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The New American

June 7, 2010

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Time to Audit the Fed

The Bill of Rights

First Ten Amendments to the Constitution

Article I. *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

Article II. *A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.*

Article III. *No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.*

Article IV. *The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

Article V. *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

Article VI. *In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtain-ing witnesses in his favor, and to have the assistance of counsel for his defense.*

Article VII. *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.*

Article VIII. *Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*

Article IX. *The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.*

Article X. *The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.*

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The New American

Vol. 26, No. 12 June 7, 2010

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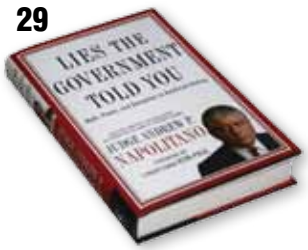

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The New American
Printed in the U.S.A. • ISSN 0885-6540
P.O. Box 8040 • Appleton, WI 54912
920-749-3784 • 920-749-3785 (fax)
www.thenewamerican.com
editorial@thenewamerican.com

Rates are $39 per year (Hawaii and Canada, add $9; foreign, add $27) or $22 for six months (Hawaii and Canada, add $4.50; foreign, add $13.50). Periodicals postage paid at Appleton, WI and additional mailing offices. Postmaster: Send any address changes to The New American, P.O. Box 8040, Appleton, WI 54912.

JBS.org

The New American is published biweekly by American Opinion Publishing Inc., a wholly owned subsidiary of The John Birch Society.

New Publication Schedule for TNA: From a biweekly to two issues per month

The publishing industry is changing in response to new technology, market demands, and economic realities, and those publications that do not take into account the changing times should not expect to survive. The Internet, in particular, has radically impacted how information is published and accessed.

The Pew Internet and American Life Project reported in March that "six in ten Americans (59%) get news from a combination of online and offline sources on a typical day, and the internet is now the third most popular news platform, behind local television news and national television news."

Many online readers look to the Internet for up-to-the-moment news reporting that's more timely than even a printed *daily* newspaper can provide, and newspaper circulation has suffered as a result. The Audit Bureau of Circulations reported in April that weekday newspaper sales dropped 8.7 percent for the six-month period ending in March compared to the same period a year earlier. For Sunday sales, the drop was 6.5 percent.

Weekly news magazines are also experiencing declining circulations. The *New York Times* reported last month: "*Newsweek's* circulation was 3.14 million in the first half of 2000. By the second half of 2009, that dropped to 1.97 million. *Time's* circulation declined from 4.07 million to 3.33 million in the same period." *Newsweek*, which is losing money, is now on the block, and *U.S. News & World Report* converted in 2008 from a weekly to a monthly.

We are pleased to report that The New American is now holding its own in print, with slight growth over the last couple of years. At the same time, our online traffic has grown dramatically. In September 2008, the first month we began posting online articles every weekday, 28,993 absolute unique visitors (different people) came to the site. In April of this year, 188,078 absolute unique visitors came to thenewamerican.com.

Like other publications, we are looking at how best to accomplish our mission in a changing industry and environment. In a nutshell, this means working both online and in print. Though a printed publication cannot compete with the Web in terms of quickness, there is a definite need for a printed publication providing news analysis and perspective. There is something about holding the printed word in one's hand that the Internet cannot replace, and frankly, many people prefer to read words on paper (particularly journal-length articles and books) as opposed to online, while others are very comfortable getting information both in print and online.

For several reasons — from the tough economic times, to being able to spend a little more time on selected issues — we have decided to reduce the frequency of our publication slightly, from 26 issues per year to 24, while keeping the subscription price the same ($39 per year). In fact, we have not raised the subscription price since TNA was launched in 1985 and are happy to be able to keep that record intact now.

Existing subscribers will still receive the total number of issues promised when they subscribed, by extending the time period of the subscription to offset the missing issues. When they renew, they will receive 24 issues for a one-year subscription, as will be the case with all new subscribers.

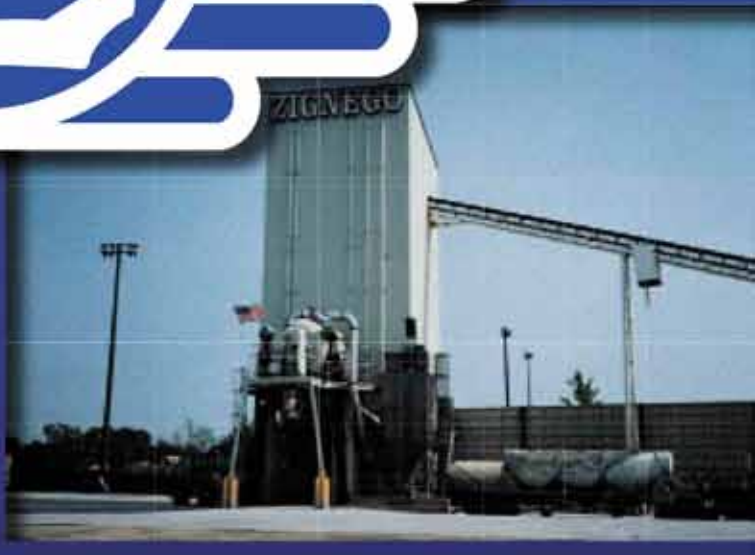
We have been publishing The New American with every-other-Monday cover dates and will follow this pattern for the remainder of the year, except that we will not publish issues with cover dates of August 2 or December 20. Thus, the July 19 issue (three issues from now) will be the last issue we will publish until the August 16 issue, and the December 6 issue will be the final (24th) issue we publish in 2010.

Beginning in January 2011, we will publish exactly two issues per month.

We very much appreciate your support of The New American and as always will work hard to deliver the best product of its kind both in the print and online arenas.

— Gary Benoit

Send your letters to: The New American, P.O. Box 8040, Appleton, WI 54912. Or e-mail: editorial@thenewamerican.com. Due to volume received, not all letters can be answered. Letters may be edited for space and clarity.



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Supreme Court Nominee Has Changed Her Mind on the "Charade"

As a professor of law at the University of Chicago in 1995, Elena Kagan wrote that the lack of substantive questions and answers in confirmation hearings for Supreme Court nominees had made those hearings "a vapid and hollow charade."


Elena Kagan
AP Images

In a review of Stephen L. Carter's 1994 book, *The Confirmation Mess*, for the university's *Law Review*, Kagan wrote a lively and interesting refutation of Carter's thesis that confirmation hearings had become needlessly contentious arguments over points of law and judicial interpretations. Carter offered as Exhibit A the hearings on Reagan nominee for the Supreme Court Judge Robert Bork, which he described as "the intellectual equivalent of a barroom brawl." Kagan conceded that the case against Bork included "distortion, exaggeration and vilification," but argued that the debate brought public attention to "the understanding of the Constitution that the nominee would carry with him to the court."

Following Bork's rejection by the Senate, however, nominees have been careful to say little to nothing about anything remotely controversial, though Kagan noted that Clinton nominee Ruth Bader Ginsburg made a point of telling the committee three times that she did not agree with the *Dred Scott* decision. Ginsburg and Stephen Breyer, wrote Kagan, "appreciated that, for them (as for most), the safest and surest route to the prize lay in alternating platitudinous statement and judicious silence."

Kagan also faulted the Senators for accepting, with good grace and humor, the nominees' non-answers to even the most basic questions that could touch on any legal issue that may someday come before the High Court.

"When the Senate ceases to engage nominees in a meaningful discussion of legal issues, the confirmation process takes on an air of vacuity and farce, and the Senate becomes incapable of either properly evaluating nominees or appropriately educating the public," Kagan wrote.

So we can expect to hear a good deal about Kagan's views of legal and constitutional issues surrounding abortion, affirmative action, church-state issues, and freedom of speech when she comes before the Senate Judiciary Committee, right? Wrong.

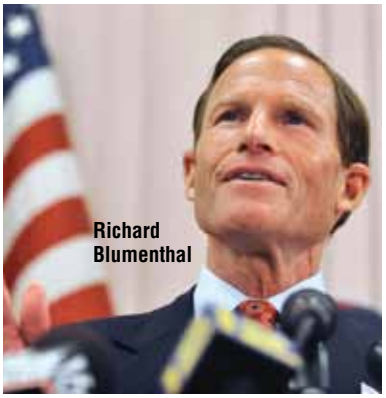
"She was asked about it and said both the passage of time and her perspective as a nominee has given her a new appreciation and respect for the difficulty of being the nominee and the need to answer questions carefully," said Ron Klain, Chief of Staff to Vice President Joe Biden. In other words, silence is still golden. And platitudes are platinum.

Senate Candidate Falsely States He Served in Vietnam

George Washington, legend has it, never told a lie — and Richard Blumenthal merely misplaced a preposition. The Connecticut Attorney General and candidate for the U.S. Senate said at a news conference May 18 that he had "misspoken" about his military service.

"We have learned something important since the days that I served in Vietnam," Blumenthal said to a gathering of veterans and senior citizens in Norwalk in 2008. "Whatever we think about the war, whatever we call it — Afghanistan or Iraq — we owe our military men and women unconditional support." He had meant to say "during" rather than "in" Vietnam, because he did serve "during" the Vietnam War — after he had obtained five draft deferments between 1965 and 1970 and the fifth deferment appeared likely to be revoked. Blumenthal joined a Marine Reserves unit in Washington, D.C., that worked on projects like repairing a campground and running Toys for Tots campaigns.

The Connecticut Democrat held the press conference the day after the *New York Times* published a story documenting numerous occasions when Blumenthal either said outright, as in the Norwalk speech, that he was in Vietnam during the fighting there, or clearly implied the same. Between 2003 and 2009, no fewer than eight Connecticut publications, the *Times* reported, referred to Blumenthal as a Vietnam veteran. Blumenthal told the *Times* he did not recall if he or his staff had made any effort to contact any of those publications with a correction.


Richard Blumenthal
AP Images

Elected Attorney General five times, Blumenthal became the favorite to win the Senate seat when fellow Democrat Christopher J. Dodd announced in January that he would not seek a sixth term. Dodd, the Chairman of the Senate Banking Committee, was plagued by declining poll numbers and the revelation that he had received favorable terms on a loan from Countrywide Mortgage Company. Blumenthal was thought to be a sure bet to hold the seat for the Democrats, given his track record in state elections and the fact that he wouldn't be carrying the baggage that Dodd had acquired. But his lackluster performance in a debate with a little-known primary opponent and his misrepresentations of his military service may have cast some doubt over the near-certainty party leaders have had about his election.

But it's possible Blumenthal will remain as unwounded by his recollections of his Vietnam experience as Hillary Clinton was by the fictitious "sniper fire" she braved on a tarmac in Bosnia.

Rand Paul Defeats GOP-favored Candidate in Kentucky Primary

Eye surgeon and Tea Party favorite Rand Paul won a handy victory over the Republican Party establishment in the Kentucky Senate primary May 18, winning the GOP primary against Kentucky Secretary of State Trey Grayson by about a 59-35 margin.

"The Tea Party movement is about saving the country from a mountain of debt that is devouring our country and that I think could lead to chaos," Paul said in his victory speech.

According to conventional wisdom, Paul's Republican primary victory should never have happened. Dr. Paul is a political novice who had never run for office. But he defeated Grayson, a two-time winner in statewide election politics who had the political and financial backing of the GOP Washington establishment. Grayson had won the endorsement of Kentucky's other Republican Senator, GOP Minority Leader Mitch McConnell, as well as the endorsements of former Vice President Dick Cheney, former New York City Mayor Rudy Giuliani, Kentucky Congressman Hal Rogers, and former U.S. Senator Rick Santorum.

Rand Paul with family

AP Images

Paul did have several advantages. He is the son of fellow medical doctor and former presidential candidate Ron Paul of Texas, and was able to tap into his father's national donor network. The younger Paul raised $3 million for the primary, much of it online from small donors across the nation. Grayson had kept pace with Paul in campaign donations until the final stretch of the primary, but many of his donations were in larger sums, including nearly $500,000 in political action committee donations (Paul took less than $10,000 in PAC donations).

Paul had also been endorsed by retiring Kentucky Senator Jim Bunning (who had a very public feud with McConnell), Sarah Palin, and conservative GOP Senator Jim DeMint.

The Democratic National Committee was quick to record the victory (correctly, in this instance) as a loss for the GOP establishment and Mitch McConnell — and to reveal their strategy to paint Paul as an extremist in the November general election. "In a show of weakness for the Minority Leader, and in a race that symbolized the fight over the heart and soul of the Republican Party, Rand Paul overcame McConnell's handpicked candidate by a large margin," Democratic National Chairman Tim Kaine wrote on the DNC blog. "Unfortunately for Republicans, ordinary Americans are unlikely to be receptive to extreme candidates like Rand Paul in the general election this November."

The "extremism" of Dr. Paul may be the best middle-of-the-road issue to take to the general election, as the DNC is defining opposition to "stimulus" spending and huge deficits as "extreme." "Democrats are now in a better position to win Kentucky's open Senate seat," Kaine wrote. He also opined that Paul's "ideas are outside of the political mainstream and … would do nothing to put Kentuckians to work, help them send their kids to college or make health care more affordable."

