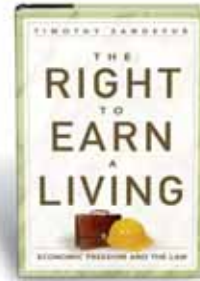




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Cato Policy Report

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The Era of Expert Failure

BY **ARNOLD KLING**

“It’s a progressive era, based on the faith in government experts and their ability to use social science analysis to manage complex systems.”

—**DAVID BROOKS**, “*The Technocracy Boom*,” *New York Times*, July 19, 2010

The additional power that is being granted to experts under the Obama administration is indeed striking. The administration has appointed “czars” to bring expertise to bear outside of the traditional cabinet positions. Congress has enacted sweeping legislation in health care and finance, and Democratic leaders have equally ambitious agendas that envision placing greater trust in experts to manage energy and the environment, education and human capital, and transportation and communications infrastructure.

However, equally striking is the failure of such experts. They failed to prevent the financial crisis, they failed to stimulate the economy to create jobs, they have failed in Massachusetts to hold down the cost of health care, and sometimes they have failed to prevent terrorist attacks that instead had to be thwarted by ordinary civilians.

Ironically, whenever government experts fail, their instinctive reaction is to ask for

more power and more resources. Instead, we need to step back and recognize that what we are seeing is not the vindication of Keynes, but the vindication of Hayek. That is, decentralized knowledge is becoming increasingly important, and that in turn makes centralized power increasingly anomalous.

THE AGE OF THE EXPERT

Populists often make the mistake of bashing experts, claiming that the “com-

mon man” has just as much knowledge as the trained specialist. However, trained professionals really do have superior knowledge in their areas of expertise, and it is dangerous to pretend otherwise.

I have faith in experts. Every time I go to the store, I am showing faith in the experts who design, manufacture, and ship products. Every time I use the services of an accountant, an attorney, or a dentist, I am

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ARNOLD KLING is a Cato Institute adjunct scholar. His books include *From Poverty to Prosperity* and *Unchecked and Unbalanced*. He blogs at econlog.econlib.org.

The Cato Institute's expanded headquarters, to be completed in 2012. The upgraded building is part of “Liberating the Future,” Cato's \$50 million capital campaign. This far-reaching initiative will also add nearly 50 policy, communications, and support staff members. PAGE 3.



BY ROBERT A. LEVY

Chairman's Message Executive Hubris, Legislative Extravagance and Judicial Modesty

Judicial modesty is the latest shibboleth. The key, says columnist Stuart Taylor, is for judges “to have a healthy sense of their own fallibility and to defer far more often to the elected branches.” That certainly describes the zeitgeist at the recent confirmation hearings for Supreme Court justice Elena Kagan.

From the left, the *New York Times* admonished Kagan “to keep her pledge and help the court realize that judicial modesty actually means something.” Or else, bemoaned the *Times*, “the court’s willingness to defy precedent . . . could spell trouble for the national health care law.” Never mind that Obamacare may well be unconstitutional.

For her part, Kagan portrayed the Court as a wondrous institution, which “must also be a modest one, properly deferential to the decisions of the American people and their elected representatives.” She equated modesty with humility—an odd characterization coming from someone who had declared that it’s “not necessarily wrong or invalid” for judges to “mold or steer the law in order to promote certain ethical values and achieve certain social ends.”

Meanwhile, from the right, even Clarence Thomas—arguably the justice most willing to overturn questionable precedents—has written that social and economic legislation “comes to us bearing a strong presumption of validity, and those attacking the rationality of the legislative classification have the burden to negate every conceivable basis which might support it. Moreover, because we never require a legislature to articulate its reasons for enacting a statute, it is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature.” It’s difficult to envision a more modest approach to judging than that.

Regrettably, both liberals and conservatives get it wrong. Judicial modesty is perfectly appropriate—but only if and when a corresponding modesty is evident from the political branches. Otherwise, a one-way ratchet will operate to expand the size and scope of government. Today’s political reality is endemic with unchecked legislative excesses and aggrandizement of executive power, which the Framers could never have imagined.

That’s why Alexander Hamilton wrote in *Federalist* 78 that limited government “can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void.” James Madison shared that view: independent tribunals “will be an impenetrable bulwark against every assumption of power in the legislative or execu-

tive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the constitution.” Patrick Henry considered it “the highest encomium on this country, that the acts of the legislature, if unconstitutional, are liable to be opposed by the judiciary.”

Instead, a misguided judicial modesty has prompted the post-New Deal Court to abdicate its responsibility. Here’s a sampling of the perverse results: (a) Congress’s power to regulate interstate commerce extends to activities that are neither interstate nor commerce; (b) the General Welfare Clause authorizes redistribution of assets from taxpayers to politically connected special interests; (c) states can rewrite mortgage contracts notwithstanding an express constitutional prohibition against “impairing the Obligation of Contracts”; (d) Congress can authorize the Treasury Department to craft bailouts for banks, car companies, and insurers in the face of a constitutional ban on delegating legislative power; (e) government can limit contributions to a candidate for purposes of political speech, even though the First Amendment prohibits laws abridging freedom of speech; (f) public universities can grant preferential treatment to racial minorities despite constitutionally mandated equal protection of the laws; and on and on.

Conservatives, in particular, need to grasp that judicial modesty—that is, excessive deference to the political branches—is a form of living constitutionalism, which conservatives have railed against since the term was coined. Whenever the judiciary simply rubber-stamps nearly everything conjured up by the legislative and executive branches, that removes the courts from their monitoring role and permits the Constitution to evolve, becoming whatever the politicians currently desire.

The answer, of course, is to appoint judges who have an understanding of the Constitution grounded in the principles that animated the Framers: federalism, separation of powers, individual rights, and limited government. Extreme activism by Congress and the president cannot be met by modesty from the courts. Indeed, close or ambiguous cases must not be resolved merely by deferring to temporal majorities. If the Constitution teaches anything, it teaches that constraining government power and defending personal freedom require that close calls go the individual, not the politicians.

Robert A. Levy

“A misguided judicial modesty has prompted the post-New Deal Court to abdicate its responsibility.”

The Cato Institute's \$50 Million Capital Campaign

Liberating the Future

In its more than three decades of existence, the Cato Institute has never undertaken as ambitious a program as the \$50 million capital campaign it is now launching. We've named this effort "Liberating the Future," because no organization is more committed to the principles of freedom that have made America a beacon for the world.

This far-reaching initiative involves the addition, over a period of years, of nearly 50 policy, communications, and support staff members, and an approximately \$9 million increase in our annual budget by 2014—reflecting increased programs, publications, outreach, and events.

As part of this initiative we purchased the building adjacent to our 1000 Massachusetts Avenue headquarters in Washington, D.C. During 2010 we will demolish the acquired building and begin construction on an expanded headquarters.

Doubling the size of our facilities plays a major role in expanding our influence. In addition to providing space for bringing aboard new scholars, it will provide key new capabilities, including a larger auditorium, state-of-the-art multimedia studio, and greater opportunities for the media and public to access our wealth of resources.

The new scholars joining Cato will be highly skilled analysts who will bring new and enhanced focus to areas that include

- Money and Banking
- Regulatory Affairs
- Environmental Studies
- Labor and Employment Policy
- Center for Constitutional Studies
- Communications Freedom
- Visiting Fellows Program
- Foreign Policy and Defense
- Bioethics
- Science and Risk
- International Studies
- Drug Policy/Penal Code Reform
- Young Leaders Program

But our goal is not simply to have more staff or a bigger Institute. It is to make Cato an even more effective institution for diagnosing political, economic, and social problems; for pro-



1. POLICY AMPHITHEATER: A redesign of the Institute's current F. A. Hayek Auditorium, this new facility will be a state-of-the-art classroom. It will be an ideal venue for intern seminars and student programs, scholar lecture series, and overflow space for large conferences. **2. RESEARCH LIBRARY:** Cato will offer its scholars and visitors the leading classical liberal library in Washington, D.C. The Library will feature the Roy A. Childs Jr. Collection of books and papers on economics, philosophy, and history. **3. ROOF GARDEN DONATED BY KEN AND FRAYDA LEVY:** With a view of the Washington Convention Center, the outdoor Roof Garden will be located on the new seventh floor, and will host intimate receptions, staff gatherings, and presentations. **4. GEORGE M. YEAGER CONFERENCE CENTER:** A new facility in the Institute's expanded headquarters, the Center will accommodate approximately 200 people for sit-down lunches and can transform into three separate lecture halls for smaller conferences. **5. EXPANDED F. A. HAYEK AUDITORIUM:** The new Auditorium will provide increased event capacity and expanded pre-function areas for visitors and guests, offer the latest in telecommunications technology, and provide improved access to members of the media.

viding clear and sensible policy perspectives; and for advancing the principles of limited government. Cato's mission and strengths are more necessary today than ever before.

