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# FUTURE OF FREEDOM

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

— *Albert Einstein*

# FUTURE OF FREEDOM

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# Black Lives Matter, But Not to Everyone, Part 1

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by *Jacob G. Hornberger*



I recently watched the Netflix series *Seberg*, which profiles the Hollywood actress Jean Seberg and the U.S. government's intentional and secret destruction of her.

Why did the federal government, specifically the federal government's national police force, the FBI, decide to destroy Seberg? Among other reasons, it was because back in the late 1960s and 1970s Seberg befriended an organization called the Black Panthers, which was committed to ending police abuse of blacks during those decades.

Yes, American blacks were complaining of police brutality more than 50 years ago, just as they are doing today.

But judging from reactions from the American Right to the massive protests that have enveloped many American cities in the past several months, the deep anger felt by blacks is just totally unjustified. According to conservatives, blacks should be grateful for all the things that America has given them, including economic prosperity, government welfare, and the right to vote.

Anyway, as American right-wingers claim, there isn't any "institutional racism" anymore in America. The police brutality against which blacks are protesting — and have been protesting for decades — is all just normal police brutality that takes place regardless of people's race or color. Any racial bigotry among cops and the brutality that comes with it are just a figment of people's imagination.

After all, America elected a black as president, as the Right never ceases to remind us. And look at all the government jobs — including jobs as police officers — that have been given to blacks. What better proof is there that there isn't any "institutional racism" in America than that? right-wingers ask, as if the tyrannical nature of a law turns on the race of the person who is enforcing it.

According to American conservatives, black protesters should just go back home and work hard to achieve the American dream. For decades, right-wingers say, the cops have been their best friend, out there just serving and protecting them.

And yet, there is Tulia, Texas, a town of around 5,000 people, where a decorated white police officer made drug busts of 46 people, 40 of whom were black. Yes, I know what American conservatives would say: “Jacob, you see, the fact that six of the victims were white shows that there wasn’t any racism there!” That’s ridiculous. The fact that 40 of them were black shows that the busts revolved around race.

The defendants claimed they were innocent, but as any respectable right-winger would say, “Who you gonna believe — a respectable white law-enforcement officer who was awarded ‘Lawman of the Year’ by the Texas Department of Public Safety or a black defendant who is obviously lying about his drug distribution?”

Many of the blacks received long jail sentences, which motivated others to plead guilty in plea bargains that gave them comparatively light jail sentences.

There was one big problem, however. They were all innocent —

every single one of them. That nice, respectable “Lawman of the Year” had just made it all up. According to the ACLU, the officer, a man named Tom Coleman, “has a checkered past and a fondness for racial epithets.” The judge who ended up freeing the victims called Coleman “the most devious, non-responsive law enforcement witness this Court has witnessed in 25 years on the bench in Texas.”

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**That nice, respectable  
“Lawman of the Year” had just  
made it all it up.**

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Hey, no racism there, right? Just as there was no racism in the arrests or killings of Eric Garner, George Floyd, Breonna Taylor, and around 1,600 other blacks from 2014 to 2019. According to an article at aljazeera.com entitled “Mapping US Police Killings of Black Americans” (<https://www.aljazeera.com/indepth/interactive/2020/05/mapping-police-killings-black-americans-200531105741757.html>), “Despite only making up 13 percent of the U.S. population, Black Americans are two-and-a-half times as likely as white Americans to be killed by the police.”

Also, see the “Race and the Drug War” section of the Drug Policy Alli-

ance website, which states in part, “The drug war has produced profoundly unequal outcomes across racial groups, manifested through racial discrimination by law enforcement and disproportionate drug-war misery suffered by communities of color” (<https://www.drugpolicy.org/issues/race-and-drug-war>).

I’m not saying, of course, that all police officers are racial bigots, any more than I’m saying that all judges are racial bigots. But I am saying that some of them are. The notion that racial bigotry has been wiped out in America is ridiculous, no matter how many blacks are elected or appointed to public office or how well blacks generally do economically. There will always be racial bigots in society.

### Police abuse

The problem is that some of those bigots are as attracted to law enforcement as iron filings are to a magnet. There is one big reason for that: the drug war. The drug war provides the opportunity for racial bigots to exercise their bigotry to their heart’s content — and even get praised, adulated, congratulated, and awarded for their efforts to “win” the war on drugs.

Now, I’m not saying that the drug war has been waged exclusive-

ly against blacks. That would be patently nonsensical. This horrific government program has adversely affected people of all races, colors, and creeds. It is one of most tyrannical and oppressive programs in U.S. history.

In fact, often the Right uses what drug-enforcement agents have done to whites as a way to say, “See, the drug war isn’t bigoted. It hits everyone.”

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**Some of those bigots are as attracted to law enforcement as iron filings are to a magnet.**

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What right-wingers fail to realize, however, is that it’s possible to have a racially bigoted component to a tyrannical government program. That’s precisely what has happened with the drug war. The drug war certainly does target people of all races, colors, and creeds but within the program are racially bigoted cops and judges who use the program as a way to specifically slam blacks. Thus, the adverse effects of this horrible program have historically fallen disproportionately on blacks.

Consider a cop who sees a white couple walking down the street. There is no reason to stop them, interrogate them, and frisk them,

even if they might have some marijuana in their pockets. But then consider a racially bigoted cop who sees a black couple walking down the street. His bigotry gets the best of him and he stops the couple for no other reason than that they are black. He subjects them to interrogation on matters that are none of his business and when they don't answer in a respectful way, he slams them against their car and handcuffs and arrests them for "resisting arrest." That's if they are lucky. The unlucky ones get subjected to a chokehold or get shot.

It is the racial bigotry that is part and parcel of the drug war that right-wingers cannot bring themselves to recognize. They either deny that there are bigoted cops or they say that the bigoted cops don't really bring their bigotry into the enforcement of the drug war. There is a simple reason for this denial of reality: Right-wingers love the war on drugs. They always have and they always will love and support this crooked, corrupt, evil, and immoral program.

One of the most revealing aspects of the police-abuse controversy is the right-wing reaction to the property destruction and looting that has taken place during the recent protests. Notice what happens

with the right-wingers: Their attention focuses exclusively on the rioters and looters. Suddenly we hear nothing but paeans to the sanctity of private property and the need to maintain "law and order" in society.

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### What difference does the philosophy of the protesters and demonstrators make?

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It's the same thing that right-wingers do with respect to the left-wing philosophy of protesters and demonstrators. In the right-wing commentaries, all we hear about is that the protesters and demonstrators are Marxists, members of Antifa, or left-wing extremists who are hell-bent on the destruction of America. It's a throwback to when protesters against police abuse in the 1960s and 1970s were labeled communists and a spearhead of the supposed worldwide communist conspiracy to take over the United States.

What difference does the philosophy of the protesters and demonstrators make? Like everyone else, they have the right to be free of police abuse regardless of their particular philosophical beliefs and positions.

Recall the recent massive protests in Hong Kong. They too were

accompanied by rioting and looting by a small percentage of the demonstrators. Did you see the American Right focusing its attention on the rioters and looters in that situation? Not on your life! The Right continued to focus their attention on the reason the protesters and demonstrators were so angry, i.e., the tyranny on the part of the Chinese communist regime.

Here at home, the intent of the Right, over the decades, has been — and continues to be — to drown out the real reason for the protests and demonstrations — police abuse of blacks. To avoid the calumny being heaped on them by the Right, blacks are expected to return home, be loyal Americans, and continue permitting themselves to be abused by the cops. Thus, the cycle of police abuse of blacks has continued through the decades. And the anger and rage have now obviously reached a boiling point.

