



ALTERNATIVE MONEY U.
John B. Taylor talks to students
PAGE 14



FREE SPEECH
The state of campus activism
PAGE 9



ART EXHIBIT
Crowds drawn to Cato
PAGE 13

Cato Policy Report

SEPTEMBER/OCTOBER 2019 VOL. XLI NO. 5

Rocky Mountain Tax Revolt

BY JAY STOOKSBERRY

Imagine if lawmakers were required to ask taxpayers' permission before increasing taxes or going into further debt. Furthermore, imagine if, when lawmakers took in more tax revenue than they were allowed, they were forced to refund the excess to taxpayers. What may sound like a libertarian dream is actual policy in Colorado.

In 1992 Colorado became a model for the national tax revolt when voters adopted the Taxpayer Bill of Rights (TABOR)—a unique constitutional amendment that hamstring the government's power to levy taxes, incur debt, and spend taxpayer money without voter input. Colorado is the only state to boast such a strict charter on taxation, debt, and spending.

Despite its public appeal, TABOR has been a convenient boogeyman to Colorado politicians. Before ballots were cast in 1992, opponents disingenuously claimed that TABOR would neutralize government's ability to perform basic functions. Several Chicken Littles even claimed that Pope John Paul II, who was visiting Denver in 1993 for World Youth Day, would be assassinated due to cuts in law enforcement and security. Fortunately, Coloradans ignored such hyperbole and voted TABOR into law.

For more than two decades, pro-spending lobby groups persisted in their efforts to undermine TABOR. Always falling short of a full repeal, opponents have managed to chip away at some of the key components

of TABOR over the years, weakening the overall impact of the law. Today, TABOR faces some of its biggest challenges yet, including ballot measures that will permanently undermine the spirit of this law.

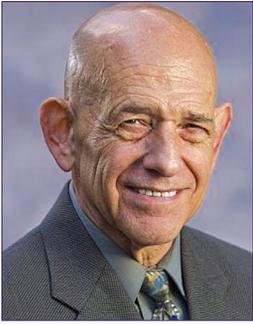
Despite being a shell of its former self, TABOR still serves as a rudimentary bulwark

Continued on page 6



JAY STOOKSBERRY is a freelance writer based in Delta, Colorado. His writing has been published by *Reason*, *Foundation for Economic Education*, *Newsweek*, *Colorado Politics*, and numerous other publications.

Teachers for grades 5-12 gather in the F. A. Hayek Auditorium for Cato's Sphere Summit, a special event on teaching civic culture and open dialogue on contentious political issues. See page 16.



BY ROBERT A. LEVY

CHAIRMAN'S MESSAGE

Cato Wins at the Supreme Court

B+ is how I'd grade the Supreme Court's latest term. Cato filed amicus briefs in 16 cases. We were on the winning side in 12. That's quite impressive considering that cases reaching the court pose complex and contentious issues that typically divide lower courts as well as legal scholars.

Among our more important victories:

- Government cannot make value judgments regarding "scandalous" or "immoral" trademarks.
- State and local eminent domain actions can be challenged in federal court without first exhausting state court remedies.
- The Twenty-First Amendment, repealing Prohibition, does not allow states to discriminate against interstate commerce by enacting protectionist legislation.
- Courts will no longer rubber-stamp administrative agency interpretations of agency-crafted regulations.

Weighed against those successes were several losses:

- The Fourth Amendment permits a warrantless blood alcohol test of an unconscious driver.
- The constitutional ban on double jeopardy does not protect the accused from trial for the same crime by two separate sovereigns.
- Congress can reasonably delegate its authority to resolve practical legislative problems and make feasibility judgments under statutes that contain an intelligible principle to guide the delegation.

That brings us to *Timbs v. Indiana*—a triple victory that documents the court's concern over civil forfeiture abuse; the availability of a new tool, the constitutional ban on excessive fines, to rein in that abuse; and the application of the excessive fines clause in the Eighth Amendment to the states as well as the federal government.

Tyson Timbs pleaded guilty to dealing drugs in Indiana. When he was arrested, the police seized a Land Rover SUV, charging that it was used to transport heroin. Timbs had paid \$42,000 for the SUV—more than four times the \$10,000 maximum fine for his crime. Lower courts ruled that the forfeiture amounted to an excessive fine, but the Indiana Supreme Court held that the exces-

sive fines clause applied only to the federal government.

The root of civil forfeiture abuse can be traced to a 1996 Supreme Court case, *Bennis v. Michigan*. Tina Bennis co-owned a car with her husband, who took the car without her knowledge or consent and then had sex in the car with a prostitute. The police arrested the husband, the prostitute, and . . . the car, which allegedly "facilitated" the crime. Tina Bennis protested that she was an innocent co-owner, but the Supreme Court (5-4) upheld the forfeiture.

In 2000, Congress finally reacted—creating a federal innocent-owner exception. But many states still allow forfeiture of property that has minimal connection to an actual crime. Law enforcement officials thus have a perverse economic incentive. Civil forfeiture has become policing for profit—one of the more regrettable byproducts of our feckless war on drugs.

But now, after the *Timbs* case, which was litigated by our friends at the Institute for Justice, forfeitures can be contested not only as a violation of due process, or an uncompensated taking of property, but also as an imposition of excessive fines as barred by the Eighth Amendment. And that third line of attack can now be pursued in state as well as federal cases.

Until the Fourteenth Amendment was ratified, the Bill of Rights did not apply to the states. But then the due process clause of that amendment was used to "incorporate" the Bill of Rights against the states. That task wasn't completed all at once. It was accomplished provision by provision—free speech, religion, protection against unreasonable searches, etc. Remarkably, until the *Timbs* case, the court had not decided whether the excessive fines clause is incorporated. The criterion for incorporation is whether the right is deemed to be "fundamental." That depends, in turn, on whether the right is vital to "our scheme of ordered liberty" or "deeply rooted in this Nation's history and tradition." Virtually all of the Bill of Rights now qualify—including the First, Fourth, Fifth, and Sixth Amendments as well as the rest of the Eighth Amendment.

Justice Ruth Bader Ginsburg, writing for a unanimous court, made it official: The excessive fines clause is fundamental and, therefore, incorporated. ■

Robert A. Levy

“We were on the winning side in 12 cases.”

The future of America's nuclear arsenal

Taming the Destroyer of Worlds

For many years, the threat of nuclear weapons seemed a relic of the Cold War. America and Russia together reduced their stockpiles to a fraction of their 1980s peak, and it seemed as if the world was on a slow but steady path to eventual disarmament. After so many decades living in fear of catastrophe, nuclear strategy moved offstage, with Washington's attention more focused on the threats of terrorism and rogue states.

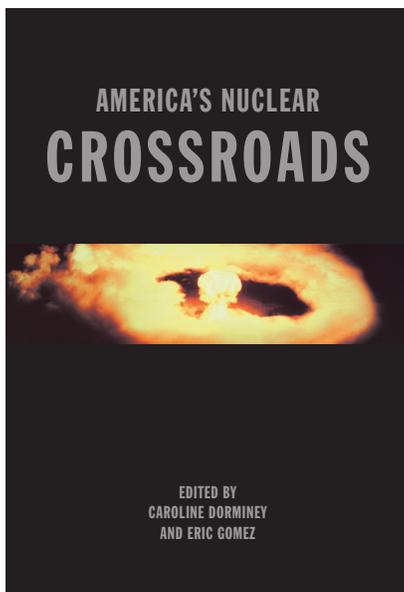
But in recent years, that attitude has been upended. The return of great-power competition and increasingly tense relations with Russia and China have frayed the consensus. America needs to retire and replace its aging weapons with a new generation of technology.

America's Nuclear Crossroads, a new anthology from the Cato Institute edited by Caroline Dorminey and Eric Gomez, is a useful reference tool for policymakers as they navigate an increasingly complex nuclear security environment. As the United States adjusts to a changing global balance of power, nuclear deterrence is poised to return to a level of importance in national security not seen since the end of the Cold War. However, America's nuclear strategy will have to contend with emerging issues such as arms control in a multipolar world, the evolution of strategic technology, and the new contours of great-power competition.