The last decade amply demonstrated the harmful effects of runaway government. With the scholars and resources the Cato Institute will gain through our "Liberating the Future" capital campaign, we will be better able to forge a new path to limited, constitutional government and the triumph of freedom that has been our mission—and

our passion—for more than 30 years.

The novelist/philosopher Ayn Rand once wrote, "Anyone who fights for the future, lives in it today." Cato's campaign, "Liberating the Future," is our plan and renewed commitment to continue that fight. We invite you to join us.

For further information about the "Liberating the Future" capital campaign, please contact Lesley Albanese at lalbanese@cato.org or 202-789-5223 or Yana Vinnikov at yvinnikov@cato.org or 202-218-4617.



The Fordham Institute's MICHAEL PETRILLI (left) debated the Cato Institute's NEAL MCCLUSKEY (right) on the merits of national education standards at a Cato Policy Forum on June 2. McCluskey argued that national standards will lead directly to greater federal control over education, while Petrilli said they are fully compatible with educational freedom.



Former representatives JIM KOLBE (R-AZ) (left) and CHARLES STENHOLM (D-TX) (right) offered solutions to Social Security's budgetary troubles at a Capitol Hill Briefing in June. They were joined by Cato Institute senior fellow JAGADEESH GOKHALE (center) who discussed the findings in his new book, *Social Security: A Fresh Look at Policy Alternatives*.

Cato Institute senior fellow RICHARD W. RAHN (right) speaks at a Capitol Hill Briefing on capital gains taxation in June. Rahn, joined by Cato senior fellow DANIEL J. MITCHELL (left), argued that tax revenue in relation to changes in the capital gains tax rate is a “perfect example of the Laffer curve.” As the tax rate goes up, actual tax revenue declines.



Scores of students turned out for a Cato Institute event on the impact of ObamaCare on young adults. The event was part of Cato’s ongoing program of student outreach, promoting liberty through campus activities, internships, debates, and policy forums.

Cato Institute senior fellow in constitutional studies ILYA SHAPIRO (left) listens as STEPHEN COLBERT reads the text of the Second Amendment from a copy of the Cato pocket Constitution. Shapiro discussed the Supreme Court’s *McDonald* decision, which held that the right to keep arms applies to states and localities, on an episode of *The Colbert Report* in July.



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showing faith in their expertise. Every time I donate to a charity, I am showing faith in the expertise of the organization to use my contributions effectively.

In fact, I would say that our dependence on experts has never been greater. It might seem romantic to live without experts and instead to rely solely on your own instinct and know-how, but such a life would be primitive.

Expertise becomes problematic when it is linked to power. First, it creates a problem for democratic governance. The elected officials who are accountable to voters lack the competence to make well-informed decisions. And, the experts to whom legislators cede authority are unelected. The citizens who are affected by the decisions of these experts have no input into their selection, evaluation, or removal.

A second problem with linking expertise to power is that it diminishes the diversity and competitive pressure faced by the experts. A key difference between experts in the private sector and experts in the government sector is that the latter have monopoly power, ultimately backed by force. The power of government experts is concentrated and unchecked (or at best checked very poorly), whereas the power of experts in the private sector is constrained by competition and checked by choice. Private organizations have to satisfy the needs of their constituents in order to survive. Ultimately, private experts have to respect the dignity of the individual, because the individual has the freedom to ignore the expert.

These problems with linking expertise with power can be illustrated by specific issues. In each case, elected officials want results. They turn to experts who promise results. The experts cannot deliver. So the experts must ask for more power.

JOB CREATION

With the unemployment rate close to 10 percent, there is a cry for the government to “create jobs.” But the issue of job creation illustrates the increasingly decentralized nature of the necessary knowledge.

A job is created when the skills of a work-

“A key difference between experts in the private sector and experts in the government sector is that the latter have monopoly power, ultimately backed by force.”

er match the needs of an employer. I like to illustrate this idea using an imaginary game in which you draw from two decks of cards, one of which contains workers and one of which contains occupations. For example, suppose that you drew “Arnold Kling” from the deck of workers and you drew “fisherman” from the deck of occupations. That would not be a good match, because my productivity as a fisherman would be zero. You could do worse—my marginal product as an oral surgeon would be negative. However, you could do better if you were to draw an occupation card that said “financial modeller” or “economics teacher.”

One hundred years ago, if you had played this game, you had a good chance of finding a match just by picking randomly. Most jobs required manual labor, and for most people manual labor was the most productive use of their working hours.

Today’s work force is more highly educated and more differentiated. As a result, the task of creating jobs requires much more knowledge than it did in the past. A New Deal program like the Public Works Administration or the Civilian Conservation Corps would not have much appeal for a recent law school graduate or laid-off financial professional.

Production today is more roundabout than it was 50 years ago. Only a minority of the labor force is engaged in activities that directly create output. Instead, a typical worker today is producing what George Mason University economist Garrett Jones calls “organizational capital.” This includes management information systems, internal

training, marketing communications, risk management, and other functions that make businesses more effective.

When production was less roundabout, there was a tight relationship between output and employment. When a firm needed to produce more stuff, it hired more workers. Today, additional demand can often be satisfied with little or no additional employment. Conversely, the decision to hire depends on how management evaluates the potential gain from adding new capabilities against the risks of carrying additional costs. The looser relationship between output and employment is implicit in the phrase “jobless recovery.”

So how does the economy create jobs? There is a sense in which nobody knows the answer. In his essay, “I, Pencil,” Leonard Read famously wrote that not a single person on the face of this earth knows how to make a pencil. Pencils emerge from a complex, decentralized process. The same is true of jobs.

What the issue of job creation illustrates is the problem of treating government experts as responsible for a problem that cannot be solved by a single person or a single organization. Economic activity consists of patterns of trade and specialization. The creation of these patterns is a process too complex and subtle for government experts to be able to manage.

The issue also illustrates the way hubris drives out true expertise. The vast majority of economists would say that we have very little idea how much employment is created by additional government spending. However, the economists who receive the most media attention and who obtain the most powerful positions in Washington are those who claim to have the most precise knowledge of “multipliers.”

HEALTH CARE

Despite the many pages contained in the health care legislation that Congress enacted, the health care system that will result is for the most part to be determined. The design and implementation of health care reform was delegated to unelected bureaucrats, as was done in Massachusetts.

In Massachusetts, the promises of propo-

“Decentralized knowledge is becoming increasingly important, and that in turn makes centralized power increasingly anomalous.”

nents have proven false, and the predictions of skeptics have been borne out. Costs have not been contained; they have shot up. Emergency room visits have not been curtailed; they have increased. The mandate to purchase health insurance has not removed the problem of adverse selection and moral hazard; instead, thousands of residents have chosen to obtain insurance when sick and drop it when healthy. The officials responsible for administering the Massachusetts health care system are no longer talking about sophisticated ways of making health care more efficient. Instead, they are turning to the crude tactic of imposing price controls.

Once again, we have legislators putting unrealistic demands on experts. This results in the selection of experts with the greatest hubris, shutting out experts who appreciate the difficulty of the problem. When the selected experts find that their plans go awry, they take out their frustrations by resorting to more authoritarian methods of control.

THE SECURITY APPARATUS

In July 2010, the *Washington Post* ran a series of stories on the size and complexity of the national security apparatus that has developed in response to the terrorist attacks of September 11, 2001. Yet with all this manpower and budget, we still have incidents like the Christmas bomber, a would-be terrorist who was stopped by citizens.

There are an infinite number of potential terrorist threats. In response, one could devise an infinite number of agencies and policies. There is little or no scope for anyone to question the relationship between costs and benefits.

