
FUTURE OF FREEDOM

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Be bold — and mighty forces will come to your aid.

— Basil King

FUTURE OF FREEDOM

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Monetary Destruction in America

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by *Jacob G. Hornberger*



The Constitution made it crystal clear what the official money of the United States was to be when it called the federal government into existence. That money was to be gold coins and silver coins, not paper money.

Article 1, Section 10, of the Constitution, which is a restriction on the power of the states, states, “No State shall ... coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts....”

What were “bills of credit”? That was the term used at that time for paper money. Through that provision in the Constitution, the Framers expressly prohibited the states from issuing paper money. It prohibited them from making anything but gold coins and silver coins

legal tender or official money. It prohibited the states from issuing their own coins, leaving that power and responsibility to the federal government.

With respect to the federal government, Article 1, Section 8, states, “The Congress shall have Power ... To coin Money, regulate the value thereof, and of foreign Coin.... To provide for the Punishment of counterfeiting the Securities and current Coin of the United States.”

Why wasn’t there an express prohibition on the power of the federal government to emit “bills of credit” or paper money? The reason is that the Constitution established a government of limited, enumerated powers. The federal government’s powers were limited to those listed in the Constitution. If a power wasn’t enumerated, it couldn’t be exercised. Since there was no power to issue paper money given to the federal government, it couldn’t exercise such power.

It was different with the states. Under the Constitution, they were to have whatever powers they wished to exercise, unless there was an express restriction on a particular power within the Constitution. That was why the Framers deemed it necessary to restrict the powers of the states when it came to money:

no printing of paper money, no coining of money, and no making anything but gold coins and silver coins official money.

The federal government, on the other hand, was given the power to coin money, not print money, and to regulate the value of such money. It was also given the power to punish people for counterfeiting “the Securities and current Coin of the United States.”

Article 1, Section 8 of the Constitution also gave Congress the power “To borrow Money on the credit of the United States.” That’s what counterfeiting “the Securities” of the Constitution was referring to — debt instruments of the United States, such as bills, notes, and bonds.

There is something important to realize about the federal government’s debt instruments: It was understood that they were not money or “legal tender” but rather promises to pay money — i.e., promises to pay gold coins and silver coins.

When we consider all of these constitutional provisions, it is easy to see that the Framers intended to establish a monetary system in which gold coins and silver coins were to be the official money of the United States. And, in fact, that is precisely what happened after the

federal government was called into existence. The Coinage Act of 1792 established the first mint in Philadelphia for the purpose of issuing coins. The silver dollar was the first unit of money issued. That would be followed by the silver half-dollar, quarter-dollar, dime, and half-dime. Gold coins consisted of the \$10 gold Eagle, \$5 Half-Eagle, and \$2.50 Quarter-Eagle.

That gold-coin, silver-coin system remained the monetary system of the United States for more than 125 years.

That gold-coin, silver-coin system remained the monetary system of the United States for more than 125 years. It turned out to be the most stable monetary system in history, one that, along with no income taxation, no welfare state, no warfare state, no immigration controls, and very few economic regulations, played an important role in the tremendous rise in economic prosperity and rising standards of living in the United States throughout the 19th and early 20th centuries.

It is often said that America’s “gold standard” was a system in which paper money was “backed by gold.” Nothing could be further

from the truth. There was no paper money. There were only debt instruments promising to pay gold and silver. The system was one in which gold coins and silver coins were the official money of the United States.

Paper money

Why did our American ancestors have such a deep antipathy toward paper money? They knew that throughout history public officials had plundered and looted people through the use of paper money. To finance their ever-burgeoning expenses, public officials, of course, would first resort to tax increases. At some point, however, taxes would get so high that people would begin to resist, cheat, or, in extreme cases, violently revolt. That's when kings and other regimes would resort to the printing press to finance their expenditures. They would simply crank up their printing presses, print whatever amount of money they needed, and go spend it.

The result would be a devaluation of everyone's else's money. That reduction in the value of money would be reflected by an overall increase in the prices of goods and services that people would be purchasing. For example, let's say that before the government began in-

flating the money supply, the price of a shirt was \$10. After the government's inflation, the shirt cost, say, \$15. That reduction in the value of money was the same as a tax; the difference was that the inflation tax would be hidden.

Most people had no idea that the government was behind the overall rise in prices.

That's what made the scheme beautiful from the standpoint of public officials — that most people had no idea that the government was behind the overall rise in prices. People would see prices rise on everything and blame it on rapacious businesspeople. Governments would even encourage this mindset by imposing wage and price controls or by whipping up anti-inflation campaigns, even while continuing to spend their newly printed money.

The Framers not only knew monetary history, they had had first-hand experience with monetary destruction. During the Revolutionary War, the Continental Congress had printed paper money called the "Continental." To finance its expenditures, it printed so many Continental dollars that by the time the war was over, they were all

worthless. At the time the Constitutional Convention was drafting the Constitution, everyone was still familiar with the phrase “Not worth a Continental.”

That’s not to say, however, that it was impossible to plunder and loot people through debasement of coinage. Rulers were notorious for doing that long before Gutenberg invented the printing press. The king would issue, say, royal gold coins certified to contain one ounce of gold. When the coins entered the realm in payment of taxes, the king would shave off the edges and melt the shavings down into new coins. He then would put the old coins back into circulation even though they contained less than the one ounce of gold they were represented to contain. At the same time, the king would make his coins “legal tender,” or official money, in the realm. No one was permitted to question the credibility of the king’s legal tender even if they contained less gold than their face value represented them to contain.

Thus, theoretically that could have turned out to be the case with America’s gold-coin, silver-coin standard. The federal government could have done what rulers throughout history had done and begun debasing its gold coins and

silver coins. It never did that. The American people experienced the longest period of sound money — more than a century — in history.

An exception occurred during the Civil War. Abraham Lincoln’s war expenditures were skyrocketing. Having raised taxes to the highest levels possible to finance his war, Lincoln decided to resort to the time-honored device to which rulers throughout history had resorted — the printing press. He began printing large amounts of debt instruments and using those to pay people. Since the debt instruments promised to pay people gold coins, people were willing to accept them in lieu of the actual gold coins.

For more than a century, the American people experienced the longest period of sound money in history.

Problems arose when people realized that the Lincoln regime could not honor all of the debt instruments that it had put into circulation. That risk caused the Lincoln notes to begin trading at a discount. In other words, let’s say that a federal note promised to pay the holder \$10 in gold. Lincoln then begins inflating the amount of federal notes. Someone walks into a store

and sees something that has a price tag of \$10 on it. He pulls out his federal note promising to pay the holder \$10 and offers it to the storekeeper. The storekeeper says no. He'll only take a \$10 gold eagle in payment. If the customer insists on paying in notes, the storeowner will insist on payment of a \$15 note, in order to cover the risk of default by the Lincoln regime.

What did Lincoln do then? He resorted to another time-honored way to plunder and loot people through inflation. His regime simply made federal notes "legal tender" for all debts. That meant, in our example above, that the storeowner would be legally required to accept at face value the devalued notes of the Lincoln regime. He would have to accept a \$10 bill when it was only worth, say, \$7 in the marketplace.

There were people damaged by Lincoln's legal-tender law. One of them was Henry A. Griswold, who was the holder of a promissory note for \$1,000 from one Susan P. Hepburn. When the note came due, Hepburn tendered \$1,000 in Lincoln's paper money to Griswold in payment of the note. The problem was that the paper money was selling at a discount in the marketplace, which meant that Griswold was re-

ceiving less in gold than the two parties had contracted for.

Hepburn v. Griswold ended up in the U.S. Supreme Court. In 1870, the Court held that Lincoln's legal-tender law was unconstitutional. The Court held that while the federal government had the power to coin money, the Constitution did not give it the power to make paper money legal tender. It also held that the Constitution did not give the federal government the power to impair contracts, which Lincoln's legal-tender law had clearly done.

The Court held that the Constitution did not give it the power to make paper money legal tender.

