1. DOING THE RIGHT THING

In the summer of 2004, Hurricane Charley roared out of the Gulf of Mexico and swept across Florida to the Atlantic Ocean. The storm claimed twenty-two lives and caused $11 billion in damage.[1] It also left in its wake a debate about price gouging.

At a gas station in Orlando, they were selling two-dollar bags of ice for ten dollars. Lacking power for refrigerators or air-conditioning in the middle of August, many people had little choice but to pay up. Downed trees heightened demand for chain saws and roof repairs. Contractors offered to clear two trees off a homeowner's roof—for $23,000. Stores that normally sold small household generators for $250 were now asking $2,000. A seventy-seven-year-old woman fleeing the hurricane with her elderly husband and handicapped daughter was charged $160 per night for a motel room that normally goes for $40.[2]

Many Floridians were angered by the inflated prices. "After Storm Come the Vultures," read a headline in *USA Today*. One resident, told it would cost $10,500 to remove a fallen tree from his roof, said it was wrong for people to "try to capitalize on other people's hardship and misery." Charlie Crist, the state's attorney general, agreed: "It is astounding to me, the level of greed that someone must have in their soul to be willing to take advantage of someone suffering in the wake of a hurricane."[3]

Florida has a law against price gouging, and in the aftermath of the hurricane, the attorney general's office received more than two thousand complaints. Some led to successful lawsuits. A Days Inn in West Palm Beach had to pay $70,000 in penalties and restitution for overcharging customers.[4]

But even as Crist set about enforcing the price-gouging law, some economists argued that the law—and the public outrage—were misconceived. In medieval times, philosophers and theologians believed that the exchange of goods should be governed by a "just price," determined by tradition or the intrinsic value of things. But in market societies, the economists observed, prices are set by supply and demand. There is no such thing as a "just price."

Thomas Sowell, a free-market economist, called price gouging an "emotionally powerful but economically meaningless expression that most economists pay no attention to, because it seems too confused to bother with." Writing in the *Tampa Tribune*, Sowell sought to explain "how 'price gouging' helps Floridians." Charges of price gouging arise "when prices are significantly higher than what people have been used to," Sowell wrote. But "the price levels that you happen to be used to" are not morally sacrosanct. They are no more "special or 'fair' than other prices" that market conditions—including those prompted by a hurricane—may bring about.[5]

Higher prices for ice, bottled water, roof repairs, generators, and motel rooms have the advantage, Sowell argued, of limiting the use of such things by consumers and increasing incentives for suppliers in far-off places to provide the goods and services most needed in the hurricane's aftermath. If ice fetches ten dollars a bag when Floridians are facing power outages in the August heat, ice manufacturers will find it worth their while to produce and ship more of it. There is nothing unjust about these prices, Sowell explained; they simply reflect the value that buyers and sellers choose to place on the things they exchange.[6]

Jeff Jacoby, a pro-market commentator writing in the *Boston Globe*, argued against price-gouging laws on similar grounds: "It isn't gouging to charge what the market will bear. It isn't greedy or brazen. It's how goods and services get allocated in a free society." Jacoby acknowledged that the "price spikes are infuriating, especially to someone whose life has just been thrown into turmoil by a deadly storm." But public anger is no justification for interfering with the free market. By providing incentives for suppliers to produce more of the needed goods, the seemingly exorbitant prices "do far more good than harm." His conclusion: "Demonizing vendors won't speed Florida's recovery. Letting them go about their business will."[7]

Attorney General Crist (a Republican who would later be elected governor of Florida) published an op-ed piece in the Tampa paper defending the law against price gouging: "In times of emergency, government cannot remain on the sidelines while people are charged unconscionable prices as they flee for their lives or seek the basic commodities for their families after a hurricane."[8] Crist rejected the notion that these "unconscionable" prices reflected a truly free exchange:

> This is not the normal free market situation where willing buyers freely elect to enter into the marketplace and meet willing sellers, where a price is agreed upon based on supply and demand. In an emergency, buyers under duress have no freedom. Their purchases of necessities like safe lodging are forced.[9]

The debate about price gouging that arose in the aftermath of Hurricane Charley raises hard questions of morality and law: Is it wrong for sellers of goods and services to take advantage of a natural disaster by charging whatever the market will bear? If so, what, if anything, should the law do about it? Should the state prohibit price gouging, even if doing so interferes with the freedom of buyers and sellers to make whatever deals they choose?