna and swordfish from our supermarket shelves, the on-again off-again ban of spray adhesives which caused women to undergo abortions because of mistaken speculation about harm to unborn infants. More recently we have noted a sequence of disruptions involving various agricultural chemicals and pesticides as well as nitrites used for curing meat. Examples in which consumers-at-large had different ideas from their would-be protectors include the mandated ignition interlock on automobiles and attempts to ban artificial sweeteners including saccharin.

Since the early 1970s when consumerism became a popular cause, we have witnessed a rapid growth of federal and state regulatory agencies that have become a haven for non-producing activists who advance their own special interests, their own jobs and their own power over other peoples' lives. Be assured, these regulatory agencies have become a haven as well for companies which, unwilling to face full competition, skillfully manipulate government to hamper competitors. Industry, both management and labor, lobbies

Congress to limit the availability of low-priced imports, from which consumers could benefit.

I suspect that I am not revealing any unknowns to this audience when I say that the traditional consumer movement is hardly representative of the majority viewpoint—it merely reflects the views of a few who would have their own attitudes imposed upon the majority, for whatever reason. This elite opinion sticks tenaciously to the outmoded liberal view that poverty is synonymous with stupidity. “If your income is low, you haven’t the common sense to pick safe products in the marketplace.” Of course the fact is that people at all economic levels have never been better informed than today, as communication has been heightened dramatically by the electronic media. Interestingly, those who man the regulatory agencies are convinced that our elected representatives in the Congress also *lack the mental capacity* to make judgments concerning consumer protection. They assume that only the appointed “high chieftains” possess the wisdom and insight to look after us in the marketplace.

No doubt the most outrageous flaw which undermines both the consumer and the environmental movements today is the fact that they are based on a fear of a fictitious epidemic, that of death and dying. In fact, no such epidemic exists. The average American can now expect to live the longest life ever achieved in the history of mankind and be healthier and more active to the end. Our lifespan was extended during a period when our society was most heavily industrialized and when the discomfort of pollution was at its very worst.

To have achieved a lifespan of over 73 years, we simply had to be doing a lot of things right. This includes eating processed foods, complete with additives for preservation, and using pesticides, herbicides, and fungicides to train nature away from crops in order to enhance agricultural efficiency. We have benefitted as well from incredible advances in medicine, including new diagnostic procedures and the development of wonder drugs. And all the pollutants that have accompanied these man-made substances which make life easier and more leisurely for us have obviously not been detrimental enough to shorten our lives, or to increase genetic defects. Milton Friedman has pointed out that rather than industry being the culprit of pollution the blame can be laid squarely on the doorstep of the consumer. It is consumer demands that are responsible for pollution. Industry is simply supplying those demands.

The activists involved in the consumer movement today have created their “big business” founded on fear of death. Cancer is dreadful enough but the fear of it causes this nation to suffer from rampant hypochondria. Many types of fatal cancers are actually on

