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FUTURE OF FREEDOM

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The life of the nation is secure only while the nation is honest, truthful, and virtuous.

— Frederick Douglass

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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 I Favor Limited Government, Part 6

by Jacob G. Hornberger



Throughout history, people have accepted the notion that government officials have the legitimate moral and legal authority to do whatever they want. The mindset has always been that government is in charge and people are subordinate. The result was governments that wielded omnipotent powers over their citizenry. The best that people could hope for was that the powers would be wielded in a benevolent way.

Then came the U.S. Constitution, which upended that centuries-long mindset. Through that document, the American people called a national government into existence that was subordinate to the will of the people. By the express terms of the document itself, government officials were told what their pow-

ers were. If a power wasn't enumerated, the government was not permitted to exercise it.

Americans today take the Constitution for granted, but it is impossible to overstate the shocking effect that it had on the world at the time it was enacted. Just think: Rather than a government's being in charge with omnipotent powers, people were in charge and told the government what it could and could not do. That was a shocking notion to the people of the world.

It didn't have to be that way. The Constitutional Convention could have done something completely different — something that would have been consistent with what had gone on before. The Convention could have proposed simply calling into existence the same type of government that had existed in nations throughout history — a government whose officials wielded general powers to do whatever they felt was in the best interests of the nation. They could have simply trusted their public officials to do the right thing, with no limitations placed on their powers. And after all, everyone knew that George Washington was going to be the first president. If you couldn't trust George Washington with omnipotent powers, whom could you trust?

The Framers didn't trust anyone with political power and neither did the American people. That's why they called into existence a federal government with limited, enumerated powers.

The Framers didn't trust anyone with political power and neither did the American people.

It's also why they divided government into three branches. Having a keen insight into human nature, they knew that public officials in separate branches would tend to fight against each other as part of their incessant quest for more power over the lives of human beings. It's also why they favored a federal system — that is, one in which there were a federal government and state governments (rather than one national government).

Even all that wasn't good enough for the American people. As a condition of accepting the new federal government, which was replacing the government that had been established under the Articles of Confederation, they demanded the enactment of a bill of rights, which placed express restraints on the powers of federal officials, including procedural limitations on power that the British people had

carved out during centuries of resistance to the tyranny of their own government.

The obvious question arises: Given so much distrust in government, why even call into existence a national government?

The answer essentially lay in the three core functions of government set forth in part one of this essay: (1) to declare a state of war and defend the nation in the event of a military attack or invasion; (2) to establish a federal judiciary to enable people to peacefully litigate differences in disputes that extended beyond the strict borders of a state, such as lawsuits between citizens of different states or lawsuits between states; and (3) to enact and enforce criminal laws in rare matters relating to federal powers, such as counterfeiting.

Since the nation was at peace most of the time in the eighteenth and nineteenth centuries, and since the number of federal lawsuits was extremely small, and since virtually all the traditional criminal offenses (e.g., murder and robbery) were prosecuted at the state level, federal expenditures were necessarily extremely low during most of that time. That's what enabled our American ancestors to live without income taxation for more than 125 years.

Was the Constitution perfectly written? Of course not. Crafted in an environment of political compromise and a lack of deep economic understanding, it is riddled with imprecise language and delegation of powers to which any libertarian today would object.

The Interstate Commerce Clause comes to mind. Why not simply prohibit the federal government from regulating any commerce?

Or the power to coin money. Why not a free-market monetary system, one in which the federal government plays no role whatsoever?

Or the power to deliver the mail. What should government at any level be engaged in the mail-delivery service?

Indeed, why wasn't there an express protection of economic liberty or freedom of trade in the First Amendment, right alongside freedom of speech, religion, and press?

A glass half full

But that's looking at the glass as half empty. When we look at the Constitution from the standpoint of a glass that is half full, we see that it is one of the most remarkable political documents in history. Keep in mind, after all, what had existed throughout the ages: governments

with omnipotent powers and people who never thought to question or challenge the fact that their governments wielded omnipotent powers over them. Here was a document that placed the people on top and made the federal government subservient to their will.

When we look at the Constitution from the standpoint of a glass that is half full, we see that it is the most remarkable political document in history.

As a point of comparison, consider Adam Smith's *Wealth of Nations*, which was published in 1776. Its verbiage is turgid and, even worse, the book is riddled with economic errors and compromises of libertarian philosophy. It would not be difficult to conclude, in a strictly libertarian or Austrian-economics sense, that *The Wealth of Nations*, like the Constitution, is a highly imperfect work.

But that would be missing the point. Looking at the glass as half full, despite its difficult writing style and its errors and compromises, we libertarians praise Smith's *Wealth of Nations* as a glorious and monumental achievement, especially since it was the first organized treatise on economics, thereby establishing the

foundation on which later economists would expand and build.

Was the society that existed under the federal government a perfectly libertarian society? We all know it wasn't. There was slavery. There were tariffs. There were land grants to the railroads. There were various economic regulations at the state and local levels. There was corporatism.

Once again, however, that's looking at the glass as half empty. Consider the other side of things: Our ancestors brought into existence a society in which there was no income tax or IRS, one where people could keep everything they earned and decide for themselves what to do with it. There was no Social Security, Medicare, Medicaid, farm subsidies, education grants, food stamps, public housing, or FDIC. Indeed, there was no welfare state or mandatory, coercive charity. There were no drug laws. There were very few economic regulations, especially at the federal level. No minimum-wage laws. No occupational-licensure laws. No Federal Reserve. No fiat money: the official U.S. money consisted of coins made out of precious metals. No immigration controls. No public (i.e., government) schooling. No national-security state. America had a

relatively small army that was nothing like the enormous military establishment and military-industrial complex that exist today. No foreign military bases. No regime-change operations, coups, foreign interventions, foreign aid, or alliances with foreign regimes. No CIA. No NSA. No official programs for mass surveillance, torture, and assassination.

**Never in history has there
existed such a society.**

That is the most remarkable political and economic achievement in history. Never in history has there existed such a society. It was the closest that people have ever come to what libertarians envision as a genuinely free society. Notwithstanding the exceptions (e.g., slavery and tariffs), the result was the freest and most prosperous nation in history and certainly among the most peaceful and harmonious for most of the time (the Civil War, the Mexican War, slavery, and the war against American Indians being notable exceptions).

The survival of limited government

Today, we obviously live in a very different type of society, one that has all those government programs that

our ancestors didn't have. For most of the 20th century and continuing through today, we live under what has become known as a welfare state and a warfare state, where the federal government wields omnipotent power over the lives and economic activities of the citizenry.

Anarchists point to this phenomenon and say, "You see, limited government didn't work. It failed to prevent the destruction of freedom in America."

Yet, clearly that's just not the case. Compare the United States to, say, North Korea, which really does have omnipotent government. Here in America, people can criticize the government and public officials and not be rounded up, jailed, and executed, as they are in North Korea. Unlike North Koreans, Americans are free to worship in their own way or they can choose not to worship. They can read or write whatever they want, including books promoting communism, anarchy, and even the overthrow of the government. They are free to own guns, a fundamental right that Americans have widely exercised. Except in cases involving terrorism, which involves the warfare state, federal officials do not simply seize and disappear people. Trial by jury still exists for almost all crimes.

The same is true on the state and local level. After the passage of more than 235 years, every state continues to have a republican form of government. While there have been plenty of instances of corruption at the local level, the fact is that no city government in America has ever become a totalitarian city, one in which the police are arbitrarily rounding people up, incarcerating them without charges, and executing them.

After the passage of more than 235 years, every state continues to have a republican form of government.

Anarchists often compare government to cancer. They say that limited government is inherently defective because as soon as people bring government into existence, it immediately begins metastasizing, until it inevitably and finally becomes a totalitarian state.