Never mind that the rioters and looters form only a small percent-

age of the overall crowd. Never mind that there are often people in society who will take advantage of a massive protest to wreak damage or destruction. Never mind the possibility that the U.S government itself is fomenting the chaos, as it secretly did, for example, in the early 1970s in Chile in order to set the stage for a coup, in the name of “national security.” All that matters, according to conservatives, is that the state maintain “law and order,” even if that means tear-gassing or otherwise suppressing protests by blacks against ongoing police abuse.

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

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**NEXT MONTH:**  
**“Black Lives Matter, But  
Not to Everyone, Part 2”**  
*by Jacob G. Hornberger*

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# End Police Tyranny by Repealing Laws

by James Bovard



“I can’t breathe,” George Floyd protested as a Minneapolis cop pressed his knee onto Floyd’s neck for eight minutes while Floyd was lying face down. Floyd’s death sparked violent protests, looting, and arson attacks in Minneapolis and St. Paul. It is just the latest reminder that politicians and judges — through federal law and judicial interpretation — have turned police into a privileged class that is most often unaccountable, if not entitled, to oppress other Americans.

ACLU attorney Carl Takei told the *New York Times* that police departments that permit “chokeholds try to differentiate between cutting off the flow of blood, which renders someone unconscious, and cutting off the flow of oxygen, which is

deadly.” This dicey distinction often goes amiss, as in 2014 when Eric Garner was killed by a New York City policeman’s chokehold.

Such killings would very likely not occur without the sense of impunity conferred on police in much of this nation. Sen. Amy Klobuchar, was the chief prosecutor for Hennepin County (including Minneapolis) from 1998 to 2006. Klobuchar, who was nicknamed “KloboCop” by detractors, “declined to bring charges in more than two dozen cases in which people were killed in encounters with police,” while she “aggressively prosecuted smaller offenses” by private citizens, the *Washington Post* noted. Her record was aptly summarized by a headline early this year from the *Twin Cities Pioneer Press*: “Klobuchar ramped up prosecutions, except in cases against police.”

Minnesota cops also benefit from their state’s so-called police officer’s bill of rights, which impedes investigations into killings by police and other police misconduct.

Outrage over police abuses have become a regular occurrence in modern American life. In 1994, the ACLU and the National Rifle Association jointly called for President Bill Clinton to appoint a national commission to investigate “lawless-

ness in law enforcement.” In 2014, after violent protests over a police shooting in Ferguson, Missouri, Attorney General Eric Holder declared that “we must seek to rebuild trust between law enforcement and the local community.” But unjustified police shootings usually spark brief uproars and promises of reform — but no fundamental roll-back of law enforcement’s lethal power and prerogatives.

### Racial bias not the problem

Much of the media coverage quickly framed Floyd’s death as another example of systemic racism by police. There are many bigoted cops who have unjustifiably shot or otherwise abused innocent black citizens, but people of all races, creeds, and colors are at risk from lawless lawmen. As the *Washington Post* noted, “In 2017, a Minneapolis police officer shot and killed Justine Damond, an Australian woman who had called police about what she believed was a possible sexual assault near her home.” The Montgomery County, Maryland, Police Department continues to refuse to provide camcom videos or any other evidence on its predawn no-knock raid in Potomac, Maryland, in which police are reported to have shot 21-year-old Duncan Lemp as

he lay sleeping in bed in his parents’ house. The Lemp case has been largely ignored by the nation’s media (except for my articles at the *American Conservative*).

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**The Supreme Court has effectively given police a license to shoot or falsely arrest ill-fated citizens across the nation.**

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Focusing on racial bias also risks obscuring the fundamental problem: the Supreme Court has effectively given police a license to shoot, pummel, or falsely arrest ill-fated citizens across the nation.

In the wake of the Civil War, freed southern blacks were terrorized by lynch mobs and other attackers. Congress responded to Ku Klux Klan violence against freed southern blacks by enacting the Civil Rights Act of 1871 to authorize lawsuits against any person acting “under color of” law who causes a “deprivation of any rights ... secured by the Constitution and laws.” But in a series of decisions beginning in 1967, the Supreme Court gutted that law by permitting police and other government agents to claim they acted in “good faith” when violating citizens’ rights. In 1982, the Supreme Court granted government officials immunity un-

less they violated “clearly established statutory or constitutional rights of which a reasonable person would have known.”

Regardless of century of court rulings that clearly demarcated citizens’ constitutional rights, the Supreme Court decided government officials deserved “qualified immunity” unless a prior court case had condemned almost exactly the same abusive behavior. Federal Judge Don Willett declared in 2018 that “qualified immunity smacks of unqualified impunity, letting public officials duck consequences for bad behavior — no matter how palpably unreasonable — as long as they were the first to behave badly.”

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**The Court’s decision “tells [police] officers that they can shoot first and think later.”**

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The Supreme Court effectively added an asterisk to the Constitution that expunged much of the Bill of Rights. In a 2018 case absolving a reckless shooting that killed a motorist, Justice Sonia Sotomayor angrily dissented, saying that the Court’s decision “tells [police] officers that they can shoot first and think later, and it tells the public that palpably unreasonable conduct will go unpunished.”

How does the Supreme Court’s idealism on “good faith” G-men play out in the real world? Courts have “approved qualified immunity for cops who allegedly shot people without cause, sicced a dog on a man who was surrendering, tased a driver who was stopped for failing to buckle his seat belt, and ordered a 17-year-old boy to disrobe and masturbate so they could take pictures of his erect penis,” *Reason* columnist Jacob Sullum reported in 2019. That year, a federal appeals court bizarrely granted qualified immunity to Fresno, California, police officers who stole \$225,000 during a search of two businessmen.

Sen. Lindsey Graham (R-S.C.), chairman of the Senate Judiciary Committee, said in May that his committee would hold a hearing on police violence to analyze “why does this happen, how often is it, is it an aberration.” Graham said the video of Floyd’s death is “hard to watch, and I just imagine how many people died without videos.”

But Congress has, as usual, been asleep on the job. As Dan Alban, an Institute for Justice attorney and the nation’s most effective litigator against asset-forfeiture abuses, observed, Congress could pass legislation “clarifying that there is no qualified immunity” for civil-rights

lawsuits against state and federal officials.

### The tip of the iceberg

But the problem goes far beyond qualified immunity. Politicians criminalize practically everything in daily life and then tell police to “be nice” — or maybe mandate that cops attend sensitivity training. The COVID-19 pandemic has been accompanied by a blizzard of new mandates and prohibitions that further empower police. A video went viral earlier this month of a New York Police Department officer tackling and pummeling a young black man who was suspected of violating new dictates on social distancing. One wonders whether there are a hundred such instances of idiotic brutality for each one that trends on Twitter.

“Defund the Police” is the latest rallying cry for protesters in many cities across the nation. Few protesters appear to favor the sweeping repeals that could take tens of millions of Americans out of the legal crosshairs.

How many of the “Defund the Police” protesters would support repealing mandatory seatbelt laws as a step toward reducing police power? In 2001, the Supreme Court ruled that police can justifiably ar-

rest anyone believed to have “committed even a very minor criminal offense.” That case involved Gail Atwater, a Texas mother who was driving slowly near her home but, because her children were not wearing seatbelts, was taken away by an abusive cop whose shouting left her children “terrified and hysterical.” A majority of Supreme Court justices recognized that “Atwater’s claim to live free of pointless indignity and confinement clearly outweighs anything the City can raise against it specific to her case” — but upheld the arrest anyhow. Justice Sandra Day O’Connor warned that “such unbounded discretion carries with it grave potential for abuse.”

