
FUTURE OF FREEDOM

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*Dream manfully and nobly, and thy dreams shall
be prophets.*

— E.G. Bulwer-Lytton

FUTURE OF FREEDOM

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A Great Opportunity to Restore the Republic

by *Jacob G. Hornberger*



With the debacle in Afghanistan, the American people have been presented with one of the greatest opportunities in our lifetime — an opportunity to dismantle the national-security establishment and restore our founding system of a limited-government republic. Opportunities like this do not often present themselves. Now is time to seize the day, before the national-security establishment is able to provoke a new crisis that could serve as a justification to keep it.

Most Americans living today, I think it's fair to say, honestly think that the United States has the same type of governmental system it has always had. The reality is different. Our nation's founding system was a limited-government republic, which

is a type of system that is totally different from a national-security state.

What is a national-security state? By looking at some examples, we can get a good idea. North Korea is a national-security state. So is China. Cuba. Russia. Vietnam. Egypt. Pakistan. The United States. And many more.

A national-security state is characterized by an enormous and permanent military-intelligence establishment, one that wields omnipotent powers that are ostensibly intended to keep the citizenry safe and secure. Customarily, the intelligence apparatus is simply part of the overall military establishment.

In the United States, the national-security establishment consists primarily of the Pentagon, the vast military establishment, the Central Intelligence Agency, the National Security Administration, various national-security agencies, and, to a certain extent, the Federal Bureau of Investigation.

The powers of the national-security branch of the federal government are widespread. The military and the CIA, for example, wield the power of assassination, the same power wielded by officials in North Korea, Cuba, China, and other national-security states. The federal

courts have made it clear that when it comes to assassination, the decision of national-security officials is final. The federal courts will never second-guess their decision, at least not when the assassination is based on protecting “national security.” The Supreme Court calls this the “political question doctrine,” which holds that the federal judiciary lacks the competence to review whether a state-sponsored assassination is warranted or not.

The federal courts have made it clear that when it comes to assassination, the decision of national-security officials is final.

A national-security state also wields vast powers of secret surveillance. That’s what the NSA is all about, as well as the CIA. While the CIA is supposed to limit its operation to other countries, the fact is that it does embroil itself in domestic affairs when it deems it in the interests of “national security.”

Both the military and the CIA wield the power of instigating coups, imposing sanctions, and initiating other regime-change operations, including assassination, in foreign countries. Within the 20-year period after becoming a national-security state after World

War II, U.S. officials initiated regime-change operations in Syria, Iran, Guatemala, Cuba, Congo, Indonesia, and Chile.

Omnipotent power

If one were to do a survey asking Americans how many branches there are in the federal government, my hunch is that most people would answer three — the executive (the president), the legislative (the Congress), and the judiciary (the Supreme Court). The common assumption is that the military-intelligence establishment is part and parcel of the executive branch.

A book that every American should read and ponder is *National Security and Double Government* by Michael J. Glennon. The author is not some crackpot writer, and the book is not just some screed. Glennon is professor of international law at The Fletcher School of Law and Diplomacy at Tufts University and served as counsel to the U.S. Senate Foreign Relations Committee. Glennon’s book, while scholarly in nature, is easily readable by educated laymen.

The thesis that Glennon sets forth would undoubtedly shock most Americans. He argues that the national-security part of the government — that is, the military, the

CIA, and the NSA — is actually running the government, with the other three parts deferring to its power.

Glennon argues that the national-security part of the government is actually running the government.

But here is the interesting twist that Glennon sets forth: The national-security establishment permits the other three parts of the federal government to maintain the appearance of being in charge, with the national-security part ostensibly just a subservient part of the executive branch. The idea is that the national-security part doesn't care about appearances. It only cares about power. So long as it's running the show and the other three parts are deferring to it, that's all that matters, even if people have the false impression that it's the other three parts that are actually in charge.

There is a very simple reason for this phenomenon: power. Within the federal governmental structure, the national-security branch is the most powerful. That's because it has a vast army of soldiers and an enormous array of weaponry at its disposal, not to mention the fact that it wields omnipotent powers, includ-

ing the powers of secret surveillance and assassination. The other three branches are fully aware of that phenomenon and defer to it, even while maintaining the appearance of their control over the national-security branch.

Deference to power

Let's consider some examples.

Nations that are national-security states are usually characterized by what is called a "state-secrets doctrine." It permits the government to keep certain matters secret from the citizenry if they relate to "national security."

Ordinarily, however, in a democratic national-security state, the legislative branch of the government, after discussion and debate, enacts the law that brings the state-secrets doctrine into effect, after which the president signs it into law.

As a national-security state, the U.S. government has a state-secrets doctrine too, but it did not come into existence through an act of Congress. Instead, the U.S. Supreme Court, bowing to the demand of the military in a civil lawsuit, brought America's state-secrets doctrine into existence. The case involved a lawsuit against the Air Force, and the government told the court that if the plaintiff's case were to be per-

mitted to proceed, the exposure of state secrets would jeopardize national security. The court passively accepted the military's representations and held that the suit could not proceed. Many years later, it was discovered that the military had defrauded the court. The secret that was being protected had nothing to do with national security and everything to do with protecting the Air Force from liability. Needless to say, the court nonetheless has left the state-secrets doctrine intact, notwithstanding that it was admittedly procured through fraud.

**The state-secrets
doctrine was admittedly
procured through fraud.**

Consider the Pentagon's and CIA's torture and prison center at Guantanamo Bay, Cuba. The aim of the national-security establishment was to make the center a Constitution-free zone, one in which the Pentagon and the CIA would not have any interference from the federal judiciary. While the Supreme Court held otherwise, establishing that it did have jurisdiction over the center, the court's ruling simply reflected Glennon's point about letting the judiciary maintain the veneer of power. After all, there are

people who have been incarcerated at Gitmo for more than 20 years without trial, a direct violation of the speedy trial provision of the U.S. Constitution. The Supreme Court and the rest of the federal judiciary have done nothing to stop that, once again reflecting the fact that the Pentagon, the CIA, and the NSA are sovereign and supreme within the federal governmental structure.

A national-security state

It's worth reflecting on how the U.S. government became a national-security state, especially if we are to have a chance of ridding our nation of it.

When the delegates met at the Constitutional Convention in Philadelphia, it was with the aim of simply modifying the Articles of Confederation, which was a third type of governmental system. The Articles brought the states together in a confederation of sovereign and independent states. Under the Articles, there was a federal government, but its powers were extremely weak. In fact, the federal government did even have the power to tax.

That's the way the American people wanted it. The last thing they wanted was a government with a large amount of power over their

lives, liberty, and fortunes. Based both on personal experience and on their study of history, they believed the greatest threat to their freedom and well-being lay not with some foreign threat but rather with their very own government. By vesting the federal government with very few powers, people could ensure that the federal government would not be able to do very many bad things to them.

After about 10 years, however, problems arose with the Articles. Thus, delegates from the states met at the Constitutional Convention to come up with revisions to the Articles that, it was hoped, would fix the problems. Instead, the delegates came up with a different type of governmental system, a limited-government republic.

If the delegates to the Constitutional Convention had proposed a national-security state type of governmental system, the American people would have just laughed. They would have thought it was a joke. When they finally would have realized that it was a serious proposal, they would have rejected it immediately and simply continued operating under the Articles.

The last thing our American ancestors wanted was a governmental structure in which governmental

officials wielded omnipotent powers. As it was, they were even leery of the limited-government republic that the Constitution was proposing. Under this governmental system, the federal government wielded much more power than it did under the Articles. For example, under this system, the federal government had the power to tax.

