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# FUTURE OF FREEDOM

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*Without justice, courage is weak.*

— *Benjamin Franklin*

# FUTURE OF FREEDOM

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

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Editor: Sheldon Richman

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# The Evil of the National-Security State

## Part 11

by *Jacob G. Hornberger*



On September 11, 1973, the democratically elected president of Chile, Salvador Allende, was ousted in a military coup headed by Gen. Augusto Pinochet of the Chilean army. It was a watershed in the history of Chile, breaking with the country's democratic tradition and unleashing a military reign of terror that lasted for 15 years, when a plebiscite finally removed Pinochet from power and restored democracy to Chile. In the aftermath of the coup, some 40,000 people were arrested and incarcerated without due process of law or trial. Thousands of them were tortured, raped, or executed.

What was the justification for the Chilean coup, which the U.S. government had encouraged and supported? National security, of course, specifically the threat of communism.

As a self-avowed Marxist, Allende was an ardent believer in socialism. Once in power, he began nationalizing businesses and industries, instituting and expanding social-welfare programs, imposing wage and price controls, and using the power of the government to attempt to equalize wealth and regulate and manage Chile's economy.

Even worse from the standpoint of Richard Nixon, the CIA, and the Pentagon, Allende was strengthening his close relationship with Fidel Castro, the self-avowed communist who was still in power in Cuba despite the many efforts by the U.S. military and the CIA to assassinate or oust him.

Allende's election was the U.S. national-security state's worst nightmare. Now there were two communist leaders in the western hemisphere. In the minds of U.S. officials, especially those in the Pentagon and the CIA, the "dominoes" in America's part of the world were falling. For U.S. officials, Allende's election constituted another grave threat to U.S. national security. Something had to be done. As

Nixon's national-security adviser Henry Kissinger put it, "I don't see why we have to let a country go Marxist just because its people are irresponsible."

### The coup

So the CIA went into action. Interfering directly in the internal affairs of another nation, this one some 5,000 miles from the United States, the CIA encouraged the Chilean congress to prevent Allende from assuming the presidency. When that effort failed, the agency undertook actions designed to create economic chaos within the country, with the aim of producing the conditions for a military coup. Nixon ordered the CIA to "make the economy scream."

Allende's socialist and interventionist measures, combined with the CIA's efforts to create economic chaos, succeeded in throwing the Chilean economy into a deep tailspin. Strikes paralyzed commerce, and mass demonstrations began filling the streets.

The U.S. government, relying on its close relationship with the Chilean military, encouraged a military coup, one that would oust the democratically elected president from power and install a pro-U.S. military dictatorship in his stead.

Standing in the way of the coup, however, was the commander in chief of the Chilean army, Rene Schneider. He opposed a coup and said that the Chilean military would comply with the constitution of the country

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**The agency undertook actions designed to create economic chaos within Chile, with the aim of producing the conditions for a military coup.**

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The U.S. national-security state refused to tolerate such recalcitrance. U.S. officials conspired with Chilean military officials to neutralize Schneider by kidnapping him, removing him from the scene.

During the kidnapping, Schneider was shot and killed. U.S. officials played the innocent, claiming that they had no intention of killing him. They had only wanted him kidnapped. It was a ridiculous position. U.S. officials were as responsible for Schneider's murder as the driver of a getaway car in a bank robbery is for murders that his co-conspirators commit in the course of the robbery.

Anyway, U.S. officials couldn't have been too surprised over Schneider's murder: it was only ten years after the U.S. national-security

ty state conspired with South Vietnam's military to oust that country's civilian president, Ngo Dinh Diem, and replace him with a brutal military dictatorship headed by Gen. Duong Van Minh.

John Kennedy expressed shock that Diem had been executed during the coup. Given that Kennedy had approved the regime change, however, he was as morally culpable for Diem's death as the soldier who actually did the shooting.

Once Schneider was gone, there was nothing in the way of a military coup. On September 11, 1973, the Chilean people learned the hard way why a standing army constitutes a grave threat to a nation's democratic processes.

Headed by Pinochet, whom Allende had appointed to replace Schneider, the Chilean military attacked the presidential palace and, it is no surprise, took control of the government. Refusing to be taken captive, Allende committed suicide.

Pinochet's forces immediately swept across the land to establish "order and stability." Some 40,000 people were rounded up and incarcerated. People were carted away to secret prisons and military dungeons, where they were tortured, raped, or executed — or "disappeared." No one got trials because,

as Pinochet saw it, he was engaged in "war" — war against communism and communists.

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**The U.S. military and the CIA — the core of the U.S. national-security state — were ecstatic over what was happening in Chile.**

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Lurking in the background were both the U.S. military and the CIA — the core of the U.S. national-security state — whose officials were ecstatic over what was happening. There, in Chile, the "good guys" were smashing the "bad guys" and, unlike America in its war against the communists in Vietnam, suffering minimal casualties. Suspected communists in all walks of life were being ferreted out by military and intelligence forces, which were free to fight communism without having one hand tied behind their backs. No need for search warrants, arrest warrants, Miranda rights, criminal-defense attorneys, due process of law, jury trials, or any other such technical nonsense. After all, this was a wartime problem, not a criminal-justice problem.

In fact, the mindset guiding Pinochet in his war against the communists, a mindset that fully reflected that of the Pentagon and the CIA, would in many ways be mir-

rored by the mindset of U.S. national-security state officials some 40 years later, when George W. Bush declared his “war on terror.”

### Killing Americans

In the initial days of the coup, two young Americans — Charles Horman and Frank Terrugi — were taken into custody by Chilean officials. Their crime? They were leftists who believed in what Allende was doing — that is, attempting to help the poor with social-welfare programs, equalize wealth, and manage the economy. Since the fear of communism was as pronounced as the fear of terrorism would become three decades later, Horman and Terrugi were swept up along with thousands of others who held leftist political views.

They were both quickly executed. No trial. No preliminary hearing. No due process. Just murdered. Of course, in the minds of military officials, it wasn't murder at all. It was war, a situation in which killing the enemy is legal and where laws against murder don't apply.

For years U.S. officials pretended they had no knowledge about what had happened to Horman and Terrugi. It was all a lie. Some 25 years after the coup, the State Department released a document ad-

mitting that the CIA had played a role in Horman's execution. Even though the document didn't mention Terrugi, the CIA had probably played the same undefined role in his murder as well.

It is impossible to overstate the significance of the U.S. national-security state's participation in the murder of these two young Americans, which was a watershed in its history. The U.S. national-security state knowingly, deliberately, and intentionally took out two American citizens, confident that no one could or would do anything about it.

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**For years U.S. officials pretended they had no knowledge about what had happened to Horman and Terrugi.**

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Were there any U.S. grand-jury investigations or indictments in the murders of Charles Horman and Frank Terrugi? Was there a congressional investigation into their killings? Do we even know the names of the CIA agents who participated in their executions? Do we know exactly what role the U.S. national-security state played in their murders? Do we know whether Nixon or other high U.S. officials authorized the hits?

The answer to all those questions is no, which is absolutely astounding. The Congress's and criminal-justice system's inaction reveals the omnipotent power that the military and the CIA had achieved over the American people some 25 years after the formal adoption of the national-security state.

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### The most famous of Pinochet's and DINA's assassinations was that of Orlando Letelier.

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It is no surprise that the CIA continues to steadfastly refuse to declassify tens of thousands of records relating to U.S. participation in the Chilean coup. Its justification? National security, of course, the same justification it relies on in its continued refusal to release critical documents relating to the Kennedy assassination some 50 years after that watershed.

Recently, almost 40 years after the murders of Horman and Terrugi, a Chilean judge issued a criminal indictment against a former U.S. army officer, Capt. Ray E. Davis, who was commander of the U.S. Military Group at the American embassy in Santiago at the time of the Chilean coup. The charge? Conspiracy to murder Horman and Terrugi. It's what the United States should

have done a long time ago. It's what the United States should still do.

