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# FUTURE OF FREEDOM

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*What others say of me matters little; what I myself  
say and do matters much.*

— *Elbert Hubbard*

# 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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# Why We Don't Compromise, Part 1

by Jacob G. Hornberger



Ever since our inception in 1989, The Future of Freedom Foundation has had a firm policy against compromising libertarian principles. The reason is: We want to live in a free society, and we believe that principles hold the key to achieving the free society. It is the purpose of this multipart essay to explain why hewing to principle is the way to achieve freedom in the near term — that is, while most of us living today are still alive.

Consider slavery. Today, every American is against slavery. The anti-slavery position is a safe one to take.

But it was an entirely different matter in pre-Civil War America. According to an article entitled “Was Abolitionism a Failure?” in the January 30, 2015, issue of the *New York Times*,

It's hard to accept just how unpopular abolitionism was before the Civil War. The abolitionist Liberty Party never won a majority in a single county, anywhere in America, in any presidential race. Ralph Nader got closer to the presidency. In 1860 the premier antislavery newspaper, *The Liberator*, had a circulation of under 3,000, in a nation of 31 million.

Let's imagine that a group in pre-Civil War America formed an organization calling itself “The Slavery Reform League,” whose mission was to improve the life of the slave on the plantation.

The League comes up with a proposal that contains the following five provisions:

1. No slave shall be forced to work longer than 8 hours a day.
2. The separation of spouses and children among the slaves shall be prohibited.
3. Slaves shall be entitled to medical care from a physician.
4. Slaves shall not be whipped.
5. Slaves shall be issued a voucher entitling them to switch to a plantation of their choice.

There is no doubt that the League's proposal would significantly improve life for the slaves. But there is one glaring problem with the proposal: No matter how much their lives are improved on the plantation, the slaves remain slaves. Under the proposal, they will not be free. The institution of slavery remains intact, albeit in a reformed and improved way.

### Condoning slavery

The League might respond that its proposal is an "incremental" or "gradualist" step toward freedom for slaves.

But there is something fundamentally wrong with that position: It implicitly condones the continuation of slavery for an indefinite period of time. It supports the violation of people's fundamental, God-given rights during the period of the gradualism.

Moreover, how does improving the institution of slavery get society closer to freedom? The arguments for improving slavery are different from the arguments challenging the institution of slavery itself. Indeed, a call for slavery reform can easily be construed as an implicit endorsement of slavery. Moreover, slavery proponents themselves could easily recognize the benefits

— even the morality — of treating slaves better without concluding that slavery itself should be brought to an end.

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**"Whenever anyone urges the gradual repeal of laws he believes to be wrong, he has lost the thought and force behind the case for repeal."**

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The founder of the Foundation for Economic Education, Leonard E. Read, once alluded to this problem in an essay entitled "Sinking in a Sea of Buts," where he wrote,

Whenever anyone urges the gradual repeal of laws he believes to be wrong, he has lost the thought and force behind the case for repeal. Instead, postponement is actually advocated; and postponement, as eternity, has no calendar days, no deadline — it is a never-never proposition.

Equally important, as I will explain in a later installment of this essay, it is my personal belief, after many years of thought and reflection on the matter, that what is often represented to be a gradualist way to achieve freedom is nothing of the sort and that, in fact, it some-

times actually impedes the achievement of freedom.

In order to end slavery, it was necessary for people to question the institution of slavery itself. If everyone believed in slavery and simply supported efforts to improve slaves' lives, it is highly unlikely that freedom for the slaves would have been achieved. They would have continued to be slaves, albeit with an improved lifestyle.

Therefore, from both a moral standpoint and a practical standpoint, there was but one correct position that a person could take with respect to freedom for the slaves: Abolish slavery.

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**It's important to stand for what is right because it's the only way to cause people to begin questioning the institution itself.**

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By taking the abolitionist position, as compared to the reformist approach, the focus of the freedom advocate is now on moral principles and principles of liberty rather than on reform. Rather than showing people why an eight-hour work day would be beneficial to slaves, the freedom advocate argues that no one has the moral right to enslave anyone. Rather than showing how a voucher system would provide

“choice” for slaves, the freedom advocate argues that every person, regardless of race, has the fundamental right to be free and to pursue happiness in his own way.

What if no one wants to listen to the abolitionists? What if everyone rejects their position? What if the abolitionists remain a tiny movement while the movement to improve life on the plantation is burgeoning?

It doesn't matter. Even if everyone else in society decides to keep slavery intact and settles for improving and reforming it, the slavery abolitionists must continue hewing to principle, not only because it's the morally right position to take but also because it's the only real way to finally get enough people to abandon slavery reform and embrace genuine freedom.

Reformers might respond, “But Jacob, there was no button that could have been pushed to end slavery. So what was the point of being an abolitionist, especially since the abolition movement was so tiny?”

The answer is: It's important to stand for what is right, not only because it's right but also because it's the only way to cause people to begin questioning the institution itself. If no one ever questions the

legitimacy of an immoral governmental apparatus, then the apparatus remains intact. One person questioning the apparatus can lead to two and then three and then more. That's what the power of principles and ideas on liberty are all about — the ability to bring about revolutionary shifts toward liberty, often suddenly and unexpectedly.

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**If no one ever questions the legitimacy of an immoral governmental apparatus, then the apparatus remains intact.**

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I believe that if Abraham Lincoln had chosen not to wage war against the seceding South, slavery would have crumbled on its own, owing to the moral arguments and efforts of that tiny group of abolitionists, as it did in much of the rest of the world. Already there were states in the North that had outlawed slavery but which had maintained fugitive-slave laws that required the return of slaves to the slave owner. Once support for those laws had disintegrated, slaves could have escaped to the North and not have had to worry about laws that required their forcible return to the South. Slavery could have been brought to an end peacefully, as it

was in England, without the deadly and destructive Civil War.

### Religious liberty

Let's consider another example of where hewing to principle is the key to freedom — religious liberty. What is religious liberty? It's a way of life in which the government plays no role in religion. The government doesn't subsidize the building of religious buildings or the payment of salaries for church personnel, and no one is forced to attend church services. We call this way of life a separation of church and state.

Today, Americans take religious liberty for granted. It's a long-ingrained notion among the American people, reflected in the First Amendment to the U.S. Constitution.

Imagine that some group today advocated a law that required every family to send its children into a governmental institution to receive religious education or a law authorizing the government to begin building its own churches. I think it's safe to say that most Americans would rise up in opposition to such a proposal.

But throughout history — and in much of the world today — the combination of church and state

has been as much a part of people's lives as the combination of economy and state has been. Indeed, one of the reasons that English subjects began fleeing England and coming to the New World was to escape religious persecution at the hands of their own government.

But simply because a person wants to be free from religious persecution it doesn't necessarily follow that he favors religious liberty. In fact, some of the English colonies in America themselves became bastions of religious tyranny.

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**In a dispute between Venice and Rome, Sarpi raised a revolutionary idea: the separation of church and state.**

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Many years ago, I was struck by a story in Leonard Read's book *Vision*, in which he told the story of a Catholic priest named Paolo Sarpi, who lived in the Venetian Republic during the 16th and 17th centuries, an era in which there was a combination of church and state.

In a dispute between Venice and Rome, Sarpi raised a revolutionary idea: the separation of church and state.

Read learned about Sarpi's stand in a book entitled *Seven Great Statesmen in the Warfare of Hu-*

*manity with Unreason*, published in 1910 by Andrew Dickson White, who was the co-founder of Cornell University. In that book, White writes,

Uncompromising as ever, Father Paul continued to write letters and publish treatises which clenched more and more firmly into the mind of Venice and of Europe the political doctrine of which he was the apostle, — the doctrine that the State is rightfully independent of the Church, — and throughout the Christian world he was recognized as victor.

