From A. Leff, Swindling & Selling (1976).

Chapter 1

WHAT AND WHY

SOMETIME IN 1962, Marvin Sonnenlieb, a nonpracticing New York lawyer and one-time tavern owner turned door-to-door vacuum cleaner salesman, discovered what was to him a new and dazzlingly attractive mass-merchandising device, the "Referral Sale." It was (and is) a sales strategy whereby consumers can be persuaded to buy quite expensive bits of merchandise secure in the belief that all they need do to earn back the whole cost, and maybe more, is give over the names of friends and relatives who might also be interested. Sonnenlieb embraced the idea enthusiastically, and, within only seven years, he was bankrupt and in jail.

What was essential to Sonnenlieb's scheme, however, was not unique to it. At its heart was a series of moves central to all selling and swindling. His story and all of the following stories, despite the vast variation in their surface appearance, are essentially the same story. For example:

One morning this summer, Arnold D'Amico, sales manager of Mastadon Appliance Mart, Paramus, New Jersey, noticed that piling up in the back room he had rather a nasty quantity of unsold 8,000-B.T.U. air conditioners, each previously priced at $150. He stacked them all near the store entrance and put a sign on top saying "Clearance Sale—Overstock—$139.98." He was pleased to note, a week later, that almost all of them were gone.

At about the same time, Morris J. Acme, owner of Acme Widgets, Inc., was writing a letter to his sometime customer, Heuser Instruments. After fully noting his abandoned joy at receipt of theirs of the 17th inst., he mentioned that, "A special purchase of widget metal allows us to offer you up to 100,000 Grade B two-inch (tol. ± .01) blasting widgets at the unprecedented price of $867 per M, F.O.B. our plant." During the moderately ugly telephonic wrangling which soon followed, Heuser finally agreed to take 68,000 at $854, F.O.B. its own plant.

Much earlier, no later than the fall of 1192, an uncommonly prosperous Angevin magnate named Pierre de la Crédulité was handed a letter by a hooded and self-effacing cleric, one Father Jaunnot, who had just arrived meanly mounted. The note, which certainly looked as if it had been sealed with the personal signet of Richard of England, asked whatever the addressee could spare toward a plan to bribe the King's freedom from his Austrian jailers. The letter pointed out that since the official ransom demanded by Henry VI of Germany was 150,000 silver marks (plus some immoderately embarrassing fealty ceremonies), the King's eventual gratitude to Pierre for helping him toward this cheaper egress would, once the King got home, be almost vulgarly ostentatious. Pierre handed over two silver marks. Neither Richard (nor, for that matter, his keepers) ever saw the money, nor did Pierre ever see the messenger again.

At this very moment, a very big man at a local advertising agency, one Alan P. Leviathan, is worrying about how best to introduce to the American public a new and surprisingly effective treatment for acne vulgaris. He is torn between accurate before-and-after shots of a treated adolescent, and a sequence showing two beautiful, clear-skinned models fondling each other on a beach blanket shared with them by a tube of The Product. Leviathan hesitates, but he will choose the latter.

It is now past midnight. Brother George has just finished his sermon. A few of the communicants are still writhing on the floor and t' stor's final exhortation to spread the word to the heathen

is still ringing in the hall, mingling with the abandoned glossallia and wild affirmations of the congregation. Slowly emotion ebbs, and the hall begins to empty. As each communicant departs, he leaves a love offering, in cash, in the basket by the door.

If, indeed, all of these people (none of the names are real, by the way, and some of the people aren't either) are doing the same thing, it is not obvious, on the face of it, that they are doing so. Sonnenlieb's game is a subspecies of what is now America's top swindle, Pyramid Selling. D'Amico is just running a clearance sale. Acme is offering Heuser a marginally better deal than his competitors, a perfectly ordinary instance of what is the most common form of business salesmanship, what I shall call the "Squaresville Pitch." Father Jaunnot is pulling a medieval version of that classic bunco game, the Spanish Prisoner. Leviathan is hovering over that staple of effective advertising, Calvinist Causation. And Brother George is working a Godcon. If we placed all these activities against any number of different categorizing grids—legal, ethical, historical, or whatever—they would in every case fall into different squares. Jaunnot's Prisoner, for example, is a congame, while D'Amico's clearance sale is not. Leviathan is selling things, while Brother Joseph is helping the Grace of God freely to emanate. Acme and people like him have been doing a Squaresville since the beginning of commerce; Sonnenlieb's type of Pyramid Sale is a recent technological breakthrough in mass merchandising, perhaps twenty-five years old at most.

But underneath all this apparent diversity—not only among the examples given above, but between swindling and selling in general, and, within those two categories, among particular instances—there lies a fundamental, invariant, and apparently timeless structure. Among congames the Spanish Prisoner is not "the same" as the Gypsy Switch, the Wire, the Rag, the Pay-Off, the Ponzi, the Smack, or the Tip. As salesmanship, Squaresville Pitching is not the same as Clearance Selling, and an Introductory Offer is not identical with a One-Day Special. But these activities are, nonetheless, all constructed out of the same basic parts, in response to the same basic problems, and they can be described with the same basic vocabulary.

What I propose to do here is to tease out and display what I take to be the rather elegant, basic, shared structure of swindling and selling. There are several practical justifications for such an effort. Understanding how a thoroughly licit selling device like a Clearance Sale, say, is related to a form of sometimes subtle bunco like "Bait and Switch" may help in the design of laws directed toward stamping out the latter without playing havoc with the former. (I am, after all, a law professor, and such activities seem more important to me than to more broadminded men.) Moreover, since few of the users of these techniques seem to know very particularly what they're doing or why they're doing it, putting a little analytical light on the problem may help those not doing conscious evil to do good more efficiently (even if that may also help the crooks better to appreciate their own innocent cleverness). But the more persuasive ground for going to all this bother is that this question, what actually happens in effecting exchanges, has heretofore been almost ostentatiously neglected by almost all scholars in almost all the pertinent disciplines, thus denying all of us the aesthetic joy of contemplating what is really a very pretty story.

It is, for example, rather a striking fact that the most famous crossroads in the world of economics, that spot in the heartland of commerce at which supply and demand intersect, has never itself been thoroughly mapped by economists. Everyone knows that the intersection is there. It appears again and again on larger maps drawn for longer voyages—many of which, in fact, have it as their destination. But the place itself, the territory of the actual exchange, is still by and large an undiscovered country, not because analytical travelers have trouble returning, but because they rarely, if ever, go. For most economists, it has up to now seemed sufficient to show the land where fulfillment and desire meet as a dimensionless point, that place on one of their graphs where cross two of the great progenitors of fascinating curves, supply and demand. As far as many questions in economics are concerned, snapshots of the exchange process look like nothing so much as the tracks of two gently addled camels crossing on some vast and undifferentiated desert.

There is no reason, however, to be particularly querulous about economists. The actuality of buying and selling—trading—is, after all, a rather frequent and important species of human interaction, especially in a market economy. One would have thought that other scholars in disciplines more attuned to the dramatics of living, for whom the presentation of the sell in everyday life ought to have greater natural appeal, would have explored

the matter in some detail. But, though there may be a few fascinating exceptions, by and large what the economists see as a desert, the sociologists and psychologists seem to see as a swamp, and one into which they would, apparently, rather not sink quite yet.

That doesn't mean that no one thinks the buying and selling process is interesting. When, several years ago, I last looked, there were one and three-quarter New York Public Library catalogue drawers (about 2,000 cards) under the heading "Salesmen and Salesmanship." But if you're inclined to run down for a good read, you ought in fairness to know in advance that there are, essentially, only two titles represented: "Nine Rules For Productive Selling" and "How I Tripled My Income Through Positivity." All in all, the salesmanship books bear the same relation to analytical understanding as a manual on apple harvesting bears to Newton's laws.

Naturally, I am overstating the situation. One needs to be of far better character than I not to exaggerate the uniqueness and power of one's own approach. Though I have certainly not read even one-quarter-inch worth of the public library catalogue's glut of salesmanship books, the few that I have dipped into have more than occasional moments of illuminating cunning and shrewdness. Moreover, a large number of things that the motivation-study psychologists have said about the deep drives that motivate the purchase of goods have the ring of persuasive, if tacky, truth about them. But more important than all that, even if strikingly few economists, sociologists, or psychologists have devoted themselves specifically to the actuality of "the deal," no one can even begin to explore swindling and selling without reference to economics, sociology or psychology. All of those disciplines have developed concepts—or at least metaphorical grids—without which it seems to me impossible to understand—or, harder, to describe to someone else—what in fact is going on.

From time to time, then, I will be using divers and diverse vocabularies which have their own rich development. I shall, for example, dip into social psychology for some primitive cognitive-dissonance talk of my own. I shall snatch some extremely useful class-definition and class-formation talk from sociology, and lift large chunks of role theory from the same cache. And I shall be borrowing huge dollops of modern microeconomics throughout. In fact, insofar as there is anything at all new in this entire book it is the attempt to put together the insights, vocabularies, and approaches of these various intellectual structures into a unified "explanation" of a discrete and limited, but still moderately juicy phenomenon, "the sell."

I have been cautious about the use of the word "explanation" in that last sentence, for good reason. The following two hundred-odd pages will constitute no such thing, at least not according to any reasonably expansive meaning of the word. I do think there is a way to braid the vocabularies of modern microeconomics and modern sociology and social psychology into a single internally consistent and predictively powerful strand of speech that will serve to illuminate some otherwise puzzling things about swindling and selling. I think, that is, that one can dissect out and display a compact, unitary logic of those activities. But I would still prefer, to the extent possible, to skirt both the holistic and the essentialist fallacies. That is, I believe neither that one understands nothing about something unless one understands everything, nor that understanding something any one particular way means that there is no other way to "understand," that is, to see a pattern which generates aesthetic pleasure in the perceiver. There are, most likely, an infinity of other amusing and instructive approaches. The only thing that distinguishes the one about to take shape is that it is mine. As these things go, then, this is a small collage, but there are some of us, I hope, who will love it.

Chapter 2

THE GENERAL PRINCIPLES OF SWINDLING AND SELLING

THE FUNDAMENTAL MESSAGE that must be gotten through to all marks and customers by all swindlers and sellers is this: Do the deal. But the world is a rich and variegated place, and everyone is being offered deals all the time. So to every such proposition there is, not necessarily articulated, essentially the same response: Why should I? To that invariable response there is only one general form of reply: Because you'll be better off if you do than if you don't.

Now that kind of general reply is exceedingly abstract. It is consistent with all sorts of situations—even with the progression: (1) Give me all your money; (2) Why should I?; (3) Because I'll beat your brains out if you don't. That is, "better off" is quite meaningful as the equivalent of "Not as bad off as you're going to be if you don't do what I say." But neither swindling nor selling are practiced in a context of open coercion. In both situations, both parties to the deal are presented, to themselves and to each other, as free—to choose this deal, or another deal, or not to deal at all. Thus "better off" is a promise of gain from trading (as compared with not trading), not a threat of diminution or destruction.

"Better off," in selling and swindling discourse, is very close to "richer"; you will be better off because you will have more goodies, or better ones, after trading than before. That is, the reason one deals—trades—is that one will increase one's store of the things one values by doing so.

But that generates, at least at first glance, something of a mystery: Where is the additional wealth one gains through trading coming from? It would not seem credible that what one party to a trade gains the other party to that trade loses, for if that were so, why would the "losing" party do the deal? Nor would it be initially persuasive to hear, as an explanation of the wealth, that it is coming from the pocket of some third party; why would *he* allow his pocket to be picked? But if one's post-trade wealth increase comes neither from the other party nor from some third party, where *does* it come from, thin air? As we shall see, then, every selling or swindling pitch will have in it someplace, express or implied, some explanation of the other party's surprising willingness to lose or of some third party's quiescence in the face of *his* loss, or some convincing depiction of the wealth-producing powers of thin air.

Every pitch *does* have worked into it some such explanation. But locating the source of the wealth, while a necessary element in every selling and swindling script, is not sufficient. For there is another question that must also be answered before the deal can be closed. Assuming that the source of increased wealth is somehow explained, every customer/mark must also be given a credible explanation of why the seller/conman is splitting with him. For assuming there is a bundle, and assuming the offeror knows where it is and how to get it, why shouldn't he just keep it all for himself? In other words, whether the source of the boodle is initially painted as the offeror's pocket, or someone else's, or even thin air, it still is, at least potentially, the offeror's pocket. Why then (wonders, at some deep level, the buyer/mark), is he transferring to my use that pile of value he could convert to his own? What the buyer/mark wants to know, in effect, is, what's in it for the other guy?

In form, these harassing questions—"Why are you splitting with me?" and "What's in it for you?"—are not exactly the same. One could, after all, answer: "There's nothing in it for me; I'm cutting you in because I love you." It is at least theoretically feasible for a conman or salesman to paint the proposed transaction as one

after the completion of which he will be materially poorer, and to explain his willingness nonetheless to complete it as mere generosity. That is theory. In fact, I have never seen any such pitch ever made in any swindler's tale or seller's pitch. Never. I have not, of course, considered every pitch there ever was, or even every one there now is, but in what I have seen there is no instance (not even in the Godcons, where the Grace of God is what is "distributed") in which the burden of the story is that the mark is to end up materially better off while the other party ends up materially worse off. To put it briefly, if there is any message which neither conmen nor sellers *in practice* ever attempt to convey it is: "Come and get it—something for nothing." It is always, instead, some form of "No gifts, I'm proposing a deal: something for something."

Now that is interesting. For the oldest behavioral saw in the books, including those written by conmen, is that everybody *wants* something for nothing. But since in practice, so far as I can tell, no one actually operates under any such assumption, then it appears that everyone's wanting something for nothing is one of those pieces of folk wisdom which, as usual, manage simultaneously to be accurate and miss the point. If there is in fact this pervasive desire for something for nothing, it seems to be engendered by everyone's quite clear appreciation that it's unlikely ever to happen. That is, in this case as in so many others, where there's a will it is because everyone pretty well understands that there is no way.

In fact, the picture that emerges when one studies a large number of swindling and selling techniques is of a society by and large profoundly skeptical about the possibility of love and gifts, at least from strangers. It is as if everyone had internalized some social equivalent of the first two laws of thermodynamics—(1) You don't get something for nothing; and (2) You don't even break even—and applied it automatically to every offered bargain.

It is also possible to put the matter thus. It seems that, at least in the interaction situations explored here, every man is in fact assumed to view every other man the way economists view all men. An economist's rational man is one who makes an economic move (like trading) only when it will improve his own "utility." Now an economist's "utility" is not necessarily based solely on material things; one may "improve one's utility" in these terms even by giving money away to one's children, or to a charity. But the enhancement of utility through a decrease in material wealth

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is a rare occurrence in the economic universe, limited to special contexts like the family and the annual Red Cross drive. Such special contexts are thus also rare in the usual scripts of sales or congames. As we shall see, a very few congames—"Go by my cousin Julius," for instance, or "Ripping Off the Man"—do attempt to counterfeit such a context, implying non-economic man attitudes. But if I read the pitches and contales right, salesmen and conmen almost invariably view the public as viewing itself as made up of "true economic men," people who never give except for material gain.

Such a view of human nature—man as *homo economicus*—severely constricts the range of possible answers to the "Whence the bundle?" and "Why the split?" questions, and thus puts relatively tight constraints on selling and swindling scenarios. If most people do perceive most other people as rational self-maximizing economic men, then anyone who *proffers* a deal must also be seen as himself expecting to grow richer through its consummation. But if he is indeed to grow richer, the requisite increase in wealth must have a source, which, the mark must recognize, can only be (1) the other party to the deal (that is, the mark himself); (2) some third party; or (3) the mysterious "thin air." Thus anyone shaping a deal must write a script which persuasively sets up a situation in which both parties gain but neither's gain is at the other's expense.

All swindles, therefore, offer something for something. Indeed, contrary to the prevailing clichés, so counterproductive to a good score is the offer of something for nothing that the most creative element of any good bunco script is that part devoted to inflating the apparent value of the *mark's* contribution. Certainly it is important that the conman make the mark's expected return, the swindle's payoff, as gigantic as credibly possible. But it is more important, and in the nature of things more difficult, successfully to increase the apparent value of the mark's contribution—that is, *to appear to give the mark something to give which you can then appear to need.*

Most of the rest of this essay will be devoted to uncovering and illuminating the several (but essentially similar) ways in which all selling and swindling scripts are written so as to operate successfully within these severe basic constraints. As we shall see when [illegible] the Spanish Prisoner and the Squaresville, the Gypsy

Switch, and the Differentiated Product are described, what is most interesting is the way in which these forms of human interaction, when viewed sociologically or even psychologically, track the picture of the same transactions that a classical economist would find congenial. In fact, if any generalization could be made about all bunco and all selling, it is this: Successful plays demand a convincing dramatization of the fundamental processes of microeconomics.

Let me go back a step. At this point the implicit dialogue is this:

Seller/Conman:	Do the deal.
Buyer/Mark:	Why should I? ("What's in it for me?")
Seller/Conman:	Because you'll be better off if you do than if you don't.
Buyer/Mark:	You mean you're making me a present? ("What's in it for you?")
Seller/Conman:	Don't be so suspicious. What's really happening is this:

Now, what follows that bland colon? Many varieties of one thing, the most basic thing in all economics, to wit: all the different ways of saying, "We need each other."

There is, you see, happily for commerce and providentially for conmen, a fundamental ambiguity about the relationship between parties contemplating a trade: at any given moment they are simultaneously partners and competitors. That they are competitors is perhaps the more obvious of the two characterizations, for the common drama of the haggle is the one that flicks first across the mind's eye. When Ahmed and Kevin contemplate exchange with each other, they bargain, each trying to get as much of the other's wealth as he can in exchange for as little as possible of his own. They each bargain toward getting a bargain, that is, toward maximizing their own utility at the expense of the other's. Ready-made pictures of that very familiar kind of human interaction abound, from the frantic gesticulations of the Casbah market to the cold mutual malice of telephone calls between sales managers and purchasing agents in a competitive industry.

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Despite appearances, however, not all exchanges are exploitative. In fact, few are. When two people make a deal over things of value it is not necessarily the case that one or the other of them come out of it worse off than he went in. You don't have to have one of the traders dumber or weaker than the other in order for there to be a trade. Even in a situation of trading prefection (where both parties are equally free to trade or not, and where whatever one knows the other does also) there would still be trades. For it is frequently the case that what one has is worth less to oneself than to someone else, and, most important, vice versa too. In such cases, a trade will enrich both parties.

Within any "competitive" trading situation, then, there is almost always hidden a cooperative partnership: each party does try to maximize his utility at the expense of the other, but it is only *together* that they can increase the total utility in their joint system. It is over their respective shares of this newly created potential value that the parties really contend.