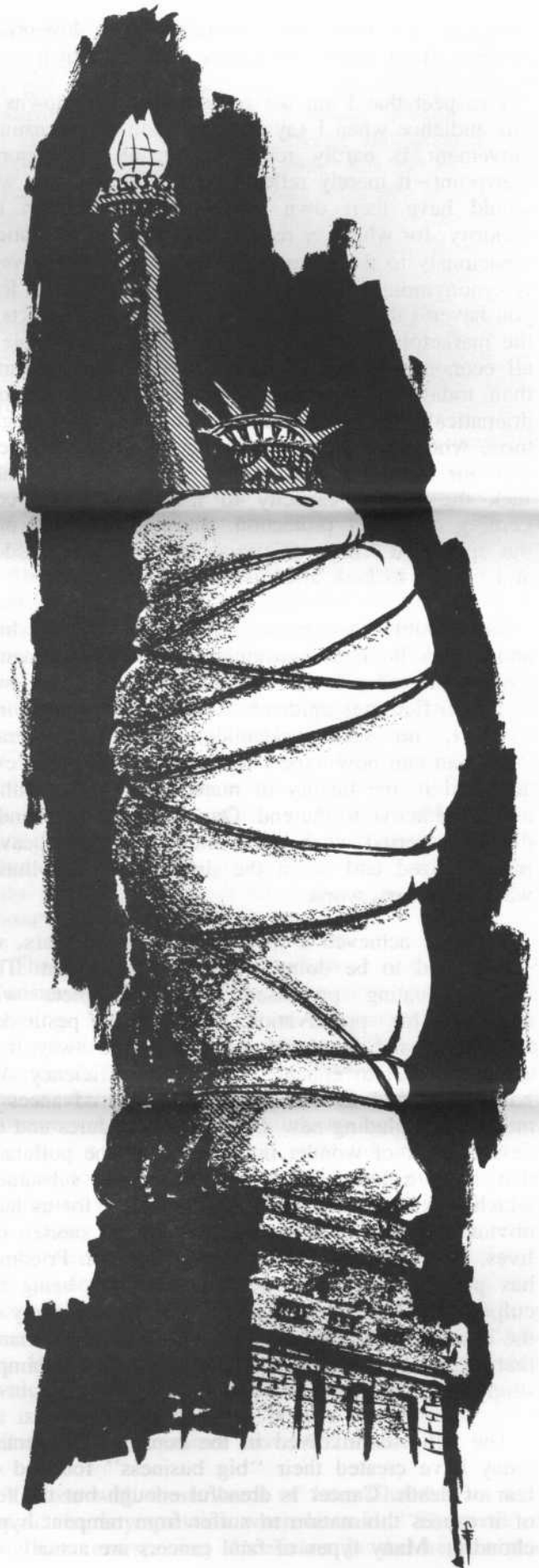
the decline, with the exception of lung cancer among those who abuse themselves through heavy cigarette smoking. Cancer is responsible for 400,000 deaths annually in the U.S., and that certainly is not a figure to ignore. But when you take into consideration the growing population and the increasing average age of people in our society, you find that there is no cancer epidemic. There has actually been a decline in some types of fatal cancers since 1947—this is according to a study released by the American Council on Science and Health. For a variety of reasons, causes of early death have been lessened dramatically, and we are all around longer than people used to be. Incidence of cancer grows with age, as does heart disease. Thus cancer and heart disease may be the price we pay for avoiding early death and living well into our seventies. But if there is any epidemic, it is more likely an epidemic of living.

The no-growth movement playing havoc with our freedoms today gains momentum by fanning public paranoia and doting on those persons who can’t be happy unless they believe they are being poisoned by someone who is earning a profit. The movement gains strength by resurrecting an old suspicion of science and technology. History is simply repeating itself. The utopians of old were suspicious of science too. Thirteenth century English society made burning of coal a crime punishable by death, and at least one execution is actually recorded for this offense. The early steam engine terrified most people. In Germany it was believed to have been proven by the experts that if trains went at the frightful speed of *15 mph*, blood would spurt from the travelers’ noses and passengers would suffocate when the trains went through tunnels. Barely 80 years ago, alternating electric current was condemned as being suitable only for electrocutions. Daily rallies were held in Central Park similar to the anti-nuke rallies of today. In order to dramatize the danger, one dog was electrocuted each day.

The first cast-iron plow invented in the U.S. in 1797 was rejected by farmers under the theory that cast iron poisoned the land and stimulated the growth of weeds. Men have insisted that iron ships could never float, that a plane would never fly carrying hundreds of people safely at high speeds, and critics of the nuclear age believe that nuclear energy can never be harnessed safely to produce electricity. The story of man is a calendar of struggles against his own biases to lift himself above his environment. Though we’ve come a long way, baby, we are today engaged with our own type of no-growth utopians. These people are not ignorant. They just happen to believe a lot of things that aren’t true. One can’t help but notice that the movement is inconsistent and riddled with contradiction.