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**Federal, state, and local politicians and officials have criminalized daily life with hundreds of thousands of edicts.**

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Unfortunately, there are endless pretexts for people to be arrested nowadays, because federal, state, and local politicians and officials have criminalized daily life with hundreds of thousands of edicts. As Gerard Arenberg, executive director of the National Association of Chiefs of Police, told me in 1996, “We have so damn many laws, you

can't drive the streets without breaking the law. I could write you a hundred tickets depending on what you said to me when I stopped you."

What about repealing state laws that make parents criminals if they smoke a cigarette while driving little Johnny or Alison to soccer practice? What about repealing the federal law that compels states to criminalize anyone drinking one beer in his car — or, better yet, repealing the federal law that compels states to raise the age for drinking alcohol to 21? Or would today's enraged reformers prefer to take the risk of cops' beating the hell out of any 20-year-old caught with a Bud Light?

Would feminist zealots calling to "Defund the Police" be willing to tolerate the legalization of sex work? That would mean they could no longer howl about vast "human trafficking" conspiracies exploiting young girls every time an undercover cop is illicitly groped by a 58-year-old Chinese woman in a massage parlor.

Some Black Lives Matters activists are calling for a ban on "stop and frisk" warrantless searches for drugs, guns, or other prohibited items. But some "Defund the Police" activists also favor government prohibitions of private firearms. It is as if they

were seeking to formally enact the old slogan, "When guns are outlawed, only outlaws will have guns."

Many "Defund the Police" advocates presume that poverty is the cause of crime and that shifting tax dollars from police budgets to social programs and handouts will automatically reduce violence. The Great Society programs launched by Lyndon Johnson vastly increased handouts on a similar assumption. Instead, violent crime skyrocketed, especially in inner cities where dependence on government aid was highest.

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**Violent crime skyrocketed, especially in inner cities where dependence on government aid was highest.**

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"Defund the Police" demands are already being translated by politicians into a justification for additional spending for social services or the usual sops. In Montgomery County, Maryland, police chiefs issued a statement announcing that they were "outraged" over George Floyd's death and then pledged to "improve training in cultural competency for our officers." Elsewhere, politicians and police chiefs are talking about relying more on mental-health workers to handle vola-

tile situations. Radio host Austin Petersen predicted that the George Floyd protest “reforms” would result in “more social programs meant to give jobs to liberal white women.” Author and filmmaker Peter Quinones deftly captured the likely reality with a meme where Minneapolis police were renamed the Tactical Social Workers and still looking hungry to kick bad guys.

Police have too much power because politicians have too much power. There is little chance that the George Floyd protests and riots will reverse the criminalization of daily life. As long as cops have pretexts to harass and assail millions of peaceful Americans every day, outrages will continue. Until protesters real-

ize that the problem is Leviathan, not the local police chief, oppression will continue.

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**NEXT MONTH:**  
“Federal Censorship Protects  
Leviathan’s Crimes”  
by James Bovard

*There is a natural obstacle to progress in abstract thought, which has often delayed rational inquiry; an erroneous concept or theory may be expressed in terms which embody the error, so that thinking is blocked until the misleading words are discarded from the given context.*

— Isabel Paterson

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# The Real Constitutional Crisis

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by *Laurence M. Vance*



**A**ccording to the Merriam-Webster dictionary, a crisis (plural: crises) is:

1a: the turning point for better or worse in an acute disease or fever

b: a paroxysmal attack of pain, distress, or disordered function

c: an emotionally significant event or radical change of status in a person's life; a midlife crisis

2: the decisive moment (as in a literary plot); The crisis of the play occurs in Act 3.

3a: an unstable or crucial time or state of affairs in which a decisive change is impending; especially: one with the distinct

possibility of a highly undesirable outcome; a financial crisis, the nation's energy crisis

b: a situation that has reached a critical phase; the environmental crisis, the unemployment crisis

And likewise in other dictionaries.

## The Constitution

Regardless of any flaws or problems that the Constitution had or has (the countenance of slavery, the assumption of the right of eminent domain, ambiguous clauses, the income tax), it is the supreme law of the land that the federal government is supposed to follow. The Constitution is neither a long nor an obscure document. Any American with a computer or smart phone can access it in a matter of seconds. Yet most Americans are woefully ignorant about the Constitution.

The Constitution was drafted in 1787, ratified in 1788, and took effect in 1789. It established the United States as a federal system of government where the states, through the Constitution, granted a limited number of powers to a central government. As James Madison, the father of the Constitution, so eloquently explained in Federalist No. 45,

The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.

There are about thirty enumerated congressional powers listed throughout the Constitution. Most of those powers are found in the eighteen paragraphs of Article I, Section 8. Six of them concern the militia and the military. Four of them concern taxes and money. The rest relate to commerce, naturalization, bankruptcies, post offices and post roads, copyrights and patents, the federal courts, maritime crimes, and the governance of the District of Columbia. The last

paragraph gives Congress the power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” The Bill of Rights (the first ten Amendments to the Constitution) was added to the Constitution in 1791. The first eight Amendments protect civil liberties and fundamental rights. the Ninth and Tenth Amendments make it clear that all rights and powers not delegated to the federal government are retained by the people and the states.

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The ignorance that most Americans have of the Constitution is exceeded by the ignorance of the Constitution that most congressmen have. Members of Congress swear to uphold the Constitution. Article VI, Clause 3, of the Constitution requires that senators and representatives be “bound by oath or affirmation, to support this constitution.” U.S. law requires that members of Congress be sworn in before they can take their seats. The congressional oath of office begins, “I do solemnly swear that I will support and defend the Constitution of the

United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.” One would think that members of Congress — most of whom have at least a bachelor’s degree and many of whom are lawyers — would have a firm grasp of what the Constitution says. Yet they are often the worst offenders when it comes to violations of the Constitution.

### The crisis

It was called a constitutional crisis.

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**Armed federal forces were making arrests and using tear gas against demonstrators.**

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After the death of a black man, George Floyd, while in the custody of a white Minneapolis police officer on May 25, anti-police demonstrations erupted in large, predominantly black cities across the country. Yet, Portland, Oregon, which is about 77 percent white and 6 percent black, became the epicenter of anti-police demonstrations this past summer. Some of the demonstrations were peaceful, but others not so much. Protesters shut down streets, broke windows, set fires, committed acts of vandalism and looting, and clashed with po-

lice. Then, on July 10, it was reported that armed federal forces were making arrests and using tear gas against the demonstrators.

Writing in the *Guardian*, Trevor Timm, the executive director of the Freedom of the Press Foundation, mentioned the Constitution in his report about Portland: “A remarkable and nightmarish scene playing out in Portland should terrify anyone who cares about the US constitution: unmarked vans full of camouflaged and unidentified federal agents are pulling up next to protesters on street corners, then snatching and arresting them with no explanation.” Writing for the Associated Press, journalist Gillian Flaccus is the one who termed the events in Oregon a “constitutional crisis”: “Federal law enforcement officers’ actions at protests in Oregon’s largest city, done without local authorities’ consent, are raising the prospect of a constitutional crisis — one that could escalate as weeks of demonstrations find renewed focus in clashes with camouflaged, unidentified agents outside Portland’s U.S. courthouse.” In a lawsuit filed against the Department of Homeland Security, the United States Marshals Service, Customs and Border Protection, and the Federal Protective Service, the Oregon At-

torney General, Ellen Rosenblum, accused the federal agencies of violating the constitutional rights of Oregon residents.