Yet, clearly that has not happened in the United States. Limited government in many respects still exists all across America, a phenomenon that anarchists themselves believe and promote, even if they don't realize it.

Consider, for example, the initiatives in various states whereby

citizens amended their constitutions by legalizing marijuana. Prior to the constitutional amendment, state governments were jailing people for possessing marijuana. At the moment that the constitutional amendment became effective, state officials stopped jailing people for possessing marijuana.

State officials complied with the constitutional amendment, the higher law that people use to limit the power of their public officials.

That is limited government in action. It didn't have to be that way. State officials could have ordered the police to simply ignore the constitutional amendment and to continue arresting and jailing people for marijuana violations. They could have said that they weren't even going to hold trials anymore and that they would place their trust in the judgment of police officers. That's what omnipotent government is all about. They didn't do that. State officials complied with the constitutional amendment, the higher law that people use to limit the power of their public officials.

Why do I say that anarchists implicitly believe in and promote limited government? Because when they criticize wrongful government

policies, they also advocate limited-government measures — that is, measures that fall short of the total abolition of the government. For example, one often finds anarchists calling for drug legalization as a solution to the horrors brought on by drug laws. When they do so, they are implicitly saying that if drug laws were repealed, public officials would no longer jail people for drug violations. In other words, limited government.

The same holds true for education. Anarchists often call for a “separation of school and state,” much as the First Amendment requires a separation of church and state. That's an implicit acknowledgement that if laws entailing mandatory school attendance and school taxes were repealed, state officials would immediately stop forcing people to send their children to school and stop collecting school taxes, just as they don't force people to go to church. That is limited government in action.

Consider the repeal of Prohibition, a constitutional amendment that anarchists regard with approval. The day it was repealed by constitutional amendment, federal officials stopped busting people for liquor violations. That's how limited government works.

The tsunami

The natural question arises: If limited government worked, then why is The Future of Freedom Foundation in existence? Why have we steadfastly continued to maintain for 27 years that we don't live in a free society? Why do we continue to fight to achieve a free society?

The answer lies in the two primary areas in which limited government failed to work: the welfare state and the warfare state — that is, in the areas of economic activity and foreign policy. By welfare state, I include all the socialist, interventionist, and paternalistic roles that government has assumed in American life, including Social Security, Medicare, subsidies, economic regulations, fiat money, income taxation, the Federal Reserve, minimum-wage laws, the drug war, immigration controls, trade restrictions, corporatism, licensure, and much more. By warfare state, I mean the entire Cold War-era national-security establishment, military-industrial complex, Pentagon, CIA, NSA, foreign military bases, foreign interventionism, regime-change operations, coups, partnerships and alliances with foreign regimes (including totalitarian ones), and formalized programs of torture and assassination.

Notwithstanding the freedom people have with respect to what they read and write, whether they worship God or not, their ownership of guns, and other aspects of freedom that people in totalitarian societies aren't free to exercise, the fact is that the welfare state and the warfare-state have succeeded in destroying the freedom and well-being of the American people.

Doesn't that then mean that the anarchists are right — that the Constitution failed to ensure limited government and, therefore, that limited government was an inherently flawed concept from the inception?

The answer is: No! That's because the Constitution was never designed or intended to protect us from the forces that brought the welfare-warfare-state way of life to America.

The welfare state and the warfare state have succeeded in destroying the freedom and well-being of the American people.

Consider a sea wall. Its purpose is to protect a community from a high tide. Let's say that for 100 years, it succeeds in keeping society high and dry from waves that get as high as 10 feet. One day though, a tsunami hits, with waves that are

100 feet high. The flood waters easily overwhelm the sea wall and engulf the community.

Can we say that the sea wall failed to protect the community? Of course not, because it was never intended to protect the community from a tsunami. Its purpose was to protect the community only from high tides, which it succeeded in doing for more than a century. Should the community erect a new sea wall, notwithstanding its failure to protect against the tsunami? Of course it should, in order to continue providing protection against ordinary high tides.

That's what happened with the Constitution. For more than a century, it stood as a barrier to the welfare-warfare state but through most of that time there weren't any high intellectual tides against the free-market, private-property-limited-government system. Most 19th-century Americans favored the founding principles of the country. Those who opposed it during the 19th century constituted a very low intellectual tide.

Then came the Progressives, with their ideas of socialism, interventionism, and imperialism. Drawing on socialist ideas developed in Europe, Progressives began advocating Social Security, government

health care, public schooling, and such interventionist ideas as minimum-wage laws and maximum-hours laws. As the 20th century dawned, their statist philosophy was gripping the hearts and minds of more and more Americans. It was clearly a rising tide, but one that the Constitution could still protect the country against.

For more than a century, the Constitution stood as a barrier to the welfare-warfare state.

For example, in 1905 the U.S. Supreme Court was faced with a New York state law that mandated the maximum number of hours that employees were permitted to work, which, of course, was a direct violation of the principles of free enterprise — that is, enterprise that is free of government interference. Although the enactment of the law reflected majority opinion, at least in New York, in *Lochner v. New York* the Court declared it unconstitutional. The sea wall was able to withstand that particular shift in public opinion toward economic statism.

In 1923, the Supreme Court was faced with a minimum-wage law that had been enacted in Washington, D.C. The sea wall held when the Court declared the law uncon-

stitutional in the case of *Adkins v. Children's Hospital*.

But the intellectual tide in favor of economic statism continued to rise. For a time, there were justices who succeeded in shoring up the sea wall, as reflected, for example, by the Court's declaration of unconstitutionality for Franklin Roosevelt's National Recovery Act, a program that was so alien to American principles of economic liberty that it would have fit perfectly in Benito Mussolini's fascist Italy.

Public opinion in favor of socialism and interventionism became an intellectual tsunami.

As the 1930s progressed and the Great Depression worsened, public opinion in favor of socialism and interventionism became an intellectual tsunami, ultimately flooding the Constitution and all three branches of the federal government to such a large extent that America's economic system became permanently altered. The tsunami ended up bringing a permanent shift to the Supreme Court, as reflected by the 1937 case of *West Coast Hotel v. Parrish*, which overruled the *Adkins* case and upheld the constitutionality of the minimum wage. Once retiring justices were replaced

by justices whose progressive mindset reflected most of the rest of American society, the shift became permanent.

Then a second tsunami hit, this one with respect to foreign policy. While the move toward a warfare state had been building with the Spanish-American War and World War I, there was still a strong anti-empire, anti-interventionist sentiment in the country leading up to World War II. That all changed with the Second World War. By the end of the war, the overwhelming mindset was in favor of converting the federal government to a national-security state, a type of governmental system that characterized totalitarian regimes. It consists of such things as an enormous permanent military establishment, foreign military bases, the CIA, the NSA, foreign wars, foreign interventions, foreign aid, regime-change operations, secret surveillance schemes, assassinations, torture, foreign aid, and alliances with foreign regimes, including brutal dictatorships. That monumental change in America's federal governmental system was emphasized by President Dwight Eisenhower in his Farewell Address in 1961, where he pointed out that this new system, which he called the "military-industrial complex,"

posed a grave threat to the freedom and democratic processes of the American people.

Anarchy in the Wild West lasted only a few years, because the majority of people rejected it in favor of government.

The Constitution never had a chance against those two statist tsunamis that hit America in the 20th century. But neither would a system based on anarchy. If, say, 98 percent of people living under anarchy decided that they wanted to live under a government, there is nothing in anarchy that would prevent that from occurring. After all, while anarchists sometimes chide limited-government libertarians over the fact that limited government worked for “only” 125 years, anarchy in the Wild West lasted only a few years, precisely because the overwhelming majority of people rejected it in favor of government.

