Cato Policy Report

November/December 1989 Volume XI Number 6

How Federal Aid Raises State and Local Spending

by Doug Bandow

For years there have been few greater opponents of the federal deficit than state and local officials. Yet there have been few more enthusiastic supporters of federal spending. The National League of Cities, for instance, once warned that reducing the federal deficit, $152 billion in fiscal year 1989, was "the most urgent priority confronting the nation"; it also proposed increasing federal spending for mass transit, education, nutrition, and job-training programs.

Likewise, at the annual meeting of the U.S. Conference of Mayors in June the Republican mayors drafted a resolution, passed by the entire body, that called for a tax hike intended to reduce the deficit and suggested using some of the money to increase aid for urban development. "We want to do our fair share," said Vermont governor Madeleine Kunin, "but states like Vermont can't afford having the burden shifted toward us."

The Reagan administration periodically proposed cutting federal aid to state and local governments, which alarmed officials who were used to receiving annual subsidies of more than $100 billion. Although the administration had little overall success, it was able to end revenue sharing and consolidate many categorical grant programs.

Local officials appear to have little to fear from the Bush White House. In June Republican National Committee chairman Lee Atwater told the U.S. Conference of Mayors, "We in the Republican party are not opposed to spending more on the cities—we just want to be careful to spend taxpayers' money on projects that work."

Yet transferring funds from a government drowning in red ink to governments that collectively run a surplus—roughly $55 billion in 1987 and $40 billion in 1988—makes no sense even if the projects are good. (Excluding social insurance funds would give states and localities deficits of $8.9 billion in 1987 and $14.4 billion in 1988. However, excluding federal social insurance funds such as social security and Medicare would increase the federal deficit in 1989 by $55 billion, to roughly $207 billion.) The per capita debt of the federal government is nearly three times that of local jurisdictions. Even more important, intergovernmental "aid" causes jurisdictions to undertake projects that they would not undertake if they had to foot the bills. It also results in a larger, less efficient, and more meddlesome government.

Federal assistance to state governments began with land grants in the 19th century. However, ratification of the Sixteenth Amendment in 1913, authorizing a federal income tax, gave the national government what would become a virtually limitless source of revenue. Three years later Congress established the first categorical grant program, the Federal Aid Highway Act, to subsidize state road construction. Lyndon Johnson's Great Society caused in-

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Doug Bandow is a senior fellow at the Cato Institute and the author of the forthcoming book *The Politics of Plunder: Misgovernment in Washington.*

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Former associate attorney general Charles Cooper and federal judge Douglas Ginsburg talk with Cato senior fellow Roger Pilon at a Policy Forum sponsored by Cato's Center for Constitutional Studies.

Are America's Liberties Evaporating?

President's Message

On October 8 the front-page headline of the Rochester *Democrat and Chronicle* trumpeted, "Communist Party ends in Hungary." Adjacent to the lead article was a story headed, in smaller type, "Mother must prove she deserves to keep her home." A clipping of the two articles was sent to us by longtime Cato Sponsor Mark Babunovic, who thought that the juxtaposition rather graphically illustrated the gist of my most recent President's Message: in our euphoria over the demise of communism in Eastern Europe, we risk ignoring the daily erosion of liberties in the United States.

According to the second article, "Maxine LaPiana learned a powerful lesson about the criminal justice system this summer, when government agents seized her Mount Morris home for crimes allegedly committed by her son." LaPiana's 19-year-old son, Randy, had been arrested on May 4 for selling a total of 11½ ounces of marijuana to an undercover police officer at her home—while she was at work. As of October 8 he was still in jail, awaiting trial. Neither he nor LaPiana could afford to post his $50,000 bail, for which her house could no longer be used as collateral.

At 7:30 a.m. on August 18, while her 14-year-old daughter, Tricia, was getting ready for school, "nine agents from the U.S. Marshal Service, with guns slung across their shoulders," showed up at the house and presented LaPiana with a forfeiture warrant. LaPiana, a single parent, had become "the defendant in a civil lawsuit filed by the government" and would have to "prove in federal court that she didn't know about her son's alleged drug transactions" in order to get her house back.

If the government wins a forfeiture case, the Marshal Service puts the property on the market and "tries to get top dollar," the article explained, because "the arresting agency gets 90 percent of the proceeds of the sale of a seized home."

Across the United States federal authorities are presently holding 2,500 such properties with an estimated worth of nearly $400 million, all confiscated in the course of the "war on drugs."

The audacity with which the U.S. government sweeps aside constitutional liberties in the name of a "crisis"—in this case, a crisis nurtured by its own policies—is appalling. Now that such outrageous incidents have become commonplace fare in our morning newspapers, is it not time to stop celebrating the defeat of totalitarianism abroad long enough to reflect a bit on the nature of our own society?

Why do we rejoice when we read of the collapse of Marxism and communism all over the world? Why does the spectacle of two million citizens of the Baltic states joining hands along a 320-mile border to demand independence from the Soviet Union strike us as a heroic gesture? The reason is simple enough—we Americans are passionate about liberty, whether we're conscious of that fact or not.

Liberty is not merely an abstract concept. It means freedom from government domination. In a narrower sense, of course, it means freedom from being mugged, robbed, and murdered. Indeed, to protect our lives, liberty, and property is the avowed rationale for the creation of the U.S. government. Yet as George Washington noted and Eastern Europe has proved, "Government, like fire, is a dangerous servant and a fearful master."

The fire analogy is particularly apt. Place a frog in hot water and it will jump out. Place a frog in cold water and gradually turn up the fire, and it will sit passively until it is boiled to death. Americans witness the blatant oppression in the Soviet bloc and instinctively oppose it.

In the United States the fire has been turned up slowly, but it's been on for a long time. In 1950 spending at all levels of government accounted for 26 percent of national income; today the figure is 43 percent. Perhaps the water isn't boiling yet, but as the armed confiscation of innocent people's property makes starkly evident, it's getting very hot.

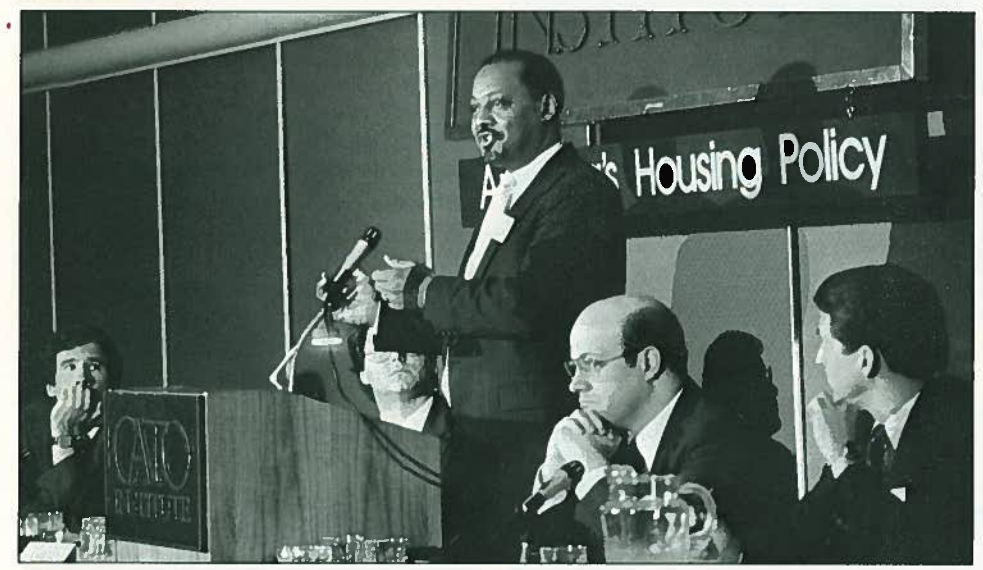
Ed Crane

—Edward H. Crane

And Cause Homelessness

Rent Control, Zoning, Regulation Raise Housing Costs

HUD analyst Irving Welfeld, author of *Where We Live*, makes a point to William Tucker, author of the forthcoming *Excluded Americans*, at Cato's conference on housing and homelessness.