According to the Constitution (Article I, Section 8, Paragraph 15): “[Congress shall have power to] provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions.” The Insurrection Act of 1807 requires state legislatures or governors to request help from the federal government. It empowers the president to call into service the U.S. Armed Forces and the National Guard to address “an insurrection, domestic violence, unlawful combination or conspiracy, in any state, which results in the deprivation of Constitutionally secured rights, and where the state is unable, fails, or refuses to protect said rights.” The armed federal forces that descended uninvited on Portland were not members of the Militia, U.S. Armed Forces, or the National Guard. Under the guise of “protecting” federal property and maintaining “law and order,” they were functioning as de facto secret police — wearing military fatigues, sporting all manner of weapons, driving unmarked vehicles, compiling dossiers on journalists, grabbing people indiscriminately off the

streets without regard to their lawful presence or personal behavior, assaulting people who weren’t engaged in criminal activity, detaining people who weren’t near federal property, and holding people for hours without charge.

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**“Just about every nefarious deed, tactic or thuggish policy advanced by the government today can be traced back to the DHS.”**

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But according to acting Department of Homeland Security (DHS) Secretary Chad Wolf, “I don’t need invitations by the state, state mayors, or state governors, to do our job. We’re going to do that, whether they like us there or not.” According to attorney and chronicler of the police state John Whitehead, “Just about every nefarious deed, tactic or thuggish policy advanced by the government today can be traced back to the DHS, its police state mindset, and the billions of dollars it distributes to local police agencies in the form of grants to transform them into extensions of the military.”

Constitutional scholar and senior judicial analyst at Fox News Judge Andrew Napolitano well explained the constitutional crisis in Portland:

The only constitutional role for armed federal forces in Portland, Oregon, was to assist U.S. marshals in protecting federal property and personnel there.

Under the U.S. Constitution, the feds have no lawful role in policing streets unless requested to do so by the governor or legislature of any state.

The feds' activities are unconstitutional because they are using government force to arrest people without probable cause or arrest warrants. We know there is no legal basis for these "arrests," as they have not charged anyone.

The First Amendment to the Constitution requires the government to protect speech, not assault those who exercise it. If these indiscriminate beatings and kidnappings are intended to deter folks from publicly dissenting, it is profoundly unconstitutional, counterproductive and will be costly to the federal government.

Under the Constitution, the ability to regulate for health and safety belongs to the states and local governments. The feds simply do not have the lawful authority to fill

in gaps in local law enforcement, no matter how offended they may be.

This last point is why Sen. Rand Paul (R-Ken.) commented about the situation in Portland, "We cannot give up liberty for security. Local law enforcement can and should be handling these situations in our cities but there is no place for federal troops or unidentified federal agents rounding people up at will."

### Past constitutional crises

There have been other constitutional crises since the adoption of the Constitution in 1789.

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**"We cannot give up liberty for security."**

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The Constitution wasn't even ten years old when the first constitutional crisis took place. In 1798, in the name of "national security," the Federalist majority in Congress passed, and President John Adams signed into law, four pieces of legislation known collectively known as the Alien and Sedition Acts. The Naturalization Act, the Alien Friends Act, and the Alien Enemies Act targeted noncitizens (who were perceived to be political opponents of the Federalists) by extending the

residency period for aliens seeking citizenship, allowed the president during peacetime to imprison or deport aliens considered “dangerous to the peace and safety of the United States,” and authorized the president to imprison or deport any male citizen of a hostile nation above the age of 14 during times of war. The most egregious piece of legislation was the Sedition Act. It authorized fines or imprisonment for persons who, in speech or print, criticized “the government of the United States, or either house of the Congress of the United States, or the President of the United States.” (The office of the vice president, which at the time was held by Adams’s nemesis, Thomas Jefferson, was not mentioned.) Critics of the Sedition Act argued that it blatantly violated the freedom of speech and freedom of the press clauses of the First Amendment. Federal courts prosecuted many Jeffersonian newspaper editors for violating the Sedition Act.

The so-called Civil War was itself a constitutional crisis. According to Thomas J. DiLorenzo, author of *The Problem with Lincoln* (2020), Abraham Lincoln ruled as a de facto dictator. He essentially “resurrected the Sedition Act,” imprisoned judges, suspended the writ of

habeas corpus, authorized government officials to read Americans’ mail, imprisoned “tens of thousands of Northern state citizens” for “criticizing the government,” and “shut down more than three hundred opposition newspapers in the Northern states.”

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**The Sedition Act effectively criminalized speech and expression that criticized the government.**

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The Sedition Act was actually resurrected in 1918 while the United States was fighting World War I. The Espionage Act of 1917 made it a crime for any person to convey information intended to interfere with the U.S. war effort. The Sedition Act amended and broadened the Espionage Act. It effectively criminalized speech and expression that criticized the government. Whoever “shall willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag” could receive a \$10,000 fine and twenty years in jail. Under the Sedition Act, Americans were arrested for

reading aloud the Declaration of Independence or singing German beer-hall songs. Although World War I ended in 1918, the Sedition Act was not repealed until 1921.

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**The PATRIOT Act vastly expanded the federal government's authority to spy on Americans.**

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More recently, there is the USA PATRIOT Act, passed in the aftermath of the September 11 attacks. It vastly expanded the federal government's authority to spy on Americans, while at the same time reducing checks and balances on those powers. It is an assault on both the First and Fifth Amendments. Napolitano terms sections 215 and 505 of the PATRIOT Act as "fatal to freedom," "weapons of mass surveillance," and "instruments of a totalitarian government that defy the Constitution."

**The real constitutional crisis**

There is currently a constitutional crisis in America, and it has existed since long before the Portland protests and the PATRIOT Act. It is a crisis that has been perpetrated by both political parties in the Congress, approved by the president, sanctioned by the Supreme Court, and carried out by the bu-

reaucrats who administer the myriad departments, bureaus, agencies, corporations, endowments, commissions, administrations, authorities, and boards of the federal government.

The existence of Social Security is a constitutional crisis. Not only is Social Security immoral because it takes money from those who work and gives it to those who don't, the Constitution nowhere authorizes the federal government to have a retirement program, a pension plan, a forced savings account, or a disability plan.

The existence of Medicare and Medicaid is a constitutional crisis. Not only should no American be forced to pay for the health care of any other American, nowhere does the Constitution authorize the federal government to subsidize any American's health insurance or health care, pay for anyone's prescription drugs, have health-care programs, or have anything whatever to do with health insurance, health care, or medicine.

The existence of the war on drugs is a constitutional crisis. Not only is the drug war a failure and a colossal waste of the taxpayers' money, nowhere does the Constitution authorize the federal government to regulate, monitor, or restrict

Americans' consumption, medical, or recreational habits; what Americans put in their mouths, noses, veins, or lungs; or Americans' eating, drinking, or smoking habits.

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**Like domestic charity, foreign charity should be entirely voluntary.**

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The existence of federal aid to education is a constitutional crisis. Nowhere does the Constitution authorize the federal government to have a Head Start program, student loans, Pell Grants, teacher-education or certification requirements, school accreditation, math and science initiatives, a Department of Education, an Elementary and Secondary Education Act, a Higher Education Act, special-education mandates, or national standards, or to have anything to do with the education of anyone's children. Education should be a service obtained on the free market just like any other service.

