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THE NATION

The Other Legacy of EnronBy [ALEX BERENSON](#)

WITH Thursday's conviction of [Kenneth L. Lay](#) and Jeffrey Skilling, the books have finally closed on Enron, almost five years after the company's collapse. The guilty verdict is a resounding repudiation of the accounting gimmickry that swept through corporate America during the 1990's. With the former top executives of a half-dozen big public companies in, or headed for, prison for financial fraud, executives today appear more cautious about pushing accounting limits.

Yet in another, more fundamental way, Enron lives on.

Mr. Lay and Mr. Skilling built and championed a culture of trading, a belief that markets could and should price every product and service. Despite its notorious swagger, Enron failed repeatedly as it tried to build these new markets.

Even so, the company came to symbolize the transition to a world where practically anything can be traded, from weather predictions to broadband Internet connections to forecasts involving the housing market. Enron's vision played out disastrously in California in spring 2001, when manipulation in the state's newly deregulated electricity market helped cause recurring blackouts and soaring power costs. Nine months later, for reasons largely unrelated to the crisis in California, Enron had collapsed, leaving thousands of employees out of work and setting off a wave of prosecutions that culminated in Thursday's verdicts.

But just as junk bonds have thrived in the 16 years after the collapse of Drexel Burnham Lambert and [Michael Milken's](#) guilty plea for securities fraud, the culture of trading has only become more important since the California blackouts and Enron's bankruptcy.

For many Americans, the growth of these new markets, with their potential for manipulation and abuse, can seem alarming. Yet many economists and financial experts say that when markets work as they should, they can give individuals protection against the risks of the modern economy — at a price.

For better or worse, the trend toward deregulation and freer markets is not likely to reverse anytime soon in the United States.

"Enron did pioneer a lot of concepts that will be here with us for a long time to come — the trading of commodities that had never been traded before," said James Chanos, a

hedge-fund manager. Mr. Chanos was among the first investors to say publicly that Enron was a house of cards propped up by fraudulent accounting. "There won't be any going back to saying we won't trade electricity."

Wholesale markets for oil, power and other commodities are bigger and more vigorous than ever. Companies and financiers continue to search for new ways to protect themselves from, or take advantage of, the risk of unexpected variations in price.

"It has been forgotten, because of the unfortunate things that happened at the top, that Enron had a good group of people who were very innovative," said Robert Shiller, an economics professor at [Yale University](#) whose 2000 book "Irrational Exuberance" predicted the stock market crash.

Just last week, in fact, a company co-created by Mr. Shiller began trading contracts that reflect the value of housing markets in 10 major American cities. Homes make up all or almost all of the net worth of most American families, and their value has soared in recent years. But average Americans cannot easily protect themselves from broad downturns in housing markets.

The contracts offered by Mr. Shiller's company, which are traded on the Chicago Mercantile Exchange, aim to allow homeowners to protect themselves from regional downturns without having to sell their homes and moving into rentals. In essence, the contracts are a way to move the risk of housing markets away from individual homeowners and onto people or companies willing to take it on.

For example, investors could buy a contract that will gain value if the local market skids, but be worthless if the market rises. In essence, the buyer would be giving up some potential appreciation in return for protection against a falling market.

At their best, new markets can provide efficient new forms of insurance, enabling people or businesses to transfer risks they cannot control — for a fee, of course.

A contract whose value fluctuates with the weather may seem farfetched. But it could have practical use. A farmer might buy a contract that would only pay off in a year of below-normal rainfall, protecting him from the crop damage produced by a drought.

"The advent of insurance made all kinds of businesses possible," Mr. Shiller said. "The idea that you can manage these risks can make all kinds of businesses possible that wouldn't happen otherwise."

Of course, for markets to work, every buyer must be matched with a seller, and sometimes one side gains too much market power. In the California electricity crisis, power producers were able to bring the state to its knees when they realized that they could cause prices to soar by withholding only small amounts of electricity, said Dr. Frank Wolak, a professor at

Stanford.

For markets to be successful, both sides must be able to adjust to changing conditions, Dr. Wolak said. A lingering imbalance still hampers electricity markets in California and nationally, he said.

No matter what, Mr. Lay and Mr. Skilling won't be lionized even by the most fervent believers in the free market, as Mr. Milken is, because the executives were widely viewed as venal and unwilling to accept responsibility for Enron's collapse.

Mr. Milken has had many supporters, who say he did nothing wrong other than upset sleepy corporate managers by enabling outsiders to launch takeover bids for big companies.

"There was a real free market view back then that he was an innovator," Mr. Chanos said of Mr. Milken. "There was a sense that he had unleashed this form of capitalism that heretofore hadn't been available to people."

By contrast, said William Hogan, professor of global energy policy at the Kennedy School of Government at [Harvard](#), and a supporter of electricity deregulation, history would not be kind to Enron, Mr. Lay and Mr. Skilling.

The California electricity crisis and Enron's subsequent collapse set the cause of electricity deregulation back a decade or more, Mr. Hogan said.

While Enron was only marginally responsible for California's problems, the company generally bent rules wherever it could, trying to create markets where it controlled prices, rather than competing fairly in independently regulated exchanges, he said. Markets work only when they are carefully designed and regulated, not controlled by private companies, Mr. Hogan said.

"It's not that you can trade anything for anything with anybody under any circumstances," he said, "though I think Skilling believed that."

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