Robert Woodson of the National Center for Neighborhood Enterprise calls for deregulation of the poor as Robert Van Order of Freddie Mac, Wayne Gable, Kenneth Beirne, and Rick Halford listen.

That deregulation could alleviate many of America's housing problems was the consensus of the speakers at a Cato Institute conference held in cooperation with the National Center for Privatization. The conference, "America's Housing Policy: Facts, Problems, and Alternatives," took place at the Grand Hyatt Washington on October 6.

During the first session Martha Burt of the Urban Institute discussed its recent study on homelessness and put the number of homeless Americans at 300,000–600,000. Irving Welfeld of the Department of Housing and Urban Development, author of *Where We Live*, noted that about 11.7 million units of housing are currently vacant and asserted that the causes of homelessness transcend housing scarcity. Louis S. Richman of *Fortune* estimated that local governments' zoning ordinances, building codes, permit requirements, and impact fees had raised housing costs by 20–25 percent during the past decade, thus hampering development.

The second session focused on federal housing programs. Kenneth Beirne of the National Association of Realtors argued that although Congress has yet to recognize vouchers as the best way to make affordable housing available to low-income Americans, applicants consistently favor them over public housing. Robert Woodson of the National Center for Neighborhood Enterprise noted that 70 cents of each federal welfare dollar goes to bureaucrats and argued that anyone who wants to help the poor should campaign for deregulation. Alaska state senator Rick Halford charged that the state's housing subsi-

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Talks on Constitutional Rights Highlight Fall Forums

Cato Events

July 27: **"The Constitution, the Judiciary, and the Liberties of the People."** At a forum hosted by Cato's Center for Constitutional Studies, Judge Kenneth W. Starr, solicitor general of the United States, spoke on the sources and methodology of modern Supreme Court jurisprudence. He discussed the tradition in American jurisprudence whereby judges interpret the unenumerated rights of the Constitution—as found in the Ninth and Fourteenth amendments, for example—not by imposing their own visions but by "careful, deliberate, respectful examination of the sources of law." Starr's talk will be included in a collection of speeches to be published by the center early next year.

George Gilder evangelizes on behalf of the information age at a Cato Policy Forum held at the Willard Hotel.

Cato executive vice president David Boaz listens as Eduardo Marty describes the progress of classical liberalism in Argentina.

August 17: Luncheon for **Eduardo Marty,** academic director of the Centro de Estudios sobre la Libertad in Buenos Aires. Marty commented on the prospects for economic reform under the new Peronist government headed by Carlos Menem. He was optimistic about the growth of the classical liberal movement in Argentina and noted that the Peronists' failures could lead the government to seek out classical liberal leaders to implement alternative economic policies.

September 6: **"Education Reform as a Conservative Fiasco."** Myron Lieberman, author of *Privatization and Educational Choice* (recently published by Cato and St. Martin's Press), charged that conservatives' approach to education reform has been disastrous but noted that liberals and the media share the blame. According to Lieberman, conservatives' biggest mistake is advocating public school choice. There is no evidence that a public school that has lost students to other public schools makes changes in an effort to regain its market share.

September 12: Book party for George Gilder, author of ***Microcosm: The Quantum Revolution in Economics and Technology,*** at the Willard Hotel in Washington. Gilder asserted that contrary to the Orwellian vision, imminent technological innovations will advance the cause of liberty. In an age when a supercomputer can be worn on one's watch band and the contents of the Library of Congress can be kept beside one's desk, states will find it far more difficult to suppress ideas and, ultimately, people.

September 14: **"Property Rights and the Constitution: A Public Interest Lawyer's Perspective."** Cato's Center for Constitutional Studies hosted a luncheon address by Joseph A. Morris, president of the Lincoln Legal Foundation, a pro-free-market public interest law center based in Chicago. Morris argued that the genius of the Constitution lies in its protection of property rights. He described the erosion of those safeguards in recent decades and charged that groups opposed to property rights and market mechanisms had deliberately brought it about through a strategy of judicial activism. Morris called

for a counterstrategy of judicial activism, rightly understood, and described how the Lincoln Legal Foundation and other public interest litigators are beginning to implement that strategy.

September 21: **"The Cornerstone of U.S. Energy Security: Private-Sector Entrepreneurship or the Strategic Petroleum Reserve?"** Edward Badolato, a consultant for Contingency Management Services Inc., asserted that the Strategic Petroleum Reserve is needed to assure America of having an adequate supply of oil at a reasonable cost. Robert L. Bradley, Jr., president of the Institute for Energy Research and author of Cato's book *The Mirage of Oil Protection,* argued that the cost of the SPR outweighs its benefits and that the oil might not be readily accessible in the event of a crisis. According to Bradley, the SPR creates disincentives for consumers, entrepreneurs, and governments to make efficient use of energy. He advocated selling the SPR to the highest bidder.

S. Fred Singer, a former Department of Energy official, questions Cato adjunct scholar Robert L. Bradley, Jr., after Bradley's talk on the Strategic Petroleum Reserve.

September 25: **"Almost an Orphan: The Bill of Rights as a Libertarian Legacy of the American Revolution."** Jeffrey St. John, journalist, author, and winner of two Emmy Awards, spoke at a forum hosted by Cato's Center for Constitutional Studies on the 200th anniversary of the passage of the Bill of Rights by the first Congress of the United States. He argued that the natural rights doctrine was the hidden force in the incubation of the Bill of Rights during the ratification debates. The debate over the Bill of Rights, he concluded, was the first and last great debate on the issue of personal liberty versus government power.

Helen Suzman, Cato's sixth Distinguished Lecturer, discusses South Africa.

September 29: Luncheon for **Enrique Ghersi,** a Peruvian lawyer and an associate of the Institute of Liberty and Democracy. Ghersi discussed efforts to bring freer markets to Peru. He noted that whereas Hernando de Soto's research on the role of Peru's informal economy has advanced that goal, civil servants in Peru's wide array of state-owned institutions continue to impede it. Ghersi also noted that Mario Vargas Llosa, a novelist and classical liberal presidential candidate, is ahead in the polls.

October 3: Book party for Walter E. Williams, author of ***South Africa's War against Capitalism.*** Williams argued that contrary to the conventional wisdom, apartheid and capitalism do not coexist in South Africa; in fact, market forces have been instrumental in breaking down apartheid. Therefore, he said, Americans are not helping South African blacks by imposing sanctions and disinvesting, and most South African blacks are opposed to those policies.

October 5: **"Thirty Years of Fighting Apartheid: Prospects for Change in South Africa."** Helen Suzman, a member of the South African parliament from 1953 to 1989, was the sixth speaker in Cato's Distinguished Lecturer Series. Suzman described her experiences in opposing National party policies and argued that the recent gains of South African blacks—all achieved before the U.S. sanctions were imposed—are the result of internal economic forces. According to Suzman, the sanctions will lead to the increased impoverishment of blacks, more IRA-type violence, and greater influence for the security apparatus. A peaceful, democratic solution to South Africa's problems cannot be reached overnight, she claimed, and the continued economic progress of the black population is vital.

