

Features

- 10 Fifty Ways to Leave Leviathan *by Max Borders and Jeffrey A. Tucker*
30 Keynesians: Sleepy? Down a Red Bull *by Julian Adorney*
32 Is Wall Street Really the Heart of Capitalism? *by Douglas French*



Page 10

Interview

- 7 The Caveman Speaks: An Interview with John Durant

The Arena

- 16 The 14th Amendment Makes America Freer *by Clark Neily*
17 The 14th Amendment Doesn't Make America Freer *by Allen Mendenhall*

Columns

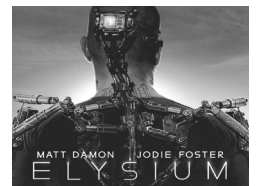
- 2 Perspective ~ On Being a Catalyst
4 Ideas and Consequences ~ Medicine: Who Should Make Choices for You?
by Lawrence W. Reed
24 Rules Over Rulers ~ The Real Social Contract *by Max Borders*
28 The Economic Way of Thinking ~ The Mystery of the Mundane *by Peter Boettke*



Page 4

Culture

- 19 Comic ~ Of Mice and Mud *by L.J. Lane*
35 Book Value ~ Just Plain Toothpaste *by Sarah Skwire*
37 China: Yes, It's Capitalism *by Jane S. Shaw*
39 Matt Damon vs. The Space Republicans *by Andrew Heaton*



Page 39

Poetry

- 6 The Genes We'd Choose *by Sofia M. Starnes*
31 Climbing *by Sarah Skwire*

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On Being a Catalyst

I am writing this while at an airplane window, looking out over clouds. The captain has not turned off the fasten seatbelt sign, but the flight attendant has said it's okay to turn on my laptop. So here goes.

You see, I'm flying out—at a moment's notice—to do a television show. Did you happen to see the cover article this month? It's called "50 Ways to Leave Leviathan." It has been one of the most popular and impactful pieces we've done since the dawn of the new FEE. You could say it has caused a chain reaction. But what is more interesting to me is the chain reaction that led up to publishing it.

All of this started, for me anyway, with a conversation in California. Jeff Tucker and I were riding together on the way to one of FEE's Freedom Academy events. Brimming with passion for this subject, Jeff dispensed with pleasantries. He immediately started sharing his thoughts—throwing out ideas, outlining what would become the article.

You see, Jeff Tucker is what you might call a catalyst. In chemistry, that's the stuff that allows all the interesting reactions to be unleashed from otherwise inert stuff. New molecules are created. Atom strikes atom and the actions are compounded. Things heat up. Novelty emerges. Jeff had been the human analog for this sort of chemical reaction that day in California. I'd almost decided to let this subject lie fallow.

Readers of this publication have read similar themes before. In September we talked about "Hacking Leviathan." But Jeff had a hunch. He knew we couldn't stop there. It's one thing to sketch the idea in an abstract way. He suggested we write it together, write the laundry list—filled with concrete instances of free people in action. That puts instantiated freedom right in people's faces, removing it from the land of abstraction. And we both knew we had to couple that concrete list with a sense of inevitability—a kind of futurism that combines our instincts about a new age of social progress with a self-fulfilling prophecy that would, well, *catalyze* people.

And it has. And hopefully it will continue to. “50 Ways” lays the foundations for a new approach to our movement—well, new to most people anyway. But please read the article. You can be the judge.

In any case, I should get back to my point about being a catalyst. You see, if Jeff had not pushed and pulled and, in his exuberant way, asked us to recombine the ideas in the way we did, the article, the reaction to the article, the opportunities to talk to different groups, the chance to go on television—none of it would have happened. Of course, being a catalyst is not always about being a successful catalyst. Failure happens. But it starts by acknowledging a strong gut instinct and a good idea wrapped up in one. Then you have to be willing to iterate. That means trying things over and over again with persistence and patience—taking with you a relentless optimism.

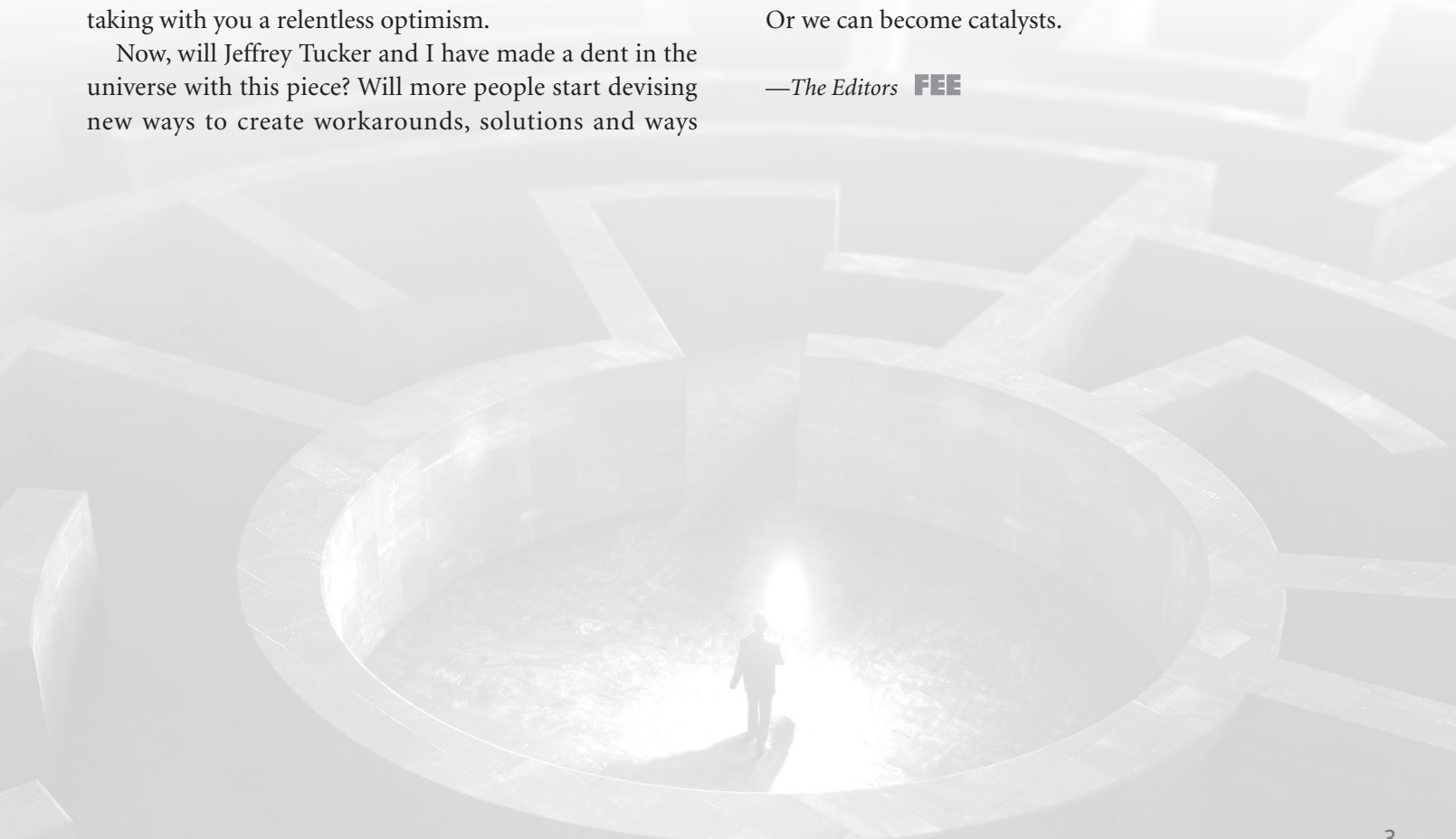
Now, will Jeffrey Tucker and I have made a dent in the universe with this piece? Will more people start devising new ways to create workarounds, solutions and ways

forward? Or will liberty-lovers continue to beat their heads against the monolith that is partisan politics? Perhaps write another whitepaper? For Jeff and me, if we could get just five percent of people who self-identify as libertarian to innovate, that means we will have catalyzed a whole crop of new catalysts. And for a couple of guys who can no more write a line of code than dunk a basketball, that’s pretty good.

Being a classical liberal the old way is seductive. We can spend our days sanctimoniously nitpicking other libertarians’ M.O.s on Facebook. We can craft our seamless syllogisms. We can write yet another journal article or whitepaper that will be read by friends who undoubtedly agree with us. We can rant and rave about how the world is going to hell-in-a-handbasket.

Or we can become catalysts.

—The Editors **FEE**



Medicine: Who Should Make Choices for You?

An alternative to the FDA system

LAWRENCE W. REED



Almost a decade ago, I went to Canada to obtain a customized medical procedure on both of my eyes—a procedure not yet approved by federal authorities in the United States.

It involved a new “wavefront” LASIK technology designed for patients with a combination of astigmatism and very thin corneas. For more than four decades (since third grade), I wore eyeglasses because of extreme nearsightedness. My longtime eye doctor, who had earned my confidence, monitored my condition and the technologies available for correction. The type of sophisticated LASIK my particular condition necessitated wasn’t available. Then one day he told me, “Larry, what you need you can get now but only in Canada because the FDA hasn’t signed off on it here yet. I can send you to a clinic in Windsor, Ontario, if you want to give it a try.”

As an economist, I knew about the FDA and its record of denying people critical drugs and operations. Providers routinely spend a fortune in time and money until bureaucrats, remote from the needs and knowledge of patients and their doctors, get around to stamping “approved” on applications. I had no interest in satisfying bureaucrats I had never met and whose incentives were all lined up against me. All that mattered to me was my doctor’s judgment and the reputation of the clinic he recommended. I drove three hours to Windsor, had the procedure, and ever since have enjoyed perfect vision without glasses (except for reading).

My story is trivial next to that of untold thousands facing much more serious conditions. My life was not in danger. But what about Abigail Burroughs?

I first learned of Abigail when I recently read a powerful little book, *Free to Choose Medicine* by Bartley J. Madden, a

senior fellow at the prestigious National Center for Policy Analysis. I was touched by Abigail’s spirit. Afflicted with neck cancer as a teenager, she advised her high school graduating class, “Success is fleeting, but when all is said and done, all you have is your character.”

Abigail’s highly respected oncologist believed that a drug called Erbitux might be the only thing left that could help her. The problem was, her cancer wasn’t in the right place. Erbitux showed promising results in other parts of the body that were approved for clinical trials but the FDA wouldn’t allow it yet for Abigail’s cancer. She passed away at the age of 21, before the agency gave Erbitux its official blessing. Days before she died, she appealed to a national television audience, “This is not just about me. This is about so many others.”

A few of those others are briefly profiled in Madden’s book. All of them, and tens of thousands more every year, could have benefited from the advice of their physicians—advice that was put on hold by people in Washington neither the patients nor their physicians ever knew. Those who made the decision to deny drugs or procedures will never be held accountable. They will never have to apologize to anyone. Their decisions trumped the choices of the people most affected simply because they had “good intentions” and the force of government in their hands. Tough luck, Abigail.

This is the deadly and often overlooked side of government regulation. Textbooks teach us early that regulation prevents bad things from happening. They rarely tell us about the good things they stifle and the lives they take or subject to prolonged suffering. Studies pour forth showing that the FDA has likely cost far more lives than it has saved, but the agency maintains a cult-like following. Some Americans put more faith in faceless bureaucrats and ideological bumper stickers than in the choices of patients and professionals closest to these

serious problems. This is a dilemma that cries out for a solution. Can you fault Abigail Burroughs for complaining about the status quo?

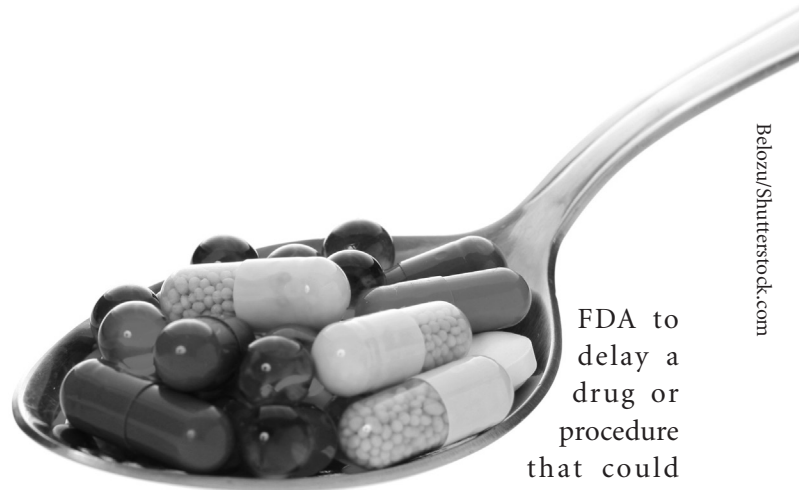
A solution is precisely what Madden offers, and an eminently reasonable one it is. *Free to Choose Medicine* makes a case for the freedom of informed patients to make some choices they don't currently have—choices that could significantly improve their health or even save their lives.

Allow me to digress for a moment to make a point. Federal law tells us that no one but the U.S. Postal Service can deliver first class mail, even though there's plenty of competition and exemplary service in every other class. Years ago, defenders of the law claimed that only the government could do the job, but their modern-day allies are usually too embarrassed to say so today. The federal monopoly on letter mail persists purely because of inertia and the lobbying power of special interests.

Let's suppose there's something magically different about letters that requires a government monopoly. Repealing the law would have no effect because people would just continue to patronize the monopoly as the best and only viable option in town. But if that claim is incorrect, then we might find out in a hurry how inefficient that monopoly is. Competing providers could teach us things about mail we never thought possible before.

Introducing choice is essentially what Madden proposes for a corner of life far more important than who can put birthday cards in a box at the end of your driveway. Right now, the FDA is a deadly “bottleneck in the drugs-to-patients system” because it unnecessarily delays the approval of new drugs (and of new medical procedures as well). Its excessively expensive and time-consuming testing requirements stifle the flow of investment capital to fund life-saving innovations.

As Nobel Prize-winning economist Vernon Smith points out in the foreword to *Free to Choose Medicine*, the problem is inherent in the regulatory system: The incentives for the



FDA to delay a drug or procedure that could save lives are far

greater than the incentives to approve one that might have safety or efficacy risks, no matter how many people may suffer or die as a consequence of the hold-up. Madden would allow for a new “Free to Choose” track so that people like Abigail Burroughs could exercise choice:

Instead of the current one-size-fits-all regulatory straitjacket that assumes everyone is equally risk-averse, patients could express their own unique preferences for risk versus the opportunity for health improvement. They make the tough decisions guided by their doctors' and their own judgments about pain, the limited ability to work or perform daily chores, and the likely progression of their specific disease. These are judgments that only they can make. Patients could elect to use only FDA-approved drugs that were tested on a population of clinical trial patients who were very similar as to health conditions. Or, on the new track, patients under the care of their physicians would be able to access not-yet-approved drugs.