Less than a year later, owing solely to a change in justices on the Supreme Court, *Hepburn v. Griswold* was overruled in *Knox v. Lee* and *Parker v. Davis*. The Court held that Lincoln's legal-tender act was justified during a time of national emergency. The dissent of Justice Stephen J. Field explained what was happening and foretold what was to come:

The power to commit violence, perpetrate injustice, take private property by force

without compensation to the owner, and compel the receipt of promises to pay in place of money, may be exercised, as it often has been, by irresponsible authority, but it cannot be considered as belonging to a government founded upon law.... From the decision of the Court I see only evil likely to follow.

Lincoln's legal-tender law was later repealed, and America returned to its gold-coin, silver-coin standard.

The Fed

In the late 1800s and early 1900s, however, America began moving in the direction of socialism, interventionism, and imperialism. Socialist programs such as Social Security, national health care, public schooling, and minimum-wage laws were originating in Germany and winning support in the United States as part of the Progressive movement.

In 1898, the United States entered the Spanish-American War with the ostensible aim of assisting Spanish colonies to win their independence from Spain. The real aim was to acquire such colonies for the United States, beginning a shift to-

ward empire and foreign intervention.

A big problem with a shift toward socialism and imperialism was expense. Socialism and imperialism are expensive. If the federal government were to go down that road, it would require significant increases in federal taxes, which posed a big problem for federal officials because America had no federal income tax.

For more than a century,
Americans had lived without
federal income taxation.

For more than a century, Americans had lived without federal income taxation. People were free to keep everything they earned and decide for themselves what to do with it. The result was a massive accumulation of capital, which made workers more productive, leading to tremendous increases in real wage rates and standards of living in America. Combined with sound money, open immigration, and few economic regulations, America became the most economically prosperous society in history and, also, the most charitable society in history.

There was always the possibility of shaving the edges off America's

gold coins when they entered the federal government's coffers in payment of taxes, as kings of old had done. The American people, however, would never have put up with that. Moreover, the tradition of sound money was too well-established for the federal government to try such a thing.

In 1913, there were two significant events, both of which permitted the federal officials to begin breaking out of their financial straitjacket. In that year, Americans adopted a federal income tax and the Federal Reserve System, both of which enabled Woodrow Wilson to embroil the United States in World War I with the foolish aim of "making the world safe for democracy" and ending all future wars.

The establishment of the Federal Reserve was consistent with the overall trend toward socialism. The Fed was based on the socialist principle of central planning, in that it was given the power to centrally plan the amount of U.S. debt instruments being introduced into the economy. As with other socialist programs, the result was a disaster.

Throughout the 1920s, the Fed over-issued federal debt instruments, creating an artificial economic boom during the "roaring 20s." When people began demand-

ing the gold coins that the notes promised to pay, the Fed panicked and over-contracted the supply of debt instruments. That caused the stock-market crash in 1929, which was then followed by the Great Depression.

The establishment of the Federal Reserve was consistent with the overall trend toward socialism.

Franklin Roosevelt blamed the economic crisis on the failure of America's "free enterprise" system rather than place responsibility where it lay — with the Federal Reserve. He then used the crisis to revolutionize America's economic system. The primary purpose of the federal government became to take care of people through welfare-state programs. That's what Social Security was all about, a socialist program that had originated in Germany. He also converted the federal government into a manager of the economy and a regulator of economic activity. In 1941, with his political machinations against Japan, he was able to embroil the United States in another foreign war, leading to a long road of costly foreign interventionism.

To ensure that the federal government would never have any

problems paying for this new socialist, imperialist, and interventionist direction, the Roosevelt administration decreed an end to America's gold-coin standard. Gold ownership by Americans was made illegal. Even though gold coins had been the official money established by the Constitution and had been the official money for more than 100 years, Roosevelt made it a felony offense for Americans to own non-numismatic gold coins. Everyone was required to deliver his gold to the federal government and was given irredeemable federal notes in return.

Roosevelt's nationalization of gold ranks among the most tyrannical acts in the history of the United States. It was no different in principle from what the communist regime in the Soviet Union was doing.

During the Nixon administration, the federal government announced that it would no longer honor international obligations payable in gold. Instead, such obligations would be paid in irredeemable paper notes.

The floodgates were now open for unrestrained federal spending for socialist, imperialism, and interventionist programs. The constraints that the Framers had placed

on the federal government were gone — and without even the semblance of constitutional amendments.

The finest monetary system in history was destroyed, and the federal government became one gigantic engine of plunder and looting of American taxpayers, both directly through the progressive income tax and indirectly through the inflationary policies of the Federal Reserve.

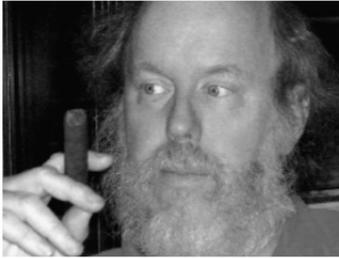
There is but one solution to all this socialist, imperialist, and interventionist mayhem: economic liberty. That means a repeal of all socialist programs, including Social Security and Medicare, the end of all imperialism and interventionism, the restoration of a limited-government republic, the repeal of the Federal Reserve System, and the adoption of a free-market monetary system.

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

NEXT MONTH:
“Achieving Freedom”
by Jacob G. Hornberger

The Deep State's Demolition of Democracy

by James Bovard



“Thank God for the Deep State,” declared former acting CIA chief John McLaughlin while appearing on a panel at the National Press Club last October. In 2018, the *New York Times* asserted that Trump’s use of the term “Deep State” and similar rhetoric “fanned fears that he is eroding public trust in institutions, undermining the idea of objective truth and sowing widespread suspicions about the government and news media.”

But barely a year later, the Deep State had gone from a figment of paranoid right-wingers’ imagination to the great hope for the salvation of American democracy. Much of the media is now conferring the same exulted status on the Deep State that was previously bestowed

on Special Counsel Robert Mueller. Almost immediately after its existence was no longer denied, the Deep State became the incarnation of virtue in Washington.

The Deep State commonly refers to officials who secretly wield power permanently in Washington, often in federal agencies with vast sway and little accountability. A *New York Times* article in October gushed that “over the last three weeks, the deep state has emerged from the shadows in the form of real live government officials, past and present ... and provided evidence that largely backs up the still-anonymous whistle-blower” on Donald Trump’s phone call to the president of Ukraine. *New York Times* columnist James Stewart declared, “There is a Deep State, there is a bureaucracy in our country who has pledged to respect the Constitution, respect the rule of law.... They work for the American people.” *New York Times* editorial writer Michelle Cottle proclaimed, “The deep state is alive and well” and hailed it as “a collection of patriotic public servants.” They were echoing earlier declarations by *Washington Post* columnist Eugene Roberts and former top Justice Department official Preet Bharar: “God bless the ‘Deep State.’”

Former CIA Director John Brennan, appearing on the same panel as McLaughlin in October, declared, “The reason why Mr. Trump has this very contentious relationship with CIA and FBI and the deep state people is because they tell the truth.” Much of the media coverage of the Trump impeachment is following that dubious storyline.

“We lied, we cheated, we stole.”

Five years ago, John Brennan’s CIA ignited what should have been a constitutional crisis when it was caught illegally spying on the Senate Intelligence Committee, which was compiling a massive report on the CIA torture program. After 9/11, the CIA constructed an interrogation regime by “consulting Egyptian and Saudi intelligence officials and copying Soviet interrogation methods,” the *New York Times* reported in 2007. Secret Bush administration torture memos “set the C.I.A. loose to slam suspects’ heads into walls up to 30 times in a row, to deprive suspects of sleep for more than a week straight, to confine them to small dark boxes for hours at a time ... and to suffocate them with water to induce the perception that they are drowning,” Georgetown University law profes-

sor David Cole noted. But the only official who went to prison was John Kirakou, a former CIA analyst who publicly admitted that the CIA was waterboarding.

