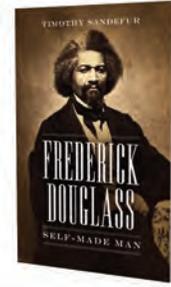




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Cato Policy Report

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Politicians, Voters, and Gerrymandering

BY WALTER OLSON

Redistricting reform has been on the march in recent years, with about a dozen states embarking on systematic reforms of how district lines are drawn, especially out West (California, Arizona, Colorado, Washington, Idaho, and Alaska) but also spreading to states back East, including Ohio and New Jersey. And gerrymandering has become a front-page issue nationwide, fueled by Barack Obama and other leading Democrats who have decried Republicans' fiendish ingenuity in stacking the process to their advantage—although their own party has done likewise in many states where it has had a chance to call the shots. Republicans such as former California governor Arnold Schwarzenegger have joined the chorus. And the constitutionality of partisan gerrymandering is before the U.S. Supreme Court—not for the first time—in cases from Wisconsin and Maryland.

Through all this, libertarians have mostly stayed on the sidelines. When I mention that I am active in efforts to curb gerrymandering, some people react with surprise: “Oh, is that a libertarian issue?”

It should be, I think. Libertarians are in some ways especially well-situated to spot

the harms that can result when politicians get to select which constituents they would like to represent rather than vice versa. And the issue fits well into a long tradition of classical liberal thinking about the electoral process and representation, among the goals

of which is to restrain existing establishments from gathering too much power unto themselves. Voters should choose legislators, not the other way around. But first, some background.

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On January 18 Maryland Governor LARRY HOGAN announced that he would join a Supreme Court case challenging gerrymandering in Maryland's congressional districts. Cato's WALTER OLSON (behind Hogan on left) has co-chaired the Maryland Redistricting Reform Commission since 2015.

WALTER OLSON is a senior fellow at the Cato Institute. Since 2015 he has co-chaired the Maryland Redistricting Reform Commission. A version of this article appeared in *Cato Unbound*, a monthly online magazine.



BY DAVID BOAZ

EDITORIAL

New Challenges to Liberty

Three or four years ago people were talking about a libertarian moment—and we played a role in creating that moment (see “Mainstreaming Libertarianism,” *Cato Policy Report*, July/August 2014). Now we’ve had Trump and Sanders and Hillary Clinton—and Corbyn and LePen—and people are talking about nationalism and socialism and protectionism.

Ideas and threats we thought were dead are back from the ash-heap of history, with authoritarianism on both the left and right. Not just in Russia and China, but also in Turkey, Egypt, Hungary, Venezuela, the Philippines, maybe India—and too close for comfort in France and Austria. And even here in the land of the free we have elected a president who seems to have no respect for the Constitution or the rule of law. He’s not the first in that respect, but his personal disdain seems something new.

Globalization, as we’ve discussed in many books and articles, is a great boon to the world. It means more specialization and division of labor, which makes rich countries richer and brings poor countries out of crushing poverty. But economic progress inevitably means change. And change can be painful. Think of the transition from 90 percent of American workers working on farms, to about 2 percent today. Now we’re in similar transitions from manufacturing to services and robots.

Some people get hurt in such transitions. And when people perceive a decline in their income or their relative social status, they often want help, and they want to blame someone. That can mean both a demand for government programs and the scapegoating of villains—whether it’s the bankers, the trusts, the Jews, the Chinese, or the Mexicans. This is just the opposite of the individualist liberalism that we defend and advance. These instincts can result in bad policy, or worse—closed borders, pogroms, authoritarianism.

In the 1930s there were complaints that liberalism was ineffectual, unable to deal with the economic crisis. And as we know, the response then was disastrous. One complaint then—which we also hear these days—is that Congress can’t get anything done. That’s an attitude that often precedes a turn to authoritarianism. In the United States and Europe, fewer young people tell pollsters that it’s essential to live in a democracy.

Nearly 50 percent of young Americans say it would be a good idea to have “a strong leader who doesn’t have to bother with Congress or elections.”

This reminds me of something Hayek wrote in *The Road to Serfdom*. He said that in the stage that precedes the suppression of democracy, you hear demands “for quick and determined central government action . . . dissatisfaction with the slow and cumbersome course of democratic processes . . . Action for action’s sake [becomes] the goal. It is then the man or the party who seems strong and resolute enough to ‘get things done’ who exercises the greatest appeal.”

Can American institutions resist these pressures? I remain optimistic—despite all these challenges, it’s still true that around the world, more people in more countries than ever before in history enjoy religious freedom, personal freedom, democratic governance, the freedom to own and trade property, the chance to start a business, equal rights, a higher standard of living, and a longer life expectancy. Immigration flows are always from less-free to more-free countries, creating some challenges but also demonstrating a broad preference for liberal societies.

There’s also this: the rise of liberalism and the Industrial Revolution revealed to people that progress is possible, that economic change can bring rising standards of living. Once people realized that, they wanted growth to continue. In the long run, people will not reject the institutions that produce growth and progress.

Socialism doesn’t deliver the goods. Cronyism and tax-and-spend policies reduce economic growth. When people get a taste of growth, they want it to continue. And the economic freedom that leads to growth also gives people a taste for making their own decisions, which tends to spill over into a demand for political, cultural, and lifestyle choices.

We are reminded once again that we need a positive vision of liberalism, how it is rooted in American values, and how it makes lives better. We want everyone to flourish, to be free to pursue happiness in his or her, or indeed hir, own way.

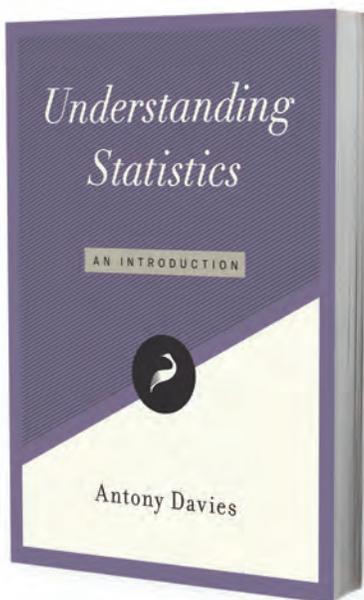
“In the long run, people will not reject the institutions that produce growth and progress.”

Your key to spotting common errors in misleading statistics

A Brief Guide to Statistics

Mark Twain famously cited the three kinds of lies—“lies, damned lies, and statistics” (although he attributed the now-popular saying to British Prime Minister Benjamin Disraeli). Statistics can indeed be baffling, and are easily manipulated in the hands of clever—or sometimes, merely misinformed—speakers. A new book from Libertarianism.org, *Understanding Statistics* by Antony Davies—along with a video guide—helps the average reader dispel confusion on these matters and learn to evaluate facts like a statistician.

In reality, Davies argues, statistics *can't* be translated into whatever the speaker wants them to say. “The problem,” he writes, “is that statistics exist in the language of mathematics.” It’s in “translating” these statistics from the language of math into the English language that errors or misinterpretations arise. And these misinterpretations often come from the listener, not just the speaker—such as journalists who report on studies without understanding what the statistics truly mean.



For example, from 1995 to 2015, the poorest 20 percent of Americans went from earning 3.7 percent of all household income earned in the country to 3.1 percent. Someone might conclude that this shows that the poor are getting poorer. But this is a misunderstanding of statistics, which uses aggregated data—many data points combined into a single measure. This statistic has aggregated the poor in 1995 into a single number and then compared that with another aggregation of the poor in 2015—but “the poor” in 2015 are not necessarily the same people who were “the poor” in 1995, and we can’t compare them directly. A better way to see if the poor are getting poorer would be to measure income inequality across the span of a person’s career. And when we do that, we find that, in fact, across generations, the poor are getting richer faster than the rich are getting richer.

Davies teaches readers to recognize the most common errors made in reporting and interpreting statistics, arming them with the tools to sort out these problems on their own. As he writes, “Understanding statistics is the first step toward seeing the world more clearly.” ■

READ *UNDERSTANDING STATISTICS*, AND WATCH THE ACCOMPANYING VIDEO GUIDE, AT LIBERTARIANISM.ORG.

Cato News Notes

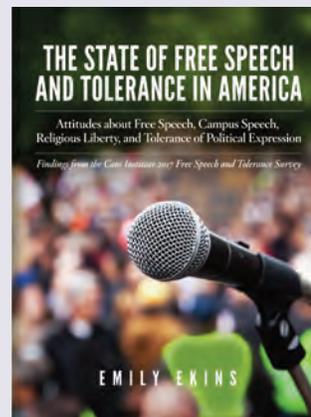
30 UNDER 30

Chelsea Follett, the managing editor of Cato’s project HumanProgress.org, was named one of *Forbes*’s 30 Under 30 in Law and Policy. *Forbes*’s competitive annual list features 600 “young stars” in 20 different fields, selected from thousands of nominations. As *Forbes* wrote, HumanProgress.org aims to “counter the doom and gloom of the daily news cycle by highlighting long-term economic development and increases in individual well-being as a result of market liberalization.”



A RECORD-BREAKING YEAR

Cato saw its second record-breaking web traffic day in 2017, with October 31st eclipsing January’s previous record. The surge came largely thanks to Cato research fellow Emily Ekins’s report on the 2017 Cato Free Speech and Tolerance Survey. Ekins’s



extensive and timely report is alternately encouraging and concerning: the majority of Americans oppose hate-speech laws, and 67 percent of Americans say that free speech ensures that the truth will win out; but at the same time, many Americans also

hold troubling views along partisan lines. Fifty-three percent of Republicans support stripping citizenship from people who burn the American flag, for example, while 51 percent of Democrats support a law that requires Americans to use transgender people’s preferred gender pronouns. A blog post by Cato immigration analyst David Bier on how the line for green cards can “move backwards” for some applicants also played a role in driving unprecedented traffic to Cato’s website that day.



At a Cato Policy Forum, Cato senior fellow FLEMMING ROSE and CHRISTINA HOFF SOMMERS of the American Enterprise Institute made the case that many of the arguments of today’s anti-free speech advocates — such as arguments for banning “fake news” or “hate speech” — trace directly back to Marxist ideas.



At a Capitol Hill Briefing, SEN. BRIAN SCHATZ (D-HI) urged Congress to consider legislation to lift regulatory barriers to telemedicine, which could revolutionize health care for low-income patients in remote areas.



DONALD MARRON of the Urban Institute, White House Council of Economic Advisers chair KEVIN HASSETT, and Cato’s CHRIS EDWARDS and RYAN BOURNE gathered for an in-depth discussion of tax reform at the Cato Institute shortly before Congress took up the Tax Cuts and Jobs Act.



PAUL CHAN MO-PO, the financial secretary of Hong Kong, came to Cato to discuss how Hong Kong’s laissez-faire policies transformed its economy, thanks in part to the efforts of former financial secretary John Cowperthwaite. Cowperthwaite is the subject of a new book, *Architect of Prosperity* by Neil Monnery.



Cuban-born YURI PÉREZ of Freedom House, Czechoslovakian-born MARIAN TUPY, and ANDREI LANKOV and ANDREI ILLARIONOV, both originally from the Soviet Union, reviewed communism’s brutal—and failed—attempts to create the “New Man” in Cuba, North Korea, and the Soviet Union.



The 2017 Cato Club 200 Retreat was held in October in Laguna Beach, California. Clockwise from top left, attendees gather for an evening reception; Cato executive vice president DAVID BOAZ talks with SEN. JEFF FLAKE (R-AZ); Cato chairman BOB LEVY, KATHRYN WASHBURN, and BETTY and JOHN ALLISON enjoy the reception; and LAURA JOST, REBECCA DUNN, and CARL BARNEY listen to Flake’s remarks over dinner.

Continued from page 1

DECIDING WHO DECIDES—AND HOW

In any system based on geographical representation, someone must decide which voters should be grouped into which districts. As population grows and voters move around, someone must also redraw the lines periodically to reflect those shifts, at least under modern standards of fairness. Under our system, both state and federal legislative districts must be reapportioned at least every 10 years to reflect new census results.

Here in the United States, the task of apportioning both congressional and state legislative seats has historically fallen to state governments. Note, however, that the U.S. Constitution, from its start, has expressly granted Congress a role in overseeing how states hold elections for its own members. Article I, Section 4 of the document provides: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations.”

With the power to draw lines comes the power to punish or favor selected candidates. Even before we had the familiar name—derived from the dragon-shaped Massachusetts state senate district that Gov. Elbridge Gerry helped devise back in 1812—gerrymandering was a well-known practice. Historians debate whether Patrick Henry used it to draw a deliberately unfavorable Virginia district for James Madison in hopes of keeping him out of the House in the 1789 election. (Madison won anyway.)

But it has grown more acute in our own time with the rise of database technologies that can efficiently sort voters by political sympathy down to precincts, city blocks, and even individual buildings. Last year, the *Washington Post* cited Maryland’s third congressional district as among the nation’s worst offenders. It snakes through four counties and Baltimore city, connected at various points only by water; its silhouette has been compared to that of a praying mantis, a “broken-winged pterodactyl”

“Gerrymandering introduces a bias specifically to the benefit of incumbents and those they favor.”

(a federal judge’s phrase), and the blood spatters at a crime scene.

The first line of defense against the practice is to specify clear rules in advance governing how districts are drawn and make them legally binding upon the line-drawers. Compactness in districts, for example, is almost universally acknowledged to be one good principle, and success in achieving it need not be left to intuition: mathematical formulas are available to quantify the compactness of a map and compare it to alternatives. Likewise with another common redistricting principle, the congruence of district lines with smaller political subdivisions, such as counties and towns: a state can adopt a rule minimizing the number of county splits or providing that more populous counties should be split rather than less populated counties. In safeguarding against manipulation, clear and specific marching orders are better than broad grants of vague authority for line-drawers to balance multiple factors or to discern so-called communities of interest. Additionally, states can enact more or less effective methods of judicial review to ensure that line-drawers follow the announced principles.

These background rules account for no small part of the difference in the gerrymandering landscape. States with firm rules tend to have less gerrymandering than those without. And that suggests one way in which state-by-state reform, without need for institutional or legal innovation, can improve matters: enact clear and objective marching orders backed by judicial review.

WHY IT MATTERS

In a world with many injustices and bad government policies, is this an issue worth caring about? Elections will always have

unhappy losers, after all, and complaints of unfairness can seem amorphous, especially if no one’s individual rights have been violated.

Every imperfection in a representational system introduces a bias for or against some political group: large or small states, rural or urban constituents, committed or indifferent voters. But gerrymandering introduces a bias specifically to the benefit of incumbents and those they favor.

In this respect, one is reminded of the movement for term limits, in which libertarians have been prominent. Could America, or some parts of it, have developed a dominant political class that tends to perpetuate itself, shutting out rivals and newcomers? If so, then high among its preoccupations will be to keep its grip on office. One symbol of this entrenchment is the five-term senator or fifteen-term representative, who is too powerful and feared for anyone to dislodge. But another symbol is the dominant party that cannot be ousted from its control of a legislature unless the other party manages to score a sweeping win: with not 50 percent of the vote, but more like 55 or 60 percent.

These days, the gerrymander is known, above all, as an instrument of party advantage: the governing party draws as many districts as it can in which its own adherents hold a comfortable though not overwhelming lead, while packing opposition voters as densely as possible into as few districts as it can.

Gerrymandering serves to entrench incumbents in other ways as well. Within a party, for example, it can safeguard incumbents from challenge in the primary elections. Unfriendly internal factions can be broken up or submerged in opposition districts. And since districts that sprawl are also more expensive to campaign in—the cost of advertising in multiple media markets is higher, for example—the advantage may go to those incumbents who can raise money readily and cultivate allies among those interest groups that can turn out disciplined voters statewide.

The threat of drawing a hostile district can also be an important means of preventing

dissident voices from being heard within a majority party: cross the leadership, and you just might get cut into a tough new district next time. And carving up a coherent political community, such as a county or small city, among numerous districts can spare weak incumbents from scrutiny of their performance. Residents who do not even know who their representative is, as is common with a scrambled map, are less likely to keep track of how well that representative is serving their interests. With multiple districts, races, and incumbents to follow, press outlets are less likely to do a thorough job of covering any of them.

Beyond all this, rotation in office has a claim to standing itself among the safeguards of liberty. When there is no plausible prospect of being thrown out in favor of a rival party, there is less constraint on the thievery and high-handedness of the party in power, and less likelihood that the light of scrutiny will be cast upon it.

BEYOND PARTISANSHIP

The fight over gerrymandering can sometimes come off as a battle between partisan insiders. But that can put libertarians—who often feel as though they stand outside the main political tribes—in a position to offer some distinctive perspectives.

Consider, for example, one of the most common fixes offered for redistricting problems, the bipartisan commission. What could be a more straightforward fix than to empanel a half-dozen loyal Republican lawmakers, a half-dozen of their Democratic colleagues, and perhaps a tie-breaking retired dignitary to supervise the drawing of a district map?

Libertarians will perhaps be quicker than many others to spot the weak points of this plan: to begin with, bipartisan does not mean nonpartisan. Maps drawn by such methods may avoid gross bias between parties by adopting a cozy “you can protect your members if we can protect ours” approach. But independent and third-party voters—not to mention insurgent political movements not yet

“When there is no plausible prospect of being thrown out in favor of a rival party, there is less constraint on the thievery and high-handedness of the party in power.”

represented in insider circles—will have no one to look out for their interests.

Or consider the question of “blinding,” that is, directing a panel not to acquire or consider data on such matters as current party registration or past voting records in assembling population blocks. An even more powerful technique is to blind a panel to the residence of any individual, such as any incumbent. Many bipartisan panels consisting of Republican and Democratic loyalists would reject such a proposal out of hand, while an outsider might be more intrigued by it as a way to help avoid catering to incumbent interests.

Then again, libertarians will often have in mind the constitutionalist maxim that official powers may be best divided among actors with some jealousy of each other, with ambition checking ambition and interest checking interest. When redistricting plans are adopted through the ordinary state legislative process, there is already some of that: a governor’s political goals and interests will often diverge from key legislators’, so that a veto threat can serve as a check on certain excesses.

But there might also be other ways to divide power or counterpoise interest against interest. Under some reform plans, for example, multiple interested parties, or members of the public at large, are invited to submit proposed maps, and the redistricting panel then chooses the plan it considers to hew most closely to the stated redistricting principles. One big advantage of this approach can be to lay a more favorable groundwork

for later judicial review, since the panel that rejects a facially better plan may find its decision coming under later scrutiny by a court. The Pennsylvania Supreme Court, for instance, invalidated a map drawn by lawmakers as clearly inferior to a map that had been submitted by Amanda Holt, an Allentown piano teacher.

IN SEARCH OF A PROCESS

A more fundamental and challenging question is: Is there some way that is both practicable and constitutionally sound to take the whole process out of the hands of those with a vested interest?

It’s not as easy as it may sound. For example, “hand the whole thing over to the courts” might look like an attractive option. But judges are incumbents, too, and if they are not federal judges they probably lack tenure. In some states the bench is already too politicized for comfort, and one consequence of giving judges more authority to draw district lines might be to incentivize other actors to politicize state judicial selection further.

These days a lot of the momentum backs the idea of placing the responsibility with independent redistricting commissions made up of citizen volunteers. The Arizona and California models, and others proposed since, each have their own details. They typically exclude persons who are considered too close to elected officials and involve a stage in which some neutral entity screens citizen-volunteers in search of those with enough civic aptitude to rise to the complexities involved. A randomization stage—think jury selection—may be used to reduce the likelihood that any existing powers can stack a panel with known and trusted friends.

How have these innovations worked in practice? Arizona’s has been in operation for two census cycles, California’s for one, and both have results that could be described as mixed. Arizona’s independent commission has come under pressure from litigation and political meddling, while in California, savvy interest groups managed to organize

quietly to influence some of the proceedings, as a ProPublica investigation found. Still, many observers believe the quality of districting has improved in both states, and both systems are works in progress, capable of correcting design problems as they go and attracting new constituencies to monitor and counteract attempts to manipulate them from the outside. In short, it's still too early to pronounce with confidence on how they will do.

We may dare to hope, however, for an enduring success. The great British classical liberals, such as John Bright and Thomas Babington Macaulay, did not draw a sharp distinction

“Is there some way to take the whole process out of the hands of those with a vested interest?”

between the substantive reforms for which they crusaded—say, reducing tariffs or removing legal hardships for minority religions—and the reform of representation, the franchise, and electoral procedure. Among the goals of the Great Reform Act of 1832 was to do away with the notorious “pocket” or “rotten” boroughs: settlements, sometimes tiny or half-

abandoned, which had ancient rights to elect members to Parliament and which were, in practice, usually in the possession of some great landowner who directed his tenants' choice. Gerrymandering is neither as flagrant, nor as readily abolished, an evil as the pocket boroughs, else it would not have lasted so long. But in a sense it recalls a particular subgroup of the pocket boroughs, the “crown boroughs,” in which the landlord was the admiralty or some other department of state, and which could thus be voted by the government itself to advance its majority at the next election.

The crown boroughs were, at length, abolished, and no one misses them. ■

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Powerless on the Bench

KEVIN SHARP took the bench as a federal judge in 2011 in the United States District Court for the Middle District of Tennessee—a coveted lifetime appointment. But just six years later, he decided to resign. He explained why at Cato’s October conference, *Criminal Justice at a Crossroads*.

Being a federal judge is not a bad gig. I took the bench in my forties—and throughout my tenure I was always the youngest, and the funniest, guy in the room. Then I resigned my commission, and suddenly I wasn’t *nearly* as funny. Maybe it was because I wasn’t in my forties anymore. Before I explain why I stepped down from the bench, I think it is important to share my background because it affected the prism through which I viewed my responsibilities as a judge.

I’m originally from Memphis. Like most river cities, Memphis was at times a little tough and economically depressed. My father was a Memphis firefighter. My mother sold encyclopedias door-to-door. I was not a particularly good student, and I did not think earning a college degree was in my future. When I was young, I thought my future would be picking up a shovel and working at an oil refinery.

Some of you may remember the days when you had full-service gas stations, but before self-service gas stations where you could pay at the pump, people followed the honor system and paid after pumping their gas. I was hired to carry a baseball bat on the gas station’s grounds, walking up to pumps and saying, “You’re going to pay for that, right?”

Another job I had was at a car wash. For those of you who were around in the ’70s and saw *Car Wash*, you know that car washes are not that fun. In some ways *Car Wash* was very realistic. A bunch of adults worked

minimum-wage jobs. They were going nowhere, the work was hard, the work was tiring, and they spent their days all wet, hoping that somebody would give them a tip. It was one thing for me at 18 to be doing that, it was another thing for a 35-year-old guy who was doing it to support his family. These were the people that I knew; these were the people that I grew up with.

At the time, I drove down a street and saw a Navy recruiting station in a little shopping center. I pulled in and asked the re-

“Criminal law is fairly simple—but it soon became the hardest thing I did on the bench.”

cruiter to “send me somewhere, anywhere, just get me out of here.” I ended up at a boot camp stationed with a P-3 squadron. Soon after at age 19 without a college education, I was part of a 15-person crew hunting Soviet submarines off the coast of Vietnam on a multi-million-dollar aircraft. I was the crypto guy, which means I had the codes. My job was an important job, and so all of a sudden I started to see myself and other people differently. Because I was stationed with various kinds of people with different backgrounds and cultures and we were all experiencing different cultures and countries together, I realized that although we did not speak the same language and we had

all grown up differently, we were all still really similar.

Once I left the Navy, I decided that I wanted to become a lawyer. I completed my undergraduate degree and then attended Vanderbilt Law School. I practiced law for the next 17 years. Then I received a call from the Justice Department, asking me to interview at the White House for a position as a district court judge in the Middle District of Tennessee.

Ultimately, President Obama nominated me, and the U.S. Senate unanimously confirmed me. When I took the bench in 2011, I was a former military, God-and-country, middle-of-the-road guy. I took my job very seriously. I understood the importance of the judiciary.

Like a lot of judges who take the bench, I had limited experience in criminal law. Criminal law is fairly simple—much simpler than the tax code or some of the other things that I had done. But it soon became the hardest thing I did on the bench. In civil cases, my rulings generally concerned money. But in criminal cases, when I said the “sentence is imposed as stated,” somebody was placed in handcuffs and led away by a U.S. marshal.

Early on, I sentenced a young man, Antonio, who was 27. He was charged as a felon in possession of a firearm. He had been convicted of two armed robberies at 17 years old. At 27, Antonio is doing what we all hope a criminal defendant does after being convicted: he gets a job. He is in contact with his family. He does not do drugs. He does not drink. But Antonio had been doing one thing that he should not have been.

Antonio was driving down the street and, without being too graphic, he and his girlfriend were engaged in an activity that caused him to cross slightly over the double-yellow line. The police saw it and pulled him over. The police suspected his girlfriend was

a prostitute, so they split Antonio and his girlfriend up and asked them questions. The police realized based on her answers that she in fact was Antonio's girlfriend. Then, the police said, "OK, we are going to let you go. Oh, by the way, do you mind if we search your car?" Antonio, forgetting that he had an unloaded pistol under the front seat of his car, responded, "No, go ahead."

Antonio was charged with being a felon in possession of a firearm. Because he was convicted as an adult in his prior crimes, his *mandatory* minimum sentence was 15 years. I read his case and thought this could not be right. Fifteen years? What are "mandatory minimums"? I did not fully understand what they were at the time. I spent the next several days trying to figure out how to get around the minimum sentence—it cannot be done.

Regrettably, I did what I had to do. I sentenced Antonio to 15 years. I thought to myself, "What in the world are we doing? Why would the government take away my ability to fashion a fair sentence? I know what a judge is supposed to consider in determining how to fashion a sufficient sentence. What I have done is in no way, shape, or form an appropriate sentence."

Several years later, I had the same conversation with myself. This time, the case involved a 22-year-old kid, Chris Young. He was caught up with a group of members of the Vice Lords, a gang known for running cocaine and crack through middle Tennessee. Chris was not a member of this gang. He was an aspiring rapper who would hang out with members of the Vice Lords because one of the gang members had a studio. He was occasionally asked to make crack, but he did not know how.

Chris was arrested as part of a 30-person indictment for drug conspiracy. Chris was such a minor player in the drug conspiracy—he did not even know how to make crack. I think the only reason the DEA arrested him was because he happened to be at a gas station when they took down the Vice Lords'

leader. He was at the wrong place with the wrong group at the wrong time. The only evidence showing Chris's connection to the gang were tapes from their wiretaps where Chris is talking to the gang's leader about how he cannot figure out why the crack he has cooked did not turn out right. The



KEVIN SHARP

“Why would the government take away my ability to fashion a fair sentence?”

leader gets frustrated and finally says, "I'll just come over and do it myself." That was basically the extent of it.

The prosecutor told Chris, "You can plead guilty, and we will give you twelve years." Chris is 22 and thinks, "12 years, no! I'm so minor in all of this, I will go to and win at trial." His lawyer convinces him that he should not go to trial, given his two prior drug convictions (one for less than half a gram of crack, which is about a sugar packet of crack) and the penalty he could face if convicted again—a mandatory life sentence. At this point, the prosecutor changes his mind and says, "12 years was last week's price—this week's price is 22 years, and if you turn this down, next week's price may be

higher." A 22-year-old, Chris thought, "22 years is life! I'll take my chances at trial."

Only three people of this 30-person group arrested, by the way, went to trial. Everybody else pled guilty. At trial, these three people, who happened to also be the *lowest* members of this conspiracy, all got life in prison. Every single one of them. Yes, the Vice Lords were selling a lot of drugs, but not *Chris*, and not the other two defendants who also decided to go to trial. They all are behind bars for life.

Chris Young grew up in the projects, did not know his father, and saw his mother in and out of jail for her drug addiction. When his mother had been sent to jail, Chris and his brother would stay in the house without electricity, water, or money for food. They would eat out of garbage cans or ask neighbors to give them food. When they were tired of the way that they smelled, they asked neighbors if they could take a shower. This is how Chris grew up. His brother eventually died. It is unclear as to whether he committed suicide or was murdered. I could not consider *any* of his hardships. I could only look at how he was charged, and his charges led to his mandatory life sentence.

Before being sentenced, Chris was asked, "Do you have anything to say?" He responded, "Yes, I do." Chris gave a speech that he clearly had worked on for a long time. It was very articulate. He showed his understanding of economics, philosophy, and history. Here was a kid who had *such* great potential. I told you about my background because I recognized some parts of Chris in me. Chris was self-taught. He had taught himself Greek philosophy—and Greek names are not pronounced the way they are often spelled, so he is pronouncing these names phonetically, "SO-craits?" "YOU-rope-ides?" I struggled to understand who he was talking about. Then I realized, I *know* who Chris is talking about because I did the same thing when I started reading in the military. I would go to the li-

brary and pick up books and pronounce these names the way kids are taught in elementary school. I listened to Chris make the same mistakes I had made—the difference being I had opportunities that Chris Young did not have. I convinced myself then and there that “I cannot do this, I am not going to do it anymore.”

Members of Congress, in their desire to be elected and reelected, often show how tough on crime they can be, and they say, “Look, mandatory minimums are necessary so that we can take discretion away from the

judges.” But these legislators have not taken away discretion, they have just *moved* it to the prosecutor, who has a dog in the hunt. If somebody said, “Well wait a minute, let’s not allow the prosecutor to do it but the defense counsel,” they would say “You’re insane! Why would you do that?” My position, then, is why would you give discretion to the prosecutor?

Because of the way that I grew up, as I saw criminal defendants come through my court, I would think about how I may have gone to high school or have worked at an oil refinery with these people. These were real

people who faced real consequences. And, despite my position, I was told what to say. I was just a messenger. And I thought to myself, “Somebody else can be a messenger. If real change is going to be made, then I need to do that on the other side of the bench. Sure, I am giving up a lifetime appointment, but am I going to walk in here every day and do things that I do not think are just? The government can pay me for life to do that, but that is not enough for me. The government does not pay me enough for this—I *cannot* be paid enough to do this.” ■

The Future of Criminal Justice Reform

With the election of President Trump and his tough-on-crime rhetoric, are the days of criminal justice reform over? How should state and local officials tackle difficult issues such as the opioid crisis, overcriminalization and overincarceration, and police misconduct? At a Cato conference, Criminal Justice at a Crossroads, experts gathered to discuss these questions. The day opened with a discussion on law enforcement, in which Ron Davis, formerly a police chief in California, criticized Americans’ tendency to treat police work like a “vocation” instead of a profession with strict rules and systems. As some of the most powerful government employees in the country, he argued, police must have clear goals and evidence-based practices. Steven S. Alm, a retired judge from Hawaii, discussed his widely praised Hawaii’s Opportunity Probation with Enforcement program, which operates under the principle that probation punishments should be proportionate, swift, consistent, and not overly harsh. In a moving closing address, Kevin Sharp told the story of why he resigned from his lifetime appointment as a federal judge (see page 9). Other speakers included Alyssa Rosenberg of the *Washington Post*, William R. Kelly of the University of Texas at Austin, former acting commissioner of U.S. Customs and Border Protection Jay Ahern, and many others.



Top, LAURA DONOHUE of Georgetown University Law Center speaks on a panel about criminal justice at the border, and bottom, Chief J. THOMAS MANGER of Montgomery County, Maryland, and retired Chief RON DAVIS of East Palo Alto, California, discuss policies to improve law enforcement accountability.

35 Years of Pioneering Monetary Policy

The Cato Institute hosted its 35th Annual Monetary Conference in November, a celebrated gathering of top scholars, policymakers, and journalists, to discuss ideas for the future of monetary policy. Loretta J. Mester, the president and CEO of the Federal Reserve Bank of Cleveland, delivered the keynote address, remarking that the longevity of Cato's conference "underscores the important contributions that the series has made over the years to the public discourse on monetary economics and policy." Her speech focused on how coming demographic shifts worldwide will impact economics and monetary policy. Other speakers included some of the most prominent minds in free-market monetary policy, such as Stanford economist John B. Taylor, Martin Feldstein of Harvard University, Charles W. Calomiris of Columbia Business School, and former Federal Reserve Board governor Kevin Warsh. Topics included how to move toward a rules-based monetary system; how to normalize monetary policy after years of unconventional monetary policy; and the future of currency. Rep. Andy Barr (R-KY), chairman of the House Subcommittee on Monetary Policy and Trade, delivered an address on legislative efforts to reform monetary policy, where he declared that "Over the last 35 years, Cato's monetary conference has more than earned its status as *the* place where serious thinkers and doers can test and market ideas for a stronger economic foundation."



Top, LORETTA J. MESTER of the Federal Reserve Bank of Cleveland delivers her keynote address, and center, CHARLES I. PLOSSER, formerly of the Federal Reserve Bank of Philadelphia, speaks with ESWAR S. PRASAD of Cornell University. Bottom (left to right), GEORGE S. TAVLAS of the Bank of Greece, Cato's JIM DORN, CHARLES W. CALOMIRIS of Columbia Business School, MARTIN FELDSTEIN of Harvard University, Stanford's JOHN B. TAYLOR and LORETTA J. MESTER listen to a presentation.

Toward a Freer NAFTA

As the United States, Canada, and Mexico renegotiate the North American Free Trade Agreement (NAFTA), the Cato Institute hosted a conference, *Renegotiating NAFTA: Prospects and Challenges*, to discuss the history and politics of NAFTA negotiations, and debate what a modern NAFTA should look like. The day opened with a panel reviewing NAFTA's origin and purpose, moderated by former chairman of the World Trade Organization Appellate Body Jim Bacchus. A following panel debated the merits of NAFTA, with the Mercatus Center's Dan Griswold maintaining that NAFTA has delivered on its promise of economic benefit—the U.S. auto industry, for example, is thriving, assembling about 12 million cars a year, which is above its 30-year average. “Since NAFTA passed, our exports are at a record high, over 2 million—we have created the competitive North American platform that was promised,” he said. Christopher Wilson of the Woodrow Wilson Center agreed, saying that NAFTA allows Americans to focus on their comparative advantage, in higher-skilled jobs such as engineering, marketing, and business management, so that America's economy grows in tandem with NAFTA countries. “When we see growth in Mexico, that's associated with growth in the United States,” he said. Other panels discussed the politics and reality of renegotiating NAFTA and ideas for modernizing the 1994 agreement for the digital age.



Top, former chairman of the WTO JIM BACCHUS moderates a panel on NAFTA's origins and purpose featuring former Canadian trade negotiator JOHN WEEKES (left), and bottom, BILL REINSCH of the Stimson Center (left) and RICARDO RAMÍREZ of the WTO discuss the politics of NAFTA.

Reckoning with a Nuclear North Korea

As North Korea ramps up its nuclear and missile capabilities, how worried should Americans really be? What are the prospects for negotiations with North Korean leadership? Should America reevaluate its militaristic strategy in this area? At a Cato conference, *How Do You Solve a Problem Like North Korea?*, experts discussed these questions. For the keynote event, Cato's Ted Galen Carpenter interviewed Bill Richardson, former New Mexico governor and U.S.–North Korea negotiator. Richardson urged dialogue with North Korea in attempting to freeze its nuclear program, but warned that Americans must be realistic about who they're facing—North Korean negotiators do not think like other countries' negotiators, and their ideas of “concessions” do not match up with normal negotiators. Other speakers included Joshua Pollack of *The Nonproliferation Review*, Michael Auslin of the Hoover Institution, Rajan Menon of the City College of New York, and Suzanne DiMaggio of New America. “One major lesson learned from the Iran talks is yes, diplomacy with an adversary is extremely hard, but it's not impossible,” said DiMaggio, suggesting that Americans should begin by negotiating a de-escalation, since total denuclearization is currently “outside the realm of possibility.”



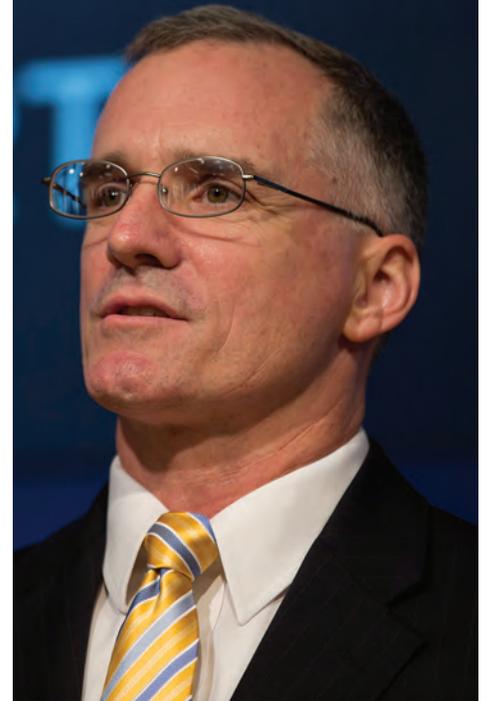
Top, former New Mexico governor and U.S.–North Korea negotiator BILL RICHARDSON, and bottom, JOE CIRINCIONE of the Ploughshares Fund urges finding a peaceful solution to North Korean relations.



JULIAN GEWIRTZ, the author of *Unlikely Partners*, came to Cato to discuss an excerpt he published in the September/October 2017 *Cato Policy Report* about Milton Friedman's involvement with Chinese economic reform.



At a Cato Policy Forum, MICHAEL O'HANLON of the Brookings Institution and ERIK GOEPNER, a Cato visiting research fellow and retired colonel in the U.S. Air Force, discussed America's failed war in Afghanistan and whether, after 16 years, continued engagement is worth the cost.



At a Capitol Hill Briefing, Cato's EMMA ASHFORD and JOHN GLASER argued that the administration should try to preserve the Iran nuclear deal, warning that all of Washington's policy options outside the deal—such as reimposing economic sanctions or challenging Iranian influence in the Middle East—would entail much greater costs and risks.



As part of the Joseph K. McLaughlin Lecture Series, Nobel laureate MARIO VARGAS LLOSA spoke at Cato in November. His remarks outlining the rising challenge of populism are featured in the Winter 2018 *Cato's Letter*.



American Civil Liberties Union president **SUSAN HERMAN** and Federal Communications Commission chairman **AJIT PAI** both spoke at a Cato seminar in New York in November.

OCTOBER 4: Countering Violent Extremism: The Trump Era

OCTOBER 5-8: Cato Club 200 Retreat (Laguna Beach, CA)

OCTOBER 10: Afghanistan Going Forward: Surge, Negotiate, or Get Out?

OCTOBER 10: The Iran Nuclear Deal: Assessing the Impact of Decertification

OCTOBER 13: *Architect of Prosperity: Sir John Cowperthwaite and the Making of Hong Kong*

OCTOBER 16: Terror, Propaganda and the Birth of the “New Man”: Experiences from Cuba, North Korea, and the Soviet Union

OCTOBER 18: Criminal Justice at a Crossroads

OCTOBER 19: The Impact of the

Cato Calendar

**CATO UNIVERSITY: COLLEGE OF LAW
NEW ORLEANS, LA • ROYAL SONESTA
MARCH 15-17, 2018**

Speakers include Tom G. Palmer, Marcus Cole, Clark Neily, Dana Berliner, and Roger Pilon.

**CATO SUMMIT ON FINANCIAL
REGULATION**

**WASHINGTON • CATO INSTITUTE
APRIL 12, 2018**

**MILTON FRIEDMAN PRIZE
PRESENTATION DINNER**

**NEW YORK • CIPRIANI
MAY 17, 2018**

**CATO UNIVERSITY: COLLEGE OF
HISTORY AND PHILOSOPHY**

**SAN DIEGO, CA • RANCHO BERNARDO INN
AUGUST 2-4, 2018**

**17TH ANNUAL CONSTITUTION DAY
WASHINGTON • CATO INSTITUTE**

SEPTEMBER 17, 2018

**CATO CLUB 200 RETREAT
MIDDLEBURG, VA
SALAMANDER RESORT & SPA
SEPTEMBER 27-30, 2018**

**CATO INSTITUTE POLICY PERSPECTIVES
NEW YORK • INTERCONTINENTAL BARCLAY
OCTOBER 12, 2018**

**CATO UNIVERSITY: COLLEGE OF
ECONOMICS**

**BOSTON • OMNI PARKER HOUSE
OCTOBER 25-27, 2018**

Speakers include Jeffrey Miron, Lynne Kiesling, and Deirdre McCloskey.

**REASSESSING MONETARY POLICY
10 YEARS AFTER THE CRISIS**

**36TH ANNUAL MONETARY CONFERENCE
WASHINGTON • CATO INSTITUTE
NOVEMBER 15, 2018**

**31ST ANNUAL BENEFACTOR SUMMIT
WASHINGTON • CATO INSTITUTE**

APRIL 4-7, 2019

Bolshevik Revolution on the Scope and Size of Government in the West

OCTOBER 24: *Crude Nation: How Oil Riches Ruined Venezuela*

OCTOBER 25: The Future of Public Transit and Reform Prospects

OCTOBER 26: Renegotiating NAFTA: Prospects and Challenges

OCTOBER 26-28: Cato University: College of History and Philosophy

OCTOBER 28: Home Stretch for Major Tax Reform?

NOVEMBER 6: How Do You Solve a Problem Like North Korea?

NOVEMBER 7: Prosecutorial Fallibility and Accountability

NOVEMBER 15: Liberating Telemedicine

NOVEMBER 15: The Challenge of Populism

NOVEMBER 16: 35th Annual Monetary Conference

NOVEMBER 17: Cato Institute Policy Perspectives 2017 (New York, NY)

NOVEMBER 28: Marxist Origins of Hate-Speech Legislation and Political Correctness

NOVEMBER 29: Cato Institute Policy Perspectives 2017 (Chicago, IL)

NOVEMBER 29: Trump, Trade, and the Asia Pacific

NOVEMBER 30: Can Tax Cuts Spur Economic Growth?

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Immigration: Setting the Record Straight

Anti-immigrant sentiments are nothing new in America—from Benjamin Franklin worrying that the “swarthy” Germans would “establish their Language and Manners to the Exclusion of ours” to the Know-Nothing party agitating against Catholic immigrants in the 1850s, there has always been some fear that immigrants will disrupt America’s economy and way of life. Cato scholars have long championed a freer immigration policy, arguing that, in fact, each wave of immigrants has added to the American economy and enhanced its culture with their independence and entrepreneurialism. John Judis of *The New Republic* credited a left-right coalition drawn together by “the theories and policies developed at the Cato Institute” with halting restrictive legislation in 1995 and 1996, and former Cato scholar Dan Griswold’s 2002 paper on how to stem illegal immigration by making legal immigration easier was influential in congressional reform efforts from 2003 to 2013.

In recent years, the campaign and election of Donald Trump have brought immigration debates to the forefront of public policy in a new way. Many of the president’s most important campaign promises and first initiatives—the border wall, the travel ban—target immigration, and popular rhetoric toward immigrants has become increasingly hostile. During this time of fraught debate, Cato’s immigration team has established itself as one of the most widely cited sources for factual analysis and policy reform proposals.

Policy Analyst Alex Nowrasteh’s analysis of the risk of foreign-born terrorism by visa category—the first study of its kind—generated record-breaking traffic to Cato’s website and was cited by ESPN, *The View*, the *Late Show with Stephen Colbert*, the *Daily Show with Trevor Noah*, and the *Washington Post*; on the floor of the United States Senate and in the European Parliament; and by numerous other political and media figures. Nowrasteh’s



Research by Cato immigration analysts ALEX NOWRASTEH and DAVID BIER was cited widely in print and television over the past year, including on shows pictured here such as *The View*, the *Late Show with Stephen Colbert*, and the *Daily Show with Trevor Noah*.

study was of particular interest in the debate over admitting refugees to the United States. While many have claimed that refugees pose a grave terrorism risk, Nowrasteh found that this visa category poses an incredibly low risk of terrorism, thanks in part to an already-rigorous vetting process—the chance of an American being murdered in a terrorist attack caused by a refugee is 1 in 3.64 billion per year. The risk of being murdered in a terrorist attack by an undocumented immigrant is even lower, at 1 in 10.9 billion per year.

Meanwhile, in 2016, fellow Immigration Policy Analyst David Bier published the first legal analysis explaining why Trump’s plan to ban immigration from certain countries—then still just a proposal—would be illegal, since Congress explicitly outlawed discrimination by country of origin decades ago. When Trump issued his executive order for the travel ban in January 2017, Bier wrote an op-ed on its illegality for the *New York Times* and was cited on the front page of the *Washington Post*, in the *Wall Street Journal*, and elsewhere. “The gentleman with the most impact over the weekend was . . . David Bier at the Cato Institute’s Center for Global Liberty and Prosperity,” said Tom Keene of *Bloomberg Surveillance*. When various groups sued the White House over the Executive Order, a federal appeals court used Bier’s argument to reject the

ban as illegal, and two appeals courts cited Cato’s amicus briefs challenging the program.

Several other 2017 Cato blog posts and studies on immigration were widely read and cited this year, including Cato visiting fellow Ike Brannon’s post on the enormous economic and fiscal impact of repealing DACA; Bier’s post explaining the long lines for green cards, in which time can, in effect, “move backwards”; and Nowrasteh’s study, cowritten with Michelangelo Landgrave of the University of California, which provided the first rigorous attempt to estimate illegal immigrant incarceration rates.

Cato’s ideas also continue to make waves in Congress—in May, Sen. Ron Johnson (R-WI) introduced a bill to create a state-based visa pilot program that would allow states to tailor immigration programs to their own particular economic needs, and thus create a competitive system among the states that would accord with America’s tradition of federalism. Johnson modeled this bill, which Sen. John McCain (R-AZ) cosponsored, after a policy that Cato first proposed in 2014 and has continued to advocate ever since. “I certainly want to thank the Cato Institute for . . . working very closely with myself, my staff, and Congressman [Ken] Buck in developing this pilot program,” said Johnson. ■

*Frederick Douglass's overlooked legacy of liberty***A Self-Made Man**

This February 14th marks the 100th anniversary of the birthday of Frederick Douglass—or rather, the birthday he chose to celebrate. Born into slavery in Maryland, Douglass would never know the date of his birth, or even who his father was, with any certainty. Douglass's breathtaking story, escaping from slavery to become a self-taught scholar, international celebrity, and one of America's most important abolitionists, is the stuff of history books. But what is less understood is Douglass's political philosophy—a philosophy that was, in many ways, classical liberal, or libertarian.

In *Frederick Douglass: Self-Made Man*, Cato adjunct scholar Timothy Sandefur celebrates Douglass's legacy as not only a man who famously escaped from slavery, but as a brilliant scholar who wrote eloquently of liberty, individualism, and how private property and free enterprise are befitting of the inherent dignity of free men, all created equal. Too many scholars of Douglass, Sandefur writes, have either overlooked his scholarship or openly criticized it as “bourgeois,” as one wrote, and tethered to “self-possessive individualism.”

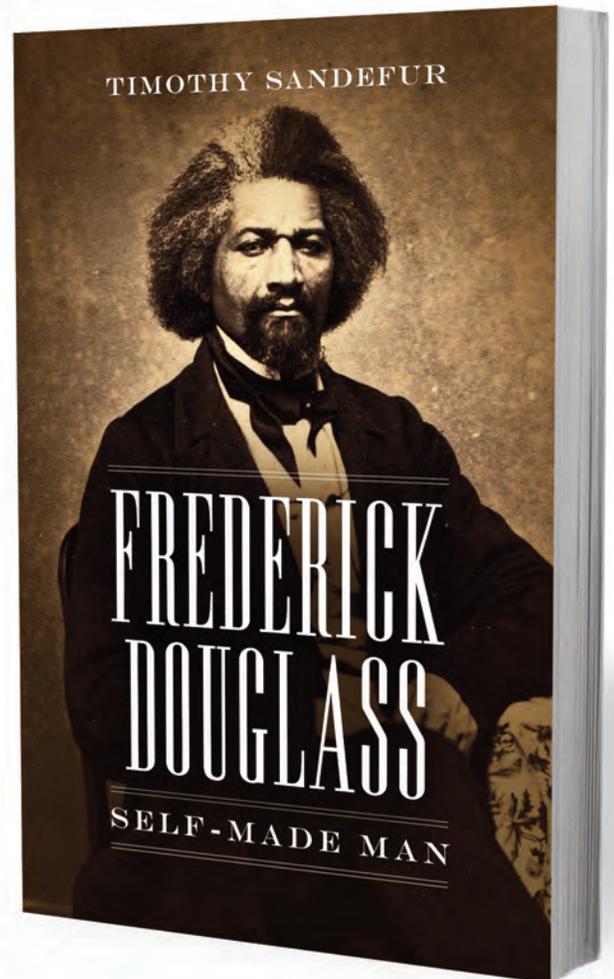
Many downplay Douglass's belief—which was controversial among abolitionists at the time—that the Constitution is a fundamentally pro-liberty document. Sandefur documents Douglass's fascinating evolution on this question, which eventually led him to split with his former ally William Lloyd Garrison. Garrison argued that the Constitution was a pro-slavery document and that it must be rejected entirely. Douglass instead wrote that the Constitution's “principle and purposes” were “entirely hostile to the existence of slavery,” and that to embrace emancipation would be to fully embrace the ideals of the American Founding.

Douglass scholars and biographers also diminish the role that private property and the free market played in Douglass's life and philosophy. Sandefur explains how the injustice of unpaid labor shaped Douglass's rebellion against his “masters”—“He did not earn it; he had no hand in earning it; why, then should he have it? I owed him nothing,” as Douglass wrote in his famed autobiography. “What is freedom? It is the right to choose one's own employment,” he declared in a later speech. This belief that individual liberty was irrevocably tied to free enterprise would lead him to later condemn communism and socialism. He was particularly infuriated by a speaker who likened capitalism and the ownership of land to slavery. The ownership of land was “no harm. . . . It is right that [people] should own it,” said Douglass. But slavery was a “sin against self-evident truth.”

Sandefur weaves the harrowing and moving story of Douglass's life, from learning to read in secret, to his dramatic escape, to his days spent advising presidents and thundering against the continued lack of full racial equality following the Civil War, with historical context and reflections on the development of Douglass's political philosophy. Douglass, Sandefur concludes, was “a radical for individualism and for the ‘bourgeois virtues’ of self-reliance, industry, and personal pride. He was not likely to be attracted to any doctrine that subordinated individual rights—whether free speech or

property rights—to the interests of the collective.” He was the ultimate self-made man: born with nothing, denied even a birthday or the chance to know his parents, he would spend his life improving himself and urging others to give everyone, no matter their race or sex, the chance to do the same. Sandefur laments that, in some ways, Douglass has never received his due—particularly for his great impact on political thought and constitutional theory. Sandefur's brief, easy-to-read treatment of his life takes one step toward remedying that. ■

PURCHASE *FREDERICK DOUGLASS: SELF-MADE MAN* AT CATO.ORG AND ONLINE RETAILERS IN EARLY FEBRUARY.



Your Doctor Is on the Line

Telemedicine has the potential to revolutionize the medical field, providing a low-cost, efficient way for doctors to counsel their patients. But currently, physicians are required to obtain licenses from each state in which their current or potential patients are, or may be, located. In “**Liberating Telemedicine: Options to Eliminate the State-Licensing Roadblock**” (Policy Analysis no. 826), Cato adjunct scholar Shirley V. Svorny outlines several ways that Congress could alleviate this barrier through legislation—by eliminating government licensing of medical professionals entirely, for example, or by redefining the location of the interaction between patients and physicians from that of the patient to that of the physician. Congress could also allow states to open their markets to physicians licensed in other states, or to join other states in agreements to honor each other’s licenses.

CENSORING THE INTERNET

Large tech companies such as Google, Twitter, and Facebook have historically protected



free speech online, but new threats from European regulators are pressuring these companies to censor speech that governments report as “hate speech” or even “fake news.” In “**What to Do about the Emerging Threat of Censorship Creep on the Internet**” (Policy Analysis no. 828), Danielle Keats Citron of the University of Maryland School of Law discusses how tech companies should resist censorship and hold government regulators accountable.

TO CATCH A CORRUPTION RING

Brazil is in the midst of a corruption scandal involving hundreds of businesspeople and

politicians who have been investigated and prosecuted for taking part in a massive bribery scheme involving state-owned companies. In “**Corruption and the Rule of Law: How Brazil Strengthened Its Legal System**” (Policy Analysis no. 827), Brazilian lawyer Geanluca Lorenzon discusses how reforms to the incentive structure of Brazil’s legal system, including introducing judicial oversight and a merit-based selection system for judges and prosecutors, made this widespread reckoning possible after years of corruption.

A SAFE JOINT

Although recent years have seen a dramatic shift in public attitudes toward marijuana legalization, many people are still wary when it’s in their backyard—44 percent of Americans say they would be somewhat or very concerned if a “store that sold medical marijuana” opened in their area. Many are particularly concerned that dispensaries attract crime. In “**Going to Pot? The Impact of Dispensary Closures on Crime**” (Research Briefs in Economic Policy no. 90), Tom Chang of the University of Southern California and Mireille Jacobson of the University of California–Irvine find that closing dispensaries in fact *increases*, rather than decreases, local crime.

FAKE NEWS ON FAKE NEWS

Many blame social media for recent increases in political polarization and believe that “fake news” on the internet helped secure the election for Donald Trump. But in “**The Internet, Political Polarization, and the 2016 Election**” (Research Briefs in Economic Policy no. 88), Levi Boxell and Matthew Gentzkow of Stanford University, along with Jesse Shapiro of Brown University, find that, in fact, political polarization has increased twice as much in the past 20 years among those 65 and older than it has among young

people—despite the fact that older people use social media at a third of the rate of young adults. Similarly, they find that Trump did as well as—or better than—previous Republicans among people with low internet use and as well as or worse among those with high internet use.

ABUSE AT THE BORDER

In its plans to dramatically ramp up surveillance at the U.S. border, the Trump administration wants to hire 5,000 more Border Patrol agents and fill roughly 1,500 job vacancies, in addition to its current 20,000 agents. In “**Border Patrol Termination Rates: Discipline and Performance Problems Signal Need for Reform**” (Policy Analysis no. 825), Cato’s Alex Nowrasteh



examines data that reveal that Border Patrol agents are significantly more likely to be fired for discipline or performance reasons than officers in other large federal law enforcement agencies. “Congress should seek to remedy these serious personnel problems in the federal government’s largest law enforcement agency before hiring new agents or further lowering hiring standards,” he writes.

CHINA TAKES THE HELM

China is showing increasing interest in playing a more prominent role in advancing trade in the Asia-Pacific region—and some Americans worry that Beijing’s rise would come at the expense of American interest. But in “**Responsible Stakeholders: Why the United States Should Welcome China’s Economic Leadership**” (Policy Analysis no. 821) Cato policy analyst Colin Grabow argues that the United States would only benefit from Chinese investment in free trade and local infrastructure

and connectivity, which would boost trade worldwide.

ZONING OUT OF HOUSE AND HOME

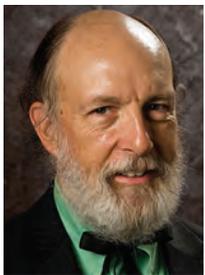
In “Zoning, Land-Use Planning, and Housing Affordability” (Policy Analysis no. 823), Cato policy analyst Vanessa Brown Calder finds that increased land-use regulation is associated with rising home prices in 44 states and that increased zoning regulation is associated with rising home prices in 36 states. Meanwhile, the federal government spent nearly \$200 billion subsidizing rent and buying homes in 2015—and Calder finds that more federal housing aid goes to states with more restrictive zoning and land-use regulations.

CONFRONTING IRAN

In “Unforced Error: The Risks of Confrontation with Iran” (Policy Analysis no. 822), Cato’s Emma Ashford and John Glaser evaluate the costs of four of the Trump administration’s most likely policy options in adopting a more aggressive strategy toward Iran: sanctions, regional hostilities, “regime change from within,” and direct military action. They conclude that all these options are either dangerous or unlikely to have an effect.

THE END OF TRANSIT?

In “The Coming Transit Apocalypse” (Policy Analysis no. 824), Cato’s Randal O’Toole predicts that low energy prices, maintenance backlogs, unfunded pension and health care obligations, and the rapid growth of ridesharing services such as Uber will put public transit out of business within decades. O’Toole argues that transit services should not continue to receive massive subsidies to build and maintain transit routes—instead, they should begin phasing out trains with buses, settling their



debts, and targeting subsidies only to low-income people.

FREE SPEECH IN AMERICA

In a sweeping new Survey Report, “The State of Free Speech and Tolerance in America,” Cato’s Emily Elkins delves into



American opinions on a wide range of issues involving free speech and tolerance—including who suffers the most from political correctness, what counts as a microaggression, who should be regulating Halloween costumes, perceived media bias, and what ideas people think should get an employee fired.

THE FAILED MEDICAL LOSS RATIO (MLR)

Part of Obamacare’s efforts to lower the cost of health insurance included instating minimum requirements on the share of premiums, known as the Medical Loss Ratio (MLR), that insurers must spend on medical claims. In “Cost of Service Regulation in U.S. Health Care: Minimum Medical Loss Ratios” (Research Briefs in Economic Policy no. 86), Steve Cicala of the University of Chicago, Ethan M. J. Lieber of the University of Notre Dame, and Victoria Marone of Northwestern University find that minimum MLR requirements encouraged higher costs, not lower, and failed to lower premiums in either the individual or group markets.

AN APPLE A DAY?

It’s generally taken for granted that increased access to preventive care would improve outcomes for common diseases such as diabetes. But in “Is Preventive Care Worth the Cost? Evidence from Mandatory Checkups in Japan” (Research Briefs in Economic Policy no. 87), Toshiaki Iizuka and Katsuhiko Nishiyama

of the University of Tokyo, Brian Chen of the University of South Carolina, and Karen Eggleston of Stanford University review surprising evidence from Japan, where annual health checkups are mandatory. They study individuals who are diagnosed at the threshold of risk for diabetes mellitus. Ultimately, they find “no evidence that individuals improve their health-related behaviors.” Even an increase in the use of medical care after diagnosis did not significantly improve health outcomes.

POLICY UNCERTAINTY ABROAD

In “Policy Uncertainty in Japan” (Research Briefs in Economic Policy no. 89) Elif C. Arbatli, Naoko Miake, and Ikuo Saito of the International Monetary Fund, Steven J. Davis of the Hoover Institution, and Arata Ito of the Research Institute of Economy, Trade and Industry find that economic policy uncertainty appears to be tied to Japan’s sluggish growth over the past two decades. ■

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THE CANDLEMAKERS' PETITION: IT ISN'T JUST SATIRE ANYMORE

American [berry] farmers, however, complain that their Mexican rivals enjoy unfair advantages, including low-cost farm labor, state subsidies and a year-round growing season.

—*WALL STREET JOURNAL*, OCTOBER 7, 2017

The bankrupt Georgia-based solar company Suniva joined forces with Oregon-based SolarWorld Americas to petition the U.S. International Trade Commission for relief earlier this year, saying that the U.S. solar industry “simply cannot survive” at a time when foreign imports of solar cells “have unexpectedly exploded and prices have collapsed.”...

The ITC, after considering the petition, ruled 4-0 Friday in favor of the two companies, finding that solar cells “are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry.”

—*WASHINGTON POST*, SEPTEMBER 22, 2017

THIS IS WHY PROTECTIONISM HAPPENS

“We have a lot of shippers and a lot of people that work in the shipping industry that don't want the Jones Act lifted.”

—PRESIDENT TRUMP, SEPTEMBER 27, 2017

LOBBYISTS: THE MEN WHO MAKE THE SWAMP

Last week, Tony Podesta, an eminence in the annals of Washington lobbying, threw one of his signature events, a big birthday bash at his stately stone manse in Kalorama. His guests thought he was on top of his world, one of the men who makes the city go....

Tony Podesta has been a pivotal figure

in the murky connections between policy and politics, becoming wealthy on fees from industries and foreign entities that want something from Congress and the White House. He also bundles big donations and dispenses them to politicians who might someday be helpful to those lobbying clients....

[T]he Podesta Group, representing some of the country's biggest and most powerful businesses, including Walmart, Bank of America and BP... collected \$252 million in fees over the past two decades....

Along the way, the firm also represented a number of foreign entities, including the government of Egypt under ex-dictator Hosni Mubarak.

—*WASHINGTON POST*, OCTOBER 30, 2017

MAYBE THAT'S A LESSON

“I basically said the United States had invested well over \$11 billion in South Sudan and into him and that we were now questioning that investment,” [Nikki] Haley, the tough-talking U.N. ambassador, said last week about her one-on-one discussion with South Sudanese President Salva Kiir.

—*WASHINGTON POST*, OCTOBER 30, 2017

THE GOVERNMENT DOESN'T LOVE YOU

Those in the neighborhood without flood insurance were able to apply for and receive assistance from FEMA—including the Maddoxes, who recently had \$14,000 in federal money land in their checking account....

“I'm very appreciative to FEMA. I really, really am,” said Mary Maddox, who has been married for more than 50 years and raised five children. “I was just so excited when I saw that they loved us.”

—*WASHINGTON POST*, OCTOBER 21, 2017

A RUSH TO LEGALIZATION AFTER 94 YEARS

Canada is set to become the first advanced industrialized nation to legalize and regulate marijuana from production to consumption by next July, but increasingly, Canadians are wondering: What's the hurry?

The government of Prime Minister Justin Trudeau is pressing ahead with legislation to legalize cannabis, a move that a majority of the Canadian public supports. But stakeholders such as police chiefs and psychiatrists are urging caution and even delay, worried that a rush to legalization will encourage consumption among young people and increase the incidence of impaired driving.

—*WASHINGTON POST*, OCTOBER 5, 2017

IT'S A RISK WE'LL HAVE TO TAKE

Representative John Conyers Jr., the House's longest-serving lawmaker, does not plan to resign over accusations of sexual harassment despite facing a House Ethics Committee investigation, his lawyer said on Wednesday.

“If we are talking about resignation and resignation over allegations, then half the people in the House, half the people in the Senate, including the president of the United States of America, would have to step aside, step down and or resign,” [Arnold] Reed said.

—*NEW YORK TIMES*, NOVEMBER 22, 2017

THAT'S THE BEST KIND OF DEMOCRACY

The man expected to lead Zimbabwe after the dramatic toppling of longtime president Robert Mugabe returned from abroad on Wednesday, promising democracy but also warning that the ruling party would remain firmly in control.

—*WASHINGTON POST*, NOVEMBER 22, 2017