Imagine that: One man ends up bringing about a revolutionary transformation regarding the role of the state in religious affairs.

In order for people to recognize the merits of separating church and state, one person had to start the process of causing people to question the legitimacy of the existing paradigm. By raising the idea, Sarpi was able to get an increasing number of people to see the rightness of his position, a process that finally shifted society to a paradigm based on separating church and state.

Is it possible to apply principles regarding the abolition of slavery and the principles of religious liberty to our time, specifically to the loss of liberty that Americans have suffered as a consequence of the welfare-warfare state? It certainly is. But in order to do that, we still have to visit history, specifically U.S. history in the latter part of the 19th century.

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

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**NEXT MONTH:**  
“Why We Don’t  
Compromise, Part 2”  
by Jacob G. Hornberger

*Ninety-nine out of a hundred are automata, careful to walk in prescribed paths, careful to follow the prescribed custom. This is not an accident but the result of substantial education, which, scientifically defined, is the subsumption of the individual.*

— William Torrey Harris  
*U.S. Commissioner of Education, 1889–1906*

# The Poison Called Nationalism

by Sheldon Richman



*Forward, the Light Brigade!  
Was there a man dismay'd?  
Not tho' the soldier knew  
Someone had blunder'd:  
Theirs not to make reply,  
Theirs not to reason why,  
Theirs but to do and die:  
Into the valley of Death  
Rode the six hundred.*

— Alfred, Lord Tennyson  
“The Charge of the Light Brigade”

The reason for the venom directed at those of us who question American sniper Chris Kyle's status as a hero can be put into one word: nationalism.

Nationalism is a poison. It attacks the mind, short-circuits thinking, and makes self-destructive

look appealing. Nationalism sows the seeds of hate and war. It makes the title “warrior” an honorific instead of the pejorative it ought to be.

We see naked ugly nationalism in many defenses of Kyle. Defenders appear to have but one operating principle: If Kyle was an American military man and the people he killed were not Americans, then he was a hero. Full stop. No other facts are relevant. It matters not that Kyle was a cog in an imperial military machine that waged a war of aggression in behalf of the ruling elite's geopolitical and economic interests, that he did his killing on foreign soil, and that no Iraqi had come to the United States seeking to harm him or other Americans. (Contrary to what Kyle defenders seem to believe, not one Iraqi was among the 19 hijackers on 9/11, although had that been otherwise, the murder of countless of other Iraqis and the displacement of millions of others would not have been justified.) All that apparently matters to many Kyle fans is that this man was born in America, joined the American military, and faithfully obeyed orders to kill people he called savages.

That is what nationalism does to a person.

The ugliness of nationalism is often perceptible even by those who harbor it and commit terrible acts as a result. So they rationalize. They don't openly cheer the killing of Iraqis because they are Iraqis (or Arabs or Muslims); rather they plead self-defense: if we don't kill them, they will kill us. Kyle and his comrades were defending America and Americans' freedom, his defenders say.

But if you've seen *American Sniper*, the movie based on Kyle's book, you heard Kyle's wife, Taya, reject that claim. I'm surprised that this bit of dialogue has been ignored (to my knowledge) in the voluminous writing about the movie. As Kyle gets ready for yet another tour in Iraq, his unhappy wife asks why he is going back. "For you," he says, and, by extension, America.

"No you're not," she fires back.

He also invokes the welfare of the Iraqis (although in his book he says he cared nothing for the Iraqis), telling his wife that being away from home for another long stretch would not be a problem because their family could spare the time and the Iraqis could not. She doesn't buy that line either. She is deeply disturbed that her husband would rather try to fix Iraq (as though he and his comrades could do that

through military force) than look after his family.

It's curious that Taya Kyle (if that scene actually took place) had a clearer picture of the world than Kyle's vitriolic nationalist defenders, who praise the sniper for following orders without question. (One even approvingly alluded to Tennyson's poem.)

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**Nationalism, to judge by how nationalists conduct themselves, is an unswerving religious-like devotion to the nation.**

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If not for nationalism, such contortions — the conjuring of imaginary threats, the conceit in aspiring to save a society one knows absolutely nothing about, the twisting of the warrior's ways into virtues — would be unnecessary. Things could be called what they are. Someone who swears an oath that *in practical terms* obliges him to kill whomever the current White House occupant tells him to kill, "asking nothing about the justice of [the] cause," would be called a cold-blooded contract killer rather than a hero.

### Nation and state

Nationalism, to judge by how nationalists conduct themselves, is

an unswerving religious-like devotion to the nation, construed as a quasi-mystical entity — “America” — that cannot be wrong and so has the authority to command reverence and obedience. The nation transcends particular political officeholders, but the government, or state, is integral to the entity. The nation (country) cannot be imagined without the state. It would not be the same thing. When an American nationalist thinks of his country, he thinks not merely of a land mass with distinctive features, the people (a diverse group indeed), and its history (a mixed bag) because that list does not fully capture what he means by “America.”

To the nationalist, government represents and expresses the will and sentiment of the nation. (To be sure, a nationalist can think that the people have erred in picking their “leaders,” in which case the nation is misrepresented and has to be “taken back.”) The power of compartmentalization allows some people who think of themselves as individualists to see the nation in these corporate terms.

Let’s remember that this quasi-mystical entity is what it is only because of countless contingent events effected by flawed human beings. The United States did not begin with

50 states, of course. Had events gone differently, it might have included some or all of Canada and none of what was once part of Mexico. It might have been without the Florida territory and the 828,000 square miles that constituted the Louisiana Purchase. The current boundaries were the result of (often bloody) human action but not entirely of human design. So it was with other nations. At one time, there were no nations as we think of them today.

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**Nationalists reject claims that one can love one’s country while despising the government.**

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“Forgetting, I would even go so far as to say historical error, is a crucial factor in the creation of a nation,” Ernest Renan said in his famous 1882 lecture, “What Is a Nation?” “which is why progress in historical studies often constitutes a danger for [the principle of] nationality. Indeed, historical enquiry brings to light deeds of violence which took place at the origin of all political formations.... Unity is always effected by means of brutality.” (Ludwig von Mises praised Renan and his lecture in *Omnipotent Government*.)

This integral relationship between nation and state is why na-

tionalists reject claims that one can love one's country while despising the government. That's impossible by their definition of "country." To oppose the government *is* to oppose the country. You may oppose a particular president, but don't dare oppose the military. Now, you can try to redefine *country* to make it something properly lovable, but you won't persuade a nationalist.

### Love of country

It's no accident that governments never fail to call on their flocks to "love their country," by which they mean: be willing to make any sacrifice in its behalf, with "sacrifice" defined by politicians. Instilling nationalism is always the primary mission of government and its schools because, as Ernst Gellner wrote in *Nations and Nationalism*, "It is nationalism which engenders nations, and not the other way round."

That mission is behind the near-compulsory recitations of the Pledge of Allegiance (written by an avowed collectivist), salutes to "the troops" for "their service" on any and every occasion, and the playing of the national anthem and other nationalist songs at sporting events. It's what's behind the repeated, compulsive assurances that "Ameri-

ca is the greatest country on earth." The ruling elite understands that love of country will inevitably find its application in fealty to the government, no matter what dissenters may say.

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Some wish to distinguish nationalism from patriotism, but I don't think that works.

