
FUTURE OF FREEDOM

VOLUME 24 | NUMBER 8

AUGUST 2013

Reform must come from within, not from without. You cannot legislate virtue.

— James Gibbons

FUTURE OF FREEDOM

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The Future of Freedom Foundation is a nonprofit educational foundation whose mission is to advance liberty and the libertarian philosophy by providing an uncompromising moral, philosophical, and economic case for individual liberty, free markets, private property, and limited government.

Future of Freedom is FFF's monthly journal of uncompromising essays on liberty. The price is \$25 for a one-year print subscription; \$15 for the email version. Past issues of *Future of Freedom* and *Freedom Daily* can be accessed on our website: www.fff.org.

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The Foundation neither solicits nor accepts government grants. Our operations are funded primarily by donations from our supporters, which are invited in any amount.

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How I Came to Reject the Welfare State, Part 1

by *Jacob G. Hornberger*



According to a Census Bureau announcement during the 1950s, I was growing up in the poorest city in the United States. That was Laredo, Texas, a city that borders the Rio Grande. Even though I was only a kid, that announcement struck me hard. Here I was, actually living in the poorest city in the entire country!

The announcement didn't really surprise me. While there were plenty of middle-class families in Laredo (for example, my dad was an attorney who had come to Laredo after World War II and married one of the local Mexican-American girls) and a few wealthy oil-related families, it wasn't hard to find the poor. They were in areas of town

called barrios. It wasn't hard to see that the people who lived in those parts of town were indeed poor. Their houses weren't very fancy, and some of them actually lived in wooden shacks. They drove jalopies. Needless to say, many of the students with whom I attended elementary, junior high, and high school didn't come to school wearing the latest fashions.

But as poor as Laredo was, its poverty was nothing compared with Nuevo Laredo, Mexico.

The two cities — Laredo and Nuevo Laredo — were really just one great big metropolitan area, separated by the Rio Grande, much as St. Louis and East St. Louis are separated by the Mississippi River. Laredo's downtown was connected to Nuevo Laredo's downtown by an international bridge.

As soon as someone crossed the bridge into Mexico, he would immediately notice how much more poverty there was in Nuevo Laredo. If he went beyond the downtown area into some of the residential areas, he would see people living in cardboard shacks.

No one, as far as I can recall, ever asked why that was so. Why were people on one side of the Rio Grande significantly poorer than people on the other side? After all, the two

towns had once been one town, under Mexican rule. That was before the Texas Revolution and before the United States had absorbed the northern half of Mexico in the Treaty of Guadalupe Hidalgo in 1848. A century later, people had come to accept the disparities of wealth and standards of living between the two cities as one of those things that just naturally happen in life.

Since my father was active in Democratic Party politics, he invited me to accompany him and a Laredo contingent to a campaign barbecue at Lyndon Johnson's ranch in Johnson City, Texas, during the 1960 presidential campaign, where I actually met and shook hands with Johnson himself. Johnson asked me what I was doing to help Kennedy and him win the election, and I told him that I was campaigning hard for them in Laredo.

Fighting poverty

After Johnson won the presidential election in 1964, he declared a war on poverty, a declaration that deeply impressed me, given that I knew that I was living in the poorest city in the United States. I figured that Johnson's war on poverty might mean that Laredo could finally rid itself of poverty. Johnson might have been impressed with my

political efforts in his behalf in Laredo because notwithstanding my young age, he appointed me to be the representative in Laredo for Lady Bird Johnson's Beautify America Campaign. Since there were parts of Laredo that weren't so beautiful, owing to so much poverty, I knew I had my work cut out for me.

It didn't take long for Laredoans to discover how Johnson intended to wage his war on poverty.

It didn't take long for Laredoans to discover how Johnson intended to wage his war on poverty. My dad told me that Johnson telephoned Laredo's mayor, with whom he was good friends, and said, "Joe, the federal spigots are open. Just tell me how much money you need and federal funds will flow into Laredo."

Thus, at a very early age I was imbued with the notion that the way to fight poverty is to have the federal government play an active role in combatting it, especially by sending federal money into impoverished areas. Johnson's strategy for fighting poverty was based on the economic philosophy of Franklin Roosevelt, the president most responsible for making the federal government's primary duty taking care of people and providing for

their needs, especially with federal money. In fact, thanks to a federal grant during Roosevelt's New Deal, my maternal grandfather, Mathias de Llano, who was a Laredo businessman, had been responsible for the construction of Laredo's first public-housing project, Colonia Guadalupe, something that was impressed on me at a early age by my mother.

After my return to Laredo in 1975 to practice law, I volunteered to serve as the ACLU's local unpaid representative, in addition to my regular law practice with my father. I also accepted an invitation to serve on the board of trustees for the Laredo Legal Aid Society, a government body that provided free legal assistance to the poor.

By that time there was no doubt in my mind that the way to fight poverty was with an active federal government and lots of federal funds. I really couldn't understand how anyone could object to government programs that helped the poor — from public housing, to food stamps, to public works, to education grants, to legal aid, and much more. To me, support for such programs demonstrated the concern that proponents of the welfare state had for the poor.

And then something happened.

One day I was sitting inside the federal detention center that was located a couple of miles outside the city limits of Laredo, where federal officials incarcerated illegal aliens. I had asked the local federal judge to appoint me to defend illegal aliens at no charge, so I was there to interview a couple of my clients.

**As poor as some Laredoans were,
their poverty was nothing
compared with that of the men
inside that detention center.**

The detention center always struck me as a weird place because it reminded me of a German concentration camp. There were high chain-link fences with rolled barbed wire on top and high guard towers at the corners. Inside were barracks in which the inmates lived and slept. There were, I'd say, a couple hundred illegal aliens incarcerated there, maybe more.

As I was sitting there waiting for my clients, it suddenly dawned on me: Here were the poorest people in the United States. As poor as some Laredoans were, their poverty was nothing compared with that of the men inside that detention center, who had virtually no wealth at all.

Of course, since I had grown up on the border, that wasn't my first

brush with illegal aliens. In fact, I was raised on a farm that adjoined the Rio Grande and was situated a couple of miles outside Laredo. My dad farmed as a hobby. He hired illegal aliens to help him, which, at that time, was not illegal to do. So, I grew up with illegal aliens. They lived on our farm. My two brothers and I worked with them in the fields — irrigating, bailing hay, feeding the cows, and whatever else needed to be done. Illegal aliens were the hardest-working people I have ever seen. And they were our buddies. They played football with my two brothers and me at the end of the work day. My brothers and I often had meals with them out on the porch.

Loving the poor?

One thing that always stuck out about these guys was how poor they were. They had left their families and risked their lives, freedom, and well-being to come to Laredo to work for what seemed to me to be rather meager wages. They worked hard and sent most of their money home to support their parents, wives, and children, that is, unless they got busted and deported by U.S. immigration officials, who had the legal authority to come onto our farm without a warrant any time

they wanted. One of my fondest memories involves hiding with our workers in our barn one day when *el rinche* came onto our property looking for illegal aliens.

As I was sitting there in that detention center, it hit me: How can people who profess to love the poor with welfare-state programs do this to these people? It didn't make any sense to me. After all, I thought, doesn't a genuine concern for the poor transcend citizenship and national boundaries?

How can people who profess to love the poor with welfare-state programs do this to these people?

My revelation troubled me deeply. I started asking questions of my leftist friends, including one who was serving with me on the Legal Aid board of trustees. I asked, Why are we treating the illegal aliens like that? Why are we punishing them for simply trying to sustain and improve their lives through labor? Why should they be in jail when they have done nothing morally wrong?

The answer I received was always the same: The law is the law. They have broken the law and need to be punished.

That didn't satisfy me. After all, segregation had been the law too.

That didn't make it right, not in a moral sense.

I kept thinking and reflecting, which led me in a direction that created much discomfort for me. I began having doubts about the welfare state itself. After all, I reasoned, it was premised on the notion that people had a legitimate concern for the poor. Yet the proponents of the welfare state were defending a system that treated the poorest of the poor in what I believed was a horrible and despicable manner.

I began searching, both within and without. One day I was in the political-science section of the Laredo public library looking for something to read. I came across four different-colored books entitled *Essays on Liberty*, volumes 1-4. I opened them up and discovered that they had been published back in the 1950s by an organization named The Foundation for Economic Education in Irvington-on-Hudson, New York. Since I had never heard of that organization, especially when I was majoring in

economics in college, I naturally assumed that it had gone out of business long before.

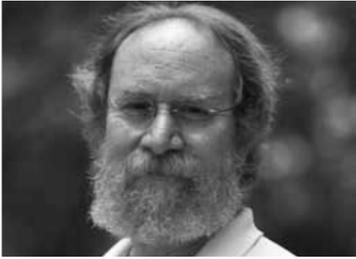
I took all four books home. They changed my life. They consisted of introductory essays to libertarianism that shattered the worldview that I had had since childhood regarding government and poverty. As I read and reread them, the scales fell from my eyes. I found and began reading other libertarian works by contributors in those four books, and I came to the realization that everything I had believed since childhood about the welfare state was wrong.

Jacob Hornberger is founder and president of The Future of Freedom Foundation.

NEXT MONTH:
“How I Came to Reject the
Welfare State, Part 2”
by *Jacob G. Hornberger*

Government Is the Problem

by Sheldon Richman



Last spring Barack Obama told the graduating class of Ohio State University,

Unfortunately, you've grown up hearing voices that incessantly warn of government as nothing more than some separate, sinister entity that's at the root of all our problems.... They'll warn that tyranny is always lurking just around the corner. You should reject these voices. Because what they suggest is that our brave and creative and unique experiment in self-rule is somehow just a sham with which we can't be trusted.

As he said this, four scandals — the Benghazi blunder and obfuscation, IRS political profiling, secret

investigations of reporters, and NSA spying — were about to explode in public. As they say in show biz, timing is everything.

I hope the students can see that the daily newspapers refute the president's claims. He said "this democracy is ours" and "the founders trusted us with this awesome authority." But that's not how things work. *We* didn't intervene in Libya, setting the stage for the attack on the CIA post in Benghazi. *We* didn't use a political double standard in ruling on tax-exemption requests from nonprofit organizations. *We* didn't try to frighten government whistle-blowers by subpoenaing reporters' phone records, reading their email, and even naming one journalist (Fox's James Rosen) as a co-conspirator under the Espionage Act. *We* didn't ask the NSA to gather data on us.

We did none these things. *They* did. Who are they? The wielders of power and the interests for whom they front.

But what about our democracy and our experiment in self-government? It's time is up. Those are incantations, not references to real things. They are designed to misdirect the public, to sanitize ugly facts that the people are "better off" not knowing.

What facts? That, contrary to Obama, government is not “a system of ... tools to do big things and important things together that we could not possibly do alone” — that’s what markets are — when they’re allowed to work, free from interference by presumptuous, meddling politicians and the well-connected interests that seek their favors. Unlike markets, politics fundamentally is not cooperation; it’s violence. “Government is a broker in pillage,” H.L. Mencken observed, “and every election is a sort of advance auction in stolen goods.” In light of this, I submit that “free election” is a contradiction in terms, since participation always occurs under duress.

**Unlike markets, politics
fundamentally is not cooperation;
it’s violence.**

But don’t we have self-government? Don’t we elect representatives to look after our interests? Not even a child should be told that fairy tale. One vote is insignificant, it takes 50 percent plus one to prevail, and the costs that result from elections are divided among many people. For most, that adds up to zero incentive to invest the considerable time and effort required to

become well informed, even if that were otherwise possible. (Among other things, you’d need to understand economics, the truths of which are often counterintuitive.)

And representation? As I’ve written previously,

Why [do] we even see these decision-makers as our representatives rather than as our rulers? Think about this: The average congressional district has a population of well over 600,000 people. In Montana, one congressman allegedly represents the state’s entire population of 967,440. The populations of the states range from about half a million (Wyoming) to 36.7 million (California).

Honestly now, who really believes that anyone can actually represent such large and diverse groups of people?

Maybe this incantation about representation is intended to keep us from an unpleasant truth: that we are ruled, not self-governed, and that self-government is a façade hiding a form of autocracy. Of course, even totalitarian power ultimately depends on at least popular acquiescence, because the ruled always out-

number the rulers, as Étienne de La Boétie noted long ago. The rulers' challenge is to ensure that we never figure out the game and just stop taking their orders. That's where ideology comes in.

Fictions

In his essay "The Founding Fathers' Problem: Representation," the late respected historian of America Edmund Morgan noted that ideology consists in "opinions to sustain [the people's] consent":

The few who govern take care to nourish those opinions, and that is no easy task, for the opinions needed to make the many submit to the few are often at variance with observable fact. The success of government thus requires the acceptance of *fictions*, requires the willing suspension of disbelief, requires us to believe that the emperor is clothed even though we can see that he is not. [Emphasis added.]

Representation is one such fiction. "Representation from the beginning was a fiction. If the representative consented [to the king's taxes or laws], his constituents had to make believe that they had done

so," Morgan wrote. "Just as the exaltation of the king could be a means of controlling him, so the exaltation of the people can be a means of controlling *them*." He went on:

The sovereignty of the people was an instrument by which representatives raised themselves to the maximum distance above the particular set of people who chose them. In the name of the people they became all-powerful in government, shedding as much as possible the local, subject character that made them representatives.

"The success of government thus requires the acceptance of *fictions*."

America did not break this mold, despite what we are taught. Morgan is no libertarian, but he acknowledges that centralization of power under the Constitution was intended to restore representation to its fictive status, since it had become more of a reality in the small legislative districts within the states during the period of the Articles of Confederation. As he writes, "The fictions of popular sovereignty em-

bodied in the federal Constitution may have strained credulity, but they did not break it.” This is not about Obama or any individual power-seeker. It is about the system, its unique power to coerce, and, consequently, its uniquely perverse incentives.

At a news conference, Obama reflected on the gridlock that keeps things from happening in Washington, D.C., “I sure want to do some governing.” Let’s take him at his word recalling how Pierre-Joseph Proudhon defined “governing”:

To be governed is to be watched, inspected, spied upon, directed, law-driven, numbered, regulated, enrolled, indoctrinated, preached at, controlled, checked, estimated, valued, censured, commanded, by creatures who have neither the right nor the wisdom nor the virtue to do so. To be governed is to be at every operation, at every transaction noted, registered, counted, taxed, stamped, measured, numbered, assessed, licensed, authorized, admonished, prevented, forbidden, reformed, corrected, punished. It is, un-

der pretext of public utility, and in the name of the general interest, to be [placed] under contribution, drilled, fleeced, exploited, monopolized, extorted from, squeezed, hoaxed, robbed; then, at the slightest resistance, the first word of complaint, to be repressed, fined, vilified, harassed, hunted down, abused, clubbed, disarmed, bound, choked, imprisoned, judged, condemned, shot, deported, sacrificed, sold, betrayed; and to crown all, mocked, ridiculed, derided, outraged, dishonored. That is government; that is its justice; that is its morality.

Sheldon Richman is vice president of The Future of Freedom Foundation, editor of Future of Freedom. Visit his blog, “Free Association,” at www.sheldonrichman.com.

NEXT MONTH:
**“It’s Not Edward Snowden
Who Betrayed Us”**
by Sheldon Richman

Where's the Body Count from Shootings by Police?

by James Bovard



Barack Obama has made curtailing Americans' right to own firearms one of his highest priorities. Earlier this year, he appealed to "all the Americans who are counting on us to keep them safe from harm." He also declared, "If there is even one life we can save, we've got an obligation to try." But some perils are not worth registering on Obama's scorecard.

While the president's strident warnings about privately owned guns evoked a hallelujah media chorus, his administration is scorning a mandate to track how many Americans are shot and killed each year by government agents. The same 1994 law that temporarily banned the sale of assault weapons

also required the federal government to compile data on police shootings nationwide. However, neither the Justice Department nor most local police departments have bothered to tally such occurrences.

Instead, the Justice Department relied on the National Crime Survey of citizens to gauge the police use of force. But as Prof. James Fyfe, one of the nation's foremost experts on police shootings, observed in 2001, that survey relies on "questions about how often the respondents have been subjected to police use of force. Since dead people can't participate in such a survey, this work tells us nothing about how often police kill."

Many police shootings involve self-defense against violent criminals or protection of people against dangerous culprits in the act of wreaking havoc. However, killings by police are not a negligible proportion of the nation's firearms death toll. Shootings by police accounted for almost 10 percent of the homicides in Los Angeles County in 2010, according to the *Los Angeles Times*.

Jim Fisher, a former FBI agent and criminal law professor, compiled a database of police shootings and estimated that in the United States in 2011 police shot more than

1,100 people, killing 607. Fisher relied on the Internet to track the casualties, and the actual toll may be significantly higher. (Many police departments are secretive about their shootings and succeed in withholding either numbers or key details from the public.) Fisher's numbers do not include cases of off-duty police who shoot acquaintances, such as the recent case of the married veteran D.C. policeman convicted of murdering his girlfriend and leaving their 11-month-old baby to die in an overheated SUV to avoid paying child support.

Many police departments are secretive about their shootings.

According to the FBI, 323 people were killed nationwide by rifles in 2011 — less than 4 percent of the total deaths by firearms. The official statistics are not broken down by the type of rifle, so it is impossible to know how many of the victims were slain with the type of weapons that Sen. Dianne Feinstein and presumably Obama classify as assault weapons. Nationwide, 10 percent of the killings with rifles were committed by law enforcement officers, according to the FBI. Ironically, the raw numbers of killings by police are tossed into the firearm-fatality

totals that some politicians invoke to drum up support for confiscating privately owned guns.

Protecting killers

Not only do government agencies fail to track official violence against Americans; they also sometimes preemptively exonerate all such attacks. A 2001 Justice Department report, "Policing and Homicide, 1976–1998," labeled everyone in the nation who perished as a result of a police shooting as "felons justifiably killed by police." There were hundreds, if not thousands, of people shot unjustifiably by the police in those decades, but their innocence vanished in the flicker of a federal label. The Justice Department was so embarrassed by the report's "lack of distinction between justifiable police shootings and murders, that it did not send out its usual promotional material announcing the report," according to the *New York Times*.

The odds of an honest, thorough investigation of a police killing are the same as the odds that a politician's campaign speech will be strictly assessed for perjury. At the state and local level the deck is often stacked to vindicate all police shootings. Police unions have strong-armed legislation that guarantees

their members sweeping procedural advantages in any post-shooting investigation.

“The deck is stacked in favor of police well before the case gets to the [coroner’s] jurors.”

For instance, Maryland police are protected by a Law Enforcement Officers’ Bill of Rights that prohibits questioning a police officer for 10 days after any incident in which he or she used deadly force. “A lawyer or a police union official is always summoned to the scene of a shooting to make sure no one speaks to the officer who pulled the trigger,” the *Washington Post* noted in an exposé of the Prince George’s County, Maryland, police. “Between 1990 and 2001 Prince George’s police shot 122 people.... Almost half of those shot were unarmed, and many had committed no crime.”

Forty-seven people were killed by the P.G. police in that time. Among the shootings the P.G. police department ruled as justified: “An unarmed construction worker was shot in the back after he was detained in a fast-food restaurant. An unarmed suspect died in a fusillade of 66 bullets as he tried to flee in a car from police. A homeless man was shot when police mistook

his portable radio for a gun. And an unarmed man was killed after he pulled off the road to relieve himself.”

The situation in Clark County, Nevada, which had one of the highest rates of police-committed homicides in the nation, is equally perverse. An excellent *Las Vegas Review-Journal* series in late 2011 noted, “In 142 fatal police shootings in the Las Vegas Valley over a little more than the past 20 years, no coroner’s jury has returned a ruling adverse to police.” But that nonconviction rate actually convicts the entire system. “The deck is stacked in favor of police well before the case gets to the [coroner’s] jurors. That’s because the ‘neutral arbiter of the facts’ is the deputy district attorney who already believes that no crime has been committed. In a comparison of inquest transcripts, evidence files, and police reports dating to 1990, the *Review-Journal* found that prosecutors commonly act more like defense attorneys, shaping inquest presentations to cast officers in the most positive light.”

Another problem is that, as Nevada lawyer Brent Bryson observed, “Frequently in fatal shootings, you just have officers’ testimony and no other witnesses. And most people

just don't want to believe that a police officer would behave wrongly.”

Investigations of shootings by police in Las Vegas were stymied in 2010 and 2011 because “police unions balked at inquest reforms, first by advising members not to testify at the hearings and then helping officers file a lawsuit challenging the new system’s constitutionality,” according to the *Review-Journal*. Las Vegas is so deferential to police that, in cases “where an officer shoots but only wounds or misses entirely ... the district attorney looks at the case only if the shooting subject is being prosecuted,” the *Review-Journal* noted.

Federal cops

Federal agents who kill Americans enjoy similar legal privileges. The Justice Department’s view of the untouchability of federal lawmen is clear from its action in the Idaho trial of FBI sniper Lon Horiuchi. Horiuchi gained renown in 1992 after he shot and killed 42-year-old Vicki Weaver as she stood in the door of her cabin holding her 10-month-old baby. Horiuchi had shot her husband in the back moments earlier, though Randy Weaver posed no threat to federal agents at the time. The FBI initially labeled its Ruby Ridge operation a big suc-

cess and indicated Vicki Weaver was a fair target; later the agency claimed that her killing was accidental.

Federal agents who kill Americans enjoy similar legal privileges.

Boundary County, Idaho, prosecutor Denise Woodbury filed manslaughter charges against Horiuchi in 1997. FBI Director Louis Freeh was outraged that a local court would attempt to hold an FBI agent legally responsible for the killing. He declared that Horiuchi had an “exemplary record” and was “an outstanding agent and continues to have my total support and confidence.” Freeh added, “The FBI is doing everything within its power to ensure [Horiuchi] is defended to the full extent and that his rights as a federal law-enforcement officer are fully protected.” Justice Department lawyers persuaded a judge to move Horiuchi’s case from a state court to a federal court, where federal agencies have far more procedural advantages. Although a confidential Justice Department report concluded that Horiuchi acted unconstitutionally, Justice Department lawyers argued vigorously that he was exempt from any state or local prosecution because he was carrying out

federal orders at the time he gunned Vicki Weaver down.

Federal judge Edward Lodge found in 1998 that the state of Idaho could not prosecute Horiuchi for the killing, in a ruling focusing on Horiuchi's "subjective beliefs": As long as Horiuchi supposedly did not believe he was violating anyone's rights or acting wrongfully, then he could not be tried.

The judge blamed Vicki Weaver for her own death, ruling that "it would be objectively reasonable for Mr. Horiuchi to believe that one would not expect a mother to place herself and her baby behind an open door outside the cabin after a shot had been fired and her husband had called out that he had been hit." Thus, if an FBI agent wrongfully shoots one family member, the government somehow becomes entitled to slay the rest of the family unless they run and hide.

The greater the automatic presumption that government shootings are justified, the more arbitrary power police will have over Americans. And this growing sense of legal inferiority to officialdom will naturally make gun owners ever more attached to their own firearms. According to Obama and

other anti-gun politicians, this is simply evidence of paranoia — and another reason to take away people's guns before they do harm.

The federal government has no credibility condemning vast numbers of private gun owners as long as it refuses to compile the casualty count from government agents. Washington has deluged state and local law-enforcement agencies with billions of dollars in aid in recent years but will not even ask the recipients for honest body counts. No amount of political tub-thumping can change the fact that Americans are far more likely to be killed by police than by assault weapons.

James Bovard serves as policy adviser to The Future of Freedom Foundation and is the author of a new ebook memoir, Public Policy Hooligan, Attention Deficit Democracy, and eight other books.

NEXT MONTH:
**"The Sordid History of
IRS Political Abuse"**
by James Bovard

The Outrage of Stop-and-Frisk

by David D'Amato



As the subject of an ongoing trial in federal court, *Floyd, et al. v. City of New York, et al.*, the controversial police policy known as “stop and frisk” is receiving more attention than perhaps at any other moment in its history. For most of that time — and indeed it is difficult to know exactly how long the practice has obtained — Americans, if they are aware of stop-and-frisk at all, have looked on it as a question primarily of expediency, a specialized, even involuted, question for criminal-justice experts.

As a distinct tool of policing, stop-and-frisk is characterized and ostensibly justified by the brevity and superficiality of the search and engagement with the police officer. Where full-scale arrests and searches are the special province of Fourth

Amendment safeguards, the Supreme Court said in its watershed decision in *Terry v. Ohio*, mere “investigatory stops” and frisks of outer clothing do not rise to such a level as to be the subjects of constitutional protection. The 1967 decision, the Court’s first confrontation with the stop-and-frisk question, thus held that searches confined to what is “minimally necessary” to the goal of protecting an officer are constitutionally permissible. Contraband uncovered by such frisks, then, was not to be treated under the exclusionary rule, the legal precept that evidence discovered by means of illegal searches is inadmissible against a criminal defendant in court. *Terry v. Ohio*, now nearly half a century old, provides the backdrop to the current cause célèbre of stop-and-frisk, one in which questions of race and discrimination commingle with those of civil liberties and Americans’ attitudes towards the swelling police state.

Whatever we think about the officer-safety rationales leveraged in *Terry*, the case reeked even on those terms; that its echoes have been so similarly vile and deleterious to the foundations of a free society ought to come as no surprise. In that case, the veteran officer who stopped and frisked the petitioner,

John W. Terry, testified that he suspected Terry of “casing” a local store for an armed robbery. But after admitting that in nearly 40 years of policing he had never seen anyone case a place, he said, “Well, to tell you the truth, I didn’t like them [Terry and his companion, Richard Chilton].”

Low threshold

The arguments over stop-and-frisk, articulated in *Terry* and continuing today, instantiate the classic libertarian warnings against trading liberty for security and against complacent snoozing while creeping authority encroaches on individual rights. The contention that liberty must sometimes give way to security almost always yields a marked decrease in *both*, rather than a safer society. Quite contrary to the claims of stats and of apologists for police brutality, and whatever the flimsy theory advanced in its behalf, empirical findings demonstrate that stop-and-frisk in practice has not made society safer. A July 2012 report by the Center for Constitutional Rights, which filed *Floyd*, showed that in New York City in 2011, almost nine out of ten *Terry* stops did not result in an arrest, and perhaps even more damning, that “weapons were recovered in only one percent

of all stops.” So much for the professed rationale of officer safety, which supposedly justifies the “frisk” half of a stop-and-frisk.

Given how awfully low the court set the threshold for a permissible stop-and-frisk — in point of fact it’s a standard reducible to a police officer’s subjective perceptions — law-abiding Americans have every reason to be fearful. As Terry’s attorney, Louis Stokes, pointed out in his oral argument before the Court, “The impossibility that this Court has of standardizing such a subjective thing as intuition” means that as a practical matter police officers have enormous discretion to stop and search anyone on the street, all completely within the limits of the law.

Stop-and-frisk in practice has not made society safer.

In recent years these stops have ballooned at a rate that ought to alarm all Americans, not just radical libertarians, occurring at an astounding seven times the rate they did just a decade ago. (According to columnist Jacob Sullum, there were 700,000 incidents of stop-and-frisk in 2011, up from 100,000 in 2002.)

We might pause and consider the adoration of police officers that

has attended the same period, and ask whether it may be related to the shameful fact that the data on stop-and-frisk have gone largely ignored. Americans' willingness to acquiesce to ever more humiliating and debasing intrusions, to regard an increasingly Orwellian atmosphere as a quotidian feature of contemporary life, supplies the context within which stop-and-frisk has grown and must be analyzed. It is just another piece of a whole machinery of civil-liberties disregard begotten by the twin wars on terror and drugs, so mendaciously leveraging our fears against us. Police wielding of the scimitar of broad stop-and-frisk discretion has revealed its true character, one significantly more dangerous to peaceful, civil society than the crime it purports to combat has ever actually been.

Invasion

The reality of these stops appears all the more discreditable, more detached from their putative safety justifications, when we observe that one in every five of the people stopped in New York City in 2011 was a minor between the ages of 14 and 18. And, naturally, almost nine out of ten were black or Latino. It is dubious at best that most *Terry* stops rest on even the ill-defined

level of suspicion that the current state of the law requires, unless of course there is far more criminal activity under way at any given moment than even the most eager defender of law enforcement could plausibly believe. In more than three out of every five stops, NYPD officers checked off "high crime area" as the claimed grounds for their stop, an explanation exerted consistently regardless of the *actual* crime rate within a given neighborhood. What's more, most of the criminal conduct that furnishes the thin pretext for police stops today wouldn't be so were it not for a wretched, failed War on Drugs.

Terry stops and searches on blacks and Latinos boil down to racial discrimination.

The evidence that the disproportionate impact of *Terry* stops and searches on blacks and Latinos boil down to racial discrimination is now virtually beyond all doubt. A report by Prof. Jeffrey A. Fagan of Columbia Law School demonstrates that "even after controlling for crime, local social conditions and the concentration of police officers in particular areas of" New York City, blacks and Latinos are far more likely to be stopped by po-

lice. Though data have consistently shown that blacks and Latinos are no more likely than whites to possess contraband, with “hit rates” remarkably close for all three groups, blacks and Latinos were the subject of almost 85 percent of all stops in 2011.

Anyone who hopes for a free society — of which freedom from unreasonable searches and seizures is a central and fundamental part — ought to take offense that the officers of the state can, on the basis of nothing more than their caprices, stop us on the street and subject us to distress and humiliation.

The *Terry* opinion and its progeny ought to disabuse libertarians and others of the idea that the Fourth Amendment alone can be relied on as a bulwark against the grasping encroachments of the 21st-century total state. Libertarians often forget that, as a matter of cold fact, the words and protections of the Constitution mean, at any given time, only whatever the nine justices of the Supreme Court hold that they mean — hence cases such as *Terry v. Ohio*. Parchment guarantees are of little potency when confronted with the unsleeping momentum that is always driving the

growth and consolidation of state power. In the picture painted by stop-and-frisk statistics, the danger of that power is stark, looming over every individual's right to his autonomy and property. And whatever the outcome of the *Floyd* case, we must understand that, in the words of Benjamin Tucker, government will, owing to its very nature, “furnish invasion instead of protection.” Tucker employed the word “invasion” quite deliberately. For if the individual is indeed the one legitimate sovereign entity, then to subject him to an external will is literally to allow a trespass on his territory without his leave. Such is the nature of the flagrant incursions entailed in stop-and-frisk, a glaring mar on liberty that leaves any unassuming pedestrian at the mercy of the state's police power. Lovers of individual rights and freedom should oppose stop-and-frisk not only in its expansions of recent vintage, but in principle and altogether — as another instance of big government besiegement of private life.

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The Zero Interest Option Could Wreck the Economy

by Gregory Bresiger



Economic history is primed to repeat in the nastiest of ways unless the government stops distorting the price of something we use every day.

Every product, good, or service has a price, which is essential to rational decision-making. We use prices every day as vital data that guide us. Without true prices, prices not distorted by government fiat, we would make mistake after mistake. We would spend too much money on some things and too little on others. Borrowing other people's money also has a price. It is called an interest rate. Central banks are often in the habit of distorting rates for the political benefit of governments, whose economic-nationalism policies have caused untold misery.

That is why so many critics of central banks have complained that, without a gold standard such as that suggested by economists Ludwig von Mises and Murray Rothbard, or without some tight controls on money creation — such as an automatic pilot advocated by Milton Friedman — it is inevitable that governments end up creating too much money. Monetary policies are ruled by politics. So money supply and interest rates come not from the interpersonal interaction of market forces, but from the whims of governments, which need to pay for everything, from entitlements to empires.

But cheap money, the same as any cheap input, leads one to overbuy and overproduce. Too much money is a frequent theme of economic history, whether in 18th-century France, with the banker John Law, or in the Continental Congress's overissuance of its paper money in 18th-century America, the continental. That led disgusted holders of the devalued currency to use the expression that something was "not worth a continental." It is why the advocates of limited government were generally suspicious of an American central bank. (Thomas Jefferson, an ardent anti-militarist, is reputed to have said

that a central bank is a greater threat to liberty than a standing army.)

Overissuance of money backed by nothing but the promises of governments ultimately results in economies and markets that blow up. Such events have happened several times in my lifetime, and I believe they can happen again. That is despite the frequent assurances from the defenders of the central bank that it acts in an apolitical way, that its only goals are to promote healthy growth without excessive inflation.

Zero percent interest rates are to long-term economic policy what junk food is to nutrition.

That sounds impossible, tantamount to saying someone can gobble up cheesecake every night and never put on a pound. Yet the Federal Reserve, since the latest mess some five years ago, has provided the nation with a politically popular yet economically wrongheaded solution — it creates more and more money so the government is virtually giving away the currency. It is pushing a zero interest-rate policy.

Virtually zero percent interest rates are to long-term economic policy what junk food is to nutrition — it tastes great going down, but later

come horrible results. Like a drug one can't stop taking, artificially low interest rates initially seem harmless. Cheap money even seems to produce good results in the early stages. However, later comes disaster, which, once again, is looming.

Nixon and Greenspan

Let us consider the consequences of the policies of America's central bank, the Federal Reserve, yesterday and today. The Fed often takes short-term actions that are politically popular — who doesn't want to pay a low price for something, especially to borrow money? — but later tens of millions of people are hurt. When the economy is badly damaged, few seem to remember the cause of the woes. Richard Nixon is remembered for Watergate and the Vietnam War, not cheap money and wage and price controls, which caused problems throughout the 1970s. This is a point I will illustrate below. Given this historical illiteracy, the boom-bust cycle eventually starts all over. And then the only thing we learn from the history of central banks is that . . . most Americans never learn from history.

For instance, the Federal Reserve, just in time to reelect Richard Nixon in 1972, kept interest rates

low, flooding the markets with cash. For a year or so the economy appeared better — just as today, when things seem somewhat better. However, it was a Potemkin-village economy. Stagflation followed a year or so later. There was close to a decade of misery, double-digit inflation, high unemployment, and an almost no-growth economy. It began when a new Fed chairman, Arthur Burns, was installed by Nixon with a charge of providing easy money. Money creation was 25 percent faster in 1972, than in 1971.

Obama's deficits lead some economists to claim that the United States is functionally bankrupt.

Later, after the easy-money policy inflicted pain on millions of Americans, Burns would title a speech “The Menace of Inflation.” The Nixon/Burns policies failed. Burns announced in 1974, “Inflationary forces are now rampant in every major industrial nation of the world.” (Central banks overseas, both then and today, generally followed the lead of the United States.) Burns conceded that “the gravity of our current inflationary problem can hardly be overestimated” (from his *Reflections of an Economic Policy Maker*).

Interest rates in the 1970s and early 1980s shot up to more than 20 percent. Interest-sensitive industries, such as cars and real estate, were devastated. Burns, by the way, blamed the woes on the huge deficits that the president and Congress, controlled by Democrats, were running. The parallels to today are stunning. Barack Obama and Congress have just set a record for red ink — four straight years of trillion-dollar deficits and uncounted off-budget red ink. These are deficits that lead some economists to claim that the United States is functionally bankrupt.

So are we about to go through another bout of stagflation or some other economic woe?

The stage seems set for it. For some time the Fed has been buying \$85 billion worth of long-term government bonds each month to keep interest rates low. “In particular,” the Fed recently wrote, “the Committee decided to keep the target range for the federal funds at 0 to ¼ percent and currently anticipates that this exceptionally low range for the federal funds will be appropriate at least as long as the unemployment rate remains above 6½ percent.” That seemed to indicate that the zero option would continue for the foreseeable future.

Given that the jobless rate was 7.6 percent in June, that means unemployment would have to decline by about 15 percent to reach 6.5 percent. Yet the economy isn't creating nearly enough jobs to reach that rate in the short term or maybe even in the long term. Perhaps the Fed understands that. In May it announced that it would begin curtail- ing the bond-buying program, but it was not clear when.

Once again, misguided, or politically biased, central-bank policies endorsed by the president and many in Congress have put the nation in a mess. It is a mess that could lead us back to the 2007/08 melt-down.

Consequences

Today few would dispute that the Fed's holding interest rates artificially low was a major component in the housing and market disasters of 2007/08. Anna Schwartz, a monetary historian, told the *Wall Street Journal* that "there never would have been a subprime mortgage crisis if the Fed had been alert. This is something Alan Greenspan has to answer for."

(Anyone doubting Schwartz's wisdom is directed to page 232 of Greenspan's memoirs, where he reluctantly concedes that the Fed was

responsible for the subprime failures of 2007, but, amazing to say, he continues to support the policy. "I was aware that the loosening of mortgage credit terms for subprime borrowers increased financial risk, and that subsidized home ownership distorts market outcomes," he wrote. "But I believed then, as now, that the benefits of broadened home ownership are worth the risk." The last part of that statement from Greenspan's *Age of Turbulence* is shocking. It means that supporters of the central bank and its giveaway money deals are like the Bourbon kings — they "learned nothing and forgot nothing.")

"There never would have been a subprime mortgage crisis if the Fed had been alert."

So cheap money, as it always does in its beginning stages, appears to produce recovery or even prosperity just as the economy is about to tank. What follows is a depression or maybe a recession or a slow-growth economy that seems more in recession than recovery. Whatever form it takes, it means misery for many.

Indeed, for millions of unemployed and underemployed Americans, many of whom voted for

Obama believing he would provide prosperity, the recession continues in their lives. The consequences of easy-money policies, of the bizarre zero percent interest, are many and pose dangers for all of us.

Americans, for macro- and micro-economic reasons, desperately need to save more.

First, how can central bankers know what is the right interest rate any more than Soviet central planners could know what was the correct price for bread or clothing or anything else? Contrary to economists such as John Kenneth Galbraith and Paul Samuelson who spoke positively about the Soviet economy right up to its demise, central planning can't adequately feed or clothe nations or know how much money they need.

Indeed, central bankers playing with money markets are guessing, warns fund manager William Fleckenstein. "Like bureaucratic leaders of central-planned or command economies, they pick an interest rate to within two decimal places that they guess will be the correct one, and then proceed to cram it down the throat of the banking system," writes Fleckenstein in *Greenspan's Bubbles*.

Then, if the rate doesn't reflect market forces, more problems follow. For instance, the United States has some of the lowest savings rates in the developed world.

The need for saving

Americans, for macro- and micro-economic reasons, desperately need to save more. They need to lower the true costs of capital by increasing the capital pool. And millions of Americans need to save for their children's higher education. (Suggestion: Why not, in the interests of improving a weak economy, simply declare a saving and investment tax holiday? Then, when that improves saving and capital-gains levels, why not abolish those taxes forever? And, by the way, regarding the advocates of Keynesian policies who insist that government must continue to consume "to keep the boom going," isn't saving, as the Austrian economists tell us, just a form of delayed consumption? It's a matter of what economists of the Austrian school call "time preference.")

There are also tens of millions of Americans who need to save for a looming retirement because cuts in Social Security are likely in the name of "entitlement reform."

The perils of rigging the bond and money markets and lowering

their yields, as the Fed is doing, are many. For example, zero interest rates are difficult for retirees who depend on variable-rate annuities and bonds for part of their income. If retirees had known six years ago that the Fed would force and keep rates down, many would have invested their money differently.

But there is a bigger problem with zero interest rates, and it is one everyone should be concerned with, regardless of whether he is retired. The Fed once again could be creating a bubble, as it has several times before.

Many people are now turning to the stock market, not necessarily because they want to or because they like equities.

Many people are now turning to the stock market, not necessarily because they want to or because they like equities, but for another reason. It is one of the few investments in which they have a chance to get a decent return on capital. It is one of the few places where one has the chance of beating persistent implicit and explicit costs that drag down standards of living: the misunderstood tax — inflation — and the visible taxes we pay every day. But again, the cheap-money/stock-

market option — what some commentators have called “the Greenspan Put,” an immediate Fed rate cut to pump up the market — is the biggest problem of zero interest rates. Here millions of investors are misled. They come to believe that cash is trash; that bonds are no good and that only stocks matter, which ultimately leads to a crash. It’s happened before.

For example, in the Burns/Nixon cheap-money episode discussed above, the stock market eventually crashed in 1973/74. The market, in an 18-month period, lost about 40 percent. Billions of dollars in value were destroyed. The consequences just for those near retirement were terrible. Imagine you had just retired with a lot of stocks in your retirement nest egg just before the crash of 1973/74. All of a sudden, your retirement plan wasn’t secure. You probably had to return to work or reduce your expected retirement lifestyle.

The result?

For about a decade, millions of Americans wouldn’t touch stocks. The damage was felt for a long time. “For years, I didn’t want to come to work,” I remember an old-time stockbroker telling me. By the end of the decade, the average investor was so disgusted with the stock market that *Business Week* famous-

ly ran a cover story entitled “The Death of Equities.”

If the Fed doesn't stop rigging the capital markets it could be the death of millions of portfolios, the death of the savings and investment plans of millions of Americans who have depended on a currency that has been abused for the benefit of governments, both Republican and Democrat.

“So let me warn you again,” writes business columnist John Crudele in the April 16 *New York Post*, that “the only thing this market has going for it is the Federal Reserve's persistent money printing operation.” He warns that if an investor can't afford to lose 20 percent in a hurry, he should get out, as easy-money policies will, as they did in the 2007/08 super storm, destroy trillions of dollars of assets.

Central bankers will blunder again and again. That is, unless most Americans, many of whom who would resist the fixing of their wages, call for an end to these vicious money cycles of the central bank, with its tampering with interest rates. They must realize a simple economic truth: The government's fooling with the price of money is a prescription for disaster.

The logic is indisputable. The warnings of Jeffersonians and other central-bank critics over centuries of monetary history should be heeded. The central bank should be abolished.

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Should the Purchasing Power of Money Be Stabilized?

by Alexander William Salter



Economists have long debated the costs and benefits of stabilizing the purchasing power of money. Today, most First World countries' central banks either pursue the stabilization of purchasing power as a primary goal, as in the case of the European Central Bank (technically, the stabilization of the rate of change of money's purchasing power, by means of an inflation target), or they balance it against a series of other goals, as in the case of the U.S. Federal Reserve and its "dual mandate" (stable prices and maximum employment).

The argument in favor of stable purchasing power is simple and attractive. Money is the yardstick of commercial life. To create an environment conducive to economic

growth, both producers and consumers need a fundamental unit, akin to a weight or measure, with which they can compute the relative merits of various economic activities. If money's purchasing power isn't stable, there is no common denominator, thus rendering computations more costly to make. It would be like trying to run a 5k road race with the definition of a kilometer constantly in flux. Runners would not know how to pace themselves to complete the race in the best time possible. Only if the definition of a kilometer is known and fixed in advance is the race an appropriate environment for determining the winner on the basis of athletic prowess rather than luck. So it goes with money. Only if the purchasing power of money is stable, the argument goes, will the environment that is the competitive market process select systematically for activities that exhaust the gains from trade.

However, the above is only part of the story. It's true that stabilizing the purchasing power of money would make navigating commercial life easier much of the time. But before we conclude that stabilizing money's purchasing power is a good idea, we need to recognize an important point about the use of

money in an advanced economy characterized by an extensive division of labor. It's well known that the private-property market economy creates an impressive knowledge-generating system, namely, the price system. Prices convey relative resource scarcities to producers and consumers; at the same time they economize on the information any one producer or consumer needs to systematically capture gains from trade. When the economy has a generally accepted medium of exchange, what we call money, prices typically are quoted in X units of the medium of exchange per Y units of a good or service. Those prices are the money price of goods. But what, then, is the price of money?

The price of money

To answer that question, we must recognize something important: Money has no market of its own in which it is independently priced. The price of money is simply the reciprocal of its purchasing power, which itself comprises the prices of all the goods and services that a consumer typically purchases. Goods and services are priced in terms of money, and money is priced in terms of goods and services. That means that adjustments in the mon-

ey market, i.e., conditions where there is an excess supply or demand of money at its current price, cannot neutralize themselves in the same way they typically do in other markets. If there is an excess demand for apples at the current price of apples, the (money) price of apples will rise to clear the market. But because money has no market of its own, the price of money can be brought into adjustment only by the changing of many, many relative prices throughout the economy.

**Money has no market
of its own in which
it is independently priced.**

That brings us to an important issue that proponents of stable money overlook. The price system cannot exclude the role of money in accumulating and disseminating information. Money is a good, and its price ought to change when underlying supply and demand conditions in the money market, and thus other markets as well, change. To mask those changes would interfere with the price system's ability to communicate relative resource scarcities. Money isn't just a yardstick. It also is the economy's chief facilitator of trade. If the price system is to do its job, when trade con-

ditions change, so must the conditions under which money is traded for goods and services.

Trickle-down misfortune

Here's an example. Suppose, owing to general increases in technological progress, the supply of goods and services produced increases over time. That makes sense because better technology means getting more output for a given amount of input. What should happen to the prices of those goods and services? If all else is held constant, including the supply of money, prices should fall. The same stock of money chasing larger stocks of goods and services means that each good or service must "bid" lower for each unit of money. The result is a fall in prices across the economy, with each industry's price falling in proportion to the degree that technological progress raised that particular industry's output. That increase in the purchasing power of money is facilitated at the micro level by an economywide adjustment of relative prices. (In fact, the latter part of the 19th century was a period of healthily growing output and slowly but steadily falling prices in the United States, since the money stock was mostly fixed because of the gold standard. The re-

sult was that many economic historians in the early and mid 20th century fallaciously concluded that the United States was in a decades-long recession.)

When trade conditions change, so must the conditions under which money is traded for goods and services.

Now imagine that the country's central bank is pursuing a policy of purchasing-power stabilization. In response to falling prices, it injects money into the economy in an attempt to counteract deflation, which it sees as potentially dangerous. The new money won't spread throughout the economy evenly. The first recipients of it will spend the excess (the amount over what they wish to hold as cash) on goods and services that they find most useful. That increases demand in specific industries at the time, and in those industries only. That in turn affects the economic activity of many other participants in the market, since demand conditions in one market necessarily affect conditions in others. When the second recipients of the new money receive it, the process repeats itself. Eventually, as the money makes its way throughout the economy, upward

pressure on more and more prices results. But because of the process that was followed, there won't be a uniform effect on all prices. That makes it even more difficult for affairs to be put right in the money market, which necessarily places a strain on the price system. Relative prices will be struggling to reconcile the effects of the technological increase with the effects of the money injection. Rather than allow the price of money to adjust by means of economywide price adjustments, the central bank has now made it harder for economic actors to capture gains from trade.

Nobody familiar with basic economic theory would suggest stabilizing the price of oil or platinum to make the prices of those commodi-

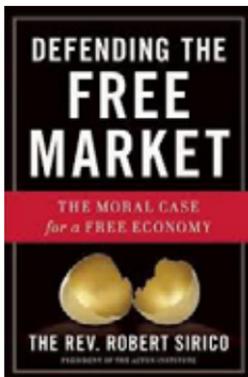
ties predictable. Like all prices, the prices of crucial inputs can and must change to reflect changing supply and demand conditions. The same is true of money. Preventing the price of money — the inverse of its purchasing power — from adjusting won't result in an environment conducive to commercial activity. Instead, misguided attempts to stabilize the price of money directly will hinder money-using individuals' ability to participate in the division of labor and secure gains from trade.

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The Moral Case for a Free Economy

by Laurence M. Vance

Defending the Free Market: The Moral Case for a Free Economy by Robert Sirico (Regnery Publishing, 2012), 213 pages.



Critics of the free market assert that it fails the underprivileged, leads to income inequality, exploits the poor, and is at times downright cruel. They charge its defenders with being motivated by greed, selfishness, and materialism, and making a god out of efficiency. The solution to the alleged deficiencies of the free market and the character of its supporters is always without exception government intervention in the marketplace. But when that fails to remedy

the perceived wrongs of the free market, then even more intervention is prescribed to make things right. And as Richman's Law states, "No matter how much the government controls the economic system, any problem will be blamed on whatever small zone of freedom that remains."

The Rev. Robert Sirico, in his book *Defending the Free Market: The Moral Case for a Free Economy*, argues that a free economy — where property rights, contracts, and the rule of law are respected; prices and interest rates are freely agreed to by willing parties; entrepreneurship is encouraged; profit is not disdained; and charity is voluntary — is the most efficient and moral way to meet society's material needs.

Sirico is the co-founder and president of the Acton Institute for the Study of Religion and Liberty, headquartered in Grand Rapids, Michigan. He is also a Catholic priest who has lectured and published widely.

One of the strengths of *Defending the Free Market* is Sirico himself. As a "West Coast socialist" who once "slipped a joint of marijuana" into Jane Fonda's hand, Sirico was active "in a panoply of radical causes" that Fonda and her former husband Tom Hayden supported.

That is, until he found his way back to his Christian faith and learned to love liberty, limited government, and the free economy. Sirico credits the logic of what he was reading and learning “mostly from economists of the ‘Austrian school,’ men such as Ludwig von Mises and Friedrich Hayek,” for helping to eat away at his leftist assumptions.

After a brief introduction and a chapter detailing his political, economic, and spiritual journey, Sirico gives us eight chapters on various aspects of a free economy. Topics include property rights, free trade, freedom of contract, foreign aid, business regulations, unemployment, the labor market, profits, socialism, central planning, the price system, price controls, social justice, welfare, charity, health care, and the environment. He begins each of his chapters with a hypothetical question from a detractor of the free market that sets the stage for the topic under discussion. His answers always focus on the importance and morality of the free market and the folly and destructiveness of government intervention. I don’t find a single issue or problem for which Sirico suggests some form of government intervention. Each chapter concludes with suggestions for further reading, includ-

ing works from authors such as Thomas Sowell, Hayek, Paul Heyne, John Lott, Mises, Charles Murray, and Julian Simon.

Defending the Free Market contains valuable insights and succinct explanations of economic truths, all without bombarding the reader with economic jargon. Here are a few quotations:

- Lose your economic freedom and soon enough you will lose your other freedoms as well.
- Trade is, at its root, simply an exchange between two parties who both stand to benefit.
- In politics, the pie is fought over to determine who gets what portion of the pie; in the market, the pie can grow.
- Ironically, a truly free labor market is the way to have less unemployment.
- Many of the ills of globalization are the result of top-down planning rather than free markets.
- The free economy is the enemy not of true equality, but of those bent on the acquisition of political and bureaucratic power.
- In a free-market economy the most efficient way for

those people [the greedy] to pursue their disproportionate love of wealth is generally to subordinate themselves to the service of others.

- To resist the creative destruction inherent in a dynamic economy is only to replace creative destruction with a slow destruction without creativity.

Echoing Mises, Sirico believes that economics at its most fundamental level “is not about money; it is about human action.” Perhaps that is why there is such an emphasis in *Defending the Free Market* on the importance of private property rights.

Echoing Mises, Sirico believes that economics “is not about money; it is about human action.”

Sirico maintains that the right to property “is a basic human right.” People cannot be “secure in their human rights” without the right to property. Other human rights “tend to be eroded wherever property rights are violated.” Since “all property must be owned by someone,” it is better that property is controlled by individuals than by the state. “The best thing that politicians can do in regard to property is to enact

and enforce just laws in accordance with natural law — to protect people from having their belongings unjustly confiscated.”

His emphasis on property rights underlies Sirico’s chapter on the environment. The root of many environmental problems is “ill-defined or poorly enforced property rights.” It is socialistic political orders “that fail to defend private property rights that are most inclined to abuse the earth.” Think China and the old Eastern Bloc countries. Sirico skewers the ideas that the U.S. Forest Service acts with the best interests of the environment in mind and that we should be overconcerned about the “threats” of overpopulation and resource depletion. He explains how the Endangered Species Act is an attack on private-property rights. He concludes that the “power of markets, ownership, and human creativity” better protects endangered species than “heavy-handed government regulation.”

Health care and poverty

Sirico tackles other current issues in much the same way, disdaining socialistic solutions and government interventions while emphasizing market solutions and the function of prices.

For example, on health care, Sirico makes it clear from the very beginning that “most of the problems in the American health care system stem from government intervention, not from market failure.” He maintains not only that the United States doesn’t have “a market-based health care system,” but also that “we haven’t had one for decades.” If government would just get out of the way, “we could have a health care system as innovative and efficient as the computer industry — with regular price cuts, instead of ever-rising costs.”

**Economic freedom, free markets,
and business enterprise help
people rise out of poverty.**

Moreover, we need to eliminate barriers to competition such as AMA limits on “the numbers of trained and licensed doctors,” regulations that “burden charitable providers to low-income people,” draconian FDA controls “on the development of new drugs,” and the plethora of laws forbidding “interstate insurance competition and requiring policyholders to pay for treatments that they never intend to use.” The market in health care is so dysfunctional because “there is a separation of the one who pays and

the one who uses the services.” Government control over health “covers the entire health care system in the suffocating blanket of a soulless bureaucracy.”

Another area where Sirico shines is the subject of poverty. He makes the case that it is economic freedom, free markets, and business enterprise that help people rise out of poverty and that move countries from poverty to prosperity. Yet “bureaucratic regulation and a corrupt political culture make starting a legal business virtually impossible for people in many parts of the world.” And rather than help the poor in other countries, foreign aid from the United States just makes things worse. Sirico views religious charity as the solution of first resort to the problem of poverty. He explains that people of faith who fail to provide charitable assistance and address the root of poverty create “a vacuum into which the power of the state is drawn.” The displacement of charity by welfare has “actually perpetuated material poverty.” Sirico also exposes the real motive of proponents of social justice, destroys the “idol of equality,” and reveals the injustice of redistributing wealth to achieve some outcome.

In his defense of the free market, Sirico explains the beneficial

nature of “creative destruction” and technological advancement, reminding us that “we should not let a false nostalgia blind us to the good of human progress.” Free-market capitalism isn’t fueled by greed; rather, “it is fueled by human creativity in a system that rewards people for serving the wants and needs of others.” The optimal breeding ground for greed and envy is “socialism in its various incarnations.” The relationship between employee and employer “is not one of exploitation, as Marx would have it, but of mutual benefit.” Sirico courageously defends “sweatshops” for “boosting the incomes of many poor people and putting their families on the first rung of the ladder of economic progress.” He does point out, though, that “the force that has created many of the most brutal sweatshops isn’t economic freedom but a mongrel cross of capitalism and government meddling.”

That brings up a theme that is found throughout the book: a recognition and rejection of crony capitalism. Sirico exposes “corporate-government cronyism masquerading as a free market.” Another theme that is nice to see but also surprising is the anti-capitalist bias

of many clergy and religious people. Sirico laments that they often view profits with disdain, are especially vulnerable to the prejudice against business, view competition as essentially immoral, and “simply do not have the faintest notion of the vital role of ethical business enterprise and entrepreneurial creativity for a flourishing economy that can lift people out of poverty.”

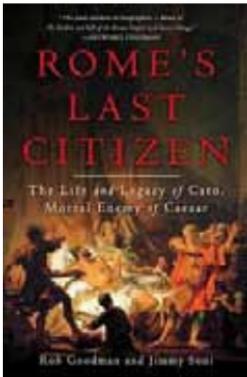
Although Sirico is a priest and his book refers to the pope and the church, *Defending the Free Market* is not a religious book or even a book geared toward religious people. As is to be expected, he mentions and promotes the work of the Acton Institute throughout the book, but such references are not forced. *Defending the Free Market* is an acutely personal, positive, and spirited defense of the morality of the free market and a free economy. It deserves a wide readership.

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Opponent of Empire

by Martin Morse Wooster

Rome's Last Citizen: The Life and Legacy of Cato, Mortal Enemy of Caesar by Rob Goodman and Jimmy Soni (Thomas Dunne/St. Martin's Press, 2012), 311 pages.



A day, an hour, of virtuous liberty / is worth a whole eternity in bondage.

— Joseph Addison, *Cato*

Some of us know that the Cato Institute is named for *Cato's Letters*, a series of essays promoting freedom penned by Thomas Gordon and John Trenchard in the 1720s. Dedicated trivia buffs know that Gordon and Trenchard called themselves “Cato” after Marcus Porcius Cato (96–45 B.C.), a Roman senator who tried — and failed — to prevent Rome from

transforming itself from a republic to an empire in the first century B.C.

But who *was* Cato? What did he do? Is he someone libertarians should respect — or ignore?

Rob Goodman and Jimmy Soni conclusively show that Cato was a flawed hero, but someone libertarians should know more about. He was not by any standard a libertarian, but a case can be made that he was the first anti-imperialist. He was the most admirable man of his era, one whose virtues outlasted him, thanks largely to Joseph Addison's *Cato*, a 1712 play that enhanced the understanding of liberty for many of the Founders of the United States. When George Washington, for example, wanted to cheer up his troops at Valley Forge, he staged a production of Addison's play as a way to remind his men that liberty was worth the sacrifices and hardship his men were enduring.

Goodman and Soni are men of the Left. Goodman has been a speechwriter for Sen. Chris Dodd (D-Conn.) and Rep. Steny Hoyer (D-Md.). Soni is the managing editor of the liberal *Huffington Post*. They are nonetheless good writers and very fair in their assessment of Cato. They convincingly show that he was someone who was indeed the most freedom-minded person of his

time and who did many admirable things. But to give Cato a high grade, they persuasively argue, the historian has to use a very steep curve.

Marcus Porcius Cato was born in 95 B.C. There were at least six generations of Catos, so we generally refer to him as Cato the Younger, to distinguish him from his great-grandfather, Cato the Elder, a war-lover who inserted “Carthage must be destroyed” into every speech he gave until the Romans finally wiped out their weakened but perennial foe.

Cicero warned that expanding the dole “would draw the plebeians away from work.”

The Roman Republic was by no means a democracy, but an oligarchy where power alternated among several ruling aristocratic families. There were elections, including one for the top office of consul, but power was largely concentrated in the hands of several ruling families, one of which was Cato’s. His first grasp of politics came in 64, when he was elected one of the 20 quaestors responsible for collecting taxes and disbursing the expenses of the state. His term as quaestor was noted for his firm honesty. He made sure that no illegal activity

took place and indicted scores of people who had taken or given bribes in previous years. In fact during his year in office, Romans refrained from looting the treasury because “Cato will not consent.”

But Cato’s behavior after he left office, the authors believe, shows the fundamental flaw in his character. He made no attempt to ensure permanent reforms, but hoped that by his being a good example, his fellow oligarchs would behave correctly and become more just and admirable. That never happened. “Without Cato’s day-in, day-out supervision, the return of corrupt insiders and well-connected oligarchs was almost assured,” the authors write. As soon as Cato gave up the quaestorship, bribes and corruption once again became common.

Cato’s next job came in 62, when he was elected tribune, a job designed to protect the common people (or plebeians) against arbitrary government power. One of the ways Roman governments of that era tried to ingratiate themselves with the people was through offering free or cheap grain. Some Romans realized that the dole was expensive and could bankrupt the state. Cicero, often an ally of Cato’s, warned that expanding the dole “would draw the plebeians away from work,

throwing them into the arms of sloth, and ... exhausting the public finances.”

The authors observe that Cato, in his year as tribune, “presided over the greatest expansion to date of the Roman welfare rolls.” When Cato took office as tribune, about 40,000 Romans were eligible for the dole; when he left, about 200,000 were getting free grain. Cato ensured that as much as 15 percent of the Roman budget was being spent on welfare.

Buying off the poor with freebies was the price the aristocrats paid to prevent revolution.

Why did Cato, who prided himself on being thrifty with government funds, do that? Goodman and Soni speculate that it was because he and his fellow aristocrats feared being overthrown by the plebeians, who far outnumbered them. Buying off the poor with freebies was the price the aristocrats paid to prevent revolution. “As distasteful as it might have been to him,” the authors contend, “Cato found himself one of the fathers of the Roman welfare state.”

The Romans of that era most feared being ruled by one man. The Republic began when the last Ro-

man king was overthrown in 509 B.C. Power was divided between two consuls to prevent a monarch from being reinstated.

But in the years between 60 and 50 B.C., it was increasingly clear that a single ruler would control Rome. Three men ruled Rome in an uneasy triumvirate: Gnaeus Pompeius, or Pompey the Great; Julius Caesar; and Lucius Crassus, the richest man in Rome. Pompey had begun his campaign as a general at the age of 19 and was so good at slaughtering his enemies that he was nicknamed “Aduluscentulus Carnifex,” or “the teenage butcher.” He successfully conquered the kingdom of Pontus, flooding Rome with the wealth of the East. Crassus died in the plains of Syria. Julius Caesar, realizing a great military victory was the key to power, spent eight years in what is now France fighting the Gauls.

Opposing Caesar

In 54 B.C. Caesar’s campaign against the Gauls was interrupted when several hundred thousand Germans began to flood into the country at what is now roughly the border between Germany and Belgium. The Germans were fleeing more warlike Germans and asked for sanctuary. Caesar offered them

land on the east bank of the Rhine, and the tribes asked for three days to consider his offer. Caesar ignored their request and moved closer to the Germans' camp. The Germans then asked for an additional day, and Caesar again ignored their request. He sent 5,000 of his cavalry as an advance guard, and the Germans attacked them, killing 76 Romans.

It was a glorious Roman triumph — and, in Cato's view, a war crime.

The Germans then sent ambassadors under a flag of truce, asking Caesar to forgive them and saying the previous day's skirmish was due to miscommunication. Caesar ignored the request, holding the ambassadors hostage and launching an all-out attack against the Germans. Because Caesar had kidnapped the ambassadors and ignored the truce, the Germans were confused and panicked. The German camps broke up, and a great many Germans leapt into the Rhine and drowned. As many as 300,000 Germans died.

It was a glorious Roman triumph — and, in Cato's view, a war crime. Envoys and ambassadors were *sacred*, Cato argued. By violating the laws of war, what other laws would Caesar ignore if he were in

power? "Assailing Caesar's plans from the outset," Cato's biographer Plutarch writes, Cato "declared that it was not the sons of Germans or Celts whom they must fear, but Caesar himself, if they were in their right minds." He said that if Caesar entered the Senate, he would be arrested and be put on trial for war crimes.

That was not an idle threat. Caesar enjoyed immunity from prosecution as a general, but Roman law said that once he entered Rome, he was a private citizen subject to senatorial authority. Caesar could escape by being elected a consul, but he still had to enter Rome as a private citizen, making him legally vulnerable.

Caesar tried, and failed, to get the Senate to change the law. Instead, the Senate declared Pompey to be the sole consul. In 49 Caesar decided to send a legion to conquer Rome (when he famously "crossed the Rubicon"). Pompey responded by abandoning Italy and fleeing for Greece. There, his forces lost the battle of Pharsalus on 48. Pompey was assassinated, and the remnants of his army fled for Africa.

Cato then did his second noble deed. The surviving republican forces regrouped around the city of Utica in what is now Tunisia. A decade earlier, when Caesar was con-

sul, he had given the merchants of Utica some trading benefits. Now the leaders of the republicans were suspicious and proposed slaughtering everyone and destroying Utica. But Cato, a general in the republican forces (but not the commander), persuaded the republicans to spare everyone. His admirable decision saved thousands of lives.

In 45, Caesar crushed the republicans at the battle of Thapsus. Cato then committed suicide. But his death did not end his influence. Many of the plotters who assassinated Caesar in 44 knew Cato, most notably Brutus, who was Cato's son-in-law and another biographer. And when Caesar's great-nephew Augustus became emperor in 31, he made sure to avoid all trappings of power. Caesar had flirted with being a king, but Augustus pretended he was just a humble citizen.

Many prominent writers in Imperial Rome, nostalgic for the dead Republic, composed all sorts of tributes to Cato, removing his warts and painting him as a heroic defender of lost liberties. The poet Lucian even wrote *Pharsalus*, an epic poem with Cato as hero.

The liberty-loving founders of America were steeped in the classics and found the Cato portrayed by the

imperial Roman writers inspirational. Cato's legacy, however, was not limited to the founders. The motto of the Confederate States of America was from Lucan's *Pharsalus*: "The victorious cause was dear to the gods; the lost cause, to Cato."

The Cato who passed into legend was an inspirational champion of liberty. But as Goodman and Soni show, the actual Cato is far less heroic. He was personally admirable, and should be commended for saving the Uticans' lives and for warning the Senate about Caesar's military atrocities. But as a politician, he was a party of one with no allies and limited ability to persuade his colleagues. Perhaps there was little that could have been done to prevent Rome from devolving into an empire, but Cato didn't try very hard to prevent the erosion of Rome's few remaining liberties.

Rome's Last Citizen shows that Cato the Younger was a champion of liberty — but a severely flawed one.

Martin Morse Wooster is the author, most recently, of Great Philanthropic Mistakes, published by the Hudson Institute.

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