More than 10 years ago, scientist and author David Brin wrote *The Transparent Society*, a book that anticipated the problems of surveillance and terrorism in the context of technological advance. Brin advocated making surveillance tools accessible to ordinary citizens. As counterintuitive and potentially disturbing as this sounds, Brin argued that it is better than the alternative, which is giving surveillance tools to government experts only. The latter approach threatens liberty without providing security. Unfortunately, that is the approach that the Unit-

ed States government has adopted, and it has grown out of control.

ENERGY AND THE ENVIRONMENT

The Department of Energy has decided that it has the expertise to select specific energy projects, such as the electric car that is being developed by Fisker Automotive of California, the recipient of a \$500 million loan guarantee. In theory, if the economic prospects for this electric car were good enough, venture capitalists would be willing to risk money on its development. Now, with a loan guarantee, private investors enjoy only the potential gains while taxpayers bear the risk. Many citizens who would never have considered investing in this electric car company are now partners in the venture, except that we have only the downside and no upside.

The officials who are putting taxpayer money at risk may or may not have better expertise than venture capitalists who put their partners' money at risk. What the officials certainly have is more power.

The threat of climate change, like the threat of terrorism, can be characterized in such a way as to justify an unlimited attempt at expert control. Regardless of whether experts really can accurately measure, predict, and explain climate change, some will be tempted to exercise power as if their analysis were precise and certain.

FINANCIAL REGULATION

The financial crisis spawned demands for new regulatory powers. However, the crisis itself clearly resulted from the misuse of regulatory power in the first place. It was government policy that attempted to pro-

mote home “ownership” by encouraging lending with little or no money down to speculators and inexperienced borrowers. It was government capital regulations that steered banks toward AAA-rated securities, with no need to investigate the true underlying risks. It was the view of leading regulators at the Federal Reserve and the International Monetary Fund in 2005 and 2006 that the financial system had become adept at managing and distributing risk. The regulators were not powerless to stop the risky behavior; instead, they were convinced that they had everything under control.

If the regulatory experts could not prevent the financial crisis of 2008, the most reasonable inference to make is that financial crises cannot be prevented. There is no such thing as a financial system that is “too regulated to fail.”

The recent Dodd-Frank legislation gives broad new discretionary powers to regulators. Many of the important rules, such as bank capital regulations, are left up to the experts. The decision to use new authority to break up or take over risky financial institutions is discretionary.

Unfortunately, the resolution of troubled financial institutions requires rules rather than discretion. With discretion, there is a problem of time inconsistency. No matter how loudly the regulators proclaim that they will not bail out failing institutions, history shows that when a crisis comes the officials in charge would rather do a bailout than face the uncertainty associated with shutting an institution down. Large failing banks will only be closed if there are strict rules in place that tie the regulators' hands to make bailouts impossible.

Discretionary resolution authority is authority that will never be used. Banks and their counterparties know this, and they will behave accordingly.

THE KNOWLEDGE-POWER DISCREPANCY

As Hayek pointed out, knowledge that is important in the economy is dispersed. Consumers understand their own wants and business managers understand their technological opportunities and constraints to a

greater degree than they can articulate and to a far greater degree than experts can understand and absorb.

When knowledge is dispersed but power is concentrated, I call this the knowledge-power discrepancy. Such discrepancies can arise in large firms, where CEOs can fail to appreciate the significance of what is known by some of their subordinates. I would view the mistakes made by AIG, BP, Freddie Mac, Fannie Mae, and other well-known companies as illustrations of this knowledge-power discrepancy in practice.

With government experts, the knowledge-power discrepancy is particularly acute. As we have seen, the expectations placed on government experts tend to be unrealistically high. This selects for experts with unusual hubris. The authority of the state gives government experts a dangerous level of power. And the absence of market discipline gives any errors that these experts make an opportunity to accumulate and compound almost without limit.

In recent decades, this knowledge-power discrepancy has gotten worse. Knowledge has grown more dispersed, while government power has become more concentrated.

The economy today is much more complex than it was just a few decades ago. There are many more types of goods and services. Consumers who once were conceived as a mass market now have sorted into an ever-expanding array of niches. In the 1960s, most households had one television, which was usually tuned to one of just three major networks. Today, some households have many televisions, with each family member watching a different channel. Some people still watch major networks, but many others instead focus on particular interests served by specialty cable channels. Still others watch very little TV at all.

This increased diversity of consumer tastes in a world of tremendous variety makes the problem of aggregating consumer preferences more difficult. It becomes harder for government experts to determine which policies are in consumers' interests. For example, is a national broadband initiative going to give consumers access to something they have been denied or something

“In recent decades, this knowledge-power discrepancy has gotten worse. Knowledge has grown more dispersed, while government power has become more concentrated.”

that they do not want?

The advances of science are leaving us with problems that are more complex. As fewer Americans die of heart ailments or cancer in their fifties and sixties, more of our health care spending goes to treat patients with multiple ailments in their eighties and nineties. Given the complexity of each individual case, it seems odd that health care reformers believe that government can effectively set quality standards for doctors.

In business, performance evaluation of professionals is undertaken by other professionals who are in the same work group, observing their workers directly, and who understand the context in which the professionals are working. Even then, performance evaluation and compensation-setting are challenging tasks. In health care, proponents of government “quality management” propose to evaluate the decision-making of professionals and adjust their compensation on the basis of long-distance reports. Taking into account the knowledge-power discrepancy, this notion of quality management from afar is utterly implausible.

Financial transactions have gotten extremely complex. Some critics blame the use of quantitative risk models and derivative securities. However, removing these tools would not remove financial risk, and in many respects could make it more troublesome.

One consequence of modern finance is that it exacerbates the knowledge-power discrepancy. It is as futile for financial regulators to try to track down all sources of risk as

it is for security agencies to try to keep track of all possible terrorist threats.

How can we deal with the knowledge-power discrepancy in government? It would be great if we could solve the problem by increasing the knowledge of government experts. Unfortunately, all experts are fallible. If anything, expert knowledge has become more difficult for any one individual to obtain and synthesize. Analysts of the scientific process have documented a large increase in collaborative work, including papers with multiple authors and patent filings by groups and organizations. Scientists tend to be older when they make their key discoveries than was the case in the first half of the 20th century.

When he was an executive at Sun Microsystems, Bill Joy said, “No matter who you are, the smartest people work for someone else.” Joy’s Law of Management applies to government at least as much as to business. There is no way to collect all forms of expertise in a single place.

Instead, the way to address the knowledge-power discrepancy is to reduce the concentration of power. We should try to resist the temptation to give power to government experts, and instead allow experts in business and nonprofit institutions to grope toward solutions to problems.

LIVING IN A COMPLEX WORLD

To summarize: We live in an increasingly complex world. We depend on experts more than ever. Yet experts are prone to failure, and there are no perfect experts.

Given the complexity of the world, it is tempting to combine expertise with power, by having government delegate power to experts. However, concentration of power makes our society more brittle, because the mistakes made by government experts propagate widely and are difficult to correct.

It is unlikely that we will be able to greatly improve the quality of government experts. Instead, if we wish to reduce the knowledge-power discrepancy, we need to be willing to allow private-sector experts to grope toward solutions to problems, rather than place unwarranted faith in experts backed by the power of the state.

The Politics and Law of Immigration

Arizona's passage of SB 1070 thrust the controversy of illegal immigration back into the national spotlight. The Obama administration moved to block some of the bill's provisions and that battle continues in the courts. And outside of the legal issues, will the Arizona law create more problems than it resolves? The federal policy options are no less divisive. Should illegal immigration be reduced by deploying soldiers or by enacting a comprehensive immigration reform bill? At a Cato Policy Forum on July 21, three experts discussed the politics and law of immigration policy. Speaking were Daniel Griswold, director of the Center for Trade Policy Studies at the Cato Institute; Tim Lynch, director of the Project on Criminal Justice at the Cato Institute; and Mark Krikorian, executive director of the Center for Immigration Studies.

DAN GRISWOLD: Arizona's recent immigration law won't lower the crime rate. It won't build any new houses, boost the economy, or even create a single job—except perhaps for lawyers and police officers. In fact, the new law will probably do just the opposite. It may lead to higher crime and unemployment and make the housing slump even worse than it would be without the law.