Madden's blueprint incorporates a proposal for a database that would permit convenient access to the information doctors and patients need to assess risks and potential benefits. He anticipates and refutes the likely objections to freedom of choice, including the old “you would cause another thalidomide tragedy” canard that comes up every time someone questions the FDA's monopoly power. His book provides not just a creative solution but a very good, easy-to-understand explanation of how the current system works (and *doesn't* work). As to

whether we'd be better off without an FDA altogether, you can be on either side of that issue and still find Madden's choice proposal compelling.

Want to learn more? Read the book, which you can secure from www.ncpa.org or from Amazon. Visit www.freetochoosemedicine.com for current information on the proposal's progress. There you can also learn how to become part of a new movement to advance choice in this

critical area of health care. You should also take a look at a website co-founded by Abigail Burroughs' father.

By spreading the word and getting involved, you can not only advance freedom, you can save lives, too. So what are you waiting for? **FEE**

*Lawrence Reed (lreed@fee.org), economist and historian, is president of FEE and author of the forthcoming book, *Are You Good Enough For Liberty?**

THE GENES WE'D CHOOSE

Sofia M. Starnes

The lifting mist; a curtain lifts: remnants of a sail.

Happy the stowaways that sail.

I am addicted to those fans over the doorways, clear symbols
out of glass. What name does each entail?

Once there were diamonds on a ship, the fleers of catastrophes—
young boys in caps and girls with veils...

Watch them, leaning on the bowsprit toward East.

Some centuries turn children into birds and perch them on a boat's rail.

The 19th was like this, when generations hithered, descending
in a circular array: cousins, second-kin—my heart's trail.

Blest are the hands and ankles wreathed in beads—blest, too,
the errant gene, the rib that runs away from ribs, the bones in dark detail.

Old wisdom—wiser in a child's breath—set out to sea, when roots fail.

Speck in the blue, feet on a deck: the wind that bodes a young sail.

*Sofia M. Starnes (smstarnes@cox.net), Virginia's current poet laureate, is Poetry Editor at the Anglican Theological Review. Her most recent book is *Fully Into Ashes* (Wings Press, 2011).*

The Caveman Speaks

An Interview with John Durant

John Durant is the author of the new book The Paleo Manifesto, in which he advocates using evolutionary principles to combat the epidemic of obesity, diabetes, and other chronic health conditions. Durant studied evolutionary psychology at Harvard before moving to New York City and becoming a “professional caveman”: mimicking a hunter-gatherer diet, running barefoot through Central Park, experimenting with intermittent fasting, and doing polar bear swims in the Atlantic.

We got to sit down with John and talk about everything from being a caveman in New York, to being a libertarian at Harvard, to being a third-generation FEE alumnus.

The Freeman: Here’s the obligatory question: Can you tell us, in a nutshell, what it means to live a paleo lifestyle?

Durant: “Paleo” is short for “Paleolithic,” the 2.6 million-year span when humans and our hominid ancestors lived as foragers and hunter-gatherers on the African savannah. Many modern health problems stem from a mismatch between our primal biology and our modern lifestyles. The idea behind leading a modern-day paleo lifestyle is to mimic conditions to which humans are better adapted—everything from diet and exercise to sun exposure and temperature variation. This same general approach—mimicking the natural habitat of a species—is used by all the top zoos in the world to prevent chronic health problems in captive animals. When combined with modern medical technology, you get the best of the old with the best of the new.

The Freeman: So how does this evolutionary perspective differ from the conventional wisdom of avoiding junk food and exercising more?

Durant: Everyone agrees on avoiding junk food. The biggest divergence with the conventional wisdom is skepticism toward grains and legumes (e.g., wheat, corn, and soy) and, to a lesser extent, dairy. An evolutionary view also calls into question two common approaches to healthy eating—fat phobia and vegetarianism—since humans have been eating animals for millions of years.

But diet is just one piece of the puzzle.

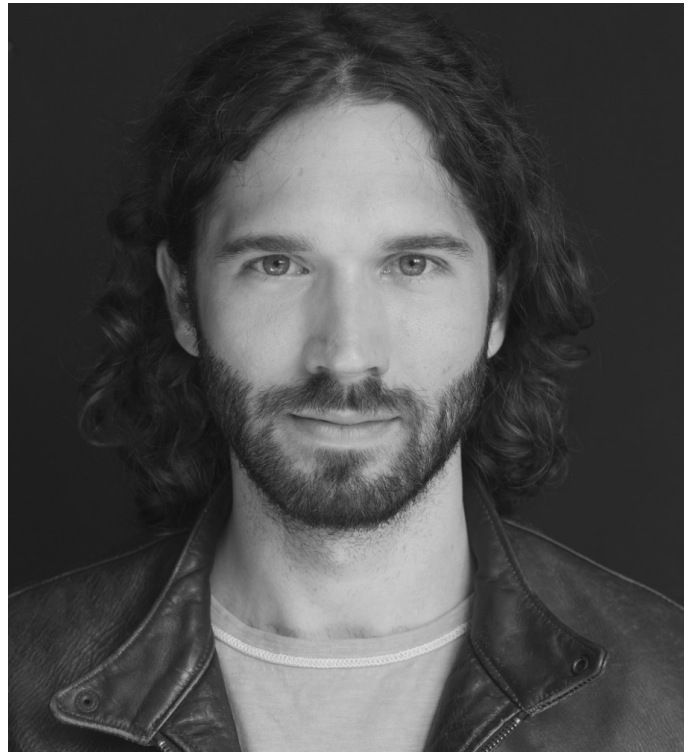
Our habits and habitats have become too monotonous: constant snacking (without any periods of hunger); running at a constant pace on a treadmill (but never sprinting); living in temperature-controlled homes, offices,

and cars; using indoor lighting that tricks our bodies into thinking it’s always daytime.

Humans thrive on variation, and we’ve lost that.

The Freeman: Do you recommend that *all* people should live this way?

Durant: Not necessarily. Look, if you’re happy with your health, then there may be no reason change anything. Just because a food is new doesn’t necessarily mean it’s unhealthy. But many people suffer from conditions they don’t talk about at cocktail parties—depression, irritable



bowel syndrome, autoimmune disorders. For those people, why not try it out and see if it works?

The alternative is usually prescription medications, which are only partially effective and come with strong side effects. Putting faith in pills is akin to a centrally planned intervention in an economy: It produces unintended consequences that are often worse than the original problem. I prefer to take personal responsibility for my health and stick to fundamentally sound principles: real food, real movement, real sun, real sleep, and real relationships. (Kind of like real money.)

The Freeman: Marlene Zuk, an evolutionary biologist, has taken some shots at paleo in her book, *Paleofantasy*. Is there anything you would care to say in response?

Durant: A tweet of mine summed it up best: “*Paleofantasy* shouldn’t have been a book in 2013, it should have been a blog post in 2010.” Dr. Zuk’s primary points—that evolution never stopped, and that it’s an imperfect process—are fundamentally correct. But they’re also obvious and long acknowledged.

The prime example of recent human evolution is the emergence of lactose tolerance, which facilitated dairy consumption in herding populations. If Dr. Zuk had done the slightest bit of research—beyond citing a few idiotic anonymous blog commenters—she would have known that many people who eat paleo actually do incorporate some dairy into their diet: grass-fed butter, heavy cream, or even raw milk. Others don’t—including many of the two-thirds of the world that is lactose intolerant.

(Incidentally, if anyone speaks about recent human evolution in domains other than diet—such as IQ, behavioral tendencies, or personality traits—then professional academics and progressives try to label you as evil, destroy your career, and banish you from polite society.)

Dr. Zuk’s example of imperfect evolution is the location of the optic nerve in the eye, which emerges from the front of the retina, not the back—thus causing a blind spot. But isn’t it vastly more amazing that most people *never even realize* that the eye contains a blind spot? Isn’t it far more impressive that our cognitive software is so sophisticated

that it fills in the gaps in our visual field?

It’s disappointing to hear a professional evolutionary biologist talk about evolution by natural selection—the most brilliant design process in the world—as if it were a design committee at General Motors.

The Freeman: I expected your book to focus exclusively on the Paleolithic, but you also explore ancient cultural traditions that emerged after the Agricultural Revolution. You have a fascinating chapter on how religious purity codes helped people avoid infectious disease—for example, you point out that Biblical injunctions to wash your hands (Exodus 30:17–21) appear thousands of years before the scientific “discovery” of hand washing. Why is contemporary science only now catching up with both evolutionary thinking and ancient practices?

Durant: Spontaneous orders—such as evolution by natural selection or cultural evolution—often produce intelligent solutions faster than formal science. The early Israelites who washed their hands didn’t have to understand the germ theory of disease. Hand washing just worked, and those who adopted this Nobel-worthy custom—for *any reason*—would have been less likely to die of disease. But when there’s no single person who formalizes that knowledge using the scientific method, then who gets the Nobel Prize? Moses?

The Freeman: Many conservatives think that libertarians neglect the wisdom in tradition, while many libertarians think that conservatives are too bound by tradition. We at FEE think there is no contradiction between the two, and Hayek’s ideas about spontaneous order and cultural evolution may strike a balance between these two positions. What do you think?

Durant: I struggle with this issue all the time. When I’m surrounded by liberal progressives, I feel like an arch-traditionalist; when I’m around conservatives, I feel like a radical. I do believe Hayek offers a way forward—and personally, I often understand and defend ancient cultural traditions for completely different reasons than most traditional people do. Nassim Taleb has described himself as both secular and religious, and that’s a good way to describe me too. Maybe that’s a contradiction, but who cares? Walt

Whitman said it best: “Do I contradict myself? Very well, then I contradict myself, I am large, I contain multitudes.”

The Freeman: Why do you think so many libertarians seem to be attracted to a paleo lifestyle?

Durant: First of all, the established food movement—organic, plant-based—has been heavily influenced by liberal progressives, with that ideology being most pronounced among vegans and vegetarians. But there are many people who want to be healthy yet find progressive ideology off-putting. So there’s demand for an alternative approach and identity.

It takes a contrarian disposition to go against the grain, as it were, and libertarians are certainly willing to think different. We also require little persuasion that the federal government’s nutritional guidelines—embodied by the USDA food pyramid—might be deeply misguided.

Many libertarians are high-IQ optimizers, so are willing to go to great lengths to understand and achieve optimal health. We also understand spontaneous order—whether an economy or the human body—and are open to the influence of evolution on human nature.

Sex seems to play a role, too. Men do like to eat meat—hunting has always been a masculine domain—whereas vegetarianism skews feminine. Surveys have shown that paleo is evenly split between men and women—eating real food isn’t a male or female thing—but an even sex ratio is still heavily male *relative to most other dietary approaches*, which tend to skew female.

Along similar lines, moral psychologist Jonathan Haidt has conducted research showing that libertarians tend to be low in empathy (even if libertarian policies arguably result in better outcomes), and that may make it easier to eat animals without losing any sleep over it.

Those factors probably explain the bulk of it.

As if it needed to be said, eating paleo does not require adherence to a political ideology and being a libertarian does not mean you have to wear funny toe shoes and do CrossFit.

The Freeman: You come down hard on vegans and vegetarians who claim plant-based diets are optimally healthy. But what would you say to someone like John

Mackey, who is a firm believer in a vegan diet for ethical or environmental reasons as well?

Durant: I love John Mackey and Whole Foods, and I’m not going to let a disagreement over legumes get in the way of that. Despite the public image of paleo and veganism at odds, both paths lead to more conscious eaters—a very good thing. Where I would disagree with many vegans is whether a boycott on meat and animal products—i.e., veganism—is *actually* the most effective way to change and improve our industrial food system. The vegan boycott on meat hardly makes a dent in the bottom line of the big agribusiness; yet that same revenue would make a huge difference to food entrepreneurs who are innovating in permaculture farming, humane treatment of animals, and ethical slaughter.

At the end of the day, everyone is free to eat as they see fit—and that’s fine.

The Freeman: What was it like to be the president of the Harvard Libertarian Society? (One doesn’t normally get to write Harvard and libertarian in the same sentence, after all.)

Durant: You might say that I ran a laissez-faire administration—which is just my sorry excuse for my not accomplishing very much. That’s not entirely true—we brought some great speakers to campus, such as Cato’s Tom Palmer and law professor Randy Barnett. These days, college campuses are ripe for the libertarian message.

The Freeman: You’re a third-generation FEE alumnus. Your grandfather, John Sparks, wrote a number of articles for *The Freeman*—and your parents, Clark and Susan Durant, first met at FEE. And now you’ve attended and spoken at FEE seminars. Not bad.

Durant: FEE is a wonderful institution. I’m grateful for what I’ve learned here, and hope that I can give back to FEE students, as well.

The Freeman: John Durant, thank you for spending time with us. **FEE**

If you’re interested in learning more about the paleo lifestyle, John’s book *The Paleo Manifesto* is available wherever books are sold.

Fifty Ways to Leave Leviathan

MAX BORDERS, JEFFREY A. TUCKER

State management of society is not only contrary to human liberty; it is also unworkable. It cannot achieve what it seeks to achieve, which is often all-round control of some sector of economic and social life. The attempt provokes a social backlash. People find loopholes and workarounds or just invent new ways to make progress possible. This is because people will not be caged. They struggle to be free and sometimes they succeed.

Over the last century-plus, the Leviathan State has gained the upper hand, sometimes through big periods of upheaval but mostly through a million daily nicks and cuts. What if this process is being reversed in our time? What if the apparatus of control is being undermined with a million acts of entrepreneurship that evade the State's attempt to plan and command? There is a fundamental asymmetry between the structure of government and the structure of a networked people.

In our times, innovation has provided people with more tools. And often they use these tools to get around the barriers that politicians and bureaucrats have erected. Some of us take note of them every day. And while we may revel in their cleverness, we don't take time to look at the big picture. Here is where this phenomenon of small ways to break out from and break down the system—which pop culture often labels “breaking bad”—gets really interesting.

Consider the U.S. Postal Service (USPS). It has not been privatized. It's just fallen gradually into disuse thanks to the advent of email, texting, and thousands of other ways of communicating. It may stick around for another decade or so, but as a kind of zombie. Surely its days are numbered.

This is the archetype. Government was supposed to provide but didn't. Now markets are picking up the pieces and making new products and services that facilitate better living, which reduces the role and significance of public policy. Every time the State shuts a door or closes a loophole, people find and exploit two more doors, two more loopholes.

If this model of disruption and defiance is part of a larger trend, it provides a very revealing look at a strategy that liberty-minded people ought to intellectually codify, encourage, and practice. We've mentioned it before here when we've talked about “hacking Leviathan” and Kirznerian “alertness” to undiscovered methods and approaches.

Compared with politics or the slow road of mass education, the work of hacking Leviathan through innovation is a promising way forward. Something's happening. It's like the Singularity for civil disobedience. Pandora's box. Perhaps a series of innovation tidal waves. A whole lot of people are participating in a great unfolding. And if you're drawing up grand social engineering plans, throw them out. The world is about to get a lot more dynamic.