The federal government wielded much more power than it did under the Articles.

Proponents of the new system assured people that they needn't be concerned. This was not going to be a government of general powers, they said. That is, it would not have the power to do whatever it wanted in the interests of the nation. Instead, its powers would be set forth expressly in the Constitution itself. If a power wasn't enumerated, then it simply could not be exercised.

For example, people were concerned about the possibility that the government would attempt to seize their weapons. They knew that governments do that so that the citizenry will lack the ability to resist the tyrannical acts of the government. If government forces are the only ones who can have weapons, it's much easier for government to

have an obedient and compliant citizenry.

The solution to that problem? The Constitution does not delegate the power to seize arms from people. Therefore, that power cannot be exercised.

A limited-government republic

On the basis of this enumerated-powers doctrine, the American people finally decided to go along with the deal, but only on the condition that the document be amended immediately after ratification. That's where the Bill of Rights comes into play, which really should have been called instead the Bill of Prohibitions, given that it doesn't give people rights. Instead, it prohibits the federal government from infringing on rights.

Our American ancestors included in the Bill of Rights an option of a jury trial.

With the Bill of Rights, the American people simply wanted to make it clear that the federal government lacked the power to infringe on their fundamental, God-given, preexisting rights, such as freedom of speech, freedom of religion, right to assemble, and right to keep and bear arms.

People were especially concerned with the possibility that the federal government would begin exercising the power of assassination or execution without trial. Even though the original document provided for no such power, Americans wanted the point to be made clear. That's what the Fifth Amendment is all about. It expressly prohibits the federal government from killing people without "due process of law."

Due process of law was a phrase that extended all the way back to the Magna Carta, when the great barons of England forced King John, at the point of a sword, to acknowledge that his powers over them were limited in nature rather than omnipotent. Over the centuries, due process came to entail formal notice of charges, such as an indictment, and a trial. Since our American ancestors didn't trust judges or tribunals, they included in the Bill of Rights an option of a jury trial for people the federal government was accusing of a crime. To ensure that people could not be incarcerated indefinitely, the Sixth Amendment guaranteed a speedy trial. Other restrictions included no cruel and unusual punishments, right to counsel, and the right to confront adverse witnesses.

Our American ancestors understood from their study of history that large military establishments were the time-honored way that governments had enforced their tyrannies on their own citizens. Thus, early Americans were fiercely opposed to what they called “standing armies.” That’s the reason that throughout the 19th century, there was only a relatively small, basic army, one that could defend people from attacks by native Americans but not powerful enough to threaten the people themselves.

That enemy was the Soviet Union, which ironically had been a partner and ally of the United States during World War II.

That was our nation’s founding governmental system for some 150 years. We all know it wasn’t perfect by any means. Slavery, for example, was part of this system. But there is no doubt that this type of governmental system was one of the reasons for the tremendous liberty and prosperity of the nation, especially in the period from 1870 to 1910.

Watershed transformations

With the adoption of a welfare-state type of economic system in the 1930s, the country underwent a

gigantic change in economic systems, but it paled in comparison to the conversion of the federal government to a national-security state.

After World War II was over, U.S. officials told the American people that, unfortunately, they could not rest. Although the United States had just defeated the Nazi regime, they now faced an enemy, U.S. officials said, that arguably was more dangerous than the Nazis. That enemy was the Soviet Union, which ironically had been a partner and ally of the United States during World War II.

U.S. officials maintained that there was an international communist conspiracy to take over the world, including the United States, that was based in Moscow, Russia — yes, the same Russia that figures prominently today as an “enemy,” “adversary,” “rival,” or “opponent.” Since the Soviet Union was a national-security state, it could exercise omnipotent powers in its purported attempt to conquer the world. In order to defeat the threat of “godless communism,” it would be necessary, U.S. officials maintained, for the United States to be a national-security state as well.

In this way, U.S. officials would wage a “Cold War” against the com-

munist enemy, as well as hot wars like Korea and Vietnam. The idea was that once the Cold War was over, the American people could have their limited-government republic back.

An interesting aspect of the conversion to a national-security state is that it was done without even the semblance of a constitutional amendment, notwithstanding the fact that the conversion clearly nullified parts of the Constitution and the Bill of Rights.

For example, almost from the time the CIA came into existence, it began plotting assassinations. One can find online an early version of an assassination manual that the CIA was using to train its assassins. Of course, this violated the Fifth Amendment's prohibition against the taking of life without due process of law.

The CIA and the Pentagon also acquired the power of torture.

The CIA and the Pentagon also acquired the power of torture, notwithstanding the express prohibition in the Sixth Amendment against cruel and unusual punishments.

The NSA also acquired the power to conduct secret surveil-

lance on the citizens, with the purported aim of protecting them from the communist threat.

There was no longer a small, basic military force. Instead, America became characterized by an enormous and permanent military-intelligence establishment, which President Eisenhower even warned about in his farewell address in 1961. He said that this new form of government structure posed a grave threat to the liberties and democratic processes of the American people.

The end of the Cold War

Everyone assumed that the Cold War would continue forever, which would mean that the conversion to a national-security state would be permanent.

Yet, in June 1963, in a remarkable speech at American University, President Kennedy declared an end to the Cold War and announced that America would move in a direction of peaceful and friendly co-existence with the communist world. Since he was assassinated just five months later, the Cold War continued, along with ever-increasing budgets and power for the national-security establishment.

Suddenly and unexpectedly, however, in 1989, the Cold War

came to an end. The Soviet Union declared it over and dismantled itself. East and West Germany were united. Soviet troops exited Eastern Europe.

The obvious question arose: Now that the Cold War was over, don't Americans get their limited-government republic back? That would have meant, of course, a dismantling or abolition of the Pentagon, the vast military establishment, the CIA, and the NSA. It would have meant the restoration of a relatively small, basic military force.

That was when governmental officials went into the Middle East and began killing, injuring, maiming, and humiliating people.

That was when governmental officials went into the Middle East and began killing, injuring, maiming, and humiliating people. There was the Gulf War intervention against Iraq's Saddam Hussein, who ironically had been a partner and ally of the U.S. government during the 1980s, when Iraq was waging war against Iran. There were the brutal sanctions against the Iraqi people, which contributed to the deaths of hundreds of thousands of Iraqi children. There was the infamous declaration by U.S. ambassa-

dor to the UN Madeleine Albright that the deaths of half a million Iraqi children from the sanctions was "worth it." There was the stationing of U.S. troops near Islamic holy lands, with U.S. officials knowing full well the effect that that would have on Muslim sensitivities. There was also the unconditional support that the U.S. government provided the Israeli government.

Throughout all this, there were people warning U.S. officials that all this deadly and destructive interventionism would produce such a large amount of anger and rage that a major terrorist attack on American soil was inevitable. U.S. officials knowingly disregarded the warnings.

Even after the terrorist attacks on the World Trade Center in 1993, the attack on the USS Cole, and the attacks on the U.S. embassies in Kenya and Tanzania, U.S. officials refused to change course. They simply doubled down with the interventions.

Then came the 9/11 attacks, which were motivated, U.S. officials maintained with straight faces, not by U.S. interventionism but rather by hatred for American freedom and values.

As everyone knows, U.S. officials used the 9/11 attacks as a justi-

fiction for engaging in even more interventionism, that is, through their invasions of Afghanistan and Iraq. Those interventions naturally produced a constant threat of new terrorist attacks.