One of the clinching arguments behind passage of SB 1070 was fear that illegal immigration has fueled a crime wave in Arizona. Yet all the data point in the opposite direction. Violent crime in Phoenix last year plunged 17 percent from the year before, three times greater than the nationwide decline. During the first three months of 2010, homicides in Phoenix were down 38 percent, and robbery was down 27 percent. Arizona's other major cities reported similar drops. The crime rate in Arizona is the lowest it has been in 40 years.

The new law will do nothing to stimulate Arizona's economy, either. Low-skilled immigrants, legal and illegal, provided the necessary manpower that fueled Arizona's

growth before the recent recession. And there's no connection between unemployment and immigration. In the 1990s, as illegal immigration more than tripled, the unemployment rate in Arizona dropped from 5 percent to 4 percent. From 2000 to 2007, the illegal population grew by another 200,000 and the unemployment rate dropped to 3.9 percent. Since the recession began, the illegal population in Arizona dropped by 100,000, yet the unemployment rate has more than doubled.

When the state's economy begins to recover, the law will make it harder for companies to hire the workers they need to build new houses, harvest crops, and serve customers in retail and food service. Low-skilled immigrants do impose additional costs on state and local governments, but the critics exaggerate those costs and ignore the much greater economic benefits from allowing more legal immigrants to enter the country.

To solve the illegal immigration problem, we have to understand why low-skilled immigrants come here, legally or illegally. Low-skilled illegal immigrants come here

because there are jobs. In a typical year of normal growth in Arizona and across the country, we create hundreds of thousands of net new jobs in low-skilled categories like food-processing, landscaping, and retail. Meanwhile, the number of Americans who have traditionally filled those jobs continues to shrink. The number of adults in the work force without a high-school diploma has dropped by 3 million in the last decade. It's going to drop by another 2 to 3 million in the next decade.

We have tried a policy of enforcement only and it failed. The only answer is comprehensive immigration reform. Critics say we must take control of the border before we can do that—but we have the most control over the border in perhaps all of American history. Additionally, it makes no logical sense to insist that a flawed and unenforceable law be fully enforced before we consider changing it.

We could get control of the borders and reduce illegal immigration through enforcement, but at what cost? How many billions more do we need to spend? How many more agents do we need to station at the border? How many more factories and kitchens do we need to raid with guns drawn? How many more miles of ugly fence do we need to build along the Rio Grande and along our border, much of it across private property? And how many more liberties do American citizens need to surrender in the form of national ID cards and e-verification programs, all in the dubious cause of enforcing a law that is fundamentally out of step with the needs and values of our great nation?

There is a better way. We need to change immigration law so that it reflects the needs of our economy and the choices made by millions of Americans and immigrants in the labor market. Comprehensive immigration reform, including a robust temporary worker program, is the key to securing our borders, safeguarding our liberties, and expanding the economy to create better-paying jobs for middle-class Americans.

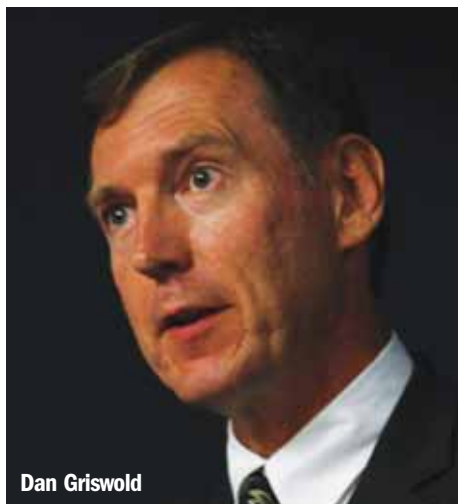
TIM LYNCH: There are at least four problems with the Arizona law. First, that law is going to drive a wedge between the community and the police. If the local police involve themselves in immigration enforcement, crime victims will become more reluctant to come forward and report crimes to the authorities because they will fear deportation. Women will become more reluctant to report rapes or beatings by abusive boyfriends. Families will become more reluctant to report robberies or kidnappings. Students will become more reluctant to report beatings and robberies because they will fear for their parents should the authorities come to their household and learn about their vulnerability to deportation. Driving such a wedge between the police and the public will make the community less safe.

Second, we need to remember that police forces have scarce resources. Police commanders have to set priorities for their personnel. Homicides are more important than shoplifting and so on. Why divert the personnel who are working to respond to and solve violent crimes? Why take those agents off of their other duties so that they can arrest and book people who have overstayed their work visa? Police chiefs in Los Angeles, Houston, Philadelphia, Minneapolis, Tucson, and Phoenix have all said that the Arizona law will make matters worse, not better. We should be listening to these police officials.

Third, the Arizona law makes it a criminal offense for unauthorized aliens to engage in honest work. Picking fruit in a field will be a crime. Painting, landscaping, washing cars, working as a maid to clean a house or an office—these now constitute criminal offenses in Arizona. The worry used to be that people were coming across the border to take advantage of our generous welfare benefits. The response to that was, no, the overwhelming majority of people are coming to the United States so they can engage in honest work. But if honest work is made a crime, what will be the effects? We should call this the couch potato provision because, if it has any effect at all, it's going to drive people out of the workplace. We'll have more people staying home

and watching TV as they try to live on the earnings of other people in the household instead of going out and working.

The fourth problem concerns police stops and checks for immigration papers. Involving local police with immigration stops will create what those of us in the criminal law field call "low visibility police abuses," partic-



Dan Griswold

“We need to change immigration law so that it reflects the needs of our economy and the choices made by millions of Americans and immigrants in the labor market.”

ularly false arrests. I know when I use the term “false arrest,” most people conjure the image of somebody in handcuffs down at the local jail or police station, but the doctrine of false arrest is much broader. It has been defined as compelling a person to go where he does not wish to go or compelling a person to stay where he does not wish to stay. If the local police get involved in immigration checks, they will use the old trick of blurring the dis-

inction between a simple request and a police order. That means some people will be coerced into answering questions that they do not have to answer, and others will be falsely arrested for choosing to stand their ground and remain silent.

Is there a racial aspect to all of this? Yes. Hispanic Americans will bear the brunt of the false arrest situations.

Let me sum up. To the extent that crime is a problem, why drive a wedge between the community and the police? Why divert limited police resources away from the effort to solve violent crimes toward arresting and booking people on immigration offenses? Why turn the criminal law on those who are trying to engage in honest work? And the Arizona law will lead to scores of civil liberties abuses, mostly in the context of false arrests—and Hispanic Americans and Hispanic legal residents are going to bear the brunt of those false-arrest situations.

If the Arizona law is to be judged according to its actual consequences, instead of its promised benefits, then we have to conclude that it will create more problems than it solves.

MARK KRIKORIAN: There are two issues here, the macro and the micro. The micro issue is specifically the Arizona law. It's a very modest law. It provides some additional tools for law enforcement but not many. One of the reasons I think it passed is because the Arizona legislature had run out of other things to do related to enforcement. Frankly, Arizona's efforts at immigration enforcement have worked. The Public Policy Institute of California has done research suggesting that the decline in the illegal population in Arizona has been greater than in other states because of Arizona's immigration enforcement. The U.S. illegal population peaked at about 12.7 million in August 2007 and began falling right after, when the Bush administration reluctantly permitted enforcement of the immigration laws to some degree. We have had a significant decline in the illegal population, partly because of the economy, but partly because enforcement works.

It could have been Nebraska or Delaware, but Arizona is the obvious place

because it's ground zero on immigration. But who cares where it was? They had to pick somewhere and make an example of it. That's essentially what we have seen in the past few months. The lawsuit the Justice Department filed does not address any of the objections people have made. The Justice Department claims that Arizona is pre-empted by federal law from doing this—which is false because the state is simply reinforcing federal law. More importantly, the lawsuit doesn't even claim that Arizona is contradicting federal law, merely that the legislation is incompatible with federal policy priorities. In other words, the White House has decided to stop enforcing immigration laws, and how dare Arizona interfere with their priorities?

The macro issue, though, is not the Arizona law itself. Rather, the debate is about whether we should have borders and whether we should have border enforcement. The public support for the Arizona law has been consistent and strong despite furious attacks by the *New York Times*, the *Wall Street Journal*, and the Cato Institute. It reflects not just a general public support for immigration enforcement but a real frustration that enforcement is not happening. A credibility gap, if you will, on the part of the government. Nobody believes the federal government is actually committed to enforcing immigration laws.