**Secret Bush administration
torture memos
“set the C.I.A. loose.”**

Is the Deep State more trustworthy when it is killing than when it is torturing? Brennan declared in 2016 that “the president requires near-certainty of no collateral damage” before approving a drone strike. Confidential CIA documents revealed that the CIA had little or no idea whom it was killing most of the time with its drone attacks in Pakistan, Somalia, Afghanistan, Yemen, and other nations. Salon.com summarized an NBC News report: “Even while admitting that the identities of many killed by drones were not known, the CIA documents asserted that all those dead were enemy combatants. The logic is twisted: If we kill you, then you were an enemy combatant.” Lying about drone killings quickly became institutionalized throughout the Deep State. The *New York Times* reported in 2015, “Every independent investigation of the [drone] strikes has found far more civilian

casualties than administration officials admit.”

The Deep State is practically designed to destroy privacy while enabling government officials to deny sweeping abuses. Former National Security Agency analyst Edward Snowden declared in 2014, “There’s definitely a deep state. Trust me, I’ve been there.” The NSA’s credibility was obliterated in 2013 when Snowden revealed the NSA can tap almost any cell phone in the world, access anyone’s email and web-browsing history, and crack the vast majority of computer encryption. But the NSA’s definition of “terrorist suspect” was ludicrously broad, including “someone searching the web for suspicious stuff.” Snowden also revealed that each day phone companies turned over tens of millions of phone records of average Americans to the feds. A few months before Snowden’s revelations, National Intelligence director James Clapper lied to Congress when he denied that the NSA collects “any type of data at all on millions, or hundreds of millions of Americans.” The fact that Clapper was not charged with perjury did nothing to burnish the credibility of the Justice Department.

Impeachment proceedings have been spurred in large part by dis-

putes over Donald Trump’s phone call to the president of Ukraine. The House Intelligence Committee heard testimony from Lt. Col. Alexander Vindman, the Ukrainian-born officer who listened in to the call while serving on the National Security Council. Vindman was “deeply troubled by what he interpreted as an attempt by the president to subvert U.S. foreign policy,” the *Washington Post* reported. Which provision of the Constitution gives junior military officers sway over foreign policy? Because Vindman objected to Trump’s efforts to decrease tension with Russia, the Washington establishment quickly hailed him and thus encouraged other military officers and government officials to pull strings to subvert policies of which the media disapprove.

The NSA’s definition of “terrorist suspect” was ludicrously broad.

It is naive to expect the Deep State to provide an antidote to the sordidness of American politics. The Friends of the Deep State talk of certain federal agencies as if they exist far above the sordid details of political life — or even of human nature. Former CIA boss McLaughlin declared, “This is the institution

within the U.S. government that ... is institutionally committed to objectivity and to telling the truth. It's whole job is to speak the truth — it is engraved in marble in the lobby.” But historically, atrium engravings have proven a weak surety for bureaucratic candor. In reality, the CIA and other Deep State agencies are notorious for suppressing convicting truths about themselves. Secretary of State Mike Pompeo recently described the CIA's modus operandi when he was director: “We lied, we cheated, we stole. It's like we had entire training courses.”

Power and truth

Promises that the chiefs of the CIA and other intelligence agencies will “speak truth to power” have become a Washington ritual in the years since the 9/11 attacks. No matter how brazenly political appointees lie, members of Congress assure the media and constituents that the next nominee will be as honest as George Washington. The “speak truth to power” bromide was recited after Trump nominated Gina Haspel as CIA chief. At her confirmation hearings, the public heard plenty about Haspel's meeting with Mother Teresa but almost nothing about her key role in the CIA torture scandal — including

the illegal destruction of recordings of torture sessions.

The CIA and other Deep State agencies are notorious for suppressing convicting truths about themselves.

Another reason to distrust the Deep State is that its arch practitioners are honored regardless of their iniquities. Former CIA bosses McLaughlin and Brennan were speaking on a panel sponsored by the Michael V. Hayden Center for Intelligence, Policy, and International Security, named after the former chief of the National Security Agency and the CIA. As Trevor Timm noted in the *Columbia Journalism Review* in 2017, “Hayden has a long history of making misleading and outright false statements, and by the estimation of many lawyers, likely committed countless felonies during the Bush administration.” Hayden set up the illegal, unconstitutional wiretapping program after 9/11 that the *New York Times* exposed in late 2005. When the Senate Intelligence Committee released its report on CIA torture in 2014, it included a 36-page appendix filled with Hayden's “testimony to Congress, next to the actual facts showing

statement after statement he made was inaccurate, misleading, false, or outright lies,” Timm noted. Naming that Center after Hayden simply reflects the prevailing Deep State aggrandizement in the Greater Washington Metropolitan area.

Neither the White House nor the CIA, NSA, nor other Deep State agencies should enjoy immunity from the law.

The Deep State has an appalling record of abusing the whistleblowers who are now being acclaimed. A draft Intelligence Community Inspector General report last year found that intelligence agencies refused to recognize retaliation against whistleblowers in 99 percent of cases. A 2017 report by *Foreign Policy* magazine concluded that “the intelligence community’s central watchdog is in danger of crumbling thanks to mismanagement, bureaucratic battles, clashes among big personalities, and sidelining of whistleblower outreach and training efforts.” After CIA Inspector General John Helgerson compiled a condemnatory report on the CIA’s post-9/11 interrogation program, CIA chief Michael Hayden launched a major investigation of Helgerson in 2007, provok-

ing outrage on Capitol Hill. (The CIA managed to delay the release of Helgerson’s report for five years, thereby keeping both Congress and the American people in the dark regarding shocking abuses.)

The Trump–Deep State clash is a showdown between a presidency that is far too powerful versus federal agencies that have become fiefdoms that enjoy immunity for almost any and all abuses. Most of the partisans of the Deep State are not championing “government under the law.” Instead, this is a dispute over who will be permitted to break the law and dictate the policies to America and the world. Former CIA and NSA boss Hayden proudly proclaimed, “Espionage is not just compatible with American democracy, espionage is essential to American democracy.” And how can we know if the Deep State’s espionage is actually pro-democracy or subversive of democracy? If they told you, they would have to kill you. The Founding Fathers never intended for covert agencies to trumpet a right to correct voters’ verdicts.

Neither the White House nor the CIA, NSA, nor other Deep State agencies should enjoy immunity from the law or deserve blind trust from average Americans or the es-

tablishment media. A wayward president (especially a first-term president) can eventually be checked at the ballot box. But who or what can check the Deep State?

James Bovard is a policy advisor to The Future of Freedom Foundation and is the author of the ebook, Freedom Frauds: Hard Lessons in American Liberty, published by FFF,

Public Policy Hooligan, Attention Deficit Democracy, and eight other books.

NEXT MONTH:
“The Great College-Hunger Hoax”
by James Bovard

*G*overnments have no right to interfere with the pursuits of individuals, as guaranteed by those general laws, by offering encouragements and granting privileges to any particular class of industry, or any select bodies of men, inasmuch as all classes of industry and all men are equally important to the general welfare, and equally entitled to protection.

— William Leggett

Are Uber Drivers Underpaid?

by *Laurence M. Vance*



After its initial public offering (IPO) in May 2019, Uber's shares closed their first day of trading at \$41.57 — 7.6 percent below the company's offering price of \$45. On November 6 — the day of the highly anticipated six-month “lockup” period following its IPO ended — early investors and employees looking to sell their stock for a big profit were somewhat disappointed. While it is routine for a company's stock price to decline after the lockup period expires, after Uber shares flooded the market, the stock went down to a low of \$25.58 a share, a 43 percent decrease from its IPO price. Nevertheless, the Uber IPO made some people rich.

Something else of note also happened on November 6. Uber drivers

showed up at the homes of some of the company's big investors, but not to pick up passengers or offer congratulations. The drivers were there to protest the fact that Uber has made some people very rich while underpaying its drivers. “Uber, Uber, you're no good. Pay your drivers like you should,” shouted some of the protestors. One driver, who had been driving for Uber for almost four years, had a homemade sign reading, “Value stolen does not equal value added.” Uber stole his and a million other Uber drivers' value, he said, “by underpaying us, undercutting us.” He believes that there's just too big of a gap between what a driver earns and what Uber's early investors are making. It is “unfair” because Uber has cut the rates it pays drivers and drivers have seen their expenses go up.