Nick Thimmesch in an op-ed piece in the *Philadelphia Inquirer* talked about the irrationality of risk and how it could cause us to reject nuclear and other developments today. He revealed some interesting comparisons. He pointed out that 50,145 people were killed on U.S. highways last year, that another 17,000 were killed in falls at home and at work, 1,568 perished in private aviation accidents and 161 were killed in crashes on scheduled airlines. He reminds us that traveling 10 miles by bicycle is as dangerous as 300 miles by car. Eat 40 tablespoons of peanut butter and you run the same risk as living for 50 years within 5 miles of a nuclear reactor. Coal mining is a much more precarious occupation. Thimmesch then goes on to ponder the potential for real catastrophies, the fact that 33 dams failed in the U.S. between 1918 and 1958 with a loss of 1,680 lives. Failure statistics on dams are far higher than accidents involving nuclear plants. Looking at earthquake resistance, nuclear plants must be built with 20 times the strength to avoid destruction, by earthquake, yet our hospitals, schools and hotels chock full of people needn't comply. A California quake, Thimmesch points out, is very apt to break a dam and cause fatalities as high as 250,000 people. "Why isn't Ralph Nader shook up about that?" he asks. Those frightened to death of all these things will stay home, and eat peanut butter sandwiches, smoke cigarettes, watch color TV and cook in leaky microwave ovens. They may slip in the tub or on an overly waxed floor. They all still have a 100% possibility of dying someday, Thimmesch concludes; our Constitution doesn't guarantee immortality. Rather, federal programs are the nearest thing to eternity we'll ever see in this life.

Zealous activists state that our private automobiles must contain \$600 to \$800 airbags or some form of passive restraint by 1985. They wanted safety caps on our medicine bottles so our kids can't open them but then neither can you or I. They demand ridiculously heavy bumpers on smaller, less safe cars, but for the most part they would rather we all travel by mass transportation equipped with no safety features at all and heat our homes by sun and the wind alone. They cry out against cigarette smoking, yet breathe not a word against the known hazards of marijuana. Rampant alcohol and illegal drug abuse goes uncriticized while concern is raised over safe patent medicines that are not living up to their claims. They ignore inadequate sewer systems in many of our large cities, they offer no solution to litter and rodent problems plaguing our ghettos, yet they opposed the completion of the Alaskan pipeline because it crossed the barren frozen tundra. They prompted costly delays in the construction of the Tellico Dam, not out of concern for human safety but for the snail darter's safety, a little creature I daresay they wouldn't recognize if one showed up for dinner. They wish the federal government to preserve much of the land so that



wilderness will be protected against the intrusion of man. They call for 100% pure air and crops grown without the benefit of science. They seek a utopia which we know they will never find.

Underlying these objections to advanced technology is a common thread: opposition to capitalism. Free enterprise is under attack by those with an open aversion to profit who claim to be acting in the interest of consumers. With the help of a media which has found that fear makes for stimulating new stories, the movement is a concerted effort to redistribute wealth and to revise the American capitalist system by seeking out the flaws of free enterprise, then running to the press to expose the culprit, and finally moving on to Washington to propose regulatory punishment and fines. "We are now so busy redistributing wealth that we have virtually stopped producing it," observes *Congressman Jack Kemp*. The image of the American consumer that is advanced by these utopians, the image Washington has been considering to date, is that of a shopper incapable of making his own risk assessment, a faceless individual who must rely on full-time bureaucrats who produce nothing but new regulations for industrious Americans to follow. The utopians benefit from a confused citizenry because they live off what we pay them to protect us from ourselves. The day of reckoning is upon us, as we face the question of who should be controlling the wealth in this country—those who produce it or those who simply tax and spend it?

The irony of this movement designed to "help" consumers is its overwhelming cost. The American consumer is paying for every bit of the movement. It was estimated by Murray Weidenbaum of the Center for the Study of American Business that consumers footed the bill for regulation at \$102.7 billion during 1980. This incredible price increase is due in large measure to the relentless demand by those public interest groups who have the objective of stifling growth and progress on the part of industry, while simultaneously promoting the same for government. The citizen/shopper pays for the movement directly through increased purchase prices as business must pass all of its regulatory compliance costs along in higher prices. Consumer/taxpayers then of course pay directly the cost of maintaining the DOT, DOA, FDA, CPSC, EPA, FCC, ICC, FTC, DOE and the 33 agencies and 400 sub-bureaus involved in more than 1,000 consumer-oriented programs. Because there is little widespread support for the consumer cause, the movement taps a non-voluntary source, the taxpayer.