In fact, our immigration system looks pretty tough on paper but isn't enforced when push comes to shove. This is a function of the elite/public split over immigration. Elites don't believe in immigration enforcement. They don't really believe in borders all that much. Our elites are disproportionately post-national and post-American. Our public wants the immigration laws to be enforced. Those groups that work on immigration issues day to day want loose enforcement. So to satisfy the public we have laws that look tough on paper.

Only with consistent, across-the-board, unapologetic enforcement do you create the political space for comprehensive reform.

GRISWOLD: There's a contradiction in what Mark is saying. He says we have never really tried enforcement. He ridicules current

enforcement efforts. And yet he argues that enforcement has reduced the illegal population by 1 or 2 million. I think that population declined because of the economy. Arizona was one of those states where the economy fell particularly hard because of the housing bust.

We have a pretty good idea of how many



Tim Lynch

“The Arizona law is going to drive a wedge between the community and the police.”

immigrants would come into the country under a legalization program. A half million were coming in without the program at a time when people like Mark claim we weren't doing anything to enforce the border. In the last 5 or 10 years, why weren't we getting 5 million illegal immigrants each year? Because there weren't jobs for them. If there aren't jobs, they don't come. There aren't jobs during this recession and so they aren't only not coming, they are going home.

A temporary worker program that accommodated the revealed demand of the U.S. economy would mean about a half million temporary worker visas. One of Mark's favorite lines is “Nothing's as permanent as

a temporary worker.” But that's not true of most temporary workers. The traditional pattern of Mexican migration to the United States has been circular. From the mid-1970s on, when we had a kind of don't ask don't tell policy on immigration, 80 percent of Mexican immigrants went back home. A temporary worker program is the only way to solve illegal immigration.

KRIKORIAN: I want to touch on one thing that Dan alluded to: this idea of the revealed demand of the economy. He said we had about half a million illegal immigrants before the recession. It was a net increase of 500 thousand in the illegal population but the annual flow is actually 800 to 900 thousand a year. The reason the flow is bigger than the increase in the number of people is because about a quarter or more of each year's “legal” immigrants are, in fact, illegal aliens using the system to launder their status. In other words they are not going home. They are just finagling a green card. And then the next batch of illegal immigrants is coming in behind them.

But let's even say it's half a million. That doesn't reveal much because, as limited and inadequate as our enforcement efforts are, there is still some enforcement. It's still an effort to get here illegally and stay here under the radar. Without immigration enforcement, even to the degree that we have, there would be significantly higher inflows. We would end up with easily double or triple the current number, accelerating dramatically over time. This is what President Bush called for in January 2004 when he gave his big immigration speech. He wanted unlimited immigration. Any worker from anywhere in the world willing to work at any wage at any job anywhere in the United States for any employer. Another problem is what unlimited immigration would do to Mexican immigrants. Mexican labor is actually pretty costly compared to Bangladeshi, Nigerian, or Indonesian labor. Once liberalized immigration policy got going and institutionalized, Mexican guest workers would be pushed out of work by much cheaper workers from Asia and Africa. And the numbers would dramatically increase as it snowballed over time.

The Cato Institute Predicts the Future

In the third of a century since its founding, the Cato Institute's scholars have issued a wealth of predictions about the likely effects of government policies and programs. While sometimes ignored or belittled, these predictions have often proved prescient.

Most famous was Joe Stilwell's Policy

Analysis published in 1982. In "The Savings & Loan Industry: Averting Collapse," Stilwell warned that, "regardless of changes in the economic climate, numerous S&Ls will be unable to meet their financial obligations." Few in government listened then. Through the remainder of the decade, Americans would have been better off if they had, before the taxpayers had to come up with a \$500 billion rescue plan.

In 1982, Cato founder and president Edward H. Crane wrote about his recent visit to the Soviet Union. "It is a society that appears to be crumbling from within," Crane wrote. He added, "If we can avoid confrontation with the Soviets over the next 20 years, their system should collapse of its own bureaucratic weight." Such a prediction sounded crazy at the time. And indeed Crane's estimate was off target. The Soviet Union vanished, in not 20 years, but 9.

Stanley Kober, a research fellow in foreign policy studies at the Cato Institute, warned in a 1996 paper that "the terrorist attacks in Saudi Arabia, Israel, and other countries suggest that the trend in the Middle East is not nearly as hopeful as it appeared just a few years ago," and he identified Osama bin Laden as a particular terrorist threat to the United States.

In a study he published in February 2001, Daniel Griswold wrote, "A domestic recession would reduce the trade deficit, as it has in the past, but at great cost to U.S. workers and their families." A month later, the U.S. economy slipped into recession and the trade deficit declined in 2001 com-

pared to 2000, after having risen in each of the previous five years. Then came the Great Recession, beginning in 2008. The trade deficit in 2009 was \$300 billion smaller than in the pre-recession year of 2007.

In few areas have Cato scholars been more consistently correct and more consistently outside the mainstream consensus than the Iraq war. In 1999, Ted Galen Carpenter argued that "removing a thug like Saddam...is extremely ill-advised. It will make Washington responsible for Iraq's political future and entangle the United States in an endless nation-building mission beset by intractable problems." William Niskanen wrote in the *Chicago Sun-Times* in December 2001, "Another war in Iraq may serve bin Laden's objective of unifying radical Muslims around the world in a jihad against the United States." In 2002, Doug Bandow warned that, "If Iraq's forces don't quickly crumble, the U.S. might find itself involved in urban conflict that will be costly in human and political terms." And in March 2003, Christopher Preble argued America's experiences with nation-building in Germany and Japan advise against attempting the same with Iraq. "If these 'success' stories reflect the model for post-war Iraq," Preble wrote, "we should expect the U.S. to remain in this troubled region for many years."

Returning to domestic affairs, in March 2007, Jim Harper said in congressional testimony: "Mr. Chairman, the REAL ID Act is a dead letter. All that remains is for Congress to declare it so." More than three years later, REAL ID, an attempt by the federal government to establish a national personal identification system, has gone nowhere, and two major implementation deadlines have passed.

In February 2009, when President Obama's approval rating was in the mid-60s and most political opinion makers thought he was on the cusp of radically remaking America, Gene Healy published his first weekly column in the D.C. *Exam-*



Cato News Notes

LINDSAY LOHAN ♥S THE CATO INSTITUTE



A Cato Institute article on criminal sentencing found an unexpected new audience when

actress and gossip magazine regular Lindsay Lohan tweeted a line from it to her 850,000 followers. The essay, by Erik Luna, scathingly critiqued federal sentencing guidelines which, as Lohan quoted in her tweet, results in “scores of federal defendants sentenced under a constitutionally perverted system that saps moral judgment through its mechanical rules.”

DAN MITCHELL AND HILLARY CLINTON SHARE A CONTINENT



In June, Cato senior fellow Dan Mitchell shared the Latin American fiscal policy stage with none other than Secretary of State

Hillary Clinton. Clinton, speaking in Ecuador, called on “the wealthy across the Americas to pay their ‘fair share’ of taxes in order to eliminate poverty and promote economic opportunity for all.” In sharp contrast, Mitchell, in speeches to the Fundacion Libertad in Panama and the Chamber of Commerce in El Salvador, offered the moral case against increasing taxes, especially in a region as prone to state tyranny and corruption as Latin America.

2009, six months before the bill’s passage, that ObamaCare’s individual mandate would force as many as half of all Americans with private insurance to switch to a more expensive plan. At the time, the administration insisted this was fantasy. In June, it all but admitted Cannon was right, prompting the *New York Times* to write that “the rules appear to fall short of the sweeping commitments President Obama made while trying to reassure the public in the fight over health legislation.”