A new official enemy

Thus, the U.S. national-security state had found a new official enemy — terrorism, which in some ways was even better than godless communism and the Soviet Union. Instead of the Cold War, the Pentagon, the CIA, and the NSA would now be waging a “Global War on Terrorism,” which, needless to say, would guarantee more years of existence as well as soaring budgets and power for the national-security establishment.

Today, with the defeat of U.S. forces in Afghanistan, the American people are in a position similar to that in 1989 when the Cold War ended. Even though the Pentagon and the CIA continue to kill people overseas in their Global War on Terror, it hasn’t been enough to

generate another major terrorist attack on American soil — yet.

But make no mistake about it: If foreign interventionism generates another such attack, the national-security establishment will seize on it to justify ever-increasing power, money, and influence, just as it did with the 9/11 attacks.

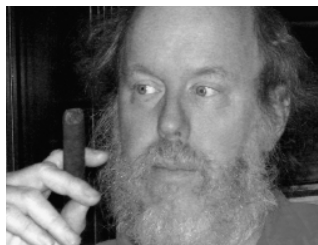
That’s why the American people should seize the day and use this opportunity to restore our nation’s founding governmental system — a limited-government republic — to our land. They should do so now because the window of opportunity might not be there tomorrow.

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

NEXT MONTH:
**“9/11, Afghanistan, and
Iraq, Part 1”**
by Jacob G. Hornberger

My Two-Bit Political Awakening

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by James Bovard



Samuel Johnson may have been wrong when he declared, “There are few ways in which a man can be more innocently employed than in getting money.” But for young kids, collecting coins is a less pernicious pastime than becoming a pyromaniac or Tik-Tok star. My own experience collecting, buying, and selling coins vaccinated me against trusting politicians long before I grew my first scruffy beard.

The thrill of coin collecting

Handling old coins was like shaking hands with the pioneers who built this country. I wondered if the dented 1853 quarter I purchased was ever involved in Huckleberry Finn–type adventures when “two bits” bought a zesty time. My grandfather gave me a battered cop-

per two-cent piece from 1864, the same year that Union General Phil Sheridan burned down the Shenandoah Valley, where I was raised. Some of the coins I collected might now be banned as hate symbols, such as Buffalo nickels with an Indian portrait engraved on the front.

I was enthralled by early American coin designs, especially those featuring idealized female images emblazoned with the word liberty. I was unaware that George Washington refused to allow his own image on the nation’s coins because it would be too “monarchical.” Until 1909, there was an unwritten law that no portrait appear on any American coin in circulation. That changed with the 100th anniversary of the birth of Abraham Lincoln, whom the Republican Party found profitable to canonize on pennies.

By the mid-20th century, American coinage had degenerated into paeans to dead politicians. Portraits of Franklin Roosevelt, John F. Kennedy, and Dwight Eisenhower were slapped onto coins almost as soon as their pulses stopped. This reflected a sea change in values as Americans were encouraged to expect more from their leaders than from their own freedom.

When I first started collecting, I assumed that a coin’s value was

largely determined by its age. That delusion was blown to smithereens at the first coin show I attended. Prices varied based on how many coins were minted each year, the popularity of different designs, and the rising number of Baby Boomers hustling to fill each slot in their blue Whitman coin folders. Coins were akin to used cars: Those with too many miles — too much visible wear and tear — traded at a sharp discount. A pristine 1950 nickel minted in Denver was worth more than a worn 1841 half dime minted in Philadelphia. Similarly, a 1931 Lincoln penny minted in San Francisco was worth more than a 1898 Indian Head penny or a 1857 large cent. Those valuations were simply supply and demand, not a sign of collective depravity.

Coin collecting as history lesson

The history of America's coins also vivified the nation's shifting political values. In the era of this nation's birth, currency was often recognized as a character issue — specifically, the contemptible character of politicians. Shortly before the 1787 Constitutional Convention, George Washington warned that unsecured paper money would “ruin commerce, oppress the honest, and open the door to every species

of fraud and injustice.” The Coinage Act of 1792 established gold and silver as the foundation for the nation's currency and authorized a death penalty for anyone who debased the nation's gold or silver coins.

The Coinage Act of 1792 established gold and silver as the foundation for the nation's currency.

But as time passed, Americans forgot the peril of letting politicians ravage their currency. In 1933, the United States had the largest gold reserves of any nation in the world, but fear of devaluation spurred a panic, which President Franklin Roosevelt invoked to justify confiscating Americans' privately owned gold. Roosevelt denounced anyone who refused to turn in their gold as a “hoarder” who faced 10 years in prison and a \$250,000 fine. Roosevelt's penalty was not as harsh the Soviet Union's death penalty for anyone caught “hoarding” wheat from a collective farm. Roosevelt said he needed “freedom of action” — which he used to slash the value of the dollar from 1/20th of an ounce of gold to 1/35th of an ounce of gold.

I began collecting coins in 1965, the year President Lyndon Johnson

began eliminating the silver in new dimes and quarters. At that point, the value of the dollar was falling due to federal deficit spending. The government printed new money to pay its debts, resulting in inflation. Rather than curtailing spending, Johnson debased the currency. He swore there would be no profit in “hoarding” earlier coins “for the value of their silver content.” (Silver coins subsequently increased in value 15-fold.) Johnson portrayed his debasement as progressivism at its best: “We are going to keep our eyes on the stars and our feet on the ground.” He preferred people to look skyward rather than focus on the skulduggery in Washington.

Coin dealing helped me recognize early in life that a government promise is not worth a plug nickel. From 1878 onwards, the U.S. Mint printed silver certificates redeemable for silver coins from the U.S. government. The 1935 silver certificate I purchased included this declaration: “This certifies that there is on deposit in the Treasury of the United States of America One Dollar in Silver Payable to the Bearer on Demand.” In 1964, the Treasury Department repudiated that pledge, announcing that certificates were henceforth redeemable only for silver bullion, not coins. In 1967,

Congress passed the Act to Authorize Adjustments in the Amount of Outstanding Silver Certificates. Congress “adjusted” silver certificates by nullifying all further redemptions.

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Shortly after my 15th birthday, the U.S. government drove the final wooden stake into the nation’s currency. In August 1971, President Richard Nixon announced that the U.S. government would cease honoring its pledge to pay gold to redeem the dollars held by foreign central banks. Nixon declared he was taking “action necessary to defend the dollar against the speculators.” But there was no way to defend the dollar against politicians. Nixon touted his default as therapy for his tormented fellow citizens, promising it would “help us snap out of the self-doubt, the self-disparagement that saps our energy and erodes our confidence in ourselves.” Nixon wrapped his decree with lofty political rhetoric, appealing to the nation’s “greatest ideals” and promising a “new prosperity” that “befits a great people.” And for

Nixon, mass gullibility was the clearest proof of a “great people.” Nixon’s gold default was a milestone in America’s rising economic and political illiteracy.

The dollar thus became a fiat currency — something which possessed value solely because politicians said so. Nixon spurred the Federal Reserve to create an artificial boom to boost his reelection campaign. To suppress the damage from a flood of new money, he imposed wage and price controls, making it a crime to raise prices without government permission.

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At the time, I was toiling in a peach orchard 10 hours a day, reaping \$1.40 an hour and all the peach fuzz I could take home on my arms and neck. Nixon’s wage controls doomed any chance of getting that raise to \$1.45 an hour. But no loss — I was leaving that job soon to go back to high school.