Government also helps keep these groups solvent by direct payment for research and testimony. No one objects to citizens making their thoughts known when legislative or agency rules are under consideration, but payment for testimony bodes ill for fair analysis when

agencies wield the power to spend tax dollars for the kinds of testimony that will support those agencies' own positions. Regulatory agencies have come to act the role of executive, legislative, and judiciary combined, with agency rules carrying the impact of law, formed, passed and executed, complete with penalties for the disobedient. Our elected officials in the Congress passed 223 new laws last year. Though fully responsible for creating and funding regulatory agencies, legislators manage to insulate themselves from the public's reaction to the 7,568 regulations passed by these independent agencies which directly impact on our lives.

One can assume that without tax-dollar funding, many of these groups causing much of the misery would disappear for lack of legitimate public support. Witness the fact that public interest research groups on campus inspired by Ralph Nader, though he claims no direct involvement, are funded by taxing students. PIRGs exist on approximately 150 college and university campuses. Student referendums create PIRGs though the original voters may no longer be on campus. In addition, the incoming freshman class is not on board to add its voice of affirmation or dissent. Mandatory fees imposed during registration for each semester support the activities of the statewide public interest research groups. These actively lobby for a variety of leftwing causes, including passage of an Equal Rights Amendment and opposition to nuclear energy. Consumer Alert, in conjunction with the Mid-Atlantic Legal Foundation, has gone into District Court in Camden, New Jersey, on behalf of three students of Rutgers University who intend to defend their right to free speech and association. These students no longer wish to be compelled to pay PIRG as a requirement for attending Rutgers. We are awaiting the outcome.

In the meantime, the Nader *modus operandi* has shown itself once again in Wisconsin, where a referendum has established a Citizen's Utility Board. The utility is forced to mail notices concerning that board to ratepayers (enclosed with monthly bills) four times a year. Once the ratepayer has contributed \$3.00, he officially becomes a member. Representatives are then elected from within congressional districts and the established board, it is expected, will play havoc with plans for nuclear power and staunchly oppose any attempts to increase electric rates.

What have consumer protection laws done for liberty? Nothing positive, everything negative. An informed consumer remains the best consumer advocate by far. American mothers are no longer free to purchase plain cotton sleepwear for their children though youngsters today are less likely to be exposed to open flame than in colonial times. You and I can no longer buy aspirin, vitamins, or a variety of over-

the-counter products without maddening child-protective caps even if we don't have any children below the age of seven. We have this obstacle in packaging because regulators refuse to lay the blame for accidental poisonings where it belongs, with inattentive parents. Cardboard matchbooks are designed by the federal government for the same reason. A pound of hamburger meat you buy costs 8 to 11 cents more because hamburger is affected by 41,000 regulations, 200 legal statutes and 161,000 precedent-setting court cases on behalf of consumers. Two thousand dollars has been added to the price of a new home. Another step toward freezing out those on limited incomes. Our new cars cost an additional \$666 to cover mandated safety devices though just as many people died on U. S. highways last year. The regulations for redesign of vehicles continues to ignore the fact that auto accidents are caused by unsafe drivers, not unsafe cars. Home fires as well, involving bedding and upholstered furniture, are caused by careless smokers, not dangerous furniture. Surely it is the American consumer paying the windfall profits tax. The oil companies merely pass the exchange through, while taking the flak. Who benefits? The government alone. Bismarck might have been talking of consumer protection when he remarked, "If you like sausages and laws, you shouldn't watch either of them being made."

The examples in which consumers are being ripped off by "their own" movement are legion. I have concluded that no greater threat exists to individual liberty than those restrictions placed upon each of us in the name of consumer protection. One hundred billion dollars to pay for regulations added to the direct cost of government at all levels means that government now costs consumers more than food, housing and clothing put together. Federal government has become the fastest growing cancer threatening our wellbeing today.

