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CYNICISM AND POLITICAL THEORY

Terry M. Moet†

When you get a group of academics together, it is sometimes difficult to distill common themes from what they have to say to one another, even if they claim to be discussing exactly the same topic. At the risk of imposing more coherence than actually exists, however, I think it is fair to note that two (debatable) themes have played central roles in both the initial organization of this Symposium and the interactions and ideas that have come out of it.

One is that Americans have become highly cynical of their government, that the growing influence of rational choice theory has contributed to this culture of cynicism, and that these developments are bad because they undermine the prospects for effective democracy. The other theme is that rational choice theory, quite aside from its bad social consequences, is inadequate when judged by the usual canons of social science, and that other kinds of theories provide much more valid—and much less cynical—explanations of politics and government.

I have been asked to comment on the Articles by Jonathan Macey¹ and Edward Rubin.² While I could make a tortured attempt to show that these papers cover similar intellectual terrain when read with true insight, in fact they are not similar at all. Macey is largely addressing the first of the two themes I just outlined, taking the contrary view and playing the role of provocateur. He argues that cynicism is actually good, and that Americans should be more cynical, not less. Rubin addresses the second theme, arguing that rational choice cannot provide adequate explanations of politics and government, and that another approach—phenomenology—offers a far preferable basis for social theory. In what follows, I will comment on these Articles separately, focusing on a few basic points that strike me as essential to an evaluation of their arguments.

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¹ Jonathan R. Macey, *Cynicism and Trust in Politics and Constitutional Theory*, 87 CORNELL L. REV. 280 (2002).

² Edward L. Rubin, *Public Choice, Phenomenology, and the Meaning of the Modern State: Keep the Bathwater, but Throw Out That Baby*, 87 CORNELL L. REV. 309 (2002).

I

MACEY ON THE ADVANTAGES OF CYNICISM

There is a core to Macey's argument that is quite correct, and a healthy counter to all the hand-wringing about the current level of cynicism in our society. The fact is, many of the policymakers and interest groups that populate American politics are *not* in the business of promoting the public interest. All too often, they are in the business of promoting their own interests, in the form of money, patronage, reelection, or whatever.³ Citizens clearly need to be aware of this—that is to say, they need to be rather cynical about the motives and actions of their representatives—if they are to protect their own interests, and if they are to be capable of the kinds of political responses (through their votes, for instance) that make a democracy effective. Some degree of cynicism is desirable and functional.

Macey makes a similar—and similarly worthwhile—argument about the value of cynicism for social scientists. Their job is to try to understand the foundations of government, and, in attempting to do this, they need to be able to cut through all the rhetoric, symbolism, secrecy, and obfuscation that invariably hide the seamy, self-interested side of government—and thus much of what is really going on. A measure of cynicism helps them do that, and thereby helps them build better theories.

These are good points that, in my view, are especially worth making in a field such as law, where the intellectual tradition—which is heavily normative and prescriptive—has encouraged many scholars to take a rather benign view of government: that its laws, procedures, and regulations are basically designed to promote fairness and equity, and that government can be relied upon to right wrongs, solve social problems, and promote the greater welfare. If self-interest and opportunism are important influences on the political design and operation of government, as they surely are, then Macey is right to argue that legal scholars should take a more cynical view of government than they traditionally have.

Macey is not, of course, the first to argue the advantages of cynicism. Most notably, rational choice theorists and their allies have been making essentially the same argument for years, and creating quite a controversy within the legal field (and others).⁴ But by tying

³ See, e.g., MORRIS P. FIORINA, *CONGRESS: KEYSTONE OF THE WASHINGTON ESTABLISHMENT* (2d ed. 1989); JACK H. KNOTT & GARY J. MILLER, *REFORMING BUREAUCRACY* (1987); DAVID R. MAYHEW, *CONGRESS: THE ELECTORAL CONNECTION* (1974).