The existence of the welfare state is a constitutional crisis. Nowhere does the Constitution authorize the federal government to have food stamps, refundable tax credits, Section 8 housing vouchers, or entitlement programs. Nowhere does the Constitution authorize the gov-

ernment to fight poverty, maintain a safety net, provide public assistance, or guarantee income security. All charity should be private and voluntary.

The existence of foreign aid is a constitutional crisis. Article I, Section 8, Paragraph 1 of the Constitution says that the Congress shall have power "To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States." It does not say that taxes should be collected to provide for the general welfare of people in other countries. Like domestic charity, foreign charity should be entirely voluntary.

The existence of federal subsidies for art, culture, and the humanities is a constitutional crisis. Government funding for them is basically providing welfare for cultural elitists. It is always immoral for the government to take the resources from some Americans and redistribute them to other Americans. And the Constitution nowhere authorizes the federal government to subsidize them. Although the Constitution does authorize the national government to issue patents and copyrights, it does not follow that that entails giving subsidies to inventors and writers.

The existence of the Transportation Security Administration (TSA) is a constitutional crisis. The TSA provides security for private entities — the airlines. But not only is the security provided not paid for, not asked for, and just security theater, the Constitution nowhere authorizes the federal government to provide security for the airlines or any other private business.

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**The Constitution nowhere  
authorizes the federal  
government to provide security  
for the airlines.**

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The existence of the National Railroad Passenger Corporation (NRPC) is a constitutional crisis. Amtrak, as the NRPC is more commonly known, is a government corporation that has relied on government subsidies every year it has been in operation. But since when does the Constitution authorize the federal government to have a corporation, be a stockholder in a corporation, appoint and confirm a board of directors, or operate a passenger rail service?

The existence of the Equal Employment Opportunity Commission (EEOC) is a constitutional crisis. The existence of the EEOC is predicated on the idea that the fed-

eral government should prevent and punish acts of discrimination in employment that it considers to be unjustified. But not only is discrimination not aggression, force, coercion, or violence — and therefore, as far as the law is concerned, not the concern of government — the Constitution nowhere authorizes the federal government to have an EEOC or oversee any employer's hiring or firing practices.

The existence of the National Organ Transplant Act (NOTA) is a constitutional crisis. It outlaws the selling of one's body organs. Aside from the obvious fact that if you own your own body, then you certainly own the organs in your body, the Constitution nowhere authorizes the federal government to be concerned in the least with what Americans want to do with the organs in their body.

What is so perplexing and frustrating about the massive constitutional crisis that the United States is in is that it could quickly and easily be fixed. All federal programs that are not explicitly authorized by the Constitution should be eliminated. All federal departments, bureaus, agencies, corporations, endowments, commissions, administrations, authorities, and boards that carry out functions not explicitly

authorized by the Constitution should be shuttered. Doing that would reduce the federal government by about 95 percent. And therein lies the problem. Not only do the Congress, the hundreds of government agencies and programs, and the entrenched bureaucracy resist a reduction in the government of any size, most Americans receive some kind of payment, benefit, or subsidy from the federal government.

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**NEXT MONTH:**  
**“Conservative Principles”**  
*by Laurence M. Vance*

*The history of government limitation of price seems to teach one clear lesson: that in attempting to ease the burdens of the people in a time of high prices by artificially setting a limit to them, the people are not relieved but only exchange one set of ills for another which is greater.*

— Mary G. Lacy

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# Francis Lieber's America and the Politics of Today

by Richard M. Ebeling



Presidential election years always seem to mark dramatic and historically important milestones. The political parties nominate their candidates for the highest governmental office in the land. Party platforms are written and offered to the voting public with great fanfare about how, if their candidates to the White House and the Congress are elected, a new dawn will spread over the country; and a new dawn of peace, prosperity, and political harmony and justice will follow for all, if their side wins.

At one level, this year's presidential election has been no different from others. Donald Trump versus Joe Biden. An America made "great again" or a new dispensation

of redistributive "social justice." Each candidate and party has painted the other in the darkest of political colors.

**The political paternalists demonize each other.**

Reelect Donald Trump and America faces the end of democracy with fascist goosestepping down Pennsylvania Avenue in Washington, D.C. Put Joe Biden in the White House, instead, and Stalin's Siberian Gulag system of labor camps will seem like a winter snow resort compared to what will happen to America. We have seen this before. Remember the Democratic Party campaign commercial during the 1964 presidential election that showed a little girl holding a flower who would be vaporized by a nuclear mushroom cloud if Barry Goldwater were to win the election instead of Lyndon Johnson.

Then, when it seemed that Ronald Reagan might possibly make a run for the White House after his time as governor of California in the 1960s, he was satirized as an empty-headed right-wing nut job by the Democrats. In the 1967 movie, *In Like Flint*, the main character, played by James Coburn, discovers that the president of the United States has been kidnapped and an

actor put in his place who is controlled by a group of women who want to take over the world. At one point, Coburn looks toward the camera and says in total and shocked disbelief, "An actor as president?" referring back to Reagan's earlier career in Hollywood.

But it must be said that this presidential election year has been more acrimonious, more filled with dire warnings about the fate of the country than I can remember. The only period in my lifetime that compares in terms of the anger, hatred, fear, and violence in the streets surrounding a presidential election and the events leading up to it was the middle and late 1960s as a result of the Civil Rights Movement and opposition to the Vietnam War.

This year has been portrayed by both of the two major political parties as a life-and-death struggle over the future of the country. The question is, why? Is the country at a turning point? What makes it more so, than in the past, if it is?

### **A time when politics did not threaten liberty**

Sometimes it is worth recalling that, while American politics and elections have always been filled with forms of such conflict-laden rhetoric, the outcomes often never

seemed to threaten the liberty of the people or the institutions of the country. To have an appreciation of this, we may turn to Francis Lieber (1798–1872), a German-born scholar who came to the United States in 1827 and who in 1856 became at Columbia University the first professor of political science in the United States

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**Losing and living under the policies of the winning candidates of the opposing party is not permanent.**

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His 1835 book, *A Stranger in America*, is written in the form of letters to a friend in Germany about his impressions of the United States after residing in the country for eight years. He points out that in America the outcomes from political elections never seem as threatening in their consequences as political changes often appear in some European countries, particularly in France, he said.

First, the frequency of elections in the United States on a regularized basis meant that any outcome is institutionally temporary, in that the party and candidates who have lost know that they can try to turn the tables and come back into office within a few years. Hence, losing

and living under the policies of the winning candidates of the opposing party is not permanent. “The very frequency of elections neutralizes the injurious effect, which, otherwise, the disappointment they necessarily must bring to one party, would have on many individuals. Today a man is thrown out, a party vanquished, — tomorrow he goes to work again, and hopes for success the next time,” said Lieber.