October 6: **"America's Housing Policy: Facts, Problems, and Alternatives."** An all-day conference examined the extent of homelessness in America, the problem of providing affordable housing, the impact of rent control and other forms of regulation, and the relative benefits of housing subsidies and housing vouchers. Speakers included Alfred G. DelliBovi, undersecretary of the Department of Housing and Urban Development; William Tucker, author of a forthcoming Cato book on rent control, zoning, and homelessness; Stuart Butler of the Heritage Foundation; Martha Burt of the Urban Institute; Irving Welfeld of HUD; and Robert Woodson of the National Center for Neighborhood Enterprise. ■

Education Reform as a Conservative Fiasco

Policy Forum

The Cato Institute regularly sponsors a Policy Forum at its Washington headquarters, where distinguished analysts present their views to an audience drawn from government, the media, and the public policy community. A recent forum featured Myron Lieberman, a former professor of education at the University of Pennsylvania and author of Privatization and Educational Choice *(Cato/St. Martin's Press, 1989).*

Myron Lieberman: The title that I chose for this forum is "Education Reform as a Conservative Fiasco." Let me begin by telling you what I mean by "conservative" and what I mean by "fiasco." By "conservative," I mean Presidents Reagan and Bush, the U.S. Department of Education during their administrations, congressional leaders in education policy, conservative governors (with the exception of Pete du Pont), such organizations as the Heritage Foundation, the American Enterprise Institute, the American Legislative Exchange Council, the Eagle Forum, the Free Congress Foundation, and the National Council for Better Education, and such publications as the *Wall Street Journal*, the *Washington Times*, the *National Review*, *Commentary*, *Reason*, the *Public Interest*, and *Education Update*.

That there has not been a significant improvement in public education since 1980 is regrettable but not a fiasco. The fiasco is that since 1980 conservatives have failed to set in motion the changes that would result in such an improvement. That fiasco stems from conservatives' failure to diagnose the problems accurately and prescribe appropriate solutions—that is, their failure to understand what has to be done and why. And although education reform has been a conservative fiasco, conservatives share the responsibility for it with liberals and the media in general.

Let me cite just a few examples. First of all, the cost of public education is systematically understated. For example, unfunded pension liabilities, which are contractual obligations of state governments, are not included in the per-pupil cost reported by each state. The liabilities vary considerably from state to state, but in some states, they are very substantial indeed.

Likewise, the costs of buildings and land are not included in the per-pupil cost reported by each state, nor are the costs of public education absorbed by other units of government. For example, the enormous legal costs incurred through litigation and negotiations involving tenure, desegregation, special education, collective bargaining, and school finance are not included. One reason that proposals for such reforms

Myron Lieberman: "Greater involvement by competitive, for-profit enterprises is essential to educational improvement."

as contracting out instruction are not even considered is the widespread failure to recognize the full cost of public education.

Unwittingly but nonetheless effectively, the federal government also stacks the deck against significant reforms. If a school-aged child takes a Berlitz Spanish course instead of studying Spanish in a public school, the U.S. Office of Educational Statistics doesn't take the cost of that course into account in estimating our expenditures for education. Similarly, the value of donated labor is not included in the reported per-pupil cost of private schools; clearly, if their efficiency is to be assessed accurately, the value of donated labor has to be factored in. The upshot is that when we decide whether we're investing enough in education, we overlook the fact that we're making a very substantial investment over and above the amounts we're spending on the public schools. Obviously, the oversight is conducive to the unwarranted view that the United States should spend more on education.

Although the cost of private education is systematically understated, the real damage is done when conservatives, along with everyone else, understate the cost of public education. In doing so, they weaken the case for various forms of privatization and competition that would constitute significant reforms.

Teacher compensation is also understated. During the past 20 years I have negotiated over 150 contracts between school boards and teacher unions. Sometimes a school board is willing to allocate a certain amount for teacher compensation, but the teacher union decides in effect whether the money will go into salaries or fringe benefits, such as health insurance. Teachers often choose the latter because they are not taxed on income received in that form. There's also a public opinion advantage—if the money goes into fringe benefits, teachers' salaries will seem low. Because the salary figures, exclusive of fringe benefits, are the ones used by the media as well as government agencies, teacher compensation is systematically understated.

As a matter of fact, the Department of Education relies on the National Education Association for salary data. Needless to say, the NEA has no interest in including the value of fringe benefits in its estimates of teacher salaries. In some areas, those benefits amount to 35 percent of the total compensation that teachers receive. Significantly, the fringe benefits in the public sector are generally better than those in the private sector. Consequently, there is a widespread failure to recognize how much teachers are actually paid.

Let me turn next to some common misconceptions about merit pay. Conservatives argue that union opposition is the reason merit pay plans haven't been implemented, and such opposition is indeed part of the explanation. The error lies in the pervasive failure to understand why teacher unions oppose merit pay. Unions are political organizations; that is, their formal system of governance is one person, one vote. At the same time, one of the most important day-to-day functions of a union is to eliminate perceived inequities among the members. Merit pay would require that large rewards be given to relatively few teachers; giving small rewards to a number of teachers would not be worth the effort required to identify outstanding teachers. As a result, many teachers would be disappointed. When the unsuccessful teachers complained about their failure to be awarded merit pay, what would a union leader tell them—"The procedure was fair, and you didn't deserve a raise"?

The subjectivity of merit pay plans is not the reason for union opposition to them. Nevertheless, since 1948, when I entered public education, I have never seen a single newspaper article that questioned the argument that unions oppose merit pay because it would be subjective. In fact, any plan, no matter how objective, that would result in substantial rewards for a few outstanding teachers is a threat to teacher unions.

As it happens, school administrators oppose merit pay for similar reasons. When they evaluate teachers, it doesn't make much difference whether a particular teacher is rated satisfactory or outstanding. But if the ratings meant that a few teachers would get $5,000 more than the others, the evaluations would come under scrutiny. Instead of admitting that they don't want merit pay for teachers, however, school administrators point out that the unions strongly oppose such plans, and conservatives accept that explanation as the reason for the absence of merit pay. In fact, conservatives don't understand the dynamics of merit pay any better than liberals do.

The enthusiastic support for public school choice is the most recent example of the conservative fiasco in education. My point is not that conservatives should be opposed to public school choice; what they should be opposed to is the idea that public school choice can bring about a significant improvement in public education.

Who supports public school choice? Presidents Reagan and Bush; Secretary of Education Lauro Cavazos; New Jersey governor Tom Kean; Minnesota governor Rudy Perpich; Arkansas governor Bill Clinton; the Manhattan Institute; the Commonwealth Foundation; Warren Brookes, an economics columnist for the *Washington Times;* David Armor, in the *Public Interest;* the *New York Times; U.S. News & World Report;* the *Wall Street Journal;* and the *Washington Post.* Obviously, the support for public school choice isn't confined to conservatives, and neither is the notion that it would improve the public schools by encouraging them to compete.

Tamara Henry of Associated Press interviews Myron Lieberman after his Policy Forum talk.

Since the enactment of the Sherman Antitrust Act in 1890 our national policy has been to foster competition in the private sector. Of course, that policy has not been followed consistently; until recently the government took an anticompetitive stance toward such industries as aviation and trucking. Over the years the government's efforts to break up monopolies generated considerable litigation, and that litigation involved considerable research on competition. As a result, most economists now agree on the conditions under which competition can be said to exist. In view of the claim that public school choice would bring the benefits of competition to public education, let us see whether public school choice satisfies the conditions for competition.

