Notes on Freedom: Individual Liberty vs. Government Tyranny
18th Century and Today
A Study of Cato's Letters

Glenn Mitchell
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The principles of the American political process were slowly being formulated in the decades before the American Revolution and the writing of the Constitution of the United States of America. The sources were largely English and had a profound impact on Americans of the 18th century. The Framers left us with an intellectual heritage in which rights flow from one’s nature as a human being. By adherence to the rule of law, private property and individuals are protected from the potential tyranny of the many (democracy) and the totalitarianism or authoritarianism of the few (central control, collectivism). To paraphrase Thomas Jefferson, Liberty requires continuous diligence to preserve freedom.

While many philosophers’ ideas influenced Americans, one of the greatest impacts came from a series of letters written by John Trenchard and Thomas Gordon in the early 1720s in England. “Cato’s Letters or Essays on Liberty, Civil and Religious, and Other Important Subjects” were reprinted many times in the following years. Cato’s ideas about liberty and tyranny, as historian Bernard Bailyn has written, were known everywhere, because Cato’s Letters were quoted in every colonial newspaper from Boston to Savannah.

The question we must ask is, “Do we have the same respect for private property, individual liberty, self-reliance and limited government?” Cato’s Letters are still an excellent source to acquaint ourselves with these principles.

James Q. Whitaker, M.D.

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Glenn Mitchell has written an engaging tract in which he provides modern examples of the flagrant abuses and assaults on liberty that John Trenchard and Thomas Gordon wrote of when describing the bloated and corrupt governments of the Europe of the 17th and early 18th centuries and especially of England in the 1720s.

Trenchard and Gordon were firmly committed to what we today would call a liberal society, one in which men are permitted to follow their own choosing in all which affects them save when their actions hinder or harm others. It is therefore all the more amazing to find them railing against a government that, at the time these letters were written, was spending approximately £8 million per year, or a bit over 7 percent of the nation’s Gross National Product. Great Britain’s population was then about 5,500,000, which meant it took about £1.10 per person to govern this flourishing and prosperous island, to engage in a constant series of wars with her European neighbors, and to begin building an empire that stretched around the world. Even when allowing for today’s purchasing power (at about 125 to 1), Britain’s public expenditures amounted to £750 million in 1720, compared to almost 500 times that amount, or nearly £375 billion today.

The truth is that, despite the enormous concern with capricious and oppressive government, the state lay comparatively lightly on the shoulders of most of the sovereign’s subjects. Indeed, the agents of administrative authority had little to do with most men. In the first half of the 18th century, the state had not yet taken on its self-appointed task of seeing to the welfare of its citizens, nor had it constructed elaborate schemes for advancing social justice that required massive intervention into the private lives of its citizens. As Lord Shelburne, who was later to become prime minister, noted: “Providence had so organized the world that very little government is necessary.”
Compare this to the situation that obtains today, where almost every facet of every private relationship is subject to government scrutiny and interference. Modern man is further disadvantaged by virtue of the formidable technological apparatus to which the state has access and which permits a faceless bureaucracy to follow our most minute movements. We can only imagine what a modern Cato would do with 21st century life!

We are all in debt to Mr. Mitchell for reminding us of how pertinent are the insights of an earlier age to our own day, when there is no aspect of our lives immune from the ignorant and irresponsible meddling of faceless bureaucrats charged with directing the minutiae of our lives and from dishonest and grasping politicians whose only concern is their own welfare.

Ronald Hamowy

Professor Emeritus of Intellectual History

University of Alberta
Ask most modern readers to identify Cato, and they might be reminded of a Roman statesman or a contemporary American think tank. But to Americans of the Revolutionary generation of the 18th century, the name would have been instantly recognizable as the author — or more accurately authors — of a series of widely influential letters that pondered the nature of government, the importance of natural law and natural rights, the glorious nature of liberty and the ever-present threat of tyranny even in the midst of prosperity and freedom.

A modern reader, so informed, might also be expected to wonder what relevance these documents, almost 300 years old, have today. It’s a good question, and the answer is simple: Cato’s Letters are as cogent and germane in modern America as they were in the colonial era of the early 18th century. Because as we enter the 21st century, the liberty cherished by the authors of Cato’s Letters is as valuable and as potentially vulnerable to the threat of tyranny as it was 300 years ago. The form of the threat has changed, but the substance remains.

Cato was the pen name of radical Whigs John Trenchard (1662-1723) and Thomas Gordon (who died in 1750; his birthdate is unknown). While Cato’s Letters are notable for their emphasis on timeless republican and libertarian principles, the very core of individual freedoms, they received their impetus from a cause familiar to modern readers: a financial and political scandal.

The letters were written, beginning in 1720, in response to the South Sea Bubble, a massive swindle familiar to all students of economic history. The South Sea Bubble, explained simply, was a scam perpetrated by crooked financiers with the connivance of government officials and members of the royal court, all of whom shared in the spoils, while thousands of investors suffered a calamity. Trenchard, Gordon and other radical Whigs tried unsuccessfully to urge the punishment of
the government for its part in the scheme, which entailed the conversion of the entire national debt to South Sea Company stock. The company had virtually no assets. It could only survive by creating more shares and selling them at ever-higher prices. A collapse wasn’t simply inevitable; it was predictable. But greed, public gullibility and handsome bribes to high-ranking officials kept the frenzy alive until the Bubble burst.

Cato’s Letters are notable for anticipating the misuse of government power. But if the Bubble gave rise to Cato’s Letters, it was only a starting point.

Of 138 letters, only about a dozen dealt specifically with the scandal. Most of the others examined the nature of statecraft, the vagaries of human nature, the imperfections of politics and the application of natural law and natural rights. Trenchard and Gordon, taking their cue from such earlier writers as John Locke, considered natural rights to be inalienable and derived from our nature as human beings. They believed freedom of conscience, speech and religion, as well as the inviolability of personal property, grew out of these natural rights, while government was based on consent. Its purpose was to defend the liberty and property of individuals. Thus, as Ronald Hamowy, emeritus professor of history at the University of Alberta, suggests in his introduction to the Letters, the Bubble represented more than a simple swindle to Cato; government had failed to protect the rights of citizens by interfering with free trade in the marketplace.

Not that Trenchard and Gordon had high expectations of government to begin with. Like many other Whigs of their time, they saw the seeds of tyranny inherent in any government. “Within all states from ancient Rome to the present,” they argued, “there had been attempts to enslave the people. The history of politics was nothing other than the history of the struggle between power and liberty.”[^1] They observed more than
once that it is natural for those who have power to seize more and to tyrannize those who have none. They equated power with force, coercion and aggression and believed power encroached on liberty, usually defined as the use and enjoyment of one’s natural rights within the limits of law made in civil society.

Trenchard and Gordon saw constant threats to liberty. In their time, they feared Tory policies and Church of England machinations would undo the popular Glorious Revolution of 1688 (in which the Catholic English King James II was replaced in a bloodless coup by William of Orange, “brought in and set up for the sake of Protestantism and civil liberty”2) and lead to policies harmful to freedom. Much of their writing is designed to support the House of Hanover, which had taken the British throne in 1713, thus guaranteeing the Protestant succession, which the authors believed was necessary to protect domestic security and the constitutional system.3

The 138 letters, published in the London Journal from 1720 to 1722, and then in the British Journal in 1723, were both popular and influential, and they appeared in six collected editions between 1724 and 1755. Cato’s Letters made their American debut in 1722, where their depiction of men with inalienable rights arrayed against a government bent on surpassing its restraints found a growing, receptive audience. Cato was quoted liberally in the decades before the American Revolution, and doubtless had an enormous impact on such Constitutional thinkers as James Madison and revolutionaries such as Thomas Paine and Samuel Adams. As historian Clinton Rossiter notes, “No one can spend any time in the newspapers, library inventories, and pamphlets of colonial America without realizing that Cato’s Letters rather than Locke’s On Civil Government was the most popular, quotable, esteemed source of political ideas in the colonial period. The uncompromising Whiggery of the ‘Divine English Cato’ was well calculated to stir colonial hearts.”4
Most Americans of the revolutionary era took their ideas from the group historian Caroline Robbins called the “18th-century commonwealthmen.” The name was derived from the radicals of the 17th century who supported the Parliamentary side, which won the English Civil War and created the Commonwealth in the late 1640s, led by Oliver Cromwell. The 17th-century writers of this ideological bent included John Milton, Algernon Sidney and others, and their beliefs were popularized in turn by English philosophers, essayists and journalists in the late 17th and early 18th centuries. The philosophy described two threats to political freedom: a general moral decay of the people which made them prey to despots, and the ensuing encroachment of executive authority upon the legislature in order to subdue liberty fostered by mixed government. While this radical Whig belief was never more than a fringe opinion in Britain, its ideas of balance of power became deeply embedded in American politics of the 18th century.

The writings were absorbed on this side of the Atlantic because “most colonists preferred to go to the English writers in the Whig tradition for their lessons in political theory.” While the North Americans admired a number of writers who espoused a variety of related philosophies, “the greatest of these were Gordon and Trenchard.”

Despite their profound influence in the 18th century, some of Cato’s concerns seem distant to us today. His staunch anticlericalism, tied to the fear of a Jacobite return to political power in the person of Charles Stuart, the Scottish Pretender to the British throne, may appear to us simple anti-Catholic bigotry — although, as Caroline Robbins explains, “On the whole the Whigs had some grounds for their apprehensions. It would be rash to assume that because the Stuarts never had anything but fleeting success in attempts to return, and the government
until the days of George III was ostensibly Whig, there was no danger that England would lose some of the freedom achieved so painfully in the 17th century.”

Elsewhere, many of the letters’ topical references are beyond the ken of all but 18th-century specialists. The names of politicians, monarchs and even countries may not resonate with the modern reader, and Cato’s fulmination against the manipulators of the South Sea Bubble can seem as far removed from us as a 17th-century Puritan writer’s railing against the excesses of the court of Charles I. Even Trenchard and Gordon’s evil mirror image of liberty — tyranny — meant something far more palpable and lethal to an Englishman of the 1720s than to an American of the early 21st Century. No one would argue that the sometimes brutish depredations of the IRS or the meddling of a regulation-wielding bureaucrat are the political or moral equivalent of the crushing despotism and slaughter engineered by the tyrants in parts of Europe in the 18th century — although many others around the world have suffered more from tyrannical governments than lucky Americans have.

So, this returns us to the question asked at the outset: Are the philosophies outlined in Cato’s Letters still as quotable — or as relevant — today as they were almost three centuries ago?

The answer is an emphatic “Yes” for several reasons.
The very notion of inalienable rights espoused by Cato is deeply embedded in the American political structure and American consciousness.