To deal with the communist threat, Pinochet embraced a policy of assassination that would be embraced many years later by U.S. national-security state officials to deal with the threat of terrorism. Operating through the intelligence entity DINA, a secret police intelligence force that would partner with the CIA to fight communism, the Chilean military embarked on a program of assassinating suspected communists, not only within Chile itself but also in other countries. The assassination program was similar to the one that the U.S. military and CIA would adopt many years later in their post-9/11 war on terrorism. Among the suspected communists assassinated was a former army general named Carlos Prats, who opposed the Pinochet dictatorship from Argentina.

### Murder in America

The most famous of Pinochet's and DINA's assassinations, however, was that of Orlando Letelier, who had served as minister of foreign affairs, interior, and defense in the Allende regime and who was openly opposing the Pinochet dictatorship in Washington, D.C. In 1976 he was assassinated by a group of anti-Cas-



tro Cuban exiles headed by an American named Michael Townley, a DINA agent who had formerly worked as a CIA operative.

Oddly enough, the U.S. Justice Department considered Letelier's killing a murder rather than an act of war in the war on communism. Grand-jury indictments for criminal offenses were issued against the Cuban exiles and Townley. For planning and orchestrating the cold-blooded murder of Letelier and his young American assistant, Ronni Moffitt, Townley served a grand total of 62 months in jail before being released to the U.S. government and its witness-protection program.

A Spanish judge recently issued an indictment and arrest warrant against him for the 1976 kidnapping and murder of a Spanish diplomat, Carmelo Soria, who was working in Chile.

While national security was used to justify U.S. attempts to oust Allende, the obvious question arises: what danger to the United States was Allende's embrace of a combination of socialism, interventionism, mercantilism, and fascism? Sure, such policies would naturally cause economic damage to Chile,

but why was that a concern of the U.S. government?

Had Chile attacked the United States or even threatened to do so?

No. Like Fidel Castro, Mohammed Mossadegh, and Jacobo Arbenz, Allende was guilty of nothing more than being a popular foreign ruler who, owing to his belief in statism, was leading his nation into economic and financial disaster. It was the U.S. government, under the flag of national security, that was the aggressor against Iran, Guatemala, Cuba, Chile, and other nations.

Unfortunately, the national-security mindset did not end with the Cold War. The mindset would resurge with a vengeance, at least for the American people, when the war on terror replaced the war on communism.

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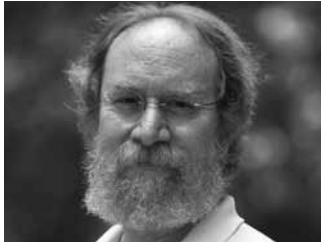
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**NEXT MONTH:**

**“The Evil of the National-Security State, Part 12”**  
*by Jacob G. Hornberger*

## Time to Nullify the Drug Laws

by Sheldon Richman



**T**homas Jefferson said a revolution every 20 years would be a good thing. Regardless of what one thinks of that, perhaps a little constitutional crisis every now and then would have its benefits.

One such crisis may be brewing now. On election day solid majorities of voters in Colorado and Washington voted to make marijuana a legal product not just for people who are certified as ill, but for everyone. Several states already allow marijuana use for medical purposes. But these two states are blazing trails by recognizing the freedom of all adults to smoke or otherwise consume the plant. (I will refrain from calling it a drug, a term used purely for propagandistic purposes. Moreover, we say we

“drink coffee and beer,” not “use caffeine and alcohol.”)

The problem of course is that the federal government forbids the manufacture, sale, and use of marijuana (and many other substances) for any reason. The first question that might occur to a thinking person is: by what authority? After all, the American theory of constitutional republicanism holds that the central government’s powers are limited to those enumerated in the Constitution. (This is not the place to examine that theory.) What power in the Constitution authorizes the central government to forbid marijuana? The question is further bolstered by the fact that when opponents of alcoholic beverages sought prohibition of their manufacture and distribution, they pushed for and won an amendment to the Constitution — implying that without the amendment, Congress had no legal power to regulate or ban alcohol.

Regulation of marijuana began as a tax with the Marijuana Tax Act of 1937, signed by Franklin Roosevelt. The first man caught selling marijuana without having paid the tax was sentenced to four years in the federal Leavenworth Penitentiary. Some three decades later the Act was declared unconstitutional

because of Fifth Amendment problems, and Congress promptly replaced it with the Controlled Substances Act in 1970. The earlier Harrison Narcotics Tax Act of 1914, which began as a record-keeping requirement for physicians who prescribed opiates and cocaine, “quickly became a prohibition statute,” as Thomas Szasz put it in *Our Right to Drugs*. The Supreme Court seemed unsure of its constitutionality but upheld it anyway because of its revenue-raising objective. (The power to tax is *the* power.) A few years later, the Court lost all doubts:

There can be no question of the authority of the State in the exercise of its police power to regulate the administration, sale, prescription, and use of dangerous and habit-forming drugs.... The right to exercise this power is so manifest in the interest of public health and welfare, that it is *unnecessary to enter upon a discussion of it* beyond saying that it is too firmly established to be successfully called in question. [Emphasis added.]

So much for government’s having to justify newly exercised powers. As Szasz summed up,

In 1914, trading in and using drugs was a right. In 1915, limited federal drug controls were a constitutionally questionable tax revenue measure. By 1921, the federal government had gained not only complete control over so-called dangerous drugs, but also a quasi-papal immunity to legal challenge of its authority. Thus has the *rejection of one of our most basic constitutional rights become transformed into reverence for one of our most baneful therapeutic-religious dogmas*. [Emphasis in original.]

### Federal response

Be that as it may, the people of two states now say they can manufacture, sell, and use marijuana no matter what the feds think. What happens now? We already have some idea: 20 states and the District of Columbia permit (or refuse to penalize) medical marijuana in defiance of federal law. Despite early assurances to the contrary, the Obama administration has cracked down on legal state-licensed marijuana dispensaries in California to a far greater degree than the Bush administration did. During the Bush years, federal anti-marijuana policy

was challenged by Californians, but the Supreme Court in *Gonzales v. Raich* (2005) sided with the central government, ruling that the Constitution's Commerce Clause empowers the feds to prohibit marijuana manufacturing and consumption even when a state law permits it for medical purposes. (The Bush administration argued that it could not effectively prohibit commerce in marijuana nationally if people in the states were free to grow and sell it.)

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**What if a law is not “made in pursuance” of the Constitution, at least in the judgment of people in the states?**

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Is the Obama administration likely to stand by and permit the recreational use of pot in Washington and Colorado, when it tries to stop its medical use in California? It hardly seems likely. But does it want to ignite open resistance by cracking down? That puts the feds in a bind.

Asked by *NBC News* what the future holds, Kevin Sabet, a former Obama administration drug-policy adviser, said, “Once these states actually try to implement these laws, we will see an effort by the feds to shut it down. We can only guess now what exactly that would look

like. But the recent U.S. attorney actions against medical marijuana portends an aggressive effort to stop state-sponsored growing and selling at the outset.”

So it looks as though a conflict is in the offing, maybe even a constitutional crisis. With marijuana generally legal in two states, there would seem to be no authority for those state governments to devote resources helping the feds enforce federal law. (The feds don't typically go after users; that's left to state authorities.) And what of the Constitution's Supremacy Clause? It says, “This Constitution, and the laws of the United States which shall be made in pursuance thereof ... shall be the supreme law of the land...”

That would seem to seal the deal for the feds. But maybe not. What if a law is not “made in pursuance” of the Constitution, at least in the judgment of people in the states? Do they have the authority to ignore the law? Thomas E. Woods Jr. takes up this question in his book *Nullification: How to Resist Federal Tyranny in the 21st Century*. Pointing out that other efforts to reverse the growth of the central government have failed, Woods writes that “more and more Americans ... are beginning to wonder if some other strategy should be pursued.” He has

a point. The principle of checks and balances among the three branches of the central government has done little to stem its growth. The Supreme Court and Congress almost always defer to the imperial presidency. It's an exception when the Court puts a limit on Congress. Electoral politics hasn't had much effect. What's left?