Let us assume that a company owns 90 percent of the grocery stores in a state and controls all the assets of those stores. Company policies, which can be changed at any time, govern the products the stores sell, the days and hours the stores are open, the territories they serve, and a host of other matters. Shoppers can legally patronize the stores owned by other companies, but the cost of doing so is usually prohibitive, even if those stores are conveniently located and have high-quality merchandise. Moreover, shoppers must pay for the products sold by the dominant company's stores whether they patronize those stores or not.

Let us also assume that the dominant company uses various means of discouraging potential competitors from entering the market. It requires entrants to offer certain products, operate stores of a certain size, locate stores in certain areas, provide their employees with certain benefits, and meet other expensive and time-consuming entry conditions.

Courts and economists alike would doubtless conclude that effective competition does not exist in that market. Yet it is rarely acknowledged that the same is true of the market for public education—and would remain true even if we introduced public school choice across the board. Every school district in a state must adopt whatever curriculum is mandated by the state. State laws also establish school days and holidays, the duration of lunch periods, employee benefits, and so on.

(Cont. on p. 8)

Education Reform (Cont. from p. 7)

I might also point out that because American educators have overwhelmingly endorsed the idea of a comprehensive secondary school, most secondary schools seek to cater to the needs and interests of all pupils. For that reason, one seldom finds significant differences among schools that are roughly similar in size. Furthermore, public school administrators often exchange information about their plans and operations. Such collusion would be illegal in the private sector. Clearly, however, school districts have no incentive to compete with each other; they do not advertise or try to lure students away from other districts.

A choice of public schools only within the same district would satisfy even fewer of the conditions under which competition can be said to exist. If there were two neighboring schools in the same district and most parents wanted their children to go to school A instead of school B, would the district leave school B nearly empty and hold double sessions at school A? What about the teacher union contract, which would call for equalizing class sizes? Would the district hold much larger classes at school A despite that contract? To put it mildly, such outcomes are very unlikely.

In my opinion, public school choice will fail to result in a significant improvement in education. When an automobile manufacturer introduces a feature that consumers like, other automobile manufacturers adopt it. Nevertheless, schools that have lost students rarely initiate changes in an effort to regain their market share, as for-profit enterprises do.

From a presidential point of view, public school choice is an ideal reform. It doesn't require any federal expenditures. State and local governments must take the actions required; hence, they must incur the political disadvantages of public school choice. What more could a president ask of a reform?

As my recent book points out, greater involvement by competitive, for-profit enterprises is essential to educational improvement. Significantly, many of the education activists in the Reagan administration came out of private schools. They supported education tax credits and vouchers but disregarded the fact that 95 to 99 percent of the nation's private schools are nonprofit. Regardless of background, they did not question the argument that privatization in education would produce the benefits commonly associated with competition in the for-profit sector. As a result, the education activists concluded that tax credits or vouchers would lead to competition, which would improve education.

Unfortunately, conservative sloganeering is unlikely to be more helpful than liberal nostrums in improving education. Meaningful competition is essential to improving any educational system. The competition need not be "pure" or "perfect," but it will not be effective without much greater participation by for-profit schools. ■

CATO INSTITUTE CALENDAR

The Rights Retained by the People: The History and Meaning of the Ninth Amendment
Forum and Book Party
Cato Institute
December 14, 1989

Second Annual Benefactor Summit
Stouffer Grand Beach Resort • St. Thomas, Virgin Islands
January 25–28, 1990
Speakers will include Nien Cheng, Charles Murray, George Gilder, and Frederick W. Smith.

Global Monetary Order: 1992 and Beyond
Eighth Annual Monetary Conference
Cosponsored with the Institute of Economic Affairs
Queen Elizabeth II Conference Centre • London
February 22–23, 1990
Speakers will include Manuel H. Johnson, Pedro Schwartz, W. Lee Hoskins, Yoshio Suzuki, Antonio Martino, Pascal Salin, Anna J. Schwartz, Jerry L. Jordan, Georg Rich, Lawrence H. White, Allan H. Meltzer, and Alan Walters.

100 Years of Antitrust
Willard Hotel • Washington
April 11–12, 1990
Speakers will include James C. Miller III, D. T. Armentano, Henri Lepage, and Don Boudreaux.

The U.S.–South Korea Alliance: Time for a Change
Grand Hyatt Hotel • Washington
June 21, 1990
Speakers will include Selig Harrison, Doug Bandow, Edward Olsen, and Stephen Goose.

Twelfth Annual Summer Seminar in Political Economy
Dartmouth College • Hanover, N.H.
June 30–July 7, 1990

Housing Costs (Cont. from p. 3)

dies have hurt Alaskan home owners as much as the federal government's agricultural subsidies have hurt American farmers.

The luncheon speaker was Alfred G. DelliBovi, undersecretary of HUD, who described the merits of enterprise zones and argued that privatization should continue. According to DelliBovi, federal housing policies have benefited middle- and upper-income Americans at the expense of the poor. "Poverticians" have opposed vouchers, block grants, and every other measure that threatens their control by empowering individuals. HUD's programs, explained in 440 handbooks, are impossible to administer, and the maze of regulations makes HUD fair game for special interests seeking waivers. However, DelliBovi noted, the number of families served by HUD housing programs rose from

Peter Ferrara talks with homelessness expert Dan McMurry at Cato's housing conference.

3.1 million in 1980 to 4.3 million in 1988. Subsidies to developers and poverticians have been cut, he said, while outlays to the poor have increased.

The third session was devoted to homelessness. William Tucker of the Hoover Institution, author of a Cato Institute book to be published by Regnery Gateway, contended that cities could increase the supply of affordable housing by phasing out rent control. Federal housing aid should be contingent on their doing so, according to Stuart Butler of the Heritage Foundation, who also called for an expanded voucher program and a reduction of HUD regulations. Peter Ferrara, the director of the conference and a senior fellow at the Cato Institute, pointed out that vouchers would allow low-income families to be housed at 25 percent of the cost of housing them in welfare hotels.

During the fourth session Chris Kalogeris of Super Struct Building Systems, Walter Feuchs of World Housing Inc., and Paul Knapp of the American Institute of Architects discussed new technologies that could dramatically cut the cost and complexity of housing construction. Unfortunately, because both regulators and the construction industry have blocked those technologies or been slow to accept them, their benefits have yet to be fully realized.

Other speakers at the conference included Peter Rossi of the University of Massachusetts, Robert Van Order of Freddie Mac, Georges Vernez of the Rand Corporation, Dan McMurry of Middle Tennessee State University, and Cassandra Moore, former director of the Interagency Task Force on the Homeless. ■

Sanctions Hurt American Businesses

Economic sanctions are frequently used as a tool of U.S. foreign policy even though they hit American companies harder than they hit the target governments, according to a new study from the Cato Institute.

Trade policy expert Joseph G. Gavin III contends that "it is time to move the debate beyond whether sanctions work in the traditional sense [and] to more realistically balance the long- and short-term costs of sanctions" against whatever benefits they produce.

"The empirical record of desired policy changes that correlate with the imposition of economic sanctions is short," Gavin finds. Furthermore, "mere correlation does not establish the causal role of sanctions, especially if, as is often the case, there are other powerful forces, such as military or covert operations, at work."

Regardless of the economic pressure they exert, sanctions "often have the counterproductive result of strengthening the resolve of the target government to maintain its objectionable policy." And in today's global economy, "even sanctions imposed by coalitions of countries have a way of being compromised by market forces."