The idea that liberty is a natural right grows out of the 17th century philosophical tradition that Cato helped popularize. Natural law held that there are laws which are fundamental and unchanging; they can be perceived by reason independent of manmade laws (called “positive” laws) which are mutable and subject to political or other manipulation. Natural law makes possible the formation of government through a compact or contract between the government and the governed. Cato and others believed peace, security, the public good and the preservation of natural rights were the chief ends of government, whose magistrates were servants of the people rather than their rulers. As he explained in Letter 11, “That the benefit and safety of the people constitutes the supreme law, is an universal and everlasting maxim in government; It can never be altered by municipal statutes: No customs can change, no positive institutions can abrogate, no time can efface, this primary law of nature and nations. The sole end of men’s entering into political societies, was mutual protection and defence; and whatever power does not contribute to those purposes, is not government, but usurpation.” (p. 87)

Natural law was a concept better understood by Americans of the Revolutionary period than today. Thomas Paine argued that independence was called for as a natural right. The Constitution reflects the natural law philosophy. Jefferson based his arguments in the Declaration of Independence on “Nature’s laws.” The equality of man described in the Declaration assumes there is no difference between one man and another; that those who live under the law should share in making the law and that those who make the law should abide by the law they make. When the Declaration says, “We hold these truths to be self-evident, that all men are created equal,” “self-evident” is not only a synonym for “obvious” or
“apparent,” but also contains a timeless truth implicit in nature.\textsuperscript{11}

So, while Cato's notions about the nature of liberty might give some modern readers pause, they would have seemed perfectly acceptable to 18th-century readers familiar with the tradition. Thanks to both "nature and reason" — a broad spectrum — every man is "judge and disposer of his own domestic affairs," (Letter 62, p. 428) and his private behavior is no more the government's business than are his dreams. Government may intervene to protect men from injuring others; otherwise, it has little business in their affairs. According to John Locke, the legislature should be the source of positive law (that is, laws created by men), but the source of the legislation was to be found in understandings "antecedent to all positive laws" — in other words, from the natural right of the people to govern themselves by forming a constitution and a government restrained by law.\textsuperscript{12} Cato's repeated references to the English constitution as a bedrock of freedom merit a brief explanation. The England of Cato's time was, of course, a monarchy, but most Englishmen thought of their government as a mixed one. England, the French essayist Montesquieu said, "may be justly called a republic disguised under the form of monarchy." Whigs like Trenchard and Gordon could describe the king as being no different from the governor of a state, in that both are civil officers. Nor was it a contradiction for Cato to be both a monarchist and a republican. Whigs judged the unwritten English constitution by republican standards in which each part of the triad (king, Lords and Commons) was praised for its independence, and any loss of that independence was widely condemned as corruption, particularly when the crown gained power at the expense of the Commons. Trenchard and Gordon were not alone in believing their government was closer to a commonwealth than to an absolute monarchy. As one historian has noted, "Monarchical and republican sympathies coexisted in the culture as a whole, and within particular individuals conservative and radical ideas mingled with exhilarating disregard for consistency and purity.... The
student who turns — as (Benjamin) Franklin did — to John Trenchard and Thomas Gordon for stirring language in defense of the cause of civil and religious liberty will discover that Cato’s Letters begin their assault on the English establishment very much in the spirit of disgruntled financial conservatives, enraged over the South Sea stock crisis and the ‘Murthers of our Credit’ who had jeopardized the sacred ‘Security of Property.””13

Thus, the constitution Cato refers to, while not a specific document like the American Constitution, is recognizable for its reliance on separation of powers and a balanced government between the executive (in this case the monarchy) and the legislative (the parliamentary houses of Commons and Lords). But Cato’s language, making the necessary adjustments for American political terminology, sounds familiar: "Thrice happy is that people, where the constitution is so poised and tempered, and the administration so disposed and divided into proper channels, that the passion of infirmities of the prince cannot enter into the measures of his government.” (Letter 14, p. 107) In other words, government was best which was best balanced.

Trenchard and Gordon’s constitutionalism embraced the rule of law, habeas corpus, limited monarchy, a free press and the belief that arbitrary power was by definition malignant. As described by historian Robert Middlekauf, “They praised the mixed constitution of monarchy, aristocracy and democracy, and they attributed English liberty to it,”14 and like Locke they postulated a state of nature in which rights existed and which the civil polity, created by mutual consent, guaranteed. They argued that a contract formed government and that sovereignty resided in the people. According to Middlekauf, “Within all states from ancient Rome to the present, they argued, there had been attempts to enslave the people. The history of politics was nothing other than the history of the struggle between power and liberty.”15 Trenchard and Gordon, like other radical Whigs, had a profound distrust of power, which they equated with force, coercion and aggres-
sion. Power had the potential to destroy liberty, usually defined as the use and enjoyment of one’s natural rights within the limits of law made in civil society.

Finally, Cato stressed the inviolability of private property. “Dominion follows property,” he says in Letter 17 (p. 124), warning that a tyrant’s first goal is to deprive people of their property. It was a lesson Cato’s colonial readers imbibed, according to Middlekauf: “(Americans’) concern with property, indeed their obsession with it, should not be dismissed easily.... Their understanding of property, in fact, was profoundly embedded in their thinking not only about the nature and purposes of political society, but also about the character and meaning of liberty itself.” Property concerns are reflected in the list of complaints directed against King George III in the Declaration of Independence: “He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance.” John Adams wrote in “Defense of the Constitutions of Government” that “Property is surely a right of mankind as real as liberty.... The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence.” And Arthur Lee of Virginia was more direct: “The right of property is the guardian of every other right, and to deprive the people of this is in fact to deprive them of their liberty.” Indeed, Trenchard and Gordon’s initial impulse to write about the South Sea scandal was directed at those in government who abused their authority to protect property by using their power not to defend but rather to rob innocent investors.

Trenchard and Gordon were part of a tradition dating back to the 17th century. As one historian explains, “Many like Adam Smith believed that all governments in the world could be reduced to just two — monarchies and republics — and that these were rooted in two basic types of personalities: monarchists, who loved peace and order, and republicans, who loved liberty and independence.”
ical philosophy had a number of identifiable premises. Principal among these:

- Participation in government provides the means for protection of personal liberty and private rights of the individual.

- Liberty is realized when citizens are virtuous, that is, willing to sacrifice their private interests for the sake of the community; and virtue can only be found in a republic of equal, active, independent citizens.

- Public virtue calls for the sacrificing of private desires to the public interest; in other words, a devotion to the commonweal.

- An enormous burden is put on individuals, who are expected to suppress their private desires and develop disinterestedness, the term 18th-century philosophers used as a synonym for civic virtue.

Finally, while monarchies could tolerate a great deal of self-interestedness, private gratification and corruption from their citizens, republics demanded civic virtue and morality.20

In a word, Cato’s greatest passion was for liberty, by which the authors meant enjoyment of one’s natural rights within the limits of law made in civil society. Cato called the contrast between tyranny and liberty “a noble subject, superior to all others, and to the greatest genius, but fit for consideration of every genius, and of every rank of men. It concerns the whole earth, and children ought to be instructed in it as soon as they are capable of instruction. Why should not the knowledge and love of God be joined to the knowledge and love of liberty, his best gift?” (Letter 73, p. 543)

Words rarely fail Cato, especially on this subject, and in Letter 62 (pp. 428-29) he once again spells out the nature of liberty. The key part of the letter, perhaps of all the letters in which he explains the relationship between government and individuals, is as follows:
“And it is foolish to say, that government is concerned to meddle with the private thoughts and actions of men, while they injure neither the society, nor any of its members. Every man is, in nature and reason, the judge and disposer of his own domestick affairs; and, according to the rules of religion and equity, every man must carry his own conscience. So that neither has the magistrate a right to direct the private behaviour of men; nor has the magistrate, or any body else, any manner of power to model people’s speculations, no more than their dreams. Government being intended to protect men from the injuries of one another, and not to direct them in their own affairs, in which no one is interested but themselves; it is plain, that their thoughts and domestick concerns are exempted entirely from its jurisdiction: In truth, men’s thoughts are not subject to their own jurisdiction... and where he meddles with such, he meddles impertinently or tyrannically.

“Let people alone and they will take care of themselves, and do it best; and if they do not, a sufficient punishment will follow their neglect, without the magistrate’s interposition and penalties....

“True and impartial liberty is therefore the right of every man to pursue the natural, reasonable, and religious dictates of his own mind; to think what he will, and act as he thinks, provided he acts not to the prejudice of another; to spend his own money himself, and lay out the produce of his labour his own way; and to labour for his own pleasure and profit, and not for others who are idle, and would live and riot by pillaging and oppressing him and those that are like him....

“So that civil government is only a partial restraint put by the laws of agreement and society upon natural and absolute liberty, which might otherwise grow licentious: And tyranny is an unlimited restraint put upon natural liberty, by the will of one or a few. Magistracy, amongst a free people, is the exercise of power for the sake of the people; and tyrants... abuse the people for the sake of power. Free government is
the protecting of the people in their liberties by stated rules: Tyranny is the brutish struggle for unlimited liberty to one or a few, who would rob all others of their liberty, and act by no rule but lawless lust.

"All civil happiness and prosperity is inseparable from liberty...."

Cato’s description of liberty may be summed up as follows:

- Liberty is a natural right that can be taken only by usurpation or one’s own consent; thus civil government results from the willing surrender of absolute liberty — i.e., a contract; tyranny is an unlimited restraint put upon natural liberty.
- Liberty represents each man’s right to enjoy the fruits of his labor, art and industry, insofar as he doesn’t hurt society or anyone in it.
- Liberty makes him, with the stated limitations, sole arbiter of his private actions and property.
- The purpose of government is to protect men from the depredations of others, not from themselves.
- Leave people alone and they will take care of themselves, and do it best.

(Liberty is also demanding. As described by historian Richard Pipes, it is by its nature inegalitarian, because people differ in strength, intelligence, ambition and perseverance, all of which make for success. While there must always be equality before the law and equality of opportunity, equality of reward is attainable only by coercion, whether the result of well-meaning paternalism or grinding despotism. "Ironically," he concludes, "the enforcement of equality destroys not only liberty but equality as well, for as the experience of communism has demonstrated, those charged with implementing social equality claim for themselves privileges that elevate them high above the common herd."\(^\text{21}\)
Even as strong a believer in liberty as Cato saw the potential for anarchy in a world in which all men were free to do anything they wished. Unrestrained, men plunder the property of others and the weak are at the mercy of the strong. So, he says, we make governments by agreement and give up some liberty to secure a bit of order. While he believed government should be as small and unlimiting as possible, his sometimes bleak view of human nature led him to recognize (Letter 40, pp. 279-80) the importance of the natural law contract between government and governed.

He saw mankind as selfish, restless and grasping; his description of the condition in which all men “daily risk ease, reputation and life” to acquire wealth and grandeur has a particularly modern ring: “We live in a hurry, in order to come at the resting-place; and in crowds to purchase solitude. Nor are we the nearer to our end, though the means succeed. Human life is a life of expectation and care; and he who rejects the conditions must quit it.”

Selfishness is not merely a private vice, however. It takes the public stage, and in statecraft as in personal life, men must be on guard against one another. Limited government is the very thing that prevents the worst depredations: “Men are so far from having any views purely publick and disinterested, that government first arose from every man’s taking care of himself....” Dictators, on the other hand, come to power by indulging their appetites at the expense of the governed, and others follow them in the hope of reward or advantage.