This mechanism, trading items of differing personal utility so as to produce more of value for both parties jointly to gobble up, appears in two different guises, both of which can be, and are, adapted to selling and swindling. The first involves what is essentially a two-party universe and hence shows up early in most elementary-economics textbooks. It almost always goes something like this (right down to the gustatory setting). If I have two large pizzas and no beer, and you have two large beers and no pizza, it is most likely sensible for us to trade. For it is likely that your second beer will give you less satisfaction than it will give me, and the same (though in reverse) is true with respect to my second pizza. Let us assume that there was a standard unit of comparative happiness-from-things; call it a "util." My first pizza is worth, say, three utils to me, and my second is worth one. Your first beer is worth four utils to you, and your second is worth two. Thus there are ten utils between us if we both stand pat; my pizzas, if consumed by me, give me four utils, while your beers, if you drink them, give you six. Now let us assume that your second beer is worth four utils to me, while my second pizza is worth six to you. If we trade, there will be seventeen utils of satisfaction in the system. That is, there will have been an exchange after which both parties are, in their own perception, better off. They will thus have created value out of "thin air." ("Where's the bundle coming from?" "Out of thin air.")

Once the two-party universe is opened up, there arises another form of usable ambiguity on the framework of which to construct puissant pitches. It is perfectly clear that people can form aggregates which are internally competitive among the members of the group, but which form a cooperative unity with respect to outsiders. That, after all, is the nature of any business firm. Each element of production—capital and labor, for instance—would like to arrogate to itself the largest share of "profits," and each will (and does) compete for that share; General Motors and the United Auto Workers are snappish about this with each other all the time. But G.M. and the U.A.W. need each other to realize those "profits" in the first place. Thus they are constrained to act together, even while contending among themselves, so as to maximize their joint returns at the expense of competitors.

Moreover, the situation is the same whether the productive elements are joined in some formal structure like a "firm," or are linked in their joint enterprise by a formal contract, or simply work together *ad hoc* and informally. Even deals made between "independent" factors at arm's length are still simultaneously competitive and cooperative. When I sell goods to you for your use in your own manufacturing process, we are still, in effect, working together to create a "surplus" which both of us can share.

Thus it is a perfectly rational and widely recognized model of general economic organization which identifies the source of "our" boodle as "them." If we together can form a team that outperforms, outdeals, outthinks, or even outsteals outsiders, they can be exploited by us, very much more successfully than either of us alone could exploit them, and usually much more profitably than we could exploit each other. We "need each other" still, but this time the source of our symbiotic gain is not the "thin air" of comparative advantage but the more down-to-earth "their stuff." As we shall shortly see, the ur-plot for substantially all selling scripts, crooked and otherwise, is this attempt to dramatize the creation and operation of a "firm" in which the buyer/mark has a useful, and preferably necessary, role to play in the plunder of someone else.

Once the two-party universe is opened up to admit the existence of outsiders, however, another matter requiring a good deal of creative-writing delicacy slips into worrisome focus. For while parties must frequently trade to improve their positions, and must often cooperate to maximize their joint and individual "profits," once it is made clear that "others" exist, it also becomes dangerously clear that neither the trading nor the cooperating need be with any *particular* other. Many "others" may also offer deals, and the terms of each are not necessarily the same; if you are a two-pizza man, there may be a six-pizza man who is quite willing to trade more than one of them for just one beer, whether for consumption or for a restaurant partnership. That is, if outsiders exist, they can be competitors as well as victims, and competitors sometimes undersell. It will become necessary, therefore, if you want to "make a sale," to do more than offer a deal better than no deal; you will have to offer a better deal than anyone else. You must, that is, be offering a "bargain." And given the most fundamental principle of selling credibility—thou shalt not appear to be making a gift—symmetry must be attained on this level too. In order to make the offered bargain believable, you must also convey that by doing the deal you will also be *getting* a bargain. Thus, for the proffered deal to be attractive, not only must it seem to offer more than the other party could get from anyone else, but it must also appear that the same deal will realize *for the offeror* more than *he* could get from anyone else.

The central problem for all swindling and selling scriptwriters, then, is to create a dramatic situation in which both parties need each other and, beyond that, need each other more than (or at least as much as) they need anyone else. That turns out to be one of those dramaturgical problems—like first-act exposition of the pre-curtain situation, or getting the ingenue plausibly and naturally behind the arras to overhear the villain's soliloquy—which admits of what looks like many solutions. All of them, however, turn out to be essentially the same.

All of this can, I think, be illustrated by concrete instances taken from common trading interactions, both licit and illicit. But because, as we shall see, the magnitudes of the elements of "the sell" deployed in a congame tend to be so large as almost to parody the microeconomic principles being dramatized, the place to start is with various ploys of classic bunco. Once we see the essential moves magnified in the swindling context, it will be considerably easier to see them—made more slowly and more subtly—in normal salesmanship. So let us now spend some time in the swindler's world.

Part II

SWINDLING

Chapter 3

TWO-PARTY PLAYLETS

The Prisoner

"THE PRISONER" (in this country, now most commonly known as "The Spanish Prisoner") is a sort of building block of bunco, a basic structural element. When looking at the structure of some congames—the Wire, the Rag, and the Pay-Off, for instance, the Smack, Tip and Last Turn, the Gypsy Switch, and Greengood's Game, the Ponzi, and the Referral and Pyramid Sales—it can be discerned in high relief around the level of the foundation. But it appears in every variety I have ever run across. And it also plays a role, muted but essential, in almost every salesmanship strategy. On reflection, this ubiquity is hardly surprising. For the cons known generically as "Prisoners" or "Spanish Prisoners" are merely particularly pristine crystallizations of the fundamental manipulation of all swindling and selling; viz., the attempt to create an *ad hoc* drama in which strangers are made to appear as nearly as possible necessary to each other, irreplaceable members of the same cast.

Why this bit of bunco is today generally called the Spanish Prisoner I do not know. There was a version very popular in the nineteen thirties and early forties involving allegedly jailed Spanish

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loyalists, but there were versions played at the same time which used the personae of jailed Jews in Germany and anti-Mussolini activists in Italy. My imagined opening vignette of a twelfth-century play would undoubtedly have been called "the Austrian Prisoner" by the English conmen of the day, and the Pope, in Gide's version (in *Lafcadio's Adventures*) was theoretically held, as I recall, in his own Vatican basement.

In any event, the specific geography is irrelevant to the success of the play. All one needs is a plausible prisoner convincingly privy to vast wealth and understandably in jail. Thus I shall set my own exemplary description in a nice, up-to-date context in which the subtler reverberations of the tale will resonate easily in the informed ear of any modern student of current events. Like this.

Spiros Tzourous (if that's anyone's real name, he has my sympathy) is a successful surgeon. He was born in New York City, but his parents came over as immigrants before 1910, and their tales of Greece and Greek history fixed his interest in his country of origin from an early age. He prospered in medicine, and found himself hovering happily, if somewhat surprised, someplace between great comfort and what may fairly be called wealth. Though anything but a wild radical, from time to time he lent his name and gave some of his money to organizations opposed to the Greek military government. In addition, like many doctors he acquired his money without ever having had to dabble in price theory; that nagging relationship between marginal cost and marginal revenue, known deeply if unsystematically by men who wear their hats in their offices and scream into phones a lot, was a terror incognito to him. He grew rich knowing nothing about the small ledges over deep precipices on which most wealth flourished. He was, that is, the perfect mark for a "Greek Prisoner."

One day several years ago, Tzourous was sitting at his breakfast table in Riverdale idly leafing through his morning mail when he came across an envelope bearing a Greek stamp, addressed to him in a rather shaky hand which he did not recognize. He opened it with desultory curiosity and read the following:

Honored Professor Doctor Tzourous:

Only my extremeness of condition influence me to adress to you so far away this pray of aid. Please do read with

sympathetic it cost my last hidden drachmae to guards to bring letter out for sending.

Myself I am chief helper to Minister of Finance in real government not Colonels. Your name is known to us as friend though far away from free American press papers. Now I am in gaol by usurper colonels. Freedom of me is value but more of loved Hellas in chains now. I prayer help—myself and nation.

When army robbers rob nation I hide from greed paws last day drachmae forty million of nation treasure bonds money paid to holder no need for signing name. To bank in Swiss with number I send. At north border Colonels seize myself since over one year bonds in Swiss still now. For out cause this millions vital only I can get with recipe ticket. Even you is dangerous your help but for freedom myself and Greece one quarter to you your help us. Very very dangerous to guard to let me free wishes many many drachmae.

Why trust? Do not. Send small money Dr. 5,000 American dollars to address below. Only contact poor friend will bribe from bars other letter proof of faith and realness.

M. Athanagoras
Eleusis Street 19
Athens, Hellas

I prayer.

ELEUTHERIA (FREEDOM)

T. Dorakis

Doctor Tzourous reread the letter several times even after he had grasped its message: that the Deputy Minister of Finance in the overthrown Greek government was now in jail and wanted out; that he had cleverly put over a million and a quarter dollars worth of bearer bonds from the Greek treasury into a Swiss account before they caught him; that he was willing to pay over $300,000 to get out to get the rest of the money; and that he was willing to send more details and proof.

Doctor Tzourous did a little checking during the next several days. He discovered that there was a T. Dorakis who was an assistant in the Ministry of Finance. T. Dorakis had disappeared over a year earlier, and Papadopoulos had mentioned in a speech or two the shocking thefts and corruption in the old Treasury Department. That night Tzourous folded $150 in currency into an airmail envelope along with a note saying no more than "Please send further details" and mailed it to the Eleusis Street address.

It took several days for Tzourous's letter, forwarded from Athens, to reach Sean Mekas's post-office box in the Bronx. As soon as he got it (and put the money in his pocket), he went to his files and started to copy out (with an occasional emendation) his normal next move.

Honored Professor Doctor Tzourous:

From the base of my heart I give you thanks for trust myself. You are correct to be bewarey. Inside you find proof of my truth, report from press paper Greek and picture of most important invoice. Real original I keep hidden till when we need. Then Freedom for truth myself.

Drachmae need Dr. 250,000 for guard. Send same address same way.

ELEUTHERIA (FREEDOM)
T. Dorakis

Mekas selected one of the Greek newspaper clippings he had recently had printed and aged (when Tzourous had it translated, it would tell of Dorakis's imprisonment for stealing bonds from the government) and placed it in the envelope. He also included a photostat of an inventory, on the stationery of a Zurich bank, of bonds deposited for safekeeping which bore the legend at the bottom (in French, German, Italian, and English): "No withdrawal without official claim document." He then sent off the whole bundle to his cousin in Greece for mailing to Tzourous.

Eight thousand dollars was a lot of money, even to Tzourous, even after he had his mother translate the clipping and his broker calculate the value of the bonds on the inventory list. More than that, he began to catch the first vaporous odors of a rat—albeit the wrong one. "If," reasoned Tzourous, "it takes only eight grand to get him out, why don't his underground friends spring him, and they'd all get the bonds that way? Why? Because he doesn't want to split with them, that's why." Thus Tzourous's next letter to Eleusis Street read like this:

Dear Dorakis:

It isn't good enough. First, eight thousand is a lot of money and this is a risky business. Second, how do I know you won't just take all the bonds yourself (for the movement, *of course*) once you're out. Third, if you can satisfy me on that, it's still not enough. If I go through with this deal I want half. We'll decide afterwards how much each of us donates to the cause.

Sean Mekas received this heavy twitch on his line with trembling joy. Tzourous was all but landed. As all his other bobbins were still sitting placidly on the surface of Mark Lake, he turned with decision to the landing of this particular fish. In honor of Tzourous's ardor he scorned his files and drafted for him a customized reply.

Doctor Tzourous:

I am devastate at your letter. I am not trust. My honor is mudded. But I am your mercy. Even this letter I almost get not out. Better half *for the nation* than nothing. I cannot risk lifes of friends to find freedom?

Enclose is one half "claim document." Without this person able not to claim bonds. (Look at bottom invoice.) Send Dr. 250,000 (or same dollars) to Eleusis Street. I will notice you when free and we together will claim in Swiss.

I try forgive you slipeing my name.

Dorakis

Hoping that Tzourous would not suggest taking the money to Athens himself, thus necessitating more of a payment to his Athenian cousin ("Prisoner Letters Forwarded—Face-to-Face Impersonations Extra"), Mekas sent the new letter out through the usual channels. To his abandoned joy, a week or so later he received seven thousand American dollars in a neat bundle from Athens. (After his joy subsided a bit he wondered how much his cousin had deducted for postage; Mekas was not a naturally trusting man.) From that point on, everything was gravy. He sucked another thousand from Tzourous "to bribe for myself out a visa for exit," seven-fifty more for "fishing Captain who calls themself patriot but leaches for money," and another five hundred for Yugoslavia-to-Zurich travel expenses.

At last, on the appointed day, Spiros Tzourous stood in front of the local equivalent of the First National Bank of Zurich. The large local battery of clocks struck noon. Any minute now Dorakis would appear, they would put together their halves to make one whole ticket, and together they would collect their boodle.

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Tzourous's share would be worth more than half a million dollars. It was late fall and growing chilly, and Tzourous wished he had dressed more warmly. By four, when the bank closed behind him, he was still standing and still alone, and he wished he were dead.

This demotic Greek version of the Prisoner occupies something of a middleground position on the conman's sparse-to-rococo embellishment-and-complexity scale. More florid and busy versions exist in the literature of bunco: Yellow Kid Weil, one of the modern masters of big con games, not only has described more elaborate plays that he himself has run, but has also reported, with becoming ruefulness, a Prisoner (royal and French in that case) successfully worked on him. But the additional intricacies in those more filigreed versions are not analytically important. There are a few more letters, perhaps, a few better tokens of trustworthiness, maybe one or more credibility-enhancing face-to-face impersonations of the Prisoner's agents. It would, I guess, surprise me if as big a score as Mekas's could be made "playing against the wall" (that is, without props, stage settings, and live actors), but it is not beyond credibility.

At any rate, all of the basic formal elements necessary to a successful play of the Prisoner are in this version. Start with the source of the boodle. Where does the big pay-off come from? What is the nature of the breakdown in normal economic process such that this dazzling abnormal profit exists for the divvying? Theft. But more than that, as to the stolen and hidden bundle, the prisoner in the Prisoner is a *bona fide* (well, *mala fide*) monopolist. Only he knows where it is, and only he can get at it. The source of this extraordinary profit, then, is the source of most of the extraordinary profit in any economic system—monopoly power.

Theft, if successful and successfully concealed, is, of course, always the source of an *ad hoc* monopoly. It is useful if, as in my Greek version, the theft is illicit but not naughty; that is, one finds it easier to attract marks if the ultimate loser is a Greek colonel rather than widows and orphans. Few marks, it seems, like bad thievery; more prefer something which may be covered with an illusory patina of Robin Hoodery. But all that is only useful to the classic pitch, not necessary. The indispensable element in a Prisoner play is that the source and present catchment of the wealth is such

that if it does not remain a secret, all its value disappears. That is, it is not really the theft that creates the monopoly, but the secrecy; theft is just one of those things that necessarily requires secrecy.

Thus the conman's answer to the first key question—Whence the wealth?—is an embroidered version of the following: "I have a monopoly over a uniquely valuable piece of information." But what is most lovely about the Prisoner is that the second critical question—Why are you splitting with me?—can be answered in almost identical terms, with no dramatic dissonance to mar the power of the overall tale. "I am sharing with you," answers the conman, "not because I love you, nor because I'm a fool or an idiot. I am sharing with you because I have to: I may have a monopoly over a secret, but you have a monopoly over me."

And what a monopoly the mark, at least on the surface, has. Note that in any case in which the source of the swag is theft, since the thief cannot advertise or merchandise normally, when selling a share in the booty he faces a limited market, a curtailed group of potential buyers. That fact functions importantly in pulling other swindles—the "Psst Buddy," for instance, to which we shall shortly turn. But in a classic Prisoner what holds the prisoner away from any normal buyer's market is not just the need for secrecy, but that most potent and pictorial (and thus dramatic) form of "market constraint," actual physical force. He is in jail. There are guards. There are bars. There are censors. The prisoner in the Prisoner is kept from a wide market for his "goods," one in which he could bargain among a large group of competitors for a good price, not merely by a need for verbal prudence lest he give away the secret (and lose the boodle and his freedom)—not merely, that is, by the necessity of avoiding potential evils—but by already actualized physical constraints. He is, in the classic Prisoner playlet, already encased in the tough and just barely permeable membrane of total state power.

Thus the two halves of the tale fit. The same persona and acts which account for the existence of the wealth also account for the conman's inability to keep it all for himself. If the mark can be made to consider even for a moment the initial premise of the play—that the prisoner is indeed who and what he says he is—it all fits neatly together. Was there once another government in Greece? Obviously; the army overthrew something. Did it have a treasury and administrators thereof? Sure. Might one not in sympathy with the couping colonels, who had access to that treasury, decide to make off with some of it and hide it in some secret place? Of course. Would anyone else know? Who, Papadopoulos? Is it likely that the only one to know that secret would be in jail, either for knowing it or on independent grounds? Absolutely; jail is hardly a surprising place to find a high member of a government just removed by military coup. Given all this, with the conman purportedly having that secret and being in jail, is it likely that his access to the bribe-money market is very severely restricted? It is likely; indeed, his access is restricted to only one possible supplier, the mark.

In brief, the Prisoner has been so designed that the parties are cast as sole complementary economic factors for the production of a particular bundle of useable wealth. There is (give or take a drachma or so) a million dollars in bearer bonds totally without value unless the conman and the mark, and no one other than this conman and this mark, cooperate. It is as if two men each held exactly one-half of a thousand-dollar bill. Until they get together each holds nothing; once they get together there magically appears a thousand dollars. (This is symbolized, by the way, in most plays of the Prisoner, including mine, by something like a halved claim check.) If they work together, there is something to share. If either holds back, there is nothing; they stare, separately, into the same void.

Thus the Prisoner may fairly be described as the bunco dramatization of a bilateral monopoly problem in economics, one in which both of two factors of production are absolutely and uniquely necessary to a certain positive and profitable result. In such a situation (and this is very important for the credibility and power of the congame version), there is no unique "solution" to the problem of allocating profits between the parties. In terms of game theory, *any* division that falls between the poles of "all to prisoner" and "all to mark" are "rational" solutions (that is, solutions wherein both parties gain something by going forward which they would not gain by standing off). If both factors—the prisoner and the mark—are absolutely and uniquely *necessary* to success, then neither has any more powerful claim than the other to a larger share of the loot. Indeed (as Thomas Schelling of Harvard has mathematically and elegantly pointed out), even a fifty–fifty split has nothing (other than aesthetics) to recommend it as a "solu-

tion"; it is not logically a "better" division than 60–40 or, for that matter, 97–3. Thus this extraordinary underlying situation, this very special problem in economics and game theory which the Prisoner parodies, is one of the few that would render rational and therefore "justify" the "split" proposed in my Greek comedy. It may be an unexceptionable fifty–fifty, but that still means that the mark is to get, over a relatively short period, better than a sixty-fold return on his investment—that is, a return of six-thousand percent over three months. That is bizarre in almost any business context—except, perhaps, when one true monopolist faces another. It may be an "interest rate" of twenty-four thousand percent per annum, but it is also, after all, just a gracious 50–50 division between two mutually and exclusively necessary factors dealing with each other over a million-dollar haul.

The Prisoner then is sort of the *Billy Budd* of bunco. As we shall see, all swindling to some extent involves creating, dramatically presenting, and manipulating illusory competitive advantages for *both* the parties to the illusory deal. But in the Prisoner two extremes—monopoly and monopsony (that is, a buyer's monopoly)—are created and then thrown together, with nothing and no one else, into the same play. In the Prisoner, we have Billy and Claggett, pure and all alone, without even a Vere to mediate the final agon.