Here are just 50 ways people are working around State obstacles:

1 Airbnb (tinyurl.com/6nmk5f3): This service allows people to rent out their homes for a couple of days. It offers competitive prices compared to hotels and gets around the whole of the regulatory apparatus, zoning control, union monopolies, and other barriers to entry. Of course, in some states, hotel cartels aren't happy.

2 Uber (tinyurl.com/d5wufbm): Taxis have their licenses, which drive up fares. It's a cozy and well-protected cartel. Uber lets you get around this system, finding great rides in clean cars for better fares—all while checking (gasp! unlicensed) chauffeurs with reputation ratings.

3 Bitcoin (tinyurl.com/czhaxgutinyurl.com/lj7u5nf): Government ruined money long ago. The market has made an end-to-end crypto-currency. It could mean death for the euro, the dollar, and other fiat currencies. The implications are awesome and inspiring.



4 Private power generation (tinyurl.com/kc2h3yy): Big companies like Google are tired of dealing with regulated utilities. They fear outages and need more reliable power. They're generating their own power. There are only a few, but then again there used to be only a few rich guys using cell phones. That's where innovation happens. Then, the price goes down and the quality goes up. Moore's Law kicks in. Someday this trend could challenge the grid.

5 Concierge healthcare (tinyurl.com/k5gm4ps): Doctors are opting out of Obamacare and the third-party payer system. Pay them up front and pay them out of pocket. Get the care you need and go buy a catastrophic plan if you can (instead of taking whatever's on the Obamacare exchanges).



6 Bitmessage (tinyurl.com/bp86c36): Want to evade the surveillance state? Bitmessage is the latest in crypto-communications, poised to replace email. A few more tweaks on the user interface, and we are good to go.

7 Email: The process of destroying the USPS as a monopolistic provider of mail is pretty much a done deal. It took 20 years, but now email is the new first-class mail. Meanwhile, the government's service loses billions each year. Such a moribund provider could go for decades as a tax-subsidized monopoly. But the market moves on.

8 Silk Road (tinyurl.com/bmpflzatinyurl.com/kfpz9bm): This anonymous website used to let you use cryptocurrency to buy illicit substances. You might find this alarming, but consider this: The site brought a beautiful peace to an unstoppable market that government has otherwise caused to become violent and deadly. (Shut down on Oct. 2. Remember Napster. The hydra lives.)

9 YouTube copyright rules (tinyurl.com/dydbc9c): They were once simple, but as remixing, parody, and covers evolve, the exceptions to strict copyrighting are growing. Now a Miley Cyrus video released at sunup is covered 1,000 times before sundown. In effect, the initially imagined scenario of copyright—government confers monopoly status on every piece of art—is dying before our eyes.

10 3-D printing (tinyurl.com/k2ghhtj): Not only will people circumvent unconstitutional gun restrictions (like Cody Wilson has), but people will be able easily to get around patents and regulations by printing their own high-flow showerheads. When everyone is a maker, no one is regulated.

11 P2P lending: Prosper (tinyurl.com/pxey8) and Lending Club (tinyurl.com/mwwg4nn) let people bypass big incumbent banks and crowdfund as borrowers and lenders. Where there is communication, there are deals being made.

12 Health coverage cooperatives: It doesn't have to be just Christian organizations that set up health coverage co-ops. These groups (tinyurl.com/ydtczkq) cover catastrophic healthcare costs for members, bypassing—for now—Big Insurance and the government regulatory apparatus. (See also this group: tinyurl.com/m8oogxq).

13 The raw milk movement (tinyurl.com/ykex4h): The government has tried for decades to suppress this unpasteurized brew, but fans won't be stopped. Buyers' clubs are everywhere. The more the feds crack down, the more the demand for the product grows.

14 Private arbitration: If you have a dispute with someone, the last place you want to end up is in the thicket of the government's court system. People are opting for private arbitration. Private arbitration may be nothing new, but the extent of reliance on it is. There are a zillion bricks-and-mortar arbiters. Online, Judge.me is now defunct, but Net-Arb (tinyurl.com/mec6kyd) is still working. Stay tuned.

15 Escrow: How do you guarantee that you will get what you pay for online? Escrow.com is glad to hold the payment and verify the transaction before rewarding both sides with the results. It is security for property that lives in the cloud—and no government courts (or even laws) are involved.

16 Space tourism/exploration: XCor, SpaceX, and lots of other groups are getting into the private space race. They're doing NASA—only better, faster, and cheaper.

17 YouTube stars: People like Lindsey Stirling, Rebecca Black, and a thousand others are bypassing the old centralized system of getting an agent and begging a monopolistic record label to take control of your life. Lindsey has made sharp YouTube videos that have launched her into stardom, complete with lucrative tour dates. Such decentralization is happening in movies, music, and more.

18 TOR/Deep Web (tinyurl.com/2bwl4d): This browser for the crypto web bounces your originating IP address all over the planet. That way you can surf anonymously—i.e., away from the eyes of the NSA panopticon.

19 Universal publishing: At one point, a few people maintained the primary conduits of information. Blogging and Web publishing make it easier to express yourself. Censorship has become nearly impossible. The newspapers are finally staking out their territories online. But they are losing control of the primary conduits of information. Tumblr alone has 50 million unique publishers. (Liberty.me will offer a new, distributed platform soon.)

20 Death of prescriptions: You can order your inexpensive drugs from many countries now (tinyurl.com/mjt26bv)—safely, cheaply, and securely (and with no prescription). No need to give your overpriced Obamacare doctor or Big Pharma a cut.

21 Medical marijuana/decriminalization: States are relaxing their prohibitions on marijuana. It's becoming increasingly clear that the drug war is lost and that some drugs, like cannabis, have real therapeutic value. Regardless, prohibition is a fool's errand and punitive measures are increasingly viewed as cruel and unnecessary. Even as the crackdowns continue, these are the first signs of the Drug War's obsolescence and popular dissent.

22 Expatriation (tinyurl.com/kwajxrc): Sometimes if you don't like it somewhere, you just have to leave. It's easier and easier to find better climes, whether for weather, taxation, or culture. Expatriation from the United States is reaching record levels in 2013. While this number is still only in the thousands, the option to leave is there and more people than ever are availing themselves of it.

23 Startup cities (tinyurl.com/lyr862n): People in developing countries are starting to understand that rich countries are rich for a reason. So poor countries are starting to import good institutions, or are "rezoning" for prosperity (all while the rich countries are going in the wrong direction). Outside of China's special economic zones (SEZs), Honduran startup cities are a new experiment worth watching.

24 Seasteading: Blueseed (tinyurl.com/lp6c6zx) is one of the earliest examples of entrepreneurial ventures that will take people to the sea in search of opportunity and superior rule sets. The Seasteading Institute has also successfully worked with a Dutch firm to design the first seasteading modules. The harder the tax and regulatory State pushes, the more viable the sea becomes as a place to live and do business.

25 Radicalization of media arts: Goodbye network television from the Cold War era and hello subscription-based content. The shows that are running (*Breaking Bad*, *Orange Is the New Black*, *Mad Men*, *Boardwalk Empire*) sport themes of defiance, disruption, and the persistence of freedom in the face of regimentation. Not only is the *à la carte* model disruptive, the content is subversive.

26 Private schooling/homeschooling (tinyurl.com/kd8jd96): If you don't like the government schools, take your kids out. Millions of families are doing it. Some are even forming virtual co-ops and getting content from online sources.

27 Online education: Are you after a real education or a signaling mechanism? MOOCs (tinyurl.com/mrb6mxx) and other online sources (like Khan Academy: tinyurl.com/a7hs9tf) are reducing the costs of education—away from the inflated guild of higher education and publicly funded indoctrination camps.

28 Alternative nicotine delivery: From a revival of roll-your-own cigarettes to snus (smokeless tobacco) to e-cigarettes, people are responding to health concerns and ever-higher cigarette taxes—just not the way anti-tobacco zealots think they should. Cue increasingly shrill backlash.

29 Farmers market cooperatives/urban homesteading (tinyurl.com/bs6pl5vtinyurl.com/mvylrrn): Farmers market co-ops have people trading goods in kind. People

barter and contribute their labor outside the auspices of government skimmers. Plus, people in big cities are growing their own food—USDA-free.

Private neighborhood security: Check out new apps like Peacekeeper (tinyurl.com/mlx3xvb). It's just one example of the ways local communities can reduce the cost of security and emergency services—and keep it local. (Here's another in Detroit: tinyurl.com/m3jukoq.)

Barter markets: If you are in business, you know the score. If you can trade services or goods directly, it's best to forgo the paper trail. You donate programming time, I'll give you web space. You promote my product, I'll promote yours. If money doesn't change hands, you can avoid all kinds of problems with the government. Barter has become a natural response to the tax collector.

Email/social media swarming: With social media, it is possible to ignite popular outrage against the machinations of legislators. The outcry against SOPA/PIPA is a good example. The floods of protest against invading Syria had an effect on the pullback from that near-disaster, too. Political activism will never be the same. It's desktop democracy. Aaron Swartz lives forever (tinyurl.com/bk49nvh).

Camera phones: One powerful weapon against the State is probably in your pocket right now. Consider Copblock and the Peaceful Streets Project. They keep cops accountable through tech-enabled “eternal vigilance.” The more people who stand up in the face of intimidation (or simply film from their windows with a zoom lens), the better.

Private venture capital markets: There's a problem with Fed-set interest rates. No one really wins. Since the policy of zero-percent interest rates began, a gigantic non-bank lending and borrowing sector has picked up where the banks left off. And its rates are set by the market.

P2P file sharing: The survival and persistence of file sharing through “torrents” shows that civil disobedience in the face of intellectual monopolies is alive and well, despite a 20-year war on the practice. The more the monopolists fight, the more file sharers win.

Speed: At a certain point, no one bothered driving 55 any more (not just Sammy Hagar). People sped *en masse* until Congress decided to let the states set speed limits—higher. It's a paradigmatic case: People disobeyed until the law was changed.

Crowdfunding (tinyurl.com/ddybz3): If you need startup money, you can pass around the virtual begging bowl. But it can't be just any old thing. You have to convince the crowd to let go of their resources. But that might be a much lower barrier to get over than snagging the attention of venture capitalists or prying a loan out of your bailed-out bank.

Social entrepreneurship (tinyurl.com/bzd5aes): The welfare state tends to make people dependent supplicants. Foreign aid does, too. But entrepreneurs with causes are creating better ways of helping the poor, from microfinance to the return of mutual aid societies like the Christian healthcare co-ops cited above. The social entrepreneurship sector is enjoying a tech-enabled renaissance despite the State. (See also young social entrepreneurs: tinyurl.com/mmdndha.)

Medical tourism/opt-out (tinyurl.com/kaxtvqk): For a while now, people have been taking their medical problems to other countries that offer comparable care more cheaply and without all the red tape. In fact, people used to come from Canada to get care they couldn't get in the land of “free” healthcare. Medical inflation is so bad in the United States now that a lot more people are leaving to get treatments abroad, or opting out of the third-party payer healthcare cartel. Meanwhile, some people are leaving to get treatments the FDA hasn't approved (tinyurl.com/mfx9an9).

Self-managing organizations: Firms like Valve and Morning Star show that you don't need formal hierarchies (tinyurl.com/l59x4zv)—“bosses”—for an organization to run well. These firms might teach us that the world doesn't need bosses, either.

Tax sheltering (tinyurl.com/p6td2ol): Value creators are tired of having their rewards raided by the people with the guns and the jails. Apple, for example, uses a multinational tax-sheltering scheme so complicated that mere mortals can't possibly follow it. The result: extra

capital to make the iPhone ever cooler. Politicians whine but consumers cheer. (Just when you thought Swiss privacy laws were finished, there's no doubt that clever people will find new ways to hide their capital from the State.)

42 Supper clubs (tinyurl.com/py7t9gy): Underground foodies are paying visits to chefs and great cooks outside the auspices of the public health nannies. Every home is a restaurant, every kitchen an income earner. Similar supper clubs sprouted up in Chicago when aldermen in that city banned *foie gras* (a ban that was eventually overturned thanks to popular outcry, civil disobedience, and counter-special interests: tinyurl.com/l5webt8).

43 Offshoring and inshoring: Sometimes corporate taxes, union controls, and regulatory control are all just too much. U.S. corporations take their production elsewhere (currently the United States has the highest corporate tax rate in the world, when state taxes are taken into account), even as foreign corporations venue-shop for the best production facilities in the United States (away from high taxes and cartelized unions).

44 Food trucks: Bricks-and-mortar restaurants love regulations because they can keep a boot on the necks of competitors. That's why cities that tolerate food truck culture are giving these restaurants a run for their money. If you can stand to eat your tacos on a park bench, it might be worth hitting a food trailer—the ultimate in microentrepreneurship. They are often at the forefront of experimentation and variety.

45 Social networks and Skype: Millions of people from all over the world are interacting as if they were next-door neighbors. Subtly this blurs the lines created by nation-states and creates a far more cosmopolitan world—one that exposes the arbitrariness of jurisdictions that you may or may not happen to have been born in.

46 Driverless cars: The technology is here. It certainly changes the calculation for distracted or intoxicated drivers, and it fixes the problems with public roads the State won't fix. Driverless cars will give us safe, automated travel and deny the State funds it gleans from hassling people for both major and minor offenses that result from bad infrastructure, human error, and poor judgment. It'll just take one or two areas of the world to deploy them successfully to unleash the change.

47 Crowdsourcing private equity (tinyurl.com/9h7xh5m): Kickstarter and other online fundraisers were required by law to restrict their services to donations and not sell stock. But what about premiums for donations? How big can they be? The limits are being tested. In a few years, you will be able to buy startup equity with Bitcoin and the whole world will benefit. In any case, the loophole has been already been created: (tinyurl.com/mbjluhw).

48 Private conservation: You can be an environmentalist without agitating to have pristine lands given to the State for taxpayer management. Groups like the Nature Conservancy and Ducks Unlimited do great things when they don't turn land over to the State. And private individuals are opting to conserve land (tinyurl.com/lnhmt35) rather than sell it.

49 Immersive environments: We're in the process of creating the Matrix around us. From Second Life to immersive games, we may soon see linkages between the virtual world and the crypto economy that result in interesting new forms of order.

50 Twitter revolutions (tinyurl.com/m4jtdv2): Having troubles with a tinpot dictator or religious zealots? Organize, demonstrate and overthrow with Twitter—#overthrow. (But be careful you don't end up installing a regime that's worse than the one you helped overthrow.)

Now that you see the machinery in operation, step back for a moment. Imagine that the world spinning through time has been like an onion. Over the years human beings have wrapped layers of progress around our blue orb. First it was the Stone Age, then the Agricultural Age, then the Industrial Age, then the Commercial Age. Now we live in the Connected Age.

In this most recent era, a lot of interesting stuff is starting to happen—the most interesting of which is the increasing obsolescence of the State. It doesn't know anything we don't know, and the only thing it can do that we can't is force everyone, at gunpoint, to fund its whims. Our knowledge is crowdsourced, and we never stop learning from each other. We are integrated as in one global, self-ordering city. A few people are starting to see that the circumstances of birth and culture are contingent

and the lines are blurring. National boundaries are less tied to the people within them.

The cost of connecting with other like-minded people is going down. Each of us in our private spheres of activity can get on with the business of interacting without the need for terra firma or permission. It's as if we're creating communities in the sky and commerce in the ether. It's nobody's business because millions of us simply make it so. It's the ultimate form of democracy.

There may be a technological arms race with "authorities" in the short term, but unless said authorities are willing to get really totalitarian, really fast, the pace of interconnection and creation will simply overwhelm them—even as they try to regulate it all away (with the best of intentions, of course).

This is the way bad laws and bad regimes die. Enforcement becomes impossible. Exceptions are made. Authorities get exhausted. People feel emboldened. It happened this way with anti-usury laws in the Middle Ages. Eventually they became unviable in the face of modernization.

And in the days of Prohibition, the law meant every other neighbor was participating in the black market. Repeal came not because Al Capone and his competition were playing shoot-'em-up. Repeal came because Americans learned the hard way that you cannot legislate morality—not easily, anyway. And the bootleggers didn't have Snapchat, Bitcoin, and Tor.

Now, imagine not just alcohol, but 10,000 simultaneous products, services, and communities operating concurrently. And in each of these 10,000 products and services, imagine markets of millions.

It seems there are a few possibilities for the State given its largess and power:

- Grow rapidly along with these industries—metastasizing throughout this economy, creating millions of virtual gestapo-like agents that would have to cross national borders to track people down and keep them in line;



Image from Shutterstock

- Make examples of a few people in each of the 10,000 industries with punishments severe enough that it would frighten the rest and keep everyone else in line, causing many of those grayish industries to go out of business; or
- Skim a little bit off all of it, but tolerate it.

In any of these scenarios we can imagine cooperating international agencies, maybe coalescing into something that would be a big, rather rabid INTERPOL with the eyes of the NSA and the aspirations of the UN. It's not inconceivable that this creature would come into existence. In fact, it seems rather likely. After all, these new communities and markets would be international.

But how long will the State be able to keep up with the dizzying pace of innovation, as this civil disobedience hydra sprouts two heads in the place of any one severed? Unless the State gets really repressive really fast (and we're all prepared to let it), its functionaries will not be able to control the swarms and the gales of creative destruction those swarms bring with them. Fifty ways will become 50,000. This is our present. This is our future. **FEE**

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The 14th Amendment Makes America Freer

CLARK NEILY



In 1880, San Francisco tried to run Chinese people out of the laundry business by requiring a special permit to operate wooden laundries. Every Chinese person who applied for a permit was denied, while every white person—with a single exception—was approved. The California Supreme Court found no problem with this.

Meanwhile, it was illegal for women to practice law in Illinois and a crime to marry outside one's own race in Alabama and elsewhere. The intellectual foundations were also being laid for the American eugenics movement, which would eventually see the forcible sterilization of more than 60,000 citizens deemed "socially inadequate" by government officials.

The U.S. Supreme Court has since rejected every one of those practices under a single provision of the U.S. Constitution: the Fourteenth Amendment.

Did the Fourteenth Amendment make America freer? If freedom is defined as the ability to live one's life without unreasonable government interference, then the answer is emphatically yes.

To understand how the Fourteenth Amendment protects liberty, it is necessary to know what prompted its adoption in 1868.

In the aftermath of the Civil War, many Southern states tried to keep emancipated blacks, called "freedmen," in a state of constructive servitude. This involved a ruthless campaign of oppression against freedmen and their white supporters, including censorship of speech supporting racial equality; severe limits on the ability to travel, work, and own property; and stripping them of the right to own guns for self-defense. In one Kentucky town, for example, it was reported that the marshal took "all arms from returned colored soldiers" and was "very prompt in shooting the blacks" whenever the opportunity arose.

This unrelenting assault on liberty was facilitated by the fact that the only place its victims could seek redress was in local courts whose judges showed little inclination to enforce state constitutional rights on behalf of out-groups like the freedmen, white Unionists, immigrants, and women.

Unlike today, those who were silenced, dispossessed, and stripped of the ability even to defend themselves from mob violence could not invoke the protections of the Bill of Rights, nor could they turn to the federal courts as we routinely do

now. The reason for that was an 1833 decision called *Barron v. Baltimore* in which the Supreme Court held that the freedoms protected by the Bill of Rights applied only against the federal government and not the states.

The Fourteenth Amendment was designed to change that by establishing two basic points: (1) everyone born or naturalized in the United States is an American citizen, and (2) states may not enforce laws that interfere with the "privileges or immunities" (a term then synonymous with "rights") of American citizens, nor may states deprive any person of due process or equal protection of the laws. And while the Supreme Court initially botched its interpretation of the Fourteenth Amendment in an 1873 decision aptly named *The Slaughterhouse Cases*, it gradually embraced the notion that the Fourteenth Amendment should be applied in a manner more consistent with its text, purpose, and history. This included setting aside *Barron v. Baltimore* and "incorporating" most of the two dozen or so discrete provisions of the Bill of Rights against the states. (A more detailed discussion of this history, including a short documentary video prepared by my colleagues and me at the Institute for Justice, is available here: tinyurl.com/mawm7ed)

Thus, the primary effect of the Fourteenth Amendment was to add a new textual resource for those seeking to vindicate their rights against state and local officials, along with a new venue—federal courts—in which to do so. The result has been more robust judicial protection of everything from speech and racial equality to the rights of the accused in criminal prosecutions.

Has the Fourteenth Amendment lived up to its full promise? Absolutely not. Besides treating the Privileges or Immunities Clause as a mere "inkblot," a mindset of reflexive deference to other branches has produced an ethic of judicial abdication that frequently turns a blind eye to illegitimate government action, as the Supreme Court did when it authorized the use of eminent domain for private development in the notorious *Kelo* decision of 2005.

But the question is not whether the Fourteenth Amendment has attained its full promise; the question is whether the Fourteenth Amendment makes America freer. By adding to the rights set forth in various state constitutions an additional source of protection for liberty, and by empowering an additional set

continued on page 18

The 14th Amendment Doesn't Make America Freer



ALLEN MENDENHALL

A point of contention among libertarians is the Fourteenth Amendment, in particular its first and fifth sections. Section One includes the Citizenship Clause, the Privileges or Immunities Clause, the Due Process Clause, and the Equal Protection Clause; Section Five grants the U.S. Congress the power to enforce the amendment by legislation.

It would require volumes to describe these clauses and the jurisprudence emanating from them. Suffice it to say, as a result of the Civil War (and at the height of Reconstruction), these clauses were meant to empower the increasingly centralized national government to regulate state laws.

Supreme Court decisions since the amendment's ratification have expanded federal power over the states, as well as over local businesses and communities, and have vested that power in the federal judiciary, which is peopled by unelected judges with lifetime appointments.

The question for libertarians is whether the expanded scope of federal power as a result of the Fourteenth Amendment is justified if it reduces discriminatory practices and policies in the states. I submit no. The federal government is neither the only nor the best means for countermanding discrimination.

Libertarian criticisms of the Fourteenth Amendment should not be mistaken as endorsing the discriminatory ideologies the amendment has targeted. Nor should such criticisms be interpreted as excusing the unequal treatment of minorities by states. They should, instead, be a reminder that libertarians favor nongovernmental and decentralized approaches to neutralizing discriminatory institutions and practices.

As a threshold matter, the question must be raised whether the Fourteenth Amendment was legitimately enacted.

Its ratification was made a condition for former Confederate states to reenter the Union and secure congressional representation. Any originalist interpretation of the amendment must account for the fact that the amendment's adoption—and hence its validity—has been called into question. On this issue, I recommend Raoul Berger's *Government by Judiciary*. I also believe, contrary to current fashion, that the *Slaughterhouse Cases* (1873) correctly refused to expand the Privileges or Immunities Clause to a context having nothing to do with the liberties of former slaves. The Privileges or Immunities Clause having become, in effect, dead-letter, the Supreme Court improperly began to use the Due Process Clause to incorporate

the Bill of Rights to apply against the states—again for purposes unrelated to the rights of former slaves. A sustained study of the Civil Rights Act of 1866, the Black Codes, the Thirteenth Amendment, and the 39th Congress reveals that the purpose of the Fourteenth Amendment was to guarantee that freed slaves possessed citizenship and substantive rights as well as procedural due process and access to courts. To treat the Fourteenth Amendment as anything more is to cheapen its meaning.

The Supreme Court and inferior federal courts have used the Equal Protection Clause and the Due Process Clause to regulate activities at the local level that otherwise would have fallen outside the jurisdiction of the federal judiciary. Although these clauses are aimed at state action, they have been used to interfere with the activities of private citizens and businesses and, ironically, to validate inherently discriminatory affirmative action programs.

Due process has been used to nationalize allegedly fundamental rights, yet what constitutes a “right,” let alone a fundamental one, is a philosophical question best left to philosophers, not judges. Because “right” is a slippery signifier susceptible to appropriation, scholars on the left (Erwin Chemerinsky, Charles Black, Peter Edelman, Frank Michelman) have argued for a more robust application of the Due Process Clause and a more expansive denotation of “rights” to include “rights to subsistence,” i.e., rights to government-supplied food, healthcare, and a minimum wage. If these scholars had their way, state governments failing to provide these goods and services would violate the Fourteenth Amendment.

Placing faith in federal judges to secure more liberty for citizens by way of the Fourteenth Amendment presupposes that such judges are inclined toward liberty. If the federal judiciary were peopled with capitalists versed in the tradition of classical liberalism and free-market economics, the Fourteenth Amendment might advance liberty. But the federal judiciary is peopled by former lawyers, who, for the most part, are not trained in economics or philosophy and are not sympathetic to capitalism. If that comment seems hyperbolic, consider the fact that the federal judiciary consists of individuals whose salaries come from taxpayers and who were nominated by the President and confirmed by professional politicians (i.e., senators), who also live off the American taxpayer. We do not need the federal judiciary to secure rights because Section Five grants Congress

continued on page 18

The 14th Amendment Makes America Freer

of tribunals (the federal courts) to enforce those rights, the net effect of the Fourteenth Amendment has plainly been to make America freer.

Thus, when Klansmen and nativists in Oregon sought to outlaw private schools and force Catholic children to attend Protestant public schools in 1922, it was the Fourteenth Amendment that prohibited it. When police arrested Mildred and Richard Loving for violating Virginia’s anti-miscegenation law, it was the Fourteenth Amendment that kept them out of jail and forced the state to recognize the validity of their marriage. And when Alabama tried to hound the NAACP out of the state during the civil rights era, it was the Fourteenth Amendment and the U.S. Supreme Court that said no.

History makes clear that those results would not have occurred without the Fourteenth Amendment and the federal judiciary’s commitment to enforcing it. Would state courts suddenly have become vastly more protective of liberty had the Fourteenth Amendment not been ratified? That is an extraordinary claim that requires extraordinary evidence. I have never seen any. Has Section Five of the Fourteenth Amendment, which authorizes Congress to enforce its provisions “by appropriate legislation,” so empowered the federal government as to offset the manifold protections of liberty achieved by Section One? That too would be an extraordinary claim requiring extraordinary proof. Again, I am not aware of any.

Did the Fourteenth Amendment make America freer? It certainly did for Mildred and Richard Loving. Oh, and that anti-Chinese laundry ordinance upheld by the California Supreme Court? The U.S. Supreme Court struck it down under the Fourteenth Amendment. **FEE**

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The 14th Amendment Doesn’t Make America Freer

that authority. Congress can pass amendments to the U.S. Constitution (the Fourteenth Amendment was itself enacted to strengthen the Civil Rights Act of 1866) or pass laws remedying denials of fundamental rights in the states. Because members of Congress can be voted out of office, whereas federal judges and Supreme Court justices enjoy life tenure, Congress is the appropriate vehicle for such action.

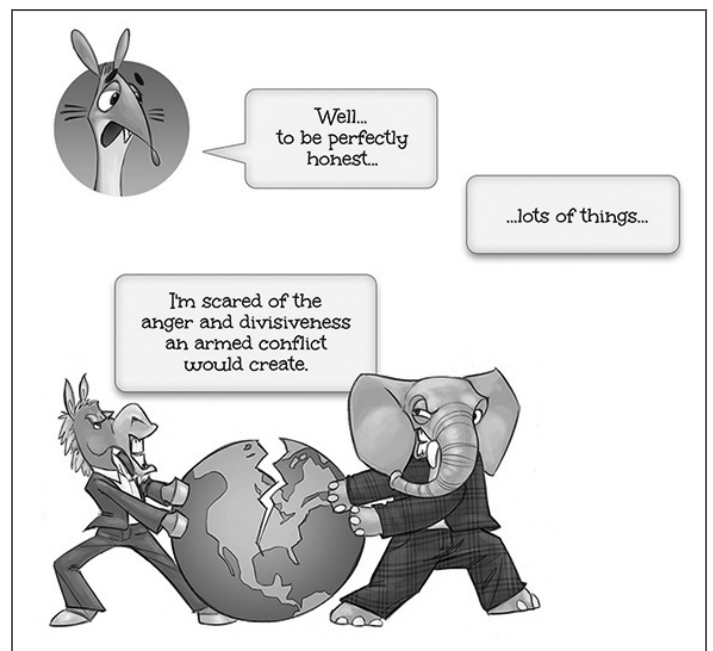
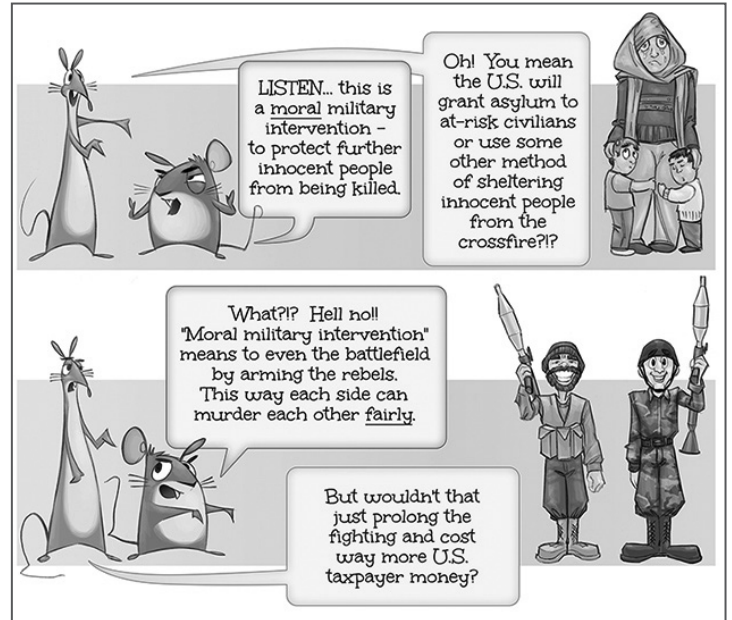
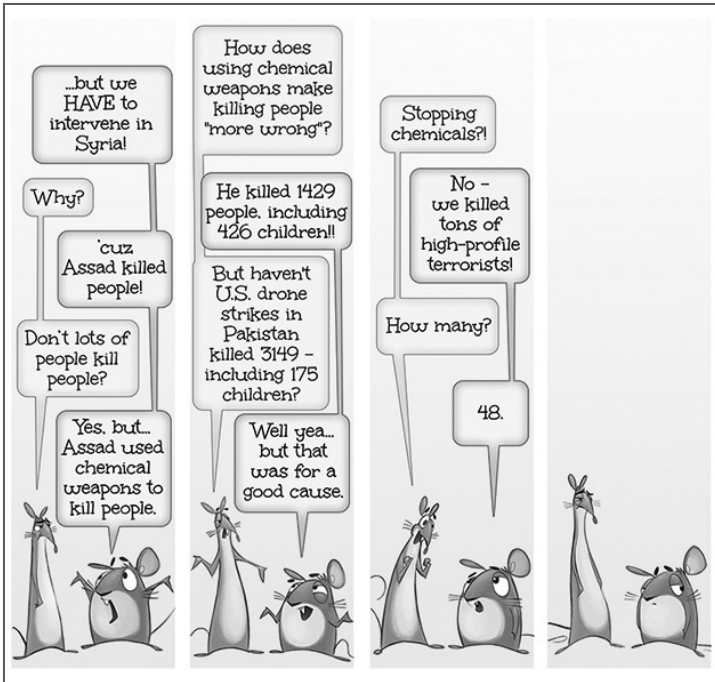
If libertarians were to defend federal intrusion into state affairs on consequentialist grounds—i.e., on grounds that the results of intervention were good—such a defense could be extended to justify the intervention of powerful governments into the business of less powerful states and communities. Is not the celebration of federal intervention into local affairs on consequentialist grounds a close step toward asserting that libertarianism is fundamentally wrong because a centralized, paternalistic power is better at advancing liberty than decentralized government?

Opposition to broad interpretations of the Fourteenth Amendment, including its vigorous application against the states, is not necessarily about “states’ rights” or “state sovereignty.” It is about limited government and decentralization of power. Expansive, creative interpretations of the Fourteenth Amendment have conferred federal jurisdiction over local matters that ought to be outside the province of central planners. Since 1950, the number of federal appeals judges alone has more than doubled. Yet nothing in the Constitution specifically authorizes federal judicial review of legislative acts. The only federal court required by the Constitution is the Supreme Court; Congress may create other federal courts pursuant to Articles I and III of the Constitution, but it is unlikely that the framers of these articles had in mind the massive federal judiciary that exists today. This federal judiciary—the “least dangerous branch”—has grown to overwhelming proportions. It has become a Leviathan unto itself, and the Fourteenth Amendment is part of the problem. **FEE**

Allen Mendenhall is a writer, managing editor of Southern Literary Review, staff attorney to Chief Justice Roy S. Moore of the Supreme Court of Alabama, adjunct professor at Faulkner University Thomas Goode Jones School of Law, and a doctoral candidate in English at Auburn University. His forthcoming book is Literature and Liberty: Essays in Libertarian Literary Criticism.


Of Mice and Mud

L.J. LANE




Of Mice and Mud


I'm scared that... in a way... using my tax dollars to take aggressive military action makes me complicit in the death of innocent people.




I'm scared of the awful guilt I'd feel if people are harmed because of **NOT** taking action...



...but I'm far more scared to admit that I really have **NO** idea which action would even be the right one to take.




I'm scared I'll be called "heartless" if I don't accept a 'moral responsibility' to intervene in the suffering of all people worldwide.





I wish I could...

I just CAN'T.

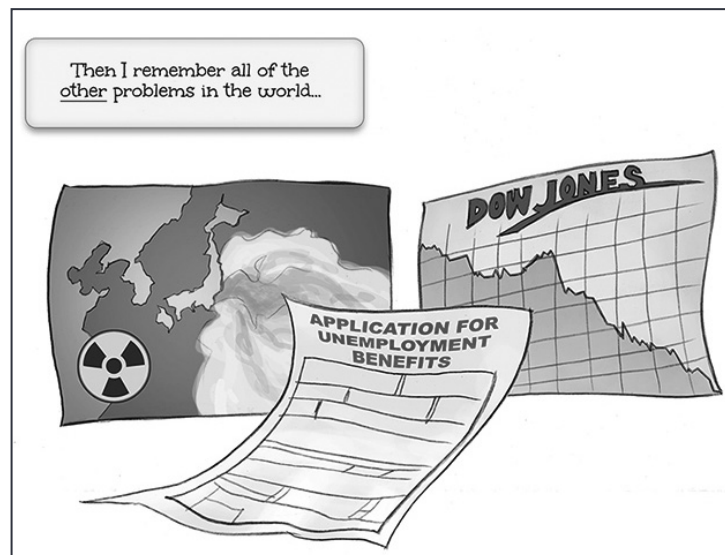
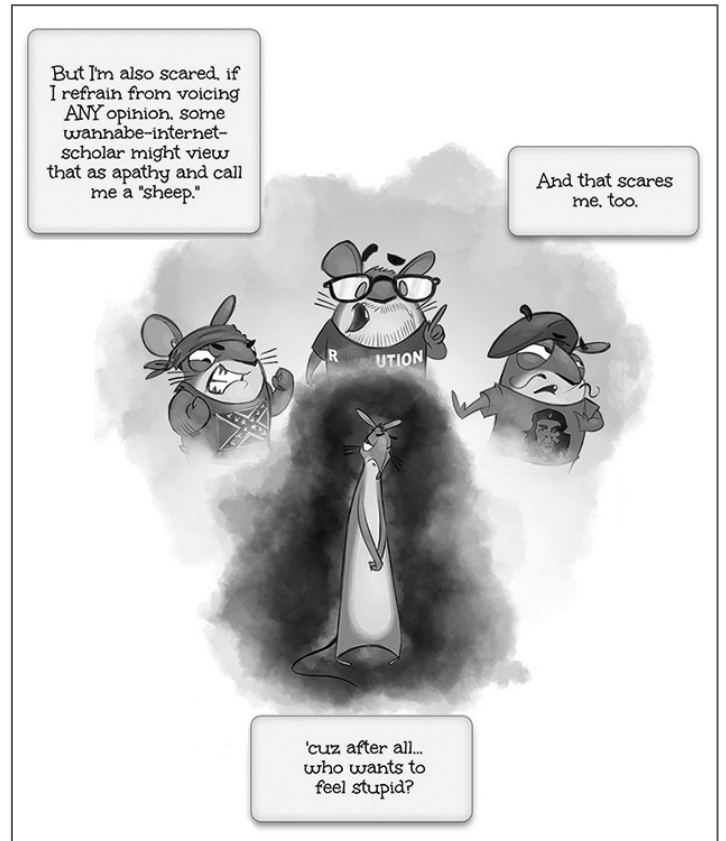
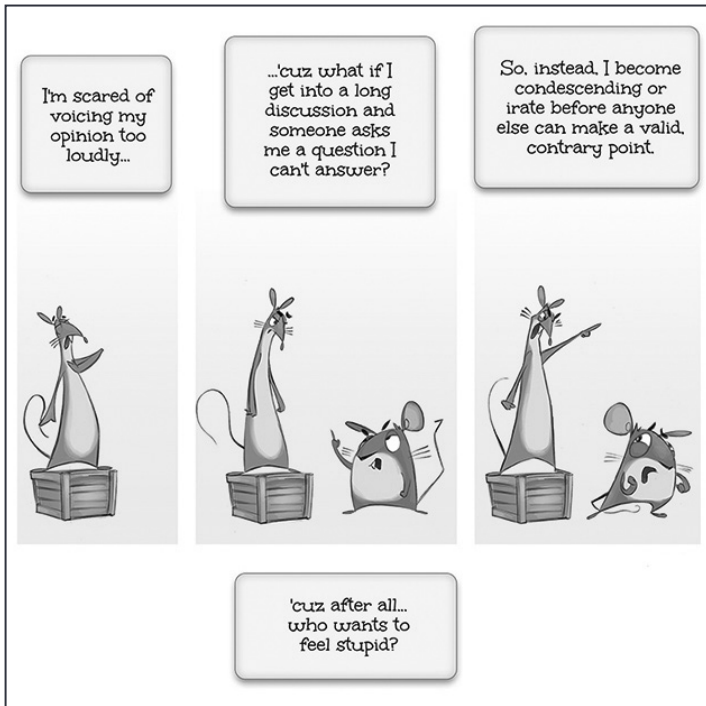
So, instead, I listen to the ideas of others I'm told I should trust. But secretly... I don't trust any of them either.



If not because I'm scared they're complete idiots...



Then simply because I'm scared they're outright liars.



Of Mice and Mud

and am reminded of how small...

and ineffectual...

and insignificant I am...

...unable to affect any change **WHATSOEVER!**

And I feel like I could go insane!!

But then...

...by the grace of GOD...

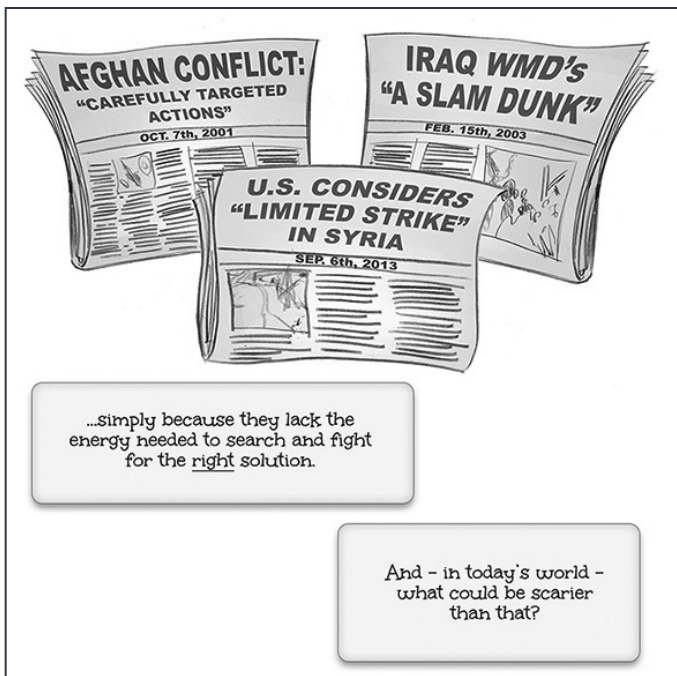
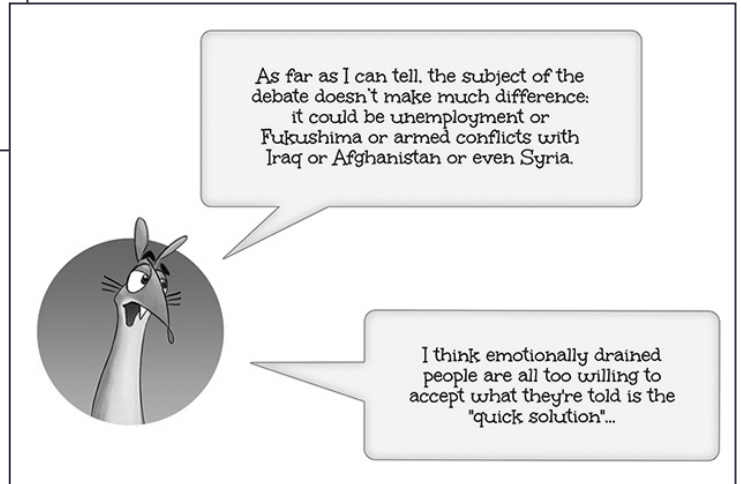
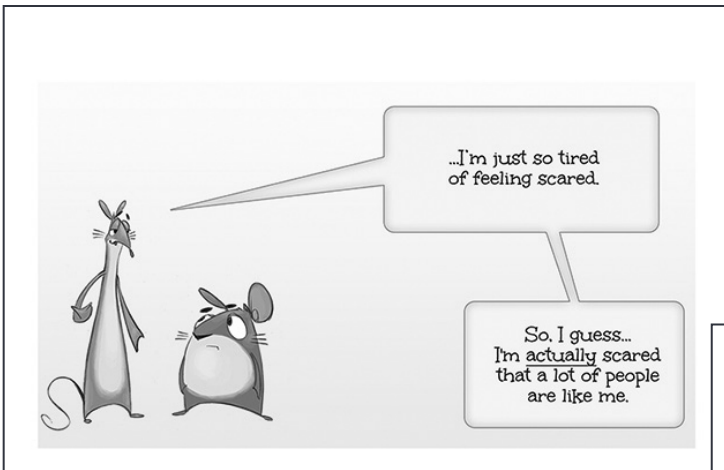
...someone like Miley Cyrus goes on television.

Who allows me the chance to stand at a distance and be judgmental and feel superior...

Okay, we get it! You're a woman now!

...and distracts me for just long enough that I forget anything is wrong in the world at all.

And - secretly - I'm grateful for this distraction. 'cuz more than anything...



The Real Social Contract

A challenge to partisans: What if you really could have your chosen system?

MAX BORDERS

Even the wisest and best of governments never functions with the full and free consent of all its subjects. There are parties, either victorious or defeated; there are majorities and minorities in perpetual struggle; and the more confused their notions are, the more passionately they hold to their ideals. —P. E. Du Puydt



You're a dyed-in-the-wool Democrat. No? A staunch Republican? My mistake. Democratic Socialist? Most daily readers of this publication would say they are "none of the above."

Most, but maybe not all. If you're a political partisan, I have a challenge

for you.

Have you dreamed of a day when your favored party could finally implement every plank in its platform? Seriously. What if it were possible? What if you could live in your favorite system of government—and keep all those idiots in that other party from obstructing your plans?

The Challenge

We can imagine such a possibility, only with a twist. But first I want to take you back in time—to Belgium. It's 1860. By the way, I thought I was the first to come up with the challenge. But my friend Gian Piero de Bellis told me about the work of a Belgian named Paul Emile de Puydt who proposed this great partisan challenge more than 150 years ago...

In each community a new office is opened, a "Bureau of Political Membership". This office would send every responsible citizen a declaration form to fill in [...]

Question: What form of government would you desire?

Quite freely you would answer, monarchy, or democracy, or any other.

Anyway, whatever your reply, your answer would be entered in a register arranged for this purpose; and once registered, unless you withdrew your declaration, observing due legal form and process, you would thereby become either a royal subject or citizen of the republic [or a Democrat, or Republican]. Thereafter you would in no way be

involved with anyone else's government [no more than an American is with Canadian authorities]. You would obey your own leaders, your own laws, and your

own regulations. You would pay neither more nor less, but morally it would be a completely different situation.

Ultimately, everyone would live in his own individual political community, quite as if there were not another, nay, ten other, political communities nearby, each having its own contributors too.

See the challenge?

In short: You can live under any political system you like without leaving your driveway. Instead of joining a party,

WE'RE STUCK IN A social technology that no longer makes sense.



Image from Shutterstock

you join a political association and agree to live under its auspices—rules that track with your sense of the right and the good. A real “social contract.” The only cost of this quantum leap forward is this: You cannot force anyone to join your chosen association.

So, would you do it? If not, why not?

Some Worries

Could it be that you’re concerned about how people would resolve disagreements? De Puydt says:

If a disagreement came about between subjects of different governments, or between one government and a subject of another, it would simply be a matter of observing the principles hitherto observed between neighboring peaceful States; and if a gap were found, it could be filled without difficulties by [appeal to] human rights and all other possible rights. Anything else would be the business of ordinary courts of justice.

While we may agree that “human rights” is an ambiguous term, we assume given de Puydt’s liberal

commitments that he means people should be protected from involuntary servitude.

Maybe you’re worried all the rich people would flee your chosen association or form their own association—leaving less wealthy, less greedy members of your association to care for the poor. Wealthy Americans can already leave the United States (and some do). But most do not. If the voting patterns of the wealthy are any indication, plenty of rich people in America tolerate higher taxation rates and support government systems intended to help the poor. Those who don’t support these policies overwhelmingly believe that delivering aid to the poor through the State is particularly ineffective and inhumane; while they oppose State welfare, it isn’t because they have no interest in relieving distress.

In any case, why not let the best system win?

The Dilemma

For the statist the dilemma becomes: Why the territorial chauvinism? In other words, does something as arbitrary as geography determine your right to exit from some system of government? As I have written elsewhere:

For the statist— i.e., one who believes in the ultimate authority of the State—there seem to be two possible responses:

X: If they could get their hands on me—my body and/or my wealth—whether in Sweden, or down there on my secret island, they would be justified. There is really some objective, global justice, the ends of which justify their means of getting to me; or

Y: Considerations of pragmatics and citizenship mean that once I'm in another jurisdiction, so long as I haven't broken any laws in the old jurisdiction, I'm no longer your concern. Because I am living in another place, under different auspices, you have no right to bother me there—whatever your concept of justice.

**DOES YOUR BIAS
boil down to the idea that your
political preferences are best,
so you think your political party
should dominate all others?**

I think fair-minded statisticians will stick to Y.

Whatever your worry, doesn't it say a lot about a system if it turned out that system's very existence depended on forcing people to be members?

Common Interests

What about common interests affecting all the inhabitants of a certain area—whatever their political allegiances? De Puydt says:

Each government, in this case, would stand in relation to the whole nation roughly as each of the Swiss cantons, or better, the States of the American Union, stand in relation to their federal government. (Note: ironically, this was published one year before the U.S. Civil War. The Swiss system has held up better and remains far more decentralized.)

I would add that such “issues” must be linked specifically

to territory. That is, most issues taken up by our national governments are not relevant to questions of territory per se, but are laws attached to history's contingencies—e.g., to national boundaries drawn after the ends of wars. In other words, people in Washington get to decide what healthcare system you live under, and for most people that is because your mother gave birth to you on a certain patch of soil. De Puydt's panarchy helps shed that arbitrariness.

Upgrading DOS

Still have concerns? Whatever your objection to de Puydt's challenge, is it so great that you're willing to

continue in this wasteful, unsatisfying game of partisan tug-of-war? Are you so blinkered by the status quo that you just can't imagine people joining their own political associations and living by their own rules? Or does your bias boil down to the

idea that your political preferences are best, so you think your political party should dominate all others? It's not like there's much good in the blur of politics.

Democracy is a system that leaves us all at the whim of mob rule. It may be formalized mob rule—and that mob has to share power with representatives captured by corporate interests. But at the very least de Puydt's proposal should prompt us to think about what kind of human social arrangements are possible beyond democracy.

If you're opening your mind to de Puydt's proposal, you have come a long way. And if you have taken the challenge and come out of the other side convinced, then you are probably ready to upgrade DOS (our “Democratic Operating System”). Under DOS you have two apps: the red app and the blue app. And that's not much of a choice for anyone these days.

Wouldn't it be better if politics were more like choosing from apps on an iPad? We're stuck in a social technology that no longer makes sense. Democracy is not a system

designed to grant us our political wishes. It is a system in which, at best, random clustered preferences of others get mixed together—bizarrely, as a feature of the system. And the rules we have to live under are arbitrary with respect to our real political preferences.

When you go to the voting booth, you might as well be sending your prayers up to Washington. But how many times do those prayers get answered? Even if your guy gets elected, he doesn't give you the policies you'd like to see. Hardly anyone is happy with the sausage that gets produced in our legislatures. Only an ignoramus who thinks of politics as a kind of team sport is happy two months after Election Day, whether he wears a red or blue jersey.

Power to the People

Belgian statesman Charles de Brouckère commented just before his death,

M. P.-E. de Puydt [has furnished] an outline of a system that would have the advantage of submitting the industry of security production, otherwise known as governments, to a competition as complete as that in which manufacturers of fabrics, for example, engage in a country under free trade, and achieves this without having recourse to revolutions, barricades, or even the smallest act of violence.

If democracy is a way of transferring power without bullets, de Puydt's "panarchy" is a way of distributing power among the people. Here's de Brouckère again:

If society were to adopt the system proposed by M. de Puydt, each citizen would be able to change governments at least as easily as a tenant changes furnished apartments in a large city; because he would need to commit himself for only one year

to follow the laws of the government of his choice and to defray expenses at rates discussed in advance. At the end of this year's trial, the citizen would be free to subscribe, for his consumption of security and other public services, to the establishment that produced these things in the manner most congruent

with his tastes and for the amount that he desires to devote to this expense.

Instead of a game in which the red team and the blue team fight over who gets to make and enforce

the rules, why don't we have an honest competition in which associations compete for members by offering better systems with better rules—as determined by those members?

Please Share

The next time you hear someone lazily toss out a reference to the "social contract," send them this article.

Indeed, now that you've taken the challenge, I encourage you to send this to your most partisan friends. If nothing else, this great partisan challenge is an interesting way to infuriate your in-laws and Facebook contacts. (And notice the similarities between de Puydt's system and Facebook itself.)

With this challenge, we can go a long way in exposing the fact that people's politics are just another sort of religion—a religion that is fundamentally about forcing others to live the way we want them to. (And that's so twentieth-century.) **FEE**

Many thanks to my Swiss friend Gian Piero de Bellis, my Australian friend John Zube, and my American friend Adam Knott for helping me explore these ideas in greater depth.

Max Borders (mborders@fee.org) is the editor of The Freeman and director of content for FEE. He is also founder of Voice & Exit and the author of Superwealth: Why We Should Stop Worrying About the Gap Between Rich and Poor.

IF DEMOCRACY
is a way of transferring power
without bullets, de Puydt's
"panarchy" is a way of distributing
power among the people.

The Mystery of the Mundane

PETER BOETTKE



The world is full of marvels, from FaceTime to air travel. But the real action is in the mundane—those everyday things we take for granted. Economics, and the economic way of thinking, are indispensable for learning how to see the mystery of the mundane. And

when we do, it's awe-inspiring.

This is one of the crucial insights in Paul Heyne's *The Economic Way of Thinking*, which I've relied on for more than 25 years now (and of which, along with David Prychitko, I've been coauthor for more than a decade). Along with another rule—don't overteach the principles—we can show others how economics belongs in everyday life and not just in the classroom.

Don't Overteach the Principles

Heyne's first rule was this: "Teach the principles of economics to your students as if it was the last time they will ever take an economics course, and it will be the first of many."

In other words, there's no reason to teach basic economics with an emphasis on the tools of economic reasoning, such as mathematical formulas, graphs, and statistical relationships. Instead, you want your audience to be intrigued by the insights that one can gain by persistently and consistently applying the economic way of thinking to the puzzles and problems they confront in their daily lives.

We must show our students—or anyone with whom we talk about economics—how the principles of economics make sense out of the buzzing confusion that makes up a modern economy. And we must show how to clarify and

correct the daily assertions they read in newspapers and hear from political figures, axe-grinders, and talking heads commenting on economic affairs.

Our job as teachers is to help students cut through the nonsense and begin to understand the world around them. So we have to outfit them with the right lenses.

The Mystery of the Mundane

Paul's second rule was, "Allow yourself and your students to be amazed by the mystery of the mundane."

As we say on page 1: "When we have long taken something for granted, it's hard even to see what it is that we've grown accustomed to. That's why we rarely notice the existence of order in society and cannot recognize the processes of social coordination upon which we depend every day." Don't focus exclusively on the miracle of exotic

or peculiar things, such as how we can FaceTime with family across the country, what forces enable a plane to fly, or why Miley Cyrus did that. Instead recognize and be astonished at the feats of everyday social cooperation that you engage in and benefit from.

Think about the how, what,

why of the shoes on your feet, the hat on your head, the car that you drive, the smartphone on which you may be reading these words.

Adam Smith, in attempting to get his readers to appreciate the mystery of the mundane, went through the numerous specializations in production, the exchange relationships that must be established, and the mutual adjustments that must continually be made just to provide the common woolen coat to the average citizen.

More recently, FEE founder Leonard Read used the example of the No.2 pencil to convey the same point as

OUR JOB AS teachers is to help students cut through the nonsense and begin to understand the world around them. So we have to outfit them with the right lenses.

Adam Smith when he described the production of a woolen coat. Milton Friedman used Read's No.2 pencil to explain the power of the market to coordinate economic affairs, in contrast to the tyranny of government controls that failed to produce such an overall order.

F. A. Hayek used the example of the market's guidance of the use of tin in production and consumption. Hayek wanted to convey the ability of the price system to provide the required information and incentives for economic actors who must adjust their behaviors until all the mutual gains from trade are realized.

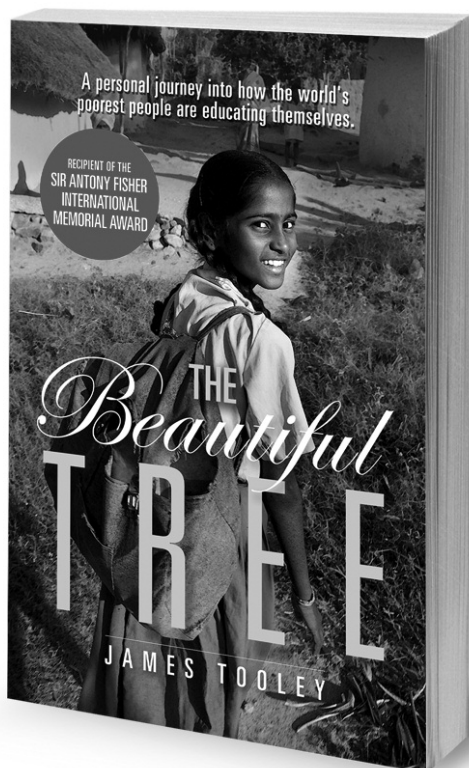
Adam Smith pointed out in *The Wealth of Nations* that every man lives by exchanging. The successful coordination of economic activity in society, where everyone lives by specializing and exchanging, is an extraordinarily complex phenomenon. The "invisible hand" metaphor for the market economy—with its private property, relative prices, the lure of pure profits (not to mention the penalty of loss)—is meant to capture the wonder of this complex coordination. Social cooperation happens through constant mutual adjustment. Once we appreciate

this fact, it is easy for us to lose our awe at the miracle of it all. Hayek referred to the "marvel of the market" to try to jolt his readers from their intellectual complacency.

Economics Out the Window

So as you are studying economics this year as a teacher, a student, or a casual reader, step back from the chapter or the lecture notes and look out the window of your room. Drive around town. Pick any good or service and track down all the exchange relationships that must have been formed to enable that good or service to be available to people like you. From lawn services to milkshakes, the marvel of the market is on full display. If you allow yourself as you study economics to be open to the mystery of the mundane, then the teachings of economics will be that much easier to absorb and appreciate. **FEE**

Contributing editor and FEE trustee Peter Boettke is a University Professor of Economics and Philosophy at George Mason University and director of the F.A. Hayek Program for Advanced Study in Philosophy, Politics, and Economics at the Mercatus Center.



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Keynesians: Sleepy? Down a Red Bull

The case against economic stimulus

JULIAN ADORNEY

Fiscal stimulus, beloved by Keynesians, is not only expensive but causes long-term harm to the economy by distorting business incentives. The hundreds of billions of dollars pumped into the economy go, as often as not, to cronies and industries chosen by politicians, propping up politically connected businesses at the expense of more efficient ones.

This practice is not sustainable.

A Keynesian will attempt to justify all of these costs—decisions made by elites at the expense of the consumer—and say that they’re worth it. Why? Because fiscal stimulus cures recessions. Paul Krugman, addressing the just-breaking Great Recession in late 2008, said, “Increased government spending is just what the doctor ordered.”

But the best reason to oppose fiscal stimulus is that it does just the opposite of what Krugman claims. It doesn’t cure recessions; it exacerbates them.

Making Recessions Worse

Libertarians haven’t explored this angle enough, because up until recently the research just hasn’t been available to support the assertion. But as I explain in an upcoming academic paper for the Ludwig von Mises Institute, 100 years of history show that stimulus quantitatively makes recessions worse.

In that paper, I start with research done by Christina Romer, former chair of President Obama’s Council of Economic Advisers and coauthor of Obama’s 2009 plan for recovery. In 1999, Romer created a measure of the severity of recessions. The idea, in simple terms, is to add up how much industrial production was lost from one peak until the economy got back to that level. Add up the shortfall for each month between those two points, and you have one number—percentage-point months (PPM) lost—that tells you how deep that recession cut.

Since she published the paper in 1999, she did not include data for the 2000–2001 recession nor the 2008

recession. I was able to ballpark the former and I used Krugman’s own figure (which even he says is probably a little low) for the latter.

What I found was that Keynesian thinking has made recessions less frequent, but more painful and durable.

The Body Economic

If you imagine that the economy is like a person, then a recession would be our need for sleep. It’s natural and normal to sleep, just like recessions are a natural market self-correction. Fiscal stimulus works like downing a Red Bull every time you need to sleep. Doing so lets you stay awake a little longer. But eventually you’re going to have to sleep, and your crash will be much worse than if you had just let your body rest instead of trying to counter that instinct with a stimulant.

In the real world, here’s how that looks: Back before the Federal Reserve and Keynes’s ideas, the United States was a virtual Austrian paradise (at least by comparison). The approach to recessions was hands off, for the most part letting the market self-correct. If the body is tired, let it sleep. Back then, the United States averaged about one recession every 3.9 years. They were frequent, but they were also pretty minor and over fast.

But in the 1930s, stimulus became the medicine of choice to handle economic downturns. Successive presidents, from Eisenhower to Kennedy to Obama, have used variations of fiscal stimulus to try to counter every recession. And the result has, admittedly, been fewer recessions: one every 5.7 years, compared to one every 3.9 in the “Austrian” years (before 1913). But these recessions have been longer, deeper, and more damaging than anything we encountered in the pre-government-intervention years. The 2008 crash, for instance, is already over 1.5 times worse than the worst recession on record before 1913.

In my paper, I examine the net effect of all of these recessions on the United States economy. By looking

at three factors (unemployment rate, lost industrial production, and GNP), it's possible to objectively measure most recessions in terms of the damage they do to the country. These measurements aren't perfect, but they're good. And it turns out that, objectively measured, recessions in the Keynesian years do 12.5 percent more damage per year (not just years of recession, but total years in history) than those in the "Austrian" years.

So to go back to the sleeping metaphor, the Keynesian approach means you sleep less often, but you sleep so much more when you do finally crash that you spend about 12.5 percent more time asleep overall than if you'd avoided stimulants in the first place.

Cure or Disease?

Fiscal stimulus is also promoted to us as a way to cure recessions, not just fend them off. In 2008, an economist at the Daily Kos proposed a stimulus of \$1 trillion to \$1.6 trillion to combat the looming Great Recession. Keynesians across the board argue that fiscal stimulus is so important that it justifies going deeper into debt, because it's a cure-all for our economic woes. It is significant, then, to show mathematically that fiscal stimulus makes worse the very problem it aims to solve.

Even if stimulus were free, it would still be a bad idea because it makes recessions as a whole more painful. And, of course, it's not free. The New Deal, the original stimulus package, cost \$542 billion (in 2013 dollars). The stimulus passed by Presidents Obama and Bush to cope with the 2008 recession totaled over \$1.1 trillion. The "American Jobs" act President Obama proposed in 2011, if passed, would have cost another \$447 billion.

There is a second cost of fiscal stimulus: It distorts incentives. Any stimulus bill is composed of bloated contracts to make bridges or new energy or—as Keynes famously suggested—to dig and fill holes in the ground. Government takes it upon itself to pick and choose which industries and which companies should receive

these contracts, which are often big enough that they can make or break a company. These contracts go to firms that are well connected politically, rewarding companies that spend money on lobbyists instead of making a better product. In the long run, this malinvestment hurts the economy overall.

Fiscal stimulus already has significant costs. Defenders will acknowledge these, but justify them as the cost of making the economy better. Unfortunately for us all, stimulus just makes the economy worse. **FEE**

Julian Adorney (jadorenewal17@gmail.com) is an entrepreneur and fiction writer. He has written for the Ludwig von Mises Institute and runs a libertarian blog.

CLIMBING

Sarah Skwire

My daughter is climbing a rope
hand over hand, to the top
of the gym and the heat of the lights
dazzling the eyes into blindness.
My daughter is fearlessly climbing
and oh, for the joy of her motion
for all things that move and that change.
No butterflies pinned to the wall,
no dragonfly captured in amber
can rival the sight of her—climbing.
Perfection is change, oh my darling,
touching the ceiling and laughing and waving.

Sarah Skwire's (sskwire@libertyfund.org) poetry has been published in Standpoint, The New Criterion, the Vocabula Review, and elsewhere.

Is Wall Street Really the Heart of Capitalism?

Blaming the Wrong People for 2008

DOUGLAS FRENCH

The other night I tuned into *The Flaw*, a 2011 documentary about the 2008 financial crash.

While telling the crash story, the movie flashes in and out of a street tour offered by an ex-mortgage bond trader. The young man has the required effervescence to keep a dozen tourists entertained while they look at nothing more interesting than office buildings. He cleverly lets members of his tour touch a toxic asset. Well, a page of the legal document of a collateralized debt obligation (CDO), anyway.

The camera pans to tourists taking pictures next to *Charging Bull*, the 7,100-lb. bronze sculpture closely associated with Wall Street. The guide starts his tour saying what has become a worn-out cliché. “Welcome to Wall Street; this is the heart of American capitalism.”

But is Wall Street really the heart of capitalism?

If we understand capitalism as a social system of individual rights, a political system of laissez-faire, and a legal system of objective laws, all applied to the economy with the result being a free market, is Wall Street really capitalist?

The laws that govern the securities industry start with the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, The Investment Advisors Act of 1940, the Securities Investor Protection Act of 1970, the Insider Trading Sanctions Act of 1984, the Insider Trading and Securities Fraud Enforcement Act of 1988, the Private Securities Litigation Reform Act of 1995, and the Sarbanes-Oxley Act of 2002. Of course all of these acts weren't enough to prevent the crash of 2008, so we now have the

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the Jumpstart Our Business Startups Act of 2012. That seems like a whole lot of regulating for something that's supposedly a capitalist marketplace.

Back when lawmakers were pithier in writing legislation, the Securities Exchange Act of 1934 ran 371 pages. Dodd-Frank totals 848 pages. This mountain of paper and regulation is anything but laissez-faire. Thousands of government employees are charged with enforcing these

byzantine rules. Does this sound like the deregulated, Wild West Wall Street we're told brought the nation to its knees?

When investment banks Goldman Sachs and Morgan Stanley were in danger of failing in September 2008, they applied to become commercial banks; their applications were quickly approved. Even in the boom times, bank charters

normally took a couple of years to be approved. Now, it's impossible. The last *de novo* charter was approved in the fourth quarter of 2010. While *The New York Times* made a big deal of the additional regulations the banks would have to endure, these banks were rescued as the FDIC insured their deposits, stemming a possible run. The change also allowed the banking behemoths to borrow from the Fed against a wide array of collateral. No one can call this “survival of the fittest” capitalism.

Much of the business on Wall Street is bond business. As of a couple years ago, the bond market totaled \$32.3 trillion. Just over half this market is corporate, mortgage, and asset-backed bonds. Government, municipal, and agency bonds make up 44 percent of the market.

THIS MOUNTAIN of paper and regulation is anything but laissez-faire. Thousands of government employees are charged with enforcing these byzantine rules. Does this sound like the deregulated, Wild West Wall Street we're told brought the nation to its knees?

The trading of government and mortgage bonds can be considered capitalism, but the instruments traded certainly aren't the spawn of free markets.

The 30-year mortgage would not exist without government. Before the Depression, home loans were short-term. Residential mortgage debt tripled during the roaring '20s, however, and "much of this financing consisted of a crazy quilt of land contracts, second and third mortgages, high interest rates and loan fees, short terms, balloon payments, and other high risk practices," explains Marc Weiss in his book *The Rise of the Community Builders*.

Mortgage lenders would often lend only 50 percent of a home's cost and often for only three years. But from the National Housing Act of 1934 emerged the Federal Housing Administration (FHA), with the intent being to regulate the rate of interest and the terms of mortgages that it insured, or in the words from the FHA's first annual report, "to bring the home financing system of the country

out of a chaotic situation."

The FHA standardized housing and financing through its *Underwriting Manual*, which required homes to be built and financed by the book. The FHA initially insured mortgages for 20 years at 80 percent of cost. This was eventually increased to 30-year, fully amortizing terms and 97 percent loan-to-cost.

The FHA believed its appraisal process would expose inflated values and risky properties. Of course, the agency would claim not to dictate development practices. "The Administration does not propose to regulate subdividing throughout the country," the FHA's 1935 handbook *Subdivision Development* claimed, "nor to set up stereotype patterns of land development." However, the handbook's very next sentence states, "It does, however, insist upon the observance of rational principles of development in those areas in which insured mortgages are desired."

James Moffett, who headed the FHA in 1935, said his agency, by guaranteeing mortgages, "could also control



Image from Shutterstock

the population trend, the neighborhood standard, and material and everything else through the President.”

After World War II another mortgage guarantee program was born so war veterans could more easily obtain credit. The U.S. Department of Veterans Administration (VA) loan program started modestly, guaranteeing only 50 percent of a loan up to \$2,000 for 20 years. Today veterans can borrow up to 102.15 percent of a home’s sales price.

Fannie Mae was created by the government in 1938 to provide a secondary market for mortgages. After the Civil Rights Act of 1968, the government established Ginnie Mae to buy FHA loans originated as a result of the Fair Housing Act. In 1970 Congress authorized Fannie Mae to purchase conventional mortgages and chartered Freddie Mac to also purchase mortgages under control of the Federal Home Loan Bank Board.

Fannie and Freddie were taken over by the government during the financial crisis, and the FHA is in financial trouble.

Every modern president has been four-square behind home ownership. In 1994, Bill Clinton’s HUD Secretary Henry Cisneros rolled out the National Homeownership Strategy that championed looser loan standards.

Ten years later, George W. Bush said, “If you own something, you have a vital stake in the future of our country. The more ownership there is in America, the more vitality there is in America, and the more people have a vital stake in the future of this country.”

Ironically, at the height of the housing bubble, government backed fewer than 40 percent of mortgages. Since the crash, as Jesse Eisinger wrote for ProPublica last December, “With little planning and paltry public discussion, the government has almost completely taken over the American home mortgage market.”

“It is creeping nationalization,” says Jim Millstein, an investment banker who worked in the Obama administration’s Treasury Department as the Chief Restructuring Officer.

Speaking just weeks ago in Phoenix, the current president laid out five steps to heal the housing market and promote homeownership. The President urged Congress

to pass a bill allowing every homeowner to refinance at today’s low interest rates. Second, he said, “Let’s make it easier for qualified buyers to buy homes they can.” Reforming immigration, putting construction workers back to work, and creating adequate rental housing were also part of the President’s pitch.

Defending the 30-year mortgage in *The Washington Post*, Mike Konczal writes, “It would be nice to imagine that the ‘free market’ will just take care of this issue. But remember that the housing market is created through a huge web of government policy.”

**WALL STREET IS
not synonymous with capitalism
and markets.**

And if there wasn’t enough government involvement in the housing and mortgage markets already, the Federal Reserve’s third round of quantitative easing (QE3)

policy consists of the central bank purchasing \$85 billion per month of Treasury and mortgage-backed securities.

Since its founding 100 years ago, the central bank’s manipulation of interest rates has distorted asset values and misdirected capital, working contra to where free markets would funnel resources.

Near the end of *The Flaw*, tour guide Andrew Luan is asked if he feels any responsibility for the financial crisis. He looks away from the camera nervously and contemplates. While he doesn’t answer verbally, the cheerful tour guide’s face becomes etched with guilt.

However, Mr. Luan has nothing to be sorry for. People want to direct their anger at Wall Street and blame the crash on investors and traders. But Wall Street is not synonymous with capitalism and markets. It was government intrusion and regulation over many decades that caused the crisis. We know this. And yet the counternarrative persists in the public mind.

Sadly, rather than get out of the way, increased government interference keeps capitalism from doing its regenerative work. This keeps the crisis fresh in people’s minds, the search for scapegoats heated, while the punk economy lingers. **FEE**

Douglas French (douglas.e.french@gmail.com) is senior editor of the Laissez Faire Club and the author of Early Speculative Bubbles and Increases in the Supply of Money, written under the direction of Murray Rothbard at UNLV, and The Failure of Common Knowledge, which takes on many common economic fallacies.

Just Plain Toothpaste

How to make fairy tales out of inspirational stories

SARAH SKWIRE

Jean Merrill • *The Toothpaste Millionaire* • Boston: Houghton Mifflin, [1972] 2006 • 119 pages

A few months ago I shared the juicy Public-Choice goodness of Jean Merrill’s mid-grade reader *The Pushcart War* with you. I noted that if more kids read *The Pushcart War*, “the basic ideas of Public Choice could be as commonly taught as fractions, spelling, and Shakespeare. And that might begin to take the romance out of politics.”

Immediately after writing that column, I ordered another of Merrill’s books: *The Toothpaste Millionaire*. I expected it would be just as good, and it is. I did not expect it to enrage me. But it did.

The Toothpaste Millionaire is the story of Rufus Mayflower. His friend Kate MacKinstrey narrates the story for us:

This is the story of my friend Rufus Mayflower and how he got to be a millionaire. With a little help from me. With a lot of help from me, as a matter of fact. But the idea was Rufus’s.

Rufus’s idea wasn’t to become a millionaire. Just to make toothpaste.

Confronted with sticker shock when he realizes that a tube of toothpaste costs 79 cents (the book is set in the late ‘60s or early ‘70s), Rufus decides to make and sell his own. From that moment, Rufus’s entrepreneurial alertness—and the way that Kate and other kids “catch” that alertness—becomes the book’s focus.

In *Competition and Entrepreneurship*, Israel Kirzner wrote that when we think about pure entrepreneurship, we begin by imagining an entrepreneur without means. I can think of no better example of this than an 11-year-old

black kid living in east Cleveland in the ‘60s and ‘70s. Kirzner says that the key for the entrepreneur without means is to have or to develop the kind of alertness that sees opportunities others have not yet seen:

What our decision-maker without means needs to arrive at the best decision is simply to know where these unexploited opportunities exist. All he needs is to discover where buyers have been paying too much and where sellers have been receiving too little and to bridge the gap by offering to buy for a little more and to sell for a little less.

Having found one such gap in the toothpaste industry, Rufus enthusiastically sets out to fill it.

He develops his own formula and begins to make, package, and ship it from his house and then from Kate’s when he needs more space. He hires neighborhood kids to help out. He develops a reputation for straight talk in advertising with the development of the “Absolutely Honest Commercial,” which “simply tells us what’s in Toothpaste and how much it costs.” The kids recycle the addresses from order forms as mailing labels to cut labor and supply costs. Rufus and Kate also become adept at repurposing capital. They buy a dozen gross of toothpaste tubes from a company that went out of business, and eventually they rent an entire abandoned factory and begin to produce their toothpaste from there. They even hire the unemployed Hector—former operator of the toothpaste tube-filling machine they rent along with the factory—to operate the machinery and to serve as their front for securing a bank loan.

And that is how Rufus makes a million dollars and retires before the eighth grade.

It is worth noting, as well, that the entrepreneurial spirit never really retires, not for good. The last we hear from Rufus in *The Toothpaste Millionaire* is a postcard that reads:

Could you see if Vince's Army & Navy sells blow up rafts at least 6'x12' And how much would two of them cost And do they have army surplus soup in 100-pound bags?

Rufus's next million-dollar idea—whatever it might be—is well on its way. (And if I had some 11-year-olds around my house, I'd ask them to imagine what Rufus might be planning to do with those supplies!)

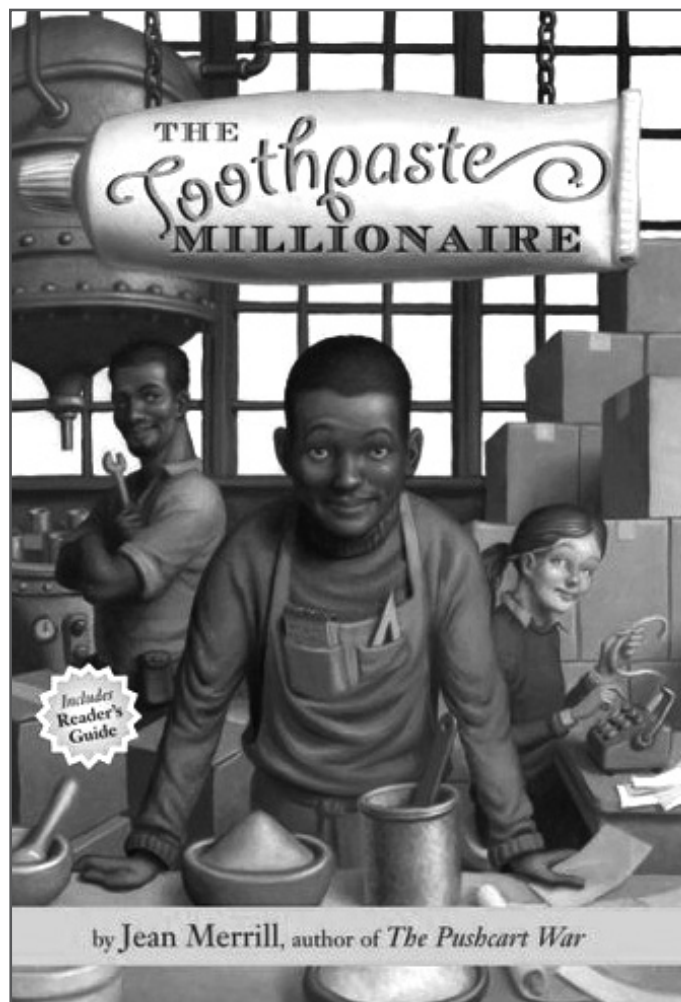
With charm and wit, a great plot, and solid support for free-market entrepreneurship, what could I possibly find in this book to enrage me? Nothing.

Rufus's story has no health inspectors. No OSHA inspectors. No licenses for the factory. No busybodies interfering with 11-year-olds running a business. There are no unions. There are no taxes. There are no run-ins with government whatsoever. Aside from some brief attempts at price fixing by other toothpaste manufacturers, and a banker who is somewhat reluctant to loan \$15,000 to an 11-year-old, Rufus's business takes place in a world that is virtually free of negative interference by adults, by government, and by regulation.

Now, I'm well aware that the '60s and '70s were not, in fact, a magical golden age of minimal regulation and intervention. I'm not mad because I'm longing for that kind of dream world.

I'm mad because when Merrill wrote *The Toothpaste Millionaire* it must have seemed at least marginally plausible that some clever kids could accomplish this much—without endless interference from the adult world, and without endless stumbling blocks put in the way of small businesspeople. It had to be, at least, plausible enough for 11-year-olds (who are nobody's fools) to buy it for the sake of the story.

Now that lemonade stands need licenses, dinner



parties are threatened with regulation, and independent taxi services need the Institute for Justice to defend them in court, Merrill's story looks a lot less plausible. We can see the difference as clearly as we can by comparing the weights of the 1972 and 2013 *Federal Register*. The rise of regulation and interference is so sharp and steep that even my five-year-old would know that *The Toothpaste Millionaire*, read in 2013, is a fairy tale, not an aspirational tale.

Have we made a world for our kids where *The Toothpaste Millionaire* and Rufus Mayflower have no place? **FEE**

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China: Yes, It's Capitalism

The most growth happened where the State had the least power

JANE S. SHAW

Ronald Coase and Ning Wang • *How China Became Capitalist* • Palgrave Macmillan • 2013

Ronald Coase, the Nobel Prize-winning economist who died on September 2, never retired. He was 97 years old in 2008 when he and Ning Wang, now an assistant professor at Arizona State University, began their book, *How China Became Capitalist*, published this year.

As David Henderson points out in his Coase biography, Coase never wasted time writing about trivialities; his reputation was made on the basis of two articles written 23 years apart. Like Coase's other writings, the book is intellectually bold. And the topic—China—is of tremendous import.

What we learn in *How China Became Capitalist* is quite different from conventional wisdom like that exemplified in a Wikipedia entry on China's economy. To begin with, the title is "How China Became Capitalist." It is not "How China Fostered State Capitalism" (to use the usual term for the country's economic system). Nor is it "How Deng Xiaoping Created a Mixed Economy."

More important, Coase and Wang argue that China became capitalist—and terrifically productive—largely *in spite* of efforts to build "state capitalism." They write that China's economy today is a "striking example of what Hayek has called 'the unintended consequences of human action.'"

Leadership decisions made following Mao Zedong's death in 1976 were indeed critical. But they were critical in unexpected ways. Deng Xiaoping is properly called the architect of China's post-Mao economy, but his deliberate actions did not create the Chinese "miracle." Rather, he and others ended the chaos of the Mao era and created an environment that allowed a market economy to develop on its own.

The process described in the book suggests a possible analogy with an action of the seventeenth-century Scottish

parliament. Scotland, a backward country, instigated universal education in order to enable Presbyterian children to read scripture. An unintended consequence was to fertilize the ground for an intellectual revolution—the Scottish Enlightenment. Or perhaps there's an analog in DARPA, the U.S. government agency that created a communications network for universities that ultimately became the Internet. In a similar way, actions by Deng and others enabled the Chinese economic miracle to occur, but not by the methods they adopted and not in the ways they designed.

By focusing reform efforts on State enterprises, China's government largely ignored—and sometimes actively restrained—the sectors where economic growth actually took place. State-owned enterprises never became engines of growth; ultimately, many were privatized or closed. Meanwhile, the neglected areas thrived. "The most significant developments were to occur not at the core of the socialist economy but on its periphery, where state control was the weakest," write Coase and Wang.

In fairness to Deng and his predecessor, Hua Guofeng, it should be said that at Mao's death the country was so desolated by socialism and torn by chaos that basic steps were certainly helpful. For example, by the end of 1976, trade in commodities was restored (although the prices of most commodities were set by the central government until 1992); a little later, workers could get bonuses and differential pay (although their mobility was regulated); and then in a few cities, State-owned enterprises were allowed to decide what to produce (these were precursors of enterprise zones).

Changes were always couched in terms of "socialist modernization." All leaders, it seems, were weighed down by a commitment to socialism. Everything had to be stated

in terms of making socialism work; criticism of Mao and his legacy was muted at best, for Mao remained highly respected, even revered.

One historical fact was in the reformers' favor—unlike the Soviets, Mao had always believed in decentralization; his favorite form of socialism was the local cooperative. In 1957, Mao had increased the independence of local governments and given them management of most State-owned enterprises.

Another beneficial factor was a Confucian tradition

embodied in a saying that Mao had adopted—“seeking truths from facts.” That is, practical experience should inform ideology or theory. Citing that guideline, reformers could move away from the constraints of Maoism.

But the transformation of China, say Coase and Wang, came from the “disadvantaged and marginalized,” those people “on the fringe of government bureaucracy and excluded from state planning.”

In 1987, Deng himself expressed surprise at how much rural village industrial enterprises had grown, with output expanding by 20 percent a year. Their success, he said, had come “out of the blue.” In fact, although he didn't say so, the central government had been actively hostile to them. They competed with the State-owned enterprises favored by the central government; thus they were the last to receive government-provided benefits such as loans.

It wasn't just village enterprises, but also private farming, that fueled economic growth—even though private farming was prohibited until 1980. Well before that, unofficial non-State farming existed in many forms, from family plots to contracts between households and “production teams” (communal organizations). Ironically, when the State ended the ban and instituted the “house responsibility system,” it eliminated the vast variety of farming arrangements. By limiting farming to family control, it made economies of scale virtually impossible (an interesting governmental miscalculation).

There is a lot of detail in this book, and Coase and Wang have a number of subtle statements to make about institutional complexity and development while also giving a blow-by-blow account of the changes, deliberate and spontaneous, in the polity and economy of China.

I hope that this book will be read by China “experts.” Perhaps it will have an impact on economists' understanding of economic growth comparable to the effect that Coase's two seminal articles had on economics more broadly. **FEE**

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Matt Damon vs. The Space Republicans

Science fiction with technology that's more realistic than its politics

ANDREW HEATON

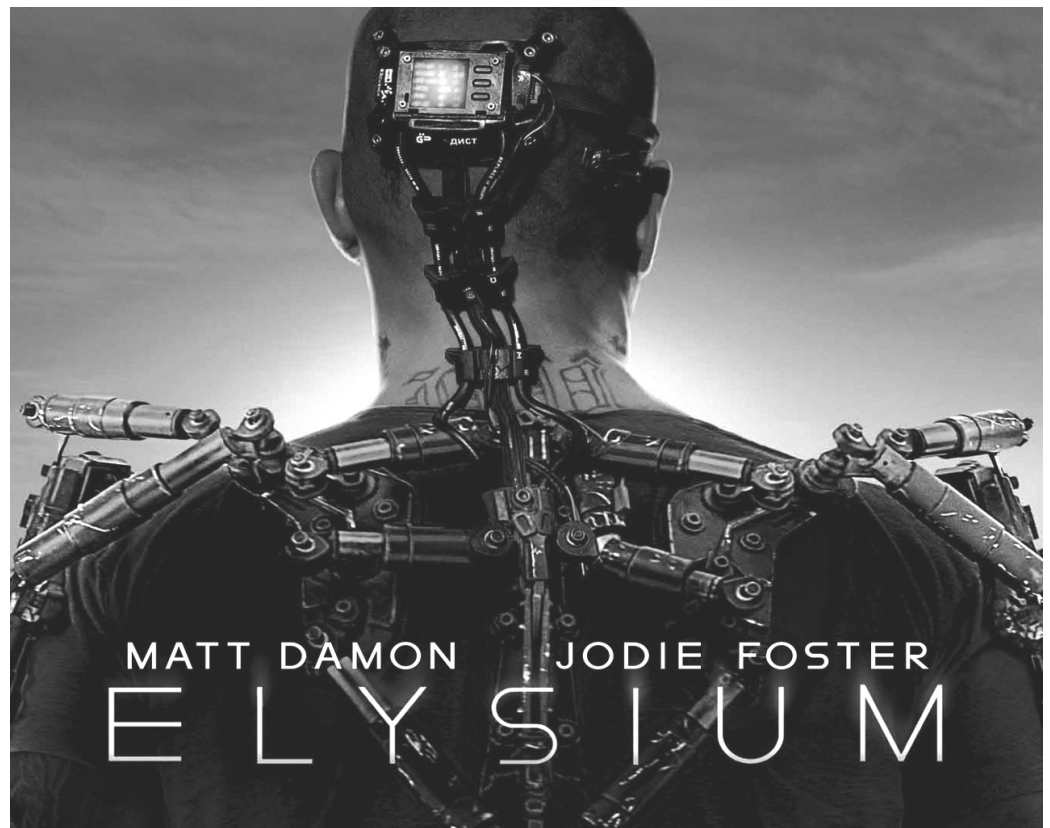
It's rare to encounter a film where the prospect of irradiated cyborgs battling in space better comports with reality than the director's grasp of economics. That's what writer and director Neill Blomkamp has achieved, however, with *Elysium*, which explores interesting social and political themes that mostly involve Matt Damon fighting straw-man Republicans in space. It's like the Occupy Wall Street movement remade *Blade Runner*.

Blomkamp came to cinematic prominence four years ago with *District 9*, a low-budget but high-quality science fiction thriller designed to mirror apartheid in his native South Africa. In his latest endeavor, a far greater budget is matched by an equally large thirst for social commentary that even sympathetic progressives will find overpowering. Matt Damon, Jodie Foster, and Sharlto Copley star in this preachy sci-fi romp.

Here is the plot: Matt Damon lives in future Los Angeles, a decaying urban sprawl with a bad economy and an abusive police force. (So far, so good.) He is on parole working as a blue-collar grunt at a robot factory, where part of his job entails carting

machines into a large microwave. Due to what we can only infer is an auspicious lack of union activity, poor Matt is subject to a flagrant safety violation while tending to a mechanical issue inside of the microwave. Our hero is inadvertently irradiated and will thus die within five days. Unless...

Even though Matt Damon and the rest of the teeming masses live in abject poverty on a sepia-toned Earth, floating above it soars Elysium, a luxurious space station where apathetic rich people and their offshore bank accounts live. It is a gated community of such abundant



wealth that its economy appears to function entirely through swimming pool real estate transactions. Its denizens are so insanely affluent that they sometimes break into uncontrollable bouts of French. If Damon can sneak into this celestial Beverly Hills, he can use their miraculous healthcare technology to heal himself.

There are many obstacles to doing so, including Jodie Foster. Her character is the head of “Homeland Security,” which could possibly be some kind of subtle reference to our own Department of Homeland Security. Secretary Delacourt and her mega-rich ilk do not like the prospects of grubby refugees from Earth fouling up their neighborhood, so she shoots “illegals” (their words) down by the shipload whenever they approach. With the exception of Matt Damon, all of the undocumented immigrants are Spanish-speaking Latinos, which I theorize could also be some kind of social commentary. As part of a larger coup, Delacourt hires a South African mercenary played by Sharlto Copley to kill Matt Damon using as many explosions as the film budget can sustain.

In the end, after a laudable number of explosions, Matt Damon succeeds in breaking into the gilded space station. As the film concludes, the orbiting plutocrats watch in astonishment as their flying ambulances zip off to Earth at the behest of our hero, there to heal disease and (huzzah!) share the wealth.

We can forgive Blomkamp for indulging in a little Malthusian anxiety, since sci-fi dystopias routinely lean on this fallacy. Though it is a fallacy nonetheless: As societies prosper, their birth rates decline. The wealthy nations of the world have shrinking populations, and developing nations have fewer children per family as they shift from agrarian economies to modern ones.

What I cannot overlook is Blomkamp’s cartoonish portrayal of income inequality. At any given moment I expected Jodie Foster to cackle and drink orphan tears out of a brandy snifter. In *Elysium*, rich people stand around idling in their posh golf courses, because in that universe wealth isn’t created. It’s simply captured by greedy people as it (quite literally in the film) drops from the sky.

Let us momentarily disregard that *Elysium*’s orbital capitalists have an exquisite (presumably private)

healthcare system they are loath to share, while everyone down below makes do with a shoddy alternative. If such a disparity existed, wouldn’t the Space Republicans see a market opportunity? If *Elysium* is stockpiled with unused medical miracle devices, presumably an entrepreneur would realize he could make a tidy sum selling them in Los Angeles. Even the greediest of capitalists would recognize that a fit and healthy population would be a more productive and lucrative labor force. This is discounting the possibility that *Elysium* has within its confines any philanthropists or charities, which is all but certain. With that many rich people clustered together there’s bound to be an Episcopalian church.

I don’t disagree with all of Blomkamp’s positions. We are of one mind on not shooting refugees with rockets. I assume we are both for significant immigration reform. His film brings up the terror of drones and a society so mechanized as to disenfranchise its citizens. But Blomkamp strongly conveys the idea that poverty exists because rich people are too selfish to share their wealth. The flush do not become so by working, innovating, or creating goods and services. They simply throw cocktail parties where they scheme about how to retain their big slice of the pie.

This is best illustrated by the fact that at the end we realize the people of *Elysium* could have at any time unleashed incalculable good on Earth by merely pressing a button to share their opulent lifestyle. You know, a bit like a certain director could have by distributing \$115 million to charities instead of using it to produce a Bernie Sanders fever dream. *Elysium* grossed an estimated \$30.5 million its opening weekend, so its makers still have time to atone for their wealth before Matt Damon dons a robot exoskeleton and slays them all.

While the writing is ham-handed, the special effects in the film are spectacular, the acting is good, and it’s nonetheless a fun summer flick. I recommended downloading it illegally, to avoid creating any more nefarious Space Republicans. Just ask your nearest teenager for help. **FEE**

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