Coin collecting as an investment

Reading *Coin News* and other numismatic publications, I soaked up the rage at how the U.S. govern-

ment was intentionally torpedoing the value of the dollar. I had not yet read economists like Friedrich Hayek, Milton Friedman, or Adam Smith, but my gut sense told me something was profoundly amiss. I shifted from collecting to investing, pouring most of the money from the jobs I did during high school into rare coins. Because rare coins were appreciating almost across-the-board, it was difficult not to be lucky in one’s choices.

After graduating high school in 1974, I began working a construction job. When I got laid off, I saw it as a sign from God (or at least from the market) to buy gold. Investment newsletters and political debacles convinced me the dollar was heading for a crash. I liquidated most of my coin collection and put all my available cash into gold. I also took out a consumer finance loan at 18 percent to purchase even more. That interest rate was the gauge of my blind confidence. Nixon’s resignation in August 1974 did wonders to redeem my gamble.

I didn’t get rich but made enough to help pay for sporadically attending Virginia Tech, with some money left over to cover living expenses during my first literary strikeouts. Though Nixon assured the nation in 1971 that axing the

gold standard would “stabilize the dollar,” inflation quadrupled between 1972 and 1974. If the government would intentionally destroy the value of the currency, I wondered what else it was undermining.

Presidents and Congress “fixed” prices according to political pull.

My next foray into the gold market came after I moved to Boston to try my luck as a writer. Among the zany ladies I dated there was a woman of mixed Catholic and Jewish parentage who felt guilty about everything except drug dealing. After the relationship with Melanie mellowed into a friendship, she confided that she was afflicted by surplus cash. I invested her marijuana proceeds in Kruggersands (South African gold coins), and we split the profits after the price of gold soared in the late 1970s. If I had provided the same investment assistance after Reagan launched the drug war, the feds could have accused me of money laundering and confiscated everything I owned — even my old reliable Smith-Corona typewriter.

I eventually blundered into journalism and descended to the Washington area. Two weeks after I

moved into a shabby group house in the District of Columbia in 1983, I pawned the last gem of my coin collection — the 1885 five-dollar gold piece that my Irish American grandmother had given me 15 years earlier. She was a dear sweet lady who would have appreciated that her gift helped cover the rent for a few more weeks until I finally, consistently hit solid paydirt later that year. (Thanks, *Reader’s Digest!*)

Coin collecting as an economics lesson

My coin-dealing experiences helped inoculate me against Beltway-style agoraphobia — a pathological dread of any unregulated market. I had a visceral hostility to political price-fixing long before I understood the economic theory. I knew that the test of a fair price is the voluntary consent of each party to the bargain, “the free will which constitutes fair exchanges,” as Senator John Taylor wrote in 1822. Presidents and Congress “fixed” prices according to political pull, not according to some vaporous, ever-changing vision of social justice. Nixon boosted the price of milk after the dairy lobby pledged \$2 million in illegal contributions to his 1972 reelection campaign. Politicians perennially drove U.S. sugar prices to triple the world sugar price

in response to kickbacks from sugar growers. It was nuts to permit politicians to control prices when there was no way to control politicians. Recognizing that economic value was subjective was a Rosetta Stone for my attacks on federal trade and agriculture policies in the following years.

For almost a century, American coinage and currency policies have veered between “government as a damn rascal” and “government as a village idiot.” The dollar has lost 85 percent of its purchasing power since Nixon closed the gold window. I remain mystified how anyone continues trusting politicians after the government formally repudiates its promises. But I still appreciate old coins with beautiful

designs that incarnated the American creed that no one has a right to be enshrined above anyone else.

James Bovard is a policy advisor to The Future of Freedom Foundation and 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.

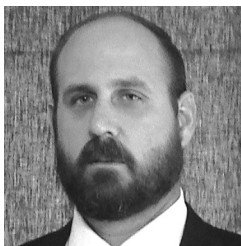
NEXT MONTH:
**“Will Politicians
Revive American Slavery?”**
by James Bovard

One of the happiest times in the history of mankind was the 30 years roughly from 1880 to 1910.

— Alfred N. Whitehead

Equality and Fairness for All but Property Owners

by *Laurence M. Vance*



The grossly misnamed Equality Act is a government attack on the rights of private property, freedom of assembly, freedom of association, free enterprise, and freedom of contract. According to the official summary of bill (H.R.5):

This bill prohibits discrimination based on sex, sexual orientation, and gender identity in areas including public accommodations and facilities, education, federal funding, employment, housing, credit, and the jury system. Specifically, the bill defines and includes sex, sexual orientation, and gender identity among

the prohibited categories of discrimination or segregation.

The bill expands the definition of public accommodations to include places or establishments that provide (1) exhibitions, recreation, exercise, amusement, gatherings, or displays; (2) goods, services, or programs; and (3) transportation services.

The bill allows the Department of Justice to intervene in equal protection actions in federal court on account of sexual orientation or gender identity.

The bill prohibits an individual from being denied access to a shared facility, including a restroom, a locker room, and a dressing room, that is in accordance with the individual's gender identity.

Not surprisingly, the Equality Act is supported by the usual left-wing suspects like the ACLU, the Anti-Defamation League, the Southern Poverty Law Center, the NAACP, the AARP, and the National Organization for Women, the American Federation of Teachers, NARAL, Planned Parenthood, the American Psychological Association, and LG-BTQ rights groups. But it is also sup-

ported by the U.S. Chamber of Commerce and many of America's largest companies, including Apple, Amazon, Facebook, Twitter, Google, Microsoft, eBay, Starbucks, Kellogg's, and Johnson & Johnson. It even has the support of some religious denominations and groups, including the Episcopal Church, the United Methodist Church, the United Church of Christ, and the Interfaith Alliance.

The Republican alternative to the Equality Act, the equally misnamed Fairness Act, is no alternative at all if property rights mean anything.

The Equality Act has been languishing in the U.S. Senate since March 1 of this year. It was introduced in the U.S. House of Representatives on February 18 and passed just a week later by a vote of 224–206. Every Democrat in the House voted in favor of the bill, but only three Republicans did. Although as of this writing, the Senate has not yet acted on it, the bill has a good chance of passing in the second session of the 117th Congress when Democrats see the handwriting on the wall that spells out “Republican landslide” in the 2022 midterm elections. The Republican

alternative to the Equality Act, the equally misnamed Fairness for All Act, is no alternative at all if property rights mean anything.

Background

To understand the Equality Act, we must begin with the Civil Rights Act of 1964. It claimed to be:

An act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States of America to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The Civil Rights Act was divided into 11 titles. Relevant to the subject of discrimination are Titles II, “Injunctive relief against discrimination in places of public accommodation,” and VII, “Equal employment opportunity.”

Title II of the Civil Rights Act addresses state and local government overreach:

All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

This is all well and good. Every citizen should be treated equally under the law by government of any type and at any level. But, unfortunately, the Civil Rights Act did not stop there. It further mandated regarding private businesses:

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

“Public accommodations” was then defined as basically any establishment that served the public: hotels, motels, restaurants, gas stations, cafeterias, soda fountains, theaters, concert halls, arenas, stadiums, or other place of exhibition or entertainment.

Title VII of the Civil Rights Act prohibits discrimination in employment.

(a) It shall be an unlawful employment practice for an employer —

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.

Title VII also established the Equal Employment Opportunity Commission (EEOC) to enforce anti-discrimination laws relating to employment.

The Civil Rights Act has been supplemented over the years by various laws designed to prohibit even more forms of discrimination in employment like age, pregnancy, and disability. The Civil Rights Act of 1968 instituted the Fair Housing Act (FHA) to prohibit discriminatory acts regarding the sale, rental, and financing of housing based on race, color, religion, and national origin. It was later amended to include discrimination based on sex (1974) and disability or familial status (1988).