Paul's victory is another manifestation of the anti-incumbency and anti-bailout voter rage that is sweeping the country. "Tea Party tidal wave coming," Paul predicted the day before the primary. "It's already come to Utah [where incumbent Sen. Bob Bennett was defeated at the Utah GOP Convention], and tomorrow it comes to Kentucky." He was right. The Tea Party movement may shake up both parties before November.

Incumbents in Pennsylvania and Arkansas in Trouble

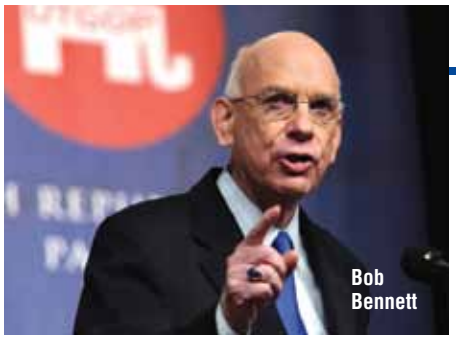
Democratic challenger and Congressman Joe Sestak defeated Republican-turned-Democratic Senator Arlen Specter by a 53-47 margin in the May 18 Pennsylvania U.S. Senate primary, and in Arkansas' Democratic primary on the same day, incumbent Senator Blanche Lincoln failed to win a majority of the vote and will face Lieutenant Governor Bill Halter in a June 8 runoff.

Combined with Rand Paul's victory in Kentucky against the GOP establishment, the May 18 elections marked a strong voter reaction against incumbents and Washington-selected successors.

Specter had the backing of President Obama and the Democratic Party establishment, despite Specter's nearly 30 years as a Republican Senator. Sestak had run a brutal television ad campaign on Specter's party switching as saving only one job: "His."

Lincoln's 45 percent to Halter's 43 percent is largely seen by the major media as part of the "anti-incumbent" mood of voters so far this year, but both major candidates are political insiders. Halter nevertheless made a lot of political hay about Lincoln's cavalier attitude about taking on more debt with the "stimulus" bill last year. Halter's campaign website quotes this revealing statement from the *Arkansas Democrat-Gazzette*: "To those who say the projects are increasing the national debt, she [Lincoln] says, 'The fact is, the stimulus money is a drop in the bucket.'"

"Tonight, people in Washington are getting mighty nervous about what is happening in Arkansas," Halter said in an election night address. "And they ought to be." ■



Utah Senator's Plea Didn't Save His Job

"Don't take a chance on a newcomer. There's too much at stake."

Three-term incumbent Senator **Bob Bennett** *lost the endorsement of the Utah GOP because of his internationalism, his vote for the Wall Street bailout, and several other matters that angered Utah conservatives.*

One Reason Why Unemployment Hasn't Affected D.C.

"The federal government now employs a quarter of a million people to write and enforce regulations."

Quoting figures he took from The Economist*, veteran Washington insider* **David Gergen** *claimed to be troubled by the size and cost of the regulatory burden facing America's productive sector.*

AP Images

La Raza Leader Calls for Boycotting Arizona

"The law is so extreme, and its proponents appear so immune to an appeal to reason, that nothing short of these extraordinary measures is required."

Advocating cancellation of conventions in Arizona and refusal to purchase goods made in the state, La Raza president **Janet Murguia** *asked others to join in punishing Arizona for enacting its law designed to combat illegal immigration.*

Pro-abortionist Worried About Rising Opposition to Grisly Practice

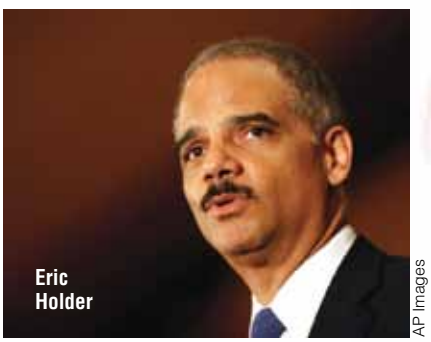
"One in three women in this country will have an abortion in her lifetime, and yet we're having exactly the same discussions and debates we were having forty years ago."

Kelli Conlin, *the leader of NARAL Pro-Choice New York, told her allies that right-to-life forces are mobilizing in every state to deny women the opportunity to kill babies in the womb.*

Attorney General Condemns but Hasn't Read the Arizona Law

"I have not had a chance. I grant that I have not read it."

Claiming that the new law will spawn controversy between police and immigrants as well as lead to racial profiling, Attorney General **Eric Holder** *is considering a lawsuit to block it from taking effect. But when questioned by Rep. Ted Poe (R-Texas) on April 15, he admitted that he had not yet read the 10-page measure.*



AP Images

Mumbai Attacker Awarded Death Penalty

"If he did cry, they were crocodile tears."

Ajmal Amir Kasab cried when his sentence was pronounced. Prosecutor **Ujjwal Nikam** *had no sympathy for the man who participated in killing 166 people in the 2008 attacks at a railway station, hotels, and a restaurant.*

AP Images

An Unusually Cooperative Terrorist

"I was expecting you. I wondered what took so long."

After failing in his attempt to explode a bomb in New York's Times Square, **Faisal Shahzad** *was apprehended moments before the airplane he was aboard was about to leave New York.*

Supreme Court Nominee Lacks Basic Understanding of U.S. System

"[Our law] is the foundation of our democracy."

If she doesn't understand that the U.S. system is a republic, not a democracy, **Elena Kagan** *will hardly uphold a republic's rule by law against a democracy's rule by the majority.* ■

— Compiled by John F. McManus

A Trillion Here, A Trillion There...

Time to Audit the Fed

Even after Fed Chairman Ben Bernanke testified that there would be no bailout of Greece, the Fed is offering a bailout overseas — ostensibly for Greece but likely for EU bankers.

by William F. Jasper

The timing of the sellout by Senator Bernie Sanders (I-Vt.) could not have been more politically auspicious — or more *suspicious*. For months the Senator had been denouncing the secrecy of the Federal Reserve's bailout operations, which have exceeded two *trillion* dollars. For months he had been pledging that he would push for a genuine audit of the Fed. He authored an amendment in the Senate identical to "Audit the Fed" legislation in the House (H.R. 1207) authored by Congressman Ron Paul (R-Texas).

However, on May 6 Sanders caved in to pressures from the Obama administration, the Federal Reserve, and Wall Street. The "who-how-why" details behind the flip-flop are still largely unknown, but here is the "what" of the matter: In a last-minute switch, Sanders agreed to substitute a watered-down version of the audit as an amendment to financial reform legislation

sponsored by Senate Banking Committee Chairman Christopher Dodd (D-Conn.).

The new Sanders amendment would provide the administration, the Fed, and Members of Congress with a certain level of cover, allowing them to claim that they had supported auditing the Fed, while at the same time allowing the Fed to continue most of its operations in secret, beyond the scrutiny of Congress and the public. The effort to push the Sanders amendment through on a rush vote on May 6 failed thanks to the efforts of Senator David Vitter (R-La.) a fierce Fed critic, who insisted on a side-by-side vote of the Sanders sellout amendment with the original audit amendment. Those two votes came the following Tuesday, May 11, with the original Sanders amendment (now known as the Vitter amendment) failing on a vote of 37 to 62, and the Sanders sellout amendment passing 96 to 0.

The Sanders flip-flop came late on a Thursday, before a very eventful weekend, and less than 72 hours prior to the Federal Reserve announcing that it was hopping on board the trillion-dollar bailout plan for Greece and Europe sponsored by the European Central Bank (ECB), the national central banks of Europe, and the International Monetary Fund (IMF). It strains credulity to imagine that Federal Reserve Chairman Ben Bernanke and his fellow Fed maestros did not already have details of the mammoth Euro bailout already finalized when they leaned on Sanders and his Senate colleagues. They certainly could not stand for these details to leak out in an audit, particularly in the heated atmosphere of looming elections and still-building Tea Party outrage over the Fed's earlier bailout actions. They hope that by limiting the Fed audit to a one-time event focused only on its earlier "emergency" bailouts, they can mollify the public with assurances of reform while continuing on as before without a worry about accountability or real scrutiny of their actions.

Senator Bernie Sanders (at podium) at a press conference on financial reform in Washington, D.C., on April 28. The following week he flip-flopped on legislation to audit the Federal Reserve.

Club Fed & PIIGS in a Poke

An Associated Press story described the massive euro-bailout plan as "a bold $1 trillion rescue by the European Union." Bold? Expropriating the wealth and savings of hundreds of millions of taxpayers and investors to bail out socialist governments and the banks that have fed their unsustainable spendthrift policies is "bold"? Brazen, shameless, and morally reprehensible might be more appropriate adjectives. Criminal is probably not even too strong a term.

The old English adage, "Don't buy a pig in a poke," is certainly apropos advice regarding the Fed's latest venture. The maxim originated as a "let the buyer beware" warning against the fraudulent practice often employed by peddlers of selling a wiggling bag (a "poke") that supposedly held a piglet but in actuality held a cat, a decidedly less valuable and desirable source of meat. Prudent buyers demanded to see the contents of the poke (to "audit" it) before buying, hence the expression, "let the cat out of the bag."

With the Federal Reserve Transparency Act of 2009, H.R. 1207 (more commonly know as the "Audit the Fed" bill), Congressman Paul has been trying to force a look inside the poke. For obvious reasons, peddlers of the pig-in-a-poke confidence scheme at the Fed, Treasury, and certain big Wall Street firms don't want anyone to let the cat out of the bag.

The latest bailout is a giant case of PIIGS in a poke. PIIGS is the acronym economists and investors have applied to the (arguably) most troubled EU economies: Portugal, Italy, Ireland, Greece, and Spain. The PIIGS have also been dubbed "Club Med," owing to their extravagant government spending and their locations on the Mediterranean (with the obvious exception of Ireland). Weiss Research analyst Mike Larson provides this breakdown of the European sovereign debt "rescue package":

> The 16 countries that share the euro currency and the International Monetary Fund (IMF) are going to offer as much as 750 billion euros ($953 billion) in loans and aid to nations who are struggling with massive debts and deficits.

Individual euro-zone governments

The Fed and other central banks dramatically affect the jobs, savings, livelihoods, and financial well-being of every human being on the planet, yet the central bankers have exempted themselves from the scrutiny and audits that every other bank and corporation must submit to.

It was Goldman Sachs — with its top-echelon people always in key positions at the Fed and Treasury — that crafted the complex shell game of credit swaps for the Greek government that allowed Greece to hide its skyrocketing debt and borrow an additional billion euros.

will pay 440 billion euros ($559 billion), while the EU will pay 60 billion euros ($76 billion) and the IMF will cough up as much as 250 billion euros ($318 billion).

The ECB, for its part, is going to purchase billions of dollars in government and private debt. Central banks in Germany, France, and Italy all are buying government debt. And the ECB is going to start offering three-month loans at fixed rates to institutions that need them. The cap on this program? None.

But that's not all; then comes Club Fed to join the bailout party for Club Med, offering "emergency currency swaps" — apparently without limit, not only to the ECB and EU central banks, but also to the central banks of Japan and Canada as well. *Businessweek* reported on May 10:

> The U.S. Federal Reserve will restart its emergency currency-swap tool by providing as many dollars as needed to European central banks to keep the continent's sovereign-debt crisis from spreading.
>
> The swaps with the European Central Bank, Bank of England and Swiss central bank, as well as the Bank of Japan, will allow them to provide the "full allotment" of U.S. dollars as needed, the Fed said late yesterday and today in statements in Washington. A separate swap line with the Bank of Canada will support as much as $30 billion, the Fed said. The swaps were authorized through January 2011.

Authorized? By whom? Not by Congress. By the Federal Reserve, of course, which is a power unto itself — and intends to keep it that way. The *Businessweek* report continues:

> The Fed action was a complement to European policy makers' announcement of an unprecedented loan package worth almost $1 trillion to stop a crisis that threatened to shatter confidence in the euro. The U.S. central bank on Feb. 1 had closed all swap lines opened during the last crisis, triggered by the subprime-mortgage meltdown in 2007.

Anti-audit lobby: Federal Reserve Chairman Ben Bernanke (left) and former Fed Chairman Paul Volcker, who currently serves as Economic Advisor to President Obama, lobbied hard against the proposed Paul-Sanders Fed audit. In the end they were able to sway even Senator Sanders.

Crisis Begets Crisis, Bailout Begets Bailout

Ah, yes, the "crisis" excuse. A trillion dollars "to stop a crisis" of "confidence in the euro." However, as many analysts have pointed out, even a trillion dollars, which not so long ago was an unthinkable sum, would only provide short-term relief to the problem of the PIIGS. And then what? Well, another bailout to prevent another "crisis," of course. After all, isn't that what happened here "during the last crisis" mentioned above by *Businessweek* (which has actually been an ongoing *series* of "crises")?

And, as President Obama's Chief of Staff Rahm Emanuel famously quipped in a November 2008 television interview, "You never let a serious crisis go to waste." Emanuel continued: "And what I mean by that it's an opportunity to do things you think you could not do before."