In nine chapters contributed by leading scholars in the field, *America's Nuclear Crossroads* examines options for the modernization of the nuclear triad of submarine-launched missiles, bomber aircraft, and land-based intercontinental ballistic missiles. This includes an evaluation of the much-discussed option of eliminating one leg of the triad as well as fiscal estimates of a range of scenarios.

Other chapters address updating U.S. nuclear strategy for both great-power adversaries, Russia and China, as well as the risks of the militarization of space and how to handle nuclear proliferation in rogue states such as Iran and North Korea. Lastly the volume analyzes the prospects for arms control and the effects of a revived disarmament movement pushing for total abolition of nuclear weapons. ■

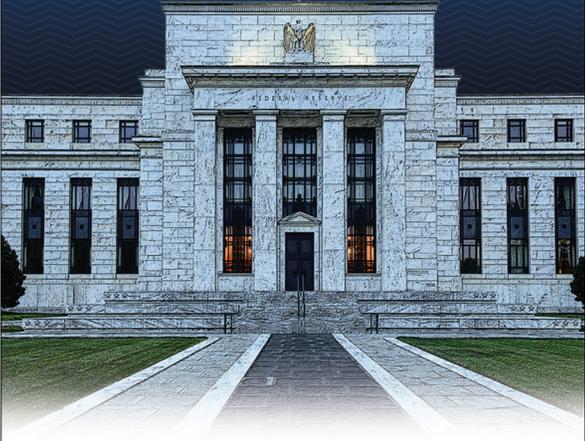
PURCHASE PRINT OR EBOOK COPIES OF AMERICA'S NUCLEAR CROSSROADS AT CATO.ORG/STORE.



CATO INSTITUTE'S 37TH ANNUAL
MONETARY CONFERENCE

FED POLICY: A SHADOW REVIEW

THURSDAY, NOVEMBER 14, 2019
CATO INSTITUTE



**THE FED HAS FINISHED
REVIEWING ITS STRATEGIES.
NOW IT'S OUR TURN.**

Amid public scrutiny and at a time of growing uncertainty over central bank policy, the Federal Reserve has scheduled a review "to take stock of how we formulate, conduct, and communicate monetary policy."

Join us at Cato's 37th Annual Monetary Conference as we shadow that review and explore a variety of recommendations for improving our monetary framework.

This year's keynote address will be delivered by **Richard H. Clarida**, Vice Chairman, Federal Reserve Board.

**DETAILS AND REGISTRATION AT
CATO.ORG/MONCON • #CatoMonCon**

CATO INSTITUTE | CENTER FOR MONETARY AND FINANCIAL ALTERNATIVES



In June, Cato hosted “Financial Inclusion: The Cato Summit on Financial Regulation.” 1. JELENA MCWILLIAMS, chair of the Federal Deposit Insurance Corporation. 2. JOTAKA EADDY, vice president of policy, strategic engagement, and impact for LendUp. 3. Cato’s LYDIA MASHBURN interviews RODNEY HOOD, chairman of the National Credit Union Administration. 4. LYDIA BEYOUND, fintech reporter for *Bloomberg Law*, moderates a panel. 5. TODD ZYWICKI, Cato senior fellow. 6. Deputy Director BRIAN JOHNSON of the Consumer Financial Protection Bureau.



Cato hosted a Capitol Hill Briefing in the Russell Senate Office Building in June, “Keeping Up with the Jones Act.” DANIEL IKENSON, director of the Herbert A. Stiefel Center for Trade Policy Studies, and Policy Analyst COLIN GRABOW presented the case for Jones Act reform, moderated by JEFF VANDERSLICE, Cato’s director of government affairs.



Syndicated columnist **GEORGE WILL** is interviewed by **CALEB BROWN**, host of the *Cato Daily Podcast*, about his new book *The Conservative Sensibility*.



HEIDI LINTON, executive director of Christian Friends of Korea, discussed the charity aid clinics run by her organization in North Korea at a policy forum in June.



ABIGAIL R. HALL, assistant professor of economics at the University of Tampa, discusses her book *Tyranny Comes Home: The Domestic Fate of U.S. Militarism*, coauthored with Christopher J. Coyne.

Continued from page 1

against government's ability to tax and spend, while also remaining broadly popular among voters.

The arc of TABOR's story can serve as a helpful guide for taxpayers in other states who want to replicate similar self-governing models of taxation. Colorado's experience offers insights into best practices, as well as highlighting blind spots and loopholes that were not anticipated when drafting TABOR's precise language.

WHAT DOES TABOR DO?

As articulated by Article X, Section 20 of the Colorado Constitution, TABOR imposes constitutional limitations on state and local government entities' ability to raise taxes, incur debt, and retain public money. Before it can do any of the aforementioned activities, the individual "district"—the legal term that encompasses all separate units of government, such as Colorado's state government and smaller local government entities (e.g., fire departments, mosquito abatement, etc.)—must first seek approval from the voters.

TABOR specifies just how a government district can obtain voter approval. TABOR requires that such votes can only occur during national general elections (November in even-numbered years); biennial local district elections; or the first Tuesday of November in odd-numbered years. A TABOR ballot question cannot be voted on during a special election.

Furthermore, TABOR also requires that all such ballot measures begin with "shall taxes be increased" or "shall debt be increased," including, respectively, the estimated annual tax revenue generated or the principal amount plus repayment costs incurred. The measure must also broadly specify how the money will be spent.

Next, the amendment also restricts how much tax revenue a government can retain and imposes a strict formula that restricts the fiscal growth of government. Annual

“TABOR's story can serve as a helpful guide for taxpayers.”

revenue caps are set based on the previous fiscal year's revenue plus a "population-plus-inflation" formula to account for increasing demands to public services as the population and economy grow. Any excess revenue that exceeds the TABOR cap—whatever is left over after population and inflation are calculated—must be refunded to voters. If a public entity wishes to keep that surplus revenue, it can only do so with voter approval. (This act of seeking approval to waive the revenue cap is colloquially referred to as "de-Brucing," a nod to TABOR architect and activist, Douglas Bruce.)

THE RESULTS

One might think that such restrictions would mean that Colorado governments would never be able to generate additional revenue.

This is untrue at the local level. Between 1993 and 2018, voters have approved more than 1,400 tax-, debt-, or cap-related ballot measures at the municipal level. Nearly 70 percent of all TABOR measures pass at the municipal level. On the local level, the claims of draconian austerity didn't exactly pan out.

On the other hand, TABOR has proven to be more restrictive at the state level. Only two statewide tax increases—a 2004 increase on sales tax on cigarettes and a 2013 imposition of sales and excise tax on retail marijuana—have passed.

TABOR proved to be effective in its primary mission: to slow the growth of government. This was demonstrated by a study written by Fred Holden of Independence Institute, a Colorado-based libertarian think tank. In his report, "Two Decades of Colorado's Taxpayer's Bill of Rights," Holden examined the first decade of TABOR as law (1993–2002) in comparison to its second

decade (2003–2012). Prior to TABOR, state spending was increasing at twice the rate of inflation. In the first decade after TABOR became law, that trend came to a screeching halt. Between 1993 and 2002, spending increased only at a rate comparable to the population-plus-inflation formula. The report also highlights several other economic benefits during this decade: drastic increases in private-sector jobs, personal income, and output growth rate—that were all well above the national averages.

However, the second decade of TABOR tells a different story: Government spending increased, public-sector job growth doubled, and economic productivity fell below the national average. Many of the problems originally targeted by TABOR seemed to resurface.

What happened? During this second decade, lawmakers identified several chinks in TABOR's armor. Though it placed hurdles in front of tax-seeking politicians, TABOR's overall effectiveness dwindled as a result of these loopholes, which allowed public officials to skirt the public-approval component of the law.

A TAX BY ANY OTHER NAME...

Prior to 1992, TABOR proponents tried and failed twice to pass a similar version of the amendment. TABOR opponents presented a hypothetical anecdote that connected with voters during those two elections: would an economically beleaguered special district, such as a library, need to go to the voters to get approval for a nominal fee—say, a 10-cent late fee increase?