In 2013, the Employment Non-Discrimination Act, or ENDA (S.815), passed the Senate with the help of 10 Republicans. It differed from all earlier anti-discrimination legislation in that it was designed “to prohibit employment discrimination on the basis of sexual orientation or gender identity.” The bill was never voted on in the House.

After several years of failure to pass the Equality Act in the House when it was controlled by Republicans, Democrats, who regained control of the House in the 2018 election, passed the legislation

(H.R.5) by a vote of 236–173 on May 17, 2019. Only eight Republicans voted in favor of it. A similar bill (S.788) that was earlier introduced in the Republican-controlled Senate was never voted on. Like the current version of the Equality Act, it was designed “to prohibit discrimination on the basis of sex, gender identity, and sexual orientation, and for other purposes” by amending the Civil Rights Act to include sex, sexual orientation, and gender identity among the prohibited categories of discrimination or segregation in places of public accommodation and expand the Civil Rights Act’s categories of public accommodations.

The Civil Rights Act has been supplemented over the years by various laws designed to prohibit even more forms of discrimination.

The purpose of the Equality Act is “to expand as well as clarify, confirm and create greater consistency in the protections and remedies against discrimination on the basis of all covered characteristics and to provide guidance and notice to individuals, organizations, corporations, and agencies regarding their obligations under the law.” This is

because for several years now, federal agencies and courts have been split on the issue of whether “sex” in the Civil Rights Act includes sexual orientation and gender identity. Most recently, the Supreme Court ruled by a vote of 6–3 in the case of *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity* (together with two other like cases) that discrimination in employment on the basis of sex includes sexual orientation and gender identity. The Court concluded: “In Title VII, Congress adopted broad language making it illegal for an employer to rely on an employee’s sex when deciding to fire that employee. We do not hesitate to recognize today a necessary consequence of that legislative choice: An employer who fires an individual merely for being gay or transgender defies the law.” But at most, this decision protects LGBTQ “rights” in employment matters only.

Fairness for All Act

The Republican alternative to the Equality Act is the Fairness for All Act. It was introduced in the 116th Congress (H.R.5331) on December 6, 2019, and referred to various committees, but was never voted on. It was then reintroduced in the 117th Congress (H.R.1440)

on February 26, 2021, referred to various committees, and is currently languishing in the House. Like the Equality Act, it would prohibit “discrimination on the basis of sex, sexual orientation, and gender identity,” but at the same time protect “the free exercise of religion” by providing “certain benefits and exemptions to religious providers.” The bill would likewise expand “the definition of public accommodation to which sex discrimination laws apply.” However, exempted are

- any building or collection of buildings that is used primarily as a denominational headquarters, church administrative office, or church conference center;
- a place of worship, such as a church, synagogue, mosque, chapel, and its appurtenant properties used primarily for religious purposes;
- a religious educational institution and its appurtenant properties used primarily for religious purposes;
- in connection with a religious celebration or exercise: a facility that is supervised by a priest, pastor, rabbi, imam, or minister of any faith, or religious certifying body, and that

is principally engaged in providing food and beverages in compliance with religious dietary requirements; or

- any online operations or activities of an organization exempt under this section.

The legislation also “exempts a church or religious organization from claims of employment discrimination because of sexual orientation or gender identity under specified circumstances.”

The Republican alternative to the Equality Act is the Fairness for All Act.

The Fairness for All Act is supported by the National Association of Evangelicals (NAE), the Council of Christian Colleges and Universities (CCCCU), the Seventh-day Adventist Church, and the Mormon Church. Its sponsor, Rep. Chris Stewart (R-Utah), patterned the legislation after similar legislation enacted in his home state that bans discrimination against LGBTQ individuals — except when it is done by “qualified” religious organizations. Supporters of the Fairness for All Act, like Mormon Church official Jack Gerard, argue that “the time has come for people of faith to

acknowledge reality and seek a resolution that protects both LGBT civil rights and religious liberty.” The Fairness for All Act “is a serious effort to reach a sustainable and balanced resolution while there’s still time.”

Naturally, activist organizations, such as the Human Rights Campaign, oppose the Fairness for All Act because it provides “substandard protections for LGBTQ people” and has “massive loopholes” that upend “critical federal programs.” But they are not alone. Conservative organizations like the Heritage Foundation, the Family Research Council, Concerned Women for America, and Focus on the Family also oppose the legislation. According to the Family Research Council, the Fairness for All Act “is an ill-advised and poorly drafted bill that does not achieve its goal.” Rather, “it further complicates the issue,” “invites litigation,” and “does not adequately protect religious liberty or, for that matter, women’s rights, women’s privacy, women’s safety, children, parental rights, the medical profession, or even the LGBT community.” According to the Heritage Foundation, the Fairness for All Act “would force individuals and institutions to bow to transgender ideology,

threatening privacy, safety, and fairness for women and girls.” In a letter to members of Congress, a group of conservative leaders expressed strong opposition to the Fairness for All Act “because it shares many of the dangerous characteristics of the Equality Act.” Because it elevates “sexual orientation and gender identity (SOGI) to the level of protected classes in the 1964 Civil Rights Act (CRA), this bill would codify a radical gender ideology and empower the federal government to punish citizens who believe sex is rooted in biology and that marriage is between a man and a woman.”

The fatal flaw

The Equality Act and the Fairness for All Act both suffer from the same fatal flaw: the attempt to provide equality and fairness for all but property owners. Supporters and opponents of both Acts all agree on one central idea: The federal government should seek to prohibit discrimination in “public accommodations” based on race, color, religion, sex, disability, age, or national origin. They only differ regarding whether sex should include sexual orientation and gender identity. Both groups believe that the Civil Rights Act in its entirety was

good and necessary legislation. Both groups believe that “public accommodations” law trumps property rights. Both groups believe that government should punish acts of discrimination in the interest of equality and fairness. Both groups consider discrimination to be morally wrong (although in the case of the Fairness for All Act, if discrimination is immoral, then it doesn’t suddenly become moral just because it is based on some religious conviction). Both groups believe that government should decide whether acts of discrimination are reasonable, logical, rational, necessary, justified, or permitted (the government forces most employers to use e-verify to confirm the eligibility of their employees to work in the United States and discriminate against “illegals” or “undocumented”). Both groups believe that government should limit freedom of assembly, freedom of association, free enterprise, and freedom of contract in the name of fighting discrimination.

Government anti-discrimination laws directly violate property rights.

Property ownership is defined primarily by control. Ownership is

the right to the exclusive use of property. Government anti-discrimination laws directly violate property rights by reducing the control a business owner has over the operation of his business. These laws, as other government regulations on businesses, are a form of theft because of how they dilute owners' property rights. They are akin to someone stealing a percentage of the profits of a business.

Why is it that customers can legally discriminate against businesses but businesses cannot legally discriminate against customers?

Refusing to sell a product, provide a service, or rent a dwelling has everything to do with property rights. Since no potential customer has a claim on the property of any business owner, he has no legal recourse if the owner of the property refuses to do business with him. "Public accommodations" are still private businesses. Just because they serve the public by offering to sell them goods or services doesn't mean that they should be regarded the same as government agencies that have to service all members of the public. If a property owner cannot restrict whom he employs,

whom he engages in commerce with, whom he rents or sells to, whom he admits or excludes, and whom he associates or contracts with, then he has no property rights.