Even earlier was Michael Tanner’s 2006 paper, “Individual Mandates for Health Insurance: Slippery Slope to National Health Care.” Later that same year, Massachusetts enacted health care legislation that included an individual mandate. The results have followed Tanner’s script exactly. RomneyCare’s individual mandate took effect in 2006, along with health insurance exchanges. Subsequently, 16 mandates have been added to the original list of benefits that health insurers must provide in the Bay State. Massachusetts now has the most rapidly increasing premiums in the nation. The most recent attempt to control costs, as Tanner predicted, was to simply prohibit insurers from increasing premium rates, leading insurance companies to predict that they will suffer from hundreds of millions of dollars in losses this year. In addition, wait times have increased to see both primary-care physicians and specialists, just as Tanner’s paper said they would.

The fact that policymakers failed to take Cato scholars’ warnings of the last 30 years to heart, makes it only more crucial that they do so in the next 30.



iner. Healy wrote, “When he fails to fully heal our financial troubles, fix health care, teach our children well, provide balm for our itchy souls, and so forth, his hope-addled rhetoric will seem all the more grating, and the public will increasingly come to see him as the source of all American woes.” By July 2010, according to Gallup, President Obama’s approval rating had fallen to 44 percent, the lowest of his presidency, and his party was fearing considerable losses in the upcoming congressional elections.

As Healy predicted, President Obama did fail to fix health care. Instead, he ushered through Congress the ill-considered legislation known as ObamaCare. Michael Cannon predicted in September



At a Capitol Hill Briefing in July, STEPHEN P. COHEN, senior fellow in foreign policy studies at the Brookings Institution, discussed the agreement Congress approved in 2008 facilitating civilian nuclear cooperation between the United States and India. Cohen called for a new, regional nonproliferation treaty.



BENJAMIN H. FRIEDMAN, research fellow in defense and homeland security studies, testifies before the House of Representatives Subcommittee on National Security and Foreign Affairs in July. Friedman called for deep cuts in military spending, including cutting the active-duty Army to approximately 360,000 personnel, reducing the nuclear weapons arsenal to 500 deployed warheads, reforming the calculation of military compensation, and restructuring health care benefits.



In June, at a Cato Policy Forum on the Sudanese elections, MARC GUSTAFSON, a Marshall Scholar at Oxford University and author of the Cato paper “Rethinking Darfur” (see p. 18), argued that, as flawed as the elections were, the new election laws do provide a foundation for future elections. “It’s a lot easier to reform electoral laws than it is to start from scratch,” he said.



RAGHURAM RAJAN (right), former chief economist at the International Monetary Fund, and CARMEN REINHART (left), coauthor of *This Time Is Different: Eight Centuries of Financial Folly*, spoke about Rajan’s new book, *Fault Lines: How Hidden Fractures Still Threaten the World Economy*, at a Cato Book Forum on June 16. *Fault Lines* explores the deep causes of the financial crisis.

“It’s difficult to address issues of drug violence and lawlessness when you’re trying to stop someone who just wants to come to mow a lawn,” Rep. JEFF FLAKE (R-AZ) said at a Capitol Hill Briefing on using work visas to control the U.S./Mexico border. Flake was joined by the Cato Institute’s Daniel Griswold and STUART ANDERSON (right) in criticizing current immigration policy and offering paths to reform.



JUNE 2: National Education Standards: Hopeful Change or Hollow Promise?

JUNE 3: How to Think about Capital Gains Taxation

JUNE 7: Social Security: A Fresh Look at Policy Alternatives

JUNE 11: Sudan after the Elections: Implications for the Future and American Policy Options

JUNE 15: The New Assault on Free Speech

JUNE 16: *Fault Lines: How Hidden Fractures Still Threaten the World Economy*

JUNE 17: *More Guns, Less Crime: Understanding Crime and Gun Control Laws*

JUNE 18: The Military’s Role in Counterterrorism

JUNE 22: *Exporting the Bomb:*

Technology Transfer and the Spread of Nuclear Weapons

JULY 1: Using Work Visas to Control the Border

JULY 8: Is the Electoral College Obsolete?

JULY 14: What to Do about North Korea?

JULY 21: The Politics and Law of Immigration

JULY 22: The Implications of the U.S.-India Nuclear Agreement

JULY 25–30: Cato University

JULY 28: Union Influence on Public Policy

JULY 29: Strategic Counterterrorism: The Signals We Send

Audio and video for all Cato events dating back to 1999, and many events before that, can be found on the Cato Institute website at www.cato.org/events. You can also find write-ups of Cato events in Ed Crane’s bimonthly memo for Cato Sponsors.

Cato Calendar

CONSTITUTION DAY

Washington • Cato Institute
September 16, 2010

Speakers include William Van Alstyne, Alan Gura, Harvey Silverglate, and Tom Goldstein.

CATO CLUB 200 RETREAT

Stowe, Vermont • Stowe Mountain Lodge
September 23–26, 2010

Speakers include Scott Rasmussen and Kim Strassel.

CATO INSTITUTE POLICY PERSPECTIVES 2010

New York • Waldorf-Astoria
October 29, 2010

ASSET BUBBLES AND MONETARY POLICY

28th Annual Monetary Policy Conference
Washington • Cato Institute
November 18, 2010

Speakers include John B. Taylor, George S. Tavlas, Jerry L. Jordan, Charles Plosser, Lawrence H. White, Steve Hanke, Gerald P. O’Driscoll Jr., and Carmen Reinhart.

23RD ANNUAL BENEFACTOR SUMMIT

San Diego • The Grand Del Mar
February 24–27, 2011

The courts' sorry record on economic liberties

Our Forgotten Constitutional Right

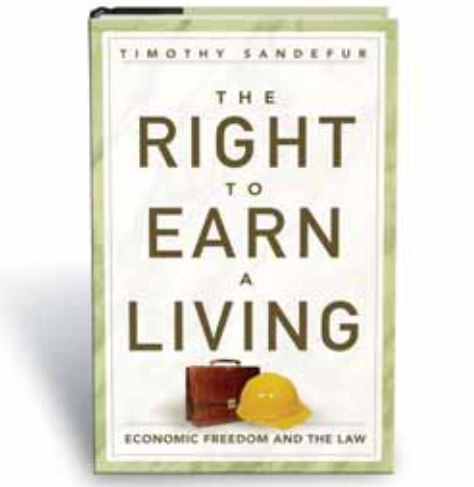
“As is often the case in the law, an error in the past . . . leads not to repentance but to greater confusion and increasingly strained arguments in the present day,” Cato adjunct scholar Timothy Sandefur writes in his new book. That mistake is “the abandonment of serious judicial protection for economic liberty” or, as he calls it, the right to earn a living.

Sandefur, a constitutional expert, attorney at the Pacific Legal Foundation, and author of *Cornerstone of Liberty: Property Rights in 21st Century America*, has made a career defending this right, representing honest, hardworking Americans who want only an honest day’s work, but are kept from it by meddlesome lawmakers and their special-interest supporters. In *The Right to Earn a Living: Economic Freedom and the Law*, Sandefur draws on his experience to tell the story of this often forgotten constitutional right.

Today, many people separate rights into “economic liberties” and “civil liberties.” But as Sandefur shows by looking at the legal evolution of the last 400 years, perceptions didn’t always run this way. The right to earn a living was central to the collapse of feudalism and mercantilism and the rise of liberalism and constitutional republicanism. Respect for the right peaked in the 17th and

18th centuries and then began a rapid decline in the 19th, accelerating with the rise of collectivist political philosophies, when “government power began to gain ascendancy over the individual’s right to pursue happiness.” Sandefur attributes this shift to changing attitudes about the role of the state. “No longer a potential threat to freedom, autonomy, and dignity,” he writes, “the state was seen as the *originator* of these values, and because it created them, the government was allowed to manipulate individual choices.”

Sandefur organizes his book around various legal and constitutional doctrines, explaining how each impacts the right to earn a living and how the courts, when interpreting each, have increasingly acted to erode the right. He describes the death of the Constitution’s privileges or immunities clause in the famous *Slaughterhouse Cases*, when the Supreme Court upheld a state law creating “a monopoly in the slaughtering trade” and “shuttering the businesses of hundreds of Louisiana butchers.” He discusses the much derided—and much misunderstood—*Lochner* decision, a favorite target of ire from progressive legal scholars but, in reality, a carefully considered upholding of the fundamental right to contract. Sandefur agonizes over the emergence of substantive due process and, specifically, the rational basis test, which saw the Court giving



Congress near limitless power to intrude upon American liberties. He addresses the anti-freedom trends in commerce clause doctrine, protection for commercial speech, the enforcement of contracts, tort law, and regulatory takings.