⁴ See, e.g., ROBERT COOTER & THOMAS ULEN, *LAW AND ECONOMICS* (3d ed. 1999); DANIEL A. FARBER & PHILIP P. FRICKEY, *LAW AND PUBLIC CHOICE: A CRITICAL INTRODUCTION* (1991); Mathew D. McCubbins et al., *Administrative Procedures as Instruments of Political Control*, 3 J.L. ECON. & ORG. 243 (1987).

these themes to the widely despaired phenomenon of declining trust in government, and by making a provocative argument that flies in the face of conventional wisdom in his field, Macey adds to the intellectual ferment and encourages productive debate.

This said, I do have some reservations. It is possible to distill clear, moderately stated, and persuasive themes from Macey's Article, but the actual content of its arguments leaves much to be desired. They are rather confusingly developed and difficult to follow, and they are stated in such extreme, provocative terms that they cannot stand up to scrutiny. Let me illustrate by taking a brief look at three specific issues that are central to the Article.

II MACEY'S RAZOR

Much of Macey's discussion is about why ordinary citizens need to be cynical about their government, and why this is important for effective democracy. But the centerpiece of the Article is "Macey's razor," a take-off on Occam's razor, which is not concerned with ordinary citizens at all. It is about the role that cynicism ought to play in the construction of social theory, and specifically, about moving productively toward a theory of government. In the first part of the Article, Macey states it this way: "'Macey's razor' dictates that when multiple explanations for the same governmental action exist, researchers should always select the most cynical explanation for that action."⁵ (In a later statement of Macey's razor, he replaces "researchers" with "policy analysts."⁶ At the end of the paper, he replaces "policy analysts" with "social scientists."⁷)

In principle, these two arguments—the substantive one about citizens, the social science one about Macey's razor—could certainly be developed within the same Article. But this could only be accomplished (and done right) by recognizing that they are quite different arguments requiring quite different logical and empirical justifications. Macey does not do this, however, and essentially runs the two together in a stream of reasoning whose logical threads are sometimes perplexing and difficult to follow. As a result, neither argument is given the careful, detailed attention that it needs, and there is a good deal of confusion about exactly what he is arguing and why we ought to believe it.

Even considered on its own terms, Macey's razor does not make much sense. As I noted above, Macey is on solid ground in recom-

⁵ Macey, *supra* note 1, at 283.

⁶ *Id.* at 294.

⁷ *Id.* at 308.

mending that social scientists should take a rather cynical view of the facts of government, for it is sometimes in the interests of powerful players to hide what they are doing, and surface appearances can be deceiving. But this recommendation is little more than practical advice. With Macey's razor, he is making an argument that bears on the methodology of the social sciences—an argument about how social scientists should evaluate competing theories—and his recommendation on this count is flatly inconsistent with the fundamental principles of social science. No social scientist worth his salt would actually follow Macey's rule.

The purpose of social science is to build theories capable of explaining social phenomena. And while the choice among competing theories is not always straightforward—because the evidence may be more or less uncertain (making the facts difficult to determine), any given theory has lots of implications (some standing up better than others), many tests may be carried out over long periods of time (with varying results), all theories may have mixed track records (making them difficult to compare), and so on—the basic thrust is always toward choosing theories with greater truth value. Social scientists are concerned above all else with simply knowing the truth, and with constructing theories that help them codify, express, and reveal it. The idea that social scientists should or would choose among theories based on how cynical the theories are, therefore, is rooted in a misconstrual of what social science is all about.

Possibly, although he doesn't say so, Macey is actually formulating Macey's razor on the basis of an implicit theory of his own: namely, that cynical theories are more likely to be valid—to have greater truth value, when the truth is ultimately known—than other theories are, and thus should be favored in the short run. But this just begs the issue. How would he (or anyone) know that such an implicit theory were warranted, and what would be the justification for choosing that theory over some competing theory? Again, the answer cannot be that cynical theories are more valid than noncynical theories, because we cannot be sure that is true. Regardless of where we start, what we need to know is: what theories do the best job of explaining reality? Which ones have the greatest truth content? There is simply no basis for telling social scientists to favor theories that are cynical. Cynical theories have to prove themselves, like all theories do. They have to win a competition based on truth.