What to do? The American public has recently taken the first step by electing an Administration and Senate far more responsive to the problems we truly face when we act the role of consumer. But the battle is far from over, for the activists have already reverted to the trenches from which they began. They will be in the courts tying the regulatory bodies up in knots. They will weave obstacles with the ends of the laws and regulations already on the books in an effort to hamper any real progress toward deregulation. The counter-offensive must be an enlightened electorate. Productive consumers need to be vocal and involved in supporting administrative efforts. Positive steps can and should be taken to return to consumers the right to direct their own destinies in the marketplace.

Chiefly, it will be necessary to gain the attention of the nation's press. We need to dramatize the *real*

hazards if that's what the press will respond to. Let us give them what they want to hear—threats of doom. Let us tell the press, for example, that consumers face insurmountable odds—at 13% annual inflation caused by government, a new car currently selling for \$5,000 would cost \$10,000 by 1984, \$20,000 by 1990, \$80,000 by the year 2001 and \$320,000 by the year 2011. A \$50,000 home by the year 2011 would cost \$3.2 million at 13% inflation. Please note that the year 2011 is only 30 years away. Now that's news! Since government alone profits from the cruel tax of inflation, it is obvious that anything which entices federal spending above taxed revenues is anticonsumer. That's what we have to report to the press.

The answer for our nation at this time is increased productivity. This is the answer for our economic woes. This is the answer for *American consumers* and for *American workers*—who happen to be one and the same. Though I don't pretend to speak for all consumers, I believe I have read the signs accurately. I don't fear technology and scientific advancement and I don't believe most Americans do either. I reject an economic turndown and I refuse to let the Jane Fondas turn out my lights. I don't like what Ralph Nader has done to my car and I am not about to entrust my energy and food supply and medical care to the likes of him as well. There can be no doubt that the answer lies in our ability to effect changes in our political system. We can hopefully anticipate, under the new Administration, that there will be a reduction in public financing of the no-growth movement and that this may divert and diminish the impact of its efforts in the months ahead.

The organization with which I am associated, Consumer Alert, neither seeks nor accepts public funding. We meet the foe at the grassroots level and attempt to advance the consumer interest by seeking maximum freedom of choice through competition in the marketplace, and by questioning the wisdom of government regulations or industry actions which act to restrict the consumer's right to information or access to goods or services. We advocate and champion these goals as the surest means of achieving the safety, health, and environmental integrity of all consumers. It is time to put the consumer movement on the defensive. It is time to expose what has long been based on fear and speculation for what it truly is—a means used by some to gain \$50,000-a-year jobs in Washington, making decisions for other people which they are fully capable of making for themselves. It is time to lay bare the biggest consumer rip-off of all time—the consumer movement itself.

I close with these words of John Chamberlain who raised the key question when he said, "The work of the new enterprising Americans is the key to this

country having the best fed, best dressed and best housed people in the world. We have built tens of thousands of great schools, thousands of great hospitals and conquered diseases in a way beyond the wildest dreams of the medical profession a century ago. A hundred million buildings have been constructed to house us and to house the great factories that produce our jobs and our wealth.

Millions of acres of land have been cleared and the greatest agricultural production the world has ever seen has been created. All of this work, the work of enterprising Americans, is dismissed contemptuously by Ralph Nader's anti-growth legions. But if Jehovah could ask Job if he could make a horse, we are surely entitled to ask Ralph Nader if he can make a carburetor." How about it, Ralph?

Hillsdale's "Shavano Institute" in Colorado to Stress Leadership for the Year 2000

By George C. Roche III, President, Hillsdale College

Readers of *Imprimis* and friends of Hillsdale College will be interested to know that Hillsdale is moving actively this fall to establish a new division that will enrich what the College is able to offer academically, expand its positive contribution to the American idealism, and raise its visibility as a truly national institution.