The anecdote proved to be effective, so TABOR activists made a significant concession. "On the third time, I didn't mention fees at all, because they had succeeded in bamboozling people by focusing their criticism on fees," said Douglas Bruce, who crafted TABOR's language.

That led to a rebranding campaign by officials who wanted more revenue: the term "tax" was replaced with "fee." Rather than

“Colorado relies heavily upon fees.”

making the effort to seek voter approval to increase taxes, Colorado politicians turned their attention to generating revenue via fees.

The best example of this rhetorical shell game was the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER). Advocates of FASTER disingenuously pitched the new law with the claim that it would raise revenue for road maintenance “without raising taxes.” Dozens of new mandatory fees and surcharges went into effect after FASTER became law. In its first year, FASTER generated more than \$31 million in late fees for vehicle registrations alone. With all state fees combined, FASTER currently raises more than \$200 million per year for Colorado.

FASTER represents a small window into this broader view of this fee-and-spend strategy by Colorado politicians. The Colorado government relies heavily upon fees to finance its programs and obligations, both at the state and local levels. According to the Pew Trust, fees make up roughly 20 percent of the state’s total revenue; the national average is 11 percent. When it comes to reliance upon fees, Colorado is now the third-most fee-dependent state in the nation.

ENTERPRISES: LEGALIZED MONEY LAUNDERING

For TABOR to pass, legal carve-outs for certain sizeable and politically popular public institutions (e.g., public colleges and universities, state-run nursing homes, parks and wildlife system, etc.) were deemed necessary. For political expediency, TABOR created a loosely defined category of public-sector activity: enterprises.

The Colorado Constitution defines an enterprise as a “government-owned business authorized to issue its own revenue bonds and receiving less than 10 percent of annual revenue in grants from all Colorado state and local governments combined.” What qualifies as a grant is narrowly defined, excluding several sizable sources of revenue,

including federal grants and transfers of state-owned capital assets.

Enterprises have evolved into legal laundering schemes for Colorado lawmakers. Colorado lawmakers abused this nebulous definition to shuffle public funds away from TABOR-restricted entities into enterprise funds.

The most egregious example of abusing the enterprise exemption is Colorado’s hospital provider “fee.” Up until 2017, Colorado assessed a tax on hospitals statewide to match federal funding for Medicaid. However, budget restraints and increased Medicaid coverage following the Affordable Care Act made this funding mechanism unsustainable.

The Colorado General Assembly repealed the existing hospital provider fee with Senate Bill 17-267, removing the funding from the TABOR-restricted general fund. In its place, a new enterprise, named Colorado Healthcare Affordability and Sustainability Enterprise (CHASE), was formed. The revised statute purposely states that CHASE “is a fee, not a tax.” In its first year of existence, CHASE collected more than \$894 million in revenue—all outside of TABOR’s purview.

The TABOR Foundation filed suit to challenge the creation of this enterprise, but lost in court.

According to analysis by the Colorado Legislative Council Staff, in the 10 years following TABOR’s passage, enterprise revenue jumped from \$742 million in 1994 to \$11.2 billion in 2014—a 1,409 percent increase. Today, enterprise revenue makes up nearly half—\$17.9 billion—of Colorado’s \$37 billion budget.

THE BAIT-AND-SWITCH OF REFERENDUM C

The combination of the 2001 economic recession and TABOR created a ratchet-down effect on government spending. As mentioned, TABOR mandates a strict for-

mula wherein governments could only grow fiscally based on previous year’s tax revenue, plus compensation for inflation and population growth. Since consumers were making and spending less, the state experienced declines in dollars collected via income and sales taxes. As government coffers shrank, TABOR restricted them from returning to the higher spending limits of previous boom years.

This sent state lawmakers into a tizzy. In 2005, the Colorado General Assembly referred a ballot measure, Referendum C, to Colorado voters that would institute a five-year reprieve—from 2005 to 2010—of TABOR restrictions for the state government. The measure narrowly passed.

Referendum C proved to be anything but temporary. The referendum allowed the state government to peg its budgetary baseline to the largest revenue-yielding fiscal year during the reprieve (FY2010). As a result, the referendum permanently augmented the spending cap, shortchanging taxpayers on their potential refund year after year since it was passed. Following 2005, all legislative budget reporting still references the Referendum C cap to distinguish it from the actual cap described in the original language of TABOR. Over the course of 12 years, Referendum C freed up roughly \$17 billion in tax revenue that would have otherwise been refunded to Coloradans.

Until recently, Referendum C was the state legislature’s most successful campaign to undermine the spirit of TABOR. Recently, the state legislature referred a measure to be voted on in 2019 that would do away with state refunds permanently. This double down—appropriately titled Referendum CC—would permanently “de-Bruce” state spending and remove all possibilities of a state refund. Projections of the amount of revenue that will exceed the TABOR cap range from \$1.2 to \$1.5 billion over the next three years, meaning that Colorado taxpayers will potentially experience their first significant

tax refund since the Referendum C was passed in 2005. Referendum CC would eliminate those refunds, as well as the potential for any refunds in the future.

STRENGTHENING TABOR

If you ask Doug Bruce how TABOR can be strengthened to avoid the aforementioned pitfalls, he will retort, “There’s no loophole.”

“You can’t say that’s the fault of craftsmanship,” said Bruce. “I don’t feel that there was one sentence in TABOR that wasn’t clear.”

Understandably, as TABOR’s proverbial father, Bruce isn’t entirely objective on the matter. While it’s true that Colorado lawmakers have played fast and loose with the rules, TABOR is past due for some reformation.

Constitutional scholar Robert G. Natelson describes how TABOR proponents have been broadly playing defense since 1992, and need to develop a strategy of offense instead. “Coloradans who value freedom have been playing that kind of game, but need not continue to do so,” Natelson writes. “The focus should be on strengthening, rather than weakening, the successful experiment in self-government that TABOR represents—and thereby honor Colorado’s heritage of freedom, and the promise and opportunity it brings.”

One defensive measure is obvious: reject Proposition CC. But if fiscal conservatives play offense—such as repealing Referendum C—TABOR could be strengthened for the long run. Other strengthening measures include the following.

Explicitly define taxes, fees, and enterprises

Much of the confusion over what is or isn’t a tax boils down to the vagueness of terminology. Each side of the debate claims to have the conclusive definitions for what qualifies as taxation, fees, and enterprises, as well as the rules as to whether TABOR explicitly restricts proposed fiduciary activities.

Explicitly differentiating taxes from fees is critical to strengthening taxpayer rights in Colorado. A meaningful legal test—one used

“TABOR remains popular with Coloradans.”

to determine whether a specific financial activity falls under TABOR—needs to be established. And the keyword for this test needs to be “mandatory”—namely, what mandate does the government have, be it implicit or explicit, to collect the revenue in question? Even if used for specific government services, a fee should be considered the same as a tax in the absence of a viable alternative for the consumer. All mandatory payments to any government entity—whether labeled as a tax, fee, assessment, or whatever—should fall under TABOR restrictions.

A good-faith effort to exclude smaller, nominal fee increases (e.g., the 10-cent late fee for the library) can be accommodated by setting an annual threshold that grows with the population-plus-inflation formula.

Fortify the citizen initiatives and referenda

Before any of the above reforms can occur, Coloradans must protect and reinforce the state’s referendum and initiative process. Furthermore, the existence of such a process—which is not readily available in every state—is critical to the replication of TABOR outside of Colorado.

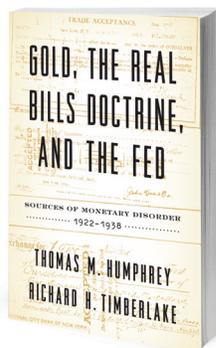
Colorado’s rich tradition of citizen petition came under attack in the aftermath of TABOR. Bruce jokes, “My tombstone will say: ‘Here lies Douglas Bruce; he gave us the right to vote on tax increases, but at the cost of our right to petition the government.’”

Following TABOR, a concerted effort to erode these rights took place in Colorado. In 2016, Amendment 71, which imposed significant changes to a citizen’s right to petition, was voted into the Colorado Constitution. Amendment 71 requires a proposed amendment to receive at least 2 percent of registered electors from *each* state senate district, as well as a supermajority vote of 55 percent or higher. Currently, Amendment 71 is being challenged in the courts, but likely won’t be decided upon for another year.