This protest was not an isolated incident. Just last year, before this incident in November, Uber drivers went on strike in Los Angeles in March and in selected cities around the country in May, protested at Uber headquarters in July, and brought traffic to a virtual standstill in Manhattan in September. The perennial cry by Uber drivers and the Progressives who support their cause is that Uber drivers are underpaid.

Uber

Founded in March 2009 and headquartered in San Francisco, Uber is the premier ride-sharing company that operates in 63 countries and more than 700 cities around the world. Anyone can create an Uber account with an e-mail address and phone number. To request a ride one must first download the Uber app to a cell phone and set up a credit card to make payments. Then, according to the Uber website, here is how Uber works, step by step:

1. A rider opens the app. The rider enters his destination into the *Where to?* box on the top of the screen; taps each ride option to see the wait time, car sizes, and price; then confirms his pickup location and taps *Request*.

2. The rider is matched with a driver. A nearby driver sees and chooses to accept the rider's trip request. The rider is automatically notified when the driver's vehicle is about a minute away.

3. The driver picks up the rider. The driver and the rider verify each other's names and the destination. Then the driver starts the ride.

4. The driver takes the rider to the destination. The app gives the driver the option to access turn-by-

turn directions, so the driver can focus on getting there and the rider can focus on enjoying a comfortable ride.

5. The driver and rider leave ratings and reviews. At the end of each trip, drivers and riders can rate each other from 1 to 5 stars. Riders can also give the driver compliments. In cities where tipping is available, they can also add a little extra to show their gratitude.

There are just a few basic requirements that must be met for someone to drive for Uber: have a valid driver's license, have at least one year of driving experience, have an eligible 4-door vehicle, have proof of insurance, have proof of residency, and pass driver screening requirements. These basic requirements are in addition to any national, state, or local regulations.

There are just a few basic requirements that must be met for someone to drive for Uber.

Uber has been criticized for increasing traffic congestion, reducing the value of taxi medallions, causing a decline in the use of public transit, and inadequate vetting of drivers. Uber has been praised for its ease of use, creating jobs, de-

creasing instances of drunk driving, and lowering the cost of transportation. But whether Uber's coming to one's city is a good thing or a bad thing is not our concern here. Our concern is simply this: Are Uber drivers underpaid?

Uber drivers don't have income tax or payroll taxes withheld from their pay.

What Uber riders don't see when they "sit back and relax" is how Uber and its drivers divide up their fare. When Uber calculates a ride fare, it is based on several factors: a base fare, time spent in the car, distance traveled, a booking fee, a surge variable, taxes, and tolls. Uber generally takes 25 percent of the fare and gives the rest to the driver. Uber drivers are independent contractors who set their own days and hours. They can drive as much or as little as they choose. The more they drive, the more they can make, and especially during what Uber calls "surge pricing." According to Uber, "Prices may increase to help ensure that those who need a ride can get one. This system is called surge pricing. Surge pricing automatically goes into effect when there are more riders in a given area than available drivers. This encour-

ages more drivers to head to the busy area over time and shifts rider demand, to maintain reliability and restore balance." Surge pricing is simply a way of adjusting prices in real time on the basis of supply and demand.

Independent contractors

The classification of drivers as independent contractors allows Uber to avoid paying the applicable federal or state minimum wage or providing employee benefits such as workers' compensation, family and medical leave, and health insurance. As independent contractors, Uber drivers don't have income tax or payroll taxes withheld from their pay. If they make more than \$600 in a calendar year, Uber reports it to the Internal Revenue Service (IRS) and to the driver on form 1099-MISC. This income is potentially taxable, depending on the driver's expenses and other income. Uber drivers are also subject to Social Security (12.4 percent) and Medicare (2.9 percent) taxes of 15.3 percent if their self-employment income after expenses and deductions is more than \$400. However, only the first \$137,700 of this income is subject to Social Security tax, only 92.35 percent of self-employment income is subject

to these taxes, and one-half of the Social Security and Medicare taxes paid are allowed to be deducted from one's gross income for income-tax purposes.

When there is a problem,
real or perceived, people often
look to government at some level
to solve it.

When there is a problem, real or perceived, people often look to government at some level to solve it. After agitation by Uber drivers and other independent contractors, organized labor (they want to see Uber drivers classified as employees and unionized), Progressive groups, and Democratic politicians, the state of California enacted a law (AB 5) last year on a party-line vote that limits the ability of businesses in the state to classify its workers as independent contractors rather than as employees. The law, which was opposed by Republicans, the California Chamber of Commerce, and, of course, Uber and similar companies, took effect at the beginning of 2020. It codifies, clarifies, and grants exemptions to a 2018 California Supreme Court decision that imposed stricter requirements on the classification of employees. It makes it harder for companies to

label workers as independent contractors by creating a three-part "ABC test" that must be passed before a worker can be classified as an independent contractor instead of an employee:

A. The worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact.

B. The worker performs work that is outside the usual course of the hiring entity's business.

C. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

Many professions received exemptions to the law on the grounds that they negotiate their own rates and communicate directly with customers: doctors, psychologists, dentists, insurance agents, private investigators, stock brokers, lawyers, accountants, engineers, veterinarians, real estate agents, hairstylists and barbers, commercial fishermen, travel agents, graphic designers, and certain photographers, photojournalists, freelance writers, and editors. The law allows

large cities, the California attorney general's office, and local prosecutors to sue companies for violating the law. Uber and other ride-sharing companies such as Lyft have said that they have no plans to reclassify their workers as employees and that they can pass the "ABC test."

As long as Uber drivers are classified as independent contractors, are they all underpaid? Are some of them underpaid? Is it possible for any of them to be underpaid? The answer to those questions is that as long as Uber drivers receive what they were promised by Uber and that they agreed to, not only are they not underpaid, it is impossible for them to be underpaid. It is only because of fraud or mistakes on the part of Uber that its drivers can be underpaid. For example, just a few years ago Uber actually did underpay its drivers in Philadelphia and New York City. In March 2017, the company issued refunds to Uber limousine drivers in Philadelphia after deducting an extra 5 percent in commission for about 18 months. In May 2017, Uber acknowledged that it chronically underpaid its New York City drivers for two and a half years by taking a larger cut of their fares than it was entitled to. Uber was supposed to take its cut

after deducting sales tax and a local fee. Instead, the company calculated its commission on the gross fare. That resulted in the withholding of tens of millions of dollars from Uber drivers. The average payout from Uber to affected drivers was about \$900, which included interest.

It is only because of fraud or mistakes on the part of Uber that its drivers can be underpaid.

But it is not only Uber drivers. Anyone who, as an independent contractor, does any work for any business, company, or corporation and receives the payment for providing goods or services that he agreed to can't possibly be underpaid no matter how little he receives in relation to the time, money, or effort expended. If someone is promised X amount of money for services rendered, and completes his agreed-upon task in the manner in which he was supposed to, but then receives any amount of money less than X, then he has been underpaid. But if someone misjudges the amount of time it will take to perform a service, the amount of money he will have to spend to perform the service, or the amount of effort he will have to put forth to perform the service, then receives

the amount of money that he was promised, but ultimately, after expenses, winds up with nothing when he has completed the work he agreed to do, then he was not underpaid. He may have been foolish, careless, negligent, short-sighted, ignorant, or inexperienced, but underpaid he was not.