### Nullification

Fortunately, there is another strategy worth trying in the 21st century: in Woods's words, "the Jeffersonian remedy of state interposition or nullification."

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**Nullifying the central government's destructive and misnamed war on drugs — it's really a war on people — would be appropriate.**

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As Woods notes, nullification proceeds from the premise that an unconstitutional law is not properly regarded as law and therefore the states may ignore it. "Nullification provides a shield between the people of a state and an unconstitutional law from the federal government," he writes. Without nullification, the feds define their own powers, which is intolerable from the standpoint of liberty because a government that

defines its own powers is an unlimited government.

Nullification, as already noted, has a high pedigree. "It was Thomas Jefferson, in his draft of the Kentucky Resolutions of 1798, who introduced the term 'nullification' into American political discourse," Woods writes. "Jefferson was merely building upon an existing line of political thought dating back to Virginia's ratifying convention and even into the colonial period. Consequently, an idea that may strike us as radical today was well within the mainstream of Virginian political thought when Jefferson introduced it."

Nullifying the central government's destructive and misnamed war on drugs — it's really a war on people — would be appropriate because in the past Americans used the principle against other laws that violated personal liberty, such as the Alien and Sedition Acts, which among other things suppressed criticism of government officials, and the Fugitive Slave Act, which required the return of runaway slaves to their masters. (Several states passed "personal liberty laws" in response. While that was not formal nullification, it was similar to it. Pro-slavery southerners objected. So much for southern devotion to "States' Rights.")

While nullification has not been acknowledged as valid by the feds, we shouldn't assume it's a dead letter. Woods notes that resistance in the states can force the feds to back off even if they don't repeal the offensive law. Such is the case with the REAL ID Act of 2005, which would have standardized the identification process. Woods's book discusses other modern examples of de facto nullification.

Nullification should not be conflated with the principle of States' Rights. Nullification is about the real rights of individual persons, not the alleged rights of state governments. History demonstrates that decentralized power tends to pose less of a threat to freedom if for no other reason than that the smaller the jurisdiction, the cheaper it is to vote with one's feet. What possible objection can there be to letting the people of the states decide when to ignore federal laws that violate their liberty?

And what better place to start than with the feds' war on people

who make, sell, and use disapproved substances? The drug war builds up intrusive police power, enriches black-market gangs, stimulates violence, ruins inner cities, jails millions of nonviolent people, and generally violates Americans' civil liberties. It is an abomination in a society that regards itself as free.

Keep an eye on Washington and Colorado. They may be the birthplaces of freedom in the 21st century.

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**NEXT MONTH:**  
**"Right-to-Work Laws  
and the Modern  
Classical-Liberal Tradition"**  
*by Sheldon Richman*

# The Continuing Forfeiture Scourge

by James Bovard



A federal crime wave is sweeping the nation, and prosecutors and G-men could not be happier about it. The *Wall Street Journal* reported that government “forfeiture programs confiscated homes, cars, boats, and cash in more than 15,000 cases [in 2010]. The total take topped \$2.5 billion, more than doubling in five years, Justice Department statistics show.”

Beginning in 1970, Congress enacted legislation to permit the seizure of property of Mafia organizations and major drug smugglers. In succeeding decades, more laws were passed, expanding their scope far beyond organized crime. Federal agents can now seize private

property under almost 400 different federal statutes.

In the old days, possession was nine-tenths of the law. Nowadays, gossip has become nine-tenths of possession. Under asset-forfeiture laws and regulations, thousands of American citizens are being stripped of their property solely on the basis of rumors and unsubstantiated assertions made by government confidential informants. Due process for property rights nowadays amounts to a policeman’s giving a citizen a receipt for the cash the policeman seized for no reason from the person — and allowing the citizen to sue the police department to get some of his money returned.

In the movie *Monty Python and the Holy Grail*, one of King Arthur’s knights stumbles upon a mob of peasants wrangling over whether a suspect is actually a witch. The leader of the mob proposes using the most scientifically advanced test available — checking to see if the accused witch weighs more than a duck. After the suspect fails the duck test, the joyful peasants drag her off to be burnt.

Justice has made great progress in the subsequent 1,000+ years. Nowadays, law enforcement is not allowed to seize a person’s life savings unless a dog wags his tail — or

barks — or paws the ground — or otherwise shows a positive alert.

The *Wall Street Journal* last year reported the results of a Delaware drug sniff:

Jorge Jaramillo, a construction worker, says he couldn't afford a lawyer after more than \$16,000 was seized from him last year in a traffic stop. "I had all of \$20 left," he says. In a Delaware federal-court filing, the Justice Department argued the money was related to drug dealing. It pointed to air fresheners in the car, which could mask the smell of drugs, and a fast-food bag containing cigar tobacco, which the filing said was often a sign that the cigar wrapper had been used to smoke marijuana. The filing also said a police dog had signaled that the cash carried residue of illegal drugs. Such "dog sniffs" are a common but controversial feature in forfeitures.

Jaramillo eventually got his money back — but only because one of the nation's top forfeiture defense attorneys, David Smith, took his case on a pro bono basis. In most cases, defendants cannot afford the price of an attorney to fight

the government to reclaim their property.

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**Asset-forfeiture provisions allow government agencies to legally commandeer lawfully acquired property.**

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Federal judges have denounced dog sniffs as an unreliable test for drug trafficking at least since the 1980s. But federal prosecutors still invoke such tests to create a pretext to stuff the government coffers with private property. (The Supreme Court is currently deliberating on a case involving canine alerts.)

### Growth industry

Asset-forfeiture provisions allow government agencies to legally commandeer lawfully acquired property. A Justice Department report explained, "Because of the rule known as the relation-back doctrine, the ownership of property is considered to have transferred to the sovereign at the time the alleged criminal act was committed. Ensuing court proceedings merely perfect the government's interest in the property." Former U.S. Solicitor General Kenneth Starr asserted, "The title that the United States acquires under [the relation-back provision] is immediate, unquali-



fied, and irrevocable. [The relation-back doctrine] leaves no room for the creation, by means of a later transfer, of an interest ... that is superior to the title conferred on the government.” In other words, if a person’s car or boat or the cash in his wallet is suspected by law-enforcement officials of having been involved in the violation of one of more than 100 federal and state laws with forfeiture penalties, the “sovereign” automatically owns the property. (In practice, once police make an allegation, it is the citizen’s burden to prove that the dollars in his wallet were never previously used in a drug or money-laundering transaction.) Nor can any number of legitimate transactions between private citizens ever nullify the government’s absolute title to the home, or car, or cash. This doctrine effectively means that the government has a carte blanche to seize anything that some government official can find a pretense to allege was involved in a crime in recent years.

The asset-seizure program is creating thousands of new police informants. The Justice Department usually gives a reward to persons who report suspicious activity that leads to a seizure. Anyone who pays cash for an airline ticket stands a

chance of being reported as a drug dealer or an accomplice to drug dealing. The forfeiture program effectively turns many airline ticket agents and others into co-conspirators with the government against the privacy of the individual.

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**Forfeiture is the biggest growth area in law enforcement.**

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Forfeiture is the biggest growth area in law enforcement partly because federal and local police agencies usually keep a large amount of the booty they seize. In 1995 the town of Helper, Utah, created a policy designed to let police officers keep up to 25 percent of any cash or property they seize from suspected drug dealers. Helper’s mayor, Mike Dalpiaz, explained the program’s rationale: “Why not give our guys a reason to be more aggressive?” He observed, “This doesn’t cost the city a thing; it’s a wash. If the city gets a house through a drug forfeiture, and we put it on the market and sell it for \$50,000, then by God the guy who made the bust is going to get a nice bonus check for his work.”

