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# FUTURE OF FREEDOM

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*Variety is the essence of life, competition the life of trade.*

— *Paul L. Poirot*

# FUTURE OF FREEDOM

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# The Cuban Embargo and the Perversion of American Values

by *Jacob G. Hornberger*



**I**t would be difficult to find a better example of how the adoption of America's post-World War II national-security state perverted the morals, principles, and values of the American people than the 54-year-old U.S. embargo against Cuba. Now that the issue of lifting the embargo has fully erupted into the political sphere, Americans have an opportunity to question not only the legitimacy of the embargo but, more fundamentally, the entire national-security establishment that was grafted onto America's political structure as part of the Cold War.

The main reason for lifting the embargo is that it is a direct infringement of the rights and free-

doms of the American people. A genuinely free society is one in which people are free to travel wherever they want, associate with whomever they want, spend their money any way they want, and enter into mutually beneficial transactions with anyone in the world.

We refer to these fundamental rights by such labels as freedom of travel, freedom of association, freedom of trade, and economic liberty. They are the types of fundamental rights to which Thomas Jefferson referred in the Declaration of Independence.

Such rights are inherent to every person in the world. They preexist government, and they are unalienable. As Jefferson emphasized, no government, including the U.S. government, has the legitimate authority to infringe on such rights.

Yet that is precisely what the U.S. government has done for the past 54 years with its embargo against Cuba. The embargo infringes the fundamental, God-given rights and freedoms of the American people.

That's not to say, of course, that the embargo hasn't also constituted a direct attack on the freedom and well-being of the Cuban people. Of course it has. But it isn't the Cuban people who are punished by the

U.S. government for violating the embargo. It is Americans who are punished severely by their own government for exercising the fundamental, God-given rights of freedom of travel, freedom of association, freedom of trade, and economic liberty.

What happens to an American citizen who travels to Cuba and spends money there? Upon his return to the United States, he is taken into custody by federal marshals, indicted by a federal grand jury, criminally prosecuted in U.S. District Court, and fined and sent to a federal penitentiary, possibly for 10 years.

How is that reconcilable with a free society? It's not. In fact, it is precisely the type of economic crime that communist and socialist regimes prosecute their citizens for.

That's one of the principal perversions that the grafting of the U.S. national-security state onto our original governmental structure has brought our nation. As part of the Cold War that the U.S. national-security state waged against America's World War II partner and ally the Soviet Union, Americans were taught to believe that to fight communism, it was necessary for them to surrender their own fundamental rights and freedoms to the federal

government and, in fact, to support totalitarian-like measures on the part of their own government.

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**Everyone has understood the target of the embargo has always been the Cuban citizenry.**

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The national-security state also stultified and warped the consciences of the American people. In the name of "national security," the American people were inculcated with the importance of behaving like good, little, deferential citizens, never questioning what U.S. national-security officials were doing to protect "national security" and to "keep them safe" from the communists.

The purpose of the Cuban embargo has always been to inflict maximum economic pain and suffering on the Cuban people. No one, including any official within the U.S. government, has ever believed that the embargo would interfere with whatever lifestyle that Fidel Castro or any of his governmental cohorts desired to maintain. Everyone has understood that, notwithstanding public pronouncements to the contrary, the target of the embargo has always been the Cuban citizenry.

The idea was that if the Cuban people were made to suffer mas-

sively enough, they would do what was necessary to oust Fidel Castro from power, either through a violent revolution or a military coup, and install a pro-American ruler in his stead. It never mattered how many people would have to suffer from the embargo. No price has ever been too high for U.S. national-security officials to achieve regime change in Cuba.

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**The Iraqi sanctions continued to contribute to the deaths of Iraqi children for another five years.**

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We witnessed this same mindset from the U.S. national-security state after the Cold War was over. That occurred during the 11 years of brutal sanctions against Iraq, which, like the embargo in Cuba, squeezed the life out of the Iraqi people. As with Cuba, it never mattered how much suffering had to be endured by the Iraqi people. When U.S. Ambassador to the United Nations Madeleine Albright, the official spokesman for the U.S. government to the world, was asked in 1996 whether the deaths of half a million Iraqi children from the sanctions had been worth it, she replied that while the matter was difficult, yes, the sanctions had in fact

been worth it. The Iraqi sanctions continued to contribute to the deaths of Iraqi children for another five years.

American conservatives, who have long been the premier defenders of the Cuban embargo, point out that a principal cause of the economic misery of the Cuban people is Castro's socialist economic system. That's certainly true. But the fact is that for more than half a century, the Cuban people have been squeezed between two sides of a statist vise. One side of the vise is Castro's socialist system. The other side is the U.S. embargo.

Moral questions obviously arise, ones that all too many Americans have avoided for more than 50 years in the name of the anti-communist crusade that was the driving force behind the Cold War: Should the United States be intentionally inflicting economic harm on the citizens of a foreign country as a way to effect regime change in that country? How is inflicting such pain and suffering on innocent people consistent with the Judeo-Christian values that supposedly guide the American people?

### **Betraying democracy**

Defenders of the Cuban embargo say that they just want to bring

democracy and civil liberties to Cuba. As soon as the Castro regime agrees to elections and protects civil liberties, they say, the embargo can be lifted.

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**Let's not forget the reason the Pentagon and the CIA established their prison camp on Cuba.**

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But that's patently ridiculous given the national-security state's longtime, deep-seated antipathy toward democracy and civil liberties.

For one, let's not forget who was in charge of Cuba before Castro ousted him in the Cuban revolution of 1959. Fulgencio Batista, a cruel and brutal unelected dictator who took power in a coup in 1952, suspended the constitution and canceled civil liberties. He then entered into some sweet deals with the Mafia, one of the world's most violent and crooked criminal organizations. In the name of anti-communism, Batista censored the press and used his secret police force to torture and murder thousands of innocent people.

Guess where Batista received his financial, logistical, and military support. Yes, the U.S. national-security state — the apparatus that suddenly went all pro-democracy and pro-civil liberties when Castro

(and the Cuban people) succeeded in ousting the pro-U.S. dictator Batista from power.

We also would be remiss if we failed to notice the nature of the U.S. national-security state's prison camp on the southeast corner of Cuba. It's not exactly a paragon of civil liberties. It is characterized by indefinite detention, torture, kangaroo military tribunals, denial of speedy trial, no jury trials, and other severe violations of civil liberties. Indeed, let's not forget the specific reason the Pentagon and the CIA established their prison camp on Cuba — to avoid the application of the principles and values in America's Constitution and Bill of Rights to its prisoners.

Don't forget also that several years before Castro's coming to power — 1954 — the national-security state, operating through the CIA, ousted the democratically elected president of Guatemala, Jacobo Arbenz, a man whose government had never attacked the United States or even threatened to do so.

One year before the Guatemala coup, the CIA engineered a secret coup to oust Iranian Prime Minister Mohammed Mossadegh, who had been duly elected to the position by the Iranian legislature. The CIA and the U.S. military then pro-

ceeded to help their reinstated pro-U.S. dictator, the shah of Iran, to establish a secret tyrannical internal police force and to train its forces in the techniques of torture, censorship, and oppression. It took the Iranian people 25 years of oppressive tyranny before they finally succeeded in ousting the tyrannical unelected dictator that the U.S. national-security state had put into power.

We also shouldn't forget Chile in 1973, where the U.S. national-security state destroyed a century-plus-old democratic tradition by engineering the ouster of the democratically elected president of the country, Salvador Allende, and the installation of one of the most brutal (and unelected) military dictators in history, a man whose forces rounded up, raped, tortured, or murdered tens of thousands of innocent people, with the full support and even participation of the U.S. national-security state.

Indeed, let's not forget the U.S. national-security state's ardent support of the supremely anti-democratic regime in Egypt, a regime that is one of the most tyrannical in the world today.

### The aggressor

There is something important to keep in mind about the Cuban em-

bargo from a moral standpoint: Cuba has never aggressed against the United States. Instead, it has always been the U.S. national-security state that has been the aggressor against Cuba. That's a fundamental fact that all too many Americans have blocked out of their consciousness and consciences.