Finally, I should mention one other source of confusion. Even if social scientists did want to compare theories based on how cynical the theories are, how would they do that? Many rational choice theories are based on assumptions of self-interest. But how do we tell which rational choice theories are more cynical than others? Further-

more, there are plenty of political theories—Marxist theories, for example, or elitist theories—that are not based on rational choice assumptions, but have to be regarded as quite cynical in their understanding of government. Are they more cynical or less cynical than rational choice theories, and how exactly do we tell? Macey has no answers to these sorts of questions. He offers a rule to guide the choices of social scientists, but it is a rule they could not follow even if they wanted to.

III

CITIZEN CYNICISM AND EFFECTIVE GOVERNMENT

Macey's substantive argument is also problematic. As I said earlier, there is an element of validity to his claim that cynicism among ordinary citizens is actually good for democracy, and this point contributes to the larger debate. But even so, much of what he says on this score is questionable.

For instance, Macey is right to argue that naive citizens are prone to being taken advantage of by their governments and by special interests, and that cynicism makes them more vigilant monitors. But this cannot be the whole story. Political research has long shown that people who are cynical about politics and government often tend to withdraw from participation in the system—they are less likely to vote, less likely to pay attention, and so on.⁸ The upshot is that, while their cynicism may well give them the tools to recognize governmental misbehavior when they see it, they may not put those tools to effective use at all—and indeed, may be even less effective in their role as citizens than they would be if they were not cynical at all. People who withdraw are hardly going to be vigilant protectors of democracy. Macey briefly recognizes as much in the introduction of his Article—but goes on to ignore its profound implications for his argument. Indeed, he later flatly claims that “[t]o the extent that people are cynical about the performance of government, they will do a better job of monitoring governmental actors, thereby ensuring that such actors perform better.”⁹ A persuasive argument would have to take the counterforces seriously, and show that the pluses of cynicism are not outweighed by its well-acknowledged minuses. He makes no attempt to do that.

Another claim that Macey makes, as part of his substantive argument about the advantages of cynicism, is that citizens are best off if they are more cynical than is warranted by reality. As Macey puts it, “it is better for people to believe that government is worse than it actually

⁸ See ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000).

⁹ Macey, *supra* note 1, at 290.

is."¹⁰ This is a remarkable statement that most social scientists who deal with issues of information and decisionmaking would not be inclined to accept. The thrust of social theory on this topic within economics and political science is that people in an uncertain environment are best off relying (subject to cost constraints) on informational sources that help them reduce uncertainty and narrow in on the truth. People are better off the more accurately they perceive their decision contexts and the players that make it up.¹¹ Macey is arguing that people are better off not knowing the truth and acting on perceptions that are systematically biased. One can imagine special conditions under which biased information might prove advantageous. But whether this is so in Macey's case is debatable, to say the least—and it is incumbent upon him to make a compelling argument to that effect, showing why the usual thrust of standard decision theories should not apply. This he does not do, so there is little reason to accept his claim. I am not saying that a dose of cynicism is not a healthy thing for citizens. I am just saying that there is a difference between being cynical and being misinformed—and that there is no good reason for thinking that being misinformed is something that works to the advantage of citizens.

IV

THE MEANING OF CYNICISM

My final point is simply that, in this paper on cynicism, Macey is not very clear about what the concept of cynicism is supposed to mean. Most often, he talks about cynicism as though it involves a recognition that behavior is self-interested and not to be trusted. He also refers to cynicism as being the opposite of naive—although, because naiveté involves being overly trusting, this is perhaps another way of saying the same thing. There is nothing unreasonable about this. It is certainly consistent with common usage. But I think there is an interesting twist here that could have been recognized and explored, and that could have added a new dimension to the analysis.