The mayor seems to think that the only reason that police are not sufficiently enforcing drug laws is that they cannot confiscate enough of their neighbors’ property. One

might expect the city to next decide to save budgets by abolishing the salaries of the policemen and simply giving the cops the right to steal as much as they can carry from the citizens. Since surveys estimate that 10 percent of adult Americans use illicit drugs at least once a month, the Helper cops should be kept rolling in dough for a long, long time.

### Helpless giant?

Law enforcement in the United States is devolving back towards conditions existing in England before Magna Carta, when rulers almost automatically seized all the assets of any person convicted of a felony. Such seizures spurred English barons to force King John to limit his powers in 1215. Unfortunately, some federal officials appear to prefer a pre-13th-century philosophy of government power. A 1992 solicitor general's brief quoted the Old Testament and praised forfeiture as an "ancient punishment."

Asset-forfeiture provisions presume that suspected violation of any of a long list of laws should give government officials the automatic right to impose instant economic capital punishment on a suspected violator. The asset-seizure controversy defines the line between the state and the citizen: what pretext

does the state need to claim that the citizen's property is actually the state's? Increasingly, private property is something that government officials "tolerate" only until some paid informant comes along and gives them a pretext to seize it.

The *Wall Street Journal* reported that "top federal officials are pushing for greater use of civil-forfeiture proceedings." This is the same trend that has been eating away at property rights for a long time. During the 1990s, a broad-based coalition fought for forfeiture reform. But the effort was shot down, thanks largely to Eric Holder, who today is the U.S. attorney general.

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Many congressmen wanted to require a higher standard of proof before the government could commandeer private assets. But Deputy Attorney General Eric Holder wailed that "elevation of the standard of proof [for forfeiture] to 'clear and convincing evidence' would have a devastating effect on the government's ability to establish the forfeitability of the property in complex money-laundering and

drug cases.” Holder portrayed the Justice Department as a helpless giant at the mercy of any forfeiture victim who cast aspersions on the government’s credibility.

Holder also told the senators that “we are eager to see civil asset-forfeiture reform that includes provisions needed to make the asset-forfeiture laws more effective as law-enforcement tools,” and he urged Congress “to expand forfeiture into new areas.... From telemarketing to terrorism to counterfeiting to violations of the food and drug laws, the remedy of asset forfeiture should be applied.” A forfeiture “reform” bill that Congress finally passed in 2000 actually doubled the number of federal laws that prosecutors could use to seize private property.

The new law did nothing to curb law enforcement’s profiteering from forfeitures: The basic conflict of interest was perpetuated untouched. The law imposed a ludicrous requirement that citizens who file suit to recover their property must swear that their claim is not “frivolous.” Any citizen who lies and files a frivolous suit can face three years in prison simply for filing the suit. E.E. Edwards, the co-

chairman of the forfeiture task force of the National Association of Criminal Defense Lawyers, said that the perjury threat is “a thinly veiled attempt to intimidate people from making a claim.” On the other hand, there are no penalties for frivolous seizures of private property by federal agents; the punishment for such behavior will continue to be outstanding-performance evaluations.

Forfeiture policy is an eternal refutation to the chorus that tells citizens to trust the government. The more power government has, the more citizens will be plundered. And even the most brazen abuses have not been enough to end this particular outrage.

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

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**NEXT MONTH:**  
**“Police Tyranny, Slightly Curbed”**  
*by James Bovard*

*Whoever fairly faces the question must admit that the same set of arguments which condemns a national religion also condemns a national system of education. It is hard to pronounce sentence on the one and absolve the other. Does a national church compel some to support a system to which they are opposed? So does a national system of education. Does the one exalt the principle of majorities over the individual conscience? So does the other. Does a national church imply a distrust of the people, of their willingness to make sacrifices, of their capacity to manage their own affairs? So does a national system of education. Does the one chill and repress higher meanings and produce formalism? So does the other.*

— *Auberon Herbert*

# Taxi Tyranny

by Laurence M. Vance



One of the most prevalent and persistent myths about the American economy is that it is based on the free market, or laissez-faire capitalism. True, when compared with much of the rest of the world, the United States appears to have a *relatively* free economy. The truth, however, is that in some sectors of the American economy, government intervention is actually so substantial that it can be almost impossible to start and maintain a business.

In the 2012 edition of the *Index of Economic Freedom*, an annual report published by the Heritage Foundation and the *Wall Street Journal* that analyzes economic-policy developments in 184 countries, the United States is ranked tenth, behind Hong Kong, Singapore, Australia, New Zealand, Switzerland,

Canada, Chile, Mauritius, and Ireland. Dead last among countries that are ranked is North Korea. The index grades and ranks countries on the basis of ten measures of economic freedom that evaluate the rule of law, the intrusiveness of government, regulatory efficiency, and the openness of markets. Although the scores of 75 economies improved, 90 countries lost economic freedom. The United States has been in the top ten since the first edition of the *Index* was published in 1995.

In the World Bank's 2012 edition of *Doing Business*, an annual report investigating the business climate in 183 countries that presents quantitative indicators on business regulation and the protection of property rights, the United States is ranked fourth, as it was last year, surpassed only by Singapore, Hong Kong, and New Zealand. Coming in last was the African nation of Chad. Covered in the study are regulations affecting 11 areas of the life of a business: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency, and employing workers.

Many countries have made significant progress in streamlining the process of starting a business. For example, in South Korea, entrepreneurs starting a company in the past had to manually fill out more than 30 forms and visit six different agencies. Now they enter information once into an online system that automatically distributes it. Nevertheless, in some countries it can still take three months to start a business.

Tenth place out of 184 in economic freedom and fourth place out of 183 in business climate makes the United States, on paper, look like a free-enterprise paradise. Just don't talk about how economically free and business-friendly the United States is to those wanting to start a taxi service.

### Licensing

In the United States it is almost impossible. Once in business, you are subject to so much government regulation that you don't have the economic freedom to set your own prices.

And don't think about trying to get around the law. Local governments don't think too highly of unauthorized taxi services — and neither do government-licensed taxi companies.

In Miami Gardens, Florida, a 78-year-old man was given two citations and his vehicle was impounded by the Miami-Dade County's Consumer Services Department after being entrapped by an undercover sting operation targeting people providing illegal taxi services. The man thought he was just helping a woman in need to get home from the grocery store; he said he never even discussed money until the woman insisted on it.

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Don't talk about how economically free and business-friendly the United States is to those wanting to start a taxi service.

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In Portland, Oregon, regulators waged an aggressive crackdown on car services known as livery drivers, independent drivers with a single car or limo. The city imposed a minimum fare of \$50, even if a client is just going a few blocks in the downtown area. Livery vehicles must charge a minimum rate 35 percent higher than that charged by competing taxi companies for rides outside of the city. Livery drivers cannot park in front of hotels. And reservations for livery services must be placed at least an hour in advance of customer pickup. Two livery companies that of-

ferred a Groupon promotion for one-time limo or sedan rides for \$32 were forced to cancel the promotion, refund the money collected, and pay a \$500 fine for advertising services under the minimum fare. A Portland city official acknowledged to the *Huffington Post* that “the only real purpose of the regulations is to target small and independent businesses, while protecting the city’s taxi monopolies.”

In Houston, Texas, the drivers of a transport company using three electric vehicles and picking up passengers who tip rather than pay a metered fare were ticketed numerous times for offenses such as having no taxicab permit, no taxicab driver’s license, and no fire extinguisher. Of course it was not just city officials who were concerned about this business. The Houston Yellow Cab Company complained to the city about the competing firm as well.