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Some wish to distinguish nationalism from patriotism, but I don't think that works. "Patriot" has a lineage that includes the Greek words for "fatherland," *patris*; "of one's fathers," *patrios*; and "father," *pater*. This indicates the country's parental relationship to the citizen. It can't simply mean "land of one's fathers" because people believe they should feel patriotic about lands their fathers never set foot in. We're back to that quasi-mystical entity, America. Hence my definition of *patriot*: one who, no matter the difficulties, places power above party.

I understand the love of the place one knew as a child. I understand the love of home, of family, of community, of neighbors, and of people with whom one has shared experiences and beliefs. I understand the love of virtuous principles as expressed in historical documents (such as the Declaration of

Independence). That kind of love does not ignite hate for the Other or create admiration for the warrior who enjoys killing the Other on order. That takes the poison of nationalism and an obsession with the nation it creates.

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*And if all others accepted the lie which the Party imposed — if all records told the same tale — then the lie passed into history and became truth. "Who controls the past" ran the Party slogan, "controls the future: who controls the present controls the past."*

*— George Orwell*

## Eric Holder's Leviathan-Loving Legacy

by James Bovard



Last July, Attorney General Eric Holder solemnly declared, “The name ought to be changed. It’s an offensive name.” Holder observed that despite the organization’s “storied history,” it could “increase their fan base” by changing their name — “if they did something that from my perspective that is so obviously right.”

Unfortunately, Holder was referring to the name of the Washington football team, not the Justice Department itself. For almost a hundred years critics have rightly scoffed that the executive branch’s most political arm is misnamed and that it is folly to expect justice from the bosses at Main Justice headquarters.

When Holder announced plans to resign after a six-year reign as attorney general, the media showered him with accolades. The *New York Times* noted that Holder “relished his place in history as the nation’s first African-American attorney general.” In a farewell ceremony at the White House, Holder gushed, “I have loved the Department of Justice ever since, as a young boy, I watched Robert Kennedy prove during the civil rights movement how the department can and must always be a force for that which is right.” In Holder’s view it is safe to trust the Justice Department with practically unlimited arbitrary power as long as noble people such as himself are in command.

Holder championed Barack Obama’s power to assassinate people — including Americans — solely on the basis of the president’s secret decrees. On March 6, 2012, Holder defended presidentially ordered killings: “Due process and judicial process are not one and the same, particularly when it comes to national security. The Constitution guarantees due process; it does not guarantee judicial process.” TV comedian Stephen Colbert mocked Holder: “Trial by jury; trial by fire; rock, paper, scissors, who cares? Due process just means that there is

a process that you do.” For Holder and the Obama administration, reciting certain legal phrases in secret memos was all it took to justify extrajudicial executions.

Holder insisted that drone attacks “are not [assassinations], and the use of that loaded term is misplaced; assassinations are unlawful killings ... the U.S. government’s use of lethal force in self-defense ... would not be unlawful.” The new definition of “lawful killing” had become any termination secretly approved by the president or his top advisers. Holder insisted that targeted killings would take place only when there was “an imminent threat of violent attack against the United States” — that the United States is merely taking desperate defensive steps to prevent a slaughter of American troops or civilians. But, as a *Los Angeles Times* editorial noted, “Holder defined ‘imminently’ broadly to include action that would head off ‘future attacks.’”

Holder sought to reassure Americans by stressing that Congress was overseeing his boss’s targeted-killing program. But no one on Capitol Hill demanded a hearing or an investigation after U.S. drones killed American citizens in Yemen. The craven attitude in Congress was exemplified by House

Homeland Security Chairman Peter King (R-N.Y.): “Drones aren’t evil; people are evil. We are a force of good and we are using those drones to carry out the policy of righteousness and goodness.”

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**The new definition of “lawful killing” had become any termination secretly approved by the president or his top advisers.**

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Though Holder had criticized the Bush administration’s warrantless wiretaps before he took office, he became the key defender of the National Security Agency’s email dragnet. After a 2009 Senate Judiciary Committee hearing, Sen. Russell Feingold complained, “I was disappointed by Attorney General Holder’s unwillingness to repeat what both he and President Obama had stated in the past — that President Bush’s warrantless wiretapping program was illegal. For an administration that has repeatedly stated its intention to restore the rule of law, this episode was a step backward.”

Even after Edward Snowden had revealed that the NSA was illegally vacuuming up millions of Americans’ email and other communications, Holder falsely proclaimed in June 2013 that “the government cannot target anyone ...

unless there is an appropriate and documented foreign intelligence purpose for the acquisition, such as for the prevention of terrorism, hostile cyber activities, or nuclear proliferation.” But confidential documents revealed that the NSA’s definition of “terrorist suspect” is so ludicrously broad that it includes “someone searching the web for suspicious stuff.”

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**Holder was more enthusiastic about prosecuting whistleblowers than about deterring crimes by federal agencies.**

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Holder was far more enthusiastic about prosecuting whistleblowers than about deterring crimes by federal agencies. The *New York Times* noted that “Holder’s Justice Department started more investigations than any of his predecessors into government officials who disclosed information to reporters.” The Justice Department used extremely broad subpoenas to vacuum up journalists’ email and phone records and spent years hounding *Times* reporter James Risen for articles that exposed some of the follies and deceptions of U.S. foreign policy.

Holder has continued the tradition of previous attorneys general of exonerating government officials

who commit politically approved crimes. Though Obama admitted that U.S. government officials were guilty of torture, the only CIA official that Holder prosecuted was John Kirakou, a courageous whistleblower who publicly admitted that the CIA was waterboarding. Holder is also complicit in the Obama administration’s decision to suppress a massive amount of information about illegal interrogation practices that occurred during the prior administration. Law professor Jonathan Turley commented last December, “Holder and the Justice Department proved as much [torture] enablers as did their predecessors in the Bush administration. Soon after taking office, President Obama shocked many by going to the CIA and assuring employees that, despite his recognition of the torture, no one would be prosecuted. Holder and the Justice Department played as great a role in fulfilling that pledge as Justice did in facilitating the [torture] program itself.”

### Loot and killing

Holder was lavishly praised early this year after he announced that the Justice Department would cease sharing some loot seized from Americans with state and local po-

lice under the asset-forfeiture program. A Justice Department official, speaking anonymously, said that Holder's policy shift sought to "eliminate any possibility that the adoption process might unintentionally incentivize unnecessary stops and seizures." But that was the same incentive that reform advocates condemned in the 1990s and that Holder fought to keep in federal law at the time. In 2009, shortly after he took office, Holder bragged at the Asset Forfeiture National Leadership Conference, "As Deputy Attorney General, it was my privilege to testify before Congress [in 1999] in support of asset-forfeiture legislation. In that testimony, I emphasized the critical role that asset forfeiture plays not only in the fight against illegal drugs, but in the broader fight against other types of crime." He also stressed to senators at the time that "the Asset Forfeiture Program provides vitally important funding for law enforcement."

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**The Justice Department  
continues covering up killings by  
federal agents.**

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Holder reversed course last month only after a *Washington Post* exposé proved that his favored pro-

gram created an incentive for lawmen to wrongfully confiscate property from thousands of innocent Americans. He proposed no compensation to the victims of the seizure frenzy he helped unleash.

Newspapers have also lavished praise on Holder for his declaration this year on Martin Luther King Day about "the troubling reality ... that we lack the ability right now to comprehensively track" police shootings across the nation. But there was a law on the books that Congress enacted in 1994 to require attorneys general to collect and publish annual data on "the use of excessive force by law enforcement officers." Holder, like prior attorneys general, ignored the mandate. And the Justice Department continues covering up killings by federal agents, including a rash of fatal shootings by Border Patrol agents and the FBI killing of 27-year-old Ibragim Todashev during questioning at his Florida apartment in 2013 regarding the Boston Marathon bombing.