Why is it that customers can legally discriminate against businesses but businesses cannot legally discriminate against customers? Why is it that workers can legally discriminate against employers but employers cannot legally discriminate against workers? Why is it that tenants can legally discriminate against landlords but landlords cannot legally discriminate against tenants? Why is it that borrowers can legally discriminate against lenders but lenders cannot legally discriminate against borrowers? Although acts of discrimination may be arbitrary or unjustified, this doesn't change the fact that no one has the right to any particular job, membership, residence, good, or service. In a free society, the practice of discrimination must be an option for buyers and sellers as well as property owners and patrons.

In a free society, the right to discriminate is essential and absolute. A free society must include the freedom to discriminate against any individual or group for any reason and on any basis. A free society

may or may not be free of discrimination, but it must be free of discrimination laws. By their very nature, the rights of private property, freedom of assembly, freedom of association, free enterprise, and freedom of contract include the right to discriminate. But not only are anti-discrimination laws an attack on these things, they are also an attack on freedom of thought. In a free society, everyone has the natural right to think whatever he wants — good or ill — about any individual or group and to choose to associate or not associate, in a personal or business capacity, with any individual or group on the basis of those thoughts. His thoughts may be erroneous, irrational, or illogical, and his opinions may be based on stereotypes, prejudice, or bigotry — but in a free society everyone is entitled to his own thoughts and opinions.

Since discrimination in any form is not aggression, force, coercion, violence, or threat, *insofar as the law is concerned*, it should never

be considered a crime. And neither should it matter, *insofar as the law is concerned*, on what basis the discrimination takes place, the reason why the discrimination occurs, or what any individual or group thinks about it. Therefore, *insofar as the law is concerned*, the government should not proscribe it, seek to prevent it, or punish those who do it.

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NEXT MONTH:
“Boosting American
Standing on the World Stage”
by *Laurence M. Vance*

Civil Liberties, Economic Freedom, and Property Rights

by *Richard M. Ebeling*



We are living at a time when civil liberties are severely under attack from a number of directions. Two of the most obvious ones at the moment are the response by many governments to the coronavirus crisis and the rise of “critical race theory,” with its accompanying “cancel culture.”

We are seeing imposed or threatened suppression of freedom of speech, freedom of the press, freedom of religion, freedom of association, and freedom of movement. Historically, all of these were hard-won freedoms over the last 300 years. We need to recall that for most of human history, such freedoms did not exist.

Civil liberties born and abridged in the ancient world

Ancient Athens is often credited with being the Western cradle of democracy, including freedom of speech and conscience. But it was in ancient Athens that Socrates was made to drink Hemlock for “corrupting” the minds of the young in that city-state by asking them to question the established order and its traditions. He did not call for an overthrow of things. He merely asked his students to reflect upon the reasons and rationales for the institutional order, with its customs and traditions, to understand why they exist and whether they were all justified in terms of the betterment of the society.

Stirring up the young in this way was too much for the older free citizens of Athens, who held a trial and democratically voted to condemn Socrates to death if he would not stop teaching in this way. Socrates’s response was that he could not stop asking the “why” questions, since it was an inseparable part of his nature and mind. So rather than be untrue to himself, he drank the poison.

For most of human history, freedom of religion has been rarely or only narrowly allowed. The ancient Romans were fairly tolerant in

respecting and recognizing “alien” gods worshiped among the many peoples they conquered in their vast empire. But when a radical sect emerged calling themselves “Christians,” who would not bow before a Caesar, the Romans attempted to repress these spiritual “revolutionaries,” including condemning them to death in the arena by facing gladiators or lions.

Out of religious intolerance grew freedom of conscience

When these Christians finally triumphed over Caesar, Christianity, in turn, also became, through the power of the state, intolerant of dissent and opposition. The religious wars between Catholics and Protestants tore parts of Europe apart, leading to multitudes of cruel deaths and massive destruction to villages, towns, and cities across the continent. The ordinary subject’s faith was often dictated and imposed by the ruling monarch.

But out of this, slowly but surely, came the reconciling idea that if men were not to end up destroying mankind in the name of coercing others into eternal salvation, a freedom of conscience in choosing the path to that salvation needed to be left up to the individual. It took all of the 17th, 18th, and 19th centu-

ries to more or less fully bring this to a reality in Western civilization, and from there, it spread to other parts of the world.

But if people are to be allowed a wide latitude to follow their conscience concerning the spiritual path to God, why could men not speak more freely and write about what was on their minds concerning their own lives and the societies in which they lived and worked? Why could they not express their voice about those who ruled over them and what the role of government should be in society? Why could they not freely associate and interact with others as they wished as they pursued ends and goals outside of the strength and ability of one man alone?

The triumph of civil liberty followed by totalitarian oppression

Only in the 19th century and then into the 20th century did the idea of such civil liberties as captured in the Bill of Rights and the Constitution of the United States come to be more widely recognized as the ideal around which a free society should be judged in successfully restraining those in political authority. The great difference said to distinguish the free, democratic society from the totalitarian society

(whether in its fascist or communist variation) was a respect for such civil liberties as freedom of speech, the press, religion, assembly, association, and unmolested criticism of government policy, along with the ability to participate in the election of those holding public office.

Attempting to control a person's thoughts and words and the deeds connected with them was considered the essence of tyranny.

For instance, the American journalist William Henry Chamberlain (1897–1969) reported for many years in the Soviet Union during the 1920s and 1930s, and he also traveled extensively in fascist Italy and Nazi Germany. In *Collectivism: A False Utopia* (1937), he explained the world before the First World War, when such civil liberties were taken for granted, and the world after that war:

Before the World War it would have seemed banal and superfluous to make out a case for human liberty, so far as North America and the greater part of Europe was concerned. Such things as regular elections, freedom of press and

speech, security against arbitrary arrest, torture, and execution, were taken for granted in almost all leading countries.

People could travel freely in foreign lands without worrying overmuch about passports and were not liable to be arrested by the police of one insolvent country if they failed to declare a few bills of the currency of its equally insolvent neighbor. Concentration camps for political recalcitrants and the wholesale conscription of forced labor as a means of getting public works done were unknown. (p. 1)

In the 19th and early 20th centuries, attempting to control a person's thoughts and words and the deeds connected with them was considered the essence of tyranny, dictatorship, and despotism. But how were such civil liberties to be institutionally secured and safeguarded? It was argued that that was the purpose of a written constitution that specified and delineated what areas of human life government, with its power of legitimized force, was not allowed to encroach upon.

Written constitutions worthless when government owns and controls

And, yet, in spite of written constitutions and public pronouncements by those inside and outside of government, people's civil liberties have been violated or denied. In the 1930s, Comrade Stalin introduced a new constitution in the Soviet Union that promised and insisted that the same civil liberties hailed in the West were respected and present in the new socialist society being built on Marxist-Leninist foundations. And, indeed, a reading of that constitution easily gives the impression that all the civil freedoms taken for granted in the United States or Great Britain at that time were practiced in the communist paradise as well.

But anyone paying attention to how the Soviet system operated knew full well that such civil liberties did not exist, or were present in only sham forms that tried to hide the fact that the thoughts in people's minds were subject to government indoctrination, that their spoken and written words were manipulated to conform to and strictly reflect what the Soviet regime wanted people to read, say, and, therefore, believe. All peaceful assemblies and all human associations were determined by and confined to what the

Soviet "party line" wanted as public expressions of people's actions and interactions.