Sanctions may inflict costs on the very elements of a target country's population that they are intended to support. For example, a diminished U.S. business presence has brought hardships and a loss of economic opportunity to South Africa's blacks, Gavin argues.

Moreover, because "the United States is so thoroughly integrated into the global economy," sanctions "always entail economic costs for some American interests." They can be "very punishing or even destructive" to specific domestic sectors and businesses.

Having concluded that "economic sanctions are much more likely to be costly signals than effective economic weapons," Gavin notes that Congress is unlikely to stop using them. Legislators "find it easy to vote for sanctions because such votes are often 'free' in both political and budgetary terms, and they find it difficult to vote against sanctions because that often means voting against popular causes."

"Economic Sanctions: Foreign Policy Levers or Signals?" is no. 124 in the Cato Institute's Policy Analysis series. It is available for $2.00. ■

Stuart Butler of the Heritage Foundation calls for housing vouchers.

Federal Aid (Cont. from p. 1)

tergovernmental aid to explode; in 1965 and 1966 alone Congress created 130 grant programs. When Reagan took office in 1981, the federal government was sending $94.8 billion to states and localities. Eight years later the amount was $123.6 billion.

Paying for Government Growth

The financial flood deserves scrutiny if for no other reason than that eliminating intergovernmental transfers would sharply reduce the federal deficit. But grants, once hailed by conservatives as a means of promoting federalism, should also be targeted as a cause of growth in state and local governments. The introduction of "free" federal money has distorted the normal decisionmaking calculus of state and local officials, who no longer have to pay the full cost of many of their activities. Indeed, they are essentially paid to undertake projects the cost of which greatly exceeds the benefits to either their jurisdictions or the nation.

Intergovernmental grants tend to increase state and local spending and taxing. For example, Dartmouth economist Colin Campbell concluded that New Hampshire had lower taxes than Massachusetts or Vermont in part because it was less dependent on federal aid. The tax burden of New Hampshire residents increased between 1970 and 1976, as grant programs were expanded, and fell between 1976 and 1980, as "the growth of federal aid as a percentage of personal income leveled off," Campbell observed.

The reason for that seemingly counterintuitive phenomenon is that most aid programs do more than simply deliver checks. University of Mississippi economist Richard McKenzie argued that "by design, federal aid has been an important positive force behind the growth in state and local tax collections over the past two decades." States and localities first must spend money to search, apply, and lobby for grants. More important, many aid programs set some level of cost sharing; in 1975, for example, the Advisory Commission on Intergovernmental Relations found that nearly two-thirds of the 442 categorical grants then in existence required states and localities to contribute. Thus, program beneficiaries have to spend money to get money.

The problem is exacerbated by the use of "tax effort" as a criterion for the distribution of federal largess; high-tax jurisdictions are considered to be in greater need than lower-tax states and localities. Revenue sharing and dozens of other grant programs have included a "financial need" requirement in the statutory formula that determines the amount of the check. In other cases federal administrators informally consider state and local tax burdens in distributing grants. "Tax effort," concluded McKenzie, is "one of the most prominent positive determinants of the distribution of federal aid across states." The rationale—that U.S. taxpayers should not be expected to assist states and localities that let their residents off easy—is logical in a perverse way, but in practice everyone ends up paying more.

> **"Transferring funds from a government drowning in red ink to governments that collectively run a surplus makes no sense even if the projects are good."**

Federal grants not only encourage recipients to undertake more projects but often foster "gold plating"—that is, overbuilt projects and overpriced services. In a study of 10 California communities, for instance, Catherine Lovell of the University of California at Riverside found that roughly two-thirds of the 1,200 federal conditions for assistance required localities to initiate new or augment old services.

Finally, governments, like people, tend to spend money more prudently if they are responsible for raising (or making) it. Campbell observed that governments are "more efficient when they have to rely on their own sources of revenue." Conversely, states and localities are less likely to make careful purchases when they are using their federal uncle's credit card.

Revenue-sharing moneys were spent more efficiently than other grant moneys because the discretion allowed recipients caused them to treat the money as if it were their own; they used it for things that they would have been most willing to pay for themselves. Other grant programs, in contrast, make funds available only for a specific project, irrespective of its value. "Right now you don't have a choice," said Gary Stein, the planning director for Trenton, New Jersey. "The federal government says you should spend this money on that interstate link. You can't be idiots about it; you have to take the money and spend it on that road, even though it may be your 47th priority." States and localities don't really "have to take the money and spend it," of course, but most do.

When Federal Aid Disappears

The wastefulness of many programs becomes most evident when the "free" funds disappear. For example, as a result of cuts in federal aid in 1982, New Jersey closed 5 of its 21 day-care centers and shifted the children to private facilities. The state, not surprisingly, saved money. "We should have done this before," admitted Ted Allen, a spokesman for New Jersey's Department of Human Services. "The state day-care centers had a history of being more costly." But New Jersey officials had little incentive to look for savings as long as the federal government was paying the bill.

Perhaps the best evidence that intergovernmental aid has artificially expanded state and local government spending is states' unwillingness to cover much of the federal aid cutback during the early Reagan years. A study by Princeton University's Urban and Regional Research Center reviewed the experience of 54 state and local governments and found that even Oklahoma, which benefited from extensive oil revenues, made up for only about one-fourth of the federal cuts. Massachusetts and New York, which have reputations for expansive social spending, restored between 15 percent and 20 percent of the money they had lost. Most of the other recipients, including New Jersey, Florida, and California—which had amassed a budget surplus—supplied less than 10 percent.

Finally, a number of recipients, including Texas and Ohio, "made no effort to replace federal cuts and compounded cuts in some entitlement programs," concluded the Princeton study. Said Cristina Sale, Ohio's budget director, "We've cut discretionary programs—things that are nice to have but that people don't need in order to eat." Many states, it seems, were willing to provide some extras for their residents only when someone else was covering most of the costs.

Several federal programs have been particularly effective at promoting wasteful local projects. The Urban Development Action Grants program, killed in 1988 after heading the Reagan administration's hit list for years, was nothing but an urban slush fund. Roughly $4.6 billion was spent on 2,000 projects during the UDAG program's 11 years in existence. The money was distributed to cities and urban counties to be used, usually in conjunction with state or local funds, to provide grants, loans, and interest subsidies to private investors as well as to assist developers in purchasing land and localities in financing complementary public facilities.

Roughly one-third of the UDAG funds went to hotels, resorts, and convention centers; Hilton, Hyatt, and Marriott were among the program's biggest beneficiaries. Dockominiums, ski resorts, horse arenas, and theme parks were also among the projects subsidized. The largest single Massachusetts grant went to the $600 million Copley Place development in Boston, which included a Westin hotel and stores at which, as columnist Warren Brookes put it, "if you have to ask the price, you can't afford to shop."

The grants were intended to stimulate economic growth, but in practice, they simply reallocated development. In many cases the aid subsidized communities as they bid against one another for business relocations. Because projects were theoretically eligible for funding only if they would not have been undertaken without it, states and localities poured their own money into the worst sort of uneconomical porkbarrel projects.

Indeed, UDAG encouraged local governments and developers to engage in a curious form of entrepreneurship. In 1983 a consulting firm tried to persuade Chesapeake Beach, a Maryland town with a population of 1,500, to apply for a $3 million UDAG grant to subsidize a convention center and a Marriott hotel 27 miles away in a different county. "My initial reaction was that the whole thing was ludicrous," explained town council member Gerald Donavan, "but then the federal guy came in and said it could work out, so who's going to turn down $3 million?" Not many people, unfortunately. Although the Chesapeake Beach application was not approved, similar requests by towns "on behalf of" neighboring areas were not unusual, according to the Office of Management and Budget.