Precisely how much the Fed's current currency swaps for the euro crisis will eventually cost us is anybody's guess, since it is a huge pig-in-a-poke operation, with no peeking inside the bag allowed. The Fed's line is the same as that of every confidence man: "Trust me." That, of course, is the point of the "Audit the Fed" movement; this matter is far too important to be left to guesswork and trust. The actions of the Fed and other central banks dramatically affect the jobs, savings, livelihoods, and financial well-being of every American (as well as those of all other human beings on the planet), yet the central bankers have exempted themselves from the scrutiny and audits that every other bank and corporation must submit to.

The Fed has been fighting tooth and nail to prevent the public from learning the details of its previous "crisis interventions," now reportedly more than $2 *trillion.* A coalition of news groups, led by Bloomberg LLC, has won two court rulings on a U.S. Freedom of Information Act, or FOIA, lawsuit requiring the Fed to release documents concerning which banks and firms received the trillions in loans, and on what terms and based on what criteria. On May 3, attorneys for the Fed asked the full U.S.

Circuit Court of Appeals in New York to reconsider a March 19 unanimous decision by a three-judge panel of the same Circuit in favor of the FOIA suit by Bloomberg, et al. The March 19 ruling had upheld an earlier decision against the Fed delivered by a lower federal court last August. If the Circuit Court of Appeals declines to hear the case, the Fed could (and likely would) appeal to the U.S. Supreme Court. All the while that Fed officials have been stonewalling and hiding their documents and balance sheets, they also have been loudly proclaiming their steadfast support for "transparency" and "complete openness."

It is not surprising that the Clearing House Association, which includes many of the big commercial banks that have figured so prominently in the Fed's operations (and profited so handsomely from them), has filed a petition with the Court in favor of the Fed. Prominent members of the privileged CHA group include Citigroup, Deutsche Bank AG, HSBC Holdings, JPMorgan Chase & Co., US Bancorp, Wells Fargo & Co, Royal Bank of Scotland, Bank of America, and Bank of New York. They have obvious reasons for wanting to keep the details of the bailouts hushed up.

European Central Bank President Jean-Claude Trichet (center), Greek Finance Minister Giorgos Papakonstantinou (left), and chairman of the Eurogroup Jean-Claude Juncker address the media on May 2 regarding a proposed bailout for Greece.

Ditto for Goldman Sachs, which has been at the center of virtually every financial debacle, including the Greek fiasco and the larger PIIGS crisis. It was Goldman Sachs — with its top-echelon people always in key positions at the Fed and Treasury — that crafted the complex shell game of credit swaps for the Greek government that allowed Greece to hide its skyrocketing debt and borrow an additional billion euros. While it was marketing this debt to others, Goldman was going short on Greek debt, which was sure to be headed into default. So, as in the U.S. housing market crash, Goldman Sachs left others holding the pigless poke.

As economist and investment guru Marc Faber, publisher of the *Gloom Boom & Doom Report*, noted in a May 10 television interview with Bloomberg, the central bankers "are all money printers" and they will be using their money printing capabilities to debase our currencies, while bailing out their banking cronies.

"But, basically, central bankers — they're going to print and print," Faber told Bloomberg. "And it would be a mistake to think that the bailout is actually a bailout of Greece. Greece is a write-off. You can't have the kind of debts Greece has with an olive oil income. They have no industries to speak of.... So, basically, the bailout is a bailout of the ECB itself, because they have already a lot of paper of Spain, Portugal and Greece in their portfolios, and a bailout of the banks in Europe."

American taxpayers could end up on the hook for this bailout not only through the Fed's secretive currency swap actions, but also through the funds chipped in by the IMF, where the United States is the biggest contributor.

On Monday, May 10, Rep. Ron Paul appeared on the FOX Business Network with Stuart Varney to explain how it is not only the U.S. taxpayer who will pay for the euro bailout, but every consumer, who will pay for it with increased prices, as the bailout further accelerates the devaluation of the dollar.

The following day, Tuesday, May 11, Dr. Paul addressed his colleagues in a five-minute speech from the floor of the House concerning the recently concluded votes in the Senate on the Sanders and Vitter amendments. In his speech, which was carried on C-SPAN, Rep. Paul described the Senate votes as very "disturbing," especially since it is these off-the-record actions by the Fed and other central banks that are causing the very real currency crisis that is now "on our doorstep." Rep. Paul stated:

> The reason this is so disturbing is because of the current events going on in the financial markets. We are right now involved in bailing out Europe and especially bailing out Greece, and we're doing this through the Federal Reserve. The Federal Reserve does this with currency swaps and they do this literally by giving loans and guarantees to other central banks, and they can even give loans to governments. So this is placing the burden on American taxpayers — not by direct taxation, but by expanding the money supply this *is* a

Rep. Paul described the Senate votes as very "disturbing," especially since it is these off-the-record actions by the Fed and other central banks that are causing the very real currency crisis that is now "on our doorstep."

> tax on the American people because this will bring economic hardship to this country. And because we've been doing this for so many years the economic hardship is already here [and] we've been suffering from it.

Counterfeit "Thin Air" Money

"But the problem comes that once you have a system of money where you can create it out of thin air there's no restraint whatsoever on the spending in the Congress," noted Rep. Paul. "And then the debt piles up and they get into debt problems as they are in Greece and other countries in Europe. And how do they want to bail them out? With more debt."

Dr. Paul continued:

> But what is so outrageous is that the Federal Reserve can literally deal in *trillions* of dollars. They don't get the money authorized, they don't get the money appropriated, they just create it and they get involved in bailing out their friends, as they have been doing for the last two years, and now they're doing it in Europe. So, my contention is that they deserve oversight. Actually they deserve to be reined in where they can't do what they're doing.

But, at the very least, he said, "we have to have some oversight." Which is why he found the Senate vote to be so disturbing. Because it means, Dr. Paul said, that "only 37 senators [are] willing to audit the Federal Reserve in a thorough manner and hold them in check." And the disturbing corollary, he noted, "means there are 62 senators who support the idea of maintaining status quo with the Fed, and they will still be able to make these loans to these foreign central banks."

Where has this path led us? Dr. Paul notes:

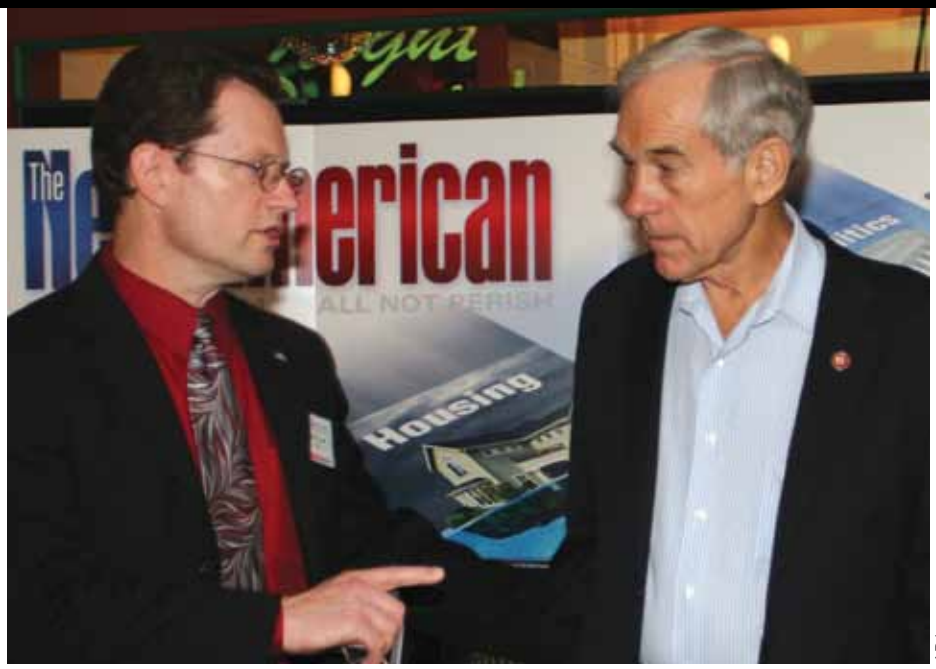
> It has led to tremendous pressure on the dollar. The dollar is the reserve currency of the world; we bail out all the banks and all the corporations. We've been doing it for the last couple years to the tune of trillions of dollars....
>
> The real truth is that the dollar is very, very weak, because the only true measurement of the value of a currency is its relationship to gold.... In the last ten years, our dollar has been devalued *80 percent* in terms of gold. That means, literally, that just means that we have printed way too much money, and right now we're just hanging on, the world is hanging on to the fact that the dollar is still usable.

Now, as a result, said Rep. Paul, "we face a very serious crisis." Unfortunately, he said, the Senate sellout in adopting the Sanders substitute amendment and rejecting the Vitter amendment made obtaining a genuine audit much more difficult. However, he was still hopeful that, with sufficient citizen pressure, things might be salvaged in conference with adoption of his House-passed version of the audit. He made it clear that Congress has a constitutional *obligation* to address this matter responsibly, stating:

> But since the Federal Reserve is responsible for the business cycle and the inflation and for all the problems we have it is *vital* that we stand up and say, you know, its time for us to assume the responsibility because it is the Congress under the Constitution that has been authorized to be responsible for the value of the currency. As a matter of fact, the Constitution still says — it has not been amended, has not been changed — that only gold and silver are sup-

AP Images

Deadly riots: Three people died in a blaze that broke out during rioting in Athens, Greece, on May 5, over austerity measures proposed by the government.



AP Images

"Audit the Fed" author Rep. Ron Paul (right) and William F. Jasper, senior editor for THE NEW AMERICAN, converse at the 50th anniversary celebration of The John Birch Society.

> posed to be used as legal tender, *not* pieces of paper, not computer entries. This can't work … the world is starting to recognize this. And I am really concerned about what is going to happen because a currency crisis is much worse than a financial crisis. We've just been through the financial crisis, we're in the midst of it, but a currency crisis, which is on our doorstep, means our dollar will be challenged.

Rep. Paul mentioned that when he questioned Fed chief Bernanke in a recent hearing, Bernanke said definitely that the Fed would *not* bail out Greece. Was Bernanke clueless about the euro bailout he was about to initiate, or was he lying to Congress? Most likely the latter.

Of course, Fed officials regularly lie, equivocate, evade, and dissemble during congressional hearings. Former Fed chief Alan Greenspan brazenly and proudly refers to this deception as "purposeful obfuscation" and "destructive syntax." And the lap dogs of the kept media go along with the lying and evasion, admiringly referring to it as "Greenspeak" and "Fedspeak" instead of exposing it for the criminal deception that it is.

Current Fed chief Bernanke and former Fed chief Paul Volcker were among the heavyweight lobbyists that put last-minute pressure on Sanders, sending letters to Sen. Chris Dodd on May 6 warning that the kind of audit called for by Ron Paul would destroy the "independence" of the Fed. In a video message to his supporters in May, late in the evening after the Senate vote, an understandably disappointed Ron Paul said that the Fed "got to" Sanders and his colleagues.

"I'm not a bit surprised that the Federal Reserve got to the Senate," Ron Paul said. "I had expected Bernie Sanders to offer S. 604, which was the same as H.R. 1207, which is the Audit the Fed Bill, and at the last minute he switched it and watered it down, and really, it adds nothing. There's a possibility that it even makes the current conditions worse."

On his Facebook page, Rep. Paul was even stronger in his criticism of Sanders. "Bernie Sanders has sold out and sided with [Sen.] Chris Dodd to gut Audit the Fed in the Senate," he wrote. "His 'compromise' is what the administration and banking interests want."

In a Monday, May 10 statement entitled "Fed Audit Under Fire," posted on his weekly "Texas Straight Talk" column, Rep. Paul stated:

> It doesn't come as too much of a surprise that the measure to audit the Federal Reserve is coming under continuous fire from the central bank and its cronies. For the first time since the Federal Reserve was created nearly a century ago, they have hired an actual lobbyist to pound the pavement on Capitol Hill. This is a desperate effort to hang on to the privilege of secrecy and lack of accountability they have enjoyed for so long. Last week showed they are getting their money's worth in the Senate.

Dr. Paul noted that while the Sanders amendment "is better than no audit at all, it guts the spirit of a truly meaningful audit of the most crucial transactions of the Fed. In fact, rather than still calling the Sanders Amendment an audit, maybe it should instead be called more of a disclosure at this point."

Ron Paul further stated:

> Taxpayers are sick and tired of bailing out privileged, dysfunctional institutions that should be allowed to fail in order to stop their ability to wreak havoc on our economy. Perpetuating these corporations at taxpayer expense is not just wasteful, it is actively harmful. It would be good to know what went on in the past, but what about accountability in the future? A one-time disclosure now will not do us a lot of good down the road when the cycle repeats itself and friends of the Fed find themselves in trouble again.

"If we cannot take away the Fed's ability to waste trillions of taxpayer dollars on failing companies and failing countries," said Rep. Paul, "at the very least, we can take away their ability to do this with no transparency or accountability to the American people."

Is that such an outrageous, unreasonable, or radical proposal? ■

Who Needs a New Constitutional Convention?

Those who wish to redesign America's political architecture to further centralize power may have their way if we succumb to the calls for an Article V constitutional convention.

by Gregory A. Hession, J.D.

You have probably griped under your breath, "There ought to be a law to stop these people," when confronted by a particularly noxious act by a government agent. Because this is such a pervasive sentiment, liberty-minded persons are raising an increasing clamor to make some adjustments to the U.S. Constitution to more effectively rein in an ever-growing public sector that intrudes further into our lives, our families, and our pockets.