CONCLUSION

Despite the decline in its effectiveness, TABOR remains popular with Coloradans. A 2019 poll—commissioned by a coalition of pro-TABOR organizations, including Americans for Prosperity and the Independence Institute—revealed that 47 percent of respondents supported TABOR, while 26 percent opposed it. After a pollster read a statement that explained TABOR in greater detail, support skyrocketed to 71 percent.

TABOR is a worthy model to replicate outside of Colorado for those interested in reining in the government’s appetite for taxation and debt. And since politicians won’t willingly give up their authority to increase taxes whenever they want, such restrictions on government must come from a grassroots, citizen-driven campaign. The replication of TABOR in other states will lean heavily upon a vigilant, bottom-up mobilization of taxpayers who demand that their government seek—as promised by the Declaration of Independence—the consent of the governed. ■



“The most important book written on the Great Depression since Friedman and Schwartz.”

—PHIL GRAMM, *economist and former chairman, Senate Banking Committee*

CATO
INSTITUTE

HARDBACK AND EBOOK
AVAILABLE NATIONWIDE.

The State of Free Speech on Campus

Once the bastion of radical free speech and civil libertarianism, left-leaning student activism has taken a decidedly illiberal turn in recent years. What caused this shift? That's what Robby Soave, associate editor at *Reason* magazine, set out to investigate in his new book *Panic Attack: Young Radicals in the Age of Trump*. Cato hosted a book forum with Soave in June to discuss his findings. The forum also featured commentary from Jane Coaston, senior politics reporter for *Vox*.

ROBBY SOAVE: The subject of my book, *Panic Attack: Young Radicals in the Age of Trump*, is the culture of activism at the moment—particularly on college campuses where a number of progressive activists, especially at elite educational institutions, have been engaged in attempts to shut down visiting speakers who they disagree with. This kind of activity also reaches professors who are very much to the left, but further-left students object to something they said in a classroom and call for investigations, or sometimes it's targeted at other student groups whose activities they don't agree with. This is a problem that I think is more pervasive at places like Harvard and Yale and liberal arts institutions. That's where the culture is dominated by a relatively small number of students on the radical fringe who believe that ideas they disagree with must be banished from being heard on campus. They believe ideas that they disagree with represent a threat to their emotional well-being, and their health, and thus these ideas should not be heard on college campuses.

This is a problem that national media started paying more attention to beginning in late 2015, when there was a very notable event at Yale. It involved a dean of one of their residential colleges, Nicholas Christakis, and his wife, Erika, who was also a professor. Erika Christakis had written an email to the students rejecting previous guidance the administration had given to students warning them not to wear offensive Halloween costumes. She had said, in

essence, "You're probably all adults, you can maybe decide for yourself what's appropriate to wear for Halloween." And a number of students rejected this attempt to not be paternalistic and surrounded Nicholas Christakis in the public square and berated him for a long time. They asserted that it was his role on campus to provide a safe space for them from discomfort, from emotional harm, and that he failed in his obligation to do that.

This doesn't just happen to far-right people but even to leftist professors. Bret Weinstein and Laura Kipnis are two notable examples of liberal academics whose students have rejected something they thought or did. And in Kipnis's case launched harassment complaints; they had her investigated under Title IX, the law that bans gender discrimination in education.

This kind of thing continues today. Just in the news in the last few weeks, there was an incident with a law professor at Harvard University, Ron Sullivan, who is well known for his expertise on criminal justice reform. He was, at one point, an adviser to then senator Obama. He has represented and helped to free many wrongfully incarcerated people. He has represented, as you do as a defense attorney, all sorts of controversial clients—accused murderers, accused terrorists, even. But then he was going to represent Harvey Weinstein, who has been credibly accused of sexual harassment and assault. So the activist students—about 50 of them—had protests, and they said that Sullivan's representing Weinstein has made

the campus unsafe for women and that this should be impermissible. Harvard investigated Sullivan and decided to fire him, not as law professor, but as faculty dean to one of the residential colleges. And he just had a great op-ed in the *New York Times*. ["Why Harvard Was Wrong to Make Me Step Down," *New York Times*, June 24, 2019.] He said he is very concerned about the emotions of students at many elite institutions being taken so seriously that they are now dictating policies and overriding values that the left used to believe very strongly in: free expression and due process.

These are areas where libertarians and progressives have historically been in close proximity. I have tremendous respect for the work, for instance, that the ACLU has done over the years to defend the rights of despicable people, to defend their free speech and due process rights. But even the ACLU now is sort of out of step with where activist culture is going. At William and Mary, just two years ago, the executive director of the Virginia ACLU was invited to speak on the First Amendment. A group of activist students associated with the local Black Lives Matter group shut her speech down; they talked over her to prevent it from happening. Eventually the organizer of the event simply gave the microphone to the leader of the student activists to let them have their event instead. They shouted that the ACLU is a white supremacist organization, that liberalism itself is white supremacy, I guess for believing that even bad people like white supremacists should have rights.

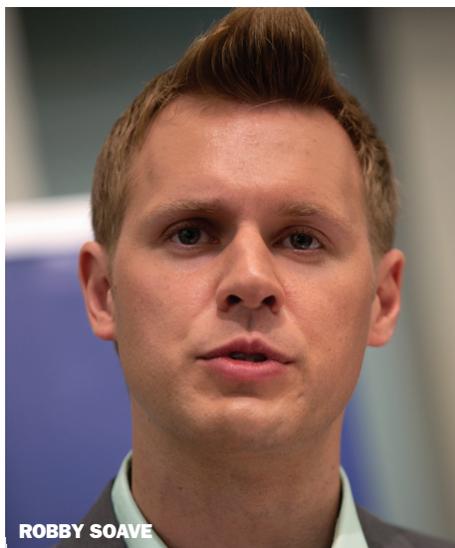
This is all so different from where the left was decades ago. Berkeley was, after all, the birthplace of the Free Speech Movement. In research for my book, I learned that in 1963, a far-left student group invited a Nazi to Berkeley to make a free-speech point, and they dressed in full Nazi regalia

to promote the event. And then this guy spoke, and no one heckled him; no one shut him down; they just laughed at him. Again, this was something the progressive students did to demonstrate they were for iron-clad freedom of speech. Can you imagine if this happened today? Campuses would be shut down; there would be national days of mourning; there would be talk about how the mental health of everyone on campus was negatively impacted by this to the point where nobody could go to classes and nobody could take their exams.

I spoke to some of these activists for the book, specifically at the University of Michigan, at an event where Charles Murray was supposed to speak, and they were planning to prevent him from speaking. I asked them, “Don’t you think this makes Charles Murray look more sympathetic? And you look very sensitive or very foolish for not letting him be allowed to speak?” But what they told me then—and what activists told me over and over again in the research for my book—was that if you let someone speak who makes people feel uneasy, whom people disagree with on campus, who makes people on campus feel uncomfortable, then you have essentially allowed violence to take place. So they are committed to not having these uncomfortable conversations with people, to not allowing non-leftists to speak on campus because the result of that will be a kind of mental trauma for people. In their view, that trauma exists on sort of the same spectrum as physical violence, which obviously the campus is obligated to prevent. Thus these tactics are not only justified but necessary to protect people’s lives and their health. I think that’s a new trend in activist culture that poses a complication for those of us that believe campuses should remain places where difficult conversations can, and must, take place. Places where a range of ideological viewpoints should be aired and discussed. Places where professors should have wide latitude to tackle difficult subjects in their classroom

without fear of a student complaining to the administrators and being investigated for saying something that the students disagree with.

There is a climate, I think, of seeking out self-victimhood on campuses because there is authority that stems from being the most marginalized or the most victimized person.



“There is a climate of seeking out victimhood.”