The Constitution was designed to protect people against “ordinary” majority attempts to infringe on freedom — when a “high tide” consists of say, 60-75 percent. For example, the majority of 20th-century and 21st-century Americans have long supported prayer in public schools, a system that would un-

doubtedly open the floodgates to mandatory religious indoctrination of all children in the land. But the Supreme Court has declared prayer in public schools to be unconstitutional, much to the chagrin of the majority of Americans who favor it. But what if public sentiment in favor of prayer in public schools reached, say, 98 percent? Then all bets would be off. The likelihood is that an intellectual tsunami of that magnitude would bring about a shift toward prayer in public schools, if for no other reason than justices who favored such a law would be appointed to replace retiring or dying justices.

Rebuilding the sea wall

What is the solution to the welfare-warfare state that holds our nation in its grip? Education! That’s what The Future of Freedom Foundation is all about. For 27 years, FFF has been educating people about the principles of a genuinely free society, including challenging them to ask the following critically important question: What should be the role of government in a free society? As people begin to realize that government has no legitimate role in such things as charity, drug use, education, economic activity, and disputes in other countries,

then the tide in favor of statism will begin to recede and laws will start getting repealed. We are already seeing a major shift toward a free society with respect to the drug war, as reflected by people's legalizing marijuana at the state level through constitutional amendment.

Ideally, when the shift comes, the U.S. Constitution would be amended to provide for a separation of charity and the state, of economy and the state, of drug use and the state, and education and the state, an abolition of the income tax and Federal Reserve System, and a dismantling of the Cold War-era national-security state apparatus that was grafted onto the federal governmental system after World War II. When that day comes, while there will always be attempts by public officials to break free of the chains that bind them, the sea wall of the Constitution will hold against high tides, just as it has held with respect to intellectual liberty, religious liberty, gun ownership, and trial by jury.

Why do I favor voluntarily funded limited government? Because it is the best, albeit imperfect, way to secure people's fundamental, natural, God-given rights of life, liberty, and the pursuit of happiness.

Although I disagree with libertarian anarchists on this issue, I would be remiss if I failed to mention that the anarchists are among the libertarian movement's most eloquent and passionate opponents of the welfare-warfare-state way of life. Unfortunately, all too many limited-government libertarians have made peace with the welfare-warfare-state and have decided to dedicate their lives to simply coming up with ways to reform it under the rubric of "freedom-oriented public-policy proposals." Social Security "privatization"; health-care IRAs; school vouchers; income-tax reform; regulatory reform; and reform of the Pentagon, CIA, and NSA come to mind.

Limited government is the best, albeit imperfect, way to secure people's fundamental, natural, God-given rights.

You'll rarely see a libertarian anarchist promoting a "freedom-oriented public-policy proposal." They understand that a warmed-over version of the welfare-warfare state is not freedom. In their articles and speeches, they invariably strike at the root of the welfare-warfare state, thereby challenging people to question the legitimacy of the programs

themselves rather than debating the efficacy of some reform measure.

That's why I have always felt much more intellectual kinship with libertarian anarchists, notwithstanding our disagreement over government, than with limited-government reform libertarians. With their uncompromising perspectives, the libertarian anarchists are bringing us ever closer to a free society.

I'll conclude this six-part essay with what a libertarian anarchist friend of mine once said to me after countless hours of debate, discussion, and argumentation over the issue of limited government versus

anarchy: "Let's call a truce. Let's work to achieve freedom by getting down to the night-watchman state. At that point, we'll decide whether or not to dismantle it."

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

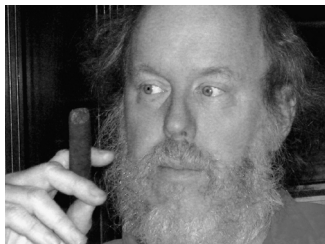
NEXT MONTH:
**"Muhammad Ali and
America's Slave Society"**
by Jacob G. Hornberger

Freedom of expression is the matrix, the indispensable condition, of nearly every other form of freedom.

— Judge Benjamin Nathan Cardozo

The Fraudulent Obama War on Corruption

by James Bovard



The Obama administration wants Americans to believe that it is fiercely anti-corruption. “I have been shocked by the degree to which I find corruption pandemic in the world today,” declared Secretary of State John Kerry at an Anti-Corruption Summit in London last May. Kerry sounded like the French police chief in *Casablanca* who was “shocked” to discover gambling. Six years ago at the United Nations, Barack Obama proclaimed that the U.S. government is “leading a global effort to combat corruption.” Maybe he forgot to send Kerry the memo.

Much of the teeth-gnashing at that summit involved tax evasion. Politicians pledged to share more data on tax records and corporate

ownership to help boost government revenue around the globe. Summit attendees castigated hidden offshore bank accounts — ironically, the same type of accounts used by both British Prime Minister David Cameron and Kerry. A joint communique solemnly pledged to “drive out those lawyers, real estate agents, and accountants who facilitate or are complicit in corruption.”

Kerry proclaimed, “We have to get the global community to come together and have no impunity [sic] to corruption.” But the summit largely ignored the brazen corruption of politicians or how it is fueled by western governments, the World Bank, and the International Monetary Fund. Foreign aid has long been notorious for breeding kleptocracies — governments of thieves. Economic studies have revealed that boosting aid directly increases corruption. Fourteen years ago, George W. Bush promised to reform foreign aid: “We won’t be putting money into a society which is not transparent and corrupt.” (He probably meant “corruption-free.”) But the U.S. aid programs — which cost taxpayers more than \$40 billion a year — continue to bankroll many of the world’s most crooked regimes (according to ratings by Transparency International) — including Uzbeki-

stan, Haiti, and Kenya. There is no “Tyrants Need Not Apply” sign at the entrance to the U.S. Agency for International Development.

The Obama administration has valiantly resisted congressional efforts to stop the payouts to political bandits abroad.

The Obama administration has valiantly resisted congressional efforts to stop the payouts to political bandits abroad. In 2011, when a House committee sought to curb the abuse, Secretary of State Hillary Clinton warned that restricting handouts to nations that fail anti-corruption tests “has the potential to affect a staggering number of needy aid recipients.”

Afghanistan

Since Obama took office, the U.S. government has provided more than \$50 billion in foreign aid to Afghanistan — even though that nation’s president, Ashraf Ghani, admitted that his nation is “one of the most corrupt countries on Earth.” Seven years ago, Obama gave Ghani’s predecessor, Hamid Karzai, a six-month deadline to “eradicate corruption,” according to Secretary Clinton. After his re-election campaign was caught stealing more

than a million votes, Karzai promised, “Fighting corruption will be the key focus of my second term in office.” Obama’s imperative only accelerated the looting by Afghan government officials and cronies.

Pervasive corruption is a major reason that the Taliban is re-conquering more of that nation each year. At Afghanistan’s premier military hospital, some wounded Afghan soldiers starved to death because they could not afford to bribe the hospital staff for food. Much of the Afghan army is practically bootless because of crooked contracts that deliver shoddy footwear that literally falls apart the first time soldiers wear it. Though Afghanistan has notoriously bitter winters, tens of thousands of its troops have not been issued “cold weather gear,” such as gloves and hats, according to Special Inspector General for Afghanistan John Sopko.

Kerry promised that the United States would help fund a Global Consortium of Civil Society and Investigative Journalists against Corruption. But on the home front, the Obama administration has scourged persons who disclosed federal abuses. In Obama’s eyes, leaking classified information to the media is the legal and moral equivalent of spying for a hostile government.

Obama's Justice Department launched more than twice as many federal prosecutions for Espionage Act violations as all previous administrations combined. When Obama took office, the United States was ranked as having the 20th-most-free press in the world, according to the Reporters Without Borders' World Press Freedom Index — in the same league as Germany and Japan. By 2016, it had fallen to 41st — worse than South Africa and barely ahead of Botswana. Despite Obama's boast of running "the most transparent administration in history," his appointees have helped turn the Freedom of Information Act into a charade.