Licensed cab companies don’t want to see new companies receive licenses. In Minneapolis, Minnesota, the city instituted reforms to raise the number of licensed taxis from 343, the limit in effect for years. The Minneapolis Taxicab Owners Association promptly sued the city, arguing that there was no demand for more taxis, that addi-

tional taxis would create more traffic congestion, and — the real reason — that a freer taxi market would hurt the resale value of taxi licenses, which could be sold for thousands of dollars. In a rare victory for freedom, the association lost.

Other cities don’t care much for new cab companies either. Like many large cities, New York issues taxi medallions, an emblem of registration that artificially restricts the supply of taxis. The result is a textbook case of a government-created monopoly.

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**“The only real purpose of the regulations is to target small and independent businesses.”**

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The natural result is the tendency toward higher prices and lower-quality service. In 2008 the New York City Taxi and Limousine Commission determined that the minimum bid price for each of the 43 available lots of two Minifleet (Corporate) Accessible Medallions to be auctioned off would be \$700,000. One Individual Accessible Medallion was also made available for a minimum bid price of \$189,000, and two Individual Alternative-Fuel Medallions went for \$300,000. Because the medallions can be bought and sold, there is a

profitable secondary market for them. In 2011 two New York taxi medallions sold for more than \$1 million apiece, the highest recorded sale price since the medallion system began. These systems discriminate against anyone who is seeking to get into the taxi business but who lacks the necessary tens or in some cases hundreds of thousands of dollars.

Some cities even regulate the type of cab one can drive and how fares are collected.

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**Taxi companies begin and maintain their existence only at the whim of local governments.**

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The mayor of New York City has announced that the Nissan NV200 minivan will become the official taxi vehicle of the city beginning in 2013. All other models will be phased out over the following five years.

In Washington, D.C., cab drivers went on strike in 2008 to protest the mayor's decision to require that they use meters (as in other big cities) rather than a fare-zone system. The point here is not the superiority of one system over another but that it is government telling taxi companies how they must collect their fares.

I know of no major city in the United States that doesn't regulate taxi fares.

### Micromanagement

Taxi companies begin and maintain their existence only at the whim of local governments. Consider Pensacola, Florida, where I lived for many years and whose city code for taxis I am familiar with.

No one is free to start a taxi business in Pensacola without the permission of the mayor:

No taxicab vehicle permit shall be granted until the person applying for such permit has secured from the mayor that the public convenience and necessity warrants the operation of the additional taxicab or taxicabs for which taxicab vehicle permit is sought.

The cost of the permit is \$50 annually, expiring on September 30. No company permits are granted "for operating less than five (5) vehicles." No company permits "may be sold, assigned, mortgaged, or otherwise transferred without the written consent of the mayor."

A vehicle permit must also be obtained for each taxicab used. However, "no taxicab vehicle per-



mit shall be issued at any time to any person who has not attained the age of twenty-one (21) years” and “who is not a person of good moral character.” Permits are \$15 per vehicle per year. Each vehicle used as a taxi must be “thoroughly examined and inspected by the mayor and found to comply with such reasonable rules and regulations as may be prescribed by the mayor.” Vehicles must then be inspected annually — after owners pay a fee of \$10. The lettering on the side of each taxicab must be of a certain size and content.

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**Drivers can't be absent from their cabs for more than ten consecutive minutes.**

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Each taxi driver must obtain a license from the city. But first, the driver must be 21, pay a \$10 fee, be photographed and fingerprinted, reveal much personal information, provide certificates of good character from three people, undergo a background investigation, already have a class “E” state license, and be approved by the chief of police and the mayor. Annual renewals are \$6. Once on the job, drivers must “maintain a clean, neat, well-groomed appearance.” Prohibited are T-shirts, tank

tops, sandals, flip-flops, cut-offs, and short shorts.

Conducting business is highly regulated. The taxi driver’s “daily manifest” must be “approved by the mayor.” Drivers can’t “solicit passengers for a taxicab except when standing immediately adjacent to the curb side thereof.” Drivers can’t be absent from their cabs for more than ten consecutive minutes. Drivers are prohibited from cruising “in search of passengers except in such areas and at such time as shall be designated by the Pensacola Police Department.” Drivers can’t “solicit business for any hotel, or ... attempt to divert patronage from one hotel to another.” No taxicab driver can “refuse or neglect to convey any orderly person or persons, upon request.”

Rates are fixed by the city of Pensacola. No owner or operator of a taxi can “charge a greater or lesser sum for the use of a taxicab than in accordance with the following rates”:

- (1) Mileage rates. Two dollars (\$2.00) for the first one-ninth (1/9) mile or fraction thereof; twenty-five cents (\$0.25) for each additional one-ninth mile or fraction thereof; charge for additional passengers over the

age of thirteen (13) years, fifty cents (\$0.50) each;

(2) Waiting time. Eighteen dollars (\$18.00) per hour;

(3) Airport trips — Minimum fare. Pickups from the airport, eleven dollars (\$11.00) minimum per trip (limited to taxicab companies with valid permits to serve the airport). Fares over eleven dollars (\$11.00) shall be calculated based upon the meter rate commencing at the airport pickup point.

No flat rates may be charged for any cab ride that starts within the city limits.

Consider for a moment what other industries would look like if they were as controlled by governments as taxi services are. Take, for example, the oranges that are grown all over central and south Florida. If the city and county governments in Florida's orange-growing regions forbade potential growers from planting orange trees on their property, made growers ask permission to plant a new orange tree, forced growers to pay a steep price for licenses to grow, pick, and sell oranges, and told growers the exact price to charge per orange, most people would think it was not only ludicrous, but totalitarian. But

when governments treat taxi companies the same way, they get away with it in the name of "consumer protection."

Aside from the local governments that rake in millions of dollars from issuing taxi licenses and medallions and collecting taxes to fund consumer-services departments, regulatory agencies, and taxi and limousine commissions, there is only one group that benefits from the taxi tyranny that exists throughout the United States: existing taxi companies.

Whether it is driving taxis or selling oranges, it is ultimately a freedom issue: freedom to start a business, freedom to compete with existing businesses, freedom to hire workers of one's choosing, freedom to use the equipment of one's choosing, freedom to set prices and policies, and freedom from government laws that are anti-free enterprise, anti-free market, and anti-freedom.

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## Milking the Truancy Cow for Cash

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by Wendy McElroy



**D**iane Tran is a 17-year-old honor student who was jailed for truancy in Texas. When a tearful Tran gave an interview for a local television station, the story went viral.

Her parents had recently divorced, leaving Tran to support herself and her siblings by working two jobs in addition to attending school. Fury was unleashed on the truancy court justice, Lanny Moriarty, who made an example of Tran by fining her \$100 and imprisoning her for 24 hours. Deluged with criticism and media blare, Moriarty quickly vacated the conviction.

Anyone who was shocked by Tran's treatment has not been paying attention. Truancy has been criminalized for more than a dec-

ade now, and the situation will worsen over the next few years.

A standard legal definition of truancy is provided by *A Quick Guide to Truancy Prosecution*, issued by the Los Angeles County Education Coordinating Council. The *Guide* states,

Any pupil subject to compulsory full-time education who is absent from school without valid excuse three full-time days in one school year or tardy or absent for more than any 30-minute period during the school day without a valid excuse on three occasions in one school year, or any combination thereof, is a truant.

After going through a warning process, chronic truants are often referred to a truancy court. In essence, it is a specialized family court in which parents and their truant children must explain themselves to a judge. Although such courts are relatively new, they have spread quickly.

As in other family courts, the truancy judge exercises a great deal of discretion. One judge in Pennsylvania bragged of being harsh with parents and children. Of parents who did not attend court-ordered

guidance classes, he declared, “Bam! I slam them in jail.”

### Why criminalize truancy now?

Officials who pursue truants argue that it is “for the children’s good.” They point first to the alleged benefits of a public-school education. Furthermore, truancy, they say, is a “gateway crime” that leads to more serious ones, and so it puts children on the fast track from public school to prison.