Credible constitutional scholars are going so far as to push for a more drastic solution than the addition of a mere amendment to the Constitution, as we have done 27 times so far: They are pushing for a constitutional convention, which is the alternative method set forth in its Article V for making changes to the Constitution. This means of amending the Constitution, however, opens up the entire document to potentially radical change. This danger exists not only because a constitutional convention cannot be limited in its scope, but also because it could be influenced and populated not just by those with whom we may agree, but by the political elites who favor a substantial expansion of the powers of government, and a limitation on the rights of citizens.

We must be very careful before we take such a precarious step. Though the Constitution admittedly is imperfect, it still made possible the greatest experiment in liberty the world has witnessed. Some advocates suggest that a constitutional convention could be restricted to proposing a single omnibus amendment to make several changes to the document, and then disband. However, the power to restrict a convention is not in the text of the Constitution, and if we start a convention, it could be hijacked by establishment insiders. Those who want to make changes in accord with the Founders' intent to limit and separate government powers may instead inadvertently end up with a totally new and foreign system of government. If a single amendment is the goal, we can much more safely use the procedure already set out in Article V to propose such an amendment: to have Congress call for a new amendment.

But, some may ask, given the increasing assaults on liberty by government, wouldn't it be worth the risk of amending the Constitution to stop the adventures by government into areas in which it doesn't belong? The short answer is, "No."

The real problem is not the Constitution itself; the real problem is that the Constitution is being systematically ignored, violated, and misinterpreted. The solution, therefore, must focus on getting back to the Constitution, not "fixing" it. However, when our own allies make such reasonable-sounding proposals to convene a constitutional convention, we should surely give them a thorough analysis. After considering the matter from every angle, the man or woman who values freedom must still say "no" to a constitutional convention. It will not fix what ails us.

The Key – Powers Versus Rights

The key to the analysis of why we should not amend the Constitution with a convention is understanding the difference between government powers and citizens' rights, and how the Constitution currently treats them — something not taught with any clarity in schools, even in law schools.

The U.S. Constitution enumerates the limited powers of the federal government, and makes them few and specific. It also specifically protects *some* rights in a "Bill of Rights" included in the first 10 amendments of the Constitution, but the protected rights are not limited merely to those that are listed.

What "powers" does the federal government have under the U.S. Constitution? To professor types, government power is defined as a monopoly of force and control in a particular geographic area. As a practical matter, government powers are things such as running courts of justice, coining money, defending the country, and taxing the citizens. When the original states adopted the Constitution, they delegated a small quantity of their own authority and power — and that of their inhabitants — to a national government. All states admitted to the union in later years tacitly agreed to that same delegation of specified powers as well.

Rights, on the other hand, are entitlements to existence and action that are God-given, such as the rights to life, liberty, property ownership, free speech, and worship, by virtue of our being His natural creatures on Earth. They are always true for all persons at all times, and are not granted by government — as the United Nations would assert — but by God. They cannot be selectively granted to one person and not another. Thus, there can be no "right" to housing, food, medical care, or a job, as modern politicians falsely assert, because these require a transfer of goods and they aren't personal liberties. Historically, governments have always suppressed and limited rights, but properly understood, rights should stand against all government interference. Tyranny, by definition, is the elimination of one's natural rights by government.

Here is how the Constitution itself makes the point: The Ninth Amendment addresses the issue of rights by stating, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." In other words, all rights are inherently owned by the people and protected from government interference, whether they are listed in the Constitution or not. Any right you can think of is protected by the Constitution (though not necessarily protected by those elected to discharge the duties in the government that was created by the Constitution), unless otherwise specifically ceded to a temporary usurpation by government, such as entry into one's house when the government agent has a search warrant signed by a judge.

Government powers, by contrast, are addressed in the 10th Amendment. That amendment structures the matter in the negative, stating: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people." In other words, if a power isn't specifically stated in the document, the government may not exercise it. "The powers delegated by the ... Constitution to the federal government are," in James Madison's words, "few and defined." Madison, who is considered "the Father of the Constitution" because he was its main author, said that Congress, for example, may do only specific things that are set forth in a list found in Section 8 of Article I of the Constitution. If Madison were incorrect and it were true that politicians could use a phrase in the Constitution — such as that saying that the government was responsible for the public's "general welfare" — to expand its role into whatever areas that it deems as falling under the "general welfare," the government would be all-powerful. Madison mocked the idea that the Constitution gave the Congress such leeway: "If Congress can do whatever in their *discretion* can be *done by money*, and promote the *general welfare*, the Government is no longer a limited one possessing enumerated powers, but an indefinite one subject to particular exceptions."

Congress is already limited in what it may spend since it may only spend money for purposes enumerated in the Constitution. A balanced-budget amendment would do nothing to limit spending.

Property rights: There is no "power" in the Constitution to interfere with your property. Property rights will be restored when an informed electorate forces the legislative and executive branches to adhere to the Constitution.

The primary danger with calling a constitutional convention is that it could become a "runaway" convention that exceeds its mandate, possibly creating a new form of government altogether.

How does this discussion of rights and powers relate to a constitutional convention? A close inspection of the government's powers in the Constitution shows that we don't need to amend the Constitution, but rather to enforce what is already there, in order to restore limited government. For example, what if the federal government decides to interfere with your property rights through the federal Environmental Protection Agency (EPA), and it declares that a puddle on one end of your property means that you have a protected "wetland," and that you may not use the land for some purpose for which you had planned?

A constitutional scholar may argue that the Constitution does not *explicitly* protect private property from government interference and that it would be wise to add a provision spelling out that government has no such authority, via an amendment proposed by a constitutional convention. The rationale for adding explicit language in the Constitution to protect property owners is that a large number of onerous government actions would be stopped dead in their tracks. Perhaps. That assumes that a bureaucrat would abide by such a restriction, even though he is not willing to abide by existing restrictions that already prohibit the federal government from encroaching on your lands. It also assumes that a convention would produce a change such as this — which, it should be emphasized, does not even further limit federal power, but simply elaborates on the existing limitations. On the other hand, the convention could turn the Constitution on its head, despite the good intentions of many of those now calling for it.

If we analyze the matter under the Constitution itself, in terms of powers and rights, you are protected two ways in the preceding scenario. First, there is no "power" in the Constitution to interfere with your property. Congress has no jurisdiction to even pass a law creating an agency like the EPA, nor to authorize it to enter upon your land or make any determinations about it. Second, the "right" to be free from illegal searches and seizures, as explicitly stated in the Fourth Amendment, as well as your natural right to control and enjoy your own property without government interference, precludes the EPA from involving itself with your property rights in any way.

Thus, the failure is not in the Constitution, but in the legislative and executive branches of the federal government that will not respect its clear and existing provisions. Since government does not honor the existing limits in the Constitution, we should not expect it to honor new added limits. The habit of adding laws upon laws to those that already exist has been the pattern of statist lawmakers in the last several decades. It has done immeasurable harm to the law itself, by complicating it beyond all measure or understanding.

James Madison, the "Father of the Constitution," rebuked those who thought that the Constitution could be interpreted to give the federal government more powers.

For example, when the problem of domestic violence came more to the fore in the 1970s, the government did not simply begin to enforce existing laws against assault. Rather, it began to pass a huge number of new laws, such as the Violence Against Women Act (VAWA), and restraining order laws, that were layered on top of the current legal structure. Assault has not decreased, but the number of laws has increased immeasurably, requiring vast new expenditures, vast new bureaucracies, and vast new government power. Perhaps that was the point in the first place.

The Big Fix

The overall strategy of using a constitutional convention to fix what ails our government is flawed not only because our politicians could simply ignore any revisions just as they now ignore the existing Constitution, but the proposed amendments themselves would not substantially improve the situation of our country even if the politicians did obey them.

Ironically, those who have clamored for a constitutional convention rarely focus on the fundamental issues with the document, and often only attempt to redress secondary issues such as term limits (page 22) and a balanced budget. One such advocate, Bill Fruth, has put together a slate of 10 proposed amendments, most of which would be either meaningless if enacted, or are badly misguided. For example, regarding a balanced-budget amendment, Congress is already limited in what it may spend since it may only spend money for purposes enumerated in the Constitution. A balanced-budget amendment would do nothing to either limit spending or prevent "off-budget" spending, and it could be ignored, as is the case with the existing Constitution.

Also, the proposed amendments do not have an explicit provision to protect property from government intrusion, despite the fact that government at all levels has become much more aggressive in interfering with private property. The one aspect of property protection contained in our Constitution, the Fifth Amendment provision that taking property must be for a public use (called "em-

inent domain") has been all but eviscerated by the U.S. Supreme Court by a series of cases culminating in its recent decision in *Kelo v. City of New London* in 2005.

Nor do the proposed amendments unmake the creation of what could be called the extra-constitutional fourth branch of government — the "administrative branch." Congress has unconstitutionally authorized and generously funded a new administrative branch of government, to join the legislative, executive, and judicial branches, which exercises powers of all of the other branches. These well-known "alphabet soup" agencies, like the EPA, the FCC, the FDA, and many others, employ swarms of powerful and unaccountable officers who make thousands of pages of regulations. The new breed of agency makes its own laws (legislative), implements its own laws (executive), and enforces its own laws (judicial). They have their own tribunals, which take on the appearance of courts, to enforce them. Actual courts, appointed under Article III of the U.S. Constitution, rarely disturb the tribunals' illegitimate rulings, deferring to the alleged expertise of the agency.

There are similar federally controlled agencies at the state level. The federal government has created and funds an octopus of state agencies that intrude into family life — from child protective services, to local schools, to healthcare entities. The federal agents extended their police powers through the states in the form of bribery to the states to implement federal programs: They tax the states' citizens and then promise to give some of the money back to the states if the states create the new agencies and follow their edicts.

Overruling everybody: Federal agencies such as the EPA, which was created by an executive order of President Nixon, issue regulations outside of congressional authority or scrutiny — essentially creating a new "administrative" branch of government and upending the checks and balances.

Finally, proponents of a constitutional convention do not advocate the elimination of the Federal Reserve system, which is a private banking entity that creates money out of thin air and substitutes for the enumerated power of Congress to coin money in Article I, Section 8. The Fed's manipulation of national interest rates, the amount and value of dollars, and financial regulations is largely what led to the housing bubble (and its collapse) and today's desperate financial straits — and will lead to further economic calamities in the future, at the expense of the middle class and poor.

In the past, Congress has ignored balanced-budget requirements. In 1979, a law was passed requiring the budget be balanced by 1981 (P.L. 95-435), and it was completely disregarded. As another example, some proposed amendments call for eliminating the income tax — a welcome development — *but not eliminating the spending that it funds*. Thus, government spending would continue unabated as the Fed would merely increase the supply of money and credit, and the government would pay its bills through borrowing from foreign countries and through a hidden tax called inflation or through creating a new tax, such as some form of new national sales tax.

However, even if such concerns were considered, it does not change the fact that virtually every overreach of the federal government can be checked by applying the chains of the existing Constitution! So why chance a convention?

Why Not a Constitutional Convention?

The primary danger with calling a constitutional convention is that it could become a "runaway" convention that exceeds its mandate, possibly creating a new form of government altogether.

Article V of the U.S. Constitution sets forth two means to propose amendments to the document: either by the proposal of a two-thirds majority of both houses of Congress, or by a constitutional convention called by two-thirds of the states. Once an amendment or amendments are

Article V of the Constitution

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate. ■

H.L. Mencken summed it up in his cynically frumpy manner when he said, "Political revolutions do not often accomplish anything of genuine value; their one undoubted effect is simply to throw out one gang of thieves and put in another."

proposed, they must be ratified by three-fourths of the states, with Congress choosing whether ratification will be by the state legislatures, or by special state ratifying conventions. All amendments to date have been proposed by Congress, rather than by a constitutional convention.

Some of the proponents of a convention, including former Speaker of the House Newt Gingrich, opine that a convention could be convened to deal with only a single issue, such as term limits, or a balanced budget, two perennial favorites. That is a misreading of Article V, which does not impose such a limit. Once a convention is in place, it can propose any number of amendments, subject only to ratification by the states. And all changes will be on the table, as happened with the original constitutional convention when delegates decided not to add amendments to the Articles of Confederation, but to write a whole new Constitution. More on that later.

A single-amendment proposal that has gained traction in the Tea Party and libertarian movements is from Randy Barnett, professor of constitutional law at Georgetown University Law School, which he calls the "Federalism Amendment." It is a multi-part amendment, like the current Amendment XIV, that intends to restore the proper balance between the state and federal governments and to eliminate the income tax, worthy goals indeed.