U.S. foreign aid is another area apparently exempt from the transparency mandate.

Kerry joined foreign chieftains in calling for more transparency to fight corruption but he forgot to notify his own State Department. Three days before his speech, the State Department confirmed that it had "lost" all the emails of the I.T. technician who set up the private email server that Hillary Clinton used to illicitly keep her correspondence secret (and to ignore federal law on classified information). Nor

have we learned the shady details behind our former secretary of State's shoveling out scores of billions of dollars and special treatment to foreign governments at the same time the Clinton Foundation collected millions of dollars from some of the beneficiaries. Many of the oppressive nations that donated to the Clinton Foundation saw huge increases in approvals for weapons sales from the United States during Clinton's time as secretary of State.

U.S. foreign aid is another area apparently exempt from the transparency mandate. AID makes little or no effort to disclose where its money goes. The Brookings Institution and the Center for Global Development reported in 2010 that the U.S. government was among the least transparent aid donors in the world, and that it ranked dead last in "reporting of delivery channels (i.e., exactly who received the money)." Rep Ted Poe (R-Tex.) and former Rep. Jim Kolbe (R-Ariz.) observed in an op-ed, "Most foreign assistance programs operate in the dark. No one really knows how the money got there in the first place or where it is going."

Police graft

In his London speech, Kerry boasted of U.S. government plans

“to put \$70 million into additional integrity initiative [sic] to help with local police training” to curtail “opportunity for bribery and graft.” Unfortunately, the Obama administration plans to continue fueling police graft here in the United States. Obama’s Justice Department recently resumed a widely denounced program to reward local and state law-enforcement agencies for confiscating the property of hapless citizens who have been convicted of no crime. Government agencies routinely keep most of the money they confiscate, sometimes using it to pay bonuses to the lawmen who plundered private citizens. This is one of the most brazen conflicts of interest in contemporary American life — but because it profits the government, the outrage continues. Federal law-enforcement agencies used asset-forfeiture programs in 2014 to seize more property from Americans than all the burglars stole nationwide.

Each summit attendee issued a statement “setting out the concrete actions they will take in order to tackle corruption.” Among other pledges, the U.S. government promised to conduct “Stronger Security Assistance Oversight,” including ensuring that our security assistance also addresses governance

goals.” Tell that to the downtrodden Egyptians. The Obama administration continues providing more than a billion dollars a year to the Egyptian military — despite its role in toppling Egypt’s elected president in 2013 (a coup which Kerry bizarrely praised for “restoring democracy”) and slaughtering hundreds, if not thousands, of protestors. On the same day as Kerry’s speech, the Government Accountability Office reported that the State Department persistently violates federal law by providing military equipment to the Egyptian government and totally ignoring the requirement to track Egypt’s “gross human rights violations.” A few days after the summit, Kerry visited Egypt and had no complaints about the U.S.-funded crackdown on the Egyptian people.

The Obama administration plans to continue fueling police graft here in the United States.

In his spiel before a friendly London audience, Kerry recalled, “I used to be a prosecutor. I remember when I did the BCCI — Bank of Commerce, Credit International. We found [Panamanian dictator Manuel] Noriega’s money linked with arms-control money, narcotics

money, extremist money.... That's why accountability under the law is so critical and that's why I view this discussion as the beginning of something that can help us in the battle against extremism, help us in the battle for strengthening the commitment to rule of law, and giving people across the planet a sense that leaders at the highest level are not, in fact, part of the problem; they're part of the solution."

But Kerry was never a prosecutor against BCCI; instead, he was a U.S. senator pursuing the bank and its nefarious dealings. While Kerry proudly excoriated Noriega, he forgot to mention how much money the CIA and other U.S. government agencies had shoveled to that dictator — as long as he was behaving in ways that pleased Washington. Noriega spent several years as the head of Panama's intelligence agency before he took it over. When President George H.W. Bush invaded Panama to topple Noriega in 1989, many of the sordid details of America's propping him up suddenly vanished from American political memory. But Noriega is actually the perfect example for Kerry to use on the danger of corruption — except

that Kerry did not want to mention the U.S. government's pro-corruption legacy. Nor did he mention the long legacy of U.S. interventions that subverted democratically elected governments in Latin America.

Perhaps Americans should count their blessings that the London international summit is not likely to spur a new war. Kerry and Obama are correct that corruption is a pestilence ravaging much of the planet. But the administration's credibility would be boosted if it had not worsened the problem at home and abroad. It is folly to trust politicians to fight corruption that buttresses their power.

James Bovard serves as policy advisor to The Future of Freedom Foundation and is the author of an ebook memoir, Public Policy Hooligan, as well as Attention Deficit Democracy and eight other books.

NEXT MONTH:
**"A Billion Dollars of Federally
Funded Paranoia"**
by James Bovard

Government Licensing or Private Certification?

by Laurence M. Vance



Everyone understands the need for children to obtain permission from their parents before undertaking certain activities: sleeping over at a friend's house, viewing a particular movie, going on a field trip, participating in some sport, attending a particular party, staying up late, playing a particular video game, making a major purchase at a store, surfing the Internet, or having some medical procedure.

Whether the issue is safety, security, fiscal responsibility, liability, or morality, it is generally true that father and mother know best. Even when it is grandparents, older siblings, or other relatives that are the ones granting the permissions, it is still generally true that the families

of the children know what is best for the children, not the children's friends, schoolmates, teachers, and neighbors.

But since government is not a parent, or even a babysitter, a caretaker, or a nanny, why is it that adults must get permission from it to open a business, engage in commerce, work in certain occupations, have a particular vocation, or provide a service to willing customers? In other words, why do Americans need permission from the government to work?

Since the war on poverty was declared as part of Lyndon Johnson's "Great Society," governments at all levels in the United States have spent trillions of dollars helping the poor. The government spends hundreds of billions of dollars every year providing a myriad of forms of welfare to low-income Americans. The vast majority of the programs have a means test; if a family's income were to increase above a certain amount, then the family would no longer be eligible to receive benefits from some or all of them. The government also spends many billions of dollars every year on job-training programs. Some Americans are even paid by the government for not working in the form of unemployment compensation. So

why does government make it so difficult for some people to work?

Government licensing

Government makes it difficult for some people to work when it decrees that they obtain — sometimes at a great cost in time and money — an occupational license. An occupational license is simply a certificate of permission and approval from a government-sponsored board that a job-seeker is required to obtain before he can begin working in a certain occupation. Such licenses are most commonly issued and regulated by state governments, but government at the federal and local level also license certain forms of work. An occupational license always involves paying a fee and usually requires a certain level of education or completion of so many hours of required training. Taking everything into account, the total cost to obtain an occupational license, in dollars and time, can be considerable.

According to a study prepared by the Department of the Treasury Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, and published by the White House last year, occupational licensing has grown rapidly over the past few decades:

More than one-quarter of U.S. workers now require a license to do their jobs, with most of these workers licensed by the States.

The share of workers licensed at the State level has risen five-fold since the 1950s.

About two-thirds of this change stems from an increase in the number of professions that require a license, with the remaining growth coming from changing composition of the workforce.

And as the study goes on to say, this share of workers “is higher when local and Federal licenses are included.”

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Although this White House report raises some concerns about the necessity and nature of some forms of occupational licensing, the common thread woven throughout the report is that occupational licensing benefits consumers by ensuring high-quality services and protecting them from the potentially harmful actions of unskilled and untrained practitioners. Occupa-

tional licensing also offers workers “clear guidelines around professional development and training” and “may also help practitioners to professionalize, encouraging individuals to invest in occupational skills and creating career paths for licensed workers.” At a recent Senate Judiciary subcommittee hearing spearheaded by Sen. Mike Lee, a Republican, and Sen. Amy Klobuchar, a Democrat, Jason Furman, the chairman of the Council of Economic Advisers, said that “licensing is usually justified on the grounds that it improves quality and protects safety.”