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### The real motive for the war on truancy is money.

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The real motive for the war on truancy, however, is money. Public schools receive funding for every child who attends at least 60 percent of the school day; for example, the school district of Berkeley, California, is reported to receive \$35 per child a day in state funding. Federal programs and other sources of funding also use attendance rates to allocate money to districts. The U.S. Department of Education offers a general sense of where the funding comes from:

In the 2004-05 school year, 83 cents out of every dollar spent on education is estimated to come from the state and local

levels (45.6 percent from state funds and 37.1 percent from local governments). The federal government’s share is 8.3 percent. The remaining 8.9 percent is from private sources, primarily for private schools.

It is difficult to find reliable data on how much schools spend to educate a child for one school year (approximately 180 days). In a 2010 Cato Institute policy report, “They Spend WHAT? The Real Cost of Public Schools,” Adam Schaeffer writes,

Although public schools are usually the biggest item in state and local budgets, spending figures provided by public-school officials and reported in the media often leave out major costs of education and thus understate what is actually spent.

To document the phenomenon, this paper reviews district budgets and state records for the nation’s five largest metro areas and the District of Columbia. It reveals that, on average, per-pupil spending in these areas is 44 percent higher than officially reported.

Real spending per pupil ranges from a low of nearly \$12,000 in the Phoenix area schools to a

high of nearly \$27,000 in the New York metro area.

The financial stakes are high, with the flow of money into school coffers hinging on student attendance. That establishes precisely the wrong incentive. When a government agency is paid for the number of people it processes, it has a strong incentive to force as many people as possible to use its “service.” Attendance becomes mandatory, and the “right” to an education becomes a legal requirement.

Now public schools are taking the next step to ensure that absenteeism does not deny them tax dollars. If the absence is chronic, officials are going after the parents with the threat of fines and jail time. The threat is not an empty one.

### San Francisco leads the way

In a 2008 *San Francisco Examiner* article, “Why Prosecute Parents of Chronically Truant Students?” Kamala Harris, then the district attorney of San Francisco, explained, “I chose to file criminal charges against six parents whose children, as young as 6 years old, had missed as many as 80 days out of a 180-day school year. Those parents are now reporting to a model Truancy Court we created.” One of

the powers of the court is to mandate family services and training programs. In the case of a chronic truant, the student may become a ward of the court.

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In the case of a chronic truant,  
the student may become  
a ward of the court.

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Harris’s crusade began with a letter. Near the start of the 2007-08 school year, all parents or guardians of San Francisco Unified School District students received notification that Harris was prepared to prosecute those who “broke the law by keeping their children out of school.” (Under California law, school attendance is mandatory for children under 18.)

In an article in the *Bay Citizen*, Harris proclaimed her policy a success. Pointing to figures that show “an increase of 4,500 attendance days by students identified as chronic truants,” she said that the increase caused a “savings of \$350,000.” That is, the schools received \$350,000 of additional funding from the state and federal governments.

Other statistics back up the claim. For example, in the 2007-08 school year, there were reported to be 5,436 students with ten or more unexcused absences. In 2009-10, there were 3,605.

Eager to “save” more, Harris then pushed a 2010 Chronic Truancy Reduction bill. As a result of its passage, the parents of truants can now be punished with a maximum sentence of a year in jail or a \$2,000 fine or both.

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### Schools are treating truants as “pre-criminals” who must be reined in.

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Other cash-strapped school districts are taking notes. An article in the *San Francisco Chronicle* last May explains, “A year ago, Berkeley school Superintendent Bill Huyett took about \$250,000 out of the district’s bank account and placed a bet.” He hired staff “to focus entirely on student attendance.” The result? Within nine months, the district reaped “more than \$1 million in state and other funding to pay for the 150 additional students on average who now show up for school each day.” The district reversed its plans to send out 148 pink slips to teachers.

### Backlash against truancy policies

In March 2010 the American Civil Liberties Union (ACLU) filed a lawsuit against the officials of six Rhode Island schools and several family-court judges. Filed on behalf

of nine parents and their children, *Boyer v. Jeremiah* accused school officials of using truancy charges as punishment, and it challenged the constitutionality of the state’s truancy court.

The ACLU pointed out

that the state’s truancy court system is devoid of due process protections in violation of state and federal law, that the truancy courts are frequently punitive in nature, and that truancy court magistrates threaten vulnerable children and their parents with baseless fines and imprisonment, remove children from the custody of their parents without legal justification, and fail to keep adequate records of court hearings.

The lack of records is particularly damaging, as there are no transcripts on which to base an appeal. *Boyer v. Jeremiah* is ongoing.

The attempt of school officials to reach ever more deeply into families is also ongoing. Instead of treating truancy with a suspension or detention, as they have in the past, schools are treating truants as “pre-criminals” who must be reined in. Instead of going to the root causes

of truancy — such as the authoritarian incompetence and unpleasantness of schools — officials are blaming parents.

Dragging children to attend classes they hate will never produce education. Tossing children to the juvenile court system to keep them out of prison in later life achieves the opposite. Jailing parents who may lose their jobs as a consequence shows utter contempt for the well-being of families and children. The war on truancy does not help children. If helping children were the goal, they would not be stripped of their rights, taken from their families, and made to watch their parents go to jail. Such prac-

tices make no sense until you factor in the funding received by public schools for every kidnapped child.

The truancy flap is about cold cash. It is also about school authority, which has become one of the greatest dangers to children in American society. Such is the inevitable result once government controls education. It's just one more reason that school and state should be separated.

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*When A annoys B on the premise of saving or improving X, A is a scoundrel.*

— H.L. Mencken

# Deflation, Liquidation, and Necessary Revisionism

by *Tim Kelly*



**D**uring his ill-fated 1932 reelection campaign Herbert Hoover delivered a speech in which he said,

In the midst of this hurricane the Republican administration kept a cool head, and it rejected every counsel of weakness and cowardice. Some of the reactionary economists urged that we should allow the liquidation to take its course until it had found its own bottom. Some people talked of vast issues of paper money. Some talked of suspending payments of Govern-

ment issues. Some talked of setting up a Council of National Defense. Some talked foolishly of dictatorship — any one of which ideas would have produced panic in itself. Some assured me that no administration could propose increased taxes in the United States to balance the budget in the midst of a depression and survive an election.

However, we determined that we would not enter the morass of using the printing press for currency or bonds. All human experience has demonstrated that that path once taken cannot be stopped, and that the moral integrity of the Government would be sacrificed because ultimately both currency and bonds must become valueless.

We determined that we would not follow the advice of the bitter-end liquidationists and see the whole body of debtors of the United States brought to bankruptcy and the savings of our people brought to destruction.

As it turned out, it was Hoover's decision to ignore the advice of the "bitter-end liquidationists" that



proved to be his political undoing. In the aftermath of Crash of 1929, Hoover took a series of interventionist measures to counteract the economic downturn: expanding public works, propping up unsound businesses, inflating credit, and keeping up wage rates. He also increased taxes significantly, raising the top income-tax bracket from 25 percent to 63 percent. The result was a prolonged economic depression. Had he simply cut taxes and spending as his predecessor, Warren G. Harding, did in the midst of a similar crisis in 1921, the panic would have been short-lived and Hoover would very likely have been reelected in 1932.

While it is generally known that the Democrat Franklin Roosevelt was elected president in a landslide victory in 1932, it is not well known that he campaigned on a free-market platform advocating sound money, tax cuts, and fiscal discipline, while “condemning” Hoover’s “extravagance.” Indeed, Roosevelt’s running mate, John Nance Garner, accused Hoover of “leading the country down the path of socialism.”

But once in office, Roosevelt betrayed his party’s platform by implementing a series of interventionist policies that made Hoover’s look modest. Between 1933 and 1937

federal expenditures increased more than 83 percent and the national debt skyrocketed 75 percent.

Roosevelt had the good fortune of entering office in March of 1933 — when the economy had already bottomed out and was then enjoying a mild recovery. But his New Deal reversed that salutary course, and the economy remained moribund for more than a decade, not recovering until 1946.

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Roosevelt betrayed his party’s platform by implementing a series of interventionist policies that made Hoover’s look modest.

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Hoover gets blamed for the Great Depression because it began on his watch. But the United States, indeed the entire world, was due for a sharp economic correction regardless of who happened to be occupying the White House. In 1929 the global economy was still suffering from the devastating effects of the Great War and staggering under an enormous debt burden. The post-war gold-bullion standard established at the Genoa Conference of 1922 had proven to be a poor substitute for the classical gold standard that had been abandoned by all the belligerent powers in 1914. This pseudo gold standard was os-

tensibly instituted to promote economic stability, but it was really just an inflationary scheme to paper over war debts and prop up the English pound, which had been severely devalued during the war. It required the devaluation of the U.S. dollar, which in turn created a credit bubble that fueled the Roaring Twenties' low-interest-rate-induced malinvestment and set the stage for the economic collapse of the 1930s.

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**The devaluation of the U.S. dollar created a credit bubble that fueled the Roaring Twenties' low-interest-rate-induced malinvestment.**

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That was not lost on everybody at the time. The British economist Lionel Robbins, in his 1934 book, *The Great Depression*, traced the origins of the crisis to the broad economic conditions created by the Great War and various measures taken by governments afterward that prevented their economies from adapting to peacetime conditions. The debt-fueled malinvestment created by governments to wage the four-year-long slaughter needed to be liquidated.

Unfortunately, none of the political leaders in America or Europe at the time seemed to understand

what Robbins was saying or were willing to stomach the short-term pain that liquidation entailed. Rather than simply standing aside and letting their respective economies adjust to reality, they panicked, putting up trade barriers and forming currency blocs. The outbreak of economic war among the industrialized nations not only aggravated the unfolding economic catastrophe, it also contributed greatly to the outbreak of actual shooting wars in Asia and Europe. Those separate conflicts would eventually become fused into one global conflagration known as the Second World War.

### Necessary deflation

This revisionist accounting is necessary not only for the sake of historical truth but also for the sake of the future. The response by the U.S. government to the financial crisis that began in 2007 has been shaped by the popular yet pernicious myth that big-government policies of one variety or another (New Deal and World War II) are what pulled the country out of the Great Depression. Indeed, politicians and pundits have invoked the New Deal myth to justify the recent spate of so-called stimulus spending programs and corporate bailouts. Some have even

suggested military spending as a way to lift the economy from its current doldrums. Fed chairman Ben Bernanke has publicly expressed his belief that it was deflation that made the Depression “Great” and that inflation is necessary to avert a sequel to that catastrophe.

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**Just as in the 1920s and early 1930s, the global economy is now burdened with enormous debt created by decades of central-bank-driven inflation.**

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Just as in the 1920s and early 1930s, the global economy is now burdened with enormous debt created by decades of central-bank-driven inflation. But the response by the world’s central banks has been to keep interest rates at near 0 percent, which has discouraged savings and encouraged even more debt. Moreover, the suppression of interest rates has prevented the necessary liquidations from occurring, which has forestalled recovery.

The only hope we have for a genuine recovery is for the U.S. government and the Fed to embrace *laissez faire* and allow deflation to work its purgative effects. Though such “bitter medicine” is necessary for the long-term health of the

economy, it is hemlock to the Washington establishment.

We live under an inflationary regime that reaps enormous benefits for the U.S. government, the banking sector, and a corporatist superstructure that is the recipient of government largess. Washington uses inflation to finance its enormous budget deficits. That, of course, allows politicians to continue their spendthrift ways without having to raise taxes. The banks profit from inflation because they operate as brokers for the newly created Treasuries, which are monetized by the Fed’s printing presses. Defense contractors, universities, and health-care, construction, and many other industries are also beneficiaries of inflation. The result is a political economy distorted by a myriad of powerful special interests, none of which has any desire to see inflation ended.

The people suffering under this financial repression are the vast majority of Americans who aren’t employed by the federal government or some well-connected Wall Street firm. Their lot is to obediently pay taxes and make do with lower real wages, while the central bank’s inflation erodes the value of what little savings they manage to put away.

Jorg Guido Hülsmann, in his remarkable *Deflation and Liberty*, writes of the moral distinction between deflation and inflation:

In short, the true crux of deflation is that it does not hide the redistribution going hand in hand with changes in the quantity of money. It entails visible misery for many people, to the benefit of equally visible winners. This starkly contrasts with inflation, which creates anonymous winners at the expense of anonymous losers. Both deflation and inflation are, from the point of view we have so far espoused, zero-sum games. But inflation is a secret rip-off and thus the perfect vehicle for the exploi-

tation of a population through its (false) elites, whereas deflation means open redistribution through bankruptcy according to the law.

The political class abhors deflation because the rulers depend on inflation to pay for their various welfare-warfare schemes. Deflation would precipitate a general liquidation that would bring down their inflationary house of cards. It would, indeed, be the end of the world as *they* know it.

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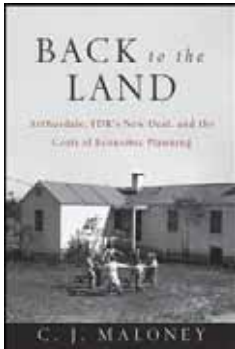
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## New Deal Utopianism

by George Leef

*Back to the Land: Arthur Dale, FDR's New Deal, and the Costs of Economic Planning* by C.J. Maloney (Hoboken, N.J.: Wiley, 2011), 292 pages.



Drive south from Morgantown, West Virginia, and you soon come to the little town of Arthur Dale. At the outskirts of town, there is a roadside plaque informing those who stop to read it that Arthur Dale was “Established in 1933-34 under the Federal Homestead Act.” We also learn that it was a “pet project” of First Lady Eleanor Roosevelt and that the town was created to “assist the unemployed through self-sufficient farming and handicrafts.”

That certainly makes Arthur Dale sound wholesome and quaint — proof that the federal government has the ability to improve the nation. As usual, however, there is much more to the story, and in *Back to the Land: Arthur Dale, FDR's New Deal, and the Costs of Economic Planning*, C.J. Maloney, a writer for Bloomberg News, gives us a commendably thorough and illuminating history of Arthur Dale. The town was a gigantic economic flop that was kept alive only with transfusions of taxpayer money. Far from an advertisement for the glories of government social intervention, the Arthur Dale story is a testament to the social and economic damage that such intervention does.

Maloney begins with that most horrendous of all government interventions — war. World War I caused many economic changes, and one of them was that the price of coal rose dramatically, especially after Woodrow Wilson managed to drag the United States into the conflict. That led to a huge expansion of the American coal industry. Working in the coal industry paid rather well compared with the hard life of Appalachia, and many families were drawn to the “coal camps.” Coal prices remained high after the war but began to fall in 1926. Many

workers left the industry, but others were “stranded” in the increasingly decrepit camps. Matters were made considerably worse by the militant posture of the United Mine Workers, which repeatedly called strikes against declining wages, refusing to recognize that consumers simply wouldn’t pay the old prices that made higher wages possible. The coal fields were riven by violence, hunger, and desperation.

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One of the earliest of the New Deal programs greatly appealed to Eleanor Roosevelt, namely the Division of Subsistence Homesteads.

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As the Great Depression settled on the nation, conditions went from bad to unspeakable. Journalists wrote about the hungry, ill-clad children; the cheap, filthy houses; and the lack of sanitation. Among those who read about this extreme poverty was Eleanor Roosevelt, wife of soon-to-be president Franklin Roosevelt. She was determined to help the suffering people, and one of the earliest of the New Deal programs greatly appealed to her, namely the Division of Subsistence Homesteads (DSH). She and many other Progressives who were intent on remaking America along collectivistic lines, saw DSH as a perfect

opportunity to show how wonderful things could be under their philosophy. The idea was that if people would leave cities and industrial employment and go “back to the land,” clean, moral, natural life would replace the nasty conditions under capitalism. Arthurdale (and many other planned communities) would lead the way.