The answer, Cato says, is that we should endeavor to preserve justice and equality in the world. First, why let someone oppress others who are no worse than him? And second, just because nature is bad doesn’t mean it can’t be improved by virtue, and there’s nothing wrong with trying to mend mankind by getting them to observe
rules that are good. It’s “the only virtue the world wants, and the only virtue that it can trust to.”

So, if Cato were writing his letters in our time, what would he see? The past century has witnessed triumphs for liberty and tyranny alike, and even when liberty has rarely been triumphant its victory has often been alloyed. This is partly because all governments are run by men, and men, even at their best, leave much to be desired, something which Cato often observed. “The study of human nature has, ever since I could study any thing, been a principle pleasure and employment of mine,” he writes in Letter 31 (p. 221), “a study as useful, as the discoveries made by it are for the most part, melancholy. It cannot but be irksome to a good-natured man, to find that there is nothing so terrible or mischievous, but human nature is capable of it and yet he who knows little of human nature, will never know much of the affairs of the world, which every where derive their motion and situation from the humours and passions of men.”

Cato’s skepticism and cynicism about politics and human nature are timeless. (An observation from Letter 82, p. 594, seems particularly current given the presidential follies of the 1990s: “I am so unfortunate as always to think, that a man who is a knave in his private dealing, will never be a saint in politics.”) People’s fickleness about their political leaders — and gullibility for their traps — were as apparent then as now: “They will be caught over and over again by the same baits and stale stratagems: No sooner is a party betrayed by one head but they rail at him, and set up another; and when this has served them in the same manner, they choose a third; and put full confidence in every one of them successively, though they all make the same use of their credulity. I assure you, Sir, that I have not the least hopes in this letter to make men honester, but I would gladly teach them a little more wit.” (Letter 16, p. 118)
Cato is especially leery of the anonymity and lack of personal responsibility inherent in large government. When men are above fear, they can also be above honesty and shame. In government, when the “weight of infamy” is divided among many, no one sinks under his own burden. Hence, the bigger the government, the less responsibility each person has to bear. “And yet men,” Cato says resignedly, “thus formed and qualified, are the materials for government.”

Cato’s description (in Letters 61 and 62) of the destructive potential which accrues to those who hold political office could apply to modern politicians as well as their 18th-century counterparts:

- The possession of power “alters and vitiates their hearts.”

It is a commonplace that, once elected, politicians often change for the worse. We assumed we had elected men of principle, when we simply elected accommodators and compromisers. Substitute the appropriate parties, Republican or Democratic or both, for those in the following from Letter 16: “I have often seen honest Tories foolishly defend knavish Tories; and untainted Whigs protecting corrupt Whigs, even in instances where they acted against the principles of all Whigs; and by that means depreciated Whiggism itself; and gave the stupid herd occasion to believe that they had no principles at all, but were only a factious combination for preferment and power.... Let us learn to value an honest man of another party, more than a knave of our own....”

- They forget their good designs and renounce their old principles.

President George Bush asked us to read his lips in 1988 as he promised no new taxes two years before using the same mouth to announce a tax increase. Bill Clinton promised a tax cut, got elected, said, “Gosh, must have miscalculated,” and instead raised taxes. But while politi-
cians forgetting their principles upon election is nothing new, the Republican House majority of 1994 must have set a record for ignoring their good designs. When Republicans took over the House in 1995, they forced agencies to cut their budgets. That lasted exactly one year. Between 1996 and 2000, Labor, Health and Human Services and Education Department budgets rose by almost 30 percent. Appropriations for the Veterans Administration and the Department of Housing and Urban Development declined 10 percent between 1994 and 1996, then increased 10 percent by 2000. Spending at the Department of Agriculture remained relatively stable until 1998, then increased a staggering 47 percent. Overall, discretionary spending for fiscal 2000 rose to $586 billion, a 5 percent increase. Budget discussions for 2001 are centered around $600 billion in spending. Whole cabinet-level departments, supposedly destined for the shredder, were in business and spending away. As NCPA Policy Chairman Pete du Pont observed in 1999, with Republicans like these, who needs Democrats?

- They see themselves as different from their fellow citizens

As such, they don’t feel the need to live under the laws they make for everyone else. In 1998, Bill Clinton vetoed a bill that would have allocated $7 million to help pay tuition for 2,000 children of poor families so they could escape Washington, D.C.’s public schools. Clinton, of course, sent his own daughter to an exclusive private school, yet defended his veto saying, “We must not abandon” our public schools since it would be “a disservice to those children.”

Nor was Clinton alone. While school choice initiatives stall in Congress, many legislators — almost half (49 percent) of Senators and 40 percent of House members — with children choose to send at least one to private school. Perhaps significantly, lawmakers who serve on committees with jurisdiction over education are most likely to choose
private schools. And despite national support among blacks and Hispanics, members of the Black Caucus and the Hispanic Caucus continue to oppose school choice. Yet, in 2000, 29 percent of the Black Caucus and 14 percent of the Hispanic Caucus exercised the school choice they oppose for others.

- They become “insolent, rapacious and tyrannical.”

Former *Wall Street Journal* and *Washington Post* reporter Ronald Kessler described the modern U.S. Congress in words that that could have come from Cato’s pen: “The system is self-selecting. Few candidates with integrity want to run. Those who choose to run perpetuate the system (of special interest contributions) once they are elected. Then they spend as much as half their time seeking more money. The need to conceal how money influences them generates deceit in other areas. Hypocrisy, lying and criminal conduct become commonplace. The fact that members succeed with the charade breeds arrogance and contempt for the people they serve.... From the House Post Office and Bank scandals to the corruption of the Capitol Police, the way Congress operates its own fiefdoms reflects the character of the members as a whole. Rather than elect legislators who will honestly represent them, Americans are literally electing the best fund raisers.” Or, as Cato put it: “It is natural and necessary for those that have corrupt ends to make use of means that are corrupt, and to hale all men that are uncorrupt. I would lay it down as a rule for all nations to consider that when bribery is practised, it is a thousand to one but mischief is intended; and the more bribery, the more mischief. When therefore the people, or their trustees, are bribed, they would do well to consider, that it is not, it cannot be, for their one sakes... But if you would persuade a man to be a rogue, it is natural that money should be your first argument; and therefore, whoever offers me a bribe, does tacitly acknowledge that he thinks me a knave.” (Letter 27, p. 197)
Given this distressing view of politics and those who practice it, it may come as a surprise that Cato had any hope for the people or the process.

Still, he wasn’t without hope when he addressed the question; “What makes a good magistrate?” In Letters 19 and 20 (pp. 133-48) he discusses the qualities of a good servant of the people by considering what sort of people run the country, and why others choose to follow them. In an ideal world of natural rights, people exist in a state of perfect liberty. But to ensure a modicum of order, they part with a portion of their freedom and “submit themselves to those who had before no right to command them.” In other words, they’re willing to live in quiet, orderly obscurity while a few, at their expense, “shine in pomp and magnificence.” In Cato’s day, that meant public display, perhaps a position at court and the aura of the throne’s reflected glory, and the political power of elective office. Today, it’s zipping around the world in Air Force One, the power of pork-laden purse strings, deference from lobbyists and PACs, and face time on CNN. The problem is, while the people sometimes forget who’s boss, the people’s “employees” often do, too: “Such is the depravity of human nature that few can distinguish their own persons from the ensigns and ornaments which they wear, or their duty from their dignity.”

Swept away by his own rhetorical flood, Cato may go too far for modern tastes. As much as we might grouse about overbearing or inept politicians, we aren’t likely to call a self-besotted elected official or an arrogant bureaucrat “a greater monster than ever hell engendered...an enemy and traitor to his own species,” or assert that “new kinds of vengeance, new tortures, and new engines of misery ought to be invented” to worsen their punishments. Perhaps we could just make them watch a week of Jerry Springer.

So how might ideal public officials (“magistrates,” to use Cato’s
term) be designed? Cato requires four characteristics:

- They know their place in the big picture, as “creature[s] of the public, as machines erected and set up for public emolument and safety.” Election to office, in other words, does not make them able to walk on water; they have been hired by those who elected them, not anointed, and they must not forget it.

- They are modest, realizing that “thousands, ten thousands of their countrymen, have equal or perhaps even greater qualifications than themselves, and that blind fortune alone has given them their present distinction.”

- They do not exist in a [Beltway] vacuum. “[T]he estate of the freeholder, the hazard of the merchant, and the sweat of the laborer all contribute to their greatness.” Or, in 21st-century American parlance, they can spend only because they tax, and they can tax themselves out of greatness and office by overdoing it.

- They know to whom they owe their allegiance. “[W]hen once they can see themselves in this mirror, they will think nothing can be too grateful, nothing too great or too hazardous to be done for such benefactors” — and not for self-aggrandizement, donors, special interests, PACs, lobbyists or the admiration of the chattering classes.

We know them when we see them, and so did Cato, who called the good magistrate “the brightest character upon the earth,” probably because he is one of the hardest to find. Almost slyly, however, Cato acknowledges that even the wisest and freest people aren’t without their foibles and that prudent governors will take advantage of them. Think of the great small “d” democratic communicators of our century — Theodore and Franklin Roosevelt, Harry Truman, Ronald Reagan — who wrapped bold policy in a crowd-pleasing performance
and confidence-boosting gusto. People want to admire their leaders, but they want to be wooed too.

But even the greatest leaders, to say nothing of the worst, have access to power, and power is the destabilizing influence in the balance of liberty and tyranny and in the contract between governors and governed. As Cato says elsewhere (Letter 76, p. 557) in reference to the political contract implied in natural law, "Nations are then free, when their magistrates are their servants; and then slaves where their magistrates are their masters: The commonwealth does not belong to them, but they belong to the commonwealth. Tacitus says with great truth, ‘Power without control is never to be trusted. Every nation has most to fear from its own magistrates; because almost all nations have suffered most from their own magistrates.’"
Cato, like other Whigs of his time, had a basic mistrust of any government, however admirable the qualities of its leaders. It was a subject he returned to often, notably in two letters, Number 33 (subtitled “Cautions against the natural Encroachments of Power”) and Number 115 (“The encroaching Nature of Power, ever to be watched and checked”). It is probably not an accident that Cato referred to the natural encroachments of power. “All men are for confining power,” he wrote, “when it is over them; and for extending it when they are in it.” (Letter 76, p. 558) And “Power, without control, appertains to God alone; and no man ought to be trusted with what no man is equal to.” (Letter 33, p. 240)

If we think of power not as a political or historical fact but as an ever-expanding, self-nurturing blob from a bad science fiction movie, we’ll be closer to Cato’s definition. Imagine something cooked up in a mad scientist’s laboratory, designed for a special, narrowly defined purpose but now run amok, and you have it. “It is the nature of power to be ever encroaching, and converting every extraordinary power, granted at particular times, and upon particular occasions into an ordinary power, to be used at all times, and when there is no occasion.” (Letter 115, p. 804) And while it does not automatically follow that a never-ending government intrusion into more areas of private life leads to greater expenditure, as a practical matter it often does.

Cato’s solution? Limit it before it multiplies.

Unfortunately, those who can limit power are typically those who wield it, and once created power is rarely diminished. But finding a way to diminish it is critical. “Only the checks put upon magistrates make nations free; and only the want of such checks makes them slaves.” (Letter 115, p. 803) But what happens when the government becomes so unwieldy that checks are no longer possible?
In 1998, the General Accounting Office performed the first independent audit of the federal government ever done. The audit concluded “problems with fundamental record keeping, incomplete documentation, and weak internal controls prevent the government from accurately reporting a large portion of its assets, liabilities and costs.” In other words, the government was so large and so sloppy it couldn’t do what any company could: account for “billions of dollars of property, equipment and supplies.” Nor could it calculate the loans that were payable to it or the loans it had guaranteed. Particularly scary was the Defense Department with its billions of dollars of missing property and equipment. Or its 122 separate accounting systems, resulting in more than $10 billion in “problem disbursements,” elegant bureaucratese meaning that payments couldn’t be matched against contracts.

A House Budget Committee study released in January 2000 found appalling waste in agencies responsible for helping poor people: $1 billion in fraud alone in the Supplemental Security Income program, “massive overpayments” in Medicare totaling $12.6 billion in one year and mismanagement by the Department of Housing and Urban Development that wasted $18 billion while letting public housing neighborhoods “fester with crime and drugs.” The report caused Majority Whip Tom DeLay to respond that if department heads “are going to come before the House again and again and claim that it is impossible to find even one cent of waste, fraud and abuse in their departments, then I will personally go down to their office with a fine-tooth comb and show them where to look.”

In the 20th century, federal expenditures as a percentage of gross domestic product rose from 2.6 percent to 18.7 percent — with state and local expenditures rising from 5 percent of GDP to 9.4 percent today. Federal government employment as a share of total employment climbed from 0.9 percent to 2.0 percent — with the proportion
of state and local employees climbing from 3.2 percent then to 13.1 percent today. Nor does the size of the regulatory apparatus always move in concert with that which it regulates. The number of farms has dropped from 5.7 million to 2.1 million and the number of American farmers has declined from 11.1 million to 3.4 million. But the number of Agriculture Department employees has soared from 2,900 to 96,400.25

Those numbers would not have surprised Trenchard and Gordon, who belonged to what we might call the “government as junkie” school of political analysis: they believed government can’t keep its hands off power and when it gets some it wants more. The only alternative is to limit government or lose liberty. To Cato’s American readers after the 1720s that was a difficult proposition to absorb, since government for them was a monarchy an ocean away. It isn’t surprising, then, that when his intellectual descendants designed a post-revolutionary government, their Articles of Confederation were weak, and the subsequent Constitution included checks and balances and left to the states prerogatives not explicitly given to the federal government. The Founders, like Cato, recognized, that no one is ever “surfeited with power” and that the more power people give to their leaders the more those leaders are “incited to take all.” Cato could have written the American script for the 20th century; since the 1930s the federal government has mainlined all the power the people have given it, taking more of their money to pay for it in the process.

It would be nice to think the power grab crested with the failed attempt at Clinton Care in 1993 and that the attempt to turn welfare back to the states in 1996 blunted one crest of the federalizing tide. But more taxes as a percentage of GDP go to the federal government today than at any other time in the country’s history. The tax code and federal regulations grow by hundreds of pages yearly, and the federal
bureaucracy would be an 800-pound gorilla only if it went on a diet. This is not because government is evil, but simply because it's run by human beings. "Considering what sort of a creature man is, it is scarce possible to put him under too many restraints when he is possessed of great power: He may possibly use it well; but they act most prudently, who, supposing that he would use it ill, inclose him within certain bounds, and make it terrible to him to exceed them," Cato wrote in Letter 33 (p. 234). How might he rate our powers of inclosure in the areas of taxes, regulation and federalism?
Cato periodically vented his exasperation with public malfeasance in the South Sea Bubble scandal, as he does in Letter 10. But in the process, he touches on a larger point concerning the size and role of government; specifically, how wealth can be accumulated, managed and applied “to public emolument and defense” — in other words, how much taxation should government impose. It is as if he foreshadows Adam Smith’s warning, “There is no art which one government sooner learns of another, than that of draining money from the pockets of the people.”

Sensible tax policy, as economist William Beach has noted, stands at the center of our effort to get public policy right for economic growth. A study of more than 130 countries showed those with lower than average tax rates on labor and capital also adopted other public policies that promote growth, including free trade, minimal restrictions on the import and export of capital and labor, rule of law and stable money.26 Cato made the same point almost 300 years ago in Letter 10 (p. 75-6).

- Excessive taxation is counterproductive. “If, in taxing labour and manufactures, we exceed a certain proportion, we discourage industry and destroy that labour and those manufactures.” Our experience has demonstrated (with the Kennedy tax cuts in the early 1960s and the Reagan tax cuts of the early 1980s) that when taxes are reduced, federal revenues from taxation actually increase.

- Individual tax rates should be regulated by common sense. Cato said: “Nor can more be extorted from the gentleman and freeholder, than he can spare from the support of his family, in a way suitable to his former condition.”

- High tariffs hurt those imposing them. “[W]hen higher duties are laid, the product is not increased, but the trade is lost.”
Do Americans need a history lesson about the effect of high taxes? The Boston Tea Party was about taxes imposed by a successor to the government Cato addressed in his letters. Practically the first challenge to the federal American government, the Whiskey Rebellion (1791), was over a federal excise tax on moonshine. Citizens tarred and feathered revenue officers and raised a cry Cato would have recognized: “Liberty and no Excise.” Shays’ Rebellion (1786-87) was at least partially driven by a call for tax relief when impoverished Massachusetts farmers banded together to fight against losing their farms through tax delinquencies after the legislature increased taxes. (Even modern smokers have a reason to rebel — if they’re poor. As a percentage of income, lower-income families pay almost five times the burden of high income families in cigarette taxes.)

Modern American tax policy reform began some 30 years ago with Proposition 13, a California initiative that passed with a two-thirds majority limiting property taxes. Other states have since passed a variety of tax limitation measures. But the greatest strides at the federal level came when Ronald Reagan made a tax cut the centerpiece of his national domestic policy. At the time, inflation that had its origins in the monetary policies of the Carter administration was in double digits. Interest rates were at a now-unimaginable 21 percent. The highest marginal tax rate was 70 percent, easily enough for Cato’s “discouragement of industry and destruction of labor and manufactures.” By 1983, Reagan’s 25 percent across-the-board tax cut (now, apparently, also unimaginable), combined with privatization of government assets and a lessening of regulation, began an economic revival that has continued with only a few dips since. The inflation rate fell, economic growth and investment rose. One study after another has shown what Cato understood: that when tax rates go up, tax revenues go down. On the other hand, when government tax policies encourage entrepreneurship, savings and investment and revenues rise.
Tax cuts increase revenues to government because the money that doesn’t go to the tax man is put into play in the investment market, thus increasing production and jobs and generating even more taxpayers. The irony is that tax cuts ultimately soak the rich, who pay most of the taxes anyway; when their tax rates fall, the size of their tax payments increases. The poorer taxpayers are largely unaffected by tax cuts since income taxes weigh on them least.

According to the Internal Revenue Service, in 1997 the top 5 percent of taxpayers paid 51.9 percent of all federal income taxes. The top 25 percent of taxpayers paid 81.7 percent. The bottom 50 percent of earners, meanwhile, paid only 4.3 percent of taxes. The debate over tax cuts as a boon to the rich, therefore, misses the point. The lowering of tax rates across the board causes the share paid by the highest earning families to go up. If Congress had not increased spending more and more, the Reagan tax cuts, rather than increasing the deficit, would have reduced it, because they gave rich people a rationale for changing their behavior. If the wealthiest taxpayers’ percentage of federal income taxes had remained constant through the 1980s — i.e., without the Reagan tax cuts — by 1988 the group would have paid the federal government $32.2 billion less than it actually did. Without the tax cuts, according to the Congressional Joint Committee on Taxation, individual tax liabilities would be approximately 50 percent higher than under current law. Taxpayers in every income tax bracket would be paying substantially more if the 1980 code had remained in place, from those making less than $10,000 a year (an effective tax rate of 10.5 percent rather than 8.3 percent under current law) to those making $75,000 to $100,000 (36.3 percent instead of 22.7 percent). The average American family who made $46,737 in 1998 would be paying $7,077 more in income taxes per year if the 1980 law had remained in effect — a 264 percent increase.
But when times are good, even tax-hating Americans grow lazy about watching the bill that comes due on April 15. Witness Bob Dole’s inability to rally voters behind an across-the-board tax cut, and the lack of public support for congressional tax cutters. Meanwhile, as Americans bask in the afterglow of the Reagan boom, taxes as a percent of GDP have never been higher — and are certainly higher than Cato’s common sense barometer would indicate. According to the Commerce Department, federal receipts reached 21.8 percent of GDP in the third quarter of 1998, an increase from 19 percent in the first quarter of 1993, and the highest tax burden in American history, even higher than during World War II.

The result of excessive taxation, Cato says, is “bitterness, murmurings, universal discontents; and their end, generally, rebellion and an overthrow of the then present establishment, or of public liberty.” Excessive taxation goes against Cato’s belief that people can do for themselves what is best, namely, use their own property in a way best suited to their needs. Some even make the argument that a budget surplus isn’t that at all; rather, it is a tax surplus to which the government has no right because it violates the natural right to property, in this case to the fruits of one’s own labors.

Excessive taxation, in contrast, is based on the idea that government can spend the money best. As House Majority Leader Dick Armey has noted, “Politicians have no right to charge the taxpayers more than it costs to run the government. The American people intuitively know that if they are given a portion of their own money back, they can do more to meet their families’ needs than bureaucrats in Washington.” The seemingly endless bounty provided by the long economic boom has wrapped us in a cocoon of well-being, but all good things must come to an end, and when they do, the tax bite will be noticed, and Cato’s bitterness, murmurings and universal discontents will begin.
And begin they should, since the money raised by taxation belongs to the taxpayers who finance government, not the other way around.

Perhaps another fact will be noticed as well. Government wants the money for reasons Cato, with his mistrust of concentrated power in any government, would understand. As explained by analyst Amity Shlaes in the *New Republic*, “Leading a school of thought known as public choice theory, (Nobel laureate James) Buchanan has argued that government’s impulse is very much like the impulse of any private-sector business: it wants to compete and grow.” This is why, “in 1999, bereft of any serious reason to maintain high taxes — we have, after all, no war, no deficit, and a president who has declared the era of big government over — many lawmakers, particularly Democrats, still insist on spending first and cutting later.”31
Cato was, in all essentials, a free trader who could have predicted that the tariff wars of the 1920s and early 1930s would help worsen the Great Depression. He wouldn’t have understood the modern-day protests of the nitwit Left, which sees supernational corporate domination lurking behind every move towards freer trade, or of the paranoid isolationist Right, which recoils at trade deficits and wants to limit imports and raise duties. Or, for that matter, of the U.S. Senate, which failed to accord Bill Clinton the fast track trade negotiating ability granted every president since Richard Nixon. Cato understood that high tariffs stifle trade and make imported goods more expensive, while reducing tariffs gives buyers more choices and lower prices. Further, in an interconnected world, it is rare that a tariff punishes only the country on the other side.