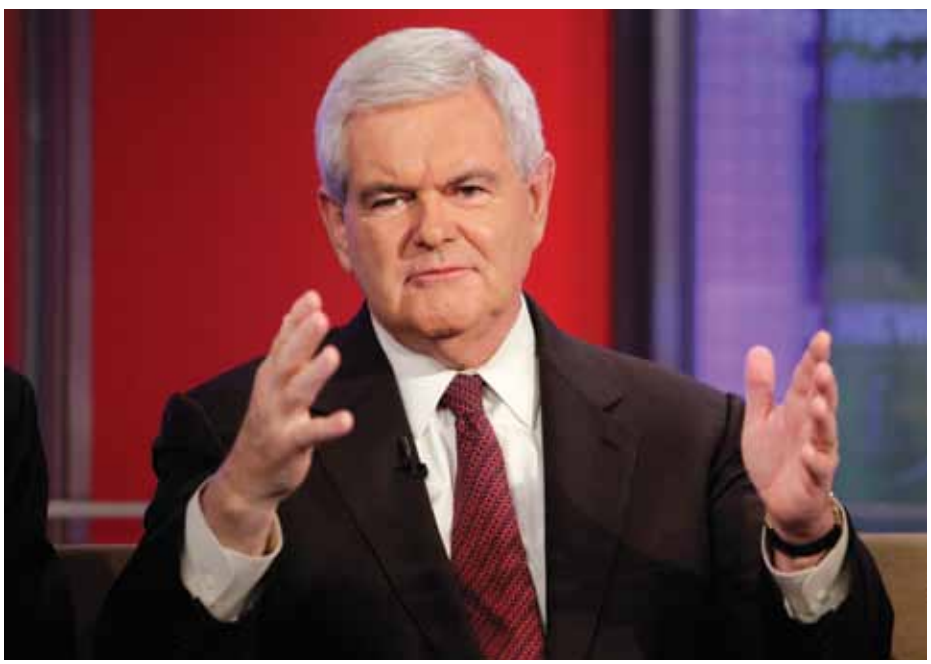
But what if a constitutional convention started going the way of the big-government mavens and became a so-called "runaway" convention and the big-government acolytes introduced a multi-part amendment of their own that undid the few protections provided by the Constitution that are still enforced? This could even be done in the name of "democracy"; consider how the checks and balances the Founding Fathers carefully crafted into the Constitution are now besmirched as "gridlock." What happens then? The "Article V convention now" crowd suggests that this would not happen because there are built-in safeguards, but that is naïve in the extreme.

They first point to a safety net in the form of necessary ratification of any proposed amendment by three-quarters of the states, as is required by Article V. But this safety barrier is flimsy at best. There was such a safeguard built into the Articles of Confederation as well: Any changes to the Articles had to be "afterwards confirmed by the legislatures of every state." The Philadelphia Convention, of course, changed the ratification process so that the assent of only three-quarters of the states was needed.

This theory also fails to account for the possibility the state legislatures may not have the opportunity to kill a bad amendment by refusing to ratify it. Powerful federal interests could influence Congress to require that ratification be done through special state ratification conventions, which they could control through coercion or the power of the purse. Let us not forget how President Obama gained the votes of many wavering Senators and Representatives for his recent federal healthcare bill by openly and brazenly promising gargantuan financial goodies to those Members' states and congressional districts.

This type of backroom coercion occurred with the Philadelphia Convention of 1787, which called for the proposed Constitution to be ratified by special ratification conventions. And this has already been done once since 1787. When Congress submitted the 21st Amendment to the states for ratification to repeal the 18th Amendment (regarding prohibition of liquor), it specified that the amendment be ratified by state conventions as opposed to state legislatures, because Congress knew that many state Representatives were under the control of the temperance lobby, or afraid of it.

Whether proposed amendments were ratified by either state legislature votes or a special convention, the feds have the edge either to nullify our amendments or to pass theirs. It's not that current government officials are any more corrupt than in days past, only that they have so much more power right now. In earlier days, "they had vastly less to be corrupt with," as noted by libertarian political theorist Robert Higgs. The



AP Images

Defending a dangerous course: Proponents of a constitutional convention, such as Newt Gingrich, who also promoted NAFTA, claim that such a convention could be limited to debating a single issue, but the Constitution holds no such limitations.

Philadelphia folly: If a constitutional convention were held today and it became a runaway convention, such as happened when the Philadelphia Convention met to add amendments to the Articles of Confederation, the chances of such an auspicious outcome would be next to zero.

establishment has amply proven that it will spend whatever is necessary to accomplish its goal, and the elected politicians have certainly hung out the "for sale" signs.

Professor Kevin Gutzman of Western Connecticut State University, and author of *The Politically Incorrect Guide to the Constitution*, is another scholar who suggests that a state-called constitutional convention could not become a "runaway," because it would be called by states that are seeking to limit government power, not to expand it. Additionally, Professor Gutzman believes that the current mess couldn't get any worse, citing the scoffing of Rep. Nancy Pelosi (D-Calif.) when asked if ObamaCare was constitutional. He believes that the only possible direction for the proposals from such a convention would be to decrease the reach of the federal government. Nice sentiment, but that entirely ignores the history of the last decades, and the nationalized healthcare debacle of the last year.

Though well-intentioned people may be the ones calling for a constitutional convention, the fact that their calls received "up" votes in their states doesn't mean that the same well-intentioned people would determine the composition of the state delegations to such a constitutional convention. Would the aforementioned professors be certain of a place in some state's delegation, or would they be excluded by establishment insiders and, like children, relegated to pressing their noses to look into the candy store window, while the enemies of freedom do their worst?

The answer to that query is rather obvious. If a constitutional convention is called, the overwhelming majority of the delegates from many, if not most, states would likely be big-government supporters. This should be abundantly apparent when one considers the core of the constitutional problem: The same people who elect members of Congress also elect the state legislators. These same people would also elect the delegates to an Article V constitutional convention. To the extent that these people have so little understanding about the need for a limited government under the Constitution as to elect a majority to Congress who refuse to stand by their oaths to uphold the Constitution, they would also tend to elect like-minded delegates to a constitutional convention.

In contrast, an electorate sufficiently informed to make it safe to call a constitutional convention would also be capable of electing a majority of constitutionalists to Congress who could in turn be trusted to propose needed amendments to the Constitution.

Ironically, even the delegates to the original constitutional convention in 1787 exceeded the bounds of their prescribed task, which was to merely revise the Articles of Confederation. If even those patriots could not stay their ambition, could today's delegates?

Keep the Barn Door Closed

Whenever a consensus develops for amending the Constitution, we can make all needed amendments by the traditional method of a proposal by Congress and ratification by the state legislatures. No convention is needed.

Since the Founders provided for two means of amending the Constitution, one can infer that they were placed there for different purposes and eventualities. The traditional method of proposing one amendment at a time suggests that this option would be used more commonly, for incremental changes that may be needed to adapt to new circumstances that the Founders did not anticipate. The constitutional convention, by contrast, is really a drastic remedy to start all over again, to re-boot the machine. It is reasonable to assume that this method was placed in the Constitution in the eventuality that everything had become so bad that nothing but a new group of founders could get things back on track.

The John Birch Society has wisely resisted the siren song of well-meaning patriots who periodically call for a constitutional convention under Article V. Too much can go wrong, and that wrong could be permanently memorialized in a new, UN-style constitution, where rights could be delegated by government, not by inalienable fiat of the creator. Since we have the historical method of amendment available, without the risk of throwing open the barn door and letting predators in to prey upon the livestock, we should circumspectly choose that method to make the needed changes.

The old Baltimore curmudgeon, H.L. Mencken, summed it up in his cynically frumpy manner when he said, "Political revolutions do not often accomplish anything of genuine value; their one undoubted effect is simply to throw out one gang of thieves and put in another." While the possibility of the advance of liberty is enticing, the possibility of putting our Constitution in the hands of a much worse gang of thieves looms large, and the future of the entire Republic cannot be risked on that one turn of a card. ■

Term Limits — Still a Bad Idea

When voters are dissatisfied *en masse* with Congressmen, calls begin to be heard for a constitutional convention for term limits, but that may make the situation worse.

AP Images

Politicians too long? Senators Ted Kennedy (D-Mass.), Robert Byrd (D-W.Va.), and Strom Thurmond (R-S.C.) have each spent more than 50 years in office, prompting calls to term-limit such career politicians out of office.

by Gregory A. Hession, J.D.

Do we really want to throw *all of the* bums out of Congress via term limits — or just the other guys' bums? Indeed, is *every* Congressman a bum? And if every person sent to Congress *is* a bum, whose fault is that?

"Throw the other state's bum out of Congress, but not our own noble Solon. Our guy really brings home the bacon and he got my Social Security straightened out. We need term limits, though, because that rotten Congressman from the next state has been there forever, and we've got to get him out of there."

Somehow, it doesn't seem right that voters, exercising their collective will through Congress, should restrict who voters in other states are allowed to vote for. Yet, that is exactly what term limits would do. Each state already has its own built-in term-limit rule in the form of elections. The voters can throw the bum out after a single term, or they can keep sending him to Congress for 50 years if they wish to do so. Ted Kennedy of Massachusetts, Strom Thurmond of South Carolina, and Robert Byrd of West Virginia each belonged to the half-century club, all with overwhelming approval of the voters.

To a lover of limited government and a champion of the Constitution, the very presence in the Senate of the aforementioned trio, as well as fellow collectivists like Chuck Schumer (D-N.Y.) and Dianne Feinstein (D-Calif.), may seem like a crime against reason and humanity. But that's who the voters in those states sent to Washington. Why should (say) New Yorkers and Californians prohibit Texans from reelecting a Congressman they like — and in the process inadvertently limit their own franchise as well?

For those who have Representatives in Congress who actually abide by their oath of office to the Constitution (e.g., Dr. Ron Paul), do you really want voters elsewhere preventing you from reelecting him after (say) two or three terms? To people outside your state or district, your guy's a bum who should be term-limited out of office. And that, in a nutshell, is the folly and unfairness of term limits. If we in our state want our own bum in Congress, that's our business, and no one else's. One state's bum is another's statesman. Of course, we may have a skewed image of our own Congressman, but term limits will not improve our perception or equip us to do better the next time.

Term limits also take away the major means of control that the citizens have over their Representatives: elections. The possibility of being thrown out in the next election is the most potent motivator and means of accountability for politicians. In a system of a fixed number of terms, a certain percentage of the Congressmen are lame ducks during their final congressional term, and the people lose their leverage to keep their Representatives on good behavior. (If, for example, U.S. Representatives are limited to three terms, then one-third of the Congress could be lame ducks.)

Term Limits as Political Crab Grass

Talk of term limits starts to become as thick as crab grass when a large segment of the population gets completely fed up with the way Congress as a whole is doing business. Now is such a time, with the general approval rating of Congress hovering around 23 percent, just above pinworms.

Term limits then begin to interest more than just the political geeks. People start to ask in earnest what they can do to get rid of those bums in Congress.

As this is being written, Utah Republican Convention delegates just "term-limited" their three-term Senator Bob Bennett, who came in third and will not appear on the Utah GOP ballot with the top two vote-getters. The GOP political elites were behind Senator Bennett, but the convention delegates, who were more in tune with everyday citizens, were not. Apparently, most delegates did not appreciate his votes for the TARP banking bailout boondoggle, for sponsoring a bill mandating health insurance, and for aggressive pursuit of so-called "earmarks," more commonly referred by those who pay taxes as "pork." So, voters can hunt and bag a RINO (Republican in Name Only) when they want to, without the need for term limits.

In the elections held on Tuesday, May 18, Pennsylvania voters ousted long-serving Senator Arlen Specter in the Democratic primary, while Kentucky voters rejected the GOP establishment-favored candidate, Secretary of State Trey Grayson, in favor of Dr. Rand Paul, son of Texas firebrand Representative Dr. Ron Paul.

Those who remember the halcyon days of the reign of House Speaker Tom Foley (D-Wash.) and House Ways and Means Committee Chairman Dan Rostenkowski (D-Ill.), two of the most powerful and long-serving persons ever to bestride the capitol building, recall that they were booted in the "massacre of 1994" by political novices. The voters, again.

In 1992, during a time of national discontent at the end of the reign of President Bush the Elder, 124 *new* members of Congress were elected, without term limits. Two years later, 87 new Representatives and 11 new Senators came into Congress. In those instances where the representation did not improve, it only goes to show that throwing a bum out of office does not necessarily mean that the newcomer will be better. But in those cases where there was improvement, the improvement occurred without term limits.

This election year, many Americans are upset with the representation we are getting from Washington, and a large number of Representatives and Senators may well be swept from office — through the ballot box, not term limits.

Term limits also take away the major means of control that the citizens have over their Representatives: elections. The possibility of being thrown out in the next election is the most potent motivator and means of accountability for politicians.