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**Cuba has never been the aggressor against the United States.**

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Cuba never imposed an economic embargo against the United States. It never invaded the United States. It never attempted to assassinate U.S. officials. It never initiated terrorist strikes or acts of sabotage within the United States.

The U.S. national-security state has done all those things to Cuba, all in name of its anti-communist crusade and regime change.

Where in the Constitution does it authorize the U.S. government to impose sanctions and embargoes against the people of foreign countries? Where does it authorize U.S. officials to assassinate foreign leaders because they are communists or socialists? Where does it authorize a sneak attack on a sovereign and independent nation whose ruler refuses to kowtow to the U.S. military



establishment and the CIA? Where does it authorize terrorist attacks and acts of sabotage against foreign regimes that are headed by independent-minded rulers? Where does it authorize regime-change operations against foreign nations? Indeed, where in the Constitution does it authorize the establishment of a Cold War-era national-security apparatus, especially one that has warped and perverted the principles and values of the American people?

Those are the moral and constitutional questions Americans should

be asking themselves as the debate over the Cuban embargo continues to unfold.

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

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**NEXT MONTH:**  
**“Iraq and American Sniper”**  
*by Jacob G. Hornberger*

*War can really cause no economic boom, at least not directly, since an increase in wealth never does result from destruction of goods.*

— *Ludwig von Mises*

# “And the Pursuit of Happiness”: Nathaniel Branden, RIP

by Sheldon Richman



Libertarians and others have wondered why Thomas Jefferson’s Declaration of Independence concludes its explicitly incomplete list of unalienable rights with *the pursuit of happiness* rather than *property*. The website Monticello.org states,

Unfortunately, Thomas Jefferson himself never explained his use of the phrase “pursuit of happiness” in the Declaration of Independence. However, he was almost certainly influenced by George Mason’s *Virginia Declaration of Rights* (adopted June 12, 1776), which referred to “the enjoyment of

life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.”

I don’t know whether that is true. George H. Smith, an authority on such matters, is skeptical. Jefferson himself, who was accused of plagiarism in his lifetime, said, “I know only that I turned to neither book nor pamphlet while writing” the Declaration; he sought, he said, only to achieve “an expression of the American mind.” In other words, the ideas were thick in the air of his time. That Jefferson never explained why he chose *the pursuit of happiness over property* may indicate that he thought the choice was too obvious to require explanation.

Smith offers an entirely plausible and satisfying explanation for Jefferson’s omission of *property*:

Aside from the fact (one often overlooked) that Jefferson wrote “among these” when referring to the inalienable rights of life, liberty, and the pursuit of happiness — thereby indicating that his list was not exhaustive — I point out that to have mentioned “property” as an inalienable right would have proved confusing

to eighteenth-century readers. At that time “property” could refer to the moral power of dominion over one’s body, labor, actions, conscience, and so forth; or it could refer to external objects. In the former sense, “property” was regarded as an inalienable right, but this was not true of “property” in the narrow, more modern sense of the term. We can obviously alienate our external property by transferring ownership to other people.... Thus for Jefferson to have included property in his partial list of inalienable rights would have been highly ambiguous, at best.

Carol V. Hamilton claims that Jefferson found the phrase *the pursuit of happiness* in John Locke’s *Essay Concerning Human Understanding* (1689). But explicit copying seems unlikely in light of what Jefferson said and Smith’s research. It is true, however, that Locke, sounding very Greek, wrote,

As therefore the highest perfection of intellectual nature lies in a careful and constant pursuit of true and solid happiness; so the care of ourselves,

that we mistake not imaginary for real happiness, is the necessary foundation of our liberty. The stronger ties we have to an unalterable pursuit of happiness in general, which is our greatest good, and which, as such, our desires always follow, the more are we free from any necessary determination of our will to any particular action, and from a necessary compliance with our desire, set upon any particular, and then appearing preferable good, till we have duly examined whether it has a tendency to, or be inconsistent with our real happiness: and therefore, till we are as much informed upon this inquiry as the weight of the matter, and the nature of the case demands, we are, by the necessity of preferring and pursuing true happiness as our greatest good, obliged to suspend the satisfaction of our desires in particular cases.

Locke refers here not to political liberty but to a freedom from inner compulsions. It’s only a short step, however, from thinking about that kind of freedom to thinking about the freedom from compulsion pre-

sented by other people, including those who constitute the state.

The binding together of “perfection” (virtue, or excellence, in the Greek sense) and liberty (internal and external) with the pursuit of happiness is noteworthy.

Which brings me to Nathaniel Branden.

### Reading Branden

The year 2014 was a rough one for the freedom movement. We lost five luminaries: Leonard Liggio, John Blundell, Gordon Tullock, Tonie Nathan, and finally, Nathaniel Branden, at age 84.

Branden, of course, became known to the world as the man who helped systematize and present the philosophy dramatized in Ayn Rand’s novels, especially *Atlas Shrugged*. The Objectivist movement became an integral part of the budding libertarian movement in the late 1950s and 1960s. After his break with Rand, Branden moved from New York City to Los Angeles, where he made a name for himself through a series of books about the role of self-esteem in the pursuit of happiness, work he had begun while he was Rand’s associate.

I’ll have nothing to say here about the biographical details of the two that have attracted so much at-

tention over the last 40-plus years. Nor will I explore what I believe are epistemological and ethical shortcomings in Objectivism. (But I will again recommend Roderick Long’s *Reason and Value: Aristotle versus Rand*, a PDF of which can be found at <http://bit.ly/1j9zxKH>.)

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### The Objectivist movement became an integral part of the budding libertarian movement in the late 1950s and 1960s.

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As important as these matters are in particular contexts, if they are the only connections in which one thinks about Rand and Branden, then one has missed the forest for the trees. In my view, both made important contributions to our understanding of the human enterprise, and these contributions should not be ignored or devalued because of personal or philosophical flaws. As for the personal flaws, moreover, we should not rule out the possibility of redemption, which in my estimation Branden went some great distance to achieve.

I did not know Branden well, and I can recall seeing him lecture in person only twice. In 1970 or 1971 Branden dramatically returned to New York City for the first time since his falling out with

Rand to give a public talk. I drove with a friend from Temple University in Philadelphia, where I was an undergraduate, to see him speak. He did not disappoint.

He and I spoke on only a couple of occasions, in Washington, D.C., thanks to our friend Roy Childs. On one of those occasions I drove Branden back to his hotel, probably the only time we spoke one on one. In later years I saw him at Freedom-Fest and Libertopia, but we did little more than say hello.

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In 1969, Branden's publisher released his long-awaited book, *The Psychology of Self-Esteem*.

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A bit of background is in order. I did not “discover” Rand and her novels until *after* her break with Nathaniel and Barbara Branden. Rand’s “To Whom It May Concern” (December 1968), in which she declared the break and denounced Nathaniel for alleged financial improprieties, was my first contact with the formal Objectivist movement. I had not heard of the Nathaniel Branden Institute (NBI), except perhaps through advertisements bound into the paperback editions of the novels, to which I paid scant attention. For this I will always be grateful, since it meant I

was immune to the trauma that students of Objectivism suffered when the Brandens were expelled.

At some point, though, I started reading back issues of *The Objectivist* and *The Objectivist Newsletter*, where I encountered Branden’s writings on psychology. They struck me as sound and sensible, and I wanted to know more. Then in 1969, Branden’s publisher released his long-awaited book, *The Psychology of Self-Esteem*, chapters of which had appeared in Objectivist publications. I devoured it.

When I said so, my more orthodox senior Objectivist friends, who were suspicious of Branden, looked at me askance. I know I worried them when they asked what I thought of the book and I replied, “It gave me the same satisfied feeling I experienced from his earlier [approved] writings.” I immediately realized that a report on my emotional reaction to the book was *not* what they wanted to hear. (One of Branden’s most important contributions would be to show that the Objectivist inclination to disparage emotions constituted a gross misunderstanding of human nature and thus a misapplication of Rand’s philosophical fundamentals.)

At any rate, I read all of Branden’s books, and I learned much

from each one. I believe I assimilated his teachings about the role of reason, emotion, self-respect, and self-confidence in the pursuit of a happy, successful life. I would say his work has served me well. But enough about that.