To take just one example, for decades the federal government has managed to keep sugar prices in the U.S. far above world price levels — protecting domestic sugar companies largely by curtailing imports. Also, under a government loan program, sugar processors who put up sugar as collateral are entitled to forfeit their crop, keep the loan money and let the government eat the loss. Experts estimate that higher sugar prices guaranteed by government programs cost U.S. consumers $1 billion a year in the form of higher prices for sugar, candy and soft drinks. Confectioners and others who use sugar in their products formed the Coalition for Sugar Reform, which aims to deregulate the sugar industry, but the sugar producers have powerful political allies — having given Democrats and Republicans $7.2 million between 1995 and 1999, more than any other commodity group in Washington.32

In some ways, the United States trade deficit — the current account deficit hit a record $200 billion in 1998 — is a product of a healthy economy. According to the 1998 Economic Report of the
President, the trade deficit acted as a safety valve for economic expansion, as imports kept inflation low while an influx of foreign capital for investment kept interest rates low, thereby helping to sustain rapid growth. As the report noted, "Today's trade deficit reflects the economy's current success in growing — and not our free trade policies." There isn't even compelling evidence that trade deficits cost American jobs. During the 1980s, the U.S. had some of its largest trade deficits ever, yet from 1983 to 1987 the economy created 13 million jobs and the unemployment rate fell from 9.6 percent to 6.2 percent. This is in contrast to the European Union, which relies heavily on protectionist policies, ran constant trade surpluses and had a net loss of jobs.

Since 1980, adherence to open market policies has allowed the United States in many years to be both the world's leading exporter and importer, with exports of goods and services more than tripling over that period as real GDP grew more than 50 percent. Total civilian employment grew more than 50 percent — more than 30 million people — a record of growth unmatched by any other advanced nation. Having cheaper imports, as Cato (or anyone else who can add and subtract) might have noted, means having more left over to do with what we wish, such as buy domestic goods or invest. There are two other benefits, according to American Enterprise Institute fellow James Glassman: imports force domestic businesses to compete for the consumer's dollar by making better products, and imports lower inflation.

The benefits of free trade are not confined to the United States. As a result of participation in the North American Free Trade Agreement, Mexico climbed from 26th place among the world's exporters in 1993 to eighth in 1999. Mexican companies now employ about 70,000 overseas workers in more than two dozen
countries, generating about $8 billion in annual revenue — the figure for workers rising from just 2,000 in 1990.

And in 1999 Mexican manufacturers shipped more than $120 billion of goods abroad. While more than half of the total comes from Mexican units of U.S. multinationals, about $50 billion comes from home-grown industry — five times the 1994 level.36

As succinctly stated by Adam Smith, “Never make at home what it will cost... more to make than to buy.... If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them.” Or consider another source: “The rapid improvement of all instruments of production, by the immensely facilitated means of communication, draws all, even the most barbarian nations, into civilization.” Even Karl Marx understood that trade is good.

Finally, writing in the Federal Reserve Bank of St. Louis’s economic review, economist Michael Pakko argues that, “rising trade and current account deficits are consistent with the notion that strong investment spending is associated with the adoption of new technologies, with the anticipation of rapid economic growth in the future suppressing domestic saving.” Thus, the inflow of foreign investment is both a sign of the economy’s strength and a contributor to it. The trade deficit is simply a statistical corollary.37
 CHAPTER 7  REGULATION: BUREAUCRACIES

DO NOT SHRINK

Tax policy, at least, is set by people we elect. What would Cato have made of the modern American federal bureaucracy?

Cato admonished his readers to beware the expansion of power in government. The bureaucratic machinery of the American government bears out his warning. Bureaucracies do not shrink. It is the nature of bureaucrats to seek more regulations, thus larger budgets, thus greater control. As former Food and Drug Administration Commissioner Frank E. Young once said, “Dogs bark, cows moo, regulators regulate.”

Money spent by the economy on regulation is money that isn’t spent on something else. On the other hand, when we deregulate, we save money. Between 1982 and 1987, the number of pages in the Federal Register decreased by 19 percent, the number of full-time regulators dropped by 15,000, the estimated cost to regulated businesses fell by $13 billion and real economic growth was 3.1 percent. Federal energy deregulation meant more and cheaper fuel. Airline deregulation brought passenger savings of $12.4 billion in lower fares and greater safety. Transportation deregulation allowed truck and rail shippers a 35 to 75 percent decline in real average rates and faster, more reliable service.

The opposite, unfortunately, is also true. In 1994 alone, the Federal Register increased by nearly 70,000 pages, or 40 percent. Businesses and private citizens spent more than $6,000 per household on the regulations, paying more for goods and services and spending resources on compliance. In 1997, the total cost of federal regulations (in 1991 dollars) was more than $600 billion. Between 1987 and 1996, the number of regulators increased by 25 percent, annual regulation costs jumped by more than 20 percent, the regulatory burden on business totaled $1.3 trillion a year and growth was 2.5 percent.
In 1999, U.S. regulatory costs — in effect, a hidden tax — were $758 billion, exceeding the output of Canada or Mexico, and consuming approximately 20 percent ($7,410) of the average American family’s after-tax budget ($41,846).

Of the 4,538 regulations at various stages of implementation in 1999, 137 were “economically significant” rules that would each have at least $100 million in economic impact — imposing projected future costs of at least $13.7 billion yearly.

The burden would be easier to shoulder if it were consistently productive, but often it isn’t. This is especially true in the case of many health and safety regulations, which have been created, theoretically, to protect people. But too often, they are enacted without sufficient scientific evidence or practical experience to justify their cost. And in some cases, the cost imposed compared to the putative protection is surreal. For example, regulations are rarely subjected to a cost-benefit analysis. Researchers who study risks refer to “life-years saved,” the difference between an average life span and a premature death. According to a 1994 study the highest-cost, lowest-benefit regulations were:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Cost per Life-Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Radionuclide emission control at coal-fired utility boilers</td>
<td>$2,395,161,000</td>
</tr>
<tr>
<td>Benzene emission control at rubber tire manufacturing plants</td>
<td>$19,865,323,000</td>
</tr>
<tr>
<td>Radionuclide emission control at uranium fuel cycle facilities</td>
<td>$33,750,000,000</td>
</tr>
<tr>
<td>Sickle cell screening for non-black low-risk newborns</td>
<td>$34,239,773,000</td>
</tr>
<tr>
<td>Chloroform private well emission standard at 48 pulp mills</td>
<td>$99,351,684,000</td>
</tr>
</tbody>
</table>
At other times, the regulatory burden is simply the irritation factor involved when an agency meddles because it can. Two examples will suffice. The first concerns a fish farm that shipped live fish by truck, adding ice to help the fish survive the hot ride and salt to kill parasites. The Food and Drug Administration responded that since neither ice nor salt had been approved as a drug for fish, the company was in violation. While the FDA said it had never actually prosecuted anyone for icing fish tanks, the agency made it clear it could if it wanted to.46

The Occupational Safety and Health Administration wasn’t so reticent in the case of two construction workers who rescued a colleague who had been buried alive in a landslide. They dug with their hands until his head was uncovered and he could breathe, almost certainly saving his life. OSHA responded by fining their company $7,875 because the men didn’t put on hard hats and didn’t take precautions against more landslides during their rescue. After a congressional outcry, the Labor Department dropped the suit.47 Similar bad publicity stopped OSHA from making visits to inspect working conditions of those who work at home.
The balance among various sections of government was a prized part of Cato's separation of powers in the English constitution, because it functioned as a bulwark against tyranny. As he explained in Letter 17 (p. 127), "But if the constitution should be so stubbornly framed, that it will still preserve itself and the people's liberties, in spite of all villainous contrivances to destroy both; must the constitution itself be attacked and broken, because it will not bend. There must be an endeavour, under some pretence of public good, to alter a balance of the government, and to get it into the sole power of their creatures, and of such who will have constantly an interest distinct from that of the body of the people."

The Founders took this warning to heart, and built in restraints on government with a federal system under which powers not specifically relegated to the federal government devolve to the states. But these powers have been steadily eroded. Education, which ought to be a state and local issue, has become a vast federal bureaucracy. A number of expensive, cumbersome environmental laws — such as Superfund and the wetland provision of the Clean Water Act — have been enacted on the theory that the federal government cares more about and is better suited to managing affairs than local government is. (The results have been unimpressive. Considering just Superfund, according to a General Accounting Office report, after 20 years and $14 billion, 838 of the 1,400 Superfund sites still required cleanup action as of April 1999.) Mandates — federal laws demanding action which local entities must pay for — routinely violate the principle of federalism. Less well known is the federalizing of crime. According to former Attorney General Edwin Meese III, more than 40 percent of the federal criminal provisions enacted since the Civil War
became law in just the past 30 years, endangering the constitution-
al principle of decentralized law enforcement that has been the bul-
wark against the centralization of police power at the national
level. Federal crimes now range from such purely local offenses as
carjacking and church burning to such trivial matters as disrupting
a rodeo or damaging a livestock facility.49
Cato embraced the rule of law as an essential instrument to preserve liberty. His study of human nature convinced him that not even religion (by which he meant Protestantism) was able to restore honesty and happiness to mankind. In fact, the "melancholy truth" he recognizes in Letter 31 (p. 222) is that where laws don’t tie men’s hands from wickedness, religion seldom does. There is nothing so terrible that human nature isn’t capable of it, thus, "the making of laws supposes all men naturally wicked; and the surest mark of virtue is, the observation of laws that are virtuous.” The key is to look below the surface of a nation’s stated creed and see the workings of the laws beneath it. A nation’s virtue is found in the nature of its government, not in the form of its religion. Cato draws the comparison between the Italians, who professed Christianity, and the “infidel” Turks, concluding no one would find the former more virtuous than the latter.