The White House report estimates that “over 1,100 occupations are regulated in at least one State, but fewer than 60 are regulated in all 50 States.” According to another study on occupational licensing by the Institute for Justice, the licensing burden in the states — in terms of education, experience, and examinations — ranges from an estimated average of 113 days in Pennsylvania to meet the requirements of the average licensed occupation to 724 days in Hawaii. The average fees range from \$88 in Kansas to \$505 in Nevada.

It is not just high-paid professionals such as doctors, lawyers, dentists, and accountants who are

licensed. Lower-income occupations are licensed as well. Occupations such as barbers, auctioneers, child-care workers, animal breeders, manicurists, interior designers, skin-care specialists, upholsterers, shampooers, bill collectors, fire-alarm installers, midwives, make-up artists, crane operators, fishers, security guards, security-alarm installers, coaches, taxidermists, sign-language interpreters, locksmiths, bartenders, taxi drivers, funeral attendants, travel agents, and milk samplers.

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Some occupations are licensed in all 50 states and the District of Columbia, such as cosmetologists, bus drivers, pest-control applicators, emergency-medical technicians, and vegetation-pesticide handlers. Other occupations are licensed only in one state, such as conveyor operators and forest workers (Connecticut), non-contractor pipe-layers and fire-sprinkler system testers (Wisconsin), and florists (Louisiana).

Along with occupational licensing come the government enforce-

ment agencies and armies of government bureaucrats to make sure all the licensing rules and regulations are followed. Take Tennessee, for example. Tennessee is one of five states that licenses hair shampooers. To get a license requires a \$140 fee, seventy days of training, and passing two exams. According to a recent report on occupational licensing by the Heritage Foundation (a conservative think tank), “The Tennessee Board of Cosmetology and Barber Examiners employs between 15 and 18 ‘field inspectors’ hired to inspect barber and cosmetology schools and shops for proper sanitation and unlicensed activity. Under authority established by the board, its legal division has the power to issue consent orders for unlicensed activity.”

According to a report an inspector filed with the state in April 2014, he entered a Memphis salon to conduct a “lawful inspection of the premises therein” and saw a manicurist running afoul of the law by shampooing a client’s hair. You see, although the manicurist was a licensed manicurist, she was not a licensed shampooer. The manicurist was ordered to pay a \$250 fine or face formal disciplinary charges and attend a hearing before an administrative law judge. That could

result in a \$1,000 fine and the loss of the manicurist’s license.

The problems with licensing

The problems with occupational licensing can be classified as philosophical, empirical, logical, and rational.

Occupational licensing needs to be recognized for what it is: government permission to work.

First and foremost, occupational licensing needs to be recognized for what it is: government permission to work. But since when is it the proper role of government to forbid or permit people to exercise what should be their natural right to make a living? Since when is it the proper role of government to forbid or permit people to freely contract with other people to provide them services? Occupational licensing is an illegitimate purpose of government. It doesn’t matter what the occupation is, or whether the licensing requirements are “reasonable” or “in the public interest.” While the protection of the public’s health, safety, and welfare is important, it is not the proper role of government to do it.

Second, occupational licensing results in higher prices for services,

reduces employment opportunities and depresses wages for excluded workers, stifles entrepreneurship, limits competition, makes it difficult for immigrants to find work in fields where they might have valuable experience and training, makes entry to a particular field more difficult for those who might otherwise challenge the pricing practices of those currently in the field, and excludes otherwise qualified persons who have a criminal record, since in many states applicants can be denied a license if they have any kind of criminal conviction, regardless of the nature of the offense or how long ago it occurred. Occupational licensing also prevents licensed job-seekers from moving across state lines to seek better employment opportunities, since there is little interstate reciprocity when it comes to occupational licenses. It likewise includes working remotely or from home if it involves doing so from another state.

Third, the occupations necessitating a license and the requirements to obtain a license vary so widely from state to state that the whole process seems illogical. According to the aforementioned report on occupational licensing by the Institute for Justice, “The share of licensed workers varies widely

state-by-state, ranging from a low of 12 percent in South Carolina to a high of 33 percent in Iowa. Most of these State differences are due to State policies, not differences in occupation mix across States.” Five occupations are licensed only in one state. Five others are licensed only in two states. Two others are licensed only in three states. There are thirty-two occupations that only nine or fewer states license. Ten states require four months or more of training to be a manicurist, but Iowa requires only nine days and Alaska three days. It takes three years in Michigan to become a licensed security guard, but only eleven days in most other states.

The Institute for Justice reports that “66 occupations have greater average licensure burdens” than emergency-medical technicians.

And fourth, the difficulty of obtaining certain occupational licenses is irrational. It does not coincide with the public health, safety, and welfare risk that supposedly results from unlicensed practitioners. Take, for example, the occupation of emergency-medical technician (EMT). The actions of an EMT can affect people’s lives, not just their hair or nails. Although every state

and the District of Columbia require an individual to obtain a license to work as an EMT, the Institute for Justice reports that “66 occupations have greater average licensure burdens” than EMTs’. Education and training requirements to be an EMT vary from 140 days in Alaska to zero in Washington, D.C., and each location requires two exams, but the average amount of time required to become an EMT is only 33 days. Contrast that with the average amount of time needed to become a licensed cosmetologist: 372 days; a barber: 415 days; a security-alarm installer: 535 days; and an interior designer: 2,190 days.

Three other points

There are three other points about government licensing that need to be raised.

First of all, the vast majority of the government licensing in existence is on the state level. State governments can be just as evil, authoritarian, tyrannical, and harmful as the federal government, and even more so when it comes to being a nanny state. Merely because something is enshrined in a state constitution it doesn’t follow that it is a legitimate purpose of government. And that includes local governments as well. Remember that it

was the city of San Francisco that banned toy giveaways with children’s meals at fast-food restaurants unless the meals met the city’s strict nutritional standards and the city of New York that tried to ban large sugary drinks.

State governments can be just as authoritarian and harmful as the federal government.

Secondly, although conservatives don’t hesitate to point out what they consider to be the most egregious examples of government licensing requirements, they are very inconsistent when it comes to government regulation of business and the imposition of occupational licensing. For example, someone recently writing for the Heritage Foundation, although recognizing that “over the last 50 years, occupational licensing has grown substantially,” nevertheless states, “Few disagree that those working in professions dealing with the public’s health, safety, and welfare — doctors, pilots, lawyers — should be required to obtain a license.” But at the aforementioned Senate Judiciary subcommittee hearing, Amy Klobuchar said basically the same thing, “Licensing is important when it protects the health and wel-

fare of consumers or the safety of professionals.” Conservatives have no problem with the government’s licensing some occupations as long as it is “necessary” for public safety and the licensing requirements are “reasonable.” But that is just what the nanny statist in the state legislatures say in defense of their actions when they enact new licensing laws or defend existing ones. Conservatives have no firm philosophical basis for accepting some occupational-licensing requirements and rejecting others. They are therefore inconsistent and untrustworthy when it comes to criticisms of occupational licensing. In the end, it is still government regulators, bureaucrats, and nanny statist who decide which occupations require a license and what the cost and requirements are for someone to obtain one.