The philosophy that enhances that way of thinking is something called intersectionality, which is of incredible importance to activists on the left nowadays. The term comes from a sociologist, who coined it in the late 1980s, to describe how different sorts of oppression work against you. If you are a woman you might suffer from sexism; if you’re a person of color, from racism; but if you are a woman of color, you have sexism and racism intertwined against you. There is nothing wrong with that theory; it makes perfect sense. But many of these activists on campus have then added all sorts of other categories. We have gender identity, gender expression, sexual orientation, abilities, disabilities status, age, size, etc., etc. Many of

these things are, indeed, sources of oppression for these people, but if you are asking everyone to be sort of worked up about all of them at the same time, and you are also saying that we want to only work—from an activist’s perspective—with others that fully agree on all of these categories, then you have narrowed down the range of people who are in good standing with you to a very small, tiny fringe. Indeed, many of the activists I spoke to for this book said that the Women’s March—you know, where hundreds of thousands of people marched on DC to object to Trump’s truly appalling history of statements about and treatment of women—the majority of the activists I spoke with hated that. They hated that whole march; it was all bad. Why? Because it was not run and organized by a coalition of the most oppressed. The people running it only checked off one or two boxes. They were not transwomen of color; they were just women running the event.

That is my criticism of this version of activist intersectionality theory. Again, not that this theory is wrong in its core premise but that this version of it can be self-defeating and amount to a kind of cannibalism for the left. That aspect of it, in addition to no longer upholding free speech and due process, is a recipe for disaster. Part of my concern is that while these values have played out primarily on college campuses, they are also permeating social media and maybe mainstream media companies as well. And moving forward, if these are the values of not just elite campuses—where you can say OK, that’s not real life anyway, that doesn’t matter—but now it’s moving to real life. Firms and organizations are going to have to reorient their policies around the demands of a small, tiny subset of politically engaged young people. You are going to have a very hard time having people who disagree or having uncomfortable discussions in the workplace, in broader society, because this is explicitly what these activists want.

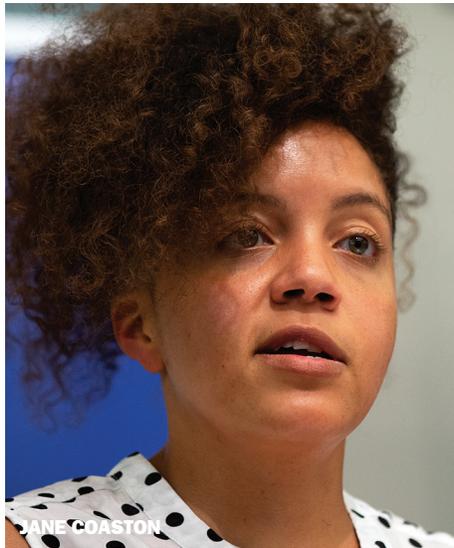
JANE COASTON: I write predominantly about conservatism, the right, and the GOP, and something that I think is particularly interesting about this beat, and I think part of the reason I am on this panel, is because we can have a riotous discussion across ideological barriers. I've been working on some pieces about how many of the biggest sources of repression of speech taking place on college campuses are not inherently coming from college students. They are coming from outside entities. They are coming from someone like, say, then Kansas secretary of state Kris Kobach who just a couple years ago was so offended at a piece of art featuring an American flag with a tiny sock on it that he demanded the flag be ceremonially destroyed. That was somebody on the right insisting something that offended him had to be removed.

I thought that was a particularly telling incident, because Kobach and a whole host of other Republicans have really championed the idea they are stalwarts of free speech and expression and the alternative is oppressive leftist orthodoxy. It turns out that everyone has a form of speech that they, themselves, find deeply offensive. Everyone.

Right now, my biggest obsession is this conversation over social media companies and whether or not they're too big and what they allow and what they don't allow. Sen. Josh Hawley (R-MO) is proposing to amend Section 230 of the Communications Decency Act so that social media companies would need to submit to the FTC—the unelected commissioners of the Federal Trade Commission—verification that the moderation policies that those companies use are “neutral.” Based on what? No one knows. But it's another case in point that the push to regulate speech is by no means an exclusive feature of the campus left. You see it everywhere on these issues, including from mainstream Republican politicians.

I think that it is really important to be clear here: though we are talking about college students, we are not talking about *all*

college students. There are millions of people in college and most of them aren't at Middlebury or Yale or Berkeley. They are attending community colleges. They are attending smaller institutions, bigger institutions. This kind of campus activism is by no means a majority activity among students today.



“People don't join the alt-right because of the left's illiberalism.”

I think the problem with the rise of a more oppressive attitude toward speech really gets to the growth of the administrative state on college campuses, like the idea that you would hire someone just to be your expert on diversity. Which, you know, I'm kind of surprised that no one has asked me—a noted expert in being diverse! But if you create all these new administrative positions, they're going to have to find something to do. A lot of that time they end up policing speech in ways that are deeply illiberal.

I think that how we talk about these issues is important too. Just as Robby said, it's not all students; it's not even most students. When I was a student at the University of Michigan, I was also working in a dining hall

washing dishes for four years. I remember my own experiences of witnessing campus activism, which like so many others I was too busy to join. At the time there was a group on campus, BAMN (By Any Means Necessary), which you reference in the book. This group was very upset about efforts to end affirmative action and so had a lot of big, showy protests to that effect. But I also saw it coming from the conservative groups like Young Americans for Freedom. While I was on campus, YAF hosted “catch an illegal immigrant day” and would do things like host “affirmative action bake sales.” It seemed as if they were—do you remember the old *Spy vs. Spy* cartoons? Occasionally you had moments where it felt like that—the reciprocal absurdity of it, where it felt like both sides were more copying than really opposing each other. The culture of campus activism has changed, both on what we think of as the left but also on what we think of as the right.

It's not necessarily that campus activists on the right and the left are doing activism wrong; they are doing activism in the way that colleges have created the atmosphere to do it. It's difficult when you are on a college campus and you are aware that outside of your college campus you have virtually no power to change minds about anything. Particularly for those on the left, who see Republicans in control of the White House and, currently the Senate, and in many states also the state government. It feels like there's a disconnect between real-world politics and what these fired-up young radicals want. At the same time, conservatives feel powerless in the face of overwhelmingly liberal faculties and student culture on campus. So all that frustrated energy gets channeled into the kind of highly performative activism we see today.

When you have no space to make actual change, you do get into this kind of activity. I think some people have called it virtue signaling, but it's really a kind of activism signaling. It's talking about white people in

a certain deliberately outlandish way, for example. Or on the right, stuff like Charlie Kirk's Turning Point USA creating a Professor Watch List, where you can report professors for being mean or "leftist." It is this idea, when you get down to it and what I hear when I talk to kids on college campuses, that this is the only way anyone is going to listen to us. The squeaky wheel gets the grease, so to speak. It's the person who is saying things like, "we should kick all white people off of this college campus" who gets listened to by national media.

And I have some critical thoughts on how national media covers college issues, because generally it is sending a bunch of reporters over here to talk to the loudest person, while ignoring the person whose story is "I'm working two jobs to pay off my college loan debt, so I can't really get involved in campus activism." That person is not getting heard from, even though there are far more of that type of person than there are of the yelling, screaming, acting-out type.

I want us to be fair to those students, and I want us to be really fair with the genuine issues they are dealing with. And I think I'd like to close with the biggest point of disagreement I have with the book—sorry Robby! There is an argument toward the end that liberal activism, or "left-leaning activism," could push people toward the open arms of the alt-right. And I think that's an argument that has been made historically, too, when it comes to the rise of fascism in the 1930s.

Robby spoke to Richard Spencer, the noted white supremacist, who spends a lot of time on college campuses for someone who was born in 1978. Normally people try to look down on that kind of thing, but he's following in a tradition. The founder of the American Nazi Party, George Lincoln Rockwell, went on a college tour in the early 1960s, and you can go look up his speeches at Michigan State University. And his entire point was saying, every effort to protest him was pushing people to-

ward him. Any effort to stop this expression of free speech is just pushing people toward the Nazis. That all he was asking for was the sharing of ideas in a civil discourse. But then, in an interview with Alex Haley, author of *Roots*, in *Playboy Magazine*, George Lincoln Rockwell was a little bit clearer. He said repeatedly, in essence, "I hate n——. I hate them. I hate n—— and the Jews. The Jews are controlling the n——." That's what George Lincoln Rockwell's message really was.