In *Collectivism: A False Utopia*, William Henry Chamberlin also explained how the totalitarian regimes went about controlling people's ideas, words, and actions:

The communist-fascist technique of remaining in power ... is based first of all on a recognition of the tremendous possibilities of state-monopolized propaganda in an age when most people go to school, read newspapers, listen to radio broadcasts, and attend the movies. Censors and book burners can do a good deal; but ... printing presses are not smashed; they are all utilized to spread far and wide the same brand of political, economic, and social doctrine.

People are not forbidden to possess radio sets or to go to the movies. But nothing goes on the air in the Soviet Union, [Nazi] Germany, or [fascist] Italy that could possibly offend, respectively, Stalin, Hitler, and Mussolini. The Russians can go to a film and see Communists heroically toiling for their country's up-

building and finally prevailing over the dark intrigues of fascist villains. The German may be simultaneously witnessing a film of precisely the same ideological content, but with the roles of hero and villain reversed. The school and the press are also exploited to the limit as means of teaching people, from the cradle to the grave, to think and behave in the way which the ruling system demands. (pp. 32–33)

No civil liberties when government dictates the use of property

What enabled these governments to succeed to an amazing extent in suppressing the array of civil liberties in their countries was the political authority's direct ownership (in the Soviet Union) or strict control (in Nazi Germany and fascist Italy) over the means of production, through which thought, word, and deed are expressed. In the Soviet Union, there were no private newspapers or book publishers or radio stations, no independent movie-making companies or theaters for the performing arts, no markets on which people could offer to buy and sell separate from what the government dictated and centrally planned.

The same was the case in Nazi Germany and fascist Italy, in that any means of communication or the arts not also directly owned by these governments were under their strict control, with any nominal “private” owners, producers, and suppliers told by the Nazi and fascist authorities what they were to produce, when, how, at what price, and with what content. As German economist Guenter Reimann (1904–2005), summarized it in *The Vampire Economy: Doing Business Under Fascism* (1939):

The authoritarian State has made it a principle that private property is no longer sacred... Nazi doctrine ... is offered as a new justification for the State's use of private capital and it is a means of placing drastic limitations upon private property rights in the “national interest”.... The capitalist under fascism has to be not merely a law-abiding citizen, he must be servile to the representatives of the State. He must not insist on ‘rights’ and must not behave as if his property rights were still sacred. He should be grateful to the Fuhrer that he still has private property. (pp. 12–13, 20)

Once private property rights were either abolished or strictly controlled and commanded by the government, as under these totalitarian regimes, people's free actions and civil liberties were basically made null and void. This is what far too many people do not clearly and fully understand. What institutionally secures, in the long run, civil liberties in any society are private property rights and economic freedom.

Property rights and economic freedom essential for civil liberties

Economic freedom and the private property rights upon which it is based create an area of independence and autonomy from those in political power. That 1930s Soviet constitution stated that all citizens of the socialist paradise had a "guaranteed" freedom of religion. But how were people to express their religious faith in association with others when the government owned all the land, had monopoly possession of all building materials and construction equipment as well as all printing presses and paper? If the government refuses to allocate land for the site of a church, will not provide the resources and the building equipment to construct a house of worship, and declines a request for the publishing of Bibles and

hymnals because the central planners decide that other "social" ends and purposes have higher priority, then those sharing a common faith, wishing to worship together, find themselves nominally "free" to worship as a civil right, but with no material means to manifest their shared belief.

What institutionally secures, in the long run, civil liberties in any society are private property rights and economic freedom.

Freedom of religion becomes a sham, as does all freedom of speech and the press. For instance, back in the 1980s, after the socialist Sandinistas had gained political power in Nicaragua, they assured everyone that there was an absolute right to freedom of the press and peaceful political dissent in the country. A leading opposition newspaper, *La Prensa*, found it impossible, however, to widely express their dissenting views to the Nicaraguan reading public due to the fact that the Sandinista government limited the amount of newspaper material and ink they allocated to the newspaper, so the paper's circulation was limited to a mere fraction of what it had been before the Sandinistas took control.

Property and markets protect people from government abuse

During the anti-communism scare in the early 1950s, the U.S. government pressured a number of Hollywood studios to blacklist some well-known actors and screen writers who were accused of communist or pro-communist ties. It has remained a *cause celebre* in a variety of intellectual and entertainment circles as an example of innocent people being persecuted in America merely for their political views.

Rarely do people pay attention or care about the political, social, economic, or religious views of those with whom they do business.

But as free-market economist Milton Friedman (1912–2006) argued more than once starting in the 1950s and 1960s, due to the fact that there was a vibrant and independent private sector in the U.S. economy, those hounded out of their Hollywood careers could and did find alternative employments and ways to earn a living with private enterprises not controlled or pressured in the same way by the government. Some of them, after things calmed down after a time, could still work at screen writing either under their own or assumed names.

In the Soviet Union, for which, in fact, some of these people did express active sympathy at an earlier time, dissidents and those accused of being “enemies of the people” suffered true unemployment and starvation, since under Soviet socialism there were no other employers outside of the state from whom the outcast might have found a job. Or such a critic — real or imagined — would have been given “employment” by the government in the slave labor camps of the Gulag, from which many millions never returned.

Property and markets provide anonymity from intolerance

Recognized and secure private property rights in a relatively open and competitive free market provide “islands” of economic and social autonomy and independence from the government and those in political power. This is reinforced by the fact that in the marketplace, people rarely pay attention to or care about the political, social, economic, or religious views of those with whom they do business.

When you do your food shopping at a supermarket, do you base your purchases of vegetables or canned goods or dairy products on the political views of those who

have supplied the commodities you end up placing in the cart? How could you even know the political or religious views of the dozens, or hundreds, or even thousands of people who have directly or indirectly participated in the various supply chains that have assisted in bringing those desired goods to you, wherever you may be in the country or around the world?

Our beliefs are private and only open to voluntary market choices

We earn our livings in the free marketplace using our respective properties in the exchange processes of supply and demand, even when the only “property” we own and use to earn that living is our personal labor abilities as the means to buy what others have for sale that we desire. Our purchases partly reflect our political, social, and economic views through the books we buy, the music we listen to, and the organizations we involve ourselves with and to which we may donate. All of this is in the realm of the protected private world of property and exchange.

Sometimes people have refused to interact or associate with others due to disagreements over politics or religion, but these are voluntary and personal acts that do not and

cannot, per se, force or compel others to boycott certain market suppliers who are considered ethically unacceptable. We may attempt to persuade others to follow our lead through a peaceful and voluntary withholding of business to get those viewed as personally or socially unethical or immoral to change their ways, but the power of the state cannot be brought down on them.

Government’s COVID abridgement of property and civil liberty

We, however, do not live in a free market with secure and respected property rights and civil liberties in modern day America. This has been most clearly shown over the last two years with the government’s response to the coronavirus. There is no doubt that this virus has had lethal effects on multitudes of people, especially the sick or hospitalized. But it shows just how far we have moved away from guaranteed property rights and therefore secure civil liberties by the government’s heavy-handed abridgement of voluntary association and freedom of choice.

The federal and the state governments, especially the latter, told people to stop producing, do not go to work, stay at home, only shop for government-determined “essential”

products and only in particular stores at certain times. Stay six feet or more away from others and wear a facial mask. And more recently, the Biden administration is using the power of government spending to compel private establishments that get some portion of their revenues from the government to force all their employees to be vaccinated or lose that government funding.