### The point

Over the years Branden spoke to many libertarian audiences about the intersection of political freedom and the pursuit of happiness through self-assertiveness, self-confidence, and self-responsibility. The connection should be obvious. In a free society, self-responsibility and the things that make it possible are critical because, among other reasons, you cannot morally compel anyone to take care of you, even if you would want that.

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**Branden spoke to many libertarian audiences about the intersection of political freedom and the pursuit of happiness.**

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Self-responsibility should not be mistaken for the caricature of atomistic individualism propagated so frantically by ignorant or dishonest critics of libertarianism and Objectivism. As an admirer of Aristotle, Branden, like Rand, understood that we are social animals,

which means that we cannot actualize our immense potential except through close contact with other human beings. (Indeed, language, the vessel of conceptual thought, is an emergent social institution.) Thus, no conflict exists between self-responsibility and the need for a wide range of emotional and other kinds of relationships. On the contrary, individuality and sociality are two sides of the same coin.

I would sum up Branden’s opening move in his political thinking this way: What’s the point of freedom? Why be a libertarian?

We want and need freedom not because it is right and good in itself in some simple deontological sense, but so that we may *live happy lives*. An essential ingredient of happiness is self-direction: the setting of one’s life course, the choosing of worthwhile goals, and the striving to achieve them. To the extent one is not free, to the extent that the state or anyone else is able to commandeer your resources and time without regard for what you want to do with your life — to that extent you are deprived of essential control over your life. You are dehumanized, treated like other people’s property.

That was Branden’s political message.

In his obituary for Branden, *Reason's* Brian Doherty wrote, "And as he told me once, to the extent that a libertarian society requires self-realized, self-responsible people — and he believed it did — he considered his work in psychology to be an extension of his interest in political liberty."

I do not believe, and I do not think Branden did either, that the elements of human excellence, or virtue, are *prerequisites* of a free society, although they certainly could help determine whether people want one. (How much resistance to the libertarian view is motivated by a fear of freedom and self-responsibility?) I, like Albert Jay Nock, believe that freedom is the great teacher of virtue because one may not force others to suffer the consequences of his own irresponsible actions. So we do not need to begin with a population of virtuous

people before a free society can be achieved. Nevertheless, a free and vibrant society will have its best chance to remain such only when people cultivate the psychological traits that Branden elaborated.

I'll close by saying what, regrettably, I never said to him, "Thank you."

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**NEXT MONTH:**  
"Monopoly and Aggression"  
by Sheldon Richman

*Everything that is really great and inspiring is created by the individual who can labor in freedom.*

— Albert Einstein

# Know-Nothing Democracy on Capitol Hill

by James Bovard



“You can lead a man to Congress but you can’t make him think,” quipped Milton Berle in 1950. Last December’s congressional approval of the 1,603-page, \$1.1 trillion omnibus bill (known as “Cromnibus,” because it was also a Continuing Resolution) also shows you cannot make congressmen read. Unfortunately, as usual, politicians refused to let their ignorance restrain their power over Americans’ lives and tax dollars.

After spending much of the fall reapplying for their current jobs, members of Congress returned to Washington in a lame-duck session and heaved all of their laggardly tasks into a 15-plus-pound pile of paperwork that no individual mem-

ber had time to comprehend before approving. House Speaker John Boehner (R-Ohio) pooh-poohed any concerns about the process: “Understand, all these provisions in the bill have been worked out in a bicameral, bipartisan fashion or else they wouldn’t be in the bill.” And never before in American history have there been any problems from the deals that Republican and Democratic pooh-bahs carved behind closed doors.

The bill unleashed a blizzard of new dictates regarding marijuana in Washington, D.C.; bread in school cafeterias; sleepy truckers; portrait painting in federal offices; reckless speculation by federally insured banks; campaign contributions from rich folks; lecherous congressional aides; aid to Egypt and Israel; and dozens of other subjects. Both conservatives and so-called liberals were outraged at provisions popped into the bill with no warning or public hearing. But members of Congress believed they are entitled to rule regardless. Rep. Robert Pittenger (R-N.C.) captured that mindset perfectly when he declared shortly before the vote, “Let’s go govern.”

Some defenders of Congress acted like the Cromnibus process was an aberration — like a once-a-



generation family reunion where a thrice-removed cousin goes on a bender and smashes up a few tables. But it was more like the depraved uncle who goes on a liquored-up rampage at every Christmas dinner.

Congress in recent years has repeatedly heaped vast amounts of legislation and appropriations into a single bill that is rushed to approval on bogus deadlines. Sen. David Boren (D-Okla.) observed in 1991 that congressional “bills are five times longer on the average than they were just as recently as 1970, with a far greater tendency to micromanage every area of government.” The *Washington Post* editorialized on the eve of a 1998 congressional vote on a massive appropriations bill, “Most members will have only the vaguest idea of what the bill contains. Nor will they have more than a fleeting opportunity to amend the measure. The future: Are you for it or against it? You have 15 minutes to decide.” Each time such a megabill passes, the months afterwards are filled with members of Congress caterwauling that they were victimized by unnoticed provisions in the bill.

Ignorance of the law is an excuse only for the members of Congress who voted for the law. And the thicker a legislative bill be-

comes, the more recklessly the members behave. Remember the Obamacare bill, which clocked in around 2,400 pages.

### Self-importance

Members might object that it is unreasonable to expect them to understand everything that they vote on. In the same way that some people portray obese people as victims of all the calories they helplessly consume, are politicians victims of all the power they have grabbed?

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**A 1977 survey revealed that the average member spends only 11 minutes a day reading at work.**

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The Cromnibus debacle occurred in part because the members are simply too important to read. A 1977 survey revealed that the average member spends only 11 minutes a day reading at work. The results of that survey were so embarrassing that no follow-up has been done in subsequent decades. There is no evidence that today’s representatives are more bookish than their 11-minute-a-day predecessors. Perhaps this is a venerable tradition; Will Rogers suggested in the 1920s that representatives adopt the slogan “Why sleep at home when you can sleep in Congress?”

Cromnibus epitomizes the charade of contemporary paternalism. It would not have passed without the members' grandiose self-delusions of benevolence. Rep. Sam Farr (D-Calif.) urged his colleagues to support Cromnibus: "Hold your nose and make this a better world." In 1999 the *Journal of Personality and Social Psychology* published a study that explained why "the incompetent will tend to grossly overestimate their skills and abilities." The article concluded that "those with limited knowledge in a domain suffer a dual burden: Not only do they reach mistaken conclusions and make regrettable errors, but their incompetence robs them of the ability to realize it." The article quoted the apt saying by Charles Darwin that "ignorance more frequently begets confidence than does knowledge." While the study focused largely on people scoring in the bottom quartile on intelligence tests, the same pattern of overconfidence and incompetence characterizes many members of Congress.

Senators and House members presume they are so superior to common folks that citizens will be better off even when politicians have little clue of what they are dictating to the American people. Earlier in the week that Cromnibus

passed the House, many members justifiably railed at Obamacare architect Jonathan Gruber for publicly scoffing at the stupidity of voters. But the members out-Grubered Gruber by carelessly rubber-stamping a 1,600-page Pandora's Box.

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**The Founding Fathers were keenly aware of the peril of this type of reckless legislative behavior.**

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Almost no sober person handles his own life the way that Congress legislates. Would anyone hire a lawyer who, tasked with negotiating a complex business deal, signed off on a hefty contract that the lawyer admitted he never bothered to read? Such an admission would spur a lawsuit for malpractice — a specter that members of Congress have no reason to fear.

### Stewards of donations

The Founding Fathers were keenly aware of the peril of this type of reckless legislative behavior. James Madison warned in Federalist 62, "It will be of little avail to the people ... if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood: if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man who

knows what the law is to-day can guess what it will be to-morrow.” Madison was thinking of the citizenry when he wrote that line — but the same warning now applies to legislators themselves.

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**H.L. Mencken aptly described an election as “a sort of advance auction of stolen goods.”**

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Many surveys in recent years have demonstrated the ignorance of average citizens on the nuts-and-bolts of contemporary democratic procedures. But is the average member of Congress, voting on the average bill, more ignorant than the average voter making his choice between two congressional candidates? Comparing a congressional election with the average Capitol Hill vote on a hefty legislative package, the percentage of voters who have examined the candidates and issues is probably higher than the percentage of members of Congress who have actually read and comprehended the bill. The voters only have to vote for congressional candidates once every two years, while members near the end of the legislative session may have to vote 20 times or more a day. The citizens’ vote is practically a will-o’-the-wisp, while members blithely vote in fa-

vor of permanently increasing government power. Besides, the citizen is not being paid to be a competent voter, while members have awarded themselves a salary of \$174,000 a year for the privilege of dictating rules to other Americans.

Once members are routinely voting on things that they have not read and do not understand, we are left with a blind trust in their good characters. But as British philosopher Bertrand Russell warned in 1938, “In a social system in which power is open to all, the posts which confer power will, as a rule, be occupied by men who differ from the average in being exceptionally power-loving.” Power lust is no substitute for legislative due diligence.

One of the great mysteries of contemporary paternalism is the notion that elected representatives are competent stewards of the public good. People don’t get elected to Congress because they scored well on multiple-choice tests on public-policy minutiae. H.L. Mencken aptly described an election as “a sort of advance auction of stolen goods.” And there is nothing that happens after Election Day that makes the winners either competent or trustworthy to make laws.

America’s high-school civics textbooks need to be updated with

a chapter on “The Blindfolded Weasel School of Legislating.” Some idealists may believe that a sufficient number of scoldings by editorial pages and talk-show hosts will spur members of Congress to repent of their reckless ways. But thanks to pervasive gerrymandering, most of them have seats that are sufficiently secure that they have nothing to fear as long as they are not indicted on at least half a dozen criminal charges. Members will harvest a flood of campaign contributions for the favors that Cromnibus disbursed. And, at this point, they care far more about pleasing their donors than about serving voters.

In the weeks after the Cromnibus bill passed, news stories trickled out detailing how the legislation imperiled Americans’ rights and liberties and wasted their tax dol-

lars. But citizens already knew that, rather than a contest between Democrats and Republicans, Capitol Hill is routinely dominated by the Know-Nothing Party. It is time to repeal politicians’ divine right to govern recklessly.

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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, as well as Attention Deficit Democracy and eight other books.*

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**NEXT MONTH:**  
**“Cops and Donuts Don’t Mix”**  
*by James Bovard*

*Blessings we enjoy daily, and for most of them, because they be so common, men forget to pay their praises.*

— Izaak Walton

# Official Homicide and Legal Rhetoric in Mr. Barron's Memo

by Joseph R. Stromberg



The Barron Memo released last summer — if “released” means badly mangled — is an interesting literary production. Its full title is “Applicability of Federal Criminal Laws and the Constitution to Contemplated Lethal Operations Against Shaykh Anwar al-Aulaqi.” Here, David J. Barron, who was acting assistant attorney general in the Office of Legal Counsel (OLC), argued as of July 16, 2010, that no “law” can prevent the executive branch from killing an American citizen said to be cooperating with foreign enemies during an alleged war.

Barron strikes all the right notes of a humane and world-weary liberal imperialism. His heavily re-

dacted memo thus differs outwardly from those of an earlier administration (less metaphorical blood on the juridical knife, for example).

At the (belated) outset we meet with grim foreboding, as Barron frets that some federal official, somewhere, might be charged with a crime, under some long-lost, forgotten law. He calls up fire, and quickly; hoard foregathered, law-sayings unlocked, his word-crafty wit fetters fears, boldly knocking naysayers. We infer from an early remark in section II that section I, missing, described *operations contemplated*.

## Killing no murder

Right off, Barron lifts from law-hoard 18 U.S.C. 1119, a congressional statute making it a crime for any American, overseas, to kill another American, overseas. This cannot stand. Delving widely for doctrine, Barron seeks a broad principle of American law exempting *federal agencies* from statutes state and federal and hits upon a “public authority justification.” This means that if a *public official*, acting in good faith, *kills someone*, said official can draw on many “justifications and excuses.” After all, “unlawful homicide” (where *unlawful* is a “term of art”) implies *lawful* homicide. (Fair

enough, had the concept not broken free long ago from any commonsense moorings.) This part is not Barron's fault. Bringing his state knives to a federal gunfight, he now "incorporates" his "public authority justification" *upwards*, rather unusually.

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### Barron seeks a broad principle of American law exempting federal agencies from statutes state and federal.

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Henceforth the question is "whether a particular criminal law applies to specific conduct undertaken by government agencies pursuant to their authorities" — or how far do justifying and excusing go? Somehow a doctrine already meant to reverse the burden of proof in the states becomes the key to reading congressional statutes.

Barron allows that the *public-authority justification* "does not excuse all conduct of public officials from all criminal prohibitions." But our happiness washes away when he urges that it "would not make sense" to think that Congress (in U.S.C. 1119) could really have wanted to keep American *officials*, from (say) killing Americans overseas. Barron calls on the trivial *analogy* of high-speed car chases in illustration. In

footnote 16, slightly redacted, we meet an old acquaintance: *United States Assistance to Countries that Shoot Down Civil Aircraft Involved in Drug Trafficking* (OLC Opinion, 1984). It sounds harmless enough — as if wily foreigners are doing it — but the sentence quoted from the same source in Torture Memo I (January 22, 2002) suggests otherwise: "a USG [U.S. Government] officer or employee may use *deadly force against civil aircraft* without violating [a criminal statute] if he or she *reasonably believes* that the aircraft poses a threat of serious physical harm ... to another person." (My italics.) *Excuses* abound; *justification* goes walkabout.

Soon more statutes appear in which we (citizens) get to be killed in their (officials') line of duty. Barron notes that these laws "often prescribe that an officer acting in the performance of his official duties *must reasonably have believed* that such force was 'necessary.'" (My italics) This "must" is ambiguous, to say the least. Is it a logical "must" or an ethical one? (Things have grown very tiresome, if English modal verbs are "terms of art.")

### U.S. persons needing killing

Barron gets down to specifics, namely, Anwar al-Alauqi, U.S. citi-

zen resident in Yemen, and a “contemplated” Defense Department or CIA “operation” as “*represented*” to Barron by those agencies. Barron gives himself at least *seven* such escape clauses. Did he perhaps think that the *agencies* were *lying* to him, a federally employed attorney? Mostly, though, it seems they can be trusted to kill nonofficial Americans in good faith, and thus “lawfully.”

We soon learn that war automatically entails the *public-authority justification*. A footnote cites the Israeli Supreme Court (a worthy source) on excuses under the “laws” of war. The *Aircraft Shooting-Down* memo reappears to show how ordinary U.S. statutes cannot keep the U.S. military from doing things in a *nonwar*, if international law allows them (!) or the “laws” of war allow them in war. In addition, in a “war” against nonstate organizations, both inherent executive powers and those arising from Congress’s Authorization for the Use of Military Force (AUMF, 2001) evidently override all other law. Quick references to *Quirin* (1942) and *Hamdi* (2004) get Citizen al-Alauqi off-stage and, anyway, the agencies “represent” him as a participant ally of al-Qaeda. (Farther down, he becomes a director of operations

against the United States.) Inevitably, the overrated Lieber Code (1863), Lincoln’s instructions on the wartime conduct of the Union army, is mentioned.

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More statutes appear in which we (citizens) get to be killed in their (officials’) line of duty.

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Since the AUMF is geographically *silent*, the battlefield can include Yemen or the moon. Hacking through heaps of domestic and international law and “laws” of war, Barron admits that “we must look to principles and statements from *analogous contexts*.” (My italics) Some might see this as akin to *forum shopping*. Cases on Yugoslavia provide “precedents” from undeclared wars involving sundry U.S. legal whimsies. To some end, Barron cites an International Court of Justice advisory opinion (1996) on the legality of using nuclear “weapons.” A discussion of humanitarian law quickly follows, perhaps to highlight liberal imperialism.

Barron mentions four U.S. targeting principles: “military necessity, humanity ..., proportionality, and distinction” in unlikely connection with American airpower (for comic relief?). A note informs us that killing al-Alauqi raises no

Fourth Amendment issues, since capturing him is “infeasible.” The logic is obscure. Guided by Defense Department representations, Barron foresees a high-tech strike without “disproportionate” casualties. On page 30, two paragraphs are missing, as are all of 31 and half of 32, making summary difficult. Visible words on page 30 reintroduce Barron’s “public authority” theme.

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There is *no* “reasonableness” test for deadly force in an amendment dealing with *warrants*.

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Page 33 has a third of a short paragraph, but vandals have removed six lines from a very long note. In the readable half of page 34, Congress *could not have* meant U.S.C. 1119 to prohibit official homicide and thus *incorporation* of public authority justification must be assumed. Forty percent of page 35 is gone, but a surviving sentence sees the anticipated operation as complying with “due process and the Fourth Amendment’s ‘reasonableness’ test for the use of deadly force.” *Where to begin?* There is *no* “reasonableness” test for deadly force in an amendment dealing with *warrants* and which does not require meditations on “reasonableness.” Such hobbies are sheer

judicial invention. (Barron also dismisses the *Fifth* Amendment.)

Pages 36 and 37 survive. A fourth of 38, two-thirds of 39, and 40 percent of 40 are no more. Four lines have fled page 41. Nonetheless, we learn that no statute and no constitutional phrase, whatever its language, can thwart the “right” of the federal executive to kill people out of hand. (It is always good to know where we stand.) In getting here, Barron avoids appeal to the unitary executive theory, which so cluttered the Torture Memos. Yet despite his craft, the *public-authority justification* and its *incorporation* still seem rather shaky.

### Weak links

With citation overkill and vigilant forum shopping, the memo increasingly resembles its predecessors from George W. Bush’s presidency as standard OLC product. Unhappily, the leaps in the argument, great and small — from one undersupported proposition to another — undermine our will to believe. With its numerous *absences* and *silences*, the memo seems “true” only if we grant a great many things we should not grant.

Unluckily for us, Mr. Barron’s universal shield for violent official actors is indeed a rapidly advancing



*cancerous growth* on American law and life. Continued militarization of standing police forces, carrying on metaphorical “wars” on drugs or whatever, has strengthened an ancient homicidal trend in domestic policing reaching back to the very founding of these peacetime occupation forces. American police homicides and their rationalizations potentially supply full-time work for American journalists (Radley Balko, William Grigg, and others). Between taser deaths and ordinary beatings and shootings, conscientious reporters (however few) get little rest. Barron must forgive Americans who fail to rejoice that American authorities’ “right” to do these things at home has “legal” uses across the water. (If this is *liberal* imperialist jurisprudence, liberalism has grown very ugly.)

Tirelessly sustaining the police, American courts worsen bad doctrines or create new ones. In terms of Americans’ freedoms and liberties the courts are (with few exceptions) fully engaged partisans from the wrong side. Blameless in this, Barron profits argumentatively from

the results. His tour through great shed-loads of statutory debris has yielded him a liberal-securitarian (police-state) doctrine good enough for Americans and All Mankind.

We must thank Mr. Barron for making so clear the link between the *public-authority justification* and lethal American violence overseas — in a perfect exposition of postmodern erasure of distinctions between home and abroad. Worse luck, the number and scope of *public-authority* excuses, justifications, and exceptions can only grow, as federal officials carry out infinitely expanding “duties” — again, at home and abroad.

The hard work displayed in the Barron memo reflects the end to which it is ordered: the completion, at long last, on our shores, of a modern, abstract Hobbesian state — albeit unwanted, unwelcome, and unbidden.

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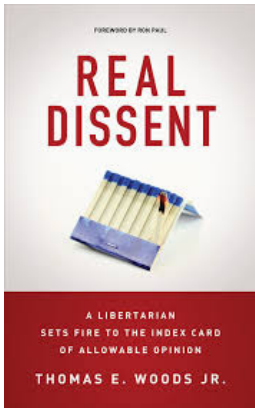
*Joseph Stromberg is a historian and free-lance writer.*

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# A Most Radical Libertarian Book

by Laurence M. Vance

*Real Dissent: A Libertarian Sets Fire to the Index Card of Allowable Opinion* by Thomas E. Woods Jr. (CreateSpace Independent Publishing Platform 2014), 338 pages.



In his foreword to one of Tom Woods’s previous books, former congressman and presidential candidate Ron Paul described him as “one of the libertarian movement’s brightest and most prolific scholars.” Paul mentions his endorsement in the foreword he writes to Woods’s newest book, *Real Dissent*, and explains how he and Woods have “worked together closely over the years.”

Woods certainly needs no introduction to libertarians. A senior fellow of the Ludwig von Mises Institute who holds degrees from both Harvard and Columbia, Woods has made many television appearances and been a guest on hundreds of radio programs. He has penned a dozen or so books (two of them *New York Times* bestsellers), edited others or written prefaces, forewords, or introductions to them, contributed to encyclopedias, and been published in dozens of popular and scholarly periodicals. He really burst on the scene in 2004 when he authored *The Politically Incorrect Guide to American History*.

*Real Dissent* is Woods’s most radical and most libertarian book. It is also a unique book, since it is a compilation of 54 of his articles published during the period from March 27, 2003, to June 30, 2014. In addition to the foreword by Ron Paul, a brief but important preface and introduction precede the book. The book is divided into ten parts, which are really just chapters, with two to eleven articles in each:

War and Propaganda  
 Capitalism and Anti-Capitalism  
 Libertarianism Attacked, and  
 My Replies  
 Ron Paul and Forbidden Truths

End the Fed  
History and Liberty  
When Libertarians Go Wrong  
Books You May Have Missed  
Talking Liberty: Selected Tom  
Woods Show Interviews  
Back to Basics

The parts of the book are quite unequal and the length of the articles ranges considerably. While most of the articles have between four and seven pages, three of them have more than ten pages and six of them comprise just two pages. Owing to the nature of the book, there is no bibliography or index. The book concludes with a very personal afterword, “How I Evaded the Gatekeepers of Approved Opinion,” in which Woods describes the projects he has been working on since his last book: a weekday podcast, an educational website, and the Ron Paul home-school program.

In his preface, Woods explains that “a great many” of the articles in *Real Dissent* are replies to critics. That is because he feels that answering critics is also “a good opportunity to provide libertarians the intellectual ammunition they need to reply to similar critics when they encounter them.” He believes that the articles he has chosen are some of his “best and punchiest writing.”

Most of the articles first appeared on LewRockwell.com, but Woods also credits the Future of Freedom Foundation and the Ludwig von Mises Institute for a number of them. In a few of the articles, Woods adds an italicized preface, explanatory material in brackets, footnotes, or a reference to another article in the book.

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**Woods feels that answering critics is a good opportunity to provide libertarians intellectual ammunition.**

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In his introduction, Woods states that the articles in the book “challenge the narrow band of opinion that Americans are permitted to occupy.” He describes the “gatekeepers of permissible discussion” — whom he sees on the Left and the Right — as “the thought controllers, the commissars, or the enforcers of approved opinion.” The book is aimed “against them and their attacks.” Woods sees the book as “a match” to set fire to “that index card of allowable opinion.” The introduction also contains a valuable synopsis of what is contained in each part of the book. Here we see that the articles gathered together in *Real Dissent* include reviews of “some helpful books in the libertarian tradition,” transcripts of inter-

views conducted by Woods for the *Tom Woods Show*, a foreword to a new edition of a book by Ludwig von Mises, and an interview he did with the *Harvard Political Review*.

### Conservatism and libertarianism

The best and most important articles included in *Real Dissent* are those that demolish conservatism and defend libertarianism.

In the very first article in the book, “I Was Fooled by the War-Makers,” Woods relates that he was once “a full-blown neoconservative” who embraced “a neoconservative foreign policy with gusto.” He argues in “Twilight of Conservatism” that we see in the work of “genuine conservative” Robert Nisbet “far more caution about the warfare state than can be found in just about any mainstream conservative organ today.” Unlike modern conservatives today, Nisbet deplored the centralization of power in the federal government, the “grotesque mystique that had come to surround the American presidency,” and war and the military, which he viewed as “among the very worst of the earth’s afflictions.” In “Who’s Conservative,” Woods critiques the “Wilsonianism” of modern “national greatness conservatism.”

Conservative icon Russell Kirk is the subject of “Do Conservatives Hate Their Own Founder?” The anti-interventionist opinions presented by Kirk at a Heritage Foundation conference in 1991 “would never be permitted at Heritage today.” Woods takes on an opponent of Ron Paul’s foreign policy of non-intervention in “The Cult of Reagan, and Other Neoconservative Follies.”

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### Woods takes on an opponent of Ron Paul’s foreign policy of nonintervention.

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Ronald Reagan has become “the Right’s Obama: a man whose every action is to be treated as ipso facto brilliant, perhaps even divinely inspired.” The foreign policy views of traditional conservatives such as Felix Morley, Angelo Codevilla, Claes Ryn, and Russell Kirk show that opponents of interventionism are not all “left-liberals.” In “Is John Yoo Trying to Deceive?” Woods takes on a particular historical distortion of Yoo, the deputy assistant U.S. attorney under George W. Bush who authored the infamous “torture memos.” Two articles are devoted to refuting the conservative warmonger and talk-show host Mark Levin.

The longest section of *Real Dissent* is devoted to defending libertarianism against its critics who favor government action over individual action. Here Woods takes on writers for *The New York Times*, Salon, *The Washington Post*, Slate, AlterNet, and *The Weekly Standard*. Part VII, “When Libertarians Go Wrong,” defends libertarianism against “regime libertarians” who, among other things, ridicule and insult the religious beliefs of millions of Americans, “thereby alienating those people from libertarianism.”

Although he is not an economist, Woods does an admirable job in of explaining and defending the free market and correcting the misinformation and misunderstanding that critics of capitalism have about robber barons, monopolies, poverty, capital, labor, the Great Depression, taxation, laissez faire, income inequality, the price system, money, the Federal Reserve, bubbles, and boom-bust cycles.

Given his close association with Ron Paul, it is no surprise that Woods devotes a whole section of *Real Dissent* to defending the ideas

of Ron Paul, especially as they relate to foreign policy.

Other than wishing the book included even more of Woods’s valuable articles, I have only two minor quibbles. There are no page headings to indicate which part of the book you are in or which article you are reading, just the author’s name at the top of left-hand pages and the title of the book on right-hand pages. And although each article has its date of publication printed at the end, the publication in which the article initially appeared is not given.

The articles Woods has collected together in *Real Dissent* are mostly pithy, sometimes humorous, and always informative. In addition to their purpose as related by Woods in his preface and introduction, they serve as an introduction to the thought of one of libertarianism’s most prolific writers.

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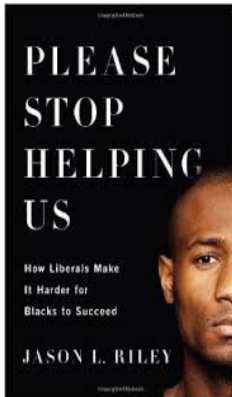
*Laurence M. Vance is policy adviser for The Future of Freedom Foundation and the author of The Revolution That Wasn't. His website is [www.vancepublications.com](http://www.vancepublications.com) and his email is [lmvance@juno.com](mailto:lmvance@juno.com).*

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## Cruel Compassion

by George Leef

*Please Stop Helping Us: How Liberals Make It Harder for Blacks to Succeed* by Jason L. Riley (Encounter Books 2014), 407 pages.



When he was asked, following the abolition of slavery, what the country should do with the Negro, Frederick Douglass issued this thunderous reply: “I have had but one answer from the beginning. Do nothing with us! Your doing with us has already played the mischief with us.... All I ask is, give him a chance to stand on his own legs! Let him alone!”

Douglass knew that black people needed no special treatment

and deserved to succeed or fail on their own. He wanted no patronizing help, but simply to be free of all the impediments that government had historically put in their way.

Sad to say, while many modern Americans claim to honor the great abolitionist, they ignore his plea that society “Do nothing with us.” On the contrary, it is a deeply imbedded belief among many so-called liberals that only through policies that aim specifically at making it easier for blacks to succeed can they make any progress. A possibility that those liberals almost never consider is that their “doing” with blacks is in fact detrimental.

Free-market critics of programs supposedly meant to help struggling people have long argued that those programs are counterproductive. They actually harm the intended “beneficiaries,” or at least most of them.

Such arguments are almost always ignored by key politicians and opinion shapers. Frequently, they are dismissed out of hand with the insinuation that anyone who would make such claims must harbor some racial animosity.

So, what will be the reaction to *Wall Street Journal* writer Jason Riley’s new book *Please Stop Helping Us*?

## Failures

Riley, who is black himself, shows that affirmative-action programs, progressive education theories, minimum-wage laws and other labor-market interferences, and other laws have retarded the economic advance of black Americans. In short, allegedly liberal policies that were adopted to help blacks have instead proven to be millstones around their necks.

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He points to the inconvenient truth (inconvenient for statisticians, anyway) that the gap between the average earnings of white workers and black workers had been closing rapidly in the years following World War II, when government policy was still indifferent to or even hostile to black Americans. That progress, however, slowed and then reversed after the implementation of the federal “Great Society” programs that were intended to speed up black progress.

Rather than reexamining those policies, however, so-called liberals resort to making implausible excuses for their failure. The minimum

wage hasn’t been raised high enough; not enough money has been spent on inner-city public schools; anti-discrimination laws have not been enforced severely enough, and so forth.

Riley doesn’t believe any of that. His book’s big target is the “liberal” idea that the best or only way for poor minority groups to succeed is to get political power, then use that power to obtain preferential laws. Looking to the government for group advancement is a delusion that has lured blacks (and other groups) away from self-reliance and individual improvement.

Instead, looking to the state for “help” has created a powerful “civil-rights industry” that pretends to work for the interests of blacks. The leaders of that industry have a fixation on government and their approach merely creates dependency and a sense of victimization. That is in *their interest*, but it has been extremely detrimental to the well-being of most black Americans.

In contrast, Riley observes, Asians, including recent immigrants, have focused on individual efforts in education, investment, and entrepreneurship, rather than politics. As a result, there is no Chinese, Japanese, Korean, or Vietnamese underclass that is hopeless-

ly mired in poverty. There is, however, a huge and growing black underclass that has been deprived of ability and ambition, thanks to reliance on the state.

So powerful is the “government must help us” mentality that the self-improvement philosophy of earlier leaders such as Booker T. Washington is now disparaged. Riley writes, “Not only has Washington’s legacy been maligned, but several generations of blacks have come to believe that the only legitimate means of group progress is political agitation of the NAACP-Jesse Jackson-Al Sharpton variety. If you are more interested in black self-development than in keeping whites on the defensive, you’re accommodating racism.”

### Education

Quite a lot of the book is devoted to liberal educational policies that have hurt black progress.

Before it became fashionable for educators to treat any group of students as victims deserving favored treatment, blacks knew they had to excel in school — and did. Black students from public and private schools graduated with solid skills and found their way into good careers despite lingering prejudice against them in society.

The trouble with black academic achievement began when liberal white educators decided that they should not hold black kids to the same rigorous standards, either in scholarship or in decorum, as they applied to whites and Asians.

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**The self-improvement philosophy of earlier leaders such as Booker T. Washington is now disparaged.**

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Riley cites the research of the late sociology professor John Ogbu, who found that academic underachievement was rampant among black students in the wealthy Cleveland suburb of Shaker Heights. Those students, who had never experienced the least bit of poverty or discrimination, knew that they would benefit from lower expectations from their teachers and also from preferential college-admission policies. After all, why “act white” and work hard when you don’t have to?

Educational policies meant to help blacks have done them great harm, yet when the poor achievement of black students is discussed by black leaders and white liberals, the talk invariably turns toward making excuses. Poor results are attributed to “the legacy of slavery and Jim Crow” or to enduring pov-



erty or to “culturally inappropriate teaching methods” in the schools.

Worse still, black leaders (again allied with white liberals) oppose school reforms that would allow at least some students to escape dismal public schools for charters or private alternatives. Riley recounts his interview with American Federation of Teachers head Randi Weingarten: “Jason, don’t talk to me about an achievement gap until we solve poverty in this country,” she said. But of course, one of the main reasons that there is so much poverty is the ineffectiveness of many public schools. To say that black students have to remain in them until we somehow “solve poverty” is an absurdity.

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**Schools risk sanctions if their discipline statistics don’t match the racial percentages in their student bodies.**

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And now the federal departments of Justice and Education have gotten into the act with a requirement that public-school officials punish students with racial proportionality in mind. Schools risk sanctions if their discipline statistics don’t match the racial percentages in their student bodies. Riley wonders why these distant

bureaucrats aren’t more concerned about the disruption to the education of serious students than the racial mix of the students who really deserve punishment.

## Employment

Riley also hammers at liberal nostrums such as the minimum wage. With iconic politicians such as the late Ted Kennedy proclaiming that the minimum wage “is one of the most effective anti-poverty programs,” liberals never want to confront the consequences of the minimum wage. But the inescapable truth, Riley writes, is that these laws “keep the large number of blacks who lack the right education and skills from being able to compete for jobs by offering to work for less money, get on-the-job experience, and ultimately increase their skills and pay.”

Defenders of the minimum wage trot out a few academic studies which they claim show that raising it does not have any disemployment effects. Riley shows why those studies are erroneous, mainly because the data were collected over too short a time period for the inevitable labor-market adjustments to occur.

Again, however, nearly all black leaders remain united with white

liberals in demanding that the minimum wage be ratcheted up further. Do they really think they're helping? Or do they simply prefer the cozy alliance with the liberal establishment that sees more government as the solution to every problem?

Another labor-market interference that hurts blacks (although not exclusively) is the Davis-Bacon Act and similar "prevailing wage" laws in many states. As Riley acknowledges, those laws were not enacted to help blacks. Quite the reverse, they were enacted to keep black construction workers from competing with white (mostly unionized) workers who charged more. Their effect, however, is decidedly harmful to nonunion construction, where blacks and other minorities are more numerous.

Given the "disparate impact" that those laws have on blacks, you might think that black leaders and white liberals would be working hard to repeal them. You'd be mistaken. Again, the political advantages for black leaders of the alliance with Big Labor trumps the obvious harm of prevailing wage laws.

### The missing condemnation

Barack Obama was elected twice with almost unanimous support from black voters.

If you think back to the celebration on election night in 2008, many of them thought that their lives would improve dramatically once he took office. But instead of great progress, most of the black community has fallen further back. Unemployment is high and dependency on government welfare has increased. None of that seems to have made the slightest dent in faith in big government, however.

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**"The left's sentimental support has turned underprivileged blacks into playthings for liberal intellectuals and politicians."**

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Obama and his political allies have constantly tried to distract supporters with a parade of irrelevancies and new promises such as preschool programs, allegations of racism over voter-ID laws, and the alleged need for more gun-control laws. So far, that strategy has worked pretty well.

Riley sums up his case this way: "The left's sentimental support has turned underprivileged blacks into playthings for liberal intellectuals and politicians who care more about clearing their conscience or winning votes than advocating behaviors and attitudes that have allowed other groups to get ahead."

While the book makes a strong case against government intervention and in favor of the “Do nothing with us!” philosophy of Frederick Douglass, it would have been better if the author had taken his observations about the harm of intervention to their logical, radical, conclusions.

With regard to education, for example, Riley shows that public schooling has adopted educational fads and theories that are damaging to black students, but he doesn’t argue in favor of getting government out of the education business entirely. Pointing out that those fads and theories are bad is not going to bring about change. Black parents need to leave public education and enroll their children in private schools where the academic standards are strong and discipline is maintained.

Some relevant history that Riley does not go into is the existence of many private schools in the Jim Crow-era South that were run by blacks. They ran on tiny budgets that came from the parents, often augmented by donations from wealthy whites. (An illuminating book on this is *Dangerous Donations* by Eric Anderson and Alfred Moss.) Those schools had very good results and were a source of pride in black communities. After desegregation of Southern schools

enabled black children to attend integrated public schools, those effective private schools withered. Black kids who would have attended them now received the same poor public-school education as everyone else — an early instance of “help” that hurt.

Riley advocates voucher policies that expand school choice for black families, but the real path to educational excellence is to turn away from government schools and money altogether. It is disappointing that he doesn’t argue for that. I wish that his readers — blacks and all others — had heard more of a full-throated condemnation of the state as their enemy, not just that a number of supposedly beneficial policies are actually harmful.

On balance, however, *Please Stop Helping Us* is a valuable book because it throws down the gauntlet to those who proclaim their dedication to helping blacks advance by handing out government favors. If you really care, Riley says, you should help by getting government out of the way.

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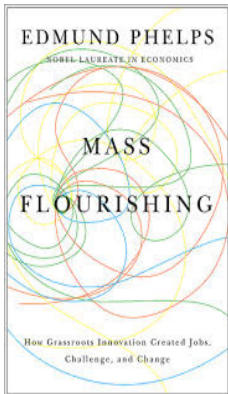
*George C. Leef is the research director of the John W. Pope Center for Higher Education Policy in Raleigh, North Carolina.*

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# Missing the Point about Flourishing

by Kevin Carson

*Mass Flourishing: How Grassroots Innovation Created Jobs, Challenge, and Change* by Edmund Phelps (Princeton University Press 2013), 392 pages.



Nobel Laureate Edmund Phelps evaluates economic systems with a view to how they promote human prosperity, or “flourishing”:

engagement, meeting challenges, self-expression, and personal growth.... A person’s flourishing comes from the experience of the new: new situations, new problems, new

insights, and new ideas to develop and share. Similarly, prosperity on a national scale — mass flourishing — comes from broad involvement of people in the process of innovation — the conception, development, and spread of new methods and products — indigenous innovation down to the grassroots.

All this equates, roughly speaking, to what thinkers such as Abraham Maslow and John Rawls call “self-realization.”

Reading Phelps’s description of flourishing and grassroots involvement in innovation, the first thing I thought of was the peer-to-peer economy, and the personality traits associated with McKenzie Wark’s (*A Hacker Manifesto*) “hacker ethos.” And I was half-hoping for a book on that theme, on the basis of the blurb at Amazon (innovation “was driven by millions of people empowered to think of, develop, and market innumerable new products and processes, and improvements to existing ones”). I came in expecting to read a book focusing on the Hayekian distributed knowledge of ordinary production workers.

I was sadly disappointed. In fairness, Phelps does start out by re-

jecting Joseph Schumpeter's association of innovation with capital-intensiveness and institutional size — "increasing stock of *capital*" and "*economies of scale*" — which is good. And he generally promotes the role of human capital in innovation at the expense of such factors. But that's about where the positive aspect of this book ends.

### The role of the state

Phelps sums up the background conditions that contribute to his goal of human flourishing as "dynamism." And the economic system, cultural values, and institutions most closely associated with his idea of dynamism are what he calls "modernism" or "modern economies." "Modern capitalism" or "modern economies" are the economic model that first appeared in Britain, the United States, and Germany in the mid 19th century, and persisted through the mid 20th century (especially under the American model of mass-production corporate capitalism). I got something of a sense of *déjà vu* reading this, because it reminded me almost exactly of the Whig values Rich Lowry praised in *Lincoln Unbound*, which I reviewed in the March 2014 issue of *Future of Freedom*, values promoting hustle and

bustle, driving everyone into the modern cash nexus whether they wanted it or not. Phelps's "modernism" is basically the ideology of Hank Morgan in Mark Twain's *Connecticut Yankee in King Arthur's Court*.

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Phelps sums up the background conditions that contribute to his goal of human flourishing as "dynamism."

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To his ideal of 20th-century hustle-and-bustle American capitalism, Phelps contrasts what he calls "socialism" and "corporatism."

Phelps is almost totally oblivious to the central role of the state, in alliance with capital, in creating — and maintaining — the structural preconditions for what he calls the modern economy. He focuses almost entirely on the positive liberatory aspects of the societies in which modern capitalism first emerged: the "emancipation of women" and "abolition of slavery." But he ignores the extent to which this liberation — as Karl Marx im-politely pointed out in the section of *Capital* on primitive accumulation — was a two-edged sword. The laboring classes of Britain were liberated from serfdom, true enough. But hand-in-hand with that went a

“liberation” from their previous customary rights of access to the land. The English peasantry were “freed” from their property rights first in the open fields, and then in access to common waste and pasture, together constituting most of the useful land — robbed of them, as we would say in more straightforward language — and, having been transformed into a propertyless proletariat, driven into the wage-labor market as their only alternative to starvation.

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**Forcibly separating the majority of people from their property in the means of self-employment and subsistence wasn't enough.**

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Forcibly separating the majority of people from their property in the means of self-employment and subsistence wasn't enough. In the formative years of the Industrial Revolution — through the immediate aftermath of the Napoleonic Wars — the working classes of Great Britain were subject to what amounted to totalitarian controls on their movement and association. The Laws of Settlement were nothing short of an internal passport system that prevented paupers from leaving the parish of their birth in search of employment opportuni-

ties, without permission from the Poor Law authorities. And where that immobility of labor was an inconvenience for employers — i.e., for those in labor-poor areas of the industrializing North — the Poor Law authorities in overpopulated London parishes came to the rescue by auctioning off surplus labor from the poorhouses to be transported by the gross for employment on whatever terms the mill owners offered.

The Second Industrial Revolution of the late 19th century — which centered on the integration of electrical power into production — was diverted into the 20th-century mass-production pattern almost entirely as the result of top-down state intervention in the economy. State interventions such as the railroad land grants (and their successors, the state-built civil aviation and interstate highway systems of the mid 20th century), state-enforced cartels resulting from the pooling and exchange of patents, and state regulatory cartels (such as the Securities and Exchange Commission Act with its restrictions on price competition) were central to the model of mass-production oligopoly capitalism that predominated through the 20th century.

And that's only the domestic side of it. We haven't even considered the role of colonialism and conquest in concentrating world commerce under the control of a handful of Western powers, the massive enclosures and evictions, enslavement, and appropriation and extraction of mineral resources — the structural effects of all of which, including the continued concentration of farmland and natural resources in the hands of the original expropriators, persist to the present day.

In short, what Phelps calls “modern capitalism” lives, moves, and has its very being in the state.

### Hidden knowledge

The indigenous grassroots innovation Phelps celebrates, the joys of discovery and overcoming and self-realization through one's work, were never available to any but a few under his “modern capitalism.” And indeed, Phelps himself focuses almost entirely on entrepreneurs and venture capitalists. For those who work for a wage, the “dynamism” lies entirely in the exhilaration of looking for new cheese after the old has been moved: hunting for a new job and learning challenging new skills when one's old ones are made obsolete, or, at best, in the reward-

ing process of submitting an idea to the employee suggestion box.

It's downright comical, in a book that purports to be about distributed knowledge and “grassroots innovation,” to see Phelps dismiss the performance of worker cooperatives and self-management in one throw-away sentence. There's a vast body of literature on the performance of worker cooperatives, and on the way the structure of ownership and incentives in the firm affect workers' contribution to innovation and output — but what would anything like that have to do with a book on dynamism and innovation?

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According to economists Sanford Grossman and Oliver Hart, the most important way to elicit the distributed or hidden knowledge of one's workforce, to get them to invest their human capital in the productivity of the organization, is to distribute decision-making authority and compensation — i.e., the basic incidents of residual claimancy — to stakeholders in accordance with their contribution to the output and equity of the organization. When the distributed knowledge or

human capital of workers is the main source of increased efficiencies and value in a firm, but their contribution is not reflected by a property right in the output, they know that their contributions to increased productivity will be expropriated in the form of downsizings, speedups, and management bonuses. As a result, workers will have every incentive to hoard their hidden knowledge and ration their effort, to do the least necessary to get by, the same way they did in the Soviet Union.

Bureaucracy, hierarchy, and work-rules of the sort discussed by Max Weber (who favored standardized bureaucratic job descriptions and work rules) and Frederick Taylor (who favored making skilled knowledge unnecessary and minimizing the discretion of individual workers) are expedients for working around the fact that workers' interests are diametrically opposed to those of management, and workers have every rational incentive in the world to do the bare minimum necessary to avoid getting fired rather than help increase productivity. A maximum of worker decision-making involvement in the production process, and large-scale profit-sharing, are ways to elicit maximum effort and creativity from the workforce. But corporate

management prefers a larger slice in absolute terms, even if it comes from a smaller pie.

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**Phelps's institutional focus, in seeking to restore dynamism, is almost entirely misplaced.**

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To argue against the efficiency of worker cooperatives and worker self-management on the basis of their performance in this corporate economy is like arguing against the efficiency of private businesses in the Soviet Union on the basis of their performance against state-owned industry. It ignores — to say the least — the nature of the artificial selective pressures within the ecosystem. Western-style corporate capitalism evolved in the aftermath of the kinds of large-scale expropriation described above, in an environment where property had been artificially concentrated in a few hands. Of necessity, therefore, the dominant organizational forms presumed absentee ownership or hierarchical control, and the need to extract effort from a workforce which gained nothing from working harder.

The large corporation — especially in the heyday of “modern capitalism” — actively sought to suppress the role of its workforce's



distributed, situational knowledge in the production process. As James Scott argued in *Seeing Like a State*, corporate management — like those in any position of authority — saw the hidden knowledge and skills of their subordinates as a barrier to the extraction of maximum rents, and resorted to de-skilling measures such as Taylorism and machine-controlled work processes as an expedient to maximize the surplus they could extract from labor.

### The real dynamism

Phelps's institutional focus, in seeking to restore dynamism, is almost entirely misplaced. The real grassroots innovation is taking place almost entirely outside the institutional framework of his beloved "modern capitalism." It's taking place mainly among small, horizontally organized groups such as open-source software developers and hardware hackers, developing cheap, small-scale, high-tech machines for autonomous production in cooperative shops and peer-to-peer networks.

If anything, the institutions of mid-20th-century capitalism are seeking either to strangle that innovation in its cradle, or to co-opt it into their institutional framework and enclose it as a source of rents.

Phelps's focus on the "modernist" versus "communitarian" and "traditionalist" axis as the Rosetta Stone for explaining economic history obscures what I consider a much more important polarity: that between "vertical" and "horizontal." There was a high degree of innovation by skilled tradesmen in the horizontally organized communes of the Free Towns of the Late Middle Ages, as described by Peter Kropotkin, for example. And it was suppressed when the vertically organized state conquered the Free Towns. This large-scale state suppression of horizontal organization, and the wholesale expropriation of peasant land that ensued, might have something to do with the two or three centuries of stagnation Phelps identifies with "premodern capitalism." He treats the evolution of "commerce" from late medieval times to the modern anonymous cash nexus as much more of a linear progression.

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Phelps treats the evolution of "commerce" as much more of a linear progression.

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And in attempting to force economic history into his Procrustean explanatory framework of dynamism, he must do a great deal of

cutting and stretching to make all the data fit. For example, he goes through prodigious contortions to portray what in many key respects is a stagnation in real wages and decline in job satisfaction since the 1970s as a result of corporatist ideas and reduced dynamism. That ignores a really big elephant in the living room. Phelps's "modern capitalism" almost died in the 1930s, as a result of a tendency towards over-accumulation and excess-production capacity that had been chronic to the corporate-state model of capitalism created in the late 19th century. World War II rescued corporate capitalism from that crisis by destroying most of the plant and equipment in the world outside the United States, and pushing the reset button for a generation. The crisis of overaccumulation resumed around 1970, when Europe and Japan mostly had rebuilt their industrial base from the World War II destruction. The stagnant wages and reduced satisfaction might, just possibly, have something to do with the neoliberal economic policies and internal corporate authoritari-

anism adopted by capital in response to the renewed crisis.

To summarize: There's a great book to be written about the role of the distributed knowledge of ordinary people and grassroots innovation, rather than giant capital-intensive hierarchies, in making life better for everyone. But Edmund Phelps hasn't written it. The subject matter of that book lies, not in Schumpeter's model of capitalism or in the one presented by Alfred Chandler in *The Visible Hand*, but among Linux developers, hackerspaces and Fab Labs, TOR software developers, innovative local currency systems, and neighborhood Perma-culture efforts. Phelps, in positioning himself as the enemy of the Janus-headed corporate state, has inadvertently served instead as an apologist for just another variant of corporate statism.

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