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And third, since the so-called Republican revolution, we have had more Republicans elected to office on the federal, state, and local level, and more Republican control over legislative bodies, than at any time

in U.S. history since Reconstruction. Yet, we now have more government, more government debt, more government spending, more government regulations, and more government licensing at all levels of government than ever before. Not only do Republicans control the Congress, but the Republican majority in the U.S. House is the largest in recent memory. In twenty-three states, Republicans control both houses of the legislature and the governorship (including Nebraska, which has a unicameral, nonpartisan legislature, but is made up of mostly Republicans). In six other states, Republicans control the governorship. In eight other states, Republicans control both houses of the legislature. In eight other states, Republicans control one house of the legislature. According to Ballotpedia, on the state level there are 4,120 Republican lawmakers and only 3,059 Democrats ones. What does all that have to do with government business regulations and licensing requirements? It is Republicans who claim to be proponents of free markets, free enterprise, and capitalism, and in favor of fewer government regulations, more individual freedom, and less government overall. But as Mises Institute chairman Lew

Rockwell has well said about the Republicans,

Economic liberty is the utopia that they keep promising to bring us, pending the higher priority of blowing up foreign peoples, jailing political dissidents, crushing the left wing on campus, and routing the Democrats. Once all of this is done, they say, then they will get to the instituting of a free-market economic system. Of course, that day never arrives, and it is not supposed to. Capitalism serves the Republicans the way Communism served Stalin: a symbolic distraction to keep you hoping, voting, and coughing up money.

Clearly, Republicans merely want a government limited to one controlled by Republicans or else occupational-licensing requirements would be fewer and less onerous in the twenty-three states where Republicans control the legislature and the governorship.

Private certification

Proponents of occupational licensing would have us believe that without such government intervention in the economy, businesses

would be full of untrained, incompetent, uneducated, unqualified, unscrupulous workers who would take advantage of consumers, rip them off, provide them with poor quality service, injure them, and possibly kill them.

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Proponents of occupational licensing would have us believe that without licensing, barbers would give customers bad haircuts, cosmetologists would ruin their hair, fire-alarm installers would incorrectly wire fire alarms, bartenders would mix us the wrong drinks, coaches would never win a game, funeral attendants would not properly dress one's dead grandmother, EMTs would allow patients to die, travel agents would book travelers on wrong flights, accountants would prepare incorrect financial statements, security guards would allow burglars to break in, child-care workers would molest children, skin-care specialists would damage customers' skin, taxi drivers would drop passengers off on the wrong street, pest-control applicators would not be able to kill

bugs, sign-language interpreters would tell deaf people the wrong thing, pharmacy technicians would give out the wrong drugs, taxidermists wouldn't stuff a dead pet properly, auctioneers would not be able to sell anything, and milk samplers would allow sour milk to be distributed.

Proponents of occupational licensing would have us believe that government protects consumers better than the free market, that government bureaucrats know better than business owners, and that government licensing is better than private certification.

Private certification — or licensing, endorsement, or accreditation — does work. Just consider the case of auto mechanics. I don't know of any state where auto mechanics and related occupations are subject to occupational licensing. But having worked as an auto mechanic in my younger days, I do know about ASE certification.

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Founded in 1972, the National Institute for Automotive Service Excellence (ASE) is an independent nonprofit organization that works

“to improve the quality of vehicle repair and service by testing and certifying automotive professionals.” According to the organization's website, the ASE exists

to protect the automotive service consumer, shop owner, and the automotive technician. We test and certify automotive professionals so that shop owners and service customers can better gauge a technician's level of expertise before contracting the technician's services. We certify the automotive technician professional so they can offer tangible proof of their technical knowledge. ASE Certification testing means peace of mind for auto service managers, customers.

To become certified, a mechanic must pass an exam written “in workshops by a national panel of seasoned automotive industry professionals and executives, including working technicians, automobile manufacturers, aftermarket manufacturers, and educators.” The 40-plus exams are “segmented by sub-specialty such as automobile, medium/heavy truck, truck equipment, school bus, collision repair,

and more.” Each exam is “designed to discern the automotive service technician’s knowledge of job-related skills.” The exams are not easy, “Only two out of every three test-takers pass on their first attempt.” Moreover, there is the requirement of “two years of on the job training or one year of on the job training and a two-year degree in automotive repair to qualify for certification.” To remain certified, a retest is required every five years. More than 200,000 automotive technicians in the United States are ASE certified, along with 100,000 service consultants, collision-repair/refinish technicians, collision-damage estimators, medium/heavy-truck technicians, engine machinists, parts specialists, and related occupations.

There is no legal requirement that auto mechanics be ASE-certified. Repair shops may or may not require that their technicians be ASE-certified. Customers may or may not insist that their vehicles are repaired by ASE-certified technicians. (Customers may or may not

even know or care about ASE certification.) But it is the repair-shop owners and their customers who make the decisions, not the government.

There is absolutely no reason that all occupations could not be privately certified just as auto and truck technicians are. Government licensing, aside from its many other problems, crowds out private certification and should be eliminated.

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NEXT MONTH:
“Let the States Decide”
by Laurence M. Vance

America's Plunge from Republic to Empire

by Wendy McElroy



We have crossed the boundary that lies between Republic and Empire. If you ask when, the answer is that you cannot make a single stroke between day and night. The precise moment does not matter. There was no painted sign to say, "You now are entering Imperium." Yet it was a very old road and the voice of history was saying: "Whether you know it or not, the act of crossing may be irreversible." And now, not far ahead, is a sign that reads: "No U Turns."

— Gareth Garrett

It is difficult to pinpoint the moment at which America crossed from Republic into Empire but guidelines exist for doing so. In his treatise *Rise of Empire* (1952), the

libertarian journalist Gareth Garrett declared the "first requisite of Empire" to be "the executive power of government shall be dominant." Arguably, the power most intimately connected to Empire or imperialism is conducting foreign policy, especially war.

America's plunge into imperialism is evident in its abandonment of a constitutional clause. Article I, Section 8, Paragraph 11 (the "War Powers Clause") reads, "[The Congress shall have power ...] To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water." The form of the declaration is not specified but the need to go through Congress is. The ability to declare war is coupled with other congressional powers over foreign affairs — namely, issuing letters of marque and reprisal as well as defining rules of capture on land and water. Congress is granted exclusive power over what are (or were) key areas of foreign policy.

The purpose was to rein in the executive, the president, by blocking his ability to declare war and otherwise initiate foreign conflicts. Having recently broken away from a monarchy, the Framers were determined to prevent one from arising on American soil. Since a defin-

ing power of monarchy was what William Blackstone referred to as “the sole prerogative of making war and peace,” the Constitution repudiated that kingly prerogative. James Madison wrote in a letter to Thomas Jefferson (circa 1798), “The constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war to the Legislature.”

Even Alexander Hamilton, an advocate of centralized power, found it necessary to reassure the public that ratification of the Constitution would not give the executive the power to declare war. In *The Federalist Papers*, he explained, “The President is to be Commander in Chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the King of Great-Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces ... while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies; all which, by the Constitution un-

der consideration would appertain to the Legislature.” In short, the president would have the authority to conduct war once a declaration had been approved by Congress.

As well as restraining the executive, the War Powers Clause makes war less likely for several reasons.

As well as restraining the executive, the War Powers Clause makes war less likely for several reasons. A vote in Congress promotes public debate on the issues surrounding war, including whether there is sufficient cause for a declaration; such debate allows objections and alternatives to be considered. Moreover, an open debate makes false claims less likely to prevail. A vote from hundreds of politicians drawn from the entire nation is more likely to reflect the will of constituents — the people — than the “vote” of one man; a war to benefit a faction of society could be opposed by those who would pay the price. A delay, even one counted in hours, allows for negotiation or other circumstances to change.

Despite the War Powers Clause, World War II was the last war for which Congress issued an official declaration of war. Korea, Vietnam,

the Persian Gulf, Afghanistan, Iraq, and the shifting police actions in the Middle East originated through the action of presidents in a fashion akin to those of kings or dictators.