Consider a world in which everyone is entirely self-interested and opportunistic, and thus in which everyone recognizes that all other people are ready to double-cross them, renege on promises, treat them unfairly, and otherwise behave reprehensibly whenever it is to their personal advantage to do so. Surely we would think of these people as being exceedingly cynical of one another, and of their society more generally. Yet rational choice theorists have shown that, when such people engage in repeated interactions with one another

¹⁰ *Id.* at 284.

¹¹ See, e.g., JACK HIRSHLEIFER & JOHN G. RILEY, *THE ANALYTICS OF UNCERTAINTY AND INFORMATION* (1992).

that can be expected to continue over long periods of time, there are many conditions under which these same people will have self-interested incentives *not* to behave reprehensibly, but rather to follow through on their promises, treat one another fairly, and adhere to “nice” social norms. In other words, they will often be able to trust one another, and their trust will be borne out in actual behavior.¹²

I am not trying to forge a new definition of cynicism here, but simply to point out that it may be a mistake to view cynicism and trust as opposites, as Macey does. A population can be cynical—it can recognize the prevalence of self-interest, opportunism, and all the misbehaviors they might entail—and still develop a substantial sense of social trust and a network of social norms. Macey’s paper would have been more interesting, in my view, if he had not ruled this connection out by definition, but instead had taken a more nuanced view of what cynicism is and how it affects society.

V

RUBIN ON RATIONAL CHOICE AND PHENOMENOLOGY

While Macey’s razor sets out a rule that social scientists are urged to follow in choosing among competing theories, and while this rule is premised on the widespread importance of self-interest to politics and government, Macey is not making a deeper, more general argument about rational choice theory *per se*. Indeed, he never focuses on it or advocates it at all, nor does he try to justify his position by reference to the methodology of the social sciences.

Rubin’s argument is very different. It is essentially a treatise, rooted in a sense (his sense) of the basic requirements of social science explanation, that argues the inadequacies of rational choice theory and the superiority of an alternative approach to explanation: phenomenology. A theme about cynicism is woven into the analysis: he argues that rational choice promotes an “image” of government that is overly cynical—and inaccurate and inappropriate—while phenomenology leads to an image that is far more positive and convincing. The Article is less an analysis of cynicism, however, than an exercise in social theory more generally. Rubin is exploring what an adequate theory of government ought to look like—and rejecting rational choice in favor of phenomenology.

There is much to admire here. The analysis is beautifully written, extensively researched, and thoughtfully developed. Still, I have to say that I do not think it does much to move us toward better, more powerful theories of government.

¹² See, e.g., ROBERT AXELROD, *THE EVOLUTION OF COOPERATION* (1984); RUSSELL HARDIN, *COLLECTIVE ACTION* (1982).

Rubin's critique of rational choice is extensive, but it mostly covers ground already covered in the literature, and essentially synthesizes the familiar.¹³ His characterization of the theory, moreover, is something of a stereotype. While he recognizes that all rational choice models do not assume people are motivated solely by material self-interest, much of his argument—about the inadequacies of rational choice and the image of government it entails—takes these narrowly based models as the norm. This is misleading. In political science, for instance, most models of political control assume that the various players—legislators, presidents, bureaucrats, courts—are motivated by policy preferences, and there is no assumption that they adopt those preferences for reasons of material self-interest. The same is true of models of voting and of interest group influence, in which actors are assumed to be motivated by their views on policy issues like the environment or abortion or the death penalty, and there is no assumption that material self-interest has anything to do with it.