**There is no reason
for the government to get
involved in any way.**

The remedy for any independent contractor who thinks that he is underpaid — assuming that he is being paid the amount of money for performing a task that he and his employer agreed upon — is to (1) ask to be paid more money for doing the same amount of work, (2) ask to be able to do less work for the same amount of money, or (3) find another job. It is that simple. To give you a real-world example: If someone agrees to mow my yard and trim my bushes to my specifications for \$20 and it takes him two hours to do it, as long as I pay him the \$20 that we agreed on, then neither he nor anyone else can legitimately say that he was underpaid, and especially if he continues to mow my yard and trim my bushes for \$20 week after week. If, after the first

time, he decides that his time and effort are worth more money, then he can (1) ask me to pay him \$40, (2) ask me to continue to pay him \$20 every time he mows my lawn but only trim the bushes every other time he mows the lawn, or (3) stop mowing my lawn and trimming my bushes. When faced with his request, I can (1) agree to pay him \$40 for continuing to do the same work, (2) agree to let him trim the bushes every other time he mows the lawn and continue to pay him \$20, or (3) not acquiesce to his requests and risk his refusing to mow my lawn ever again. I can also make him a counter-offer and we can negotiate. For example, we might ultimately agree that I will pay him \$35 each time he mows my lawn and trims my bushes as long as he also washes my car each time. The possibilities are endless. And not only is the dollar amount we agree on or the work that must be completed to earn that amount no one's business, there is no reason for the government to get involved in any way.

The minimum wage

The principles discussed above are relevant to many other areas. For example, the minimum wage. A federal minimum wage was insti-

tuted by the Fair Labor Standards Act of 1938. The rate, which was initially set at \$0.25 an hour, was last raised to \$7.25 an hour in July 2009. States can use the federal minimum wage, set their own minimum wage (either higher or lower), or have no minimum wage at all. Currently, sixteen states use the federal standard. Five states have no minimum wage, in which case the federal minimum wage applies. Twenty-nine states and the District of Columbia have minimum wages that are above the federal minimum wage. Higher state minimum wages range from \$7.50 an hour in New Mexico to \$12 an hour in Washington (the D.C. minimum is \$14 an hour).

For several years now, there has been a movement in the United States to increase state minimum wages to at least \$15 an hour. It is seen as an easier thing to do than to persuade Congress to raise the federal minimum wage. Fast-food workers, convenience-store clerks, and laborers who earn the minimum wage are said to be underpaid (usually by the same people who maintain that Uber drivers are underpaid) because they can't live on the minimum wage. According to the Bureau of Labor Statistics, only about 5 percent of U.S. hourly paid

workers earn the prevailing federal minimum wage. They tend to be people who are young, have never been married, are unskilled, have no more than a high-school education, work part-time, and work in the leisure and hospitality sectors of the economy.

It is disingenuous for anyone who agrees to work for X amount per hour to claim that he is underpaid.

But are all minimum-wage workers underpaid? Are some of them underpaid? Is it possible for any of them to be underpaid? The answer to these questions is that as long as they receive the amount per hour that they were promised by their employers and that they agreed to, they are not only not underpaid, it is impossible for them to be underpaid. The fact that Uber drivers are independent contractors who are paid by the job and minimum-wage workers are employees who are paid by the hour makes no difference. The underlying principle is still the same. It is disingenuous for anyone who agrees to work for X amount per hour to claim that he is underpaid when he receives X amount per hour. Minimum-wage laws violate freedom of contract by

infringing upon the right of an employer and an employee to make whatever wage agreement they choose.

Other issues

Wages are simply the price of labor. Sometimes it is the price of goods that governments seek to raise. Governments impose anti-dumping duties on foreign imports that it believes are priced lower than the price charged in the originating country. This has the effect of raising the price of the imported good in order to “protect” domestic jobs and industries. Set your prices too low and the government might charge you with “predatory pricing” if it believes that you are trying to drive smaller competitors out of business so you can become a monopoly and raise your prices. Sometimes governments have programs to guarantee minimum margins to certain industries; e.g., the U.S. dairy and sugar industries.

No one has the right to purchase a good or service for a particular amount.

But it also works the other way. Sometimes governments seek to limit the price of goods or services so consumers don’t “overpay” for

them. That is the mentality behind rent control laws, price-gouging laws, usury laws, and ticket-scalping laws. But a willing buyer can’t “overpay” for apartment rent, goods in short supply, car-loan interest, or concert tickets if he agrees with a willing seller on a price. No one has the right to purchase a good or service for a particular amount no matter how much he “needs” it and no matter how little money he has to pay for it.

Conclusion

Are Uber drivers underpaid? They may wish they were paid more. They may wish they didn’t have to put so many miles on their cars. They may wish that they didn’t have to drive in the middle of the night. They may wish that they were employees instead of independent contractors. They may wish that they had paid vacations. They may wish that they had health insurance. They may wish that they had paid sick leave. They may wish that they received overtime pay for working more than forty hours. But as long as they are paid by Uber exactly what they agreed to work for, they are not, and cannot possibly be, underpaid. Just as it is impossible for any worker — independent contractor or employee — to be un-

derpaid if he receives the pay that he agreed to work for. And likewise, no one can “underpay” or “overpay” for a good if a willing buyer and willing seller agree on its price.

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NEXT MONTH:
“Are Americans Undertaxed?”
by Laurence M. Vance

In a free society protected against violence and fraud, economic growth is an automatic process. It takes place as a result of the desire of individuals to better the material condition of themselves and their families. In this endeavor, people save, invest, devise new and better tools, invent new products and new processes, and employ other people in order to operate more efficiently and on a large scale.

— Albert C. Wilcox

Tigers Are Less Dangerous Than Tax Collectors and Political Paternalists

by Richard M. Ebeling



We are told in *The Analects* of the famous ancient Chinese philosopher Confucius (551–479 BC),

Once Confucius was walking in the mountains and he came across a woman weeping by a grave. He asked the woman what her sorrow was, and she replied, “We are a family of hunters. My husband was bitten by a tiger and died. And now my only son!”

“Why don’t you move down and live in the valley? Why do you continue to live up here?” asked Confucius. And the woman replied, “But

sir, there are no tax collectors here.”

Confucius added to his disciples, “You see, a bad government is more to be feared than tigers.”

On another occasion, Confucius was asked by a nobleman how he should rule over the people. Confucius replied,

One who governs through virtue may be compared to the polestar [the North Star, or directing principle], which occupies its place while the host of other stars pay homage to it... Lead them by means of regulations and keep order among them through punishments, and the people will evade them and will lack any sense of self-respect. Lead them through moral force and keep order among them through rites [customs of right and good behavior], and they will have a sense of shame and will also correct themselves.

Negative effects from paternalist and coercing government

Confucius was not really a precursor of classical liberal thought. He believed in the right of rulers to

rule, with the subjects under his control expected to obey for purposes of order and stability. And he believed that each generation needed to be subservient to the traditions and customs inherited from its ancestors, with each person restricted in his expression of individuality.

Nonetheless, his words in these two quotations capture certain and important essential truths about man, society, and government. First, rule by force does not and cannot fundamentally dictate or determine the thoughts and actions of people in society. The use of force may intimidate or constrain people in various ways for particular periods of time. But at the end of the day, moral suasion is a far more powerful means of persuading others to modify or change their behavior or attitudes.

Think of the woman crying by her son's burial site after he had been killed by a wild animal, as had already happened to her husband. Deadly dangers are worth facing and risking when a government extends its oppressive arm — in this case the burdens of heavy taxes.

Tens of millions of people came to America in the 19th century at their own expense, many of them escaping from religious persecu-

tion, political oppression, or closed-off economic opportunity owing to privileges and favors given to some in the “old country.” Traveling across an ocean and then journeying through sometimes uncharted land in America, in which the forces of nature and hostile Indians threatened the settler's life and that of his family, were worth facing to leave behind governmental tyranny, political abuse, and religious intolerance.

The power of peaceful persuasion

In the other quotation, Confucius tries to educate a ruler that violent means to enforce regulations brings about avoidance and evasion by those upon whom the government interventions have been placed. It also results in a disregard for law, since the regulations may seem unjust or oppressive.

Rule by force does not and cannot fundamentally dictate the thoughts and actions of people.

It is fairly clear from the passage from the *Analects* that the ruler was attempting to compel his subjects to act in ethical or moral ways, as the ruler defined them. Resistance and evasion were the response by those under his rule when they did not

share his particular code of moral conduct in some areas of social life.