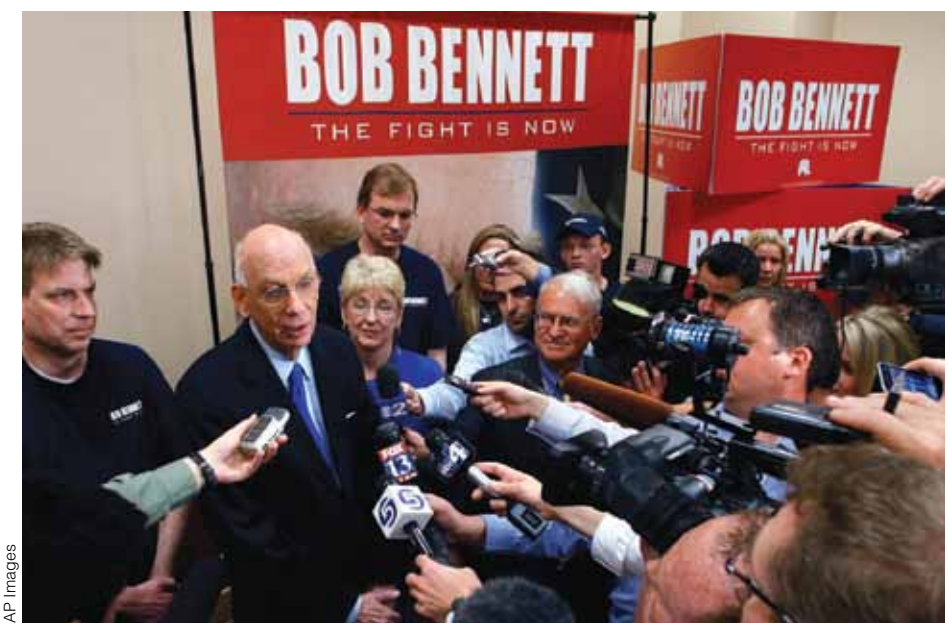
Term-limit Agitation Showing Up Again

The term-limits issue is not new. Term limits were discussed at the constitutional convention in 1787, when the delegates decided on short terms of office, but imposed no restriction on the number of times an officer could serve. James Madison recorded Connecticut delegate Roger Sherman as saying, "Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the government, by preserving that good behavior, because it ensures their re-election."

Term limits have been seriously proposed at several points in the last few decades, including through the device of adding an amendment to the United States Constitution via an Article V constitutional convention. In 1996, The John Birch Society worked hard to fend off a constitutional convention to initiate term limits, spearheaded by an organization called "U.S. Term Limits," a front group for a Washington insider coalition. Term-limit proponents recognized that Congress was never going to voluntarily propose an amendment to restrict reelection of its own members, so the only way it would happen would be by a constitutional convention, called by the states.

Article V of the U.S. Constitution provides for two methods of amendment, one where Congress initiates proposed amendments, and one where two-thirds of the states call a constitution convention. The latter method would allow the term-limit advocates to still get the issue into the U.S. Constitution, without needing the approval of Congress, which would clearly never give it.

U.S. Term Limits pushed for the states to enact their own federal term-limit resolutions, which were eventually passed in 23 states. The U.S. Supreme Court then ruled that state restrictions on congressional terms were unconstitutional. At that point, U.S. Term Limits could



AP Images

Headed for pasture: Three-term Utah Senator Bob Bennett was handed retirement when he came in third in the second ballot at Utah's Republican convention in May. Constituents can "term-limit" a politician through party conventions, primaries, and general elections.

In 1992, during a time of national discontent at the end of the reign of President Bush the Elder, 124 new members of Congress were elected, without term limits. Two years later, 87 new Representatives and 11 new Senators came into Congress.

then weep, wail, and lament that the bad old Congress and the Supreme Court were corruptly limiting their options, and that despite the valiant efforts of the states to provide "choice," politics triumphed. They then had the perfect argument to gain sympathy for a constitutional convention to give the voters the fairness they deserved — term limits now.

Ironically, times of political discontent or flux are the ones in which term limits are needed least, since the voters are most keen to throw the incumbents out and try some new blood. We can simply let voting do what it was designed to do. If the public is in a bad mood about elected officials, it can make that sentiment known at the polls. No term limits are needed, just voter education and engagement.

Term Limits — Do They Actually Work?

When our original constitutional Founders deliberated term limits 223 years ago, they decided that elections every two years for Representatives in the House, four years for the President, and six years for Senators would strike the right balance. They anticipated that these elected officials would often hold office for more than one term. Yes, the representation has been less than satisfactory for constitutionalists, but it is the voters who deserve the blame for this, and term limits will not make them any wiser. Until they become better informed, term limits will only result in one bad representative being replaced with another bad representative.

In political life, just as in any human action, people generally do what they perceive to be in their best interest. However, people are often beguiled into voting for demagogues who promise to give them a new shirt that (and here is the unstated part) can only be provided by taking it off their back in the first place. The way to prevent such tactics from working is not through term limits, but by informing ourselves and others about the Constitution and the principles of good government — and then voting only for candidates who promise to uphold the Constitution and voting out of office those who have not lived up to that promise. That is the only way to solve the problem permanently, because, without improving the electorate, we cannot expect Congress to improve either and the next Congressman will likely follow the pattern of the old in promising the dependent class two shirts off someone else's — meaning *your* — back.

A perfect example of this phenomenon is Massachusetts. It loved the late Ted Kennedy, and continues to reelect such liberal stalwarts as Barney Frank and John Kerry. You may say, "Aha! Exhibit 1 and 2 on exactly why we need term limits." Our all-collectivist Massachusetts congressional delegation (Scott Brown is no constitutionalist!) may tempt you to want to throw our bums out. However, resist the temptation, for the good of the nation. Otherwise, we will throw your guys out too — both the good and the bad — under the same rule.

We do have one test case of how actual term limits work: the 22nd Amendment to the U.S. Constitution. After President Franklin Delano Roosevelt's nearly four terms in office, Congress proposed an amendment prohibiting anyone from being elected President more than twice — or more than once if he had already served more than two years of a term to which someone else was elected. This amendment was adopted in 1951, and in the last 59 years 11 Presidents have served. Question: Have those 11 Presidents done a better job of honoring the Constitution than those who came before? Have they, for example, faithfully executed the nation's laws without intruding upon the legislative powers belonging to Congress, such as the power to declare war? The question answers itself.

The whole discussion of term limits leads to some quite uncomfortable conclusions about the electorate. Do we need to force people to do what they already have the full power to do, namely to vote out their Representative or Senators? This is akin to saying, "Stop me before I vote for this bum again." If the voters cannot spot the issues on which their Member of Congress fails to conform to his oath to uphold the U.S. Constitution, then the answer is education, not term limits. ■

AP Images

A taste of tampering: Franklin Delano Roosevelt was the last President to have a chance at more than two terms in office. But term-limiting the office of President did not mean that Constitution-following, oath-keeping Presidents were the result.

Rand Paul

AP Images

Chance for Longshot Candidates

Candidates who wouldn't have a chance in an ordinary election year may get their chance this year, with the political apple cart already being significantly upset.

by Thomas R. Eddlem

Chris Good of *The Atlantic* magazine put it plainly: "It was a big weekend for fiscal conservatives and Tea Partiers, not just in one state, but for the whole movement in America." Good's comments were penned two weeks before Rand Paul's astonishing Republican primary victory over the Washington, D.C.-anointed Trey Grayson in the Kentucky U.S. Senate primary, which put an exclamation point on the comment.

Most national news sources touted Dr. Paul's May 18 victory by a 59-35 margin as the latest stunning victory of the Tea Party movement. Dr. Paul didn't shy away from that characterization either. "I have a message, a message from the Tea Party," Paul said in his victory speech, "We've come to take our government back."

On paper, there's no reason why Rand Paul should have been the Republican nominee. Though long active in Kentucky issue politics, he had never held or run for elective office and was always the outsider. He was virtually unknown outside of his Bowling Green hometown. On the other hand, Trey Grayson had held statewide office as Secretary of State for six years and enjoyed the backing of all of the Washington establishment. Grayson had been endorsed by former Vice President Dick Cheney, former New York City Mayor Rudy Giuliani, Kentucky Congressman Hal Rogers, and former U.S. Senator Rick Santorum. Most importantly, Grayson also had the explicit endorsement of Senate Minority Leader Mitch McConnell, the other U.S. Senator from Kentucky, and access to his immense fundraising machine.

But it may have been the vicious Washington-based opposition to Paul's Tea Party-fueled campaign that made the difference for Paul and was Grayson's undoing. Focus on the Family's Dr. James Dobson reversed his endorsement of Grayson on May 6 after what he reported was an untruthful whispering campaign in Washington against Paul. Dobson told Kentucky voters, "Senior members of the GOP told me Dr. Paul is pro-choice and that he opposes many conservative perspectives, so I endorsed his opponent." After interviewing Dr. Paul in person and finding that the Bowling Green ophthalmologist was solidly pro-life, Dobson announced he had made an "embarrassing mistake."

The *Lexington Herald-Leader* explained in a May 9 endorsement of Paul, "If you want to continue along the path paved in recent years by former President George W. Bush, Cheney and McConnell, Trey Grayson is your man.... If you want to alter the party's course, vote for Rand Paul." Kentucky Republican primary voters favored the latter.

The Atlantic magazine's Chris Good, mentioned above, was writing about the Republican rejection of the establishment incumbent Senator Robert Bennett of Utah at a state nominating convention May 8: "Bennett wasn't just edged out, either. He went down in flames. He only made it to the second round of voting, and collected 26.59 percent of the vote, placing third as [Mike] Lee and [Tim] Bridgewater went on to the final round. A GOP incumbent could be expected to make it to the last round of voting. Not so." Both


John Dennis

Lee and Bridgewater ran to the right of Bennett. And because only the top two vote-winners are entitled to have their names on the June 26 GOP primary ballot, Bennett will not be on the November ballot in this overwhelmingly Republican state.

Bennett's unseating was likewise politically unprecedented. The three-term Republican Senator didn't even have primary opposition last time he ran for reelection in 2004. Bennett was a political legacy; his maternal grandfather was president of the LDS Church in this overwhelmingly Mormon state and his father was also a U.S. Senator. Former (and possibly future) presidential contender Mitt Romney campaigned for him at the caucus, as did former Senator Jake Garn and former House Speaker Newt Gingrich. After Bennett's loss, the establishment media made a habit of calling Bennett a "conservative," despite the fact that he voted in favor of the TARP bailout bill under the Bush administration.

And that TARP vote was probably what made the difference. Election results and polls thus far have revealed that congressional candidates who have favored bailouts are having a difficult time with voters.

This may be why Florida's incumbent Governor Charlie Crist bailed out of the Republican Senate primary back on April 29 despite an overwhelming advantage in fundraising and almost universal statewide name recognition. Crist had also backed Obama's "stimulus" bailout, famously embracing Obama at a public rally in support of the bailout, and his Republican opponent Florida House Speaker Marco Rubio pounced upon the issue.

House Speaker Nancy Pelosi once famously called the Tea Party movement "astroturf," i.e., a phony populist movement being run by the National Republican Party machinery:

> What they want is a continuation of the failed economic policies of President George Bush which got us in the situation we are in now. What we want is a new direction.... This [Tea Party] initiative is funded by the high end — we call it astroturf, it's not really a grassroots movement. It's astroturf by some of the wealthiest people in America to keep the focus on tax cuts for the rich instead of for the great middle class.

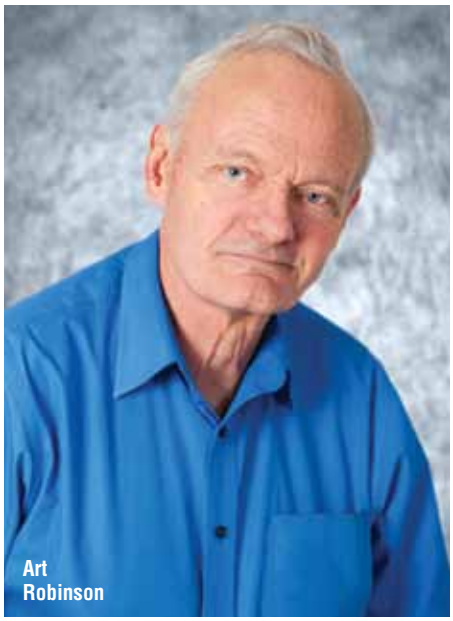
While it is true that the Washington, D.C.-based Republican establishment would like to be running the Tea Party movement, events in Kentucky, Florida, and Utah have demonstrated that this isn't yet happening.

And while it is true that the Washington, D.C.-based Republican establishment *would like* to be running the Tea Party movement, events in Kentucky, Florida, and Utah have demonstrated that this isn't yet happening. Moreover, the "Tea Party" is no longer considered "astroturf" by even its most dogged opponents like Nancy Pelosi. But the question is, does the Tea Party movement have the power to give some candidates a chance this year in otherwise impossible districts?

John Dennis vs. Nancy Pelosi

One of those cases is the race against Pelosi herself by California's John Dennis, an ergonomics company founder and founder of the San Francisco chapter of the Republican Liberty Caucus. Dennis' positions closely match his mentor, Texas Republican Ron Paul, for whose presidential campaign he volunteered in 2008. Dennis wants to downsize the federal government; he has called for a balanced budget and the abolition of the Education, Commerce, and Agriculture Departments. On foreign policy, Dennis supports ending the Iraq and Afghan wars and bringing the troops home from foreign bases.

Despite an appealing platform and a campaign that has attracted national attention and more than $500,000 in campaign donations, Dennis wouldn't have a shot in any other election year. Turning out a sitting Speaker of the House used to be a near impossibility politically. It hadn't happened even once during the nearly 130 years between 1860 and 1989. Then in 1989 Republican investigations of the ethics violations of Speaker Jim Wright led to his resignation. And in 1994, the backlash against the Clinton spending and healthcare agenda ousted Democratic House Speaker Tom Foley, a 30-year veteran of the House. In 2007, after the 2006 groundswell against Republican out-of-control spending swept the Democrats into control of the House, embattled Republican House Speaker Dennis Hastert announced his resignation


Art Robinson

from the House. Why? Three Republicans had already announced primary challenges against the big-spending Republican Speaker by the time he announced his "retirement."