Many years before, in 1911, Roosevelt himself had written a piece for the *New York Globe* extolling the Rousseauian notion that Americans should “return to the land” because, he claimed, those who live on farms “have more time to think and study.” He had never lived on a farm, much less done the tedious and exhausting work that farming involves. His was just a romantic notion, a yearning for an imagined golden past. He was full of such foolish ideas, and they flew out of the Pandora’s box of his New Deal like a swarm of vampire bats.

The subsistence-homesteads concept also appealed to one of Roosevelt’s top advisers, Rexford Guy Tugwell. Tugwell, trained in the Progressive economic theories of Richard Ely, had gone to the Soviet Union, and like so many other western intellectuals, came back convinced that central economic planning was the wave of the future. He

was eager to show that the traditional American beliefs in individualism and free enterprise were outmoded and harmful. Arthurdale would help him prove his point that socialistic, communitarian life was far better. It just *had to succeed*, no matter the cost.

It is noteworthy that America had had quite a few of these collectivist/agrarian societies in its past. Maloney provides some of their history. All failed rapidly, foundering on the rocks of human nature. They did not, however, have the backing of government officials eager to spend vast amounts of money taken from taxpayers to shore up their idealistic experiments. The DSH communities would.

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**Government officials promptly went to work designing new towns.**

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Funding for DSH came in a single paragraph inserted into the hastily enacted National Industrial Recovery Act of 1933. It stated that \$25 million was “made available to the president, to be used by him through such agencies as he may establish and under such regulations as he may make, for making loans for and otherwise aiding in the purchase of subsistence homesteads.” It did not matter that there

has never been any authority under the Constitution for Congress to make such appropriations for the president to do as he pleases. Five days later Roosevelt issued an executive order placing responsibility for this program with the secretary of the interior.

**Blunder after blunder**

Government officials promptly went to work designing new towns. They were no good at it, of course. Why should anyone expect bureaucrats to know anything about the numerous problems and tasks building a new town entailed? Maloney recounts the numerous blunders they made, beginning with the fact that the planners chose a poor site for the farming the people were expected to do. Moreover, because of a porous rock stratum, the water supply was unsafe. Next, the prefabricated houses that an eager official purchased to get the project moving quickly would have been suitable as beach houses, but they were a lousy choice for the cold winters in northern West Virginia. The houses, once delivered, did not fit on the foundations that had been prepared for them. Many of the houses, once constructed, suffered water damage because the officials did not think to have downspouts

attached. This expensive comedy of errors continued on and on.

Homes that were built in the later stages of Arthurdale's development were much better — so much so that they put most of the other housing in the area to shame. They were faced with native stone and had all the modern amenities, which rankled people in neighboring towns who were not lucky enough to be among the favored few. Moreover, the question of exactly how the residents would pay for their houses was unsettled a year after Arthurdale was begun. Because construction was costing far more than originally estimated, officials floated the idea of selling people their houses not on the basis of what they cost, but of what purchasers could afford to pay.

And how were the residents chosen? Faculty members at West Virginia University devised an eight-page questionnaire for anyone who wanted to apply for Arthurdale. (Large numbers did.) Applicants also had to go through extensive interviews that included intimate personal questions. One of the nonpersonal questions was whether the applicant had had any farming experience, an important consideration given that the residents were to engage in subsistence

farming. Of those selected, however, a large majority had no farming experience. The entire process, Maloney writes, “had a healthy dose of the subjective and arbitrary.” A federal directive instructed the local officials to favor applicants “who seem likely to welcome supervision and guidance from project administrators.” In other words, they should discriminate against self-reliant individualists.

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In a way, though, that discrimination made sense because the Arthurdalians were expected to be obedient. They were not allowed to modify their homes or grounds in any way (without approval that was very hard to obtain), and they could be removed from the community if they displeased their federal overlords, as five families were. Among the things they were forbidden to do was to sell any of their crops to outsiders. That would be inconsistent with the collectivistic philosophy behind the project. Secretary of Agriculture Henry Wallace, a committed socialist, directed that crops



be grown only for “home consumption or consumption of their neighbors in the community.” Any excess was the property of the government.

Arthurdale’s adults were also supposed to have work other than tending their small plots of land — after all, the growing season there was only about 130 days. But what would they do? The planners in Washington tried many different ideas but each proved to be a failure. In anticipation of the famous line from the movie *Field of Dreams*, (“If you build it, they will come”), DSH officials built a 10,000-square-foot factory. It wasn’t used until June 1936, when it was leased to a company that made vacuum cleaners. It provided jobs for 29 residents — until the company closed it during the sharp economic contraction (“the depression within the Depression”) that began in 1937. But the bureaucrats were undaunted. They proceeded to spend more taxpayer money to build two more, substantially larger factories. Little use was ever made of either facility.

### Arthurdale Inn

Another financial blunder was the Arthurdale Inn, built on the site of an old mansion that Tugwell had ordered destroyed. It provided jobs for a few residents, but the only cus-

tomers it had were visiting federal bureaucrats and Eleanor Roosevelt, who frequently stayed there while checking up on her “pet project.” Once again, taxpayers shelled out a lot in return for virtually no value.

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Naturally, there were children to be educated. The officials in charge of Arthurdale would not allow “their” children to be schooled with other West Virginia kids. No, they wanted a school just for them and proceeded to build, at huge expense — although not very competently — a state-of-the-art school. Then they chose a woman as principal who was a true believer in progressive education theory. Education, in her Deweyesque view, was to be used to shape young minds according to the collectivist philosophy of the New Deal. She believed in “learning by doing” rather than old-fashioned “book learning” and was determined to socialize students differently than in the past. She had the students sent out into the surrounding fields when the weather was good, and when it wasn’t, the boys were sent to home economics and the girls to shop class. Grading was taboo.

Eventually the people of Arthurdale, even though they had been selected for their compliance, rebelled at the pseudo education their children were getting and demanded that the school comply with West Virginia standards. It wasn't just the miserable education that the parents were upset about; they were equally upset over the entitlement mentality the school was fostering in their children. Maloney writes, "The settlers in Arthurdale were lucky in escaping the debilitating effects of welfare before it could become too deeply ingrained within them or their children."

Finally, with the country's entry into World War II, the administration's interest in Arthurdale and the other experimental communities evaporated. The houses were sold to the homesteaders at a huge loss. They had cost on average more than \$16,000 to build and were sold at prices ranging from \$750 to \$1,249. The factories and farmland were sold for nominal amounts — \$1. Arthurdale had been a stupendous loss for the taxpayers. And yet the visionaries continued to defend their planned communities. In 1958 Tugwell gave a speech in which he argued that government was superior to private enterprise because "we provided sewer and water systems, schools, parks,

and other utilities. No speculator did any of those things."

Maloney responds to that with a devastating counterattack. In truth, many "speculators" who built homes did provide those good things, and they did so without any use of coercion to take money from unwilling people. In particular he points to James Grimes, a Pittsburgh businessman who built durable homes (and whose son was instrumental in Arthurdale). "It is men like Grimes," Maloney writes, "who built this country and created (rather than destroyed) wealth in the process; he made a profit while making a city." Private enterprise uses resources wisely and efficiently when the state keeps hands off. In contrast, "Those responsible for Arthurdale were like a plague of locusts, consuming far more than they gave."

*Back to the Land* is a book with a message that vast numbers of Americans need to grasp: When government goes beyond its purposes of defending our liberty and property, it is certain to be wasteful, arrogant, and authoritarian.

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