The War Powers Clause has been supplanted by Article II, Section 2, Paragraph 2 which states, in part, “The President shall be Commander in Chief of the army and navy of the United States, and of the Militia of the several States, when called into the actual service of the United States.” The clause is interpreted to mean that the executive has a “right” to declare hostilities without involving Congress.

How did the executive wrest the power to create empire away from Congress? In brief: the Korean War.

The Korean War watershed

In 1951, the anti-interventionist Sen. Robert A. Taft contested the constitutionality of the Korean War. He stated, “[In] the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, unless the whole matter was submitted to Congress and a declaration of war or some other direct authority obtained.”

The Korean War (June 25, 1950 – July 27, 1953) is often viewed as a footnote to World War II. In reality, it was a pivot point in American foreign policy. Subsequent wars bear the fingerprints of Korea.

Since America’s early days, presidents have sent troops into combat abroad without a declaration of war. In the 19th century, however, such conflicts were usually limited and minor. The Barbary Wars (1801–1805, 1815) against tribute-seeking pirates in the Mediterranean are an example. Thirty-five Americans died in action; 64 were wounded. By contrast, 54,246 Americans died in Korea, with 103,284 being wounded. The goal of the Barbary Wars was to prevent pirate attacks on American shipping vessels; the Korean War was open-ended and politically motivated. And the Barbary Wars were sanctioned by the passage of at least ten congressional statutes.

The Korean War was open-ended and politically motivated.

The Founding Fathers envisioned circumstances in which a presidential response to aggression would not require congressional approval. A resolution brought before the Constitutional Convention

by Madison and Elbridge Gerry reserved the power to initiate war to Congress but “with the reservation that the president need not await authorization from Congress to repel a sudden attack on the United States.” The independence of action was meant to counter a sudden attack and not to conduct a sustained conflict.

Korea did not attack America. Nor did the two nations have a treaty. Nevertheless, Harry Truman was eager to intervene.

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Three years before, on March 27, 1947, he had announced the Truman Doctrine by which America pledged to assist any country that resisted communist aggression. In the wake of World War II, the United States and Soviet Union vied for global dominance through a Cold War (circa 1947–1991). The Soviet Union encouraged the spread of communism in order to expand its sphere of influence; the United States pursued containment by extending military and financial aid to “vulnerable” nations. The Truman doctrine had been vigorously resisted in Congress by isolationist

Republicans who viewed it as a program for imperialism. Rep. George Bender of Ohio accused Truman of authorizing “a program of military collaboration with all the petty and not so petty dictators.” The president was aware of how difficult it would be to push war in Korea through Congress. And, yet, Korea epitomized the Cold War politics upon which Truman focused.

Why? Prior to World War II, Korea had been a colony of Japan. After Japan fell, America and Russia divided the peninsula at the 38th parallel, with America in the South, Russia in the North. Subsequent negotiations toward unification failed. Then, in June 1950, North Korea invaded the South with the backing of Soviet tanks and equipment.

How did America join the warfare? Congressman Howard Buffett explained,

On June 25, 1950, the U.N. Security Council demanded a cease-fire and called on members to render every assistance to the United Nations in the execution of this resolution. Nothing was said about entering the conflict.... But at 12 o'clock noon, on June 27, President Truman ordered United

States air and sea units to give the Korean Government troops cover and support. That order put our military forces into the Korean civil war on the side of the South Koreans. At 10:45 that evening, 11 hours later, the Security Council requested members of the U.N. to supply the Republic of Korea with sufficient military assistance to repel invasion.

The later request was actually a recommendation rather than a demand to live up to UN commitments. The resolution read, “*Recommends* that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area.” [Emphasis in the original.] In an article entitled “Bush versus I.F. Stone and Eisenhower,” John Nichols commented, “Instead of going to Congress and asking for a formal declaration of war, the president [Truman] gamed the system by claiming that U.S. participation in the United Nations required him to send American boys to again die in Asia not five years after World War II had finished.”

Since Truman, it has become common for presidents to draw upon global authority in order to commit American troops to war without Congressional approval.

Conclusion

Prior to World War II, a strong current of noninterventionism influenced American foreign policy. The noninterventionists believed that America fared best when it did not militarily intrude into the affairs of other nations except in strict self-defense. World War II derailed their objections but, when war ended, noninterventionism reemerged within some circles.

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The Korean War occasioned a neglected episode of history called “The Great Debate” on the propriety of the Korean War and wider principles, for example, when and by whom a declaration of war should be made. The noninterventionists and the U.S. Constitution lost.

One reason was the presence of a new argument — that nuclear war would require an immediate re-

sponse from the president, who could not waste time seeking congressional approval. But that alleged need cannot explain why the Korean War was declared through what one historian called “a wink and a smile.” Nor does it justify presidential declarations thereafter when nuclear war was not threatened. Moreover, if nuclear war was ever plausibly threatened, it could be viewed through the lens of Madison’s and Gerry’s resolution. That is, a sudden attack required an exception to the otherwise exclusive right of Congress to declare war. As it was, the mere possibility of such an attack was enough to de facto strip Congress of that right in all subsequent circumstances.

George Friedman, geopolitical forecaster, explained how the transfer of that power affected the American Republic. “If there is a single point where these matters [Republic and Empire] converge, it is in the constitutional requirement that Congress approve wars through a declaration of war and in the abandonment of this requirement since World War II. This is the point where the burdens and interests of the United States as a global empire collide with the principles and rights of the United States as a republic.” Empire won.

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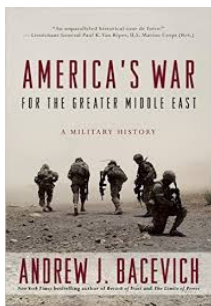
Happily the Government of the United States gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support.

— George Washington

America's Misadventures in the Greater Middle East

by Stephen Kinzer

America's War for the Greater Middle East: A Military History, by Andrew J. Bacevich (Random House, 2016), 480 pages.



America's Continuing Misadventures in the Middle East, by Chas W. Freeman Jr. (Just World Books, 2016), 256 pages.



Few forces in American public life are as powerful as the one that pulls people in Washington into the foreign policy mainstream. Republicans and Democrats, liberals and conservatives, the press, think tanks — all seem ready and indeed eager to be sucked into the deadening consensus that prevents the United States from adapting its foreign policies to a changing world. They treat original thinking as the germ of a frightful plague. Those who offer new ideas are stigmatized as — in John McCain's wonderful phrase — “wacko birds.”

To make one's way in the American foreign-policy world, it is essential to work from what Barack Obama has called the “playbook.” Accepting hoary assumptions is required. Among them are: the world is locked in an eternal struggle between good and evil; the United States leads the forces of good; people around the world are half-formed Americans eager for U.S. guidance; and this guidance often requires the use or threat of military force, since evil cannot be confronted any other way. Challenging those assumptions is a career-killer.

A few brave souls dare to dissent. As we sink into what seems like endless war, especially in the Islamic world, a small group of experienced

national-security experts has emerged to urge a different path. These veterans do not agree that the United States must base its foreign policy on confrontation, threats, sanctions, bombing campaigns, invasions and occupations. Instead they offer a “less is more” alternative that could lead to a more peaceful world and advance American security interests. Given the climate in Washington, there is little prospect that their advice will be heeded. Americans cannot complain, however, that no one has plotted a path that could take them out of the Middle East and away from militarism.

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Two of the most trenchant thinkers to have rebelled against the foreign policy “playbook” — both of whom have been my university colleagues — spent decades in public service. Andrew Bacevich is a West Point graduate whose 23-year military career ran from Vietnam to Iraq — that is, from one disaster to another. Chas Freeman was one of the most brilliant diplomats of his generation, with assignments ranging from being Richard Nixon’s inter-

preter in Beijing to serving as assistant secretary of Defense and U.S. ambassador to Saudi Arabia. Their new books are welcome rebellions against the Washington consensus. Taken together, they contain more wisdom about the Middle East than most Americans hear in a lifetime.