> **"The introduction of 'free' federal money has distorted the normal decision-making calculus of local officials, who no longer have to pay the full cost of their activities."**

Transportation Boondoggles

Mass transit subsidies are the same kind of boondoggle; they promote grossly inefficient projects that cities, counties, and states would never finance on their own. The federal government entered the public transportation business in 1961, when Congress provided $25 million for demonstration projects as part of a housing bill. In 1964 the Urban Mass Transportation Act was passed, and federal assistance for public transportation in that year was $5 million. In 1974 outlays were $348.5 million. They increased tenfold before stabilizing in 1982; in 1989 they ran $3.4 billion. All told, Uncle Sam has plowed about $50 billion into local transit systems since 1964.

Between 70 and 80 percent of UMTA money has gone for capital expenses, such as subway construction, bus purchases, and equipment modernization. This generous subsidy "has distorted local choices," said Tony Gomez-Ibanez, a professor at Harvard's Kennedy School of Government. "It's a powerful incentive. I don't think that many of these systems would have been built if localities had to pay for them." The perverse incentive structure is compounded by annual operating subsidies, which were inaugurated during the energy crisis of 1974. As a result, states and localities pay less than half of the cost of keeping existing lines running.

Thus, the federal government has essentially been paying localities to develop public transportation systems the revenues of which do not cover their annual operating costs, let alone the initial capital investment. Likewise, localities feel little pressure to control their labor costs—municipal unions in New York and Washington have negotiated outrageously lucrative contracts.

One disastrous example is Miami's light rail system, which opened in 1984. In the first year, its planners bragged, 100,000 people would ride Metromover each day; by the end of 1985 the daily ridership would top 200,000. But barely 10,000 people a day climbed aboard. President Reagan observed that "it would have been a lot cheaper to buy everyone a limousine." Metro officials changed their 1985 projection to 40,000 riders a day, but ridership edged up to only 16,000. "It's a beautiful system," said Ralph Stanley, head of the Urban Mass Transit Administration, "but it's hard to justify a billion-dollar investment on the results."

Similar problems have plagued Detroit's 2.9-mile "People Mover" (as well as the Los Angeles subway, which is under construction). Its construction cost was 50 percent higher than the original estimate, its ridership is two-thirds of the number projected, and its operating deficits are very high—the system cost Detroit $8 million this year alone, and its cost is expected to continue to escalate. At one point Michi-

(Cont. on p. 12)

Federal Aid (Cont. from p. 11)

gan state representative Mat Dunaskiss suggested demolishing the partially completed system to save money.

Another transit system that would never have been contemplated without federal subsidies and that has created a huge drain on local resources is Metrorail in Washington, D.C. Transportation consultant Michael Berryhill calls it "the crown jewel of new rail systems" but adds that "the subway's operating deficits are now bleeding the participating municipalities white." Ridership today is barely 70 percent of what it was supposed to have been *in 1977.* In 1989 the federal government contributed $16.4 million toward operations, but the surrounding jurisdictions had to cover $214.7 million in red ink.

UMTA is not the only federal stimulant of uneconomical spending on transportation. Federal highway subsidies, which support interstates, primary roads, secondary roads, and related facilities, are another. The first categorical assistance program, federal highway aid, accounted for three-fourths of all intergovernmental transfers in the 1920s. Originally, states were required to match the federal contribution dollar for dollar, but over the years the federal share has grown. Today the federal government pays 90 percent of the cost of interstates and 75 percent of that of other subsidized systems; it is spending roughly $13 billion annually on state road construction.

With the massive federal subsidy, the interstate system, an OMB official says, is a "classic example" of a program that encourages wasteful public spending. Although the interstates carry about one-fifth of the road traffic in the United States, many segments—stretches through unpopulated areas in the West, for example—are only lightly traveled and would not have been constructed if states had had to pay the full cost.

Even freeways that seem destined for heavy use are not always worth the cost. New York City advocated building the Westway system, a 4.2-mile freeway intended to replace the West Side Highway in Manhattan. That project, which was essentially killed in court by a lawsuit over compliance with federal environmental regulations, would have included a landfill, a park, and joint residential/commercial development and been a massive jobs program for New York City construction interests. It was expected to eventually cost $1 billion a mile—or $15,000 an inch—but because the federal government would have covered the bulk of the costs, the city had no incentive to choose a cheaper alternative.

The Appalachian Regional Commission funds another expensive road system. Established in 1965 as a temporary body intended to promote economic development, the ARC survived the Reagan administration's attempts to eliminate it and spent $74 million on roads in 1989. The ARC covers between 70 percent and 80 percent of the cost of road construction, and its member states are responsible for the remainder. States receive ARC funds in addition to money from the Highway Trust Fund, which allows them to undertake even more miles of wasteful road projects.

> "UDAG caused states and localities to pour their own money into the worst sort of uneconomical pork-barrel projects."

Additional Waste

Many other intergovernmental aid programs encourage expansion of state and local government spending. The federal government has been subsidizing construction of municipal sewage treatment plants since 1948; its annual outlays, which peaked at $4.3 billion in 1980, now run about $2.4 billion. (Thirty-one states also offer municipalities grants and loans for those projects.)

OMB officials doubt that the grantees would have built the systems they did had they been solely responsible for financing them. Lines would not have been extended to undeveloped areas, and less sophisticated piping and pumps would have been used. In short, local jurisdictions would have dispensed with some of the amenities that were financed largely by U.S. taxpayers. (Some of the gold plating stems from the standards set by the Environmental Protection Agency, which sets requirements for eligible projects.) Said the water pollution chief of Arlington County, Virginia, "If it were the county's own money, I am not sure that all that was built [a plant that cost $82 million, $60 million of which came from the EPA] would be built."

Water projects, such as dams and irrigation systems, have traditionally been financed entirely by the federal government. The Reagan administration's pressure to cut federal spending for those projects led Congress to introduce limited cost sharing, which has pushed localities into supporting projects that they would not have undertaken alone. Airport improvements can also be wasteful. In 1983 East Hampton, a wealthy Long Island resort community, decided it wanted to resurface a runway at the local airport and purchase some adjacent land to provide an additional noise buffer, so it applied for a grant from the Federal Aviation Administration, which pays 90 percent of the cost of such improvements. East Hampton town board member Randall Parsons explained that "the type of expenses involved would be unpalatable to local taxpayers."

Conclusion

Intergovernmental transfers are an idea whose time should never have come. Federal regulations that hike the costs incurred by other governments (as well as private enterprise) should be reviewed. If the goal is to transfer resources to particularly poor local jurisdictions, there are ways to do so without paying them to expand their public sectors. Ronald Reagan's proposal for a "tax turnback," which would allow states and localities to take over a federal revenue source, is one way of doing that. Any such program should place political responsibility for raising revenue as well as spending it on state and local governments. It's time the national government stopped subsidizing state and local profligacy. ■

E. G. West on Public School Choice

Beijing Scholar Featured in Latest *Cato Journal*

Justin Yifu Lin, an associate professor of economics at Beijing University, sets out a theory of institutional change in the latest issue of the *Cato Journal* (vol. 9, no. 1). "It is necessary . . . to have a system that encourages individuals to actively seek and adopt *new profitable productive income streams,*" Lin writes. "Moreover, it is necessary that the system allows individuals who invest their time, effort, and money in these activities to reap the profits for themselves." According to James A. Dorn, vice president for academic affairs of the Cato Institute and editor of the *Cato Journal,* Lin's article demonstrates that despite the recent crackdown in China, Chinese scholars are continuing to explore and advocate free-market principles.