**We do not live in a
free market with secure and
respected property rights and
civil liberties.**

The only means by which the government has been able to do such things is to de facto declare that it may abridge people's property rights and freedoms of association when and how it wants. You could not walk your dog beyond a certain parameter around your residence. You could not congregate in groups more than a certain size, including attending church in a house of worship.

Google and Facebook may be private companies, with their corporate owners certainly having their own ideological and political views and agendas. Behind much of their suppression of anti-vaccination viewpoints or challenges of the

presumptions behind policy pronouncements by the Center for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA), however, are concerns and fears that if they do not do so, the Congress and the White House may have to seriously consider placing their businesses and their social media outlets under more direct and heavy-handed regulatory control and command.

**Critical race theory and free speech
in government schools**

In the public schools, a fight is now on about whether or not critical race theory (CRT) should be taught. I consider CRT to be a serious distortion of American history, and I question the presumption that "systemic racism" dominates American culture and society. But what has made this an ideological "life and death" struggle between proponents and opponents of CRT has to do with the compulsory and near-monopoly status of schooling and education in the United States.

Either the "pros" or the "cons" get to determine what gets taught in government schools about the history and current status of race relations in America. The side that loses will, no doubt, insist that their group's civil liberties are being vio-

lated by denying them freedom of speech and expression because the winning side gets to dictate the curriculum for all the students in that school district or state.

If schooling and what and how subjects are taught in the classrooms were fully shifted to the private sector, that is, the complete privatization of schooling and education, the entire issue would be greatly diffused. Each individual and group of individuals with their own views and values on race history and race relations in America would send their children to the school of their private and voluntary choice.

Privatizing schools solves the civil liberties problem

Nobody's civil liberties concerning freedom of speech or the press or association would be threatened or abridged. By depoliticizing schooling and education, not only would no parent or child feel that their freedom of thought or word or belief had been abridged, it would immediately defuse the ideological and political anger and pressures that have been intensifying around the country.

Arguing over whose interpretation of American history and current American social relationships

is correct would be moved to the arena of much calmer and polite and courteous discourse, precisely because it was understood that no one could use the power of the state to impose their views and values on others. If you think you are right, the available avenue to change people's minds and actions becomes peaceful persuasion, not political power.

Civil liberties are essential for an open and free society, making us respectful and tolerant of others and the ideas they hold.

Civil liberties are essential for an open and free society, making us respectful and tolerant of others and the ideas they hold. It is the means by which we replace force and its threat with reason, argument, and mutual respect if we want to influence others in society.

But the bedrock upon which civil liberties are institutionally secure and guarded is private property and the free market of voluntary exchange. Without it, society always risks becoming an arena of intolerance, dogmatism, and coercion. When this latter path is followed, tyranny and oppression are the inevitable ends of the line.

(Based on a talk, *Civil Liberties and Economic Freedom*, given for the Future of Freedom Foundation online conference, “Restoring Our Civil Liberties,” October 12, 2021.)

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NEXT MONTH:
**“Government Planning
Brings neither Freedom,
Prosperity, nor Equality”
by Richard M. Ebeling**

A democracy is nothing more than mob rule, where fifty-one percent of the people may take away the rights of the other forty-nine.

— *Thomas Jefferson*

Freedom Is Not Free

by Leonard Read



*Those who deny freedom to others
deserve it not for themselves.*

—Abraham Lincoln

Only a few — the pure, the apt and the true — never deny freedom to anyone. All others, while they may hope for freedom for themselves, deny this blessing to others in countless ways, sometimes knowingly but often in ignorance. Whoever diminishes your freedom deserves it not for himself! Thanks, Honest Abe!

We can also thank William Harvard for his counsel: “The greatest glory of a free-born people is to transmit that freedom to their children.” Never in all history were a people more blest in being freeborn than Americans. And for at least twelve decades they transmitted this blessing to their children. Then came the slump and for many rea-

sons, ranging from prosperity going to their heads — thinking gone dormant — to government “education.”

Lincoln’s thought reversed would read: When enough of us grant freedom to others we shall have it for ourselves! For, as Edmund Burke wrote: “Depend on it, the lovers of freedom will be free.”

Who amongst us have the capability or the potentiality of advancing an understanding of freedom? Only those individuals who find the freedom cause a happy pursuit. Wrote Saint Augustine about sixteen centuries ago: “Happiness consists in the attainment of our desires and in our having only right desires.” Among the right desires is freedom!

If we are to enjoy the blessings of freedom, there are ever so many ideas and ideals that must grace our understanding and exposition. Among these are (1) the proper role of government and (2) the rights of citizens. According to the late Robert H. Jackson, Justice of the Supreme Court from 1941 to 1954: “It is not the function of government to keep the citizens from error; it is the function of citizens to keep the government from falling into error.”

Wrote the Roman Emperor and philosopher, Marcus Aurelius Antoninus (121–180), “Our under-

standings are always liable to error. Nature and certainty are very hard to come at, and infallibility is mere vanity and pretense.” A very large percentage of elected and appointed officials assume they are infallible and, as a consequence, attempt to protect us from our countless errors. The costs of this assumed infallibility? Almost without limit. For one, inflation on the rampage! As the Bard of Avon wrote, “You take my life when you take the means by which I live.”

Every good movement in all history has been in response to an infinitesimal minority.

Now to the important side of this problem. Justice Robert H. Jackson pronounced a great truth: “*It is the function of citizens to keep the government from falling into error.*” How are we to cope with and overcome the vanity and pretense of nearly 16,000,000 political office holders? They presume powers bordering on magic, in the sense of “producing extraordinary results.”

To repeat what I have written numerous times before: (1) ours is not a numbers problem; (2) it is not a selling but a learning problem.

Every good movement in all history has been in response to an

infinitesimal minority. One of many examples: The very few who did the thinking which resulted in The Declaration, Constitution and Bill of Rights.

Ideas cannot be “sold”; neither can they be thrust into the minds of others. The correct formula? Become so excellent in explaining the freedom way of life that others will seek your tutorship. Become mentors! Excellence begets excellence whatever the endeavor — be it cooking, science, golf, music or whatever. All experience attests to this fact.

The achievement of these aspirations requires extraordinary effort, of a kind and quality which only those who love freedom are *happy* to expend. This is testimony to the fact that freedom is far from free....

Such old-time phrasings as “the home of the brave and the land of the free” or “Liberty and Union, now and forever, one and inseparable” have long since been meaningless — mere empty sounds. So, in our time, we search for new ways to explain freedom, even though no one will ever be able to explain it fully. Try to explain Creation! It is impossible. Creative action at the human level borders on this difficulty. One way of phrasing will be

apprehended by a few, another phrasing by a few others. Explaining liberty is, indeed, a task now and forever....

Finally, two wise thoughts, the first by Felix Morley: “If people do not possess the capacity to govern themselves, they are inevitably governed by others.” This is an excellent and improved phrasing to describe our present politico-economic holocaust: “great or widespread destruction.”

The second is by Edmund Burke who expressed the same idea two centuries earlier: “It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters.” Those of intemperate

minds — going to socialistic extremes — lack the capacity to govern themselves. The result? An unholy and tyrannical extreme: governed by governments!

The alternative? Self-government, self-reliance, self-responsibility, self-consciousness. Easy? No! But only those who move in the direction of these intellectual, moral, and spiritual goals — while happy in their pursuit — gain a profound awareness: *Freedom is far from free!*

Leonard Read was the founder of The Foundation for Economic Education. This is a shortened version of a chapter in his book Thoughts Rule the World.

Nationalism is an infantile disease. It is the measles of mankind.”

— Albert Einstein

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