Having said that, I must immediately take some of it back. Even though the Prisoner is the *Billy Budd* of congames, it is important to see that even *Billy Budd* isn't the *Billy Budd* of literature. There can be no action, and thus no drama at all, when nothing exists except polar perfections. If Billy were perfect innocence, there would be no story; Claggett would never have gotten killed by Billy's tongue-tied moment of rage. If the Prisoner is like the *Billy Budd* story, then, it is *exactly* like it; it is a play that cannot be performed unless the premises are just less than perfect. For if the prisoner in the Prisoner were *totally* cut off from any contact with the bribe-money market (that is, from the other necessary "production" factor), he would never have been able to reach even the mark. The mark's value to the prisoner lies in his scarcity but also in his existence. No one else is available, but he is.

In other words, if the prisoner were free of *any* constraints in reaching "investors" he would never offer any more than an ordinary return to any supplier of bribe money. But if he were self-cast as *totally* constrained, he would have no one to whom to offer a

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return. "Production" would then not be at the mercy of another monopoly factor; it would simply be impossible. And indeed, in the usual Prisoner play, this semipermeability of the prisoner's isolation is, in fact, exploited in writing the script. When, during the course of the play, the mark grows either too greedy or too cautious, the prisoner can begin to hint that perhaps he *might* be able to get a letter through to someone else. It is important to get the mark to see himself as a monopolist, but it is helpful not to let him get too secure.

This is also important for keeping the mark in line because, as a technical matter, the prisoner cannot prove that he is a *unique* monopolist either. Someone else may know his secret, or another one just as good. Thus there is no way of knowing what the mark's "opportunity cost" (that is, the value to him of opportunities he is foregoing by "investing" in the prisoner) really is. It is possible, for instance, that somewhere there is another prisoner, or another operator, who would offer more than a sixty-fold return over three months. It's not very likely, but it is possible. All marks, then, are, in a sense, "victims" of another flawed market, the market in information about crooked deals. This prisoner does not have a monopoly on all the illicit secrets in the world, but he does have possession of this one. It is hard to learn about any others (indeed, pretty close to impossible, especially for amateurs), and so the mark must treat the prisoner as his absolutely best deal.

To summarize, the Prisoner is a form of bunco in which two monopolies are personified and then dramatized in a play in which they are the absolutely irreplaceable complements of each other for the production of a particular (usually very large) bundle of wealth. Viewed that way, the Prisoner becomes the theoretical limit toward which all effective swindling (and, as we shall see, all salesmanship as well) tends. It is as close to the masquing of absolute mutual need as one can get in any reasonably credible (and money-connected) real-life situation.

I should point out at this point that my use of theatrical terminology in the foregoing description was not a fortuitous stab at a developed but otherwise irrelevant vocabulary. I find it fascinating that what the Prisoner dramatizes is a microeconomic bilateral-monopoly problem; but I find it equally interesting that it turns that abstract, arid concept into a drama. It is the conjunction of

economics and role-theory sociology that is the most striking aspect of the whole Prisoner play. To adapt the vocabulary initiated by Irving Goffman and developed by his followers, the conman in a Prisoner casts himself as a prisoner. By so casting himself, he creates a role for, that is, "altercasts," the mark as a person holding the only other blue chip in the game. The mark is then made to play the two complex roles of coconspirator against "the colonels" and partner/exploiter of the prisoner. He is thereby, for the purposes of this interaction, blasted out of his divers other roles: in our example, for instance, doctor to patients, father and husband to family, mild protestor of military rule to the Hellas Marching and Chowder Society. But the casting and altercasting are dependent upon, and generate, still another phenomenon, what one might call "outcasting": the creation of classes of people designed to be outsiders, people off of whom the players score, or at least who are to play the duped audience for the drama put on by the cast and altercast players. We will see that process much more explicitly presented in the context of three-party congames—like the Pay-Off, soon to be considered—and again, oddly enough, when we consider some of the basic techniques of modern mass-media advertising.

Indeed the general process of casting, altercasting, and outcasting will be seen again and again during the remainder of this essay. It is variable only in detail. In all the interactions remaining to be considered—whether swindling or selling—we will see a play being constructed. The plot will change, and the dramatis personae will expand and contract (though always remaining economically rational). But the process of dramatization will remain invariable.

Varieties and Variations

THE PRISONER, as I have already noted, is a foundation stone for most if not all other varieties of classic bunco tales and business pitches. Without the addition of any new script elements one can create out of it another very common congame, less lucrative in any individual play but more intrinsically believable and thus more playable. All one has to do is relax the absoluteness of the economic story being dramatized, moving it from a play about a nice young monopolist who meets a pretty monopsonist, to one whose main characters are oligopolist and oligopsonist—that is, persons with some, but not many, competitors.

Even in the Prisoner itself the monopoly–monopsony scheme is not thoroughly absolute. The prisoner *might* reach another investor; the mark *might* find a more lucrative prisoner. But even this limited amount of absoluteness is not a necessary precondition to substantial success in the world of selling or swindling. Any businessman will be glad to tell you that you don't have to be an absolute monopolist to earn a better-than-average profit. Being the paid-up member of a successful oligopoly (an industry with a less than optimal number of competitors) will generate very out-of-the-ordinary wealth—which can then be purportedly split with the mark. Consider, for example, the common garden-variety stolen-goods swindle. It has many names in its divers contexts (including "The Gold Brick" and "Hustling Slum"), but I call this nostalgic garment-district version the "Psst Buddy." Let the mark tell it.

I am sitting in this bar on 38th and Seventh minding my own beer and business, resting up from an aggravating day cutting patterns of teeny skirts in half sizes, when there walks in a middle-size guy with a middle-size dress box and nervous eyes. I am down by the front where the outside light still makes it through the front glass, so he hits me first. "Psst buddy," he says, "you want maybe a lady's silk blouse or two, unbelievably cheap, a fantastic bargain?"

"Do I look to you like a guy hot on the trail of ladies' silk blouses?" I ask him. "To you I look like I'm saying to myself all the time, what would really make my day now is a lady's silk blouse?"

"In these," he says, "you could easy work up an interest. In Saks maybe, Lord and Taylor, twenty-five, thirty dollars. For you, here and now, ten bucks."

"I get it," says I. "You're making it up in low overhead and clever merchandising. Saks and Altman's, they don't know how to sell."

He takes an even more shifty look around and comes on close in whispers. "At Bergdorf Goodman, at Saks, at Lord and Taylor, at Altman's, they all got an expense I don't got. They had to pay for theirs; mine I stole off the loading dock."

"It stands to reason," I say, this time to myself. "You got no entry on the books for cost-of-goods-sold, any accountant tells you you got what's known as a pretty good competitive advantage." So I turn to the guy and say "OK, you got a 42, I'll give you five."

"Five," he says. "Five. You think I'm working for the welfare? You're an object of society's charity? You're one of New York's neediest cases, even crooks should make contributions? Five?"

"Look," I tell him, "you don't like five, don't take five. Advertise. Take a few lines in the Post and the News. Open a nice little store. Put up signs 'Stolen Goods Shoppe' or 'Loading Dock Outlet.' You can get better prices, please do us both a favor, get better prices. Five."

"Seven."

"Six and done," says I. "So I get my blouse (a nifty number, my daughter will love it) and go back to my beer. He got six, I saved nineteen or so, and both of us are happy. Money from heaven."

Was the mark right to buy? Of course he was, provided only that the peddler was as big a crook as he said he was. As in the play of the Prisoner, if the protagonist in the Psst Buddy is who and what he says he is, then everything that follows, including the pricing, is absolutely rational in economic terms.

Let us assume that the blouses were stolen. In the New York garment district, after all, they frequently are. That would still not give the seller a zero cost for them (he has acquisition expenses, including a not inconsiderable figure of risk, and his own distribution costs), but he does have what is, to say the least, a very low cost-of-goods-sold as compared to other sellers. Having that gross competitive cost advantage, the seller can undersell his competitors; that is, he can undersell them and still make a profit. Thus the critically important first question—Whence the boodle?—has a reasonable answer. Indeed, the answer is initially more credible than the somewhat baroque equivalent used in most versions of the Prisoner. Petty theft is much more common than, say, treasury embezzlement, or six-ton marijuana impoundments. (It should be noted, of course, that the price of this greater plausibility is a necessary decline in the absolute amount of the boodle which can be used as bait. Little pilferings are much more likely than big and

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juicy thefts, but there's not as much in it for anyone, either. Of course, the Psst Buddy can be, and has been, played with "stolen diamonds," too.)

As usual, it's the second question—Why the generous split?—that poses the more difficult dramaturgical problem for the conman. For even if the seller has this fantastic cost advantage in the acquisition of the goods he's selling, it is still the only economically rational course for him, if he can, to sell at the normal market price. If you can make a thirty dollar profit on a blouse with an effectively null acquisition cost by pricing it at its normal, fair-market retail value, why sell it for a fifth of that price? The answer in the Psst Buddy is deliciously obvious: *this* "retailer" must sell at a lower price because, given his method of goods acquisition, he faces a radically curtailed resale market. As a thief, he has only two courses open to him. He can sell the goods to someone else for ultimate resale, or he can peddle at retail himself. If he chooses to sell to a fence he faces a viciously tight oligopsony, a small group of buyers who, so it appears, cartelize instinctively and who haggle over terms, if at all, only very nastily. (This explanation of the economics of the fence industry is, in fact, frequently made to any mark who asks why the thief is doing his own peddling.) But if he does go the retail route himself, he must do so without advertising or settled-site merchandising advantages. And in either case, he can sell only to people who are willing to take the risks (moral and material) of dealing with crooks—that is, only to other crooks.

That's a far smaller universe of potential demand for ladies' silk blouses than the usual market constellation. Faced, therefore, with decreased demand in circumscribed markets, needing, furthermore, speed in turning over his goods lest he be caught with them, a stolen-goods dealer must do the best he can in his pricing. Hence the exceedingly attractive price tag; the thief still gets himself a fifth of retail in almost pure profit, while the buyer gets a thirty-dollar blouse for a mere six dollars. (Of course, the canny seller will start his pricing at, say, $22.50, and grudgingly sell for $6 only after a rotten and insulting slanging match.)

Now all of this makes perfect sense. Test it as a psychologist, question it as a sociologist, graph it as an economist, it all works out. And that is why when you play it as a bunco game it also pays out. If [illegible]ller is a thief, the deal and the price are right. But if

the seller is an honest man in the way he gets his goods, he is well set up to be a successful conman in the way he moves them. For the whole thing *looks* just as rational even if the peddler bought a pile of three-dollar orlon blouses that morning for two dollars each. If he can convince the mark that they are, instead, stolen thirty-dollar silk blouses, even selling them at six dollars each quadruples his "normal" profit. And that is the essence of this con.

Thus the Psst Buddy has the same essential form as the Spanish Prisoner, only less extremely articulated. Where in the Prisoner the mark is altercast as almost a true monopsonist, in the stolen-goods swindle more normal economic dynamics are implied; the mark is just turned into a member of a suboptimally small demand group. In both cases, however, the critical structural move in the swindle is to explain, as part of a coherent and compelling story, why it *is* that the "seller" must do well by the "buyer." In both games the explanation is the same: I can't do business with most other people so I have to do business with you.

As we shall see, this same explanation—some variety of "Because I have to, that's why; because I need you"—figures in every congame. More than that, as we shall also see, it figures to some extent in every "normal" sale, including the most "straight" tale of all, the Squaresville Pitch. It has to figure everyplace. For it is the element in every selling tale designed to explain to the mark why *he* is one of the chosen. It is that element which renders the deal concrete and personal to him, which explains not just the abstract possibility of there being a bargain, but the factual underpinning of this particular bargain, *his* bargain.

Thus the central mechanisms of the Prisoner are central to all classic swindling and effective selling. But the Prisoner itself (and its attenuated forms, like the Psst Buddy) is, by and large, only a complex molecule to be braided into the grander strands of more fully developed, more powerful, and hence more lucrative plays. For in terms of effective dramaturgical technique, the Prisoner is, at best, one of those (admittedly recurrent) anomalies of the Broadway season, the two-character play.

Now a two-character play can succeed aesthetically, and the Prisoner can succeed financially, but it is not an easy subgenre with which to work. To make it go at all, the characters in the play have to spend most of their time, in effect, *telling* each other another

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genre altogether, the short story. The action, such as it is, is necessarily mostly offstage, and the mounted drama, such as it is, consists of a series of what film critics call "reaction shots."

But add a third character and the onstage action can really begin. Where in the two-party Prisoner the creation of the wealth to be shared must take place offstage, a matter for scene-one exposition, once the number of players is increased so that the plot can be rendered more complex, the boodle can appear to be created during the performance. In two-party Prisoners only one source of economic profits can be dramatized (as opposed to narrated), the mutual enrichment of comparative-advantage trades; for the conman must enter the drama already having the secret, one-half of the "value" of which is worth less to him than some small part of the mark's freedom of access to the world, which in turn is worth (grossly) less to the mark than one-half the conman's purported knowledge. Add more characters—add just one, in fact—and the other economic source of wealth can be written into the scenario and acted out—the "him" or "them" whom the conman and the mark, together, will nastily exploit. That is, the addition of a third character permits onstage outcasting.

To see the increased efficacy of this breakthrough in aesthetic and literary technology at work, let us then consider the most dramatically complex and developed of the classic bunco plays, those which David Maurer has dubbed (in his lovely book of the same name) "The Big Con." In these plays, the source of the wealth is still illicit, and it is a particular kind of illicitness, viz, games of chance which have been fixed. (The choice of that particular kind of chicanery will be seen to have great explanatory significance when we get to our discussion of Ponzis, Godcons, and Referral Sales.) In addition, unlike the situation in the classic Prisoner script, in a Big Con the apparent creation of the boodle is not something that takes place before the show, a subject for exposition; it is something that happens on stage, with the mark altercast into a major role.

Chapter 5

PUBLIC SPECTACLES

THE CONGAMES thus far considered have been private—that is, limited to two or three participants who are cast and altercast as knowing a particularly valuable secret exploitable in concert. This privacy is not accidental, or assignable to some unnecessary factor like the expense and danger of casting a few additional participants. Rather, secrecy is *essential* to the scripts heretofore explored. It explains the source of the wealth to be divided among the cast members as well as *why* the division with one-time outsiders must be made. One cannot credibly *openly* seek bribe money for Greek jail guards, or buyers for stolen goods, or partners in a syndicate rip-off, or cooperatively crooked coin matchers.

What this means is that the use of the conman's own labor in a "private" congame is exceedingly inefficient. He must put on a demanding performance, ordinarily in concert with at least one other highly skilled professional player (who thereupon becomes entitled to a large percentage of the profits) for the benefit of what is necessarily an audience of one—the particular mark in the particular play. Unless the successful conman is to be exhaustingly engaged in the continuous active pursuit of his profession (pulling off, say, a large number of short cons), he must make, at least sometimes, a big score. But big plungers off of whom big scores can be

made are relatively rare. Thus a private-bunco conman is always either playing or looking.

If, however, he could find a bunco game into which his valuable dramatic skills and experience could be put for the benefit of a large audience, a cohort of marks who could join the cast fully cognizant of, and indeed encouraged by, each other's simultaneous and congruent roles, then the bunco artist would not need a few very large scores in order to prosper. Rather, a continuous and continuing aggregation of little takes could make him wealthy, and at a much lower effort-to-profit ratio. But to pull that off, a conman must find a source of wealth and a reason for sharing it with the marks that does not depend on illicitness and secrecy to validate the script. *Like any legitimate seller*, he must discover a way to offer credible bargains in the ordinary course of open and advertisable business.

The Godcons

A "GODCON" is a congame in which the conman (with or without a supporting cast) induces one or more marks to trade money and other things of this-world value in exchange for the promised delivery of quantities of exceedingly valuable divinely manufactured goods. The conman, that is, sets himself up as a broker of Grace.

Let me preface this discussion of religious swindles by pointing out that whether or not there is a God who has revealed to certain people the most effective method of approaching Him, if a person believes both in God's existence and in the efficacy of his own particular mediating techniques, there is no swindle, human or divine. Remember, the transaction in the "Psst Buddy" script is honest so long as the seller *is* a crook, and the Pay-Off would not be a swindle on the mark if he and his partners really were swindling the syndicate. In other words, I am not arguing that religion in general, or organized religion in particular, is a swindle. I am suggesting instead that if one does set out crookedly to acquire money for one's personal benefit, there are structural components in a religious context which make the job of the conscientious swindler very much easier.

Picture the following pitch: "There's this old guy I know, see, who has all the money he could ever need, and if he ever needs more, all he has to do is print it and it's good. If you know how to approach him, he'll give you all you could ever use. In fact, the only thing he really cares anything about is getting the good stuff to as many people as he can. Now, I know the right way to put the touch on him, and I've already got all I need. But he never gives away directly—he only uses organizations like mine. I'll put you in touch, even make you part of my organization, and then you'll have everything you need too. OK? I'll help you, and then you can help me help others."

One needn't be a connoisseur of swindles to see that this kind of tale is not very likely to shake the money tree successfully. Oh, it has some lovely aspects from a conman's point of view. The old guy has infinite wealth, so whatever his goods are worth to you, they cost him nothing to give up. Thus not only is his willingness to give things away economically understandable, but it's morally unobjectionable to take advantage of his generosity: a man who has infinite goods is not being exploited or ripped off when you take some from him. He can afford to be beneficent without economic pain, and thus you can afford to benefit without moral agony. Moreover, given the infinity of the old man's wealth, the broker's generosity is also understandable; with a boss like that, an agent always has all *he* wants. He has no reason not to split with you, or to avoid enlarging his organization by taking in partners. There's plenty for all.

Thus the two key questions—Whence the wealth? and Why the split?—have answers which, were the premises believable, would make perfect economic sense. If there were such a rich old man, one would actually expect him (and his agents) to behave according to the pitch. But there is a fantastic dramatic problem in gaining credibility for the existence of so extraordinary a character, especially when he must remain at all times off-stage. In no one's normal expectation, and certainly not in anyone's experience, is there anyone like *that* old gentleman.

But there is, of course. There's God. In most religions, and notably in most versions of Christianity, He is a being who produces Grace of infinite value infinitely and at no cost. He is the only entity in the universe not subject to the laws of thermodynamics (which immunity, after all, is just another way of describing His immortality), of whom a propensity to give rather than trade can be convincingly predicated. Indeed, neither physical limitation nor economic rationality can be predicated of Him without elaborate heresy and thoroughgoing blasphemy. God is, so to speak, in the business of giving gifts free or, at the very least, of distributing Grace and Salvation as a very good bargain. That is to say, there is a positive as well as a negative aspect to Pascal's Gamble (so aptly and pregnantly named for our present purposes): not only will God charge you everything, forever, for not behaving correctly towards Him, but for satisfying His requirements He will give you everything, free, and to eternity.

More important for congame purposes, it is perfectly consistent with the tenets of most major domestic religions that God does not, except on the rarest of occasions, Himself distribute at retail. Instead, He leaves the effective transfer of His grace to specially trained and certified middlemen, whose job it is to funnel this immensely valuable gift to individuals, using particular methods of organization and distribution. Moreover, it is doctrinally sound within the framework of most religions that the members of the distribution organization already have absolute plenitude of the valuable goods to be distributed, so that no additional quantity will improve their individual utilities one iota. In other words, this good, God's Grace, is something such that once you have it, you have all of it, and not only don't you need any more, but it is impossible to have any more. All you can do, in fact, is lose what you do have, and that only by not passing on the wealth to others with happy heart.

It is precisely this aspect of the story that for conman use is the critical one: the "broker's" gift to others is cost-free *for him too.* His zero residual desire yields an infinite supply for others. For him, more wouldn't be more, and might indeed be less. Notice how important this plenitude is to the normal Godcon pitch. In any ordinary business context, a "broker" with a zero cost ought to charge his "customers" a "commission" approaching as close as possible to the whole fair-market value of the good. That is, in a less transcendent context, a man who stood between free (or cheap) wealth and its possible recipients would be economically rational only if he tried to appropriate to himself almost the entire value of his employer's extraordinary economic superefficiency (infinite, zero-cost productivity) and nuttiness (free distribution).

After all, if you are lucky enough to be broker for a guy who is willing to give away a car for a dime, what you do, in effect, is pay the dime yourself and sell it to someone else for but a trifle less than the normal market price for such cars. That way you and your customer both benefit from the gift, but you take most of the bargain for yourself. But in a theological universe there is indeed a reason why you don't take all the Grace for yourself: once you have your Grace you have it all; trying to take more not only could get you fired, it makes no sense. Thus it is that a conman running a Godcon can counter the naturally extreme skepticism of anyone offered infinite riches for nothing from a stranger with a persuasive explanation: God gives free because He loves you (and never runs out of Grace); I give free because I love you, too (and it's no skin off my soul, either).

That, of course, can't be the whole pitch. To make a Godcon a paying proposition one has to do more than get credible Grace flowing towards the marks; one has to trigger an inflow of mundane cash. But it's not all that hard to make that next move. Once you get far enough in a Godcon as to seem an effective Grace broker, all you have to do is gently fold in a mildly contoured version of the heart of, say, the Prisoner, Pay-Off, or Smack. In those plays, as you recall, the script calls for making it appear that the conman and mark combine, entwined by synergistic greed, to despoil someone else's treasure. In all the Godcons, what happens is that the minister and the mark are again cast and altercast as a team, but this time they league in love rather than avarice, not to despoil victims but to bring nondiminishing treasure to the outcast. The "love offering" which the conman takes from the marks is just that, a contribution of (relatively useless) money which facilitates the joint production and distribution of ineffably inexhaustible wealth. In brief, the unavoidable trade is still in the picture, but this time it is a trade of Grace, cost-free to the donor, in exchange for money, henceforward comparatively valueless to the illuminated.

Of course, with recalcitrant communicants one can embellish the pitch with suggestions that Grace must be earned, salvation is shown through charity, and so on. But that is just a filigree. It seems to me more accurate and more interesting to see the mechanism of the Prisoner and that of the Godcon as merely elegant mirror transformations of each other. The Prisoner works by creating a fantasy world of infinite scarcity; each of the parties is a monopolist, able to totally exclude the other (and all others) from something

infinitely desirable. In the Godcon, however, the activating image is infinite plenitude: each of the parties may share all that he has without at all diminishing that which he keeps. Thus in the Prisoner the parties conspire to exclude from bliss anyone other than themselves; in a Godcon they also conspire, but this time to cut in the rest of mankind. The only constant is that in both apparent collusions some of the mark's money, in the course of their grand joint task, comes to rest in the hands of the conman.

And so that incredible pitch about the kindly old gentleman, once translated into a transcendent sphere and vocabulary, ceases to be unbelievable. By being moved from the implausible to the impossible, it becomes persuasive. (Recall the remark by Chesterton that he could believe the story of Christ's rising, but not the tale of Gladstone patting Queen Victoria's bottom.) Put onto the right stage (in most cases what might be called "The Big Storefront"), the modified pitch—changed only in vocabulary—becomes this:

> *Hear me, oh my brethren. God exists. He is infinite. His Grace is infinite. There is never enough salvation to give Him joy; each new soul enriched with Him is His only happiness. If you can but reach Him, if He can but reach you, the unending beauty of His essence will fill you unto overflowing. By your own poor will ye cannot reach Him, but we have been vouchsafed the Way. Turn not from the Way. Believe in His commandments as I tell them unto you. Join us. Come through us to Him, and let Him come through us to you, and you, and you. There is no other path. Join with us. Join with us in love. Join with us in bringing the Word and its joy to those who do not yet know or believe. Join with us in powerful prayer and unstinting work to bring the Word of God to the benighted. Show your salvation; hide it not under a bushel, but share your joy, your strength, your salvation, and your mite of love. . . . The Deacons will now pass among you while we sing Hymn No. 123, "Oh Word of God Incarnate, Oh Wisdom from on High."*

Replacing Grace: Precursors and Ponzis

THE POWER of the Godcon script—and a widespread and exceedingly lucrative congame it does seem to be—lies in its amenability to mass exploitation. Unlike the wealth sources in the Prisoner and the various Big Cons, the Godcons' source of the wealth to be shared—God's Grace—may indeed be a mystery, but it certainly need not be treated as a secret. The Godconman can trumpet his mystery to the whole world; indeed, given the theological premises of his pitch, it rings false if he does not. That is, the conman distributing amazing Grace can and even must go public and retail.

Now, as noted above, the possibility of a successful mass congame is a powerful advantage to any bunco operator. It allows him to grow wealthy, over time, on the basis of many small takes, without having to find one particular well-heeled mark. It allows him to do his own performance for an audience of more than one. And perhaps more important, the existence of this mysterious wealth source which need not be kept a secret makes it possible to altercast many marks simultaneously as public players, for each of whose roles each other is an audience. The marks/players can then intensify their belief and validate their roles by looking at each other. As we shall see, it is much easier to believe (to the point of being almost wholly unable to disbelieve, even in the face of large quantities of dissonant evidence) when a mass of people all around you are believing what you believe, openly and ostentatiously.

There is, however, only a relatively limited market in America today for a transcendent pay-off as the bait in a bunco game. Even assuming that most modern Americans have some belief in God, and also accept a framework of belief that would encourage the exchange of, say, an after-tax tithe for infinite riches, a commanding share of that market has been captured, and by and large is still held, by long-established "firms." That is, most Grace is still being delivered to those who are interested in the product by major religious denominations who have, over millennia, developed means to discipline brokers who seek to keep the congregation's contributions for personal high living.

The question naturally arises, therefore, whether there are contexts other than the theological which would support a nonsecret, publicly trumpetable source of vast wealth which in turn will support a simultaneous and mass congame. Can one successfully secularize the mechanisms of the Godcons so as to generate an earthbound, mass-market species of bunco? Is God necessary to such a play, or is He only sufficient?

It turns out that the potentiality of retailing bunco is *not* limited to God-based swindles. While God's Grace is a splendid

source of infinite, plenitudinous wealth, the play can be written around the theme of merely huge (rather than infinite) potential pay-offs. Just as the absolute monopoly of the pure Prisoner can be successfully used even when softened to the moderate oligopsony of the "Psst Buddy," so the infinity of the Godcon's wealth can have successfully substituted for it something substantially less than the immensity of God's Grace. One needs only some plausible nontheological but nonsecret counterfeit of the disproportionate pay-off of Grace embraced. Surprisingly enough, such things exist.

There is, for example, one aspect of the world as everyone perceives it which startlingly approximates a situation of infinite payoff for minuscule "investment"—chance. In all forms of gambling, the otherwise universal human perception that one ordinarily does not "get something for nothing" is modified, its marrow-deep certainty softened. For in a lottery, if you do win you *do*, after all, get an awful lot "for" awfully little.

Strictly speaking, of course, chance does not function at all like the magic of Grace. One does not, in fact, get a million for one in any game; what one gets is a *chance* at a million for an investment of one. Thus, here as elsewhere, one gets only what one pays for. Disregarding differences in attitudes toward risk (that is, disregarding the fact that some people *like* risks more than others), a one-in-a-million shot at one million dollars is worth, to everyone, only the dollar invested. And even if one has a very strong preference for risk, one thing absolutely certain is that a one-in-a-million chance to win a million is not worth a million. The actual fact, nonetheless, is that someone (assuming an honest drawing) is going to get one million dollars "for" his dollar—that is, at the time of the pay-out, there will certainly be the *appearance* of a vast disproportion between return and investment.

In any system of pure chance, someone is going to win even if the odds are not rigged. It is not by accident, therefore, that the social subsystem central to the play of the Pay-Off (and most of the other Big and Short Cons, like the Wire, the Rag, the Smack, the Tip, the Last Turn, and so on) is a game of chance. True, in each of those plays, part of the plot *is* the rigging of the game; the uncertainty is made to appear removed so that the grotesque rate of return to the purported combo of conman and mark is assured. But it should not be overlooked that a return of the promised magnitude can be credibly promised only when the other innocent contributors will not be dangerously surprised at there being some such big winner. In brief, there has to be an understandable source of such disproportionate return before there can be a crooked exploitation of it. It is this "natural" disproportion between pay-in and pay-out in systems of chance which can be and is exploited for congames whose baseline move is something other than fixing the game. It is, for example, central to congames of great historical importance like the Ponzi, and indeed to all pyramiding bunco schemes, which constitute, in terms of gross take, the most important congames in operation in America today. So let me analytically creep up on the Ponzi, on the way to the modern Pyramids and beyond.

Consider the most prevalent form of primitive Ponzi, one so common as to be essentially unrecognized for what it is, the stock market. It is, of course, possible to buy and sell securities with reference to what the issuers do for a living. The theory is that certain companies will over time do better than others in earning profits, and that people will therefore be willing to pay more for the securities of those companies than for those of their competitors. And those earnings would be particularly relevant to people who buy securities in order to hold them for income, rather than with a view toward resale. But what if the middle explanatory term is allowed to drop out in the description of the process as it applies to those who buy with the intention of reselling? That is, the description given above assumes a company the stock of which sells at X at time T_1 and at $X + Y$ at time T_2 because between T_1 and T_2 it was seen by many potential purchasers as likely to earn more during the post-T_2 period. But the price of the securities of that company is not wholly a function of its earnings performance; it is also a function of the demand for its securities at the times T_1 and T_2, and the predicted demand at post-T_2 times. In order to decide, at time T_1 or T_2 or at any time, whether to purchase these securities, it is not at all necessary, and certainly not sufficient, to know anything about the company's performance. It is sufficient merely to guess the price at a later time—that is, to know the demand *for the securities* (assuming no new supply of comparables) at that later time. For instance, if at some particular point T_1 I *know* two facts about some particular company: (a) it is broke and moribund; and (b) at time T_2 someone will buy its stock for more than I will have paid at T_1, then it is still rational to buy at time T_1. Indeed, I'd be a fool not to.

In order for such a situation to exist, it is not necessary to hypothesize any magical or even peculiar world situation. One

need only assume a "market" in which a vast number of people are totally uninterested in, and ignorant of, the operative facts about the issuer of the security at the critical points in time, the buying and selling times. Now, one can never be *certain*, but there are situations in which it is a good bet that if one buys something at a particular price and point in time, there will be, sometime thereafter, a buyer who is willing to buy at a higher price because *he* thinks that at a still later time there will be still another purchaser at a still higher price. These situations exist frequently; one need only recall the "hot-issue" markets of the 1960s, when no one knew or asked anything about a stock except the date of its birth.

Indeed, like all fundamental socioeconomic processes, this tendency for there to be markets in which goods are bought with regard to resale likelihood and with regard to nothing else not only appears in a normal mode, but is systematically (if intermittently) also produced as natural parody. There are, after all, the famous great bubbles—the Tulip, the South Seas, the Mississippi, the Florida Land. In those cases one can see, as actual historical artifacts, insanely accelerating sales and resales at prices which (in retrospect, at least) were grotesquely out of line with the "actual values" of that which was sold, always culminating in the bubble's inevitable pop, that terrible moment of sudden collapse which ensued upon the sudden shrinkage in demand at that most horrible of all market moments, the unavoidable and scarifying T_2.

But under the influence of viewing the economic carnage a popped bubble leaves, one should not overlook this critical fact: not everyone lost. In fact, those who resold before the collapse may have done very nicely indeed, the more so the closer to the time of the final disaster they opted out by reselling. In other words, even if the bubbling was a conscious swindle by some, others who were totally unaware of the swindle, even innocents designed to be shorn lambs, may have profited mightily in their ignorance. In still other words, if you were in early, and out in time, you could have grown rich without having been a crook. The source of your wealth was nothing more than the luck of having been higher on the buying and reselling chain than some unfortunate others.

Ordinarily, in the investment-bubble context (and, as we shall see, in the context of modern Ponzi games) this frenzy of sustained demand requires some explanatory mechanism, no matter how false, to get it going and sustain it, some plausible idea about the value of the underlying wealth-producing mechanism a share in

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which is being purchased. There must ordinarily be something to which one can point other than the mere likelihood of still another buyer in the future when your buyer tries to resell the acquired securities. Thus the Mississippi bubble and the South Seas bubble were bottomed on the mysterious, fabled wealth of faraway lands that each company was monopolizing under royal patent. But other bubbles seem to have flourished mightily without any "productive" base, no matter how shadowy; no one claimed or suspected during the Dutch Tulip bubble, for instance, that vast weights of gold were about to be discovered just under the pistils and stamens. It is possible, that is, to launch and sustain a bubble (at least for a time) *solely* on the basis of self-generating momentum, the increasingly hysterical expectation that if X bought for $100 yesterday and sold for $200 today, I can buy for $400 tomorrow and sell for $800 the next day.

Indeed, one can, so to speak, "abstract" from a bubble and successfully market its bare structure, with *no* content at all. There is, it seems, a way of organizing communications channels so as to induce ordinary men to participate in this species of economic hysteria. Consider, for example, that ineradicable feature of life in any place with an effective postal system, the chain letter.

In a chain letter, all there is to "sell" is participation in a structure which generates a likelihood of continuation. The problem is what one might call socioarchitectural: to construct a pyramid of communication channels along which messages move downward and money moves upward. In its most common form, the initiator of the scheme composes and widely distributes a letter proposing to the recipient that he send a dollar or five to the person (the conman) named at the top of an enclosed list of (allegedly prior) recipients, and then send out five or ten copies of the letter to others, having first deleted the name at the top of the list and added his own name at the bottom. Thus, when the name at the bottom (his) becomes the name at the top, he will receive money from below, and because the base of the pyramid will be very wide indeed by then, it could be a very large amount of money.

The initiator of such a scheme will almost certainly make some money. If he sends out an initial ten thousand letters even on a two-dollar caper, he is ahead of his postage even if only one out of ten marks fall for it. But those below the apex man may also make some money, with luck a great deal, if they manage to get a large

percentage response from a wide pyramid base. Of course, as the chain continues, since the pool of prospective marks depletes at a geometric rate, the chance of "winning" also decreases geometrically. The ten people you write to will have to come up with an aggregate of one hundred more to provide thoroughly for themselves, and that hundred will in turn need one thousand more, and so on. At that rate it does not take very long to exhaust the world population (at "level" nine there must be a billion at the base of the pyramid), and it takes much less time to exhaust the subset of people willing to play any such games. But while the pyramid must topple eventually, it is not foreordained to collapse at any *particular* time. And as with any bubble, not everyone will lose when it does.

Most people, of course, *will* lose. While money can be made solely on account of one's position in a pyramid of sterile economic velocity, the chain-letter pyramid *is*, even as presented, wholly barren. It cannot create wealth, but only redistribute it among the participants. For every dollar "won" by somebody on the pyramid, there must be a dollar lost by some other participant. For the only source of money in a chain letter is the people in the chain, and when the chain breaks the sum total of money divided among the participants *is* the amount they paid in. The winners and losers are different people, but the wins and losses must still balance out.

Thus the chain letter, while persistent through history, has never been more than moderately satisfactory as a congame. It suffers from at least two signal weaknesses. *First*, it *is* rather *obviously* sterile. A large number of potential marks cannot have hidden from them the fact that the victimizers and victims must necessarily be drawn from the same group of people, differentiated only by the luck of the timing of their entrances and exits. No source of wealth exterior to the participants is ordinarily indicated in a chain-letter scheme; therefore the source of the pay-off *is* one's coparticipants and the amount of the pay-off can be no greater than the number below you on the chain multiplied by the amount each one invests. Admittedly, some potential participants seem able to contemplate the possibility of infinitely long chains without awareness of, let alone discomfort at, its radical unlikelihood, but most cannot.

But more seriously debilitating to the scheme, from the point of view of the aspiring conman, is the fact that the normal chain

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letter sets up, for him, a one-shot take. Once his immediately next level responds to the initial mailing, he is through; the rest of the "profit," if any, belongs to the later ranks of marks. Thus, when a chain scheme becomes the vehicle of a powerful conman there is a characteristic adaptation whereby first, some mechanism is introduced which indicates a net wealth inflow to the scheme from sources other than participants, and second (and more importantly), the flow of money can be made to pulsate up and down from conman to marks, growing larger with each oscillation until almost all the money "in" the system comes to rest in the swindler's hands at one moment in time. Then he can, if his luck and timing are right, make off with all of it at once. That most common chain-letter variation I shall call, after one of its most famous (and saddest and crudest) operators, the "Ponzi."

In the year 1920, in the city of Boston, 40,000 investors passed $15,000,000 through the hands of one Charles Ponzi, on which raging flood of money he floated swiftly into jail. His scheme (in the honesty and feasibility of which he may even have believed) was directness itself. He would give 50 percent interest in ninety (shortly thereafter, forty-five) days to any investor who chose to deposit money with him. (That works out to an interest rate of around 400 percent per year at forty-five days, or 200 percent at ninety.) How? Well, it was like this, he explained. Because of post-war instability in Europe, foreign currencies were severely depreciated below the normal exchange rate. He would buy foreign currencies at the depreciated rate, and with it buy International Postal Reply Coupons, the exchange ratio of which was pegged to official, pre-depreciated rates. (The coupons were designed as a means of sending a foreign correspondent prepaid return postage.) The profit to be expected from this astonishing arbitrage, had it been feasible, was about 400 percent.

Since Ponzi never bought a single coupon it is still not clear if the fiddle could have worked, even for small amounts. Most likely it could have, since one of the first things the government did when Ponzi's operation received wide publicity was limit coupon redemptions to ten per person per day, and the next thing it did was issue new postal exchange rates. But the scheme very clearly could not have worked for large amounts or over any extended period of time, even if the government had done nothing. For once the "secret" was out, that is, once Ponzi's informational

monopoly was broken, if the government didn't step in, the market would. Exchange disequilibria *that* gross are not very durable; even fairly subtle arbitrage differentials melt quickly in the hot sun of greed. The hole in the scheme is that the "depreciation" of European currencies would very quickly disappear if that currency *could* effectively be exchanged for dollars at the official rate. For the "value" of that currency in dollars is merely how many dollars it will buy. Thus, if the exchange of coupons for dollars were really permitted and you could buy as many dollars at the official rate as you wanted by cashing in coupons, then the *real* rate of exchange would *be* the official rate. Indeed, Ponzi had competitors running their own "Ponzis" within hours of the moment the details of his own scheme appeared in the Boston newspapers.

Nonetheless Ponzi's Ponzi worked, though not, ultimately, for Ponzi; that is, it worked for the investors, or at least for those who were in and out prior to the crash. Up to the very moment of Ponzi's first indictment, no investor had failed to have his "share" redeemed when redemption was requested. (It could have worked for Ponzi too—if he had left for some sympathetic, non-extraditing clime in time.) For once the scheme got underway at all, it *had* to work for *some* of the participants. A Ponzi can, after all, be viewed as an adaptation of a chain or pyramid with a structure such that information moves downward pyramidically while wealth moves back and forth between the hub of a wheel and points on an ever-enlarging rim. In theory, it's a very simple scheme. Mr. Ponzi promises that if a mark will give him $100 today, he will give the mark $150 a month and a half hence. And he does. On the first of June, say, A, B, C, and D each give him $100. He thus needs $600 to deliver to them on July 15th. But on July 1st, six other guys, E through J, each give him $100, and their return, $900, isn't due until August 15th. So when July 15th rolls around, Mr. Ponzi gives A through D the $600 E through J gave him, and by the time he owes E through J their $900, at least nine other marks have appeared to kick in their $100 each.

Now assuming nothing is being earned by Ponzi with the money while he holds it (which was certainly true in Ponzi's own case), then the wealth matrix is as closed as a chain letter's. And sooner or later the operator will run out of new marks with new contributions of capital. But assuming that the magical moment of increasing velocity is reached, *information* about this marvelous scheme travels from friend to group of friends to *their* groups of only partly overlapping friends just like the money in a chain-letter pyramid. Most of the money itself, however, surges in and out of Ponzi's hands (after a few days Ponzi had to start stuffing it in bushel baskets and waste-paper cans), becoming a hugely greater sum with each oscillation. And this momentum is accelerated by the tendency of satisfied customers immediately to reinvest their pay-offs. At some point, as the theory of the game has it, Mr. Ponzi is supposed to inhale the latest and largest surge and disappear.

Given the exhilarating immediacy of these actual pay-outs, with real money coming into the hands of real people, it is possible in running a successful Ponzi never even to attempt to answer the fundamental question, *where is all the money coming from?* Or rather, it is possible for the Ponzi operator to make himself the answer: "Trust me; I've done it up to now and will continue to do it." For a time, I suppose, that might be sufficient, because it *is* buttressed by an accurate perception about the nature of every bubble: *if* the momentum does continue the marks *will* make money. But as the play goes on, it becomes increasingly apparent that the operator's need for cash is rising geometrically, and the more cash is involved, the greater the need is. It becomes more and more chancy that at your level of the pyramid there is room below you for still another level of investors on whose money you can get your hands. Thus it is almost invariably the case that some wealth-producing mechanism will have to be supplied by the Ponzi operator to explain how he can do it. Eventually he will have to (and thus he usually will do so from the beginning) indicate a source of wealth other than the later investors themselves. That mechanism need not be very plausible upon reflection (indeed, as we shall see, it *cannot* be), but it must be possible, publicizable, and complicated. The trouble is that while it is almost impossible to run a black-box Ponzi (that is, one with no explanation at all), a white box (fully disclosing one's actual earnings device) would also be fatal. One needs, as the heart of any successful Ponzi, a very peculiar gray box.

Look at the problem. The mechanism that is ostensibly to produce the conman's (and the marks') wealth must be an apparent source of huge profits with some stability over time. That kind of wealth, however, is a violation of normal "thermodynamic" expectations about the real world. It can exist only as a creature of

God, chance, illicitness, monopoly, or some other (if there is any other) instance of relatively stable gross competitive disequilibrium. But in the Ponzi, God, by and large, is out. That doesn't mean that a Ponzi with a mysterious God in the gray box is theoretically impossible. I think someone might come up with such a gimmick, perhaps one involving very expensive candles conducive to salvation. But God is out for any Ponzi seeking to tap the secular-mark market.

Chance is also out. Or rather it is, on the contrary, central to any Ponzi, but usually insufficient unless buttressed by something *in addition to* the aleatory factors which underlie the play. However much is added to the success of any Ponzi by the marks' sometimes subliminal, sometimes smirkingly knowing, appreciation of the value of pyramids to those high enough on their sides, it is just not enough. Somewhere there must be an assertion of a source for all this wealth other than the contributions of other marks.

But as already noted, the central mechanism of the Prisoner, the Psst Buddy, the Pay-Off, and so on—the conman's asserted possession of a monopoly which is both the product and the cause of illegality or at least illicitness—is also unavailable to the Ponzi operator. That type of cornucopia makes no sense unless it remains a secret, while the Ponzi is bunco gone retail. It must depend for its profitability not on one big score, but on a gigantic number of smaller ones. Its mechanism has to be hawked publicly, and there is no such thing as a public secret. To run a Ponzi you must abandon clandestineness, but that is very costly to the success of any swindle, for clandestineness contributes the credibility of two critical factors. First, it "explains" the possibility of great wealth to be shared; one always has what is, to say the least, a competitive advantage if one has no competitors in a particular business, and if no one else knows there is such a business, then one has no competitors. As long as the secret is kept, one has stable monopoly profits. Second, the clandestineness contributes to the creation of the *mark's* wealth, what he is "given" to trade back so that his share of the monopoly profits need not appear, unconvincingly, as a gift. Since the conman cannot appear to peddle his secret promiscuously, anyone in on it has his own near-monopoly to be traded and traded on.

Thus the Ponzi operator has to try to come up with a mechanism which is neither secret nor crooked, which nonetheless assures huge profits not subject to competitive erosion, and which, moreover, explains the conman's willingness to share so generously with marks who seem not to form an artificially restricted (and therefore valuable) class of partners/buyers/investors.

Obviously, coming up with a device meeting those specifications is exceedingly difficult, and that alone pretty much explains the comparative rarity of big Ponzis. Ponzi himself succeeded only for a short while; once his coupon mechanism reached the light of bankerish day it was blown to bits, and him with it. This sweet problem, however, can be and occasionally has been solved, and it is extraordinarily interesting to examine the form of those solutions. For not only are they monuments to human ingenuity operating within very severe creative restraints, but they have a wider applicability; as we shall see, some of these Ponzi-problem solutions have analogues among "normal" selling and advertising techniques. After all, every seller has to convince buyers that (a) he can give them a bargain; and (b) he is well motivated, in terms of his own self-interest, to do so. What leads the Ponzi operator to the moves described below leads the ordinary seller to, among other things, hold clearance sales, and market bourbon and beer said to be made from the waters of particular springs. Thus it becomes especially instructive to ponder what alternatives to secrecy-based cornucopia have been embedded in public bunco plays like the Ponzi, for cognates to these moves will be seen in "ordinary" salesmanship, and will help to illuminate its workings.

There is one form of very stable gross competitive advantage capable of generating huge profits immensely out of line with normal investment returns: stable monopoly. Ordinarily, however, one cannot assert a monopoly as the core mechanism of any public business proposition, because, by and large, monopolies are either illegal or, when they are not, are so highly regulated as to eliminate profits grossly out of line with normal expectations. Thus one cannot very credibly embed a conspiratorial agreement not to compete into a Ponzi. What the marks hear, so too will the Feds, notably the antitrust divisions of the Federal Trade Commission and the Justice Department. It's not just that they are likely to move to break up the arrangement when they learn of it (thereby making the profit disequilibrium anything but stable). It's more that few will believe the public trumpeting of a felony, no matter how lucrative.

Nor is it particularly easy to run a lip-smacking Ponzi around a lawful monopoly like, say, Consolidated Edison. The latter does

have an electric power monopoly in a pretty good market, and the news that it does would not come as a shock to any governmental authorities. But, alas, the very openness of Con Ed's monopoly and others like it has already been the source of its undoing: in return for not having competitors, sanctioned monopolies have to put up with close regulation, most notably and particularly governmental procedures designed specifically to keep them from charging monopoly prices for monopolistically restricted production. That is, they can be monopolists only so long as they don't act like them. They are entitled to only "a fair return on investment," and a "fair return" is not the sort of return upon which attractive Ponzis are built.

But "monopoly" is nonetheless a magic word. *If* one could get one in the production or distribution of an article subject to great popular demand, especially if the demand were such that increases in the article's price would tend to be put up with because the only alternative was "going without" (that is, if the demand were relatively inelastic), then there *could* be extraordinary money in it. Thus "monopoly" will tend *to* prick up the ears of potential marks—even if, without further explanation, it is unlikely to satisfy whatever brain lies between them. And there is, after all, at least one situation in which even a government-sanctioned monopoly can pay off big: if, when granting the monopoly, the government misjudged the price to charge the grantee and thereby failed to take most of the monopoly surplus for itself (or its citizens), and as part of the grant also failed to insist upon rate regulation, then the holder of the monopoly would indeed have a much larger than normal rate of return when he exploited his grant.

It is thus no accident (as any jolly Marxist would put it) that many of the great historic bubbles had royal monopolies at their core. The South Seas, for example, and the Mississippi, involved royal patents to explore and plunder, with a cut to the crown, mysterious places of possibly vast, or at least vastly possible, wealth. Judging from contemporary sources, the message gotten across was that the Crown had failed to appreciate just how much wealth there was, and hadn't charged enough for the razing license. The rumor mongers had merely to emphasize the darkness of the continents involved (Who knows what's there?) and the amount of potential riches in so gigantic an area, and then let the chain of escalating speculative sales take their course. For behind it all was this understanding: if the wealth was there, it belonged to, and only to, the honorable adventurers who held the monopoly, shares in which were being sold. Unless the Crown reneged, the shareholders had only partners, and not competitors.

Nor were the great bubbles the only historic Ponzis with lawful-monopoly cores. One of the most famous of all Ponzis, Ivar Kreuger's, used as its base wooden-match monopolies actually granted by European governments. Kreuger, a Swede, was born in 1880 into a family owning a substantial wooden-match manufacturing business. It really made matches, and a lot of them, and Ivar inherited. During the 1920s Kreuger embarked on an aggressive campaign of expansion and acquisition. By 1928, he controlled over half of the world's wooden-match manufacturing capacity. But the heart of his business (and of its attractiveness to investors) was not the quality of his matches or his marketing; it was, instead, that Kreuger would acquire monopolies in the manufacture and sale of matches from European governments, usually in exchange for long-term loans to be supplied (ordinarily) by American investors. Even after the 1929 crash, for example, Kreuger was granted the German match monopoly in exchange for a loan of 125 million United States dollars.

Now note: (1) his monopolies were in matches, i.e., items of great ubiquity with respect to which demand was relatively inelastic; that is, people would pay quite a lot before being willing to do without them; (2) his monopoly was not an oddity; European states tended to monopolize (usually for the state itself) the manufacture and sale of cigarettes and matches; (3) since the monopoly was lawful and open, it could be hawked publicly; and (4) since the "payment" was in the form of long-term credits, it was not immediately obvious what the price paid for the monopoly was. This last factor made it less necessary for the public to face, immediately and crushingly, the fact that when something valuable (e.g., a monopoly) is sold, the price usually does not vary very much from its value.

Alas, the governments involved had in fact driven pretty good bargains for their monopolies. Relative inelasticity of demand notwithstanding, there was not all *that* much monopoly profit in the business. So Kreuger could continue his appearance of prosperity only by faking his assets, which he did principally by forging securities allegedly held in his corporate treasury. That was the only reason his Ponzi could go on as long as it did, which, depending on when you start counting, was as long as ten years; he met his

demands for payments and loans in the equivalent of counterfeit money. But by 1932 the demand for cash outstripped even the supply he could credibly counterfeit. At that point Kreuger removed the hat in which, by legend, he kept all his business papers, and put a bullet in the head underneath. It took twice as long as Kreuger's Ponzi had run to unravel who got to lose what proportion of the more than 200 million dollars he had recirculated during his play. But from my point of view, that of a consumer and savorer of bunco variations, he had at least done this (for which I can forgive him even the crudeness of forgery and counterfeiting): he had conclusively illustrated the viability of a lawful, advertisable monopoly as the gray box of a Ponzi.

Lacking a genuine, government-sanctioned monopoly, however, Ponzi operators must always, to some extent, fall back on secrecy as the source of their extraordinary promised profit. Thus the usual gray box is filled with what one might call a "divisible secret"—that is, one enough of which can be told openly to convince the relevant public that something valuable exists, but enough of which can simultaneously be held back as to make the open part of the secret unstealable by any competitor. In the very recently played Home-Stake Production Company version of the Ponzi, for example, one which may have involved as much as 130 million dollars, the embedded mechanism was a very-complicated but plausible tax avoidance scheme. But any discovery (as of a gold mine) or invention (as of a new nonpolluting engine) is popular for this purpose. Indeed, half the new-issue ventures in any raging bull market, which is the locus of most modern Ponzis, involve companies with quasi-secret properties or processes. If you show some gold bricks the marks may believe in the mine, even though you naturally don't show them where it is. For even if you've filed a claim, you don't want the price of surrounding land to go up, now do you? And a phony public "test" of your new engine will go some way toward getting "investors," even if, as you are quick to tell them, you don't want to blow the whole thing to competitors by handing out blueprints and specifications. It is almost touching, as a matter of fact, that that ultimate violation of the laws of thermodynamics, the perpetual-motion machine, still figures heavily in the category of Ponzi "inventions."

Judging from bunco history, however, it is not all that easy to come up with a mechanism that promises relatively durable extraordinary profits which will not be eliminated (because still "half-secret" or legally protected) by the very act of publicity necessary to solicit financial assistance in exploiting it. But even if one does come up with something—a convincing "secret process," for example—there is still the problem of justifying to the mark *his* generous split. For if you've got such a great asset, why not borrow at prime and keep all the goodies for yourself? It would be better (as a matter of technical consmanship) if one could come up with an independent ground, one other than their mere possession of some money, for *needing* a large number of marks (but not just anybody) who can be simultaneously convinced that they particularly need you. In our language, it would be nice to figure out how to drill a niche between the necessarily secretive two-party Prisoner and the unconvincingly open-ended *n*-party Ponzi.

All right then, here's the problem: how do you define a set large enough to justify a retail swindle—one with many relatively small contributors—which nonetheless embraces sufficiently less than "everyone" so that each member is "necessary," or at least relevant to the success of the purported money-making venture? Here's one answer: set up an "Ancient Estate" (sometimes called "Unclaimed Inheritance") swindle.

Ancient Estates

THE "ANCIENT ESTATE" is not, mind you, your uninteresting Tichborne Claimant or Boris Gudenov type of inheritance con, in which there is a real claim but an impersonated claimant. Such swindles are as productive of analytic ennui as counterfeiting and forgery. No, in the type involved here, the conman manufactures a claim, thereby manufacturing claimants, to whom he then sells his secret knowledge and managerial skills. In a representative version of this kind of swindle, the conman merely asserts that he has (actually, almost has) proof that some gigantic estate is in the wrong hands. If he can just get a little bit of funding from those persons in whose hands the property rightly belongs, he will be able to assure their title and make them inconceivably wealthy—taking for himself, he admits, a very large but thoroughly justified share for his own efforts on their behalf.

Consider, for example, a famous Ancient Estate played on a rather large scale as recently as the late twenties. The "estate" in that version was Trinity Church's vast real-estate holdings in lower Manhattan. The way the tale went, the property was owned in the mid-seventeenth century by one Anneke Jans Bogardus. She willed it to her children, they conveyed it to a Colonel Francis Lovelace, he conveyed it to the British crown, and Queen Anne, in 1705, granted it to Trinity Church. But, claimed Willis T. Gridley, the conman-in-charge, the conveyance from Anneke Bogardus's heirs to Lovelace was defective, in that all of her heirs had not joined in it. Thus the property really belonged still to Anneke's heirs, and it was on this basis that Gridley—before going to jail for five years for mail fraud—managed to extract at least fifty dollars apiece from at least three thousand of those "heirs."

Now in the Bogardus Ancient Estate the value of the property was only about one hundred million dollars. Another version, also played in the twenties, involved the estate of Sir Francis Drake which, according to Oscar M. Hartzell, who ran the bunco, was wrongly conveyed after his death to Elizabeth I, and had now grown, what with interest and all, to about twenty-two billion dollars. But it is not the size of the boodle that is significant; it is the reason it must be so large: to accommodate the desires of a very large but determinate set of secret sharers. If the conman can convince any mark that he is one of the rightful heirs, and hence that any recovery must be on his behalf (the reason the "Ancient" is in "Ancient Estate" is to assure that almost everybody is, more or less, at least possibly one of the heirs), it makes perfect economic sense for the mark to contribute to the claim chest.

But that's only the half of it. The mark's heirship doesn't just grease the logical slide under his cash; it provides, in this mass-market congame, the strongest element in the Spanish Prisoner, the symbiosis of necessity between the conman and the marks. For while the conman has the organization and the proofs, the claimants are the claimants, and no one can replace them. If he wins he wins for them, and he gets nothing unless they cut him in. Once again they need each other: he needs all forty-thousand of them and all of them need him.

Now this is a nice move, and the Ancient Estate swindle has, I suspect, by no means faded away. So far as I know, neither the Bogardus Estate nor the Drake Estate nor anything else on that big

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a scale is currently being worked; but one should not mistake the play because the sets are changed. After all, at the heart of every Ancient Estate is just a legal claim for a vast amount vested in a large number of people. In the Ancient Estate that legal claim is one of legal right to property by inheritance. But in theory any claim would do, so long as it produced a large enough number of claimants to satisfy the conman and a large enough potential recovery to satisfy the marks. Thus if I were to look for a modern Ancient Estate, I would look not for inheritance claims but for actions on behalf of other large but determinate classes, the principle of class formation being a common injury (for a suit in tort), a common contract breach, or some common entitlement under some wide-ranging statute (some antipollution law, for example). That is, I would look for an example of that generally beneficent modern legal development, the class-action suit on behalf of some large class of injured claimants, all coordinated by a conman with a law degree.

I have not looked. So far as I know, all recent, present, and proposed consumer and environmentalist class actions are what they purport to be: innovative legal attempts to gain legal redress for large classes of people with real injuries. But what a temptation. How easy it would be to sell, at very low per-unit prices, a share in, say, a suit against General Motors for violation of something or other on behalf of all buyers of, say, Chevrolets during the last ten years. How much could one get in litigation expense contributions from a mark list made up of ten million legally aggrieved people, each preselected to be rich enough to own a car? And how nice it would be if, in addition to living well off the war chest during the ten years of case pendency, one could, at the end, get a nice chunk of any settlement for oneself. Again, I have no knowledge that any such twisted use of class-action procedures has ever yet been made. But I will wager this: it will be.

For the form of the Ancient Estate variation on the Ponzi, with its creation and then use of a large but not infinite class of public marks who have some *necessary* place in the gray-box scheme, seems to be an important natural form for any mass movement to take. Consider, for example, the movement among Mexican Americans in the Southwest associated with Reyes Tijerina. In bare outline, the premise of the operation is that the present owners

of much of the land in that area, for the most part "Anglos," hold their tenures under defective titles, and that the land "really" belongs to the unlanded Mexican Americans. It is therefore in the interest of these dispossessed people to support Tijerina while he seeks to have their rightful inheritance confirmed. But, as in any irredentist movement, the leader also needs this large but determinate group of claimants, for it is their claim he is pressing, on *their* behalf. Thus the *form* of any irredentist movement is the form of an Ancient Estate dodge: the leader gathers the claimants into a force with which he hopes to press the claim successfully, taking as "payment" for his absolutely essential organizational skill and services whatever it is that leaders get out of leading, which might even include feelings of ethical and political rectitude.

Thus, in a perhaps rather bizarre fashion one can think of today's Northern Ireland and Middle East conflicts as considerably more nastily financed and operated Ancient Estates, with the national bliss assertedly at the end of the liberation process as the vastly valuable boodle to be divvied up among the true believers. Even the Melanesian "Cargo Cults," quasi religions the central tenet of which is that the World War II GIs will someday return, bearing once again the magical bounty of western consumables and gadgets to be divided among the natives, seem to have the same basic form. Compared to, say, Northern Ireland or Palestine, the only difference is that the cargo-cult pay-off, by being concretized into consumer goods, rather parodies the more etherial joys of cultural reunification promised at the end of the irredentist bloodlettings.

Having said all this, I must add the cautionary note that two things with the same form are not necessarily the same thing. The Tijerina, Irish, and Palestinian movements are not "swindles" just because they share important structural components with the Ancient Estate congame. If they differ in no other way, they differ in that their leaders seem to be genuinely interested in pressing their followers' claims, not in enriching themselves at their followers' expense. All of these irredentist movements, whatever their methodological failings, are genuine political movements. Indeed, while they might all profit (at least in terms of conserving the lives of innocents) from the cynical detachment of a conman coordinator, their central vice is not hypocracy.

The Momentum of the Openly Chosen

WHY THIS ATTRACTIVENESS, even in non-Bunco, indeed noncommercial, contexts of the Ponzi–Ancient Estate format? It seems to be this: once one of these open retail-consumption congames gets off the ground, the very massness of the operation, the very fact that many marks are publicly involved and by their own choice, seems to generate powerful forces of continuance—at least for a time. The precise mechanism of this mysterious momentum seems exceedingly complex; but some things can, I think, be said about it which are useful in approaching an understanding not only of congames but of modern mass merchandising as well. For there does seem to come a point at which the conman/seller's reinjection of additional selling energy per unit of response can radically decrease, so that the curve of expansion begins to look like an atomic pile's sustained-reaction graph. Implicated in this process are not only congame desiderata like the acceleration of new investors in a true Ponzi, but also things like brand loyalty and the advertising designed to build and sustain it. What, then, can one say about this process of mass public commitment?

Let us examine the roles the marks in a Ponzi play *for each other*. For as each mark in a Ponzi is a coactor with each of the others in the conman's play (since that performance has abandoned secrecy as a central plot element), each of the players is simultaneously each other's audience as well. This has very pretty consequences.

First, as a matter of economic rationality, if the mass of marks make up each individual mark's audience, then they constitute his pool of potential customers as well. If all those other guys are believers (and by having initially joined they have necessarily proven that), then they form for him a pool of people more likely than the public at large to go on believing in the "product." This becomes, then, a rational source of economic security for each mark. That is, the operator's little gray box, that which purportedly produces the "company's" wealth, is neither the most direct nor the most important source of security for any "investor." The primary security for anyone who buys shares in anything is not the earnings but rather the likelihood that if and when he wants

out, someone will be there to buy him out. The buying out may be direct—as in a bubble, where the marks sell to each other, or in a Ponzi-type Ponzi, where they supply funds to the wheel-hub operator with which he can "redeem" the "investments." But what is important, as always, is not the value of the company but the value of the shares. And the value of the shares is solely a function of other people's desire for them.

But this same mass of marks has, in addition to its economic or marketplace significance, a psychological effect which also tends to retard the swiftness with which the bubble bursts or the pyramid crumbles. The marks are not just each other's present partners and future potential customers; as an *audience*, their mass mutual presence also validates for each of them his own participation in the scheme. If *all* those people believe in something, it can't be total twaddle, can it? I may not be able to really understand match monopolies, or international postal reply coupons, or perpetual-motion machines, but surely some or all of those others must understand, and they certainly seem to believe. There must be something in it, because they are risking their money too. That is, not only do the other marks ensure the value of your own "securities" by presumably being willing to buy them, but their already having bought their own "shares" testifies to the value of the ones you bought.

Thus the mechanism in any retail bunco play need not be sufficient to convince the mark of its gross profitability but need only convince him that it has convinced, and might continue to convince, others who do not understand it. Thus he can accept a scheme with slight surface plausibility which he finds he does not quite understand on the ground that others are also investing and they presumably must understand it better than he. (And indeed *some* do understand it very very well, but they are always careful to get out before the collapse point.) It is apparently inconceivable to the mark that everyone can be as dumb as he, and also cannot understand match monopolies, or international postal reply coupons, or corners in gold, because each of the marks validates his trust by the trust of so many others.

If the Ponzi operator can manage to procure—corruptly, falsely, or through luck—the names of successful plungers or, at least, apparently sophisticated operators to associate themselves with the game, so much the better. That seems to have been the case in the Home-Stake Production Company story, which involved prominent lawyers, accountants, entertainers, and business executives whose participation was continually pointed out to potential participants. But such celebrity invoking seems not to be all that necessary; mere numbers will, at least for a reasonably lucrative time, be enough to fuel the necessary hysteria.

There is still a third factor at work in creating the surprising momentum of certain mass-market congames, which is also a partial function of openness and mass, but more precisely revolves around the *kind* of participant class that the typical gray box in a typical Ponzi creates. By and large, when the operator is (always tacitly) asked by the prospective investor why he is willing to give such a large return on investment—that is, why the operator needs him—the reply is always in the form: "But I don't need *you*. There's nothing special about who you are. I need *anyone* who has money to invest. You're just lucky to have been asked early in the game *and to believe in me*."

The point is that the gimmick in the Ponzi gray box cannot be presented in such a way that it would be convincing to everyone. If it were that clear and powerful, and could be so presented, it would defy understanding why so great a pay-off is being offered by the entrepreneur. Thus, every such mechanism must be not only believable but understandably *unbelievable* as well. That is, if it were perfectly clear that there was an inexhaustible diamond mine or a nonpolluting perpetual-motion machine in the sole control of the conman, he would not need to pay his "backers" much more than ordinary interest. Since, however, there are other reasons (detailed above) why he cannot yet make public his irrefutable proofs, some people will not believe. Those who *do* believe, now, when so many others do not, must be compensated for their greater faith (and superior prescience). In a Ponzi type of open operation, then, the mark's relative scarcity, and thus his value, lies not in anything as vulgarly pictorial as the stone walls and bars which seal the prisoner and his sure thing from other collaborators, but rather in a strongly asserted psychological differentiation: the world is made up of believers and skeptics, and the mark is one of the former.

But that means that, given the self-selection process at work in forming the participant class in mass-market cons, those who

join such mark pools are "believers," in a more general sense than that they happened to believe in this particular scheme. This seems (admittedly on the basis of scanty empirical support) to have great importance in determining their behavior during the period that their Ponzi is on and running. The members of an operative Ponzi seem to have a larger-than-usual complement of a common psychological impulse which may be called "commitment momentum." This tendency—which may be described as a psychological set on account of which it requires more energy to get out of a commitment than to get in—is peculiarly useful in retail buncos like Ponzis and Ancient Estates. (It is also, as we shall see, at the root of most advertising strategies.) For if you think about the running of these cons, what impulse in a Ponzi is the conman trying hardest to *dampen* during the run of the con? The impulse to "unbuy." Because of the form of these cons, the early marks must be strung along for a considerable period of time if the conman is to build up a maximal score. During that early period the mark himself ordinarily can get out, and to the extent that marks do so they become competitors of the conman in making the score. In effect, they become his true partners by taking down a partner's draw before the managing partner can abscond with all of the firm's assets. If, moreover, the mark in a Ponzi cashes in, he puts that much more pressure on the conman to come up with new marks from whom to get the funds to pay off that redemption. And every time a mark in a bubble sells out to a later mark, he uses up part of the geometrically decreasing mark pool available to the conman. Thus it is exceedingly important for a conman, once having sold a large number of marks on a scheme, to keep them sold. One must delay disillusion, for in the inertia of the participants lies the momentum of the game.

This is true, of course, in secret-based cons too, where huge amounts of dramatic energy go into keeping the mark's fantasy world alive and well. It is a common complaint among ropers that the worst part of a Big Con is having to live continuously with the mark and cope on short notice, at any odd hour, with his sudden, powerful, unpredictable seizures of doubt. The professionals in three-man closed cons deal with the problem face-to-face, keeping up the necessary *folie-à-trois* with art and energy. But it is in the mass cons that this perverse loyalty is most striking. Even after

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conviction, people like Ponzi and even the far less attractive Oscar Hartzell, who ran the bizarre Drake Estate swindle of the late twenties, found little trouble in continuing to raise very large sums of money from their "believers," even when they had to be addressed to them in jail. It appears that there is, in these cons, much more for the marks to lose than money. Oh sure, to lose the faith is finally to face up to the loss of the money with which that belief was implemented. But more vital, it seems, is the loss of self-esteem involved in admitting one's prior commitment to have been a laughable fraud. To devote oneself money and soul to a view of who one is and what one might become and then to discover that it was the willful creation of a cynical manipulator is apparently, for some people, almost unbearable. For the conmen frequently became heros to their followers. Ponzi was cheered wherever he went, and his followers wrote embarrassing eighteenth-century doggerel broadsides in and to his honor. To have felt and behaved like that and then to admit the truth must be as painful for a mark as it is for an eminent scientist to admit, finally, that phlogiston and the ether just don't exist. It is not easy, and for some people it is not possible, to face having made of one's life a farce.

This self-selection for gullibility on the part of the marks who fall for a public mass con seems to be only an intensification, however, of a very widespread mechanism. It appears that the tendency to delay acting upon, or even perceiving, one's earlier errors is so widespread as to have gotten separate notice, in separate vocabularies, in two different scholarly disciplines, economics and social psychology.

Among economists (and financial types in general), this tendency is called the Sunk Cost Fallacy. It works like this. Let us say that in 1974 you buy a stock at 100 on the expectation, or at least the hope, that by 1975 it will be at something like 200. But when 1975 rolls around, your stock is at 50. What do you do? Well, if you're sensible, you do whatever you do without reference to the stock's prior market history. For (except for the costs of unloading the old stock and buying something else, and perhaps with respect to certain tax considerations) *what you did in the past is irrelevant for your investment decisions about the future.* This would be true even if the old stock had gone up. The only relevant question you have to answer is where you can now put your money so as to get the best possible return. It is possible that hanging on to the old

stock will get you that, *but not simply because you already own it.* When you are searching for the best possible investment for the future, the investments you made in the past should have no special status, superior or inferior, in the universe of your opportunities.

Nor does this fact apply only to securities decisions. Consider this example. You are a widget manufacturer and yesterday you bought and paid $100,000 for a new widget stamper. It allows you to stamp out widgets at ten cents per unit. Today you learn that a new widget stamper, capable of producing widgets at five cents per unit, has just gone on the market, and it can also be bought for $100,000. Do you junk your brand new widget stamper, into which you have just sunk $100,000 cash? Ah, that's asking the wrong question. The question ought to be, "What investment decision ought I to make which will maximize the profits from my widget-stamping business?" It is probable that if the question is asked that way, the answer will be that you indeed ought to spend another $100,000 for the newer stamper. True, by doing so you will "lose" the $100,000 sunk cost of your just-bought, brand-new, undepreciated widget stamper. But the alternative, "using up" what you paid for before buying something else, will, in any reasonably competitive line of commerce, put you swiftly into bankruptcy. After all, it is not an awful lot of help to be able to make widgets if in order to sell them you have to price under your own cost. (Of course, if you can't buy the new machine, and the returns from staying in business with the old, inefficient one exceed the returns from the now-negligible resale value of the old machine and still cover your direct-cost outlays, you might stay in business with the old machine anyway, for you might still be doing better than you could under any available alternative. But buying the new one, if you can, is likely to be a better move.)

Now when these sunk-cost stories are told this starkly, it would seem that the wrong decision (in each case, sticking with one's initial decision) would be seen by any reasonably intelligent person to be obviously fallacious. One would expect that the "right" decision would generally be made. In fact, however, it seems that it is very frequently not made. One continually runs into people tenaciously unwilling to sell a dog of an investment in the hope that it will "come back." And it is not all that rare, I suspect, for even a businessman to hold on to a "paid-for" factor of production until he "uses it up," even though the maximizing decision would have him junk it early and replace it with something more efficient. It is, in fact, very much worth mentioning that the so-called "Peter Principle," that people in bureaucracies rise to the level in which they are inefficient and stay there, depends for its validity, if any, on the existence of some variant of the Sunk Cost Fallacy as applied to the central factor of "production" in bureaucratic organizations, people and their labor.

Nor is this profoundly conservative tendency to cleave to states of the world previously "invested in" limited to business decisions. One can leave the financial analysts behind and come upon another vocabulary in another discipline which seems to speak, or at least mutter, to pretty much the same point. This is social-psychology's concept of "cognitive dissonance."

The research and writing on cognitive dissonance theory is often subtle and elegant. For our purposes, however, we need not look at the concept in all of its theoretical and experimental richness. It will serve our present needs to oversimplify the basic idea to this: after a man has committed himself to a particular course of action, especially if making the decision was important enough to have filled him with great stress when he made it, he will tend to suppress (to the point that he will not even perceive) any information which would tend to indicate to him that he made a mistake, and he will tend to seek out (to the point of inventing) data supportive of the decision he made.

As I just pointed out, much of the research and writing on the suppression of cognitive dissonance is remarkably subtle and intelligent, and no one sensible in the field would argue that the impulse to protect the rightness of one's prior decisions is universal, or strikes all people with equal intensity even with respect to essentially identical decisions. Indeed, there seem to be some people who *seek out* proof of prior error, apparently reveling in feelings of inadequacy. The consciousness of having once again been taken, just as expected, by still another "other" (or, preferably, conspiracy of others) is, apparently, sometimes sweet.

Nonetheless, it does seem as if "patsy" is an extraordinarily unattractive self-image for most people. When a used car turns out to have a nontransmitting transmission, or brakes about as gripping as a true-life adventure of Fort Wayne, Indiana, there appears to be

a tendency to be loyal to the lemon, suppressing even the *consciousness* of its sourness rather than facing having been taken in the original deal. Certainly that applies to strong, stress-filled political and economic commitments. Many (though hardly all) American Stalinists seem to have in this way survived the disclosures of Ribbentrop in 1939 and of Khrushchev thereafter. Certainly a shocking number of American politicians thus suppressed consciousness of the disasterousness of the country's Vietnam adventure. And in personal affairs there are most likely more cuckolds than Othellos, people who find it easier to smother their suspicions than their suspected.

In any event, whatever the strength and extent of this particular social-psychological mechanism in the various contexts in which one would expect it to operate, it seems to exist to a fare-thee-ill among the victims of bunco games, especially of the mass-retail variety. Though there are notable exceptions (a rancher named Norfleet, taken for $100,000 or so on a Big Con, spent a roughly equal sum chasing down the conmen—and then wrote a book about it), it is agreed among all observers that, by and large, fleeced marks go home nice and quiet. That, of course, could be understandable as an attempt to avoid the obloquy and shame of public exposure. What is more to the point is the "clinically common" experience (reported by all conmen) of not being able to blow off the mark *because he wants another play.* That is, the mark isn't merely avoiding the consequences of facing his rip-off; he cannot even bring himself to see himself as a rippee. Thus it is explicable that mass-market cons, however grotesque they might appear in the cold light of a retrospective view, can have a run, and sometimes an extended one, once they get underway. The social-psychological tendencies they tap are apparently deep and pervasive. We shall meet them again when we consider things like brand-name loyalty in "normal" merchandising.

Crude, Ponzi-like mass cons, however, even when modified into something like Ancient Estate plays, retain several serious weaknesses which together pretty much assure their ultimate failure. (Ponzi, after all, went to jail, and Kreuger, by his own hand, went to his reward.) These all stem from the necessary peculiarity of what has to be put into the gray box to make the game begin. Ancient estates, match monopolies, arbitrages in postal coupons, mysterious inventions, quasi-secret gold strikes—all of these are economic rarities, bordering on the incredible. And they have to be. How else could one promise huge pay-offs on significant investments by a vast number of takers as the result of some publicly acknowledged gimmick? If the gray box were opened to disclose, say, a grocery store, or even a steel mill, it is hardly likely that one could on that basis induce the requisite investment hysteria. People know, by and large, what ordinary business returns are.

But what if one could devise a play which was basically a Ponzi, but in the heart of which was nothing as exquisite as a perpetual-motion machine, but only down-to-earth things like salesmanship and advertising? And what if the pay-offs predicated on that mechanism could be so shaped as to give a highly attractive return to the "investor" even if it were, in absolute dollars, small? Suppose, for example, you could promise each mark an essentially *infinite* return by giving him a modest but not trivial return on what seemed to be *no investment at all*. If you could design such a gorgeous mechanism, you would have, if it were well run and cunningly exploited, a most lucrative congame. It would be widely played, extensively accepted, and (because of its closeness to "legitimate" business) relatively durable against legal and regulatory erosion. If you could do all that, you would make a fortune. Some people did.

The Referral and the Pyramid

TO OBSERVE this development, and begin to place its mechanics into the stream of "normal" salesmanship, let us get back to that Marvin Sonnenlieb whose sad career précis began this work. It was not until 1966, quite late in the development of his fiddle, that I first ran into Sonnenlieb. (That, by the way, is not his real name, which I have suppressed more out of pity than from fear of litigation. Of course, considering what happened to him between 1962 and 1969, I doubt that he still has the same name he had then; I only hope that when he came to change it he didn't pick Sonnenlieb.) He and I met, as it happens, in volume 275 of the New York Miscellaneous Reports (Second), more particularly in the narrow corridor between pages 303 and 330. There appeared there

a rather detailed description of an elaborate action by the Attorney General of the State of New York which sought to bring Sonnenlieb's business to a halt on the ground (backed up by pertinent reference to a startling number of New York statutes) that it was at least a quashable outrage and perhaps a criminal fraud. Once the annoyance of the People of the State of New York, incarnate in their Attorney General, had gone so far as to thrust Sonnenlieb against his will into that particular straitened passage in Misc. 2d, it was unavoidable that we should meet. As a Professor of Law specializing in the law of consumer protection (such of it, at any rate, as there then was), part of my job involved walking just that beat.

I should mention that I conceived an immediate fondness for Sonnenlieb, albeit of a rather special kind. What I experienced, I think, was that peculiar warmth one feels toward anyone who, like a five-year-old with his first prepared lie, carries out one of the complex strategies of living with such transparent crudity as to expose, for the first time, the pure, basic structure of something usually hidden by a mantle of sophistication. Sonnenlieb's swindle, so much more gross and obvious than most, went like this. After earlier career ventures into law and pub-tending, Sonnenlieb was, at the time the Pauline illumination which was to change his life struck him (in his case, apparently, on the road to Indianapolis), engaged in so-called "direct selling" of "vacuum cleaner systems" under a dealership from their manufacturer (which we'll call "Pullaire Products"). Now "direct selling" means, more or less, door-to-door selling, which in the case of vacuum cleaners is already part of American folklore. And the "system" part of "vacuum cleaner system" means that instead of getting what is in effect a box with an inhaling motor in it which one has to drag from room to room, the buyer gets a vacuum outlet in each room to which the cleaning attachments may be directly connected; flip the master switch and your hauling days are over.

For all I know, at least for some people vacuum cleaner systems are well worth their price, and "direct" is a sensible way to buy them. But that price is high (Sonnenlieb's Pullaires were, ten years ago, about $800 each), and door-to-door is a tough selling scene. Since you are not, like a storekeeper, necessarily dealing with people who, by showing up at your shop, indicate that they are interested in buying, you hit an enormous number of totally "dead"

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prospects. And since you are going to them, you expend a huge amount of time and labor (i.e., money) reaching the very few "live" ones you do find. Thus you must make a very large profit per sale to make any money at all; but the higher you set your price, the stronger the customer resistance.

While Sonnenlieb seems to have been making do door-to-dooring Pullaires, his wealth was still well below his dreams of avarice. Then, some time in 1962, apparently as the result of research visits to Norfolk and Indianapolis, where the con was then in operation, Sonnenlieb discovered the "Referral Sale." Pursuant to this new dodge (in surface appearance if not in basic structure a technological breakthrough in crooked merchandising), Sonnenlieb was able vastly to increase his profits while changing neither his product nor his sales locus. For the referral device enabled him to make one critical change in his sales presentation: whereas in the past he could offer his customers a vacuum system for $800, now he could offer it to them absolutely free. How?

I'm glad you asked me that question. You say you can't afford it. You say you've got a mortgage on the house and payments on the car and your little girl is having her teeth straightened by an orthodontist who is also a compulsive gambler. You say your cat is in analysis? Say no more. Because this isn't going to cost you a penny. I'm not selling you anything. What I'm going to do is I'm going to enroll you in our advertising promotion plan.

You've seen advertising on television, in big picture magazines? Sure you have. You know how much that costs? Thousands. Millions. But we've found out that the best advertising is word of mouth. Yes sir, plain old word of mouth from one satisfied user to his friends. If you heard from someone you knew that something he got was good, really did the job, delivered everything it promised and more, you'd want it too, right? Of course you would. Well that's our marketing plan. We will put this beautiful Pullaire Central Vacuum System in your home. For every person you recommend to the company who also joins our plan we will pay you a commission, $50 for each of the first five, $100 for each after that. Why, you'll more than earn your own central system if only ten people, that's right only ten people, join our plan.

You're still worried? You're afraid you don't know ten people like that, people who are ready, willing, and able to spend the money for even a fantastic product like the Pullaire? But you don't understand. We're not selling it to them either. We're going to give them an opportunity to join up too, just like you. They're going to get the same incredible opportunity to get their own Pullaire system absolutely free, in exchange for their helping us in our advertising promotion plan. Why, with an offer like that I'll bet six or even seven or eight out of every ten names you give us will end up joining.

Ah, I see you got the idea. Some people have trouble understanding new ideas like this. Just sign right here and we can get down to work together. Sign right here. That's it. Thaaat's it. Thank you very much; you won't be sorry.

Now that, of course, is just a very compressed, general form of the Referral pitch. It bears roughly the same relation to the pitch as actually delivered as choreographic notation bears to dance. Even the tone is most likely somewhat off; mine, notice, hovers on the edge of self-conscious parody, and that is a very unlikely slip for old-pro door-to-doorers to make. But if one can judge from the considerably longer pitch outlines Sonnenlieb provided to his salesmen and the recollections of marks (both, in this case, preserved in the transcripts of Sonnenlieb's various trials), whatever embellishments the salesman added, none of them ever altered the basic pitch: to wit, the mark was merely signing on as "representative" of an "advertising promotion company," in which status he would, by recruiting other "representatives" for the company, earn "commissions" or "rebates" at least sufficient to make his acquisition of goods absolutely free.

In other words, while the *reality* of the deal was that, at the moment of signing, the consumer had just bought himself something for from five hundred to fifteen hundred dollars (Sonnenlieb's prices and products varied over time), the *appearance* of the deal was that the seller and the consumer had just entered into a cooperative joint venture, beneficial to both of them—and at no third party's obvious expense. The most magical possible moment in the economic universe had, at least in appearance, once again been achieved: something had come out of nothing and was there for the sharing.

The mark, in this type of play, thus appears to get something "free." The basis of that apparent gratuitousness is actually two-

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fold, however, and it will prove useful to separate the strands. The first sense in which the customer pays nothing is that he never turns over any substantial amount of cash (or even writes any large check) at the time the deal is closed. *All he has to do is sign a note,* that is, make a promise to pay in the future.

This particular development, this way of creating through sociolegal technology an appearance of getting something for nothing, well antedates Referral Selling. It is, in fact, the development of negotiable promissory notes in consumer transactions that made big-ticket (i.e. expensive-item) door-to-door selling, even honest door-to-door selling, at all economically feasible. It will take a small excursion into the arcania of commercial law to see how this techno-legal device works.

The negotiable promissory note, along with its most important correlate, the holder-in-due-course doctrine, is, as these things go, ancient in the law, dating from at least the eighteenth century in England (and most likely earlier on the Continent). Put legally, succinctly, and unintelligibly, the heart of the matter (also known as the cream of the jest) is this: the holder in due course of a negotiable promissory note takes that note free of (substantially) all defenses against its payment which the maker of the note might have. What that means in practical fact can best be seen in the context of one of the everyday dramas of commerce.

Let us say that Nadir Notions Corporation wants to buy ten thousand widgets from Acme Widgets, Inc., at one dollar a widget. Nadir could obviously pay the price in cash, either before or at the time of delivery. Or it could just say, "Bill me," and, if Acme were agreeable, sometime after getting the goods and the bill (maybe thirty days, maybe ninety—whatever the understanding is) it could draw a check and pay. But Nadir and Acme can also handle the matter of payment another way. Instead of handing over cash or a check, Nadir could instead—before, while, or after getting the goods—deliver to Acme a signed piece of paper reading something like this: "Ninety days from date, Nadir Notions, Inc., promises to pay to Acme Widgets, Inc., or order, the sum of $10,000.00, with interest at the rate of 6% per annum."

Let us assume that Acme, having gotten this piece of paper, doesn't want to wait ninety days for its money. It can go to Perigee National Bank (or anyone else with idle cash) and "negotiate" Nadir's note (which means little more than sign the back of it and

hand it over). Perigee will, in effect, have bought the note from Acme, usually at some discount from the face value to compensate it for the risk of Nadir's eventually not being able to pay. Then, when the time comes, Nadir is supposed to pay the bank instead of Acme. Assuming that the bank, at the time the note was negotiated to it, had no actual knowledge of any "infirmity in" or "defense to" the note, then, when the note falls due, Nadir must pay Perigee. No matter what was wrong with the widgets or the deal between Nadir and Acme, Nadir must pay the bank. More specifically, even if, among other horrors: (a) the widgets were never delivered (in law, "failure of consideration"); (b) they were delivered, but sculpted from cream cheese instead of the promised and expected vanadium steel ("breach of warranty"); or (c) they were purchased in reliance upon an intentionally and materially false statement of fact made by a crooked and sneaky Acme ("fraud"), *Nadir still must pay the bank.* Nadir will not even be allowed to tell in court any of those three gripping stories (chronicling the three most common defenses in sales law). *As against a holder in due course,* what the payee (seller) has done, his failure to perform, his defective performance, even his outright fraud, are all legally irrelevant. The *maker* of the note has to pay the *holder.*

Although the previous paragraph is hardly calculated to convince anyone of it, there is a place in the law for that kind of result. From the point of view of the bank, all it is doing is lending money, albeit indirectly, to the buyer Nadir. If Nadir's president had come into the bank to borrow, on behalf of the firm, ten thousand dollars, the bank would have loaned it or not, charging interest for this rental of its money and for the risk that when the time came Nadir would be unable to pay it back; but it would certainly not expect Nadir to argue that it was not obligated to repay *it* to the bank because it used the bank's ten thousand on a deal that didn't work out. It is entirely arguable that commerce flows more smoothly (and more inexpensively) if financial institutions need not concern themselves with the quality of transactions between the people who use their money. Fraud and nonperformance occur at the risks of the parties involved; they are in the business of knowing each other and the product. The bank takes over only one risk—insolvency of the borrower—and thus has no duty to learn anything about the honesty of those with whom their borrowers deal, or the quality of the things they sell.

Moreover, it is not as if Nadir is without remedy if its deal with Acme curdles. Even though Nadir must pay the bank "for" widgets never delivered, or grossly defective, or which it would not have bought at all but for a successful lie, that doesn't mean it has no recourse; it can, after all, on the basis of those facts successfully sue Acme and get back every penny it paid out. Nadir is no worse off (even if no better off) than if it had paid cash in the first place, its own cash or cash borrowed on its own from the bank.

This argument, that "it's no worse than paying cash," makes relatively good sense when it concerns deals between businessmen, who by and large know what they're doing. With respect to consumer transactions in general, however, it is sufficiently problematical to have led to an accelerating movement to abolish the holder-in-due-course doctrine in such transactions. And when it comes to sales of big-ticket items door-to-door or in fly-by-night shlock houses, the holder-in-due-course doctrine becomes little more than an engine of clever oppression. For if "paying" by negotiable promissory note is "just like" paying cash in the eyes of the law, it is no such thing in the eyes of ordinary people.

This is true even if the signer more or less knows what he's doing; that is, if he understands, however remotely or subliminally, that if the deal blows up, a bank, of all things, is not likely to take the loss. But it is frequently the case that the marks don't even have that much to go on. It is one of the arts of sleazy salesmanship to make this puissant note just another item in a "stack signing":

> *Now if you'll just sign the participation agreement—thank you—and the advertising brochure receipt—that's it, right by the X mark—the Pledge of Allegiance to the flag—gooood—this thing here (hee hee), and the warranty card—fine. Welcome aboard.*

But even if that game is not played, or is played so badly that the mark actually knows he's signing a promise to pay later, this mortgaging of his future is still not for him even like signing a check; that, in law and life, is quite well recognized as an order to your banker instantly to deplete your checking account. And it feels even less like actually handing over a pile of real cash money.

For present purposes (that is, Sonnenlieb's and those of others like him), that power to make the customer fail to perceive that

the future is as costly as the present is critically important. It is most likely a necessary requirement for successfully pushing big-ticket sales—that is, for running a lucrative merchandise-based swindle. For with the help of the negotiable promissory note, and the holder-in-due-course doctrine which envelops it, any conman can transform this "Short Con" situation into a moderate-sized equivalent of a "Big Con."

Now, as noted earlier, the distinction between Short Cons and Big Cons is an important one for swindlers, with respect to both status and finances. In a Short Con, the mark is played for whatever he has on him. If, for example, you play the Smack with a mark, you can match with him only for what he happened to have in his pocket, and that's the maximum of your take. But in a Big Con (like the Pay-Off described earlier), the mark is "put on the send," that is, sent home to get a much larger sum of money, even if that involves liquidating property or investments, which he then brings back into the play. In order to effect *that*, the conmen must generate enough dramatic power to keep a fantasy going even during intermissions. As we have seen, that takes quite a play—skilled "professional" actors to portray both principals and walk-ons, realistic sets, the slow unfolding of foreshadowing subplots—a mass of dramaturgical creativity and coordination.

In a game like Sonnenlieb's, however, any such play is inconceivable. The mark has to be roped, tied, and taken without loss of contact. A bare promise to pay would hardly do, even if you could get that far. Once the mark woke up, which he might do as soon as the spell cast by the door-to-door wizard left with him, and which he certainly would do once he found out how hard it was to get his "commissions," it would be impossible to collect much on the promise. Indeed, much door-to-door salesmanship depends on a "You must sign now—this is your last chance" pitch. For the economics of no business allows sale-and-lawsuit as the normal mode of payment, and that is certainly true of sales of shoddy goods at inflated prices brought about by good, old-fashioned, common-law fraud. Given the nature of Sonnenlieb's business, the last place he next wanted to meet his marks was in a court before an apoplectic judge.

But the negotiable promissory note, together with its partner, the holder-in-due-course doctrine, means that, for almost all of the conman's practical purposes, it is as if the mark had at home, with him, not only all his present wealth, *but all his future earning power as well.* For that is what is available to any holder in due course when the note is not voluntarily paid off. In this respect, the promissory-note route is even better than the normal Big Con "send," for no conman playing a Big Con has ever found a way to get at the present value of the mark's future earnings. The operative fact, then, is this: since conmen understand holder-in-due-course doctrine, and marks, by and large, do not, the conman knows that the mark has an available treasure—his incautiously given signature—and the mark does not.

But necessary as it may be, it is not sufficient merely to get things sold against a note (rather than actual payment); that indeed makes the deal feasible for the mark, but it does not necessarily make it attractive. One can buy that way, but one *will* buy, that way or any other way, only if the deal is otherwise attractive. *That* convincing remains to be done, and that is the second sense in which the customer in a Referral Sale appears to get something for nothing. And in the context of this study, this second sense is considerably more interesting. It is not just that the mark does not strongly perceive what he is instantly and quite irrevocably giving away when he hands over his written, negotiable promise, but that he does not even expect that finally, when the whole transaction comes to rest, he will be out of pocket anything of value to himself.

The central problem in the Referral Sale, as in any other congame, is to explain to the mark why and how the conman will be enriched by a transfer from the mark, while that same transfer will not make the mark poorer. In the Sonnenlieb type of Referral game, this problem of creating this apparent equivalence of eventual exchange was particularly difficult to solve. For what Sonnenlieb had to give was hardly problematic. He had a central vacuum cleaner system (and, later, a quartz broiler and a stereo-color television combination). Though these articles were overpriced and misrepresented (and, at least in the case of the broiler, lousy), they were still *things* of value, things the mark could see and touch and which he, in fact, would actually get. Indeed, once it was established (1) that "payment" was not going to occasion any outpouring of cash, or even the dread signing of a check; and (2) that under the proposed deal the mark was to earn more than enough to cover his future payments by turning in his friends, then the

higher the price the better the deal looked. After all, wasn't it better to be getting a $500 quartz broiler free than a $75 one?

Thus, what Sonnenlieb was giving was no problem. The problem for Sonnenlieb was not creating out of nothing something in *his* hands worth having, but rather creating something of value *in the hands of the mark.* For if he could not succeed in doing that, it would be impossible to deflect the marks' attention from what was in fact the case: that what they had that he wanted was money. That perception would be fatal, for money was too valuable to most of Sonnenlieb's victims for them to give it away (at least in those amounts) in exchange for vacuum cleaners, broilers, or TVs. Sonnenlieb had to convince them that they had something *else* which, though it had no great value to them, was so valuable to him that he would trade a whole central vacuum cleaner system for it. And what he found for them in the way of hidden wealth and put on their balance sheets for them (most of his customers didn't even know that they had a balance sheet, let alone what was on it) was this asset: the greater likelihood that certain people would listen to a proposition which they endorsed over one which they did not. If that were on the books of a business corporation, it would be part of "Good Will" and would belong on the left (good) side of the balance sheet. After all, what "good will" means on a financial statement is nothing more than that the income statement is lovelier than one would have predicted just by looking at the balance sheet's list of assets and liabilities; Dr. Johnson perfectly, if inadvertently, defined it when, turning down what he considered a grossly insufficient offer for Mrs. Thrale's brewery, he said, "We are not here to sell a parcel of boilers and vats, but the possibility of growing rich, beyond the dreams of avarice."

In any event, the underlying structure of the pitch in Sonnenlieb's Referral Sale was this:

Look, I sell door-to-door. My product is marvelous, but it's very hard to get a foot in the door to make a sale in my business. Yet the number of sales I make and the cost of each are directly dependent on how many doors I can get through, and how receptive the people I find there are. With respect to some people, really quite a large number, their doors are open to you and to others whom you recommend. You are trusted by them. If you had

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a business, that trust would have an economic value, the difference between the likelihood of your making a sale to those people and a stranger's doing so.

Here's my proposition. You have good will, but it's of no value to you because you have no business to attach it to. I have no good will (in that sense), but I do have a business to which such a thing, if I had it, could be attached. Let's trade. You attach your good will to my business, and I'll attach this central vacuum cleaner system to your home.

The beauty of this pitch is, of course, that it happens, in a perverse sort of way, to be economically sound. That is, in *form* there is nothing irrational about it. The marks *did* have something to trade, and they did trade it, and it did benefit Sonnenlieb mightily. After all, it was *their* telephonic introductions which got his men in close to the other shearable sheep. The only thing wrong or untrue about the pitch is in the predicted *magnitudes:* no one's good will (in that sense) is worth eight hundred dollars. Most people's is worth, say, about $2.34, and thus most of that with which the marks would pay for their goods would still turn out to be money.

The secret of this overvaluation of good will is, naturally, the chain-letter pyramid artfully hidden underneath the Referral Sale facade. The mark's value to the scheme (and thus the value of his referrals to himself) is a function of the number of other marks he can bring into the scheme. But the value of each of *their* contributions is a function of the same thing—the number each of *them* can bring in. Thus, as in any pyramid gimmick, the mark's wealth depends on his position on the pyramid. If he were relatively low, there would be a vastly depleted pool below him, and each of those below him would find, available to each of them, an even more vastly depleted pool. If it were sensible for the higher mark to buy in, it would be much less sensible for anyone lower to do so in the hope that many more would still be available to join. But to buy in without such assurance (or hope) would be to buy a vacuum cleaner system for eight hundred dollars cash. The only way *everyone* could earn his Pullaire free would be for the chain to go to infinity, and infinity (except for mathematicians) doesn't exist.

But in the context in which a Sonnenlieb-type Referral Sale operates—door-to-door sales in relatively poor urban neighborhoods—there is even less reason for the good will ostensibly traded to have or earn the value assigned to it. While Sonnenlieb's operatives implied that each mark's good will was a monopoly asset, each mark in fact shared his good will with many other marks. That is, *his* friends and relations were likely also to be other marks' friends and relations, and friends and relations of each other. Thus it is likely that insofar as he used them as his contribution to the "advertising scheme," each of them would be using each other. Indeed, it was more than likely that he had already been used by one of them, and if that were true, others of his friends and relations were very likely to have already been "used up" too. Thus the vice of the Referral Sale is not just the general one of using a geometrically decreasing mark pool as an "asset" for a member thereof, but the even larger rate of depletion that overtakes small, local groups using their own acquaintances as the relevant subpool.

Despite this eventual insufficiency of the mark's contribution, it was still this redefinition and reification of the basic source of true economic profit—the partnership of two "production" factors rationally joined—which made the play go. Sonnenlieb had the business; the mark had "good will." Put the good will into the business and they both could share the profits. The good will may appear to have been acquired by Sonnenlieb at bargain rates (for instance a broiler). But it was an even bigger bargain for the mark, for his good will was (economically) totally lacking in value so long as it remained in his hands, unattached to any business. The mark's good will in the Referral Sale swindle is thus in precisely the same analytical category as his mere availability in the Spanish Prisoner, the Ponzi, and the Pay-Off. It is something to contribute that is worth much more to someone else than to oneself.