I think that it is extremely clear that people do not wind up in the alt-right because of the illiberalism of the left. That is taking away the personal responsibility of people who choose to become angry bigots. I think

we should remember that people do not join political entities because they were pushed to do so. The people who send so many Jewish journalists gas chamber images did not do so because a professor at the University of Missouri was an illiberal leftist. They did so because they decided to do so. They did so because they decided to engage in an illiberalism themselves.

There are a host of people who have received cruelty and illiberalism on social media and college campuses from the left, and they did not decide, "you know who looks good right now? That Nazi Richard Spencer and his stupid suits." I think we should give college students more credit than that. ■

Wedding Bells



VICTOR I. NAVA and KAT MURTI, Cato's senior digital outreach manager, were married on August 25, 2019, in Chennai, India. Victor and Kat met at Cato when they interned together.

Congratulations, Victor and Kat!

Freedom: Art as the Messenger

Art Exhibit at Cato a Resounding Success

From April 11 to June 14, the Cato Institute hosted its first art exhibit, *Freedom: Art as the Messenger*. Under the supervision of co-curators Harriet Lesser and June Linowitz, the goals of this exhibition were to promote freedom of speech and expression and to highlight the intertwined relationship between art and freedom. By bringing together diverse groups of people to exchange various interpretations of freedom, Cato sought to reach new audiences and to inform the public about the Institute and its mission.

Cato called on artists across the country to submit pieces that represent their idea of freedom. The call for entries ultimately accumulated more than 2,000 pieces from 500 artists in 40 states—a much higher number of submissions than was originally anticipated. The submissions were considered through a blind jury process and judged on their aesthetic value, mastery of craft, and relevance to the exhibition theme. After careful evaluation, Lesser and Linowitz se-

“Openness to one another is central to the purpose of the exhibit.”

— JUNE LINOWITZ
co-curator

lected 90 pieces from 76 artists for display in the exhibit. The included works can be viewed online at cato.org/artmessenger.

The pieces selected for the exhibit were a variety of media, including paintings, photographs, videos, and sculptures. The artists were encouraged to manifest their conception of freedom in any way they saw fit. As



“Art and freedom, after all, have always been allies.”

— HARRIET LESSER
co-curator



Top: FRANK CALZON, executive director of the Center for a Free Cuba, speaks during a panel on the imagery of freedom. Bottom: HARRIET LESSER, co-curator of *Freedom: Art as the Messenger*, discusses a piece during the same panel.

such, the pieces expressed a spectrum of interpretations, including political views other than small-government libertarianism.

As part of *Freedom: Art as the Messenger*, Cato also hosted three panel discussions on how art can bridge barriers, the subjective definitions of offensiveness and how this debate relates to freedom of speech through art, and the imagery of freedom as used in art.

Many visitors explored the art exhibit before, during, and after other Cato events, but the events held as part of the exhibit drew nearly 1,300 people—including many who had never visited the Institute before. Media outlets took notice, too, with cover-

age in the *Washingtonian* and the *Washington Post*. The latter noted, “As is customary at Cato, nearly everyone who stopped in for the show was offered a copy of the Constitution.” The left-wing magazine *The Baffler* devoted 4,000 words to the exhibit. After much huffing about “tobacco,” “laissez faire capitalism,” and “Christian bakers,” the essayist concluded with an interview with a young artist from Kentucky whose charcoal drawing won the top prize: “He had been completely unaware of Cato and unfamiliar with its politics, but after his work was accepted, he began to do research and liked what he saw. Now he thinks he’s probably a libertarian after all.” ■



Cato Senior Fellow MUSTAFA AKYOL speaks at the historic Chautauqua Institution in Chautauqua, New York, about his work advancing toleration and liberalism in Muslim societies.

DAPHNE EVIATAR of Amnesty International USA speaks at a policy forum on September 11 about civilian casualties in America's post-9/11 wars.



In July, Cato hosted Alternative Money University, an academic seminar for students with an interest in monetary economics. Top: GEORGE SELGIN, director of Cato's Center for Monetary and Financial Alternatives, leads a workshop discussion. Bottom left: JOHN B. TAYLOR, professor of economics at Stanford and author of the Taylor rule, gives a presentation. Bottom right: RANDALL WRIGHT of the Wisconsin School of Business at the University of Wisconsin.



PATRICK REASONOVER, producer, participates in a panel discussion with director Michael Ozias about their film *Of Dogs and Men* at a special Cato screening, moderated by Cato Vice President for Criminal Justice CLARK NEILY. The film addresses the epidemic of police shootings of dogs—often family pets—in the United States.

JUNE 3: *When All Else Fails: The Ethics of Resistance to State Injustice*

JUNE 4: Keeping Up with the Jones Act

JUNE 5: The Imagery of Freedom

JUNE 6: *Of Dogs and Men*

JUNE 11: Peering Beyond the DMZ: Understanding North Korea behind the Headlines

JUNE 12: Financial Inclusion: The Cato Summit on Financial Regulation

JUNE 18: Legal Immigration: Problems and Solutions

JUNE 19: *Tyranny Comes Home: The Domestic Fate of U.S. Militarism*

JUNE 25: *Eyes in the Sky: The Secret Rise of Gorgon Stare and How It Will Watch Us All*

JUNE 26: *Panic Attack: Young Radicals in the Age of Trump*

JULY 14–18: Sphere Summit: Teaching Civic Culture Together

JULY 19: What's Next for Venezuela?

JULY 31: *Socialism Sucks: Two Economists Drink Their Way through the Unfree World*

AUDIO AND VIDEO FOR MOST CATO EVENTS CAN BE FOUND ON THE CATO INSTITUTE WEBSITE AT WWW.CATO.ORG/EVENTS.

Cato Calendar

POLICY PERSPECTIVES 2019

NEW YORK • INTERCONTINENTAL BARCLAY
OCTOBER 25, 2019

Speakers include Benjamin Powell and Peter Goettler.

POLICY PERSPECTIVES 2019

CHICAGO • RITZ CARLTON
NOVEMBER 8, 2019

Speakers include Michael Smerconish and Sen. Rand Paul.

37TH ANNUAL MONETARY CONFERENCE

WASHINGTON • CATO INSTITUTE
NOVEMBER 14, 2019

Speakers include Richard Clarida, Paul Tucker, Charles Calomiris, Sarah Binder, and George Selgin.

POLICY PERSPECTIVES 2020

NAPLES, FL
RITZ CARLTON NAPLES BEACH
FEBRUARY 19, 2020

Speakers include Daniel Hannan and Phil Gramm.

POLICY PERSPECTIVES 2020

FORT LAUDERDALE, FL
CONRAD FORT LAUDERDALE BEACH
FEBRUARY 28, 2020

MILTON FRIEDMAN PRIZE PRESENTATION DINNER

NEW YORK • CIPRIANI 42ND ST.
MAY 20, 2020

32ND ANNUAL BENEFACITOR SUMMIT

NEW YORK CITY • MAY 21, 2020

CATO CLUB 200 RETREAT

BLUFFTON, SC • MONTAGE PALMETTO BLUFF
OCTOBER 1–4, 2020

33RD ANNUAL BENEFACITOR SUMMIT

CARLSBAD, CA • PARK HYATT AVIARA RESORT
FEBRUARY 18–21, 2021

Teaching civic culture together

Cato Hosts Educators for Sphere Summit

Over four days in July, Cato hosted 150 teachers from grades 5–12 at the Institute’s building in Washington, DC.

The summit was different from Cato’s usual fare. While there was ample policy discussion from Cato scholars and honored guests, the overarching theme of the Sphere Summit was about something more fundamental than any particular policy goals. Instead, the event aimed to restore a spirit of civil, constructive, and respectful discourse and to return facts, analysis, and research to primacy as the vehicles for discussion and debate.

Cato believes that it is crucial to have a framework in which ideas can be discussed and policies debated respectfully, especially in times of partisan rancor and polarization. To that end, the Sphere Summit brought together educators from across the country to teach them about, and show them examples of, civic culture built around the free exchange of ideas.

The highlight of the summit was a dinner on Capitol Hill with Rep. Justin Amash (I-MI) and Rep. Zoe Lofgren (D-CA). In a conversation with Cato’s director of government affairs Jeff Vanderslice, the Michigan libertarian and California progressive discussed how they’ve been able to work together across the aisle to find shared goals and to move the ball forward with concrete legislative proposals. Congress has not been immune from spiraling hyperpartisanship, and both representatives outlined a desire for a more open and constructive process.

Educators also heard from philanthropist and former *Washington Post* publisher Donald E. Graham, who was interviewed by Cato president Peter Goettler; championship poker player and author Annie Duke; *National Review* senior editor Ramesh Ponnuru; former ACLU president Nadine Strossen;



Top left: HAYNE YOON, director of government affairs at the Vera Institute of Justice, discussing criminal justice reform. Top right: NADINE STROSSEN, former president of the American Civil Liberties Union. Bottom: Cato President PETER GOETTLER speaks to attendees during dinner.

Wall Street Journal editorial board member Jason L. Riley; and scholars from the Brookings Institution, National Constitution Center, Center for American Progress, and the Economic Policy Institute, among others. By bringing together a cross-ideological

gathering from left, right, and center, Cato hoped not only to spur talk about civic discourse but to demonstrate constructive discussion about policy issues.

Feedback from attendees was overwhelmingly positive. One wrote, “This ex-



Summit attendees took part in several events and workshops, including the closing dinner on Capitol Hill (bottom right) with REP. ZOE LOFGREN (D-CA) and REP. JUSTIN AMASH (I-MI), moderated by Cato's JEFF VANDERSLICE.

perience has changed my life. I am much more aware of what my friends, colleagues, and family are saying in person and on social media . . . I cannot summarize in a few sentences the profound ways this summit changed my mind, encouraged my heart,

and renewed my enthusiasm for education and my role in it." Another said, "The Sphere Summit was phenomenal. It was the best professional development that I have ever participated in as an educator." One especially heartwarming note read, "By far the

best event I have ever attended. The immense knowledge I gained will be passed on to my students (and anyone who will listen); on average 200–220 students a year. Thank you for treating teachers in a professional, respectful way." ■

Nokia, Myspace, and Other Monopolies

Growing numbers of legislators and policy experts charge that tech firms such as Amazon, Google, Facebook, Apple, and Microsoft are “monopolies” with the potential power to harm consumers. In “**Is This Time Different? Schumpeter, the Tech Giants, and Monopoly Fatalism**” (Policy Analysis no. 872), Ryan Bourne examines how these claims stack up against past claims of unassailable “monopolies” that proved to be transient, such as Nokia, Kodak, Myspace, and Microsoft’s Internet Explorer. In fact, there is little evidence that the tech field is any more monopolized than when these now-supplanted firms were dominant, and that the process of creative destruction still applies.

GOOD AND EASY TO WIN

More than any other issue, there is agreement among economists that international trade should be free. In “**Macroeconomic Consequences of Tariffs**” (Research Brief in Economic Policy no. 166), Davide Furceri, Swarnali A. Hannan, Jonathan D. Ostry, and Andrew K. Rose examine the data on tariffs from 1963 through 2014 to quantify the negative effects of protectionism.

AFFORDABLE CARE

Forecasts for the next 75 years show that almost \$1 of every \$5 of GDP could be spent on Medicare. Without intervention, Medicare’s share of GDP will force some combination of substantial cuts in other government spending, significantly higher taxes, and unhealthy levels of public debt. In “**Unplugging the Third Rail: Choices for Affordable Medicare**” (Policy Analysis no. 871), John F. Early lays out three options to avoid this fiscal cliff: gradually raising the eligibility age, restoring the original criteria for disability benefits, and increased cost-sharing for beneficiaries.

LESS CAMPAIGN, MORE LOBBYING

Many believe that more needs to be done to control the influence of corporate interests in politics — especially the role of corporate money. But as with any other regulation, these limits are not without unintended consequences. In “**Spillovers from Regulating Corporate Campaign Contributions**” (Research Brief in Economic Policy no. 167), Adam Fremeth, Brian Richter, and Brandon Schaufele find that limits on corporate political spending have the effect of channeling more corporate money into lobbying.

K-POP

The renegotiation of KORUS (Korea-U.S. Free Trade Agreement) provides a useful example of Trump’s trade dealmaking in practice. In “**Trump’s First Trade Deal: The Slightly Revised Korea-U.S. Free Trade Agreement**” (Free Trade Bulletin no. 73), Simon Lester, Inu Manak, and Kyoungwha Kim find that in spite of rhetorical bluster, the actual changes made were minimal. However, the authors caution this could be in part because KORUS has been a lower political priority for this administration than more prominent trade arrangements such as NAFTA.



MANAK

WHO’LL BUILD THE ROADS

America’s surface transportation infrastructure needs significant improvements and rehabilitation, yet Congress is uncertain about how to do this. In “**Principles for the 2020 Surface Transportation Reauthorization**” (Policy Analysis no. 870), Randal O’Toole lays out three principles Congress should follow: pay as you go to avoid accumulating additional debt, incorporate user fees to the greatest extent

possible, and follow the principle of subsidiarity to leave state and local transportation agencies latitude for non-interstate projects.

GET IN LINE

A common refrain of opponents of immigration, and illegal immigrants in particular, is that people should wait in line for legal admission. In “**Immigration Wait Times from Quotas Have Doubled: Green Card Backlogs Are Long, Growing, and Inequitable**” (Policy Analysis no. 873), David Bier shows just how unrealistic this premise is. Thanks to quotas that have not been updated since 1991, the time spent waiting to apply for legal permanent residence has doubled. For many otherwise qualified would-be immigrants, the line simply isn’t moving.

SUBSTITUTION EFFECT

Advocates of medical marijuana have long argued that such programs help to reduce fatal overdoses and other negative consequences from more deadly drugs such as opioids. In “**The Effect of Medical Cannabis Dispensaries on Opioid- and Heroin-Overdose Mortality**” (Research Brief in Economic Policy no. 168), Julio Garín, R. Vincent Pohl, and Rhet A. Smith examine the data and find that more liberal medical marijuana laws, with practical access for patients through dispensaries, would have resulted in 8.5 percent fewer opioid-related deaths from 1999 to 2015.

SUPPLY AND DEMAND FOR LABOR

Do minimum wage laws have the effect of correcting a market failure? Proponents have argued that the classical economic case against minimum wage hikes have been disproven. In “**Bad Economic Justifications for Minimum Wage Hikes**” (Economic Policy Brief no. 1), Ryan Bourne reviews the economic theo-

ry and finds that market-failure-based arguments for minimum wage hikes do not withstand scrutiny.

PRETEXTUAL PROTECTIONISM

During its first two years, the Trump administration has aggressively reshaped U.S. trade policy. One of its most controversial initiatives is the expansive use of national security and emergency powers to justify imposing tariffs and quotas. In “Closing Pandora’s Box: The Growing Abuse of the National Security Rationale for Restricting Trade” (Policy Analysis no. 874), Simon Lester and Huan Zhu examine how WTO rules have failed to account for these sorts of powers, and propose a rebalancing process where protectionism justified by national security must be compensated for with liberalization elsewhere.

GET A JOB, TEENS

Should a high minimum wage apply to everyone? In particular, should it apply to younger workers? In “Do Lower Minimum Wages for Young Workers Raise Their Employment? Evidence from a Danish Discontinuity” (Research Brief in Economic Policy no. 169), Claus Thustrup Kreiner, Daniel Reck, and Peer Ebbesen Skov examine a natural experiment in Denmark, where there is a large discontinuity in minimum wage rates when workers hit age 18. They demonstrate substantial negative employment effects associated with this age limit.

PATENT PENDING

Patents aim to stimulate the development of new products and processes. But do they work as intended? Do the benefits outweigh the costs? In “A Survey of Empirical Evidence on Patents and Innovation” (Research Brief in Economic Policy no. 170), Bhaven N. Sampat reviews the literature and finds that the results are mixed and highly dependent on which sec-

tor is examined. In some fields, they are important to firms appropriating returns from research and development. In others, they are less important for this purpose but are used for other strategic purposes.

HOUSING MALINVESTMENT

The Community Reinvestment Act (CRA) requires banks to lend to low- and moderate-income households in the areas where they take deposits. Mounting evidence suggests the CRA is either ineffective at helping these



ZULUAGA

communities, or worse, is damaging to them. In “The Community Reinvestment Act in the Age of Fintech and Bank Competition” (Policy Analysis no. 875), Diego Zuluaga

lays out the case for repealing the CRA in favor of alternative policies that better achieve its goals.

ACCOUNTABILITY AND POLICE UNIONS

Police unions sometimes successfully resist the imposition of discipline on officers who commit misconduct. But does this result in higher rates of misconduct? In “Collective Bargaining and Police Misconduct: Evidence from Florida” (Research Brief in Economic Policy no. 171), Dhammika Dharmapala, Richard H. McAdams, and John Rappaport examine a change in labor law in Florida as a result of a 2003 court decision. They find that the right to bargain collectively led to an increase of about 40 percent in violent incidents at affected sheriffs’ offices.

KIDNEY COMPENSATION

Currently, about 95,000 patients are waiting for a kidney, the most commonly transplanted organ. The average wait is around 4.5 years while receiving dialysis, and several thousand people die every year because they cannot find a donor. In “The Eco-

nomics and Moral Foundations of Americans’ Attitudes toward Paying Kidney Donors” (Research Brief in Economic Policy no. 172), Julio Elias, Nicola Lacetera, and Mario Macis study the underlying assumptions and attitudes behind American public opinion on compensating kidney donors.

SEEN AND UNSEEN

Although free trade has gained increasing acceptance among policymakers over time, challenges to it have remained common. In “Debunking Protectionist Myths: Free Trade, the Developing World, and Prosperity” (Economic Development Bulletin no. 31), Arvind Panagariya builds on the principles of Frédéric Bastiat and Adam Smith, as well as decades of empirical data, to disprove many of the common arguments for protectionism, including the so-called infant-industry argument. ■

CATO POLICY REPORT is a bimonthly review published by the Cato Institute and sent to all contributors. It is indexed in PAIS Bulletin. Single issues are \$2.00 a copy. ISSN: 0743-605X. ©2019 by the Cato Institute. Correspondence should be addressed to *Cato Policy Report*, 1000 Massachusetts Ave., NW, Washington, DC 20001. www.cato.org • 202-842-0200

CATO POLICY REPORT

David Boaz..... Editor
 Andy Craig..... Associate Editor
 Jon Meyers..... Art Director
 Brendan O’Hara..... Photographer
 Karen Garvin..... Senior Copyeditor
 Mai Makled..... Graphic Designer

CATO INSTITUTE

Peter Goettler..... President and CEO
 Robert A. Levy..... Chairman
 David Boaz..... Executive Vice President
 Linda Ah-Sue..... VP, Events and Conferences
 Lesley Albanese..... VP, Initiatives
 Kristine Brookes..... VP, Communications
 James A. Dorn..... VP, Monetary Studies
 Marissa Delgado..... VP, Chief Financial Officer
 Gene Healy..... Vice President
 Steve Kurtz..... VP, Chief Digital Officer
 Clark Neily..... VP, Criminal Justice
 Christopher Preble..... VP, Defense & Foreign Policy Studies
 John Samples..... Vice President
 Harrison Moar..... Executive Director of Development
 Edward H. Crane..... President Emeritus

James Buchanan (1919–2013)..... Distinguished Senior Fellow
 F. A. Hayek (1889–1992)..... Distinguished Senior Fellow
 William A. Niskanen (1933–2011)..... Chairman Emeritus

CATO POLICY REPORT

1000 Massachusetts Ave., NW
Washington, DC 20001

ADDRESS SERVICE REQUESTED

CATO

“To Be Governed...”

Nonprofit Organization
U.S. Postage
PAID
Southern MD
Permit No. 4205

NOT ACTUALLY A REFUTATION

Some people don't want to register [for the draft] because they think “laws and government suck.” But truth be told, failure to register is punishable by a fine up to \$250,000 and imprisonment up to 5 years. Also, failure to register results in a lifetime of denied benefits.

—SELECTIVE SERVICE SYSTEM ON TWITTER,
JUNE 28, 2019

CUTS TOMORROW AND CUTS AFTER THE ELECTION— BUT NEVER CUTS TODAY

President Trump has instructed aides to prepare for sweeping budget cuts if he wins a second term in the White House, five people briefed on the discussions said, a move that would dramatically reverse the big-spending approach he adopted during his first 30 months in office . . .

[But for now] Trump is advocating swiftly lifting the federal debt ceiling, which would allow for more spending and borrowing.

—WASHINGTON POST, JULY 19, 2019

I THINK THEY MISPELLED “LOST”

Milan and Cortina d'Ampezzo won the vote Monday to stage the 2026 Winter Games.

—ASSOCIATED PRESS, JUNE 24, 2019

WHAT WOULD WE LEARN IF WE HAD OUR OWN POLITICIANS’ GROUP CHATS?

889 pages of group chats [involving Puerto Rican Gov. Ricardo Rossello and his inner circle were published] . . . filled with sexist, homophobic and profane language against political opponents and allies, the fiscal control board and journalists, plus conversations that possibly suggest preferential government treatment on contracts [and] information manipulation . . .

Rosselló . . . said that the private chat—the same private chat in which he threatened former New York City Council speaker Melissa Mark-Viverito and called her a “whore” in Spanish and also joked about a threat against the mayor of San Juan, Carmen Yulín Cruz—was just a way to relieve stress.

—WASHINGTON POST, JULY 18, 2019

WHY BE IN CONGRESS, THEN?

While some Senate Republicans warned the administration this week that at least 20 GOP senators may defy Trump on Mexico tariffs if it comes to a vote, other Texas lawmakers weren't willing to go that far.

“I'm not going to vote on a disapproval of the president's actions. That's a long-time policy of mine,” Rep. Kenny Marchant (R-Tex.), even as he expressed some reticence over Trump's tariff threat. “I never voted against the governor when I was in the statehouse.”

—WASHINGTON POST, JUNE 6, 2019

WILL THEY ARREST OTHER DRUG USERS?

Of the 10 candidates [for UK prime minister], eight have admitted to doing drugs. . . .

[Boris] Johnson admitted to trying cocaine and cannabis in his younger days, but he told *GQ* in 2007 that the drugs “achieved no pharmacological, psychotropic or any other effect on me whatsoever.”

—WASHINGTON POST, JUNE 11, 2019

DID THE SAME WEATHER CAUSE STARVATION IN SOUTH KOREA?

The survey found that abnormally high temperatures, drought in some areas and flooding in others severely reduced the 2018 fall harvest of grains including rice,

wheat and soybeans, leading to food insecurity for 10.1 million of North Korea's 25.5 million people.

—NPR, JUNE 9, 2019

CENTRAL PLANNING FOR AGRICULTURE

MEXICO HAS AGREED TO IMMEDIATELY BEGIN BUYING LARGE QUANTITIES OF AGRICULTURAL PRODUCT FROM OUR GREAT PATRIOT FARMERS!

—PRESIDENT TRUMP ON TWITTER, JUNE 8, 2019

PARTY TIME ON K STREET

Faced with the growing possibility of antitrust actions and legislation to curb their power, four of the biggest technology companies are amassing an army of lobbyists as they prepare for what could be an epic fight over their futures. . . .

The industry's troubles mean big paydays for the lawyers, political operatives and public relations experts hired to ward off regulations, investigations and lawsuits that could curtail the companies' huge profits.

—NEW YORK TIMES, JUNE 5, 2019

SOCIALISM

Yolanda will only give her first name and won't talk politics. She doesn't want to jeopardize a resource that her family depends on: A food box provided to the poor by the government of [Venezuelan] President Nicolas Maduro. Distribution is controlled by local officials from the ruling Socialist Party. Rights groups say these officials monitor people and strike them off the list if they criticize the government.

—NPR, JULY 18, 2019