Elsewhere in the *Journal* Gertrude E. Schroeder, a professor of economics at the University of Virginia, notes that Soviet-type economies have been "characterized by slow, routinized, and predictable technical change." Along with central planning and the public ownership of firms, "restrictions on freedom of discourse, movement of people, [and] interactions with the international community . . . have not been conducive to a dynamic innovation process," nor has "excessive secrecy." According to Schroeder, the current reforms "do not go nearly far enough to create the environment that has caused innovation to flourish in market economies," and "to create the needed institutions will entail a redefinition of socialism and perhaps . . . a revolution."

Steve Pejovich, the Jeff Montgomery Professor of Economics at Texas A&M University, analyzes the dominant institutional arrangements of West Germany, Yugoslavia, the Soviet Union, and the United States. Pejovich finds that "alternative property rights do influence the flow of innovation" and that "the right of ownership and the freedom of contract are more conducive to innovating activity than other institutional arrangements."

Edwin G. West, a professor of economics at Carleton University, argues that open enrollment, championed by the Reagan and Bush administrations, provides few market incentives to improve education. Having described Minnesota's experience with an open enrollment plan for public schools, West contends that "if competition is to mean anything, it must be allowed to drive inefficient uses of resources from the marketplace by allowing more efficient alternatives to enter." Given that the free entry of private or denominational schools is not part of the Minnesota plan or any of the others, "the full conditions of competition are obviously not present."

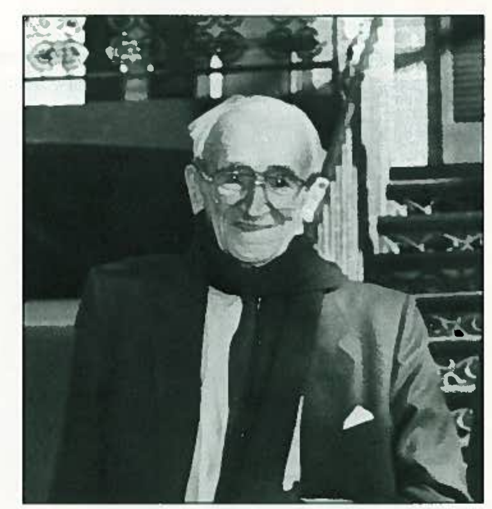
Other contributors to the *Journal* issue include Charlotte Twight of Boise State University, on military base closures; Thomas Grennes of North Carolina State University, on textile trade restrictions; and Peter Moser of the University of St. Gallen, on an open world order.

A one-year subscription to the *Cato Journal* costs $21.00; single issues cost $7.00. ■

Two Journal Issues Mark Hayek's 90th Birthday

Nobel laureate F. A. Hayek, a Distinguished Senior Fellow of the Cato Institute, celebrated his 90th birthday on May 8, 1989. Among other tributes to Hayek marking the occasion, *Critical Review: A Journal of Books and Ideas* devoted an issue to his thought, as did *Ordo,* a German journal.

The special issue of *Critical Review* features two essays in which David Miller of Oxford University and Leland B. Yeager of Auburn University debate the value of Hayek's latest book, *The Fatal Conceit.* Other essays on Hayek's writings were contributed by Norman P. Barry of the University of Buckingham, Laurent Dobuzinskis of Simon Fraser University, G. B. Madison of the University of Toronto, Simon Green of Oxford, David J. Levy of Middlesex Polytechnic, Gus diZerega of the University of Puget Sound, and Anthony de Jasay.



F. A. Hayek, a Cato Distinguished Senior Fellow

A multivolume edition of Hayek's collected works, under the general editorship of W. W. Bartley III, was launched last year with the publication of *The Fatal Conceit.* Two volumes will appear next year: *The Trend of Economic Thinking,* a set of biographical and historical essays; and *The Uses and Abuses of Reason: The Counterrevolution of Science and Other Essays.* The editor of the latter volume is Karl Milford of the University of Vienna, a grandson of the great turn-of-the-century Austro-Marxist Karl Hilferding. The Cato Institute is one of the institutional sponsors of the collected works series, which is being published in the United States by the University of Chicago Press and in the United Kingdom by Routledge. ■

Call for Papers

The Cato Institute seeks papers on public policy issues for the *Cato Journal, Cato Policy Report,* and the Policy Analysis series. Send papers or proposals to Editor, Cato Institute, 224 Second St. S.E., Washington, D.C. 20003.

Americans "Do Well While Doing Good" by Admitting Immigrants, Julian Simon Writes in New Cato Book

In *The Economic Consequences of Immigration* Julian L. Simon finds that U.S. citizens "do well while doing good when admitting refugees" and that "we can expect our incomes to be higher rather than lower in future years if we take in more immigrants."

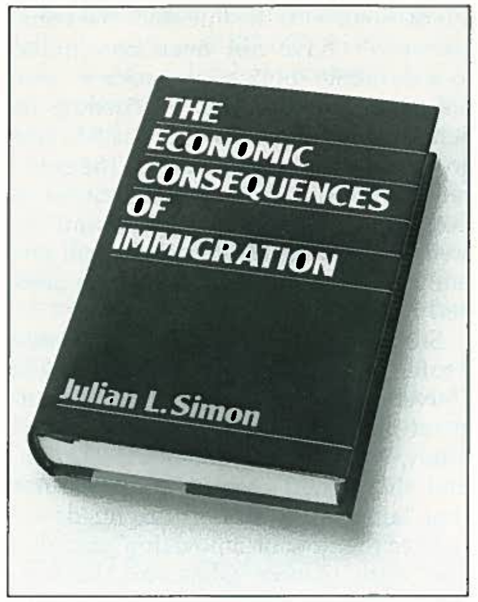
Simon argues that increasing immigration is a foolproof way for the United States to advance its major economic goals and "may be the only painless way" for the United States to "ease the trade-off between Social Security benefits and taxes that now cramps the nation's economic policies." He recommends that the total immigration quota be increased by at least one million a year.

Contrary to the conventional wisdom, "immigrants not only take jobs, they make jobs." They create jobs indirectly through their spending and directly through businesses, "which they are more likely than natives to start." Likewise, Simon argues, immigrants do not overuse welfare services; in fact, they "contribute more to the public coffers than they take from them."

Although America is often referred to as a nation of immigrants, U.S. immigration has slowed to a trickle in recent years. The United States now has "a smaller share of foreign-born persons than countries thought to be far more 'homogeneous,' including Great Britain, Switzerland, France, and even Sweden."

Simon points out that people tend to immigrate when they are in their twenties or thirties—physically and mentally vigorous and in the prime of their working lives. Furthermore, immigrants have about as much education as natives, on average, and they are "disproportionately professional and technical persons, a great benefit" to the United States. In the long run, he argues, additional immigrant workers and consumers will result in an increase in productivity that "is likely to dwarf all other effects."

An immigrant family can be viewed as "an excellent investment" for the nation, even when its value is calculated with a relatively high amount as-



signed to the social cost of capital; it is "worth somewhere between $15,000 and $20,000" in 1975 dollars.

Simon notes that "immigrants are frequently said to cause a natural resource squeeze for natives" but contends that "much of that proposition is demonstrably bunkum." Although demand and prices increase in the short run, new sources and substitutes are found.

The typical result is that natural resources are "more available and cheaper than if the temporary shortages had never arisen."