Of course, both Jim Wright's and Tom Foley's districts had trended from Democratic leaning to evenly matched districts over the years. Nancy Pelosi's district, however, remains overwhelmingly Democratic and both John Dennis and the establishment Republican candidate, Dana Walsh, are running as Republicans. Barack Obama beat John McCain 85-12 in the San Francisco district back in 2008. On the plus side, neither Dennis nor Walsh lack fundraising abilities. Both have raised more than $500,000 before the primary, and are running in a year that has tended to favor political candidates outside of the Washington establishment. And Pelosi's favorability ratings in polls have plummeted nationwide. Walsh is the Republican picked by the Washington, D.C., crowd to run against Pelosi. She is a foreign policy interventionist, and has put up a JohnDennisExposed.com website attempting to refute Dennis' principled foreign policy of non-interventionism. Dennis' non-interventionism would clash with Pelosi's support for Obama's wars and overseas meddling. Though the *Wall Street Journal* has labeled Dennis' foreign policy views "left-leaning," this could play to Dennis' advantage in the left-leaning district.

Economically, Dennis' primary opponent Walsh postures as a conservative by calling for a balanced budget, but outlines few specifics on what should be cut to actually balance the budget. Walsh's "small government" rhetoric appears to be nothing more than that — stale cookie-cutter Republican Party talking points about cutting waste and pork barrel spending. Thus, it's not surprising that Walsh's run against Pelosi in 2008 netted just an eight percent vote at the polls, a third place-rating that won fewer votes than independent peace candidate Cindy Sheehan. Dennis is a longshot, but … he does have a shot at unseating Pelosi, especially if some new scandal rears itself in the long months before November.

Art Robinson vs. Peter DeFazio

Constitutional-oriented candidate Art Robinson is attempting to unseat ultra-leftist Representative Peter DeFazio from Oregon's 4th District seat. Robinson's website touts him as "an expert on energy and widely known for his petition signed by more than 31,000 American scientists exposing human-caused global warming as a fraud." Robinson has just prevailed in a Republican primary over fellow constitutionalist Jaynee Germond, who ran as a Constitution Party candidate against DeFazio in 2008.

Except for the fact that DeFazio is an entrenched 12-term incumbent, he really doesn't fit ideologically in this otherwise politically competitive district. Obama won the district by a mere two percent above the national average in 2008, and DeFazio has campaigned against Obama's stimulus from the Left for containing too many tax cuts and not enough spending. This may be the year DeFazio can be picked off.

DeFazio wisely didn't vote for Obama's "stimulus" bill, but why he opposed the spending bill may overcome the impact of the vote itself. He's a member of the House Progressive Caucus, and his frequent criticism of the Obama administration from the Left led him to nearly vote against the healthcare bill because it wasn't leftist enough.

Robinson, however, says he would fight to eliminate many government programs and "require that every Congressional action conform to the U.S. Constitution in every respect." He is a non-interventionist on foreign policy: "I oppose the current situation wherein American soldiers are quartered in more than 100 countries and frequently interfere in the affairs of those countries."

Robinson appears to have substantial fundraising abilities, raising more than $230,000 in the primary season — more than 10 times his Republican primary opponent. Robinson has a decent shot of taking the entrenched DeFazio out in November.


Star Parker

Star Parker vs. Laura Richardson

Star Parker is the Republican seeking to unseat two-term representative Laura Richardson in California's 37th Congressional District. Richardson is a reliably liberal Congressman in a strongly democratic-leaning district comprising parts of Long Beach and Compton. How strongly democratic? Obama won the election in 2008 by a four-to-one margin.

All conventional political wisdom says that Parker can't win this race in such a solidly Democratic district made up mostly of ethnic minorities, but that was the same political wisdom that had put Grayson and Bennett as shoo-ins just a few months ago. Parker has a few advantages: She has national name recognition as an author and widely broadcast commentator. She is a black woman herself in this heavily black district. She should have the ability to raise sufficient campaign contributions for a professional campaign. And Parker's opponent Richardson has seen her share of controversy lately, having her sub-prime property in Sacramento foreclosed upon and auctioned off by the bank. The property — originally purchased for a sub-prime, no money down loan from the now-bankrupt Washington Mutual — had been declared a "public nuisance" for safety code violations. Richardson owns two other homes on which she has also defaulted. Parker could make this a campaign issue. In an era when the nation is going bankrupt with heavy debt, a Congressman who can't manage her own personal debt should not be put in the position of managing the nation's finances.

A former single mother on welfare, Parker converted to Christianity, put her life back together, and founded the Center for Urban Renewal and Education. Like her public activism thus far, Parker's campaign focuses exclusively upon the effort to pull black people out of the welfare dependency trap. "The barrier between America's chronically poor and the American dream is the welfare state socialism," Parker says. That means ending the federal welfare state and federal bailouts of corporations, cuts in federal spending, and a restoration of true free enterprise. Her foreign policy views, however, are mostly a mystery. Parker is still an underdog in this overwhelmingly Democratic district, but she could pull off an upset with a sufficient national backlash against big spending in Washington.

Stephen Broden

Stephen Broden vs. Eddie Bernice Johnson

Stephen Broden is likewise in a battle with an entrenched congressional leftist, Texas Democrat Eddie Bernice Johnson. Broden won the March 2 Republican primary with 68 percent of the vote in this overwhelmingly Democratic district. The Dallas-based district is a majority-minority district, with more than two-thirds of voters being black or Hispanic. Both Johnson and Broden are black, but the advantage in any ordinary political year is so strongly toward the Democratic incumbent that a Republican wouldn't stand a chance in this district. This is not shaping up to be an ordinary year, however.

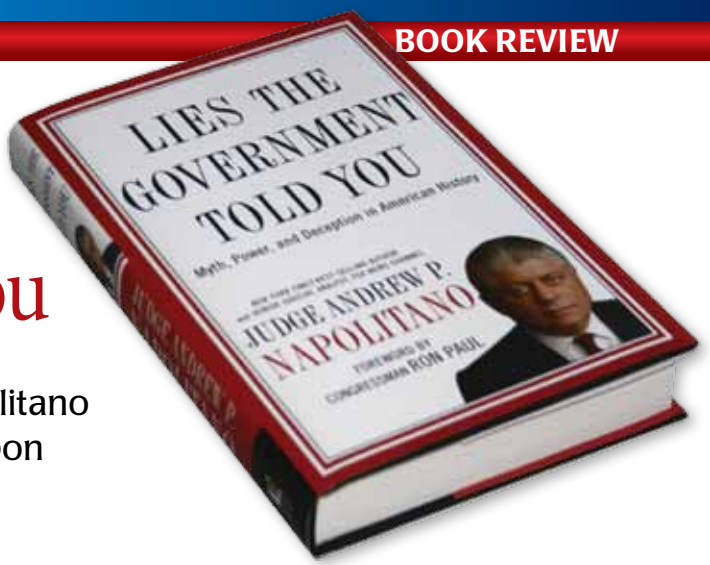
Broden is senior pastor of the Dallas-based Fair Park Bible Fellowship and a fiscal and cultural conservative, which is the focus of his campaign. "There can be no doubt that there is a diminishing of our freedoms through the deliberate expansion of government over our lives," Broden explains on his campaign website. "The trend towards big government started in the twentieth century through the crisis of 1929 and the implementation of the 'New Deal.' This plan began the slow spiral down the path of expanded government and soft tyranny. The greatest rhythm for expanded government came in the 1960's with the Great Society program." Broden says, "When I go to our nation's capitol I will seek to return our nation to those founding principles that limit government and also to our Judeo-Christian heritage that made us great."

Broden raised only $118,537 in campaign contributions for the primary season, according to FEC records, and will have to demonstrate better financing prowess to be able to capitalize on the national Tea Party sentiment and Eddie Bernice Johnson's unpopular votes for both the Bush bailout and Obama's "stimulus" bill.

* * *

The "Tea Party" revolution against higher taxes and big spending has not always been consistent or informed. In Massachusetts earlier this year, voters chose liberal Republican Scott Brown in reaction to the perceived bigger spending Democrats. But events in Kentucky, Utah, and Florida are a strong indication that 2010 will not just be an anti-incumbent year. Rather, it may be the year where votes for bailouts 18 months ago are toxic to incumbents. And many constitutionally oriented candidates are waiting in the wings to take advantage of what appears to be a looming political tsunami. ■

Exposing the Lies Government Has Told You



Fox news commentator and judge Andrew Napolitano surveys times that governments have taken it upon themselves to defend freedom, but have failed.

by Thomas R. Eddlem

***Lies the Government Told You: Myth, Power, and Deception in American History*,** by Judge Andrew P. Napolitano, Nashville, Tennessee: Thomas Nelson Publishing, 2010, 349 pages, hardcover, $24.99.

Former New Jersey state judge and Fox Television host Andrew P. Napolitano begins his book with the unfortunate truism that "the government lies to us regularly, consistently, systematically, and daily on matters great and small, but it prosecutes and jails those who lie to it." Napolitano then proceeds to chronicle the various "lies" of governments, the many instances where government officials promised freedoms to the people but throughout history have failed to live up to those promises. As Napolitano joked to friends while writing the book, such a topic could easily have made it a 4,000-page book instead of a 349-page book.

But Napolitano keeps to major promises that government has broken. Each chapter in the book is another topic where somewhere in history government has broken its promise to protect a freedom. The chapter "Everyone is innocent until proven guilty" explains the increasing presumption of guilt upon detainees in the "war on terror" as well as Americans whose business is to work with cash in the "war on drugs." The chapter "We don't torture" exposes the open attack by the Bush administration on the Eighth Amendment to the U.S. Constitution banning "cruel and unusual punishments." And "All men are created equal" chronicles the historical American legacy of slavery and Jim Crow laws, one of the few areas where freedoms have been largely restored over time. Napolitano also penned chapters on how government has infringed upon the right to keep and bear arms and restricted freedoms of speech, press, and assembly.

Napolitano's focus in the book, as in his previous books, is upon the self-evident truths of natural law described in Thomas Jefferson's *Declaration of Independence*. The natural law is nothing more than the knowledge of right and wrong, as well as both the individual rights and dignity, given to every human being by God. And Napolitano stresses these rights exist independent of government and its promises.

Napolitano also issues a clarion call for judicial remedies to attacks on the natural law, using the Bill of Rights to stop federal abuse of individual rights and the 14th Amendment to stop state trespasses upon individual liberties.

Napolitano starts his book with the government's most controversial lie: the promise of equality, which was marred by post-slavery racism that the federal government accepted in the case of *Plessy v. Ferguson* (1896). The *Plessy* case was about a black man, Homer Plessy, who challenged a Louisiana state law that required separate accommodations for whites and blacks in public accommodations, such as railroads. He bought a first-class ticket on a state government train and wanted a seat in the first-class car, but was told there was no first-class car for blacks under Louisiana law. He was directed to the black coach car, and arrested when he protested. The Supreme Court upheld the state law under the "separate but equal" doctrine, giving a silent go-ahead to further Jim Crow laws. But "separate but equal" in this case was clearly separate and not equal.

So much for the promise of equality. Some would argue that this abuse of state power should have been remedied at the state level based on the principle of federalism, but that does not change the fact that the state law did not treat everyone equally.

The "separate but equal" doctrine was not undone until the Warren court's *Brown v. Board of Education* decision (1954), which overturned state laws mandating racially segregated schools. This case also overturned more than half a century of precedent, including the principle of state sovereignty over state laws, and upset the court's principle of *stare decisis*. *Stare decisis* means "let the decision stand," and is an important principle of fairness in the Anglo-American common law system. It helps ensure two parties with the same facts at stake have the same result in court. Courts shouldn't overturn precedents, i.e., *stare decisis*, for light reasons. But Napolitano argues *stare decisis* should have been dumped as the court did in the case of *Brown v. Board of Education* because the 14th Amendment prohibits states from denying citizens "equal protection of the laws."

Napolitano calls his principle of overturning unconstitutional precedents "constitutional activism," and contrasts it with the traditional idea of an "activist court." This is a major theme in Napolitano's book. The traditional view of an activist court he defines (using *Black's Law Dictionary*) as a "philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, guide their decisions." But Napolitano isn't talking about imposing his or anyone else's personal views into the judicial decision-making process; he's seeking the imposition of the U.S. Consti-

Napolitano outlines plenty of examples of judges at the U.S. Supreme Court excusing abuse of people's liberties that are explicitly protected by the Bill of Rights — from the internment of Japanese during the Second World War to more modern cases.

tution into judicial decision-making. Napolitano proposes to use "constitutional activism" to restore liberties through the Bill of Rights and the 14th Amendment. It is a cudgel he would have courts wield to strike down excesses of the other two branches of government.