In Letter 25, among other places, Cato examines the results when even the pretense of promoting public good through the rule of law has been done away with. The letter’s subtitle is “Considerations on the destructive Spirit of arbitrary Power. With the Blessings of Liberty, and our own Constitution.” It contains his most cogent appreciation of the benefits and dangers of power concentrated in the hands of the state:

“Power is like fire; it warms, scorches or destroys, according as it is watched, provoked or increased. It is as dangerous as it is useful. Its only rule is the good of the people; but it is apt to break its bounds, in all good governments nothing, or as little as may be, ought to be left to chance, or the humours of men in authority: All should proceed by fixed and stated rules, and upon any emergency, new rules should be made.” (p. 186) “The good of the governed being the sole end of government, they must be the greatest and best governors,
who make their people great and happy and they the worst who make their people little, wicked and miserable.” (p. 179)

In this letter, Cato examines what happens when the rule of law goes out the window, contrasting the way liberty and tyranny limit or abuse power by trampling on or upholding the rule of law. In Letter No. 3, one of the South Sea Bubble letters, he writes, "The law is the great rule in every country, at least in every free country, by which private property is ascertained, and the publick good, which is the great end of all laws, is secured; and the religious observance of this rule, which is what alone makes the difference between good laws and none.” (p. 44)

The rule of law is the greatest protection for people who come together voluntarily to form a government. The rule of law kept governing classes from doing what Cato believed came naturally to them: using power because they had it and giving themselves more power because they could. Despots, he says in Letter 25, make their people "little, wicked and miserable," by depriving them of property and liberty. The effect isn’t simply to distort policy and politics; it is to reorder the natural world, a phenomenon not unknown in the 20th century. We have seen famines and financial ruin caused not only by natural forces or warfare but also by the tyrannical use of power. Indeed, one of Cato’s observations almost 300 years ago seems especially prescient today. He wrote: “Despotick power has defaced the Creation, and laid the world waste. In the finest countries in Asia, formerly full of people, you are now forced to travel by the compass: There are no roads, houses nor inhabitants. The sun is left to scorch the grass and fruits, which it has raised; or the rain to rot them.” Cato’s observation could have been a news report filed from the site of any number of government-engineered famines of the 20th century which owed little to nature, and much to “the destructive spirit of arbitrary power.” (Letter 25, p. 181)
The two most spectacular examples of democide — the killing of its own people by a government — occurred in the Soviet Union in the early 1930s and China in the late 1950s. The Soviet Union actually had a trial run at government-engineered famine before the disaster of the early 1930s, in 1921, when the new communist government directed food to politically important areas and sold more abroad for cash rather than feed starving peasants. According to historian Richard Pipes, about five million Soviet citizens died between 1921 and 1923. The Ukraine famine of 1932-33 was even more directly the result of government action, as Soviet officials seized grain held by peasants in addition to the stocks that were already demanded by production quotas. There was almost nothing left to eat, and mass starvation predictably ensued. A number of observers have pointed to the specifically political nature of Stalin’s actions against Ukraine. While much of the Russian peasantry accepted collectivization without demur — in which peasants were forced onto collective farms and required to meet production quotas — Ukrainian opposition was both ideological and political, since there was a long tradition of private land ownership and independent farming. The Ukraine agricultural policies were a way for Stalin to put an end to both nationalism and the present problem in one stroke. Historian Robert Conquest has estimated that seven million people died in the famine, five million in Ukraine alone. Later estimates based on research from the former Soviet Union put the figure as high as ten million. This was in addition to another seven-and-a-half million who died in the so-called dekulakization and other state-sponsored violence between 1930 and 1937, which further interrupted food production.

The Chinese famine of the late 1950s was also the result of government mismanagement, but without the cold calculation of Stalin’s war against the recalcitrant Ukrainians. In a sense, however, it was engendered by the Russian famine. Mao and other Chinese leaders wanted
to model their activities after Stalin’s, and in 1955 ordered Chinese peasants to form themselves into collective farms as part of the stunningly misnamed Great Leap Forward. Grain output dropped 40 percent by the next year. Despite that, China, like the Soviet Union before it, continued to export large amounts of grain and even to store it domestically despite nationwide starvation. The result was the largest government-engineered famine in history, with estimates of deaths ranging from 16.5 million to 29.5 million. State procurement of grain, as in the Soviet Union, failed to take into account the fact that little was left to feed those who produced it in the first place. Nor was distribution in China any better. Because of inadequate central planning, some regions were denied the necessary amount of foodstuffs. Because of the central planners’ myopia, the shortages and consequent famine were able to continue for three years. There was no political opposition to draw attention to the fact that millions were dying. When the defense minister complained to Mao that the agricultural policies were killing millions, he was purged. Meanwhile, the size of food supplies was exaggerated to conform with predictions of the Great Leap Forward. Finally, provincial leaders began ending Mao’s policies independently, and in 1961 the famine began to ease. But Mao had the last laugh. When he began the Cultural Revolution a few years later, he executed many of those whose policy reversals brought an end to the famine.

The story repeated itself when millions died in the Khmer Rouge’s Cambodia in the 1970s, Biafra in the late 1960s, Ethiopia in 1973, Bangladesh a year later, and sub-Saharan Africa in the 1980s. But all had the same thing in common: they had nothing to do with drought, flood or pestilence, only with a lack of liberty. As the Indian economist Amartya Sen wrote in his 1981 book *Poverty and Famine*, “There has never been a famine in a country that’s been a democracy with a relatively free press. I know of no exception. It applies to very poor coun-
tries with democratic systems as well as to rich ones.” Or, as Cato says, “In truth, every private subject has a right to watch the steps of those who would betray their country; nor is he to take their word about the motives of their designs, but to judge of their designs by the event. This is the principle...this is the doctrine of liberty.” (Letter 13, p. 103)

While hardly the same thing as engineered famines under tyrannical dictatorships, even free governments find ways to kill people with kindness (or, as Cato observed, make them “little, wicked and miserable”) when individual liberties are restricted in favor of centralized planning undertaken for the best of reasons. What might Cato have made, for example, of the British Health Service, voted by Britons in one poll their greatest achievement of the 20th century — even ahead of winning World War II? He might have said more help was needed from the NHS’s psychiatric services. As reported in the New York Times, cancer is Britain’s second-biggest killer after cardiovascular disease. Yet because of the NHS’s socialized medicine, observers have said it has administered “Third World cancer care for years,” while the World Health Organization estimated 25,000 Britons die unnecessarily of cancer each year because of chronic lack of funds, specialists and treatment centers. As the result of rationing and other restrictions, Britons go without drugs that are routinely administered in the United States. Thus, the five-year survival rate of men with colon cancer is 41 percent in Britain versus 64 percent in the United States. For women with breast cancer, the five-year survival rate is 67 percent in Britain compared with 84 percent in the United States. And 500 people die every year while on the national waiting list for heart operations.

In Canada, the government-run health care system is equally overburdened and inefficient. People are not free to find their own care, and suffer accordingly. According to a Fraser Institute study, the swamped national health service is forced to ration health care because it is
unable to shake off a straitjacket of centralized bureaucratic planning. In January 1999, 23 of the 25 hospital emergency rooms in Toronto were closed to all patients, regardless of the severity of their injuries. The Canadian Medical Journal reported that in Ontario during one 12-month period, 121 patients were permanently deleted from the waiting list for coronary bypass surgery because they had become so sick they could no longer undergo surgery with a reasonable chance of survival. The Organization for Economic Cooperation and Development ranks Canada in the bottom third of its 29 member countries for availability of such technology as MRI and CT scanners, despite ranking fifth in national expenditures in 1997. Not surprisingly, 76 percent of Canadians told pollsters in 1999 that their health care service is in crisis. They are free to do one thing, however: go south. And they do, for the more relatively unrestricted health care in the United States, where Canadians have the freedom to spend their own money to buy the health care they want — after, of course, being taxed to cover the costs of deficient health care provided in Canada, thus paying twice.

Not that the United States doesn’t play with fire in its own way, creating dangers where a reliance on personal initiative would remove many of them. In an effort to increase gas mileage, Congress enacted the federal Corporate and Fuel Economy (CAFE) standards during the 1975 “energy crisis.” Original CAFE standards were 18 miles per gallon for cars and 15.8 mpg for light trucks up to 6,000 pounds. The rules spelled the end of the American station wagon, but there were graver results; CAFE standards killed people. At the time the standards became law, manufacturers pointed out that in order to meet the requirements, they would have to build smaller cars with less power. They weren’t alone. Ralph Nader warned in 1989, “larger cars are safer — there is more bulk to protect the occupant.” Researchers at Harvard and the Brookings Institution found that, on average, for
every 100 pounds shaved off new cars to meet CAFE standards, between 440 and 780 additional people were killed in auto accidents for a total of 2,200 to 3,900 every year. The National Highway Traffic Safety Administration reports 322 additional deaths per year occur as a direct result of shaving just 100 pounds from already downsized small cars.

Of course, the limitation of liberty takes many forms and inflicts various miseries. Trenchard and Gordon might have seen the humor in the fact their Letter 13 was published on a day modern American readers associate with an intimidating and arbitrary use of power: April 15. Even countries that grant citizens many liberties are not exempt from the misuse of power — the ponderous and bureaucratic kind. Good laws, Cato says, make a good prince, but even the best men can become mischievous when they set aside the law. There’s nothing like too much power to make a politician feel he’s above the law, at which point he may spy on his own citizens, read their FBI files or make illegal deals with foreign countries. Or do something as passive and seemingly benign as allowing a too-powerful bureaucracy to “care” for people.
But even by Cato's demanding standards, policy makers sometimes get it right. When they build more freedom into the system, the benefits are apparent. In his Letter 67 (somewhat misleadingly entitled "Arts and Sciences the Effects of Civil Liberty only, and ever destroyed or oppressed by tyranny") he makes the observation that "Wherever there is employment for people, there will be people" (p. 473). The letter is largely about work and the difference between voluntary and involuntary labor. Cato's thesis is simple and understandable: men won't willingly work for their own advantage, pleasure or their profit if the fruits of their labors are seized by a tyrannical government.

The key word, of course is "willingly." Millions have toiled for tyrannical governments because they didn't have the choice of voting with their feet. But given the chance, why do people move? A continuing thread in Trenchard and Gordon's argument is that there is a direct link between liberty on one hand and private property and prosperity on the other because, unrepressed, people will gravitate toward them. (This was a lesson taken to heart by the colonists who read Cato. As one historian observed, Americans' "concern with property, indeed their obsession with it, should not be dismissed easily.... Their understanding of property, in fact, was profoundly embedded in their thinking not only about the nature and purposes of political society, but also about the character and meaning of liberty itself."\(^53\)

And since property and liberty are inseparable, the opportunities for people to work for themselves or to sell their labor at fair rates will always pull them toward political democracies. In the 20th century's most notorious tyrannies, labor was extorted. It was a major reason why those economies either collapsed quickly or lumbered along, decades behind the democracies in output, efficiency and innovation, as products and services were pulled from a resentful and recalcitrant
workforce. The history of the Soviet Union’s central planning is one Cato might have found instructive. Bureaucrats micromanaged a far-flung enterprise from Moscow, fabricating figures and building impossible goals for the next five-year plan — even as a labor shortage in the late 1970s left five million jobs unfilled in a population of 270 million people. It was a system so top-heavy with bureaucracy it was incapable of competing with the industrialized West. As one analyst has described it, the centralized Soviet economy was only good at producing one thing: bureaucracies. The greatest failing of the centralized economy wasn’t its ruthlessness or stupidity, but its elephantine slowness and octopus-like reach. One example will suffice. The micromanaging and bureaucratic bottlenecks caused a backlog in both decision making and implementation of policy. A 1979 internal Soviet examination of party decisions that had gone unimplemented found 68 orders from the year before, 30 from 1977, 17 from 1976, four from 1975, two from 1974, five from 1973, one from 1972 and two from 1969. Translating to American terms, this last example would be the equivalent of the 1964 Civil Rights Act taking effect in 1974, Ronald Reagan’s 1981 tax cuts in 1991, and the 1996 welfare reform act in 2006.