We often look at our sad history in the Middle East as a series of shortsighted misadventures, many of which ended either badly or tragically. In his newest book, *America’s War for the Greater Middle East*, Bacevich presents them differently. He asserts that they are not isolated episodes but part of a single, permanent war for the greater Middle East that has been under way without interruption since 1980. It is an intriguing argument. But why start in 1980?

The Carter Doctrine

U.S. policy of intervening in the Middle East might well be dated to 1945, when Franklin Roosevelt struck a deal with Saudi Arabia that gave America access to Saudi oil in exchange for a commitment to defend the al-Saud family regime. Alternately, it could be seen as beginning in 1953, when President Dwight Eisenhower sent the CIA to depose the relatively democratic government of Iran and place the

shah back on his Peacock Throne. Bacevich chooses to begin his story in 1980 because he sees that as the moment when the U.S. drive to dominate the Middle East became military. In that year, Jimmy Carter made a fateful declaration: “Any attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force.”

That declaration, which became known as the Carter Doctrine, “implied the conversion of the Persian Gulf into an informal American protectorate,” Bacevich asserts. “Defending the region meant policing it.... No one thought the challenges ahead would be easy. But at least they appeared straightforward and unambiguous. In fact, they would prove to be neither.”

The Carter Doctrine made America the guardian of the established Middle East political order. It led to a host of American interventions, including support of Saddam Hussein in the Iran-Iraq War, decades of relentless efforts to undermine the Iranian government, wars against Iraq, and the stationing of U.S. troops in Saudi Arabia — cited by Osama bin Laden as one of the

reasons he launched his anti-American terror campaign. Nineteen-eighty was also the year Carter began U.S. support for jihadist forces in Afghanistan, launching a long war in that benighted country that is still raging and seems likely to rage indefinitely. U.S. policies before 1980, Bacevich argues, may well have been unwise, but they did not entail invasions, occupations, or sustained bombing campaigns.

**The Carter Doctrine made America
the guardian of the established
Middle East political order.**

From that beginning, Bacevich proceeds through the sorry history of U.S. military interventions in the Middle East. His military experience enriches his narrative, but his historical acumen makes it especially rewarding. He provides not just a comprehensive account of this multi-front war, fought as far afield as Africa and the Balkans, but also a cogent narrative fitting the various pieces together. His book is also a scathing critique of U.S. inability to change its foreign policies to adjust to a changing world. An “abiding theme of *America’s War for the Greater Middle East*,” Bacevich laments, is America’s leaders’ insistent belief that they have “no choice except to press on.”

“To fancy at this point that the US military possesses the capacity to ‘shape’ events there is an absurdity,” he concludes. “Indulging that absurdity further serves chiefly to impede the ability of the United States to attend to more pressing concerns. Washington finds itself playing yesterday’s game and playing it badly.”

Bacevich lists four reasons for a lack of resistance to America’s outdated and self-destructive foreign policies. The United States lacks “an anti-war or anti-interventionist political party worthy of the name”; politicians find it more expedient to “support the troops” than question war’s value; “some individuals and institutions actually benefit from the armed conflict that drags on and on”; and Americans “appear oblivious to what is occurring.”

A changed world

Today’s quagmire in the Middle East reflects how far America has come from the day in 1989 when President George H.W. Bush told his newly named ambassador to Saudi Arabia, Chas Freeman, “Nothing much ever happens in Arabia.” Freeman was ambassador during Operation Desert Storm and retired soon afterward, ending a 30-year career in diplomacy. As

American policy in the Middle East became steadily more belligerent, he spoke out against it. In 2009 he was chosen to become the chairman of Obama’s National Intelligence Council, which sifts through reports from 16 government agencies to prepare National Intelligence Estimates. Politicians and lobbyists acting on behalf of Israeli interests launched a fierce and ultimately successful campaign to block his nomination. “The tactics of the Israel lobby plumb the depths of dishonor and indecency,” he said in a characteristically blunt response.

Bacevich lists four reasons for a lack of resistance to America’s outdated and self-destructive foreign policies.

With his nearly unequalled diplomatic experience, Freeman has become one of the most insightful analysts of both America’s misguided Middle East policy and its wider diplomatic and political follies. His new book, *America’s Continuing Misadventures in the Middle East*, is a collection of his recent speeches, each of which is a carefully constructed critique, laced with the sharp conclusions for which he is well known. Together they constitute an advanced postgraduate

course in the current state of American foreign policy.

“In Washington, the threat to use force has become the first rather than the last resort,” Freeman says in one speech,

We Americans have embraced coercive measures as our default means of influencing other nations, whether they be allies, friends, adversaries, or enemies. For most in our political elite, the overwhelming military and economic leverage of the United States justifies abandoning the effort to persuade rather than muscle recalcitrant foreigners into line. We habitually respond to challenges of every kind with military posturing rather than with diplomatic initiatives directed at solving the problems that generate these challenges. This approach has made us less — not more — secure, while burdening future generations of Americans with ruinous debt. It has unsettled our allies without deterring our adversaries. It has destabilized entire regions, multiplied our enemies, and estranged us from our friends.... What we have actually proved is that, if

you are sufficiently indifferent to the interests of others and throw your weight around enough, you can turn off practically everybody.

In a concluding chapter, written for this book, Freeman ties his arguments together and suggests that the United States forge a radically less interventionist policy toward the Middle East. This new approach “should start by recalling the first law of holes — when stuck in one, stop digging.”

“In Washington, the threat to use force has become the first rather than the last resort.”

“Our military campaigns to pacify the region have destabilized it, dismantled its states, ignited ferocious wars of religion among its peoples, and generated new terrorist threats to us,” Freeman writes.

In the end, to cure the dysfunction in our policies toward the Middle East, it comes down to this: We must cure the dysfunction and venality in our own politics. If we cannot, we have no business trying to use an 8,000-mile-long screwdriver to fix things one-

third of the way around the world. That doesn't work well in the best of circumstances — but when the country wielding the screwdriver has very little idea what it's doing, it really screws things up.

These two books suggest a new American approach to the Middle East based on changed realities. Since America no longer depends on the Persian Gulf for its oil supplies, spending so much money to patrol and “protect” it is essentially a security subsidy to East Asian countries that do use oil from the Gulf. The disappearance of the Soviet Union wipes away the supposed need for allies-at-all-costs in the region. Growing understanding of the roles Pakistan and Saudi Arabia have played in fueling terror campaigns makes them less attractive partners. Given those realities and the press of other needs, the authors argue, the United States no longer has a sound reason to maintain a large military presence in the Middle East, or to insist on “shaping” its future. To the argument that withdrawal would just set the region's people free to kill each other, they reply that that is already happening — and that the least the United States should do is stop par-

ticipating in the killing. They call for what is in essence a reversal or abandonment of America's decades-long obsession with the Middle East, and urge less confrontational foreign policies toward other regions as well.

Bacevich and Freeman have spent most of their adult lives seeking to promote America's interests in the world. They have not only resisted the force that draws retired diplomats and military commanders to the Washington foreign-policy “playbook,” but rebelled against it. Both should be working at the top of the U.S. national-security apparatus in Washington. Instead they remain voices in the wilderness. “For now, sadly,” Bacevich admits, “Americans remain deep in slumber.”

Stephen Kinzer is a former New York Times foreign correspondent and author of books including Overthrow: America's Century of Regime Change from Hawaii to Iraq. His next book, The True Flag: Theodore Roosevelt, Mark Twain and the Birth of American Empire, will be published in January. He is a senior fellow at the Watson Institute for International and Public Affairs at Brown University.

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