Holder's behavior regarding that attack captured his often boundless arrogance. When Rep. Louis Gohmert of Texas suggested that "the FBI blew the opportunity to save people's lives" after it interviewed but failed to keep track of accused Boston bomber Tamerlan

Tsarnaev, Holder went ballistic: “You don’t know what the FBI did. You don’t know what the FBI’s interaction was with the Russians. You don’t know what questions were put to the Russians, whether those questions were responded to. You simply do not know that. And you have characterized the FBI as being not thorough or taken exception to my characterization of them as being thorough. I know what the FBI did. You cannot know what I know.” And Holder has made sure that members of Congress and mere mortal private citizens don’t know what he knows — and thus he could continue preening as if he and all his agents should be above criticism.

Since Obama was lawfully elected, Holder’s Justice Department has acted as if anything that Obama’s appointees chose to do is automatically legal. Thus, the Equal Employment Opportunity Commission concocted a new rule to punish businesses that refuse to hire ex-convicts. Thus, the Department of Housing and Urban Development devised an arbitrary new standard to punish businesses that fail to give preferential treatment to minorities (a policy that the Supreme Court

will very likely strike down later this year). Nor has Holder had any complaints about the White House’s frenetic rewriting of the Affordable Care Act to protect Democratic candidates from an anti-Obama-care backlash.

After Obama himself, Holder bears primary blame for leaving the 2008 promise of “hope and change” in the ruins. Holder’s record is profoundly disappointing to anyone who expected the Obama administration to renounce the abuses of the previous administration. Instead, he has championed a Nixonian-style legal philosophy that presumes that any action the president orders is legal.

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**NEXT MONTH:**  
**“The Supreme Court’s Dreadful Record on Freedom”**  
*by James Bovard*

*That the whole free people of any nation ought to be exercised to arms, not only the example of our ancestors, as appears by the acts of parliament made in both kingdoms to that purpose, and that of the wisest governments among the ancients; but the advantage of choosing out of great numbers, seems clearly to demonstrate. For in countries where husbandry, trade, manufactures, and other mechanical arts are carried on, even in time of war, the impediments of men are so many and so various, that unless the whole people be exercised, no considerable numbers of men can be drawn out, without disturbing those employments, which are the vitals of the political body. Besides, that upon great defeats, and under extreme calamities, from which no government was ever exempted, every nation stands in need of all the people, as the ancients sometimes did of their slaves. And I cannot see why arms should be denied to any man who is not a slave, since they are the only true badges of liberty; and ought never, but in times of utmost necessity, to be put into the hands of mercenaries or slaves: neither can I understand why any man that has arms should not be taught the use of them.*

— Andrew Fletcher

# America as the Neo-British Empire

by Joseph R. Stromberg



Foreign-policy realists and relative noninterventionists, among others, want to commit Americans to *offshore balancing*, an idea drawn from various English political-economic sources. After the Glorious Revolution (1688) securing the Protestant succession, influential English statesmen sought to make European balance-keeping central to their foreign strategy. Another view, deducible from 19th-century British practice (and formally called Hegemonic Stability Theory), wants the leading power of the day to *impose* free trade as a global “public good.” This self-justifying mission also entails someone’s keeping some sort of Balance. Most writers nominate the United States as world balancer.

For some writers, imperial freedom floats all boats (and not just the capitalists’). They thank hegemonic powers for liberalism itself, asserting that imperial naval (or air) power deployed overseas leaves domestic liberalism unharmed. By contrast, standing armies are said to threaten domestic liberty. Yet embracing imperial means, we might expect very thin liberalism indeed; with Machiavelli’s “republic for increase” walking the earth, we might at least speak frankly of “free trade imperialism.”

## Drawbacks of the British Empire

Not so long ago, “empire” meant any *consolidated, land-based state* with an irresponsible executive. Such states were long-lasting. An *overseas empire* gained commercial wealth through naval power; its core was a republic or a quasi-republican monarchy (Holland, England). Such empires had shorter lives. They could be *formal* (= colonial) or *informal* (ruling through local collaborators). Few states have successfully combined landed and overseas empire. Britain, with its powerful Indian state, tried, but the United States remains the best candidate.

Anglo-Canadian historian Edward Ingram sees Great Britain/In-

dia as a dual monarchy. With India's weight fully counted, the great fin-de-siècle German "menace" quickly recedes. Britain actually "relied on military [land] power *more than sea power*," once India replaced "the American state it had lost" as of 1783 (my italics). Seeking to control (as against Russia) the space between its states, Britain "demanded" Asian hegemony and represented "state-building in the periphery as support for allies in the [European] core." (This was the Great Game.) Britain was an Asian land power: control of the Indian budget and finances was not in Parliament. (This is *very bad* for the Democratic Peace Theory.) The Indian army was essential for "projecting power inland" (Egypt 1801, Italy 1945, and many other cases).

Ingram suggests that Britain's famous *balance of power* "promoted, perhaps demanded, disorder" in Europe. (German historian Otto Hintze complained that under England's policy, "the Continental Powers should destroy each other by constant warfare," ensuring England's "free hand at sea and in the colonies.") Similarly, plans in World War I for spreading "*havoc in Persia — what Britain called keeping the peace*" — failed for lack of a suitable base (Ingram's words, my italics).

If it was not mere delusion, the Great Game was what Brits-as-Romans did in and near India. Having hopped the Anglo-American Idea Express, the notion turned Teddy Roosevelt and others anti-Russian (hence U.S. favoring of Japan in 1905). For Halford Mackinder and later German and American geopolitical theorists, Russia would reappear, slightly disguised as a hypothetical Eurasian hegemon.

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Ingram suggests that Britain's famous *balance of power* "promoted, perhaps demanded, disorder" in Europe.

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Historian David Washbrook writes that the locally recruited army was the "key institution ... the single most important reason" for holding India, because it "relieved the British taxpayer of heavy military expenditures" while staving off "feudo-military reaction" at home. It was "the army of British imperialism, formal and informal, opening up markets ... subordinating labor forces," exporting progress — "the major coercive force behind the internationalization of industrial capitalism."

While this useful Indian army permitted "the paradox of liberalism and imperialism subsisting in

the same political system,” by the late 19th century, British possession of India mainly strengthened “forces of reaction.” The imperial connection bred “oppression and exploitation in both India and Britain at the same time.” (This “paradox” seems a case of *wanting very badly* to find liberalism where there wasn’t much of it.)

The tale of applied despotism in the British Empire would require many volumes: here the Governor Eyre massacre in Jamaica (1865) must suffice. Failure of the prosecution against Eyre made “administrative massacres” safe down through Amritsar (1919), Kenya (1952–1960), and beyond. Tax collection in Iraq by aerial bombardment (1923–1932) marks another high point.

### England: “Liberal” at home?

English elites built their empire during the transition from agrarian capitalism to industrial capitalism. Historian E.P. Thompson finds in 18th-century Britain “a predatory phase of agrarian and commercial capitalism.” With the Hanoverian kings came new “courtier-brigands.... [R]eal killings were to be made in the distribution, cornering and sale of goods or raw materials ... in the manipulation of credit, and in the

seizure of the offices of State.” Down to the mid 19th century, English liberalism remained noteworthy for its relative absence, as critics such as Thomas Paine, Richard Price, Thomas Hodgskin, William Cobbett, and Samuel Bamford could testify.

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### English wealth arose from “two sources, knavery and violence.”