The main argument against admitting immigrants "is that they take jobs held by natives and thereby increase native unemployment," but "no study has found across-the-board unemployment caused by immigrants," either in the United States as a whole or in areas with relatively high immigration. Furthermore, the effects on particular groups—including blacks and women in California, who are "seemingly at special risk from Mexican immigrants"—are "surprisingly small or nonexistent."

Simon is a professor of business administration at the University of Maryland, chairman of the Committee on Population and Economy, and an adjunct scholar at the Cato Institute. His previous books include *The Economics of Population Growth; The Ultimate Resource; The Resourceful Earth*, edited with Herman Kahn; and *Population and Economic Growth Theory*.

A clothbound edition of *The Economic Consequences of Immigration*, published by Basil Blackwell, is available from the Cato Institute for $24.95. ■

Dick and Debbie Sears, members of Cato's Project '90 Finance Committee, hosted a Project '90 fundraising reception for Cato president Ed Crane at their home in Palisades, New York.

"Forgotten No More"

Cato Book Revives James Madison's Ninth Amendment

Robert Bork compared it to an inkblot. Warren Burger couldn't recall what it said.

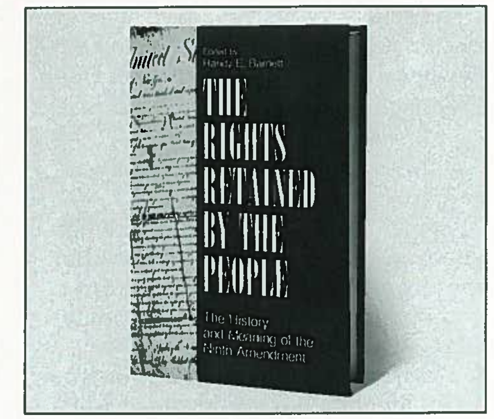
The Ninth Amendment, a one-sentence guarantee of rights, has confounded courts and commentators for 200 years. Yet the meaning of the Bill of Rights—indeed, of the entire Constitution—may well turn on how that sentence is interpreted.

In the introduction to *The Rights Retained by the People* Randy E. Barnett, the editor, asserts that "the Ninth Amendment can be viewed as establishing a general constitutional presumption in favor of individual liberty." By leaving the people's rights unenumerated, he argues, the amendment seeks to ensure that "freedom from unjustified government interference is not limited to speech or to the free exercise of religion but extends to all aspects of a citizen's life."

Barnett has compiled a provocative—yet largely unknown and inaccessible—body of constitutional scholarship. Beginning with James Madison's explanation of the Bill of Rights, the book presents a diverse cross section of opinion—dating from 1789 to 1989—on the history and meaning of the Ninth Amendment. Such eminent constitutional scholars as Edward S. Corwin, Norman Redlich, John Hart Ely, Raoul Berger, Russell L. Caplan, and Charles L. Black, Jr., are among the authors represented. The distinguished constitutional lawyer Floyd Abrams provided a foreword.

"Although the task of interpreting the Ninth Amendment and protecting unenumerated rights can never be complete, it must be commenced in earnest if balance is to be restored to our constitutional scheme," Barnett notes in the introduction, itself an important contribution to Ninth Amendment scholarship. Toward that end, he summarizes competing theories on the Ninth Amendment and proposes a practical method of interpreting the rights "retained by the people."

To assist researchers, Barnett has included the original draft of the Bill of Rights by Roger Sherman, the amendments to the Constitution proposed at state ratification conventions, and Jus-



tice Arthur Goldberg's famous 1965 concurring opinion in *Griswold* v. *Connecticut*, which reminded the legal community of the Ninth Amendment's existence, as well as a detailed bibliography.

Sanford Levinson of the University of Texas writes, "The Ninth Amendment is 'forgotten' no more, not least because of the labors of Randy Barnett over the past several years. I am grateful that he has now collected in one volume many of the most important scholarly writings on the amendment, including his own thoughtful and illuminating introduction. This is certainly the book I will turn to first in my own work on the Ninth Amendment." Federal judge Alex Kozinski calls the book "a treasure for historians, legal scholars, philosophers, and concerned citizens" and "a significant contribution to the debate on the nature of individual rights and liberties in a constitutional system of enumerated powers."

Barnett is a professor at the Illinois Institute of Technology, Chicago-Kent College of Law, and an adjunct scholar at the Cato Institute. He was recently cited by the *National Law Journal* as one of the five most outstanding law professors under the age of 40. His writings have appeared in several books as well as in such journals as the *California Law Review*, the *Columbia Law Review*, the *Cornell Law Review*, the *Harvard Law Review*, and *Ethics*.

A clothbound edition of *The Rights Retained by the People*, published by George Mason University Press, is available from Cato for $22.95. ■

"To be governed..."

Giving it the old college try

The exodus of thousands of youthful ;ast Germans across the Austro-Hun-;arian border cannot be interpreted, ıs some Western commentators would ıave it, as an abandonment of the eachings of Karl Marx. . . . The coun-ry to which they are traveling . . . is a ıation with a highly organized system ›f social benefits and social security, ob protection and worker participa-ion in management. . . .

The key to the success of German ;apitalism is the role played by the ınions and the Social Democrats. . . .

Its humanization was and is the vork of the party Marx founded. And o the newcomers have gone from Sta-in back to Marx.

—*The Nation*, Oct. 2, 1989

But you knew that

In John Keegan's article about mili-ary spending yesterday, the figures nentioned should have been in bil-ions, not millions, as printed.

—(London) *Daily Telegraph*, Aug. 31, 1989

The Bill of Rights, 1789–1989

The Pentagon's top officer said yes-erday that the U.S. military cannot vin the war against drugs alone and hat Americans should help by giving ıp some freedoms and spending more ax dollars.

—*Washington Post*, Sept. 22, 1989

Don't be cruel

The federal government yesterday rejected a $6.9 million request to help Cleveland build the Rock 'n' Roll Hall of Fame.

—*Washington Post*, Sept. 30, 1989

And pay for it

People took a deep breath when asked about [the] amendment that would prevent federal agencies from funding potentially offensive mate-rial. . . .

"I sympathize with the opponents of the amendment," said Steve Mar-tin. "The amendment is not the solu-tion. The right will just have to grin and bear it."

—*Washington Post*, Sept. 27, 1989

The horrors of the profit system

Sen. Wendell H. Ford [said,] "Wall Street buys [an airline] to make money—they don't buy just to break even. . . . So we've got a lot of worries."

—*National Journal*, Sept. 30, 1989

Nancy Reagan goes to China

One of the most searing images of the crackdown on the democracy movement in China was the scene of a young woman being praised on national television for turning in her younger brother to the police for his role as a student leader.

—*New York Times*, Sept. 10, 1989

Sooeeee!

Residents of the District [of Colum-bia] got wealthier faster, on average, than residents of any state in the union last year, the Commerce Department reported yesterday. . . .

Income in the District was 30 per-cent higher than in the nation as a whole.

—*Washington Post*, Aug. 24, 1989

The supply is short, comrades; we must lower prices

Even [Mikhail] Gorbachev asked the [Soviet] legislature how the coop-eratives manage to find soap when no one else can. And he noted that the cooperative price might be five rubles (about $7.75) for a bar of soap, when a state store would charge one ruble ($1.55) at most.

—*Washington Times*, Sept. 27, 1989

$1.1 trillion and not a dime to spend

The president says the issue is not money [for the war on drugs], but in fact it is money, and everything in this plan is constrained by the fact that one, the president does not want to ask for new taxes, and two, we're working under the Gramm-Rudman budget restrictions. There just isn't money.

—Lesley Stahl, CBS News, Sept. 5, 1989

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