For all of these reasons, a Sonnenlieb-type Referral Sale swindle can work. It has built into it, however, a serious limitation on the grandioseness of its success: it is all mixed up with goods. The mark is paid off in goods. His pay-off depends upon the sale of goods to others. True, the "buyers" of those goods are, like him, supposed to get them free, but by and large that's all they can hope for or expect to get—a quartz broiler, a home-entertainment center, a good freezer. Goods, alas, have a rough but obvious upper

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limit in value, the market price of comparable goods acquired in ordinary ways. It is impossible to entertain a really unbridled fantasy of joyous wealth when the pay-off and the product are things.

Things, moreover, are a terrible pain to any conman. They break. They fail to do what they were supposed to do. And when they do these things, they do them very obviously. Not only do goods in a congame increase the ways in which a mark can be disappointed, thus increasing the need for some eventual process for calming and getting rid of ("cooling out") an angry mark; but in addition, goods that go bad are much more palpable sources of mark fury. Reading the Sonnenlieb transcripts, for instance, one gets the impression that the angriest marks and hence the ones most enthusiastic about testifying against him were those driven to bemused despair not so much by the failure of the referral promises to pan out, as by the propensity of Sonnenlieb's vacuum systems and quartz broilers to disintegrate on their first, gingerly use.

As we shall see in considerably more detail when we consider "straight" selling and advertising, the best form of cool-out is so to shape one's promises that when they are not fulfilled the mark will never even notice or, if he does, will blame himself for the failure. This is true of swindles as well. Substantially bigger and safer scores could be made if somehow one could combine the heart of a Referral Sale—a mutually valuable association in a mercantile venture—with a nonreified product, something which would neither wither nor disappoint, nor be easily placed in any limited category of value. It is in effecting that critically important transformation—from things to relationships as the items to be sold—that there lies the exquisite power of the Pyramid Sale swindle, which has become the most widespread public bunco game being played in America today.

Recall that in the Sonnenlieb version of the Referral Sale the basic proposition was put in this form: you trade me your good will, in the form of introductions to friends and relations, in exchange for a broiler (or freezer or vacuum system or burglar alarm). In effect, the conman was offering to hire from the mark some quantity of sales help, a kind of advertising or public-relations service. But the manufacturing and selling profits were to be retained by the conman. To put it in the dramaturgical vocabulary heretofore used, the marks were offered but a small role, not much more than a walk-on part, in the conman's play.

What if, however, the offer were modified such that the mark were offered *the play itself*, for him independently, and for his own benefit, to cast and perform? In such a case the mark's ultimate return would include some part of the profits to be earned by selling the goods. And if there were added a right to license the right to sell to still others (that is, to use the script), then the mark's return would include those potential profits too.

Now notice that if all that is sold to the mark is the goods and the right to sell them, then all we have is the kernel of a normal retail business. The mark is being asked to become a seller of goods; whether wholesale, retail, franchised, or door-to-door, it doesn't make much difference. He is being given a role in a very general and widely diffused American script, the distribution of things of value. When one person sells goods to another for resale, there can be all sorts of naughtiness involved—lies about the goods, for example, or about the market for them, or about additional services to be provided by the manufacturer. But selling for resale is not per se crooked. It is, moreover, frequently most efficient to effect the distribution of one's goods through others, and frequently those others ought to be independent or quasi-independent businessmen rather than salaried or commission-earning employees. That is, the "independent" distributor trades money and labor to the manufacturer in exchange for goods and the right to sell them (and, in franchise operations, for other services, including a well-patrolled trademark). The efforts of both parties together produce wealth which they then both share. The labor value of the reseller, valueless if not attached to a business, gains value from that attachment, and the manufacturer, whose goods are worse than useless if never sold, gains the value of their enthusiastic distribution. So far then, we have a normal example of ordinary economic synergism producing ordinary profits.

Those profits are real profits in the sense that they flow ultimately to both parties from outside their organization. Consumers buy (in a competitive market), and it is their money which goes to enrich the seller/manufacturer and his distributor. That, indeed, is what is insufficient about this kind of profit for the purposes of any swindler; such profits are limited by the state of the resale market for the goods involved. If, for example, a distributor were offered goods at one dollar a unit which he could not resell for more than ninety cents each, he would be insane to buy. But even if the dollar-a-unit goods could be resold in some quantity for one-ten, he still might not enter the business. It would all depend upon how many he could sell and at what price per unit of his labor, as *compared with some other use of that labor.*

To put it more technically, it all depends on the relevant *opportunity cost* of labor, that is, the cost of forgoing the value of that labor in some alternative use. A man is effectively swindled if he is lured by lies into entering even a profitable business, if by going into that business, he thereby loses the opportunity to enter another, *more* profitable one. If, through some artifice, a swindler could lure a mark into contributing his labor to their venture at well below its normal market price, he would prosper mightily. If he could, in addition, make the mark pay extra for the privilege of working for less than the market return, he would profit fantastically. It was through the development of such artifices that the Pyramid Sale version of the good old-fashioned Ponzi was born.

Let me describe one typical version of this post-Sonnenlieb play. (Once again I shall change names and other details, this time not because the key parties have already been through jail, but because by and large they haven't, and by and large they know all about libel suits and lawyers.) Beauregard Beaufort is the manufacturer of BeeBee Wigs. They are good wigs: neat, convincing, long-lasting, and nicely varied. Having made them so well, Beaufort has to sell them; what use, after all, could he personally have for 10,000 wigs? He could sell them to existing specialized wig stores, department stores, or beauty shops, or he could set up shops of his own, either franchise operations or stores staffed with his own employees. He could have his wigs sold door-to-door, again either by salaried or commissioned employees of BeeBee, or by independent peddlers who would buy the wigs from BeeBee (or file orders for wigs to be directly shipped), making their profit out of the difference between the price to them and the price to the consumer.

Any one of these distribution methods, or any combination of them, might be the right one (the income-maximizing one) for BeeBee. It all depends on the labor market and the wig market. Any number of elements of the folklore of marketing as particularly applied at this time, in this place, and to this product might suggest one move or another. Each method has its advantages and costs, and it's hard to know, without experience and careful calculation, which distribution method will yield the largest profit. But

one thing is clear. If you could radically cut the costs of *any* of these methods you would have a radical commercial advantage, at least over any competitor using that same method, and more than likely over any competitor using any other.

Let us assume that BeeBee chooses, for the most part, to distribute its product door-to-door. We shall consider the strengths and weaknesses of door-to-door selling once we get to our discussion of advertising strategies as cognates of congames, but it will suffice here merely to assert as a fact that a door-to-door strategy for BeeBee wigs would not on the face of things be silly or even unlikely—even though door-to-door selling is *very* hard on salesmen.

Now a door-to-door salesman can make money. But then again, so can a hold-up man, an editor, or a garbage collector. In door-to-door selling, as in most other jobs, the money one makes is, as a general rule, unlikely to be some mysterious bonanza unrelated to the particular worker's (or, here, seller's) talent, training, and persistence. If the individual is a good, hardworking fellow, he can prosper in a door-to-door setting. But there is nothing about that method that ensures, or even promises, any wildly spiraling mountain of wealth. Thus, to get any clear-eyed prospect to sell wigs door-to-door, you have to project for him a return greater than he could get by applying an equal amount of money and labor to some other field. Given the obvious difficulties of door-to-door selling, you will have to pay him plenty (through high discounts, high commissions, or high salary) in order to get him to perform, *for* the particular acting job required of a door-to-door salesman is so very demanding a role that the salesman has to get a big percentage of the box-office receipts. And the impressario's profit in this type of selling is a direct function of the price at which he can hire the actors: the cheaper they are relative to the gross return he can get from them, the greater the amount he, the distributor, makes.

From the manufacturer's point of view, all that counts is gross sales. Whether he reaches a million a year with ten salesmen or a hundred concerns him little, so long as he reaches it at the same sales cost and can continue to do so. But as to the number of salesmen used, the salesmen and the manufacturer are in conflict. For assuming a finite market (hardly an unrealistic assumption), each salesman is a competitor of every other, and thus strongly interested in minimizing the sales force. That is, not only will each seller fight for a larger split of whatever returns there are on his sales, but he will also fight for a restriction upon the number of people trying to get those sales. If you were to buy a rabbit hunting license for a particular place, the price would naturally be set with relation to the number of rabbits, their rate of increase, and the amount you could legally take over any time period. You would at least want the price lower, and you might not want the license at all, if competing hunters were likely to multiply as fast as their targets.

But what if the deal is this: as a distributor you can sell the goods to consumers, and you can also sell the right to sell the goods to other sellers, who in turn also get *both* those rights, *ad infinitum*. Selling the right to sell—that is, selling selling to other sellers—is not a "cold canvass" (that *is*, a pool of potential customers made up of uninterested strangers) at all, or at least not to the same extent. You have friends and your friends have friends, who in turn also have friends. If you talk five friends into each recruiting five friends of theirs, and each of those persuades but five more, there will then be one hundred and fifty-five people working for you. (If anyone cares, the formula for how many will be in on the deal at the end of this third level is $\sum_{i=1}^{n} x^{n}$, where x is the number each person signs up and *n* is the level. At the end of ten levels, with $x = 5$, the number in the game reporting to you is 12,207,030.) If you get some rake-off on all the business *they* do, your earnings are no longer limited by the amount of time and labor you can expend on selling goods. More importantly, neither are your recruits' earnings limited by their labor, for they can do the same thing you are doing. You can, that *is*, get them into the plan at bargain prices for the same reason you were initially willing to join.

At bottom, of course, this variety of Pyramid Sale is no different from Sonnenlieb's. In fact, at rock bottom it is no different from a Ponzi-type Ponzi—that is, a chain letter with a plausible chute to the outside world through which profits can slide into the system. But the bottom isn't what counts; it's the surface that makes all the difference. For to be profitable, an operation like BeeBee's need not take from the marks even a *promissory note*. It need not take from them anything—except the differential marginal utility of their labor. That is, to prosper while running a

Pyramid Sale swindle all the entrepreneur need do is talk a large number of people into doing a sales job for him at a price to the entrepreneur materially less than the ordinary wages for such a job, the difference being made up in plausible helpings of pie from someone else's sky.

Here's the way it works. The Pyramid operator presents to a prospective seller the chance to sell wigs *and to sell others on selling wigs*. In many of the operations, the prospect was obligated to pay a cash fee for the opportunity to join, with the amount of the fee related to the height of one's initial place on the system's pyramid. But that technique, since it had to pry actual money from the mark, demanded a great deal of showmanship on the part of the entrepreneur—films, revivalist-type mass meetings, and so on. If all this were well done, vast profits could accrue to the conman, but simpler and less dramatically demanding variants were (and are) also lucrative. In the BeeBee version, for example, no entry fee was charged; the mark merely had to buy a relatively small amount of initial inventory.

Let us say that the mark is to get his inventory at 40% below retail. Thus his gross profit on every $1,000 sold would be $400. But door-to-door selling is hard work and demands not inconsiderable salesmanship talents. One can make a living, but one doesn't move a thousand of inventory in a day unless one is very, very good, and no one can be that good very often. In other words, if all one were selling were the goods, the job would be a job, to be chosen from among the general pool of options available for what is known as earning a living.

But what if the initial presentation to the mark, while taking note of the possibility of making profits by selling the goods door-to-door, emphasized the other aspect of the conman's "plan": not only will one earn 40% on one's own personal sales, but one can also earn, as a "General," 5% on the sales of one's Colonels, 7% on the sales of one's Majors, 9% on the sales of one's Captains, 12% on the sales of one's Lieutenants, and 15% on the sales of one's troops—not to mention 3% on the sales of other Generals "directly sponsored" by oneself. And what if that presentation were accompanied by a bit of story-board graphics looking something like the illustration on page 106. That is the picture of an organization which, by the time it reaches this fourth level, has 155 participants

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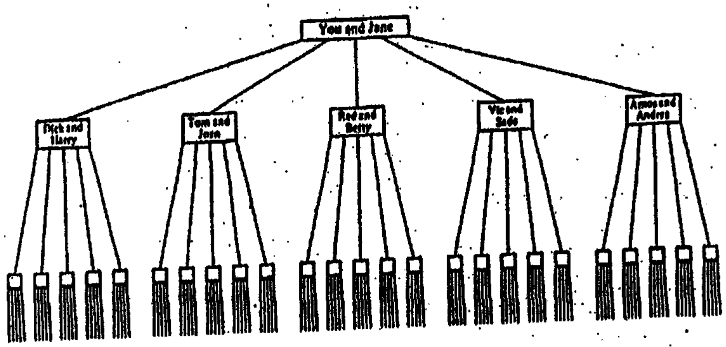

operating under the mark (and Jane), on all of whose labors the *mark is earning a nice override.* And it will, of course, not be all that hard to interest those 155 in participating, because they too can work their way into the kind of slot now occupied by "You and Jane."

When one finishes tacking actual numbers of projected sales onto a chart like that, what emerges is not some ratty $100 or $200 or even $300-a-week job, but really marvelous figures: $50,000 a year, or $80,000, or $120,000. Sure, it's not a certainty. No such pyramid may build for the mark, and he is even usually warned (sort of) about that. But there is a *chance* of real riches, and it does look so easy once one looks at the pretty picture, doesn't it? But, as we know by now, it isn't easy at all—no easier, in fact, than "earning out" one's vacuum cleaner system.

We can now return to our typical mark. Let us say that, on the basis of such blandishments, he invests $500 to get goods with a retail value of $1,000. It is altogether possible that he will eventually sell out his inventory, and he might even buy and sell considerably more. But he almost certainly would not originally have entered the scheme at the same price if not for the delusive hope that he could recruit others to sell for him and that they could do the same thing, and so on (just as Sonnenlieb's marks would not have signed up to buy quartz broilers at $500 each unless they

believed in a sufficiently long chain of later participants to cut the real price to them to zero). Thus, even if the mark stays in the program and continues selling, it is not because he has not been swindled, but because the swindle was complete as soon as he signed on. That is why it does not really make much difference to the achievement of substantial success in a modern, post-Sonnenlieb Pyramid Sale swindle whether the marks buy in with any cash at all, as long as they come in with themselves.

This mechanism can be made clearer by referring to that fine old in-store swindle, the Bait-and-Switch sale. Let us say that I take an ad in the local paper advertising 21-inch Zenith television sets for $250 (their normal market price being, say, between $290 and $310). You come to my store to buy one. When you get there the scene goes something like this:

You: I'll take one of those $250 Zeniths.

My Salesman: (Who has been instructed that the one Zenith on sale is nailed to the floor and if he sells it, he'd better find work elsewhere) You want one of *those?*

You: Why shouldn't I?

M.S.: (Putting on a pretty good performance of hunted furtiveness) Look, buddy, you don't want one of those. They were in the Scranton flood [or, "Their tubes are busted"; or, "Their chasses are sprung"—or anything else he can think of].

You: Oh?

M.S.: Come on. I'll show you some honest stuff.

Let us assume that the salesman thereafter sells you a $300 television set for $300. Have you been swindled? Yes. In fact, you were swindled the minute you were moved to voyage to that store rather than any other. Once there you had already spent time, labor, and money to go there rather than elsewhere. That you got a "fair" deal there means little; you were defrauded of the "sunk cost" of going there rather than elsewhere the minute you went. If you had left that store without buying, whatever you bought elsewhere would have had tacked onto the price you paid a second shopping cost. That is, the value to you of the TV set equals its value as a thing, minus its price, minus the cost of going and getting it; when you get it elsewhere it is worth less, for its value then becomes itself, minus its price, minus *two* shopping costs (including the emotional cost of "shopping stress").

Now notice, once again, that the critical con move was that initial push in the right direction; damping the later impulse to unbuy takes further energy. But an in-store sale inherently involves less cunning than a more long-term, bigger-ticket congame. Not only are salesmen trained precisely in closing with a customer once he is lured into the store (more on this later), but once the customer is there he is, in effect, a partial prisoner in a sort of spatial monopoly. Put at its most abstract, what happens to a customer in a store is very like what happens to a person in cognitive-dissonance and sunk-cost-fallacy situations: the present and actual has a competitive advantage over the future and hypothetical. The stock I already own appears somehow different from any other I might own simply because I have already invested in it and it is *there*. Once I am in an Ancient Estate dodge, the possibility of prospering through it seems better than that attending any alternative uses of my money. Or to put it another way, whatever alternatives there are, are not around to present themselves as alternatives.

Once I am in a particular store, the same effect takes over, perhaps in an even clearer way. Once I am at Mad Man Morris's, the universe of choice begins to seem limited to what is there. It is constricted to his kind of goods (instead of all other possible uses of my money) and his examples of those goods (rather than everyone else's). Once I am there, only what is also there is there with me. The contours of choice are, therefore, distorted: there is a tendency in favor of finishing one's business wherever one already is *without regard to any nonpresent alternatives*. Thus, eliciting a move in a particular buying direction creates momentum in favor of a particular sale.

In the case of Pyramid Sale marks, the same mechanism is at work. Let us say that, in pulling a Bait-and-Switch, instead of offering you a product bargain, I offer you a job bargain. Let us say that everyone is offering $100 a week for a particular job, and I offer $100 plus 1% of sales. You come to me and take the job. At the end of the first week I tell you that the 1% was misunderstood;

it's only paid on sales over $50,000 per week. Have you been taken, even though you are going to get the "going rate" of $100 per week? Of course; you're now committed to the extent of the cost of changing direction (and job) *after* having already made a change and a commitment. In fact, if I am a really shrewd rat, I should pay you less than $100 by an amount equal to the cost to you of recommitting yourself and changing your mind. For to you, not leaving in such circumstances will still maximize your return as compared to leaving. The larger that cost the less I can pay you and still have you come out ahead—that is, ahead of where you'd be if you fled my web after having gotten stuck in it, rather than avoided it in the first place. And that perception (subliminal as it might be) makes it hard rationally to evaluate the alternatives. The job is here, while the alternatives are nowhere.

That, essentially, is how the post-Sonnenlieb Pyramid Sale schemes work. Some of the best-known do make you invest substantial sums of money for the right to recruit. Some others get you hooked by a significant investment in inventory that you must sell (no matter what the labor involved) or eat. But those two moves are not absolutely necessary. It is enough for a modestly or even generously profitable swindle for the swindler to get you emotionally committed to his organization over any other source of employment. He will have gotten your labor value at a cut rate (by promising recruitment profits which cannot, mathematically, be delivered) and thus will have attained a competitive advantage over all other sellers. That the loss to you is subtle—amounting to fiddling with the opportunity-cost comparisons of your own labor—does not make the profit to him any less real. He has manipulated you into selling wigs door-to-door, something you would never have done if all you could expect to earn were the normal profits from such extraordinarily hard work.

Swindling / Selling

WITH THIS CONSIDERATION of the most subtle of the Pyramid Sale swindles, the product of a whole series of intellectual refinements upon the basic moves of the Prisoner and the Ponzi, I shall end my explicit consideration of the logical structure of classic bunco.