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Writing in 1814, Virginian planter John Taylor of Caroline (1753–1824) saw Imperial Britain as everything Americans should reject. Britain’s domestic and foreign ills were intertwined, with “compulsion at the beginning, as well as at the end of her commerce.” A “monopolized currency” depressed wages at home and naval power, maintained by taxes on labor, sold goods abroad at high prices, “by vexing and crippling competition.” English wealth arose from “two sources, knavery and violence.” This system generated frequent foreign wars, while “penalties, corruptions, and mercenary armies” oppressed English workers. That Britons enjoyed a few bits of freedom meant little in the colonies: “Mr. Hume has said, that free governments are ... most ruinous and oppressive to their provinces,” as Ireland and India showed.

To Taylor, the English state was “a confederation of parties of interest”: “the church of England, the paper stock party, the East India company, the military party, the pensioned and sinecure party, and the ins and outs” (Whigs and Tories), all growing fat in the monarch’s shadow. Properly speaking, England had “no government” — there was “no British nation” beyond the interested parties.

Referring to the “brisk circulation of money” advocated by Dr. Samuel Johnson (the “best informed” Tory), Taylor added “a brisk circulation of power,” since Johnson “neglected to tell us . . . that money attracts power, and power, money; and that by accumulating either for the sake of a brisk circulation, you accumulate and circulate both.”

As for the balance of power, Taylor wrote that it presupposed hostility, whose effect was war: “A balance of power is therefore the most complete invention imaginable for involving one combination of states, in a war with another.”

Historians Philip Harling and Peter Mandler write that by 1815 “a ruthlessly regressive tax system” secured to Britain the highest revenue (relative to GNP) of any major state. “War and foreign policy” drove the

18th-century British state — a war machine based on credit, taxes, and excises. The enormous costs of its wars, including the American and French revolutions, piled up huge debt service. Reacting badly, the English public became a disguised Country Party unwilling to pay. Retrenchment and the gold standard were popular; attacks on fees, gratuities, and sinecures abounded.

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**“War and foreign policy” drove the 18th-century British state — a war machine based on credit, taxes, and excises.**

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Demanding cheaper but “more efficient” government, Whigs and Benthamite reformers cut military expenses but expanded state activity elsewhere. From the late 1700s into the 1830s, new men with gentry, Indian, colonial, and military connections, and wealthy brewers, lawyers, and overseas merchants, joined the landed elite. City men (bankers, lenders) favored the standing military-fiscal order. Reform made it less costly, but (alas) saved it.

Ingram notes that “noblemen, civil servants, army and navy officers, and bankers” — not “industrialists, manufacturers, and merchants” — ran the British state (or

states). The old Great Britain, built between 1784 and 1842, was “authoritarian and militarist ... created by force.” Financial power, not cotton and manufacturing, accounted for its wealth, which “followed” upon world power. The response to the Indian Mutiny (1857) showed that “Britain was not a liberal constitutional monarchy, but a militarist despotism, however supposedly enlightened” — “dominated by the landed, financial, service elites who represented the City’s interests.”

### Empire and actually existing liberalism

Strictly free trade and markets seem rather absent from this picture so far. If we looked deeper (Ireland and India would suffice) we would find a pattern of constant, detailed intervention and redistribution of land and resources by the imperial authorities. If that is how a hegemon produces economic liberalism, something is quite wrong.

And in any case, what is the connection supposed to be, exactly, between liberalism and free trade? Is much *liberalism* involved when Prussian Junkers (or South Carolina planters) go in for free trade? Is free trade, considered abstractly, so wonderful that if empire can get it for us more quickly, we should take

up empire? If empire causes free trade and free trade causes liberalism, then we only need to get ourselves a hegemon to provide us with these worthy appliances.

But then (to take an admittedly extreme example) what if the German Reich, dominant in Europe as of 1942, had repackaged its Greater German cartel economy as free trade? There was precedent for that: already in the First World War, German planners, writes Dale C. Copeland, considered establishing “a free-trade zone within Europe after victory in order to compete against the remaining world powers”; and in World War II, they envisioned “a self-sufficient ‘large economic area’ ... protected by tariff barriers.” If internal trade were freer in either of these cases, can we not call it free trade?

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The old Great Britain, built between 1784 and 1842, was “authoritarian and militarist ... created by force.”

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Further, as John Locke, Thomas Paine, and Hans-Hermann Hoppe have noted, a liberal state can accumulate massive arms at modest tax rates. But “liberal” here means little more than having a monarch or bureaucratic class able to grasp the

Laffer Curve principle that lower taxes on relatively free production can yield higher revenues. We may doubt that the empire built by such a “liberal” state will be especially liberal in its overseas workings.

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**Constant war and war scares tended to militarize the mass mind, making patriotism the first refuge of scoundrels.**

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If the point is that under “free trade” certain fellows will make more money than they otherwise would, it might be cheaper to find them and pay them directly. On various trickle-down arguments, the economic benefits to the rest of us ought to be substantially the same, and we shall have saved ourselves the costs of empire — including certain rather subtle moral, institutional, and legal costs. Costs, of course, bring us to blowback.

The employment of many liberals in the India Office made the self-erasure of English liberalism nearly inevitable. As “justifiable” exceptions to *laissez faire*, big infrastructure projects in India undercut the usual arguments of economic liberals. Political economists discussed “improvements” in Ireland as if no people lived there, aside from English landlords. Reactionary values

(“service ideology”) flourished in the empire and spilled into domestic life. Constant war and war scares tended to militarize the mass mind, making patriotism the first refuge of scoundrels.

Richard Cobden asked in 1850, “Is it not just possible that we may become corrupted at home by the reaction of arbitrary political maxims in the East upon our domestic politics, just as Greece and Rome were demoralised by their contact with Asia?” Since the “arbitrary maxims” in question were those of *British* administrators, their return home was both possible and unwelcome.

Decades later, in 1902, John A. Hobson complained that the Liberal party’s “leaders, having sold their party to a confederacy of stock gamblers and jingo sentimentalists, find themselves impotent to defend Free Trade, Free Press, Free Schools, Free Speech, or any of the rudiments of ancient Liberalism.” He deplored demands for uncritical support of executive measures abroad and the corresponding decline of party criticism (which Americans learned to call “bipartisanship”) and laid out the ways in which empire exalted executive power over Parliament and gutted representative government. (Here

in 1902 was the same message Garret Garrett preached to Americans in his *Rise of Empire*.)

As for famous English liberties (including pre-liberal ones, such as habeas corpus and much of common law), those did in fact exist, subject always to numerous exceptions tied to status and social class. If English liberalism accomplished anything, it was to generalize “feudal” survivals and make them available to more people. (Later, of course, Benthamite liberal bureaucracies began taking them away again.) Hangings gradually declined, in favor of transportation, but the “crimes” so punished remained as trivial or political as before (poaching, for example). Colonial police methods crept into Britain itself. Administrative, legal, and policing experiments in Ireland may have been especially important.

### Our own very British coup

To follow in Britain’s footsteps, we would have to:

*Impose “free trade” as a global public good.*

*Not have standing armies at home.* (No one takes this seriously, especially as America’s *standing armies* of police robotically adopt imperial-military ideas and prac-

tices and imaginary barriers between empire and “liberalism” melt away.)

*Promote disorder in Europe and elsewhere.... Spread havoc in Persia — or anywhere — and call it keeping the peace.* (Americans have some experience here.)

*Invent a flawless find-a-stooge app or logarithm,* since as Ingram says, “Any offshore balancer looks for a stooge.” (The stooge-app, long under construction, has not worked so far.)

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When the United States spreads death, chaos, and confusion far from home, it is acting in a very British tradition.

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When the United States spreads death, chaos, and confusion far from home, it is acting in a very British tradition. (So, too, when it shapes its home economy to the interests of microscopic elites, and does everything against which John Taylor warned us.) So U.S. elites slog on — waist deep in the big muddy, the big sandy, the big tundra — merging landed and overseas empire, playing at being Brits playing at being Romans, precisely when defense has become a hopelessly threadbare excuse for the whole operation.