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**“The successful party does not annihilate its opponents.”**

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But more important, it was understood and known, explained Lieber, that no matter what the results of an election and the change in the direction of certain domestic policies as a consequence, it was taken for granted that every citizen knew that his fundamental rights to his life, liberty, and private property were basically secure from any radical and transformative changes as the result of any election. In other words, there were certain principles concerning liberty and the role of government in society that almost all citizens shared and that ensured that no change in political parties in office would undermine. Or, as Francis Lieber expressed it,

However great the excitement may appear, on paper or in words [during an election], the people know very well that their lives and property are not in jeopardy; that whatever party may come in or go out, the broad principles of the whole system will be acted upon, the general laws will be observed. Should it ever come with us to that point, that the monstrous idea should prevail, that liberty exists there only where the majority can do what they please — while, on the contrary, the degree of existing liberty can justly be measured only by the degree of undoubted protection which the minority enjoys, and the degree in which the sovereign, be he one or many, or represented by a majority, is restricted, by fundamental laws, from acting on sudden impulses and impassioned caprices, to which a body of men is as subject as a single man — should it ever come with us to this absolutism, for absolutism is there where the representative of sovereignty can act capriciously and uncontrolled; then, indeed, our insane hospitals would become as much the

direful records of man's fickleness as ... the French hospitals now are [as a result of politics].

### When the private sector was more important than government

What also reduced concerns and anxiety among the citizenry and among those who may have run for office, but who had lost or been replaced, was that there was a predominantly private sector into which the would-be or former office holder could return to earn a living independent of and free from government control or vindictive actions by the victor in the election. Furthermore, explained Lieber, the institutions of the society and the attitudes of the general public of a belief in free and open and unmoled political and public dissent and disagreement meant that those who lost could once again make their case to the electorate with the hope of returning to office in the next regularized election, with no fear of oppression. Again, in Lieber's words,

There is in this country [America] no dishonour whatever connected either with being turned out of office or being vanquished at an election. It is no shame to be defeated.

One party must be victorious, and the other tries to be so the next time. An American, as the member of a party, may be defeated, he is not conquered. Persecutions do not take place; the successful party does not annihilate its opponents — each party continues to have its meetings, papers, etc. And, as in those periods in which many persons are discharged from public places, it is most openly acknowledged that politics alone is the reason, all blemish which may be attached to the loss of office in public service, in countries where no such changes occur, must vanish; while, again, the country offers so many opportunities of gaining one's livelihood, that, also, in this respect, a loss of office is not so ruinous as in France, where a man often thinks his honour is gone, and his career for ever destroyed, as soon as he is thrown out of public employment. The frequency of changes, likewise, prevents the higher offices from becoming the objects of so ardent an ambition as to affect seriously the mental faculties of the disappointed candidates.

### The fight for liberty limited the powers of government.

The bedrock that made all this secure, safe, and certain was a widely shared desire and determination that each and every person should be recognized and protected in his individual right to life, liberty, and honestly acquired property. In his later and widely read work, *On Civil Liberty and Self-Government* (1853; revised ed., 1874), Lieber had emphasized that the unique contribution of Great Britain and the United States to the principle and practice of human liberty was the recognition that the core of a free society is the protection of the individual in his rights from encroachments and abridgments by government.

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**The core of a free society is the protection of the individual in his rights from the encroachments and abridgments by government.**

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“To protect the individual against interference with his personal liberty by the power-holder is one of the elementary requisites of all freedom, and one of the most difficult problems to be solved in practical politics,” as demonstrated, Lieber said, in the long battle in Great Britain to win the needed

safeguards against unwarranted arrest, or search and seizure of papers and property, as well as the writ of habeas corpus.

But especially in America, Lieber went on, there had been the insistence on the “liberty of conscience,” that unabridged liberty of belief, without which “no system of liberty can be considered comprehensive.... It belongs to American liberty to separate entirely the institution which has for its object the support and diffusion of religion from the political government.”

### Private property as the bedrock of a free society

But behind all such principles and practices of a society of liberty was the respect for and the secured protection of private property. The power of government to tax, regulate, and confiscate private property had to be restrained and restricted as legally as was possible under all circumstances. Once more quoting Lieber,

One of the staunchest principles of civil liberty is the firmest possible protection of individual property — acquired or acquiring, produced and accumulated, or producing and accumulating. We include,

therefore, unrestrained action in producing and exchanging, the prohibition of all unfair monopolies, commercial freedom, and the guarantee that no property shall be taken except in the course of [legal and constitutional due process of] law... The true protection of individual property demands likewise the exclusion of confiscation.

... Every single subject here mentioned, monopolies [granted by government], freedom of trading, freedom of home production, freedom of exchange, possession of property, taxation and confiscation — each one has a long history, full of struggle against error and government interference running through many centuries and even a thousand years.

Finally, while Lieber highlighted the origin and history and meaning of such personal, civil, and economic liberties in terms of the British and American experiences, he emphasized that those were principles and ideals of freedom that were to be considered universal and true for all human beings everywhere and at all times.

### A love of liberty must guide opposition to the state.

Lieber, who had taught political economy at the University of South Carolina, from 1835 to 1856, before moving to Columbia University in New York, was well aware that the promise of equal rights and an equality before the law had not been practiced in the South, having witnessed the reality and cruelty of slavery; and that such equality was not fully practiced after the Civil War, either, for those who had been freed from slavery.

But, nonetheless, he considered individual liberty and equality before the law to be the principles that guided and directed America more into that right direction over time. As Lieber movingly said,

It is the liberty we prize and love for a hundred reasons, and which we would love if there were no other reason than that it is liberty. We know it is the political state most befitting to conscious man.... We are proud of our self-government and our love of the law as our master, and we cling the faster to all these ancient and modern guarantees, the more we observe that, wherever the task which men

have proposed to themselves is the suppression of liberty, these guarantees are sure to be the first objects of determined and persevering attack.... [So] may we learn what those who love liberty ought to prize, by observing what those who hate freedom suppress or war against.

### America's new totalitarians hate the idea of liberty.

And that brings us back to our own times and to the political contest of 2020. Notice how desperate so many people are in America about the outcome of the presidential and congressional elections. The progressive Left seethe with anger, resentment, and contempt about everything that America represents. They loathe the ideas and the institutions of individual liberty, limited government and free markets. All they see, when they hear those words, is “racism,” “sexism,” “oppression of people of color,” “white privilege,” and “social injustice.”

That is because they have digested the entire baggage of socialist and Marxist ideology and indignation against what they understand to be capitalism. They, in fact, reject everything that America repre-

sents. The pulling down of statues, the defacing of buildings, the insistence that monuments be either renamed or demolished, are all the symbolic manifestations of their determination to wipe away the very history and the idea of America, other than as an example of evil.

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### The progressive Left have digested the entire baggage of socialist and Marxist ideology.

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In its place they would make a new world, but a new world that is, in fact, the old world of political paternalism, economic planning, and social tyranny of every corner of life. They are the latest generation of the totalitarians in our midst. Cancel culture is the erasing of all unwanted history, while systemic racism theory is the demand for the identity politics that is a return to the crudest of tribal collectivism, a defining of each and every individual on the basis of his racial characteristics for purposes of human association, including the political bestowing of group rewards and punishments — as determined and dictated by our new totalitarian tribalists, once they are fully in power.

Nothing opposes them within the mainstream of Democratic Par-

ty politics, the reason being that after decades of collectivist indoctrination, moderates within the Democratic Party all agree with the premises of the more radical members of the progressive movement. Hence, they cannot challenge their more totalitarian cousins without questioning their own fundamental ideas about the meaning of a more socially just and politically correct society.

Moreover, to do so in any meaningful way runs the risk that the more radical ones will humiliate and embarrass and threaten to purge them from good standing on the Left by insisting that “you are either for us or against us,” and if you do not accept the totalitarian agenda, then you are shown “really” to be an apologist for and an accomplice to the racist right-wing capitalist system of oppression, exploitation, and injustice.