So if we want to convince others that there is a better way to live, a more ethical manner of conducting oneself, Confucius tells the nobleman that he is far more likely to have success if he uses his own behavior as an example of the more virtuous life. That will work far better on other people's sense of the right and good and proper than any resort to fear and force.

He is far more likely to have success if he uses his own behavior as an example.

Those words and ideas are attributed to Confucius from more than 2,500 years ago. Looked at from the perspective of all that has happened around the world since his time, one can see in his words kernels of the ideas that have become premises of the philosophy of political, social, and economic freedom.

Freedom and prosperity

Another instance of this may be found in the writings of the ancient Chinese historian Ssu-ma Ch'ien (145–86 BC), who is often said to be China's equivalent to the ancient Greek historian Herodotus (484–

425 BC), in terms of the originality and significance of his *Records of the Historian*, recounting the history of ancient China.

He was also a man of unflinching principle. Challenging the policies of the Emperor Wu, Ssu-ma Ch'ien was condemned to death. The sentence could be commuted through either payment of a sizeable sum of money, or suffering the punishment of castration, or "saving face" by committing suicide. He did not have the money to pay the fine, and he could not bring himself to take his own life, since he was determined to finish his history of China. So he endured the punishment of castration and three years in prison. He then spent the rest of his life as a eunuch in the emperor's palace and successfully completed his history before dying of natural causes.

What is of note in Ssu-ma Ch'ien's *Records of the Historian* is a passage in a chapter titled "The Biographies of the Money-Makers." In two paragraphs, he captures part of the essence of Adam Smith's notion of the "invisible hand," which Smith offered in *The Wealth of Nations* (1776), almost 1,800 years after Ssu-ma Ch'ien's death. The following was explained by our ancient Chinese historian:

Society obviously must have farmers before it can eat; foresters, fisherman, miners, etc., before it can make use of natural resources; craftsmen before it can have manufactured goods; and merchants before they can be distributed. But once these exist, what need is there for government directives, mobilizations of labor, or periodic assemblies?

Each man has only to be left to utilize his own abilities and exert his strength to obtain what he wishes. Thus, when a commodity is very cheap, it invites a rise in price; when it is very expensive, it invites a reduction. When each person works away at his own occupation and delights in his own business then, like water flowing downward, goods will naturally flow forth ceaselessly day and night without having been summoned, and the people will produce commodities without having been asked. Does this not tally with reason? Is it not a natural result?

One of Ssu-ma Ch'ien's own policy conclusions from all this was, "Wealth and currency should

be allowed to flow as freely as water." Again, this is not to suggest that Ssu-ma Ch'ien was a proponent of unrestricted economic liberty; far from it. But in this passage is the essential element of an economic philosophy of laissez-faire, the notion of economic order and coordination without political design or direction.

Limiting arbitrary government through the rule of law

A concern about the rule of men instead of a rule of law was also understood among some of the ancient Chinese writers. One such person was Han Feitze (280–233 BC), remembered as an early formulator of Chinese "legalism," that is, the importance of an impartial system of law in place of arbitrary government by those in political power.

He pointed out that the number of truly honest, trustworthy, and knowledgeable people able to hold any public office is always far smaller than the number of such offices to be filled. Hence, it is always certain that dishonest, unscrupulous, and incompetent people will be manning the vast majority of positions in government. Said Han Feitze,

You can expect generally about ten honest men in a country (which is a pretty good average). But there are on the other hand probably a hundred offices. As a result, you have ten honest men and ninety crooks to fill all the positions. Hence there will be more likelihood of a general misrule rather than a good government. Therefore, the wise king believes in a system and not personal talents, in a method and not in personal honesty.

Thus, Han Feitze concluded that it was essential for clearly defined functions and responsibilities to be assigned to those appointed to political or bureaucratic office, with limited discretion for personal enrichment and abuse while holding their governmental position.

Lin Yutang: Chinese author and anti-Communist

Unfortunately for the people of China, those seeds of liberty and limited government never took firm or secure root in their country. Some modern Chinese scholars and writers have lamented that sad turn of fate, and that the idea of individual freedom never was triumphant in their own land. One of them was

Lin Yutang (1895–1976), one of the most insightful, informed, and humorous of China’s intellectuals in the twentieth century.

Lin Yutang’s father was a Chinese Christian minister, and he did his graduate studies at Harvard University and then earned his doctoral degree at the University of Leipzig in Germany in the 1920s. Professor, editor, author, novelist, and social critic after returning to China, Lin Yutang moved to the United States in the mid 1930s. His two most famous books from that period were *My Country and My People* (1935) and *The Importance of Living* (1937).

**For the people of China, those seeds
of liberty and limited government
never took firm or secure root.**

He was also a staunch anti-Communist while still in China before coming to the United States. The American political Left tried to skewer him after he published *The Vigil of a Nation* (1946), based on an extended journey back to his homeland during the Second World War, when much of eastern China had been occupied by the invading Japanese. His crime in the eyes of American Progressives was that he reported that the Communist guer-

rilla forces under Mao Zedong had been more interested during the war in weakening and betraying the central Nationalist government of Chiang Kai-shek than actually fighting the Japanese enemy.

The anger and campaign against him by those sympathetic to the communist cause continued in the 1950s when he published *The Secret Name: Communism Is the Secret Name of the Dread Antagonist* (1958), a political and historical account of the dangers from communism and socialist planning. In addition, his attempt to reorganize a university in Singapore on the basis of liberal ideas in the mid 1950s was partly blunted by communist agitators, which finally led to his resignation.

His 1935 book, *My Country and My People*, is an attempt to present an interpretation of the character and qualities of the Chinese people in a sweeping discussion of Chinese history, culture, social attitudes, and political and economic beliefs. It is also a statement of his own views of Chinese values and senses of life compared to what he had studied and learned from his years in Europe and then in the United States in terms of the meaning and nature of Western civilization and its fundamental ideas.

He explained that when the Chinese government kept out of people's affairs, local communities lived in harmony and prospered. The Chinese people, he said, had very successfully governed themselves in their respective towns and villages. He explained,

If the thing called "government" can leave them alone, they [the Chinese people] are always willing to leave the government alone. Give the people ten years of anarchy, when the word "government" will never be heard, and they will live peacefully together, they will prosper, they will cultivate deserts and turn them into orchards, they will make wares and sell them all over the country, and they will open up the hidden treasures of the earth on their own enterprise and initiative.

China's problem: unrestrained "parental government"

The problem, he pointed out, is that since ancient times, China had never had a constitution formally limiting government or the Western idea of civil rights. Instead, the Chinese political order was based on political paternalism, or as Lin

Yutang called it, “parental government,” by which was meant “to look after the people’s interests as parents look after their children’s interest, and to whom we give a free hand and in whom we place unbounded confidence.... We give unlimited official power without the thought of safeguarding ourselves.”

When the Chinese government kept out of people’s affairs, local communities lived in harmony and prospered.

He contrasted that with the Western view of government. If in China the presumption was that the government was a caring parent, in the West it is presumed that every political figure is a potential plunderer and the purpose of the political system is “to prevent him from carrying out his crooked intentions.” Lin Yutang went on:

In other words, instead of expecting our rulers to be gentlemen and to walk in the path of righteousness, we should assume them to be potential prison-inmates and devise ways and means to prevent these potential convicts from robbing the people and stealing the country. One can read-

ily see that the latter [Western] system is more likely to be effective as a check for political corruption than waiting for a change of hearts in these gentlemen.

Political crooks for better government

What Lin Yutang wanted for China was the Western-type ideas that he found in ancient Chinese writers such as Han Feitze, who wished to replace arbitrary government with a government of laws rather than men, in which there were favors for none and an equality of rights to freedom for all. Indeed, Lin Yutang wondered why anyone would want any other type of political system than one of liberty for the individual, with honesty expected from those in government. Quoting Lin Yutang once more,

The idea of a government by virtue and by benevolent rulers is so fantastic that it cannot deceive a college sophomore. One might just as well regulate motor traffic on Broadway by trusting to the drivers’ spontaneous courtesies, instead of by a system of red and green lights.