Against *that* background, balancers come at us from two or more sides, pleading their modest aims as the relative peace party, since *they* have no ideological or oily-and-gaseous crusades. Similarly, Imperial British “isolationists” *only* wanted overseas empire built on naval power and eschewed European involvement, *except when* the continental balance seemed threatened. American “imperial isolationists” (Charles Beard’s term), heirs of William McKinley, took a similar view. (These heirs included certain interwar Republican “isolationists” allergic to war in Europe but ready to intervene in Latin America or Asia.) But that means that both of the unilateralist-imperialist cadres courted overseas wars anywhere outside Europe, and accepted them there under certain circumstances: hardly a real peace

position or even a noninterventionist one.

John Taylor gave little ground to iron-bound, “realist” necessities. He saw America as able to deal well enough with the European states-system while avoiding illiberal, state-building wars. *Only Americans* could throw away their geographical and political advantages and make their country into a “spurious” republic, heavily taxed and often at war. It was never America’s job or destiny to do British history over again.

But again, only a rather *exceptional nation* could keep its leaders and elites off the path of empire, once they have been tempted by it.

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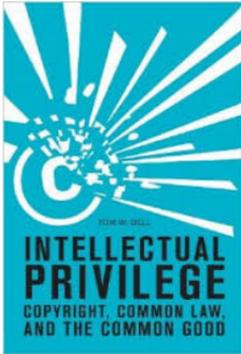
*God himself will not save men against their wills.*

— John Locke

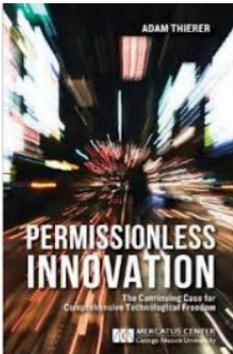
## Government versus Progress

by George Leef

*Intellectual Privilege: Copyright, Common Law, and the Common Good* by Tom W. Bell (Mercatus Center 2014), 238 pages.



*Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom* by Adam Thierer (Mercatus Center 2014), 1089 pages.



These books cover two different aspects of the same phenomenon — how laws and regulations obstruct progress.

Tom Bell's *Intellectual Privilege* examines copyright law, which creates government-protected monopolies for writers, artists, composers, and other creators. Adam Thierer's *Permissionless Innovation* covers the growth of regulations that require people who want to offer new goods or services in the market to first obtain the consent of government officials — which they often can't.

I will start with Bell's book.

The idea behind copyright was simple — that creativity would be stimulated if individuals were given the exclusive right to profit from their works for a period of time. The law was supposed to strike a sensible balance between financial incentives for creators and benefits for the populace.

Early on, that may have been the case, but the law has changed greatly since the first Copyright Act was passed in 1790. Today, copyright does far more to create an information oligarchy than the robust information democracy the drafters of the Constitution and the first act had in mind. It is now widely seen as an obstacle to intellectual liberty and creativity.

Some scholars challenge the assumption that we need copyright at all, among them Chapman University Law School professor Tom W. Bell.

In *Intellectual Privilege: Copyright, Common Law, and the Common Good*, Bell takes a probing look at our copyright system. He concludes that it leaves us worse off than if Congress had never made use of the Constitution's grant of authority: "To promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries." Rather than acting as a catalyst for creativity, copyright has become a great obstacle to the flow of information.

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**Copyright, Bell argues, is not like the natural rights people have — rights to peacefully use their property.**

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Even though it's the very field he teaches, Bell would like to see copyright law disappear.

Copyright, he argues, is not like the natural rights people have — rights to peacefully use their property. Instead, copyright is a privilege that government confers on writers, composers, and other creators. It is

a privilege that allows them to interfere with the natural rights of others, by invoking the power of the state against them for "infringing" on anything to which they hold copyright.

What about the constitutional premise of copyright, that by conferring exclusive rights on writers and other creators, we encourage more books, songs, movies and other works? Isn't it correct?

Bell answers in the negative. He points out that we have never applied copyright to many items that involve creativity, but nevertheless enjoy a steady stream of innovations in them. "The designs of clothes, furniture, automobile bodies, and architectural structures have developed without the benefit of U.S. copyright law," he writes. So we probably wouldn't suffer any decrease in output of creative works in the areas where copyright does apply — books, music, and so on — if we got rid of it.

What would happen in the absence of copyright? Bell maintains that instead of relying on the copyright crutch to squeeze the maximum revenue out of consumers willing to pay a high price, creators would look to common law. That is, they would use the same rights everyone else has in contract to make

arrangements whereby consumers would pay some amount for access to their works and then not worry about the legal thickets of “infringement.”

### “Fared use”

As the law now stands, copyright holders usually try to cash in by charging consumers a profit-maximizing price and having their lawyers or the government go after anyone who infringes rather than pays. But there is a big exception for “fair use” of copyrighted items. People can make some use of copyrighted material so long as it doesn’t go “too far.”

There is, however, no clear line between “fair use” and “infringement.” Bell observes that even law professors can easily find themselves facing a lawsuit over some use they thought was “fair” but the other party claims is “infringement.” We could escape from much costly and pointless litigation by abandoning copyright.

Exactly what arrangements would replace it is impossible to say. Development of those arrangements would not be planned, but would evolve under the spontaneous order of the free market. However, a good idea of how things might change can be seen in the

way many Americans now enjoy music on their iPods or other devices.

Bell writes, “Before, you did not have to pay to carry your favorite music; now you do. Has that made you worse off? Surely not. Apple’s fared use offers a better deal than analog’s fair use.” By “fared use” Bell means that everyone pays a small amount to the producer. Replacing copyright with a common-law “fared use” system would benefit everyone except copyright lawyers, who would have to find more useful work. (Some law professors, too.)

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common-law “fared use” system  
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Abandoning copyright wouldn’t mean that creators would be without defense against misappropriation or misuse of their works. Common-law doctrines and a number of statutes protect against that. Instead of relying on copyright infringement threats for any use they dislike, creators would have to look for legal causes of action under fraud, breach of contract, or state and federal statutes covering unfair competition and consumer protection. If there were no such grounds,

other parties would be free to use material for their purposes. Bell thinks that would be a great improvement over the status quo. He's right.

Consider how this controversy would turn out if copyright no longer gave its privileges. (It isn't in the book, but I know about it directly.)

When working on his book *Blown to Bits*, Harvard professor and former dean Harry Lewis wanted to show that things posted on the Internet never completely disappear. An example he wanted to use related to his former boss, Larry Summers, who was Harvard's president until an unguarded remark that there are reasons other than discrimination to explain why there are relatively few women on science faculties. After uttering that, Summers came in for intense criticism, but his initial reaction was to post a statement on Harvard's website saying, "I have nothing to apologize for."

Summers soon realized that response was ill-advised and deleted it — or tried to. Lewis was able to locate it with a search and wanted to include the original post in the book to help make his point. That's when he ran into copyright trouble.

Harvard refused him — a former dean of the college! — permis-

sion to include Summers's statement on the grounds that it held the copyright. Lewis and his publisher did not want a copyright suit against them by Harvard, so the statement was left out. That's quite amazing: a statement made in public by a national figure is off-limits to reproduction! How does that serve the public interest?

Without copyright, Lewis could have used the statement without fear that Harvard would find some common-law or statutory ground for preventing him. Only copyright allows people and institutions to lock published material away without reason.

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**Congress has repeatedly made the law more beneficial for those who hold copyrights.**

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Compared with the copyright regime, fared use and common law would probably mean that some writers, musicians, and so on would make somewhat less money, but, Bell asks, why should the law aim at maximizing their returns? They should have no legal rights or privileges different from everyone else.