The Right to Earn a Living is an important reminder and thorough examination of the basic economic liberties the Constitution—and the amendments made to it in the aftermath of the Civil War—was meant to protect. “Judges will sooner or later have to face the fact that the right to earn a living free from unfair government meddling is an essential component of our cherished right to pursue happiness,” Sandefur writes. “That day must bring about a new birth of freedom.”

Visit www.catostore.org or dial 800-767-1241 to get your copy of *The Right to Earn a Living* today; \$25.95 hardcover.



P. J. O'ROURKE

on tour!

P. J. O'Rourke, the Cato Institute's Mencken Research Fellow, has a new book out, and he's touring the country to talk about it. Catch up with P. J. and Cato in these locations:

SEPTEMBER 30.....	SAN FRANCISCO, PALACE HOTEL
OCTOBER 7.....	LOS ANGELES, BEVERLY WILSHIRE
OCTOBER 13.....	DALLAS, RITZ-CARLTON
OCTOBER 14.....	HOUSTON, FOUR SEASONS
OCTOBER 28.....	WASHINGTON, CATO INSTITUTE

For more details, watch www.cato.org/events. And for more of P. J.'s events and television appearances, check www.pjorourke.com.



Training Libertarian Leaders

This summer, the Cato Institute welcomed its newest intern class. The 29 young men and women represent the new generation of advocates for individual liberty, limited government, free markets, peace, and the rule of law. The internships are part of the broader Young Leaders Program at the Cato Institute, a project of student outreach that includes Cato On Campus and Cato University.

The Summer 2010 intern class has something to be proud of: they survived an application process more selective than the most prestigious universities. Of the 1,100 applicants, only 2.6 percent got to call Cato home this summer. Compare this to the top of the Ivy League. According to the *Harvard Crimson*, "A record-low 6.9 percent of applicants have been accepted to the Harvard College Class of 2014."

The program's rigor is similar to the Ivy League, too. But, unlike the Ivy League, Cato interns receive a broad and deep education in the fundamentals of liberty. Each intern is assigned to policy directors at Cato, allowing the intern to delve deeply into a particular area of study. Not only do the interns help Cato scholars with research and work with the conference department to organize policy conferences, debates, and forums, but they attend regular seminars on politics, economics, law, and philosophy, as well as a series of lectures and films on libertarian themes. The interns develop their public speaking skills by presenting policy recommendations and develop their writing skills by drafting letters to the editor and op-eds. After such intense study, they emerge at the end of the summer well equipped to promote and live the ideas of liberty.

The film seminar series, which highlights documentaries, television series, and feature films that provoke discussion related to other parts of the Cato curriculum, is also unrivaled in most places in the world. Interns gather for the film seminar series having already read an accompanying selection of articles and essays. After the viewing, they gather with their discussion leader to explore the various liberty-related themes

and economic principles illustrated in the chosen film.

Because there are few skills more valuable than the ability to form cogent, concise arguments in defense of liberty and present them in a confident, persuasive manner, Cato launched the Intern Debate Series as part of the research intern program. The series hosts rousing, parliamentary-style debates on various topics of public interest between Cato research interns and other think tanks and groups in Washington, D.C.

This summer, Sara Scarlett, a student at the University of London, participated in one

States, but also Mexico, Venezuela, Kenya, and Dubai. The exposure of foreign students to life and academia in the United States is invaluable for them, and they are able to bring the ideas they learned at Cato back to their home countries. American students benefit from learning alongside young people who bring cultural, linguistic, and intellectual differences to the program. Within these diverse backgrounds and cultures there exists a powerful cohesive force: a consuming passion for liberty.

The interns bring a wealth of experience to Cato. Health policy studies intern Sloane



EMILY EKINS

A PhD student at UCLA, Emily is studying how institutions affect political and economic behavior with the goal of discovering which institutions are necessary for a prosperous society.



JORGE OSUNA

Jorge, born in Venezuela, worked with the *Organizacion por la Democracia Liberal en Venezuela* to form a Libertarian Party in his native country.



JOSEF STORM

Josef spent a year in Afghanistan and eight months in Southern Sudan working on developing and enhancing the capacity of the government institutions of both countries.

such debate, alongside Liya Palagashvili, an intern at the Institute for Justice. The event, moderated by Cato vice president Gene Healy, pitted the Cato intern against two interns from the Heritage Foundation on libertarianism versus conservatism. "It's great to see students who care enough about fundamental ideas to publicly argue about them," said George Mason University economics professor Bryan Caplan after the debate. By helping develop bright students into eloquent, persuasive speakers, we intend to strike a blow in favor of liberty on college campuses around the country.

Interns represent not just the United

Frost co-founded Students For Liberty, an organization with a network of 290 student groups. Jorge Osuna, a Venezuela native, works with the *Organizacion por la Democracia Liberal en Venezuela* in the formation of a Libertarian Party and with the *Instituto de Libertad y Prosperidad* to expose young people to libertarian ideas.

Preparing the interns for life after Cato is crucial. Cato's staff works closely with our interns to teach them the skills that enable them to find jobs as journalists, public interest lawyers, Capitol Hill staffers, college professors, and in other important and influential positions.

Better Health Care? No, Just More Expensive.

“We need to pass the bill so you can find out what’s in it,” Nancy Pelosi said of the massive health care legislation the president signed in March. Cato Institute senior fellow Michael Tanner has found out what Obamacare includes and, in **“Bad Medicine: A Guide to the Real Costs and Consequences of the New Health Care Law”** (White Paper), he exposes the troubling details. The law will increase the number of insured Americans, but by 2019, roughly 21 million will still lack insurance. ObamaCare will cost more than \$2.7 trillion over the next 10 years while adding \$352 billion to the national debt—and do nothing to control health care costs. Not only will premiums continue to rise, but so will taxes, by more than \$669 billion by 2019. Fortunately, the fear of rationing looks misplaced,



but it may quickly return, as the government looks for ways to cut costs. Finally, the bill breaks President Obama’s pledge that those who like their current insurance will get to keep it. Millions of Americans, Tanner finds, will be forced to change plans or switch to Medicaid. “There will be time to repeal or at least make significant changes to the legislation before most of it takes effect,” Tanner writes. “If not, this legislation will be very bad news for American taxpayers, businesses, health care providers, and patients.”

Understanding Darfur

The devastating war in Darfur produced a flood of sympathy and activism from the West. But it is also a deeply misunderstood war, with analysts often oversimplifying its causes and overestimating its violence, writes Marc Gustafson, a Marshall Scholar and doctoral candidate at the University of Oxford, in **“Rethinking Darfur”** (Foreign Policy Briefing no. 89). The media and activists routinely select from the highest of estimates when presenting data on the con-

flict—and they largely ignore the decline in violence occurring in the last several years. They also fail to disclose that most of the deaths in the war in Darfur are the result not of direct violence but of disease and malnutrition. While activists often place the number of casualties from violence at 400,000, the actual number is closer to 60,000. This distorted picture of both the details of the conflict and the scope of the violence has led to a misallocation of resources by policymakers, with a greater emphasis placed on peacekeeping operations and less on the humanitarian aid needed to prevent the bulk of the deaths. In addition, it has drawn attention away from larger and more damaging conflicts elsewhere in the world. “Despite activists’ good intentions,” Gustafson writes, “these costs are real, and should be added to the ledger we use when measuring the impact of political activism on the Darfur issue.”

Where Freedom Is the Coin of the Realm

In Cuba’s socialist society, with state pater-

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Cathy Young.....Research Associate

nalism replacing the market, the only currency for procuring life's necessities and luxuries is individual freedom. "Everything had to be paid for twice," writes Yoani Sánchez, an independent Cuban blogger, in "Freedom and Exchange in Communist Cuba" (Development Policy Briefing Paper



no. 5). "Once in real money at a subsidized price, and again with freedom, whether offered sincerely or not." This constant relinquishing of liberty failed to bring about the socialist utopia promised by Cuba's revolutionaries, resulting instead in a dystopia where "mediocrity began to be called modesty, while self-confidence was branded as arrogance." But the goods bought in exchange for freedom were largely the government's to give because of a constant inflow of Soviet subsidies. When the Soviet Union collapsed, these subsidies did as well, and the Cuban government was forced to buy time with limited and short-lived reforms—which in turn vanished with the rise to power of Hugo Chávez and Venezuela's financial support. Sánchez tells of the nascent Cuban resistance movement of pro-freedom "cyber-dissidents" who use the Internet to organize and spread their message to a still-cowering populace. As the Venezuelan well dries up, Sánchez writes, Cuba is facing a choice to either "fall into

the hands of another moneylender, or to stop, once and for all, handling freedom as if it were money."

Congress Shall Make No Law...

Reaction to the Supreme Court's decision in *Citizens United v. Federal Election Commission* was swift and severe. President Obama, during his State of the Union address, condemned the Court's upholding of First Amendment protection for union and corporate political speech, while Congress began moving to legislatively "fix" the Court's error. Sen. Charles Schumer (D-NY) and Rep. Chris Van Hollen (D-MD) introduced their response to *Citizens United*, the DISCLOSE Act. John Samples, director of the Center for Representative Government at the Cato Institute, takes aim at that bill in "The DISCLOSE Act, Deliberation, and the First Amendment" (Policy Analysis no. 664). He shows how it is both counterproductive and, in some provisions, unconstitutional. DISCLOSE would mandate cumbersome disclosure requirements for political speech, which "hardly encourages rational voting," Samples argues. Instead, "it directs attention away from the content of an ad and toward the source of funding for the message." Because these requirements pertain to businesses and unions, which are both unpopular groups among many Americans, "disclosure may be little more than an acceptance of popular prejudice" that "fosters a political rather than a rational vote." "Voters require free speech to hear arguments, reach

conclusions, and cast a rational ballot," Samples writes. "Congress has no power to decide that corporate speech is of no value to voters."

Beware of Foreign Entanglements

For 65 years, the United States has sent its soldiers to keep the peace on the Korean peninsula, protecting the Republic of Korea from the communist Democratic People's Republic of Korea to the north. In "The U.S.-South Korea Alliance: Outdated, Unnecessary, and Dangerous" (Foreign Policy Briefing no. 90), Cato Institute senior fellow Doug Bandow argues that it's time to bring the relationship to an end. "After 65 years of dependence on the United States," Bandow writes, "the South Korean people should take over responsibility for their own defense." This mutual defense treaty is mutual in name only, with the United States gaining little and giving up a great deal. Americans are borrowing money to pay to defend the South so South Koreans can spend their money on other priorities." Bandow sees the sinking of the South Korean ship, the *Cheonan*, by North Korea as a "worrisome change in strategy," one that indicates that the North may be willing to militarily engage the South. Such a conflict would draw the U.S. into a war it cannot afford. "Once the current crisis passes," Bandow writes, "the Mutual Defense Treaty should be terminated and the U.S. forces should be withdrawn."

Restoring Global Financial Stability

The Fall 2010 edition of *Cato Journal* continues the prior issue's theme of restoring global financial stability. The essays contrast the current discretionary government fiat money regime with alternatives designed to improve global financial stability.

Lawrence H. White, in "The Rule of Law or the Rule of Central Bankers?" argues that we must not make the Federal Reserve more independent but, rather, we must limit its discretion. In "Privatizing Money," Leland B. Yeager shows how the dollar should be defined by a broad set of goods and services, with private issued notes freely convertible into this new, standard unit. In "Alternatives to the Fed?," Bennett T. McCallum argues that a system of privatized money would function well, but only if the underlying legal structure provided the right incentives.

George Selgin advocates a shift to free banking in "The Futility of Central Banking," which would result in monetary and financial harmony. Richard Rahn endorses a global currency but warns that it should not take the form of IMF special drawing rights. In "A Constant Unit of Account," he offers the alternative of a bundle of major currencies. Also included are articles from Luigi Zingales, Miranda Xafa, Swaminathan S. Anklesaria Aiyar, Judy Shelton, and James Grant.

The issue concludes with reviews of new books by Laurence J. Kotlikoff, Robert H. Nelson, and Matt Ridley.



CATO POLICY REPORT

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“To Be Governed...”

OBAMA TELLS IT LIKE IT IS

President Obama signed into law on Wednesday a sweeping expansion of federal financial regulation. . . .

A number of the details have been left for regulators to work out, inevitably setting off complicated tangles down the road that could last for years...complex legislation, with its dense pages on derivatives practices. . . .

“If you’ve ever applied for a credit card, a student loan, or a mortgage, you know the feeling of signing your name to pages of barely understandable fine print,” Mr. Obama said.

—*New York Times*, July 21, 2010

HILLARY AND HUCKABEE GO TO BEIJING

Government nannies ordered all match-making shows to cut the sexual innuendo, uphold traditional values, and ban any talk of women “gold digging.”

The censorship is the latest and most public example of the government’s new crackdown on vice and perceived immorality. It comes even as China becomes more freewheeling and open, with people increasingly pushing the boundaries in matters involving taste, sex, and money—and the intersection of the three. . . .

The goal of the ongoing campaign is to “eradicate all social evils” and “advocate a healthy, civilized and high-minded lifestyle,” a police spokesman said.

—*Washington Post*, July 5, 2010

SAYS THE ARCHITECT OF BIG-GOVERNMENT CONSERVATISM, TWO WARS, AND THE DEMOCRATIC VICTORIES OF 2006 AND 2008

In America, the ideology of libertarianism is itself a scandal. It involves not only a retreat from Obamaism but a retreat

from the most basic social commitments to the weak, the elderly, and the disadvantaged, along with a withdrawal from American global commitments.

Libertarianism has a rigorous ideological coldness at its core. Voters are alienated when that core is exposed.

—*Michael Gerson in the Washington Post*, July 9, 2010

LOVE THOSE TAXES

If the I.R.S. had been doing its marketing properly, little kids would dream of growing up to become really big taxpayers.

—*Gail Collins in the New York Times*, April 14, 2010

HATE THOSE TAX PROTESTERS

Is it an accident that Ridley Scott’s Robin Hood plays like a rousing love letter to the Tea Party movement? . . .

[Robin’s] ability to mobilize commoners with empty, anti-government rhetoric equating taxation with slavery is posited as a virtue. . . .

Instead of robbing from the rich to give to the poor, this Robin Hood preaches about “liberty” and the rights of the individual as he wanders a countryside populated chiefly by Englishpersons bled dry by government greed.

—*Karina Longworth in the Village Voice*, May 11, 2010

WE’RE CONFIDENT THE CATO INSTITUTE WOULD STILL BE INDEPENDENT

The Central Organization Department, the [Chinese Communist] party’s vast and opaque human resources agency. . . handles key personnel decisions not only in the government bureaucracy but also in business, media, the judiciary, and even academia. Its deliberations are all secret. If such a body existed in the United States,

McGregor writes, it “would oversee the appointment of the entire US cabinet, state governors and their deputies, the mayors of major cities, the heads of all federal regulatory agencies, the chief executives of GE, Exxon-Mobil, Wal-Mart and about fifty of the remaining largest US companies, the justices of the Supreme Court, the editors of the *New York Times*, the *Wall Street Journal* and the *Washington Post*, the bosses of the TV networks and cable stations, the presidents of Yale and Harvard and other big universities, and the heads of think-tanks like the Brookings Institution and the Heritage Foundation.”

—*Washington Post*, July 25, 2010

IF ONLY WE COULD BE MORE LIKE HAITI, DJIBOUTI, AND AFGHANISTAN

When it comes to paid maternity leave, the United States is in the postpartum dark ages.

One hundred and seventy-seven nations—including Djibouti, Haiti, and Afghanistan—have laws on the books requiring that all women, and in some cases men, receive both income and job-protected time off after the birth of a child.

—*Sharon Lerner in the Washington Post*, June 13, 2010

THIS IS A REPUBLIC. AMERICANS DON’T BOW TO MONARCHS.

Serena [Williams], who earned her third title by beating her sister in last year’s final, has tweaked her tournament preparation in anticipation of a visit Thursday to Wimbledon by Queen Elizabeth II.

“I’ve been working on my curtsy,” Serena said. “It’s a little extreme, so I’m going to have to tone it down. I was practicing it this morning.”

—*Associated Press*, June 21, 2010