### **America's conservatives are no less paternalists against liberty.**

On the other side, the Republicans have also abandoned those earlier ideas of individual liberty and limited government. The conservative insiders decided long ago that you cannot win by running against the interventionist-welfare state. People are just too wedded to

their Social Security payments, some form of government-funded and subsidized medical care, handouts to farmers, regulations, protections limiting domestic and foreign competition for the benefit of selected industries and occupations, and a paternalist program of preventing consenting adults from doing unvirtuous things.

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### **Trump epitomizes the worst elements of this “conservative” and Republican drift.**

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Donald Trump epitomizes the worst elements of this conservative and Republican drift. There is nothing he has advocated or opposed that other Republicans have not also been calling for, for a long time. Trump's problem is that he says it all more openly, more bluntly, more crudely, and does not care if others think he is not playing nice.

Trump's “make America great again” nationalism, his economic protectionism, his search for social-welfare “fixes” that leave government involvement in place, and his schizophrenia on not being but continuing to play policeman of the world, are all aspects of the conservative rhetoric and policy agenda. If only Trump would say it, well, more tactfully and less irritatingly with-

out a tweet, think many conservatives.

Each side in this political contest sees a victory by the other side in apocalyptic terms. For the Democrats and progressives, four more years of Trump's boorish broadsides and arrogant manner means more racism, sexism, and growing anti-democratic fascism. If Biden wins, the floodgates to totalitarian tribalism are opened wide.

**The real battle is over liberty, not contests between paternalists.**

When this is being written, the November 2020 presidential election day is still a way off. The reader will possibly know the outcome when he reads this piece. But the outcome in the context of this article is less important than the realization that the America that Trump and Biden have been fighting over for political control is not the same America about which Francis Lieber was writing in the nineteenth century.

In our time, whoever wins will, no doubt, attempt to use, abuse and possibly transform the political institutional setting on which any freedom still remaining in America is dependent. Think back. How many times have you heard the words "liberty" or "limited govern-

ment" cross the lips of Donald Trump? He has his own unlearned conception of unitary executive power and authority. Recall that during the spring of 2020, he said he had the power, on his own, to order the shutdown of the American economy in the face of the coronavirus and, just as arbitrarily, to open it up on his command. While the Left is on a mission from a sanitized Marx (after all, Marx was a racist and an exploiter of women) to bring the American experiment in freedom and free government to an end.

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**The America that Trump and Biden have been fighting over is not the same America about which Francis Lieber was writing.**

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Francis Lieber suggested that radical political transformations and uncertainties can unhinge the mental states of those in or dependent on government. This is the America we live in today. It is the result of abandoning the ideals of liberty that Lieber could praise in the nineteenth century as something real and which he hoped would be made better and more consistent.

Out of our current political wreckage, those who care about

and value liberty will have to work to rebuild the ideas and spirit of freedom that once were America's, so it may once again be that land of promise and opportunity that attracted men such as Francis Lieber, a lover of liberty.

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*Hillsdale College and president of The Foundation for Economic Education, and served as vice president of academic affairs for FFE.*

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**NEXT MONTH:**  
**“Collectivism Breeds  
Indifference to the Loss  
of Liberty”**  
*by Richard M. Ebeling*

*As the British Constitution is the most subtle organism which has proceeded from the womb and long gestation of progressive history, so the American Constitution is, so far as I can see, the most wonderful work ever struck off at a given time by the brain and purpose of man.*

— W.E. Gladstone

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*A number of characters, of the greatest eminence in this country, object to this government for its consolidating tendency. This is not imaginary. It is a formidable reality. If consolidation proves to be as mischievous to this country as it has been to other countries, what will the poor inhabitants of this country do? This government will operate like an ambuscade. It will destroy the state governments, and swallow the liberties of the people, without giving previous notice. If gentlemen are willing to run the hazard, let them run it; but I shall exculpate myself by my opposition and monitory warnings within these walls.*

— Patrick Henry

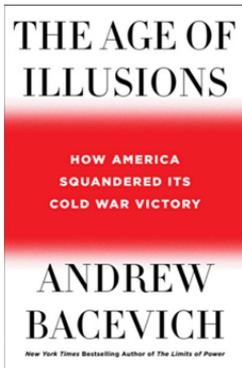
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# Will People Now Ask the Fundamental Question?

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by Michael Swanson

*The Age of Illusions: How America Squandered Its Cold War Victory* by Andrew Bacevich (New York: Metropolitan Books, 2020), 236 pages.



Andrew Bacevich's new book, *The Age of Illusions: How America Squandered Its Cold War Victory*, examines the period of time between the fall of the Berlin Wall in 1989 and the election of Donald Trump in 2016. Before the Berlin Wall fell, America was engaged in a Cold War with the Soviet Union and communism that began in the months following World War II. This Cold War enabled elites to create a consensus in

the United States that purported to serve as a glue that held society together. "Except on the fringes of American politics, most citizens accepted the word from Washington that their way of life was under grave threat," writes Bacevich.

Yes, there were crises and disagreements during the Cold War, but even then most disagreements were framed around the Cold War consensus. For instance, during the Civil Rights Movement of the 1950s and 1960s, Martin Luther King Jr. often portrayed his cause as being consistent with American values inside the Cold War struggle. Both liberal political thinkers such as Arthur Schlesinger of the Americans for Democratic Action and conservative figures such as Richard Nixon positioned themselves as leaders of a "vital center" in American politics. Starting in the 1950s, intellectuals such as Daniel Bell wrote of an overwhelming consensus in American society that would simply last forever.

According to Bacevich, only one event threatened this consensus — the Vietnam War. He notes that from 1965 to 1972, a big divide appeared between those who supported the war and those who did not. However, in hindsight he argues that "the real split — the last-

ing one — occurred between boomers who saw Vietnam as an event requiring them to take a forthright stand, whether for or against, and those who saw the war as no more than an annoyance, not worth attending to except as a potential impediment to the pursuit of their own ambitions.” One could argue that this trend of disengagement accelerated after the Cold War ended.

### The turning point

Bacevich starts his book with a question from John Updike: “Without the Cold War, what’s the point of being an American?” Once the Cold War ended in 1989, there was no massive “peace dividend.” The military-industrial complex continued on and, within a few years, America began its first war in Iraq. Then 9/11 came in 2001 and the financial markets and economy turned downward in 2008. In hindsight though, 9/11 was not the massive turning point that we were told it was at the time.

Instead, as Bacevich notes, elites created a new consensus to replace the glue of the Cold War once it ended. He argues this new Washington, D.C., “emerald city consensus” consisted of four pillars: globalization, global leadership,

freedom, and presidential supremacy. However, much of that was based on delusional premises. “Binding this consensus together,” he writes, “and lending it some appearance of plausibility was technopoly — a worship of technology, the deification of technique, and the conviction that problems in any sphere of human existence will ultimately yield to a technological solution.” The consensus also assumed “material abundance on an unheralded scale” to fund this technology, do away with social inequality, and pay for the costs of the military and what would grow into endless wars.

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### Elites created a new consensus to replace the glue of the Cold War once it ended.

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By “globalization” Bacevich does not mean simply free trade or free markets. Globalization became a dominant meme by 1999 as the stock market turned into a bubble led by technology stocks. In that decade, people such as Thomas Friedman and Francis Fukuyama arose as thought leaders. Friedman linked globalization to technology causing “the compression of the world.” But in his view, it was brought by America’s Cold War victory, because “we Americans are

the apostles of the Fast World, the prophets of the free market and the high priests of high tech.”