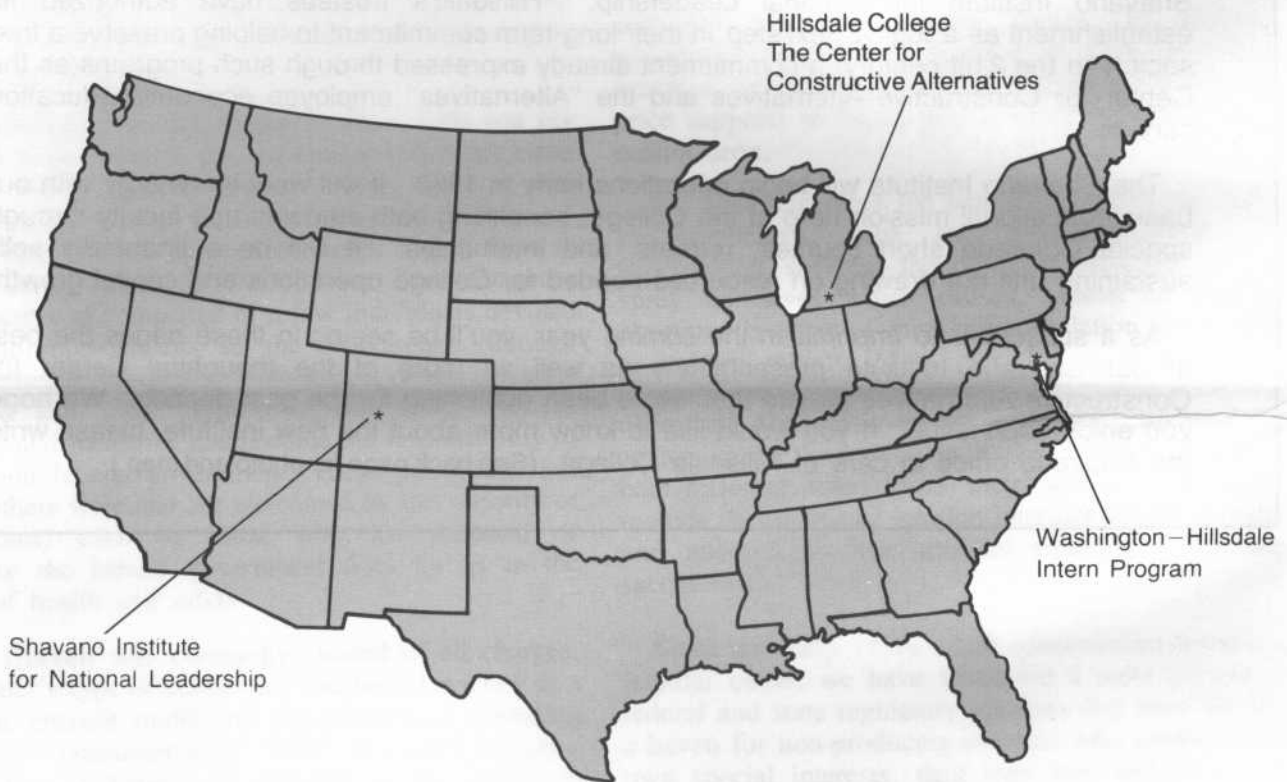
The new division is a Colorado-based public policy center that will offer the finest in seminars for top executives from all walks of life, along with lively television documentaries bringing the message of freedom into millions of homes every month. It is called the Shavano Institute for National Leadership. Hillsdale's trustees have authorized its establishment as a logical next step in their long-term commitment to helping preserve a free society in the 21st century, a commitment already expressed through such programs as the Center for Constructive Alternatives and the "Alternatives" employee economic education service.

The Shavano Institute will begin operations early in 1982. It will work in synergy with our basic educational mission here at the College, benefitting both students and faculty through special Colorado short courses, retreats, and internships. It will be a financially self-sustaining unit not drawing on resources needed for College operations and capital growth.

As a subscriber to *Imprimis* in the coming year, you'll be seeing in these pages the best of our *Shavano Institute* presentations as well as more of the thoughtful Center for Constructive Alternatives papers that we've been publishing for the past decade. We hope you enjoy each issue. If you would like to know more about the new institute, please write the Shavano office in care of Hillsdale College. (See back page for photo and map.)



Mt. Shavano in the Rockies, rich in history and symbolism, gave new center its name.



Institute expands Hillsdale's national outreach