However, as more countries became free — such as those in the former Soviet sphere of influence, and finally the USSR itself — capitalism and private property moved from the underground, where they had always thrived in a kind of state of nature, to the general economy. The shackles of central planning came off, allowing a slimmed down, less intrusive and more freedom-friendly government to get out of its citizens’ way. In its annual survey of world economic freedom, the Fraser Institute typically reports that countries which are most free — Hong Kong (for now, at least), Singapore, New Zealand, the United States and the United Kingdom — are also the most prosperous and the favorite destinations of immigrants looking for a chance to make the best living. Meanwhile, countries with the least-free economies —
Albania, Myanmar, Congo, Algeria, Rwanda and the Central African Republic — lag behind the rest of the world. Free countries like the United States appear to have such strong economies because they follow Cato's natural progression of economic liberty.

- A free country encourages labor because people work for themselves and keep what they make. In Letter 67, Cato contrasts this with countries where people's money isn't safe, notably from taxation — though everything's relative. Our taxes are too high, but compare favorably with most of Western Europe's, where economic growth has stagnated.

- A free country draws workers because it offers employment and safety.

- A free country draws investment because it pays the best returns.

Regarding the first two points, where might people like to move today? From time to time, Ernst & Young tax expert Jack Anderson compares the rates of taxation in various countries in a compilation he calls "The Misery Index." He adds together the top marginal tax rates in various categories — corporate income tax, personal income tax, supplementary income tax, wealth tax, employer Social Security, employee Social Security and sales tax — to come up with his comparison. Here are some of the scores — highest meaning the greatest misery — from his latest effort.

- France is the worst, with a score of 193. The French state's share of gross domestic product now exceeds 45 percent — up from 35 percent 30 years ago, perhaps explaining why half a million French citizens now live in the U.K. and a substantial number of French engineers call California's Silicon Valley home.

- Belgium, Italy, Sweden (Sweden's politicians now take 53 percent of GDP — up from 40 percent in 1970), Austria and Greece follow — with scores ranging from 171 for Belgium to 146 for Greece.
• Germany scores 143 (although that is scheduled to fall to 124 in 2000 if corporate income tax rates drop from 40 percent to 25 percent and the top individual income tax rate falls from 53 percent to 45 percent over five years, as planned.)

• Japan is rated 124 (the government makes off with 29 percent of GDP—an increase of nine percentage points since 1970.)

• Great Britain and Ireland both get 110.

• The U.S. rates a 90—even with federal taxes as a percentage of GDP at historical highs (state taxes aren’t included), perhaps explaining why the U.S. is fueling the international economic boom. If Cato got a tax bill from the IRS, he’d probably faint. If he lived in France, he’d probably just get a case of Chardonnay and drink until he passed out.

A similar rating system also bears out Cato’s conclusions about the relationship of liberty and property to economic well-being. The sixth edition of the Index of Economic Freedom (jointly published by the Heritage Foundation and the Wall Street Journal) concludes that more countries made advances than slid backwards in 1999. The bad news is that the economies of most countries remain unfree.

The index measures the pace and direction of economic freedoms in 161 countries.

• The economies of 73 countries were rated as “free” or “mostly free,” while 88 were judged “mostly unfree” or “repressed.”

• The freest economies are concentrated in North America and Europe, while a majority of the repressed economies are in Asia and Africa.

• Latin American and Caribbean countries made the greatest progress in the past year.
The three countries with the highest freedom rankings were Hong Kong, Singapore and New Zealand. The U.S. shared fourth place with Bahrain and Luxembourg. Other countries rated “free” were Ireland, Australia, Switzerland and the United Kingdom.

Among former communist countries, Estonia, Hungary and Armenia were cited for their progress in adopting free-market policies.

The five most repressed countries were North Korea, Iraq, Libya, Somalia and Cuba.

The authors of the study report that each year the data point to the same conclusion — that countries with the most economic freedom also have higher rates of long-term economic growth, and their people are better off at all income levels.

Finally, while political and economic freedom are ends in themselves, people who live in free societies also enjoy greater health and longer life. Freer countries have higher standards of living and people there can afford better food and health care, the latter often an alternative to government-run health care systems. So it is worth keeping in mind that the average annual per capita income of the freest nations is $18,100 — compared to $1,700 for the least-free countries.

Comparing the Freedom House survey of political freedom around the world and the Cato Institute’s annual Economic Freedom Index with global health-care statistics, analysts found that:

- People in countries judged to be free have life expectancies averaging 76 years — while those in non-free countries live an average of only 57 years.

- South Koreans today enjoy much longer life expectancies than North Koreans.
Taiwan has longer life expectancies than China.

West Germans were outliving their East German counterparts by the time the Berlin Wall fell.

Analysts say that such realities should silence advocates of government-run health-care systems, such as the one operating in, say, Cuba.56

As for a free country drawing investment because it pays the best returns, we have only to look at the flood of money from around the world pouring into American markets over the past decade as hundreds of billions of dollars from foreign investors vote for open markets. As The Economist has noted, capitalism is far from perfect and economic growth is not an end in itself. But it is a good means to an end. The market’s advantage is that it allows things to evolve in a very human way, through a process of constant experiment, involving the free choices of millions of people.57 And as prosperity grows, other benefits of liberty follow. Or, as Cato put it, “[T]he thoughts and desire of conveniency, plenty, ornament, and politeness, do presently succeed. .... And all these, under proper regulations, contribute to the happiness, wealth, and security of societies.” The combination of liberty and capital have sparked innovation in the United States throughout the 20th century and continue to do so now, from multimillion-dollar companies to start-ups in entrepreneurial kitchens. They lead not only to significant breakthroughs but also to the “convenience and plenty” that marked one of the differences between the Western democracies and the Eastern dictatorships during the Cold War. More than a decade removed from the fall of the Berlin Wall, we must remind ourselves that while the West was a coat of many colors, the East was uniformly gray. Shortages weren’t simply common in the Soviet bloc, they were a fact of life. Ornament suggests the arts that flourish in a free state and go underground under tyranny, and the litany of artists intim-
idated and works suppressed or destroyed by tyrants in the 20th century suggests Cato is right. Tyrants often see artists as enemies of the state at worst, potential propagandists at best. While attempts in free societies to censor or suppress artists occur, it’s at least encouraging that as often as not they provoke a loud and impassioned backlash. Only consider the response to self-righteous book banners who want to patrol the public library shelves or self-appointed moralists who want to pull art works from public displays. The result of their actions is typically to sell more books, movie tickets and museum admissions. The fact is, as economist David Henderson has pointed out, that capitalism delivers the goods. Widespread prosperity gives people the means to buy books and other forms of art.

- Citing Tyler Cowen’s *In Praise of Commercial Culture*, Henderson points out that whereas in 1760 a common laborer had to work two whole days to earn enough money to buy a cheap book, today the cost of a paperback is about the hourly minimum wage.

- In 1989, the average American bought eight books, up from three in 1947.

- Presumably because of increased wealth, 35 percent of Americans visited museums in 1997 compared with 22 percent in 1982.

- Capitalism has allowed minority groups access to markets despite widespread discrimination. When black R&B musicians were turned down by major labels, they started their own, such as Chess and Motown.

- Capitalism has helped women authors. When the cost of books made it hard for authors to survive without patronage, men got it all. But when writers “competed for readers rather than favors, men’s advantage was nil.” Jane Austen and the Brontes led the way, and by the 19th century half of the published English novelists were female.

Henderson concludes that whatever one’s criteria for culture, the
odds are there will be more of it with free markets than if government
has a heavy hand in the economy (and one only has to think of Social
Realist art to believe he’s right).58

As for politeness, well, we can’t have everything.
Without freedom of thought, there can be no such thing as wisdom; and no such thing as public liberty, without freedom of speech: Which is the right of every man, as far as by it he does not hurt and control the right of another... Whoever would overthrow the liberty of the nation, must begin by subduing the freedom of speech” (Letter 15, p. 110).

Twentieth-century dictators have turned Cato’s analysis from Letter 15 on its head as a model for seizing power. Suppression, then the outright criminalizing of free speech, were the stepping-off points for both Bolsheviks and Nazis. The public speech of political opponents, government critics and newspapers was quickly silenced. Petty tyrants from Libya to Iraq to Myanmar still jail or shoot critics or otherwise deny free speech. In the few remaining Communist dictatorships, freedom of speech is still illegal. The Chinese may creep cautiously toward capitalism, but the government’s hand remains firmly on the critic’s throat, and it will stay there as long as the present rulers stay in power. Freedom of speech is the freedom from which all others flow.

If dictators turned Cato’s idea on its head, Americans enshrined it. The Constitution guarantees the right of free speech, and tradition and precedent reflect Cato’s qualification: as long as another’s rights aren’t impinged on, speech should be unbounded. As the noted jurist Judge Learned Hand observed in a First Amendment decision, democracies flourish when the people are exposed to “a cacophony of tongues.” As for Cato, if he’d had a working knowledge of modern ordnance, he might have called free speech the live hand grenade tossed into the body politic, and he would have been all for the inevitable explosion, because he recognized free speech for what it is:

Free speech is an irritant. It is the last thing public malefactors want to hear (“a thing terrible to publick traitors,” as Cato says), and one can imagine a former director of the South Sea Company or a government
official who grew rich from its payoffs angrily throwing his copy of the *London Journal* into the fire after reading another Cato letter maligning him. Today, evildoers of every stripe, in and out of politics, know that their deeds can be “openly examined and publicly scanned” because of free speech.

Free speech is offensive. Of course taste is always in the eye of the beholder, which is why speech is the most personal freedom. One man’s pornography is another’s pleasure. But, as Cato might have added, there are always some people one should wish to offend.

Free speech is boundless. We tolerate its excesses the way we do no other precisely because we value its scouring quality. We may haggle over the Framers’ real intentions concerning the right to bear arms or differ on how they now might have defined the right of privacy, but when we read, “Congress shall make no law abridging the freedom of speech,” we mean, given the usual shouting-fire-in-a-crowded-theater exceptions, no law.

Why, then, are we so often afraid of free speech? It’s a phenomenon Trenchard and Gordon might have recognized because they were ever-skeptical of those with power being able to resist limiting others’ liberties — and of the sheep-like response of the governed to being intimidated and misled. Writing about historian Bernard Bailyn’s interpretation of Cato’s writings and their impact on the generation of American revolutionaries, Murray Rothbard noted, “Trenchard and Gordon, and other influential libertarian writers, clearly and passionately set forth the libertarian theory of natural rights, went on to point out that government in general...was the great violator of such rights, and warned also that power...stood ever ready to conspire to violate the liberties of the individual.” Hence, the people must be ever ready against those who would expand power at the people’s expense by limiting speech. Supreme Court Justice William O. Douglas said in
1951, “Very few Americans have ever actually been willing to grant (free speech) freedoms respecting either political or aesthetic matters that they dislike or believe fraught with danger to the general welfare.” Thus, the busybodies forget the First Amendment and go to work. The government, contrary to Cato’s fears, isn’t the great violator of rights; we do it ourselves, and both sides of the political spectrum take part.

Political scientist David Lowenthal, decrying “moral pollution,” asked in a 1999 cover story in *The Weekly Standard* what was wrong with censorship. In his 1996 book, *Slouching Towards Gomorrah*, Robert Bork questioned whether censorship is really as unthinkable as we all seem to assume. On the left, speech censorship on college campuses has become a fact of life, except when challenged in court. The University of Wisconsin’s speech codes were created by then-chancellor Donna Shalala, later Bill Clinton’s HHS Secretary. The code set limits on expression and punishment for violators. She set the code in place noting, “American society is racist and sexist. In the 1960s, we were frustrated about all this. But now we are in a position to do something about it.” That something, of course, was the unconstitutional limitation of free speech. Students sued and got the code overturned in 1991. Federal District Judge Robert Warren ruled “Suppression of speech, even where the speech’s content appears to have little value and great costs, amounts to governmental thought control.” But it wasn’t until 1999 that the faculty rejected the school’s speech code for professors. Meanwhile, conservative college newspapers are often the target of thefts and burning, occasionally with official approval. Students at the University of Pennsylvania stole an entire 14,000-copy run of a newspaper, saying their vandalism was protected by the First Amendment. High school newspapers repeatedly suffer censorship, and great novels must regularly be defended against those who find their presence on library shelves unsettling. Notable among them are *Huckleberry Finn*, which has been attacked repeatedly for using the
word “nigger,” despite Mark Twain’s clear contempt for slavery and the fact that the slave, Jim, is the most honorable character in the book after Huck himself; and John Steinbeck’s *Grapes of Wrath*, for supposedly stirring anti-American sentiments. Agitators give films they find offensive far more publicity than most studios could afford by protesting their content. The mayor of New York City helped sell tickets to a modern art exhibition by threatening to close it for obscenity.

But what happens when free speech veers into libel? In his 32nd letter, Cato draws the distinction between writing about the indiscretions of a private citizen and a public man. For the private citizen, often caught in the trap of ignorance or folly, some truths aren’t fit to be told because discovering a small fault can do great mischief and discovering a great fault can do no good. Making up a story is worse still. But betraying the public trust is another matter, and exposing the wickedness of a public man “is a duty every man owes to truth and his country.” Cato equates treason with betraying the liberties of the people: “Let it be remembered for whose sake government is.” (p. 228)

Cato doesn’t admire libel, but he sees it as an unavoidable and unfortunate aspect of a greater good. He cites Machiavelli’s belief that accusation is beneficial to a state and that while slander is a base and mean thing, slandering good men can’t be worse than being unable to accuse bad ones. He accepts that as long as there are printing and writing, there will be libels. But should that lead to a crackdown on the press? No. “As to those who are for locking up the press because it produces monsters, they ought to consider that so do the sun and the Nile and that it is something better for the world to bear some particular inconveniences arising from general blessings than to be wholly deprived of fire and water.”

He cites examples of libels from England’s recent past; says no man hates libel more than he does; and then, after acknowledging their
falsehood (one can imagine the Framers of the Constitution taking notes), adds that he would rather many libels “escape” than liberty of the press be “infringed.” Corrupt men fear the press; “honest men with clear reputations” don’t. Cato notes with a certain pride that no other nation would allow such papers to be published as England suffers, something that demonstrates how free the society is and how laissez-faire its attitude is toward a free press. Strolling past a modern American newsstand, some might wonder—just for a second—how much freedom is a good thing (“Princess Di’s Brain on Life Support at Parkland!! Mates with JFK’s Presidential Parts!!”) But bad taste is one thing, libel another.

It would be interesting to bring Cato into the world of the National Enquirer, loose-cannon web sites and trash TV. One can imagine him recoiling, shaken, but sticking to his guns. Would he have forgone his right to attack the villains behind the South Sea Bubble just so others couldn’t scandalously attack the reigning monarch in favor of the Pretender? Would we ditch dogged reporters who bring down lying presidents, corrupt judges and crooked county commissioners just because scandal sheets call respectable citizens drunks or murderers? Hardly. When genuine libel occurs, in Cato’s time as in ours, the libeled can sue. Otherwise, freedom of the press must remain untouched. “Where there is no liberty, there can be no ill effects of it,” he concludes. And few would “propose a law for restraining people from traveling upon the highway because some who used the highway committed robberies.”

Patriotism and Prejudice

Cato praises few things higher than public spirit, by which he means patriotism. As he says in Letter 35 (p. 251), “It contains in it every laudable passion...it is the highest virtue.... It is a passion to promote universal good.” It’s also hard to come by, at least as Cato defines it.
First, he explains what patriotism isn’t. It is not a pedestrian, bland civic virtue, like clean streets, which he damns with faint praise: “a fine thing which everybody likes.” Neither is it linked to the advancement of a personal or political agenda, as if to reject a particular policy or reform somehow equates to an insufficient love of country. Cato’s central argument concerns the difference between patriotism in “arbitrary countries” and free ones. In the former, public spirit is simply the state of being “blind slaves to the blind will of the prince, and [to] slaughter and be slaughtered for him at his pleasure.” Modern equivalents are easy to imagine. There’s no doubt Khmer Rouge soldiers were drunk with love for a communist Cambodia, that Japanese officers ordering the destruction of Nanking were toxically patriotic and that fervent devotion to the Reich or the Worker’s Paradise made it easy to kill indiscriminately.

But “my country right or wrong” isn’t Cato’s prescription for patriotism in free countries either. In fact, patriots often are the ones who seek to restrain and constrain government. The U.S. Constitution, written by men influenced by Cato’s letters and similar writings, is a document largely concerned with limiting government precisely because they knew it could go wrong so easily when given too much power.

Patriots are the final, best judges of government. “[E]very ploughman knows a good government from a bad one, from the effects of it: he knows whether the fruits of his labour be his own, and whether he enjoy them in peace and security. And if he do not know the principles of government, it is for want of thinking and enquiry, for they lie open to common sense but people are generally taught not to think of them at all, or to think wrong of them.” (Letter 38, p. 267)

Government, Cato might say if he were writing for an online magazine today, isn’t rocket science. In Letter 38, he demystifies what pundits and spinmasters often obscure. For “ploughman,” substitute any-
thing you like: “carpenter,” “housewife,” “computer programmer,” “garbage man.” They may not be familiar with political theory, but their common sense allows them to readily distinguish good from bad government by its effects. Are they overtaxed? Do their children go to good schools? Are their shores and skies properly defended? Can they buy and sell the things they make or need? Is their property safe? Does excessive regulation make their lives harder and more expensive? As Cato says, the answers to all these questions “lie open to common sense.”

Yet politicians often prefer that people think as little about government as possible and leave the heavy lifting to them. Paying for your health care? Planning for your retirement? Taxing and spending? Often they would have citizens believe these tasks are too complicated for the public’s understanding and fall victim to the statist impulse that tells them people are incapable of thinking or caring for themselves without government help. Politicians come to view citizens as people for whom statecraft is too intricate to grasp. They become people who can say, “We’re from the government and we’re here to help you” and not mean it as a joke.

Cato recognized another impulse to which many politicians are susceptible: the wish to work undisturbed and unremarked upon — and if they are examined, to be seen in the most favorable light. For the latter, partisan newspapers like the London Journal, in which Cato’s letters appeared, and political pamphlets provided spin in early 18th-century England, just as political operatives do today. But judging political leaders is no different and no harder than understanding the impact of their laws. Thus “honesty, diligence and plain sense” are the talents necessary for executing the public’s trust. Perhaps the reason politicians as a class are held in such low esteem is that we see so little of those virtues in so many of them. “Honest politician,” fairly or not, is
almost an oxymoron, perhaps because it is perceived that common sense often vanishes when a candidate assumes office. As Cato writes later, “refinements and finesses...are often only the false appearances of wisdom and parts, and oftener tricks to hide guilt and emptiness.” He didn’t see posturing, poll-driven politicians mouthing platitudes on Sunday morning talk shows, but if he had, his advice would have been simple — as simple as knowing good government from bad: “Honesty and plainness go always together.” (p. 268)

That belief in simple wisdom informs his opinion of prejudice as well. Cato’s definition of prejudice (Letter 49, pp. 326-31) is straightforward: an obstinate and unreasonable attachment to an opinion, supported only by a willfulness to maintain it. But reason and prejudice aren’t merely enemies; they are often made to pass for each other. Thus a person condemned for some prejudicial reason is thought incapable of any good, while a scoundrel who is lauded by public acclaim gets away with murder.

Cato gives examples of each. Alexander the Great and Julius Caesar are regarded as heroes, yet, he says, they “turned the world upside down and usurped its power; they paved their way to dominion with dead bodies.” Meanwhile, Oliver Cromwell, the 17th-century English regicide who was thought a monster, ruled Britain “with more equity and less blood.” Cato cites the example of an atheist, where “the odium of that name...is made a blot upon his best actions and greatest virtues.” But why? If an atheist says two and two make four, it’s still true. Truth and sobriety in an atheist are no worse than in another man. But prejudice “has long taught men, contrary to all reason, to think otherwise; and to consider, not what was done or said, but who were the men that said or did it.”

The 20th century had an appalling history of prejudice in action, and a lack of reason to explain it. From American racists to German
National Socialists, Muslims and Hindus killing each other in Pakistan and India to Arabs killing Jews and Jews Arabs in the Middle East, we’ve had more than our share of unreasonable attachment to opinions whose only logic was that people believed them so unthinkingly. Cato was uncharacteristically optimistic, however, regarding man’s ability to overcome prejudice — at least for those who lived in a free society. In Letter 38, he rated his own society as comparatively free, at least in contrast with what had gone before, when his forefathers’ “reason, being in other men’s keeping, was generally turned upon them, cooperated with other causes towards keeping them in bondage.” With liberty, he says, the light poured in.
NOTES

1 All references to the letters come from Cato's Letters or Essays on Liberty, Civil and Religious, and Other Important Subjects, Volume One and Volume Two, Liberty Fund, 1995, edited and annotated by Ronald Hamowy.


6 Rossiter Seedtime of the Republic, p. 141.

7 Ibid.


9 Rossiter, Seedtime of the Republic, p. 142.


14 Middlekauf, The Glorious Cause, p. 133.

15 Ibid.

16 Ibid., p. 118.


20 Ibid., p. 104.


34 Ibid.
37 Bruce Bartlett, commentary, December 27, 1999, National Center for Policy Analysis.
42 Stephens and Ryan, “Sprawl of Federal Regulations Belies ‘Reinvented Government.’”
51 Ibid.
52 Ibid.
53 Middlekauff, The Glorious Cause, p. 118.
55 Ibid.
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“Cato’s Letters” had a profound impact on Americans of the 18th Century. “Cato” was the pen name of two Englishmen, John Trenchard and Thomas Gordon. For three years beginning in 1720, Cato’s Letters were published in British newspapers. They popularized the notion of personal liberty, warned about the dangers of tyranny and the concentration of power, and extolled the virtues of limited government, the separation of powers, freedom of the press, freedom of speech and the rule of law. The Letters were reprinted many times in the colonies, and the ideas they espoused helped shape the political beliefs of the Revolutionary era. But the Letters aren’t merely historical documents. In the ongoing struggle between liberty and tyranny, Cato’s Letters are still as significant for modern Americans as they were for those who laid the groundwork for the American public.

Glenn Mitchell is a talk show host in Dallas.