The plain, inexorable political and historical truth is

that when you treat officials like gentlemen, as we have been doing in China, one-tenth of them will be gentlemen and nine-tenths of them will turn out to be crooks; but when you treat them as crooks, with prisons and threats of prisons, as they do in the West, considerably less than one-tenth succeed in being crooks and fully nine-tenths of them succeed in pretending to be gentlemen. As a result, you have at least the semblance of a clean government.... What China needs, then, is not more morals but more prisons for politicians.

America is following the Chinese way of political paternalism.

What do we now find in modern-day America? Lin Yutang's ideal of Western-style limited government, with impartial rule of law, and the suspicion that every politician is a potential plunderer ready to pick our pockets? Or something closer to the "parental government" that Lin Yutang lamented he saw in his home country of 1930s China?

To paraphrase William Graham Sumner, we seem to see the philosophical conquest of the United States by China. Not the China of

Confucius's weeping woman facing tigers to avoid government taxes; not the China of Ssu-ma Ch'ien's understanding of the spontaneous order of production and trade; and not the legalist ideal of Han Feitze of a rule of law rather than a rule of men.

We have been conquered by the idea of "parental government."

No, we have been conquered by the idea of "parental government." Not that that this idea actually came to America from China. The migration of paternalism came to the United States from Europe in the 19th and 20th centuries. And it is as old in the West as Plato's ideal Republic, possessing a fully planned society.

But, nonetheless, we have become more like the China portrayed by Lin Yutang, and less like the America of individual liberty and limited government that he praised as a model for his homeland. Just watch the political parade going by in this election year. Those offering themselves for the presidential candidacy of the Democratic Party all are aggressive paternalists promising to do so much for so many, and somehow at someone else's expense.

Paternalists all, in this year's election cycle

To do so, they call for wider control and discretion by government over all facets of social and economic life. They all imply that they can be trusted to do the right thing in all the right ways, with no restraints needed on their political power to do so. They will save the planet, guarantee everyone a good job at a comfortable wage, and secure health care and higher education for all at little or no expense to those who are asked to support and vote for them. They all have a central plan to take care of everything.

The Republicans have all surrendered to their own form of parental government. Daddy Trump will save American jobs, save American industry, keep out “bad” foreign goods, and make America great, all the while using his own type of double-talk and arrogant hubris that he knows what the country needs, and that he can be trusted with power to restore the America that he knows is right for the nation.

What we need to do, as friends of freedom, is rediscover and articulate some of those truths that are a lot older than either Adam Smith or the Declaration of Independence,

insights that Chinese from millennia ago were seeing incompletely through a glass darkly, but nevertheless sometimes with keen awareness: tigers are less dangerous than oppressive taxes; peaceful persuasion is more powerful and effective than physical force; cooperative coordination in the market can bring prosperity without government directive; and impartial rule of law matched with vigilant suspicion of all that is done by those in government are surer ways of securing freedom and material plenty for that society as a whole than any paternalism promised by politicians hungry for power over our lives.

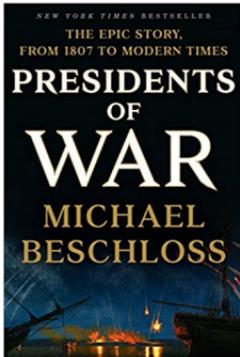
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NEXT MONTH:
“Liberty versus
Political Paternalism”
by Richard M. Ebeling

Unleashing the Dogs of War

by *Matthew Harwood*

Presidents of War by Michael Beschloss (New York: Crown, 2018); 752 pages.



Even with power in the hands of a political philosopher and statesman who understood the rabid nature of war, President James Madison couldn't help but embroil the young nation in a conflict it wasn't ready for. Unlike Thomas Jefferson, his predecessor in the White House, Madison wouldn't ignore the British Empire's impressment of Americans into her navy, her attacks against American shipping due to her war with Napoleon's France, and her hand in supposedly provoking Indian raids in the nation's northwestern frontier.

The young republic, however, didn't have a navy to speak of or an army of well-trained troops. Neither did Madison have the support of the American public or the Federalists, the party of his opposition. Nevertheless, he asked Congress, where his Democratic-Republicans had the majority in both houses, to declare war on Great Britain and its powerful armada of 600 warships and its army of 500,000 troops. By mid June 1812, Madison's War, as it would be contemptuously called by critics, had commenced with the hopes of ending Britain's commercial warfare against U.S. shipping and making Canada part of the United States.

The war Madison pushed for was a disaster that almost doomed the republic. There was talk of Federalist New England's seceding. The government was bankrupt. Madison asked for a draft to replenish his small army, a request that was defeated by Federalist opposition. The British successfully invaded the capital, torching the White House.

But the United States ultimately prevailed, even as Madison, of all presidents, began the ignoble tradition of presidents' encroaching on Congress's war powers and ensnaring the nation in wars of choice. Ironically, the "Father of the Con-

stitution” proved, quite hypocritically, why the president of the United States shouldn’t even be trusted when making a case for war.

That is the moral of the story told by Michael Beschloss in his epic book, *Presidents of War*. From the War of 1812 through Vietnam, Beschloss demonstrates how correct Madison was when he called war “the true nurse of executive aggrandizement.” Through profiles of war presidents Madison, James Polk, Abraham Lincoln, William McKinley, Woodrow Wilson, Franklin Roosevelt, Harry Truman, and Lyndon Johnson, he shows that no one human being should have the power to take a nation into the slaughterhouse of war, especially a nation predicated on the sovereignty of the individual.

More important, he exposes the dark hearts of many of the men we’re taught to venerate and how they sacrificed the lives of their citizens in pursuit of power, prestige, and empire, often lying to Congress and the people to get the result they wanted, while upending limited government and eviscerating liberty in the process.

Bloody lies

The first example of a president lying the nation into war was James

Polk, a protégé of the genocidal Andrew Jackson. Like Jackson, Polk was an expansionist who coveted Mexico’s California territories. As Beschloss writes, “If the Mexicans would not sell him that land at a reasonable price, he might just feel compelled to seize it in the course of a war that might happen to break out between the United States and Mexico.” Polk ensured there would be a war by manufacturing it.

Beschloss exposes the dark hearts of many of the men we’re taught to venerate.

In the spring of 1846, Mexican troops ambushed an American patrol in the contested territory between the northern Nueces River, which Mexico claimed was its border with Texas, and the southern Rio Grande, which the United States claimed was its border with Mexico after Texas was admitted into the Union the year before. In a deliberate attempt to goad the Mexicans into attacking, Polk ordered the U.S. Army in 1845 to march to the Rio Grande. The ploy worked.

On May 13, 1846, Congress declared war on Mexico. A little less than two years later, Polk had won his war and with it Texas and the territories of New Mexico and Cali-

fornia. Sarcastically summing up the anti-war and anti-imperial opposition to Polk's empire-building, the Whig *National Intelligencer* editorialized, "We take nothing by conquest.... Thank God."

Polk wasn't the only president to take the United States to war by falsehoods that ended in imperial expansion. After the U.S. Navy ship *Maine* exploded in Cuba's Havana Harbor on February 15, 1898 — almost certainly because of a mechanical failure and not a Spanish mine — the calls for war began in earnest. The Spanish were brutal colonizers of the Cuban people, and it was the United States' duty, according to William McKinley, to save them from their tormentors and establish a free Cuban government. McKinley had publicly affirmed that war with Spain had no imperial ambitions, but that was a lie. In a private memo, he wrote, "While we are conducting war and until its conclusion we must keep all we get; when the war is over we must keep what we want."