Another reason why Bell finds copyright objectionable is that, like other special-interest statutes, it is often manipulated to serve the po-

litically connected few. Congress has repeatedly made the law more beneficial for those who hold copyrights by extending the period of time for exclusive rights. Initially, it was a maximum of 28 years; now it lasts for the life of the author plus 70 years after his death. It's impossible to see how that does anything to promote the progress of science and the useful arts.

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America grew up under a very different set of rules — a regime of permissionless innovation.

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*Intellectual Privilege* is a carefully reasoned, thought-provoking book. Copyright is such an ingrained part of American life that most of us assume that it's essential, but Bell makes a strong case that we would be better off without it.

### The "permission" question

Just as copyright sends creators into dense legal thickets if they want permission to use published works, so must innovators hack through legal thickets to get permission for new things. That is the subject of Adam Thierer's book *Permissionless Innovation*. Thierer, a senior research fellow with the Mercatus Center, examines the barriers to innovation that government

creates with laws that compel people to get official permission before they're allowed to try out their ideas.

"The central fault line in technology policy," he writes, "can be thought of as 'the permission question.' The permission question asks, *Must the creators of new technology seek the blessings of public officials before they develop and deploy their innovations?*" Unfortunately, the answer is more and more often: Yes, you must get permission.

America grew up under a very different set of rules — a regime of permissionless innovation. Anyone who wanted to try new products or methods just went ahead and did it. John D. Rockefeller did not have to petition any government officials before he could use new ways of refining oil; Henry Ford did not have to ask if it would be all right to build a horseless carriage. Today, however, the first step for an innovator is to see a lawyer for help in preparing and submitting all of the mandatory permission applications.

What is driving our shift away from permissionless innovation is the so-called precautionary principle. Thierer explains that this entails "the belief that new innovations should be curtailed or disallowed until their developers can prove

that they will not cause any harms to individuals, groups, specific entities, cultural norms, or various existing laws or traditions.” Obviously, proving that an innovation will never do any harm in any respect is nearly impossible and it gives enemies of progress many opportunities to obstruct changes they fear.

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**Two groups in particular have formed an unholy alliance against progress: reactionaries and technocrats.**

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Thierer gives lots of examples. Taxicab commissions have been hostile to Uber, Lyft, and similar alternatives to the inconveniences of relying on taxis, in some cities denying them permission to offer new transportation options for consumers. The Food and Drug Administration has ordered the company 23andMe to stop marketing its home genetic analysis kit. New York regulators have been doing their utmost to keep Airbnb from getting any traction with its home rental service.

In those and many other cases, the rationale for the governmental barriers — the obligatory permission begging — is that safety is the paramount consideration. What if someone were hurt while riding in

an Uber car? What if the information from a genetic test were mistaken or too frightening for the individual? What if a property rented through Airbnb didn't conform to every safety regulation?

Of course, *nothing* can be perfectly safe or completely harmless, but to the minds of many politicians and activists, the immense prospective benefits of allowing innovations are far less significant than the possibility, however unlikely, that someone will be worse off. They don't want to be blamed if an innovation has some undesirable results. Thierer responds, “Living in constant fear of worst-case scenarios — and premising public policy upon them — means that best-case scenarios will never come about.”

The “precautionary principle” is often just a smokescreen for interest groups that don't like *laissez faire*, Thierer suggests. Two groups in particular have formed an unholy alliance against progress: reactionaries and technocrats. Reactionaries simply don't like many new things that they find threatening, either emotionally or financially. Social conservatives have qualms about anything to do with genetics, for example. Taxi companies would rather not have to compete with up-

start firms and want government to stifle them with regulations.

Technocrats aren't completely opposed to innovation, but believe that the state should pass judgment on new things because government officials are more knowledgeable and concerned about the public interest.

Combined, they create a strong "Baptists and bootleggers" force that is slowing technology and innovation.

It is true that innovations can cause harm, but Thierer argues that the country would be much better

off by allowing innovation and relying on "bottom-up" adaptations to it rather than trying to prevent harm with stifling government regulations.

These books dovetail in showing that government is the problem and freedom is the solution. I recommend both.

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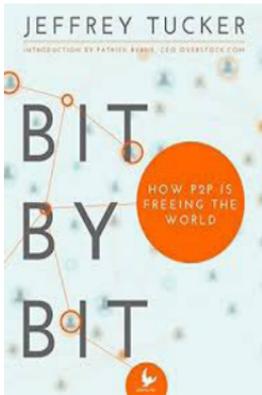
*They talk about conscription as being a democratic institution. Yes; so is a cemetery.*

*— Meyer London*

# How Technology Can Create Political Change

by Kevin Carson

*Bit by Bit: How P2P Is Freeing the World* by Jeffrey Tucker (Liberty.me 2015), Kindle, 130 pages (estimated).



Jeffrey Tucker opens with the story of Fereshteh Forough, who set up a chain of clinics in Afghanistan to empower women by teaching them coding, design, and other computer skills that they could market directly on the web. The problem they met with was an inability to get paid, either because there was no nearby institution where they could open a checking account or they required a man's permission to open one.

Bitcoin allows all the women in her clinic to open a bank account without permission from anyone. If they owned a smartphone, they only needed a free wallet app. Then they could receive and spend money without permission from any authority....

What had to come together to make something like bitcoin possible? You need distributed networks, open-source programming, entrepreneurial drive, cryptography, and a world networked through the Internet.

The economy of distributed technology, Tucker writes, is what used to be called the “free market” — the free market that has been systematically destroyed or undermined by governments. The difference is, this time it's being built in the information realm; and unlike the old markets in naturally scarce material goods, the new one is organized around abundance. He quotes F.A. Hayek from *The Constitution of Liberty*:

The uses of new knowledge (where we do not make them artificially scarce by patents of monopoly) are unrestricted.

Knowledge, once achieved, becomes gratuitously available for the benefit of all. It is through this free gift of the knowledge acquired by the experiments of some members of society that general progress is made possible, that the achievements of those who have gone before facilitate the advance of those who follow.

The basic outlines of such a networked/distributed economy of abundance, Tucker writes, had emerged by the end of the 20th century; its capabilities have grown exponentially in the 15 years since, and can be expected to continue to do so.

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**The new world is emerging organically, and messily, from the ground up.**

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It is an emergent system. As its component parts become more differentiated and developed, and achieve a higher synthesis through their mutual interrelation, it undergoes a phase transition and takes on a qualitative character that could not have been anticipated by looking at the component parts. And it is, for the most part, a complex, self-organized system.

It is coming about not because of political reform. It is not any one person's creation. It is not happening because a group of elite intellectuals advocated it. The new world is emerging organically, and messily, from the ground up, as an extension of unrelenting creativity and experimentation. In the end, it is emerging out of a stateless order that no one in particular controls and no one in particular can fully understand.

### **The legacy economy**

Tucker begins his second chapter with a reference to Mises's absolutist position on Woodrow Wilson's self-determination doctrine after World War I. It was not enough, Mises said, to grant the right of self-determination to nationalities; it should be extended to any grouping of people, no matter how small, capable of constituting themselves as a territorial administrative unit. And if not for the "technical considerations" standing in the way, he added, it would be morally requisite to extend the same self-determination to every individual.

Network communications technology, Tucker says, is overcoming those technical considerations. Even without a common territorial

administrative apparatus, it's now possible for individuals to

seek out associations regardless of geography, to be governed under geographically non-contiguous ruling regimes, to pursue associations based purely on individual volition....

These new P2P [peer-to-peer] systems have connected the world like never before: erasing borders, circumventing restrictions, obsoleting old ways of doing things.

P2P architectures facilitate direct, one-off interactions between endpoints without the need for third-party coordination.

One thing Tucker singles out for special favorable attention is Bitcoin, the encrypted digital currency. Bitcoin's blockchain system makes it possible for individuals to deal directly and securely with one another on a peer-to-peer basis without any centralized third-party trust mechanism. Tucker's explanation of how the blockchain architecture works is one of the clearest available.

But the P2P revolution also extends into the material realm in a number of ways. 3D printing cou-

pled with digital design/machining files makes it possible to carry out manufacturing in small shops or even homes. P2P coordination mechanisms such as Uber are making it possible to access services such as transportation outside the local cab cartels and, Tucker writes, the same phenomenon is likely to extend to things such as P2P home health-care apps in the near future. There are even steps toward P2P policing, such as the Peacekeeper app.

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**P2P architectures facilitate direct, one-off interactions between endpoints without the need for third-party coordination.**

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Reputational systems such as those embedded in the two iterations of Silk Road so far provide a self-organized regulatory framework arguably superior to the state's when it comes to safety and quality. And Tucker argues that Bitcoin's blockchain ledger system has almost infinite potential for being expanded beyond purely currency functions to provide P2P trust mechanisms for contracts and other market regulatory functions.

All these things taken together, given the superior service they offer and the difficulty or impossibility of enforcing state regulatory oversight

and taxing authority over them, mean that the public will gradually withdraw an increasing share of its activity from the legacy economy and starve it of revenue.

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**The tolerance for taxation, slavery, spying, regulation, and war begins to decline.**

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The result is political instability. A paradigm shift. Obsolescence of the public sector. The growing irrelevance of power. Ever less dependence on, and hence loyalty to, the coercive power structure and ever more cultural, economic, and social reliance on the structures that society creates for itself. The tolerance for taxation, slavery, spying, regulation, and war begins to decline. Eventually it dies because it is unsustainable without public support. That's the story of how human liberty prevails over tyranny. It could be the story of our near-term future.

The fourth chapter of *Bit by Bit* is an eloquent discussion of this emergent P2P economy in light of Hayek's thought on the knowledge problem. As with his discussion of the Bitcoin blockchain's functioning, it's worthwhile reading the book just for this.

Of course the legacy capitalist economy of large corporations in-

terlocked with the regulatory state has long pursued a business model of extracting rents through just the kinds of artificial scarcity, rooted in patent, that Hayek wrote of. And it hopes to rejuvenate that dying system by imposing the same regime of artificial scarcity and rent extraction on the realm of information.

But early attempts to do so are meeting with failure. For example: Hollywood, Tucker says, has already lost the war against "piracy." Although money is still made on proprietary information, the competition from online file-sharing has driven down the price of digital music and movies in many cases to little more than a convenience fee.

The problem is that many of the specific firms — like Uber and Airbnb — that Tucker hails as examples of the new P2P economy are actually attempts to put new wine in old wineskins. The market is indeed more competitive with them than without them, and their existence has made a positive difference in the alternatives available. But they are still halfway measures — attempts to enclose the new P2P technologies within corporate walls, with the help of proprietary apps.

So Tucker's framing, in which left-wing critics of Uber and other

pseudo-P2P services are simply statist enemies of the free market, and Uber and others are champions of the unleashed network future, is over simplistic.

### P2P architecture

There is a great deal of evidence accumulating that — to take one example — Uber, far from being a genuine P2P service, assumes what amounts to an employer-employee relationship with its drivers. It really isn't a driver-owned service at all. And it takes a cavalier attitude towards its passengers, and bullies its critics in the press as well.

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**We need genuine P2P architectures for delivering services completely outside the old corporate framework.**

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But what's needed is not state regulation in the "public interest" (as if such a thing ever existed), but to push the revolution further and replace Uber, Airbnb, Bitcoin, and other halfway measures with the real P2P thing. James Tuttle, director of the free-market think tank Center for a Stateless Society, argued that the proper response to Uber is to develop pirated or open-source versions of the app, and to infiltrate its workforce with labor

organizers; or in his own words: "hack the app, salt the service, fight the competition with better competition" ("One Cheer for Uber and Lyft," C4SS, May 16, 2014; <http://c4ss.org/content/27244>). If Uber and Airbnb are playing *Encarta* to the legacy cab and hotel industries' *Britannica*, we need a genuine open-source equivalent of *Wikipedia* to destroy them in turn.

We need genuine P2P architectures for delivering services and facilitating cooperation completely outside the old corporate framework.

And Bitcoin, for all of Tucker's enthusiastic Misesian defense of it against traditional hard-money critics, shares many negative features with the old specie currencies. Like older and more-conventional commodity currencies, whose primary function is to provide a store of value, Bitcoin is given to deflation, speculative hoarding, and hence withdrawal from the market and loss of liquidity.

I think David Graeber, in his book *Debt*, demonstrated pretty clearly that the conventional account of the origin of specie currencies from the free market, in response to problems such as the "mutual coincidence of wants," is utterly ahistorical. Many societies throughout human history, on the other hand,

flourished with currencies whose sole function was the denomination of value in exchange rather than as a store of value, such as the village mutual-credit clearing systems that Tom Greco, a theorist and designer of currency systems, based his currency model on.

Bitcoin, at best, will be a useful currency for carrying on exchange in one-off transactions outside trust networks — especially when evading state scrutiny is a consideration — as part of a larger currency ecosystem in which something like Greco's credit-clearing system does most of the heavy lifting.

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**There are alternatives beyond the bureaucratic leviathan state and the cash nexus.**

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On the other hand a great deal of left-wing criticism of P2P alternatives — like that that Tucker cites from *Jacobin* magazine — misses the point. It is not the case that P2P services shift risk from corporations to workers. Minimizing risk, with the help of the state, is central to the existing business model of legacy corporations right now. That is because the corporate economy of the past 150 years has pursued a very capital-intensive, high-overhead model of manufacturing

goods and delivering services. The giant corporate dinosaurs must minimize risk and guarantee sales of their output precisely because they have high overhead to service. And the fact that high capital outlays serve as entry barriers and reduce the number of competitors in an industry makes it easier to engage in monopoly pricing and rationing of service. So legacy corporate industries have an incentive to promote regulations that mandate inefficient production methods and artificially inflate the capital outlays required for production.

But the less overhead, the less the regular income stream required to service it, and hence the less need for certainty. Because P2P taxi and bed-and-breakfast services involve zero overhead — they rely entirely on the spare capacity of capital assets that participants already own anyway — all income is increased. Someone can earn extra income in addition to wage labor, and gradually shift to part-time wage work supplemented by self-employment, without taking on debt and with zero risk.

So I think the final outcome of the P2P economy will be a lot less corporate, and a lot more geared toward either genuine self-employment or cooperative commons gov-

ernance — more like what Peter Kropotkin described — than Tucker envisions. There are alternatives beyond the bureaucratic leviathan state and the cash nexus, and any genuine free-market order of the future is likely to incorporate a lot more of such institutions than most people imagine.

One area where I agree heartily with Tucker is in his enthusiasm — stated in the last chapter — for libertarian strategies centered on secession and counter-institution

building, circumvention and “life hacks,” rather than political agitation to change the law. It’s what many of us on the Left call “prefigurative politics”: building the future society here and now, in the interstices of the dying old one.

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*Here [America] men would attempt to build society on new foundations. Applying for the first time theories either previously unknown or deemed inapplicable, they would stage for the world a spectacle for which nothing in the history of the past had prepared it.*

— Alexis de Tocqueville

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