The best way to characterize rational choice theory is to recognize that it consists of an eclectic family of models. All are based on general types of assumptions—about rationality, about information (beliefs), about goals (values), about the decision context—but the specific content of these assumptions can be very different from model to model. Some assume that people are perfectly informed, some that they have imperfect (but perhaps updatable) beliefs. Some assume that people are motivated by material self-interest, some that they are motivated by policy, ideology, or other sorts of values. And so on.¹⁴ Depending on the specific assumptions, different rational choice theories can obviously generate very different implications for government and, in Rubin's terms, very different "images." There is no single rational choice view of government, nor of anything else, and to suggest otherwise—as Rubin and others tend to do—is to stereotype a very diverse body of work.

It is the very flexibility of rational choice, together with the other hallmarks of its methodology—its logical rigor, its clarity, its simplification, its deductive power—that have led to the construction of a massive and hugely influential body of theory in both economics and political science. Rubin and other critics are quite right in arguing that its assumptions (self-interest among them) are often false, and that, while its models may do a reasonable job of accounting for some types of behavior, they fail miserably for others. It does not follow, however, that social scientists should therefore dump rational choice and move on to something else. All theoretical approaches have their

¹³ See, e.g., DONALD P. GREEN & IAN SHAPIRO, *PATHOLOGIES OF RATIONAL CHOICE THEORY* (1994).

¹⁴ See, e.g., DENNIS C. MUELLER, *PUBLIC CHOICE II* (1989).

drawbacks. The reason rational choice has long dominated economics, has recently come to dominate political science, and is spreading to other fields (like law) is not that it offers some sort of panacea that resolves all the problems of theory-building in the social sciences, but rather that its methodology offers a *better*, more powerful approach to theory-building than any of its competitors. It is imperfect, but it dominates because it beats the competition.

If critics want to dethrone rational choice, they have to come up with theories that are demonstrably better. And this they have been unable to do. Perhaps the strongest challenge at this point is coming from cognitive psychology, which attempts to understand how people really do think, and has argued (among other things) that people tend to make decisions by following heuristics that depart from what rational choice theories would lead us to expect.¹⁵ But dozens of unrelated heuristics do not a theory make. This kind of behavioral research has been going on for decades, and it has yet to produce a coherent theory with genuine deductive power. In recent years, there are increasing attempts to build behavioral models of choice, which share much of the methodology of rational choice but are based on behavioral (and thus more realistic) assumptions. But how far this will go, and whether it will ever win out over the more standard forms of rational choice, remains to be seen.

Rubin's own candidate for the superior theory is phenomenology, and much of his Article is an attempt to demonstrate as much. He argues that phenomenology retains what is valuable and productive about rational choice: it embraces methodological individualism, sees human actors as instrumentally rational, and seeks to understand behavior by reference to its underlying motivations. The key difference, he emphasizes, is that phenomenology rejects the assumption of self-interest, and instead is dedicated to discovering the true "meaning" that people attach to their own behavior. The underlying notion is that people are fundamentally driven by the need to create meaning in their lives, and that their actions can only be understood by reference to the meanings associated with them. These meanings arise from sources that go well beyond self-interest, and include the full range of emotions, attitudes, values, fears, and ideals—foundations of thought and behavior that, most of us would agree, are essential to the things that make people truly human. Rational choice shuts virtually all of this out. Phenomenology opens the door and lets them in.

Rubin thinks this all-inclusiveness is a very good thing, producing a theory that is far more realistic and compelling than rational choice.

¹⁵ See, e.g., CHOICES, VALUES, AND FRAMES (Daniel Kahneman & Amos Tversky eds., 2001); Robin Dawes, *Behavioral Decision Making and Judgment*, in 1 THE HANDBOOK OF SOCIAL PSYCHOLOGY (Daniel Gilbert et al. eds., 1998).

Yet, Rubin's portrayal of it to the contrary, phenomenology is not actually a theory at all. While he refers to it as a "model" and implies that it is rooted in psychology,¹⁶ the fact is that it lacks any sort of clear logical structure from which testable conclusions can be derived. This is hardly surprising, given the astronomical number of variables it implicitly recognizes as relevant to human behavior. Its complexity is overwhelming and disabling.

Phenomenology is better thought of as a framework or perspective, in which certain theoretical notions play a central role—for example, that people are driven by the search for meaning—but there is no tight logical connection among the parts, and no way of deriving (in a unique, rigorous way) specific conclusions that follow from a theoretical core. There are claims being made, and there is a certain sense of what to look for and why, but there is no structure we can legitimately call a theory.

Instead of theory, what phenomenologists offer are their "interpretations" of why people behave as they do. They attempt to look inside human behavior to understand its true meaning, and as they do, they sort through all the profoundly complex emotions, values, and the like that might possibly be at work, and they piece together an interpretation that makes sense (to them) under the circumstances. Nothing is being tested, because there is no theory that points to specific expectations for behavior. Nor can their analyses be replicated, for the kind of understanding being proffered is based on the subjective judgment of the individual phenomenologist. Were other phenomenologists, or other researchers who are not phenomenologists, turned loose on the same set of data, there is little to prevent them from arriving at interpretations that are entirely different.

Rubin's own analysis of government provides a case in point. Here, as he sees it, is how phenomenology explains the emergence of the modern administrative state:

With respect to people's attitudes toward the state, the model begins with the idea that people are impelled to create meaning . . . [A]t the more abstract level, they must confer meaning on conceptual entities. The state is a conceptual entity, and phenomenology suggests that it must possess subjective meaning for its citizens. With respect to the development of the administrative state, phenomenology suggests that these meanings are generated intersubjectively, and thus shared by large groups of citizens. These meanings produce a social consensus around certain issues, or broad-based social movements that agitate on behalf of other issues. The interaction among consensus, social movements, and economi-

¹⁶ See, e.g., Rubin, *supra* note 2, at 312.

cally inspired interest groups then generates the governmental structures that constitute the modern state.¹⁷

Here and elsewhere, Rubin's phenomenological analysis is filled with theory-like claims that are entirely unsupported—his interpretations, presumably, of the role of meaning in the emergence of modern government. For many decades, political scientists have been studying the nature and dynamics of public opinion, the formation and activities of interest groups, and the various political mechanisms—elections and lobbying, together with legislative, executive, and judicial decisionmaking—that link public opinion to public policy and the design of government. The notion that all this can be summed up by saying that “shared values” somehow give rise to modern government is a howler of the first magnitude. Even presuming that citizens of the modern state do share certain values, they clearly disagree on a great many issues of public policy and government—and the translation of public opinion into authoritative decisions is threatened, distorted, and diluted by all sorts of hazards, from the incentives of politicians to the power of special interests to the pathologies and irrationalities inherent in institutional choice.¹⁸ Rubin's argument that shared values find their reflection in the structure of government—and that this explains modern government—ignores all this. It ignores the existing social science on the subject. In its place is little more than intellectual handwaving: interpretations of meaning, values, and government that have no demonstrable basis in fact.

In general, phenomenology fails to qualify as a theory—and fails by any other reasonable criteria to provide acceptable, objectively demonstrable explanations of political behavior. If the interpretations of phenomenologists are subjective, if we cannot replicate their analyses, and if there is no theory or logic to generate clear statements of what to expect, then why should we believe what they have to say? And perhaps even more to the point, why should we consider phenomenology as a bona fide competitor to rational choice theories, or other social science theories, when it appears to be engaged in a fundamentally different type of enterprise altogether: an enterprise that is *not* social science?

In effect, Rubin agrees that phenomenology is a different kind of enterprise. Specifically, he says that, “[b]y adopting this theory of motivation and institutional creation in place of material self-interest maximizing, the phenomenological model necessarily relinquishes

¹⁷ *Id.* at 345–46 (footnote omitted).

¹⁸ For extensive reviews of this literature, see *A NEW HANDBOOK OF POLITICAL SCIENCE* (Robert E. Goodin & Hans-Deiter Klingemann eds., 1996); and *PERSPECTIVES ON PUBLIC CHOICE* (Dennis C. Mueller ed., 1997).

public choice theory's aspiration to predict human behavior."¹⁹ He goes on to say that "this is not a serious sacrifice"²⁰—in part because "the search for a predictive theory must be chimerical if human behavior is truly unpredictable. We are compelled to relinquish our aspiration for prediction if we cannot develop an empirically convincing model that achieves it. As stated above, this is in fact the case."²¹

While scholars differ in how they define social science, most social scientists would surely consider the construction of theories with the capacity to predict certain social behaviors to be central to what social science is all about, and integrally connected to the logic of explanation. To give up on prediction is to give up on social science. This is what Rubin does. In its place, he embraces the unpredictability of human behavior, and in so doing provides a rationale for accepting "explanations" that are idiosyncratic and interpretative—and for arguing that this is the best we can do.

This may well be a persuasive argument for scholars who are not social scientists, or who, while fancying themselves social scientists because they are interested in studying social behavior, do not believe that theories with rigorous logical structures and genuine deductive power are possible (or desirable) and have given up on the enterprise. Historians are generally in this camp, as are many (and probably most) legal scholars. I am not saying that these scholars—or Rubin himself—ought to give up on their own approaches to social analysis and join the ranks (and accept the criteria) of social science. Different people clearly take different views of how society can best be studied and understood, and the methodological issues that prompt these differences are so fundamental that warring camps will clearly be with us for some time to come.

What I am saying, rather, is that there is an apples and oranges problem at work here. Rubin is arguing that rational choice fails to provide us with an adequate theory—but what he offers as an alternative is phenomenology, which is not a social science theory at all. This is not bothersome for Rubin, because he is not (by my definition) a social scientist, but wishes to study and understand social behavior by following other criteria. This is his choice, and it is fine by me. But he should not expect social scientists to buy his argument. He is asking them to give up a theory that, by comparison to other social science theories, has done remarkably well in explaining economic and political behavior, and in exchange they get a "theory" that does not even remotely measure up to standard social science criteria. Not a very attractive deal.

¹⁹ Rubin, *supra* note 2, at 339.

²⁰ *Id.*

²¹ *Id.* at 340.

CONCLUSION

The two Articles by Macey and Rubin are not much alike, but they are both interesting and provocative, and they both have something important to say. Macey is right to argue that cynicism about government has its advantages, and that all the consternation about its subversive effects on our democracy—mainly from scholars who favor a bigger, more active government—fails to recognize that a measure of cynicism can be healthy and functional. Rubin, for his part, is right to argue that rational choice theory—which has surely promoted a certain cynicism among scholars—leaves a lot to be desired, particularly when formulated purely in terms of material self-interest.

My criticisms are motivated by the social scientist in me. The highlight of Macey's Article is his formulation of Macey's razor, which urges social scientists to choose among theories based on how cynical the theories are—something that no social scientist would properly do, because social science criteria require that they choose among theories based on their truth value. Similarly, Rubin argues that social scientists should prefer phenomenology over rational choice theory—but here too, social scientists would have no reason to do that, because phenomenology entails an abdication of basic tenets of social science.

I hesitate to generalize too much from these two Articles. But as social science theories come to play increasingly important roles in the study of law, legal scholars will increasingly be presented with arguments that, at least implicitly, make claims about what social science is, what social scientists should do, or what makes social science theories good or credible. Some of these claims may be quite wrong, or based on confusions about the nature of social science—and it is important, if social science is to contribute as much as possible to an understanding of law and legal institutions, that these sorts of issues be clarified and sorted out. I have tried to do that here, with two Articles that, alongside their positive contributions, also seem to misconstrue the nature of social science, at least as I see it. Others, of course, may disagree with me. I do not have a monopoly on the truth. But it seems to me that this is the kind of discussion—and when joined, the kind of debate—that we need to have over the long run if social science is to be put to use in the field of law, and put to use productively.