In my view, much of this discourse simply amounted to a cheerleading of the 1990s stock-market boom. Rising Internet stock prices made Friedman’s words seem credible, but when the stock market went bust the Federal Reserve lowered rates to near zero to bring another boom, this time linked to real-estate prices that in turn came crashing down in 2008. Then the Federal Reserve had to lower interest rates to zero and create a quantitative bond-buying program to bail out Wall Street banks and create yet another boom in stocks. These stock market booms helped unite the material investments of middle- and upper-class Americans to the new consensus — one that simply replaced the Cold War, but kept all of the instruments of the Cold War intact, including those of empire.

With the Cold War over and the United States as seeming to be the only superpower, talk of the country as an “indispensable nation” became commonplace in the U.S. media. Writing in *Foreign Affairs* in 1992, Gen. Colin Powell, acting as the chairman of the Joint Chiefs of Staff, said, “No other nation on earth has the power we possess.

More important, no other nation on earth has the trusted power that we possess. We are obligated to lead.”

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Talk of the country as an “indispensable nation” became commonplace in the U.S. media.

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In policy circles, talk of “shaping the world” became a common theme. As Bacevich writes, “Risks appeared manageable. In such circumstances, self-restraint seemed tantamount to timidity. So in national-security circles, the collective mindset began tilting toward activism. With minimal ceremony, the principal *raison d’être* of the American military establishment was thereby inverted.” Instead of simply national defense, the Pentagon became charged with changing the world, and technology promised it could be done with as little blood as possible. Starting with the first Iraq War, Americans saw a huge war fought with minimal American casualties. At briefings, officials were shown video clips of bombing strikes that seemed to cause damage only to surgically targeted enemies. It seemed to be a new type of wonderful warfare.

A new meme appeared inside the national-security state calling

itself the Revolution in Military Affairs or RMA. “The RMA stands in relation to war as globalization stood in relation to political economy: it purported to describe the culmination of a long evolutionary march to perfection,” writes Bacevich. So-called smart weapons promised to transform warfare so that it could be controlled and waged more effectively than ever before with American technology. It was all part of “the technology-hyped mood that characterized the post-Cold War era as a whole. By common consent, the defining characteristics of this new Information Age were speed, control, and choice,” he explains.

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**NSA spying did not conflict with the new meaning of freedom that was part of the new consensus.**

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Of course NSA spying and mass surveillance grew out of that. And yet all of the promises of easy victory fell apart in the second Iraq War and in Afghanistan. In the end, Bacevich concludes that that was all “to the art of war what credit default swaps became to the business of banking: the means to perpetuate a breathtakingly impudent fraud.”

NSA spying, though, did not conflict with the new meaning of

freedom that was part of the new consensus. Instead of freedom’s being thought of as liberty from government authority or domination by corporations or other organized groups, freedom simply meant the elimination of all cultural restraints in society against individual choices. “Leading lights of the American intelligentsia had determined that preserving abortion rights, redefining marriage, ending anti-gay discrimination, dismantling the patriarchy, and promoting multiculturalism now held the keys to creating a ‘more perfect Union,’” writes Bacevich. In sum it was the culture war.

### Holding the consensus together

And the final pillar of presidential supremacy holding the consensus together was turning the figure of the American president into a 24/7 media star that sucked all of the oxygen out of the political culture. The wars on terror of the Bush administration had as their precursor Bill Clinton’s now-forgotten constant bombing campaigns in Yugoslavia and Iraq. Americans got so used to constant bombing during his term in office that they learned not to be afraid or even to notice war anymore. That made it easy for them to accept and even for

some to crave more military action after the 9/11 attacks.

During the Bush administration that followed, Vice President Dick Cheney, Donald Rumsfeld, and legal advisors such as David Addington promoted the theory of the “unitary executive,” while the current attorney general, William Barr, is now its leading architect. As for Obama, in Bacevich’s view he mostly brought more of the same — helping to keep the consensus of endless wars going and keeping things intact after the 2008 financial crash.

Problems with the pillars of that consensus, though, began to crack. The promises of technology, war, and globalization turned into hubris. Donald Trump was able to win the Republican nomination as a result, portraying himself as one of the most important figures in American history, while those past leaders of the consensus, such as Thomas Friedman, who despised him, agreed and wrote against him nonstop. However, as Bacevich writes, “History is likely to judge Trump as somewhat less disruptive than he now appears (and wishes to appear) and as more of a transitory figure who simultaneously embodied and laid bare the accumulating contradictions of American life.”

There is a lot to Bacevich’s book. I have touched on only some of his insights, but one important point he makes is that the period after the Cold War through the presidency of Donald Trump has been one of continuity, thanks to the four elements of the “emerald city consensus” that all of the presidents shared.

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**In Bacevich’s view Obama mostly brought more of the same — helping to keep the consensus of endless wars going.**

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In that light, the terrorist attacks of 2001 were not a moment of transformation. But now as we enter the final months of the first term of Trump’s presidency, we are beginning a true moment of change that is likely to last for several years. The United States is going through a triple crisis involving a global pandemic, economic slowdown with unemployment rates not seen since the Great Depression of the 1930s, and a financial crisis all intertwined together starting in March 2020. This crisis will knock apart two pillars of the consensus that replaced the Cold War consensus.

The first consensus being knocked down is the one of financial globalization. I am not speaking simply of the economic shut-

down of economies around the world and the halt of trade and movement of people by various governments in response to the pandemic, but the start of a disruptive instability in the financial markets about which investors such as Ray Dalio have been warning us for the past few years. In short, a government funding crisis. The Federal Reserve is now engaging in unlimited quantitative-easing bond-buying operations that represent what is essentially the start of the monetization of the U.S. debt. The government deficit is poised to grow to more than 10 percent of GDP, a level not seen since World War II, while unemployment levels higher than 7.9 percent add social stress to society.

While 2008 and 2000 brought with them bear markets in the stock market, almost certainly we will see inflation begin in the next few years that will cause almost everyone's living standards to decline. The middle and upper classes that have benefited from the financial markets during the time of the "age of illusions" now will be its victims. As long as they have benefited from the markets, they were content to focus on themselves and accept all of the premises of the other pillars.

A collapse in faith in the Federal Reserve and the financial markets could lead to the collapse of the second consensus pillar of "freedom" as defined by the "emerald city consensus" — meaning that the culture wars of the past few decades would come to be seen as meaningless and superfluous. The "me only" focus would out of necessity go away.

That would end up being a good thing, because a return to fundamentals can bring a more meaningful idea of what "freedom" actually means so that we can hope for a better consensus and return to liberty thinking before the end of this decade. But for that to happen the pillars of "global leadership" and "presidential supremacy" will also have to be knocked down. Then the time could come when people finally ask themselves the fundamental question: What is freedom?

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*The basis of our constitution is in opposition to the principle of equal political rights [if it refuses] to all but freeholders any participation in the natural right of self-government.... And even among our citizens who participate in the representative privilege, the equality of political rights is entirely prostrated by our constitution ... [if it gives] to every citizen of [one county] as much weight in the government as to twenty-two equal citizens in [another].... If these fundamental principles are of no importance in actual government, then no principles are important, and it is as well to rely on the dispositions of an administration, good or evil, as on the provisions of a constitution.*

— Thomas Jefferson

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