However, relying upon judges to impose "constitutional activism" is an unreliable method of restoring freedom, a fact that Napolitano himself makes clear. Napolitano outlines plenty of examples of judges at the U.S. Supreme Court excusing abuse of people's liberties that are explicitly protected by the Bill of Rights — from the internment of Japanese during the Second World War in *Korematsu v. U.S.* to more modern cases involving detainees in the "war on terror." In the latter case, Napolitano is happy to note that President Bush "made these extraconstitutional claims based, he said, on the inherent powers of the commander in chief in wartime. But in the Supreme Court, he lost all five substantive challenges to his authority brought by detainees."

Napolitano devotes much of the latter half of the book to attacks on American liberties by the so-called "war on terror." The Justice Department under the Bush administration (and Obama as well) engaged in a deliberate and open attack on the rights of both foreign detainees and Americans — from unconstitutional surveillance (Fourth Amendment), to revoking a fair trial by jury (Sixth Amendment), and to conducting torture (Eighth Amendment).

In one instance, Napolitano appears to give too much latitude to government discretion during wartime. Napolitano admits that "the recent decision to try some of the Guantanamo detainees in federal District Court and some in military courts in Cuba is without a legal or constitutional bright line." But what is that bright line? Napolitano notes that "the rules of war apply only to those involved in a lawfully declare war, and not to something that the government merely calls a war." He also claims that "among those powers is the ability to use military tribunals to try those who have caused us harm by violating the rules of war." But what precisely is a "military tribunal"? Napolitano doesn't define it. The Constitution and its amendments make no mention of such a body. The Fifth Amendment mentions a separate military justice system currently used for U.S. servicemen, but neither the Bush nor Obama administration wants to use it for detainees. Moreover, the Bill of Rights explicitly prohibits the application of military commissions as they have been recently constructed by Congress and the presidency. The Sixth Amendment bans courts that don't have "an impartial jury of the State and district wherein the crime shall have been committed," and requires that the "district shall have been previously ascertained by law." But in the case of military commissions, the district of the military commissions has been "ascertained" *after* the crime.

It's now a *bipartisan* policy to create courts out of thin air to convict terrorist suspects, which leads to the obvious and justifiable charge that these would be kangaroo courts. Moreover, the Bush-Cheney administration had not limited military commissions to foreigners. Napolitano reveals that Bush and Cheney tried to hold American citizens Yaser Hamdi and Jose Padilla without charges (and in fact did so for years) and then to charge them under military commissions after losing *habeas corpus* appeals at the U.S. Supreme Court.

Fear-based abandonment of the U.S. Constitution has been the key to destroying the Fourth Amendment's prohibition against searches that don't have warrants supported by an oath, probable cause, and specifics about what is being searched and what will be found in the search. Napolitano writes:

> The Supreme Court held in the case of Texas v. Stanford (1965) that the government may not constitutionally issue general search warrants that do not describe with particularity the place to be searched or the things to be seized. This requirement of specificity is an inherent part of the Fourth Amendment and protects against fishing expeditions by the local or state police or federal agents. Or at least it did, until a section of the Patriot Act amended FISA [the Foreign Intelligence Surveillance Act] to authorize roving wiretaps.

Even judges who have engaged in what Napolitano calls constitutional activism have often resorted to euphemisms such as "fundamental rights" as a substitute for talking about the supposedly religiously tinged term "natural rights." In short, Napolitano's "constitutional activism" is not a complete strategy for the restoration of freedom in America, but it could be one prong in the attack against centralized government.

Fortunately, Napolitano ultimately places the full remedy in the people themselves, calling on vigilance before, during, and after elections and cautioning against political partisanship. He concludes: "We have one party, the Big Government Party. There is a Republican version that assaults our civil liberties and loves deficits and war, and a Democratic version that assaults our commercial liberties and loves wealth transfers and taxes." Only an informed and steadfast citizenry can reverse bipartisan assaults on liberty. Reading Napolitano's book is a good start toward a journey of becoming an informed and vigilant citizen. Judge Andrew Napolitano's *Lies the Government Told You* should be read by every American. ■

The Spirit of Paying It Forward

Several months ago, we shared the story of the Pay It 4ward program sponsored by Denver's CBS Channel 4. Taking its cue from Denver, KPHO Channel 5 in Phoenix, Arizona, began its own Pay It Forward series last year. KPHO's viewers can nominate individuals (or groups) whom they feel are deserving of assistance, and each week the station chooses one of the nominees to receive $500 in cash. The nominating person delivers the money to the recipient with the Channel 5 news cameras in tow, and the act of kindness is televised on the Thursday 10 p.m. news.

One of April's Pay It Forward recipients was Phoenix's Jason Hansen. According to the Channel 5 broadcast, Hansen suffered a gunshot wound to the head 15 years ago, which left him paralyzed on the left side of his body. Unlike many disabled persons, Hansen is not willing to live on the dole; he values his independence and does not take welfare, supporting himself by working at Walmart.

Simple activities of daily living are difficult for someone in Hansen's situation, and for him frequent falls are a part of life. Hence, the firefighters of Phoenix Fire Station 11 are called often to assist him and are on friendly terms with the partially paralyzed man. Perhaps his falls would occur less frequently if he were to quit his job and go on welfare, but that isn't something Hansen wants to do. "We do see a lot of people who do live off the system. He has told us that if he were to quit his job, that he would be eligible for a lot of services that are out there, but he is unwilling to do that," one of the firefighters told KPHO. Impressed by Hansen's independence and desire not to be a burden, over the years the firemen have assisted him "on the side," as well, even installing bars and a no-slip floor in his shower for him.

Hansen's already difficult life was made even more arduous several months ago, when he was hit by a truck while on his way to work and his wheelchair was put out of commission. Since that time he has been using his backup chair, which is in poor shape and difficult to use. Owing to their great respect for Hansen, the Station 11 firefighters nominated him for the Channel 5 Pay It Forward, hoping to fund repairs to his wheelchair, and he was chosen. In a pleasant twist, though, before the $500 could be delivered, Southwest Mobility, a local wheelchair provider, had already heard about Hansen's plight and repaired his chair for free.

Though Hansen was extremely grateful for the gift and certainly could have used the entire amount, he realized there are others in need as well, and promptly gave a portion of it to a coworker who is struggling financially. Now *that's* the spirit of paying it forward.

Traveling Tabby

In September 2009, Robin Alex of Albuquerque, New Mexico, was volunteering with Habitat for Humanity in New Orleans when she got the news that her precious tabby cat, Charles, had disappeared. "I was crushed.... I was so upset because I was in New Orleans so there was nothing I could do," she told the April 17 *Los Angeles Times*.

Assuming Charles was lost forever, Alex was shocked when she received a phone call in the first week of April 2010 informing her that he was actually alive and well — in Chicago! How he got there — 1,300 miles away from home — no one will ever know. However, the Windy City was where he was, wandering as a stray. Thankfully Charles had a microchip, so after being picked up was able to be tracked to his owner.

Alex's initial happiness at locating Charles was short-lived, though. As she could not afford the airfare to go to Chicago to pick Charles up, she was afraid he would be euthanized.

However, in stepped Albuquerque resident Lucien Sims, who just happened to hear of Charles' predicament. He also just happened to be leaving shortly for Chicago to attend a wedding, so offered to pick up Charles and bring him home. Sims took complete responsibility for the traveling tabby's itinerary. An Albuquerque business provided a free cat carrier, and American Airlines gave Charles a complimentary flight.

So, thanks to the miracle of even being found, and the kindness of total strangers and American Airlines, the fortunate feline is finally back home where he belongs. Let us hope with Alex that he won't be so footloose in the future.

Cultivating Community

Sometimes it seems the old-fashioned, small-town, family business has gone completely by the wayside. Indeed, with huge chains such as Walmart utilizing their huge-quantity buying power to get the lowest prices on merchandise, which they then pass on to their customers, it is nigh impossible for smaller stores to compete. However, mom and pop stores are as American as apple pie; they provide a distinctly personal touch not found in the larger stores, and serve to remind us of the close community that once prevailed in much of the country.

Realizing this, residents of one small town have put their money where their mouths are in order to save their hometown grocery store. The April 4 *New York Times* reported that when Dana Conklin, a resident of Point Lookout, New York, learned that the town's much-loved, family-run grocery store, Merola's, was heavily in debt and facing bankruptcy, she decided to do something to save it. Conklin organized a one-time community fundraising drive, "so that customers could help pay the bills and keep the store going until business picked up in the spring and summer." Amazingly, over 150 residents responded, covering about half of the store's $100,000 debt!

"I see it as a miracle from God, and there's not one person that can shake me on that," Catherine Carrazo, one of the third-generation owners of the family store, told the *Times*.

In this digital age there is much to draw us away from our neighbors, but we all need to cultivate that sense of local community and personal touch. Thanks to the Point Lookout residents, Merola's will be around for a while to continue providing that to its customers. ■

— Liana Stanley

Railroading Passengers

AP Images

Government-owned Amtrak hosted the third annual National Train Day, which is ironic because government/railroad collusion doomed the prospects for passenger rail.

by Becky Akers

Amtrak and its lobbyists at the National Association of Railroad Passengers (NARP) recently invited us to commemorate the third annual National Train Day on May 8. Supposedly celebrating "America's love for trains," the day could not boast a more ironic host than the railroad nobody rides. Worse, Amtrak's sponsorship was as shameless as Dracula's funding a fashion show concentrating on décolletage: The government that owns Amtrak has sabotaged, subsidized, and sucked the life from American railroads since the industry's inception.

You might suppose this lurid history of interventionism would enrage and repel the NARP, which professes to be "the largest citizen-based advocacy organization for train and rail transit passengers" and which clearly appreciates the past, given that its "National Train Day marks 141 years … [since] the first transcontinental railroad was created." Instead, it dins at Congress to tax us on Amtrak's behalf.

You might also think railroading's sad saga provides ample warning against subsidizing industries into nationalization. And it does, as we'll see. But so far, too many Americans ignore the lesson: They clamor for rulers to give them something for nothing — or at least for far less than it costs — whether it's medical care or transportation. Yet after nationalizing industries, politicians incompetently manage them at stunning expense to us and infuriating benefit to themselves.

Established in 1971, Amtrak actually brags that it "carried 27.2 million passengers" in fiscal 2009, "making it the second-best year in the company's history." If we preposterously presume no repeat customers among those millions, barely 9 percent of the U.S. population patronized this outmoded, nostalgic mass transit. We can continue throwing statistics around — "In 2000 [Americans] made 22.5 million trips by Amtrak, compared to some 700 million trips by air," Edward Hudgins wrote in the *Atlanta Journal-Constitution.* "Amtrak accounted for only three-tenths of 1 percent of all trips taken in 2000; twice as many people took trips by small private planes" — but all the facts confirm that Amtrak's riders are about as scarce as honest politicians. Somehow, supporters of socialized

railroads interpret this as reason for ever larger incursions on our pocketbooks, not for stripping the feds of their unconstitutional ownership and management.

Indeed, NARP dismisses as a "myth" the idea that if we "shut down Amtrak … the private sector will operate passenger rail." It counters with what it calls a "fact": "Rail passenger service was in private hands from its inception in the 1830s until 1970, when Congress and the Nixon Administration made a policy decision to create Amtrak because the private sector could not make a profit." But that's neither true nor even a tenth of the tale, let alone the whole story. Nonetheless, most historians echo this fiction when discussing American railroads.

Motion and Money

Transporting men and materials easily and cheaply has challenged humanity since its earliest days, but the American continent offered a unique problem: the Appalachian Mountains. This chain slices the eastern seaboard from the rest of the country, rendering virtually impossible commerce or even communication between the two sections without modern technology. Many 18th-century Americans proposed schemes for linking the waterways on each side so inland grain could reach the populous Atlantic seaboard; even George Washington bent his considerable influence toward that end. His Potomack Company hoped to construct a canal that would channel the trans-Allegheny trade and its profits through Virginia and Maryland; in fact, historians blame the Potomack Company for the Constitution's replacing the far more libertarian Articles of Confederation: "Maryland and Virginia's collaboration on the canal project directly led to a series of meetings concerning interstate commerce that culminated in the Constitutional Convention in Philadelphia in 1787," as the Smithsonian Institution puts it.

Finally, in 1817, New York State began building what the federal government had rejected as too expensive: the Erie Canal — or "[Gov. DeWitt] Clinton's big ditch," as opponents both political and principled dubbed it. No matter: Politicians in other states enviously eyed the $300,000 in tolls New York collected in 1824 and its boastful, incredible predictions of $9,000,000 annually by 1874. What could they do to reap similar rewards? Railroads happened to chug onto the American scene right about then.

Newscom

National Train Day: The mood is certainly festive for a funeral: We might more accurately call this "National Amtrak Day" since the government has driven all other competitors out of the passenger-rail business.

They had debuted in England during the 1750s; there had been enough refinements since to transform them from carts pulled by horses pulled along a wooden track into something approaching what we would recognize as a train. American governments at first did little more than charter railroad companies, as they had the earlier canal companies.

But politicians were quick to seize DeWitt Clinton's excuse for building the canal: They argued that projects like canals and railroads were too expensive for private financiers and entrepreneurs. So government, which has no money beyond what it siphons from those financiers and entrepreneurs and which knows nothing whatever about business except how to tax it, would go into the business of railroads.

Indeed, President John Quincy Adams waxed positively dictatorial as he explained why government must usurp both its constitutional boundaries and the private sector in his first annual address to Congