

The Nashville Experiment, 1863: Regulating With, Not Against, the Market

By John Fockler



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Major General William S. Rosecrans had a problem. Rosecrans was commander of the Union's Army of the Cumberland, based largely in and around the city of Nashville, Tennessee. Rosecrans had been in command of the army's XIV Corps (which became the Army of the Cumberland) since October of 1862. In addition to being a base of supply for the army, Union troops were also using the city as a kind of rest and recreation center. And therein lay the problem.

The presence of so many young and unattached soldiers wandering around the city had attracted another army of sorts, nearly 1500 "public women," as one of the contemporary euphemisms put it. In other words, they were prostitutes (Serratore). By the spring of 1863, Rosecrans and his staff were becoming extremely concerned with the inevitable concurrence of nineteenth century prostitution: syphilis and gonorrhea. Estimates of the level of infection in Rosecrans' army ranged as high as ten percent. In the Union Army as a whole, "At least 8.2 percent of Union troops would be infected with one or the other before war's end—nearly half the battle-injury rate of 17.5 percent, even without accounting for those who contracted a disease and didn't know it or didn't mention it—and the treatments (most involved mercury), when they worked, could sideline a man for weeks" (Serratore).

The first solution that occurred to Union Army officers was the obvious one: remove the problem by removing the prostitutes, assumed to be the source of the problem. In July, Lieutenant Colonel George Spaulding,

Provost Marshal of Nashville, led police and troops on a raid of the city's brothels. One source says hundreds of women were rounded up, and "111 of Nashville's most infamous sex workers" (Moss) were loaded aboard a steamship called—I kid you not!—the *Idahoe*. The ship was then dispatched downriver to Louisville, Kentucky, where, it was hoped, it could offload its dangerous cargo. But armed guards at Louisville, and later on at Cincinnati and other, lesser, ports, prevented the "soiled doves" from leaving the ship. The *Cincinnati Gazette* reported:

There does not seem to be much desire on the part of our authorities to welcome such a large addition to the already overflowing numbers engaged in their peculiar profession, and the remonstrances were so urgent against their being permitted to land that that boat has taken over to the Kentucky shore; but the authorities of Newport and Covington have no greater desire for their company, and the consequence is that the poor girls are still kept on board the boat. It is said (on what authority we are unable to discover) that the military order issued in Nashville has been revoked in Washington, and that they will all be returned to Nashville again. (qtd. in Serratore)

At so it was. After a cruise of 28 days, the *Idahoe* found itself back at Nashville, still carrying the women. Plan A, removing the "business girls" from Nashville, had failed. It was time for Plan B. On August 20, 1863, Spaulding ordered all prostitutes in the

city of Nashville to register with the military government. A similar answer to the issue of prostitution had been in place in France since being initiated during the Napoleonic Era. But this plan was not a simple process of tracking the women.

Each woman who registered would be provided with a license to practice her trade. To be kept current, each prostitute would submit to a weekly medical checkup, for which she would be charged fifty cents. If found to be infected with a venereal disease, the woman would be hospitalized and treated. Women found to be engaging in prostitution without a license would be subject to a sentence of 30 days in the workhouse (Wilson). The program was to be self-sufficient, with the proceeds from the licensing and inspection to be applied to the cost of treating those in whom disease was found.

Two hospitals were designated for the treatment of venereal disease victims, Hospital 11 for soldiers and Hospital 15 for the prostitutes (Wilson). In those days, three-quarters of a century before the discovery of penicillin, treatment for syphilis and gonorrhea was possible and frequently effective, but involved the injection of mercury, itself a toxic substance, and required weeks or months to complete. Nevertheless, the program was considered a success.

The program was extremely popular with Nashville's prostitutes, who eagerly showed potential customers the certificates showing them to be disease-free. They were also grateful both to be free of the risk of arrest and to have access to the best available treatment if they were found to be infected. At the program's peak, August 1864, more than 500 prostitutes had been licensed, including 50 black women, who had initially been excluded from the program. Unsurprisingly, infection rates among Union soldiers declined. The program

was later replicated in Memphis, also a Union Army supply center, with similar results.

The program was even reasonably popular with the general civilian population. On August 24, 1863, the Nashville City Council postponed indefinitely legislation banning prostitutes "from riding in hacks with soldiers" (Wilson).

We have now seen that trying to remove prostitutes, and by implication, prostitution, from wartime Nashville failed, while legalizing, regulating, and taxing it succeeded. But why? My argument is that its success represents a simple case study in basic economics. It succeeded because it worked *with* market forces, rather than trying to work against them.

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When we consider market forces, we tend to think of how they affect the availability and price of the goods and services we buy or sell. Perhaps the most basic of these is the law of supply and demand. This economic principle says that the balance between the supply of a commodity and the demand for that commodity will affect its price. If demand rises and supply remains constant, the price goes up. The same is true if demand remains constant and supply falls, a condition we frequently but temporarily see with products that are illegal to buy, sell, or produce. If

demand remains constant and supply increases, the price goes down, as it does if demand falls and supply remains constant. The law can work backwards, in a sense, if artificial forces affect price. If the price at which a product may be sold is capped, the supply of that product will decline. If the price of a product or service is subsidized, supply will rise. If a minimum price greater than the market value of a good or service is mandated, demand will decline.

Another market force may be expressed as an analogy to the famous scientific truism that nature abhors a vacuum. Markets abhor a vacuum as well. If outside forces cut off the supply of a given product or service for which a demand still exists, a new source of supply will develop. In wartime Nashville, before the *Idahoe* returned and Spaulding's Plan B went into effect, this was already beginning to be seen. According to one of my sources, the only immediate effect of the removal of the *Idahoe* prostitutes—all of whom were white, by the way—was that black prostitutes filled the void. Without doubt, other prostitutes would have been drawn to Nashville even had the eviction stood, because the demand would have been unaffected (Wilson).

Are market forces natural laws? Some have tried to argue that they are not. One video popular on social media a couple of years ago featured a purported physical scientist claiming that they could be ignored or "engineered," because they are not "physical laws." Another source I came across, in passing, implied that market forces did not exist until they were invented in the Eighteenth Century. But market forces explain why Byzantine and Islamic coins are found in Viking graves, how the Silk Road functioned for centuries before Adam Smith, and why the production of purple dye helped build the city of Tyre. Nothing else does.

The basic rules of economics—the basic market forces—are, I would argue, natural laws and are, in fact, a subcategory of social psychology. They describe how numbers of people respond to particular stimuli. But, some would argue, people do not always respond in terms of material gain. That is quite true. But even this seeming transcendence of the marketplace falls within the realm of economic law if you concede, as economists always do, that people “profit” from non-material rewards.

I’m a blood donor. I recently recorded my 162nd donation with the Red Cross. I’ve never gotten a nickel out of it, but I’ve been rewarded with smiles and thank-yous, with a little jolt to my self-esteem, and with a feeling that donating is a way of pulling my weight in this society. Others may find non-material rewards in other ways, but the truism that people may be motivated by rewards other than material gain does not contradict market forces. It’s a part of them.

One always ignores market forces at one’s own peril. We may liken fighting market forces to squeezing a toothpaste tube with the cap screwed on tight. Squeeze long enough or hard enough, and that toothpaste is going to come out, but probably not where you expect it or want it.

In the case of the Nashville experiment, the operative market force involved was the concept that “nature abhors a vacuum.” There was a demand among the Union troops in Nashville for sexual services. There were women ready and able to supply these services, for a price. The attempt to remove the supply failed, and even had there been momentary success, other sources of supply (as we have seen) would have developed. There is no evidence in any of my sources that attempting to reduce demand was even considered. In wartime, there are generally better uses for soldiers than

locking them up for patronizing prostitutes, and Rosecrans (who was a West Point-trained professional soldier) and his staff knew far too well that there was no effective way to keep soldiers from seeking out prostitutes, anyway. They could not stop the demand and they could not get rid of the supply. What they could do—and did!—was make the supply safer. Even more than that, the method they found, licensing, examination and treatment, made it advantageous for the suppliers of the services to comply *and* safer for the customers to buy. Thus, the regulated source was more attractive to the prospective customer than any hypothetical unregulated competition would be. This is what’s called a win-win situation.

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Sadly, today, we are still in the process of learning these lessons. In statements as part of his campaign for the Republican nomination for President in 2016, Governor Chris Christie of New Jersey vowed that as far as laws permitting marijuana use in Oregon and Colorado go, he “will crack down and not permit it” (Ferner). President Trump’s new Attorney General, Jeff Sessions, has pledged to continue the prohibitory policies of the previous administration, under which large cannabis operations are still subject to Federal raid, even where legal under state law (Siegel). Politicians of all stripes in this country continue to support the so-called “War on Drugs,” despite its self-evident

failure and the fact that other nations, such as Portugal and the Netherlands, have produced much better results with programs that treat dangerous narcotics more like the way General Rosecrans treated prostitution. Yet gambling, which not so long ago was widely illegal, is now widely legal and regulated most places in the United States in one form or another, and while gambling is still in many ways a dangerous practice with many unfortunate, and sometimes innocent, victims, the very least we can say is that Harrah’s and Caesar’s Palace don’t shoot each other over market share. Neither do Phillip Morris and Lorillard.

Basic economic laws had already been formulated by the third quarter of the Eighteenth Century, and there is evidence that some scholars understood them much earlier than that. I do not know how familiar General Rosecrans (who was, as noted, educated to be a military officer and engineer) or Colonel Spaulding were with them. Curiously enough, though, both would eventually wind up in Congress, where dealing with economic issues was and is a daily task. But at the end of the day, it doesn’t matter whether they understood why their licensing plan worked where nothing else did. All that matters is that regulating with markets *does* work, and regulating or prohibiting against them does not.

Works Cited

- Ferner, Matt. “Chris Christie: ‘I Will Crack Down and Not Permit’ Legal Marijuana as President.” *Huffington Post*, April 14, 2015.
- Serratore, Angela. “The Curious Case of Nashville’s Frail Sisterhood.” *Smithsonian.com*. July 8, 2013.
- Siegel, Alec. “Jeff Sessions Signals Marijuana Enforcement Will Remain the Same.” *Lawstreetmedia.com*. February 14, 2017.
- Wilson, William Moss. “The Nashville Experiment.” *Opinionator* blog. *nytimes.com*. December 5, 2013.

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