And keep it McKinley did. In little more than six months, the Americans quickly dispatched the Spanish. By the war's end, the United States would take possession of Cuba, Puerto Rico, the Philippines, and Guam, making the United States

an overseas empire to go with much of North America and creating the conditions for future war with Japan, as America extended its sphere of influence far into the Pacific. The failure to relinquish the Philippines, however, led to a brutal war with Filipino resistance fighters that killed more than 4,000 Americans, 20,000 Filipino guerrillas, and hundreds of thousands of civilians, mostly from disease. Despite that, McKinley had the gall to proclaim in 1899, "No imperial designs lurk in the American mind."

Polk wasn't the only president to take the United States to war by falsehoods.

Much like Polk and McKinley, Lyndon Johnson also took American boys into war — in Southeast Asia on the basis of false pretenses. In two separate incidents on August 2 and 4, 1964, supposed confrontations occurred in the Gulf of Tonkin between North Vietnam and U.S. naval forces. The United States claimed it was attacked unprovoked in both incidents. While the August 4 incident is now seen as imaginary, the August 2 incident was not. But it was not unprovoked. Under the secret OPLAN 34A program, U.S. forces had been conducting covert

operations against North Vietnam, one coming just a few days before the first Gulf of Tonkin incident.

Lincoln unilaterally suspended habeas corpus.

Nevertheless, the Johnson administration kept the OPLAN 34A secret and whipped up the war furies on the basis of an outright lie. The infamous Gulf of Tonkin Resolution passed both the House and Senate on August 7, with little opposition, and was signed by Johnson on August 10. Democratic Sen. Wayne Morse of Oregon, according to Beschloss, saw the Gulf of Tonkin incident for what it was: “another sinking of the Maine’ — a ‘deliberate’ pretext ‘to justify making war against North Vietnam.’”

Afterward, the United States plunged further into the Vietnam quagmire and into open military conflict with North Vietnam. The results were widespread social unrest at home, as the anti-war movement rose up against the war, and possibly millions dead, as the United States rained down more bombs on Southeast Asia than all the belligerents used in Europe during World War II. As the war went south, William Fulbright, chairman of the Senate Foreign Relations

Committee, ordered a secret report into the Gulf of Tonkin incidents, which was withheld from the public until 2010. His conclusion: “We were just plain lied to.”

Crushing liberty

As war descends on a nation, government trampling on liberty naturally follows.

There was no more perfect example of this truism than was seen during the Civil War. In February 1861, Abraham Lincoln instituted the first federal income tax to pay for the Civil War. A few months later in May, he unilaterally suspended habeas corpus between Washington, D.C., and Philadelphia, in violation of the separation of powers, while Congress was out of session. The order, writes Beschloss, allowed “Americans suspected of plots against the federal government, or otherwise abetting the ‘so-called Confederate states,’ to be detained indefinitely, without indictment or hearing in court.”

In September 1863, he extended the suspension of the great writ nationwide until the end of the Civil War, though this time with Congress’s approval. Earlier that year, the Great Emancipator instituted the nation’s first military draft as volunteers for the Union Army dried up.

The rich, however, could buy their way out of conscription. Deeply unpopular, the draft led to Lincoln's government's arresting and indefinitely detaining draft resisters.

In the military district of Ohio, which included many Western states, Lincoln ordered Gen. Ambrose Burnside to issue General Order Number 38, "an edict," writes Beschloss, "that anyone suspected of aiding the country's 'enemies,' which — in defiance of the First Amendment — included 'declaring sympathies' for the rebels, would be arrested for treason and/or espionage." Lincoln also approved Gen. William T. Sherman's march to the sea in November and December of 1864, which embraced the "hard war" philosophy of bringing the conflict's horrors to the doorstep of the enemy's civilian population.

Lincoln, of course, wasn't the only president to reach beyond his constitutional power in a time of war. Three of the more galling examples of this executive war-time tendency came from Presidents Wilson, Roosevelt, and Truman during World War I, World War II, and the Korean War, respectively.

As the United States entered Wilson's "war to end all wars," the progressive-minded president was clear he would brook no opposition

to the war effort, telling the American people, "If there should be disloyalty, it will be dealt with, with a firm hand of stern repression." Making good on his word, Wilson pushed Congress to pass the Espionage and Sedition Acts of 1917 and 1918, which made it a crime to interfere with the war effort, even by talking. In June 1918, Socialist Party leader Eugene Debs was arrested, without even mentioning Wilson or the Great War, under the Sedition Act for a speech arguing war was an inevitable byproduct of capitalism. He received a ten-year sentence, which was eventually commuted by Warren G. Harding in 1921.

Lincoln wasn't the only president to reach beyond his constitutional power in a time of war.

Although Beschloss has a soft spot for Franklin Roosevelt, the historian shows him for what he was: an ambitious authoritarian who continually lied to Congress and the American people by telling them he would maintain U.S. neutrality during World War II. Instead, he did everything he could to push the nation into war by pushing Lend-Lease to aid Britain in its war effort against the Nazis, and by imposing an embargo against Japan. The em-

bargo included vital resources, such as oil, gasoline, steel, and iron. According to Beschloss, “Japan relied on the United States for 80 percent of its petroleum.” There was no way Japan could see it for anything else but an act of war. On December 7, 1941, Japan struck Pearl Harbor. Roosevelt had his war.

During this “total war,” Roosevelt was a civil-liberties nightmare. More than a year before Pearl Harbor, he instituted, for the first time in American history, a peacetime draft, a not-so-subtle hint that he was getting the nation ready for war. After Pearl Harbor, the president issued Executive Order 9066, which led to the incarceration of Japanese, German, and Italian Americans and immigrants in U.S. concentration camps for fear those populations were a fifth column. Despite the Supreme Court ruling that warrantless wiretapping was illegal, Roosevelt told FBI Director J. Edgar Hoover to continue the practice on his authority. Roosevelt also ordered the IRS to go after his political enemies and asked Hoover to investigate them. Acceding to Roosevelt’s authority as a wartime president, Congress increased marginal income tax rates to 88 percent.

Beschloss, to his credit, acknowledges that without World War II,

Roosevelt would have gone down in history as an epic failure. “The war,” writes Beschloss, “ultimately did so much to elevate Roosevelt’s standing that it increased the temptation for later Presidents to escalate their reputations by seeking foreign conflict.”

Roosevelt ordered the IRS to go after his political enemies.

One of the more naked power grabs a wartime president ever attempted was Harry Truman’s seizure of American steel companies in April 1952 during the undeclared Korean War. Strife between labor and management in the industry led to a breakdown in negotiations over a new labor contract, and the labor unions were threatening to strike, an action that would stop the supply of steel for manufacturing weapons for the Korean conflict. So on April 8, Truman, claiming a national emergency, issued an executive order nationalizing the steel industry.

Fortunately, the reaction was swift and devastating. The press pounced. Politicians, too, with Lyndon Johnson, ironically enough considering his own later wartime deceptions, saying Truman’s executive order “smacks of the practices that lead toward a dictatorship.” On

June 2, the Supreme Court ruled Truman's order unconstitutional. Justice Robert Jackson wrote the majority decision, which sagely warned, according to Beschloss, "that no doctrine could be 'more sinister and alarming' than the notion that some future President might be encouraged to send U.S. armed forces into 'some foreign venture' in order to expand his personal power over domestic affairs."

When will our debts come due?

It is depressing that American legislators, and the people they represent, have never fully realized the prudence of James Madison the political philosopher as opposed to James Madison the president. Writing in 1795, Madison reminded students of history, "Of all the enemies to public liberty war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies; from these proceed debts and taxes; and armies, and debts, and taxes are the known instruments for bringing the many under

the domination of the few.... No nation could preserve its freedom in the midst of continual warfare."

With nearly 120 straight years of military conflict abroad, much of it imperial in nature, the United States continues to whistle past the graveyard in defiance of Madison's wise words. Beschloss's book is an important reminder that the United States often goes abroad militarily upon the whims, and lies of one man, which the country continues to glorify at its own peril.

Though Beschloss no doubt did not set out to ruin the reputations of so many commanders in chief, *Presidents of War* clearly demonstrates that those men do not deserve our praise but instead our condemnation for their crimes against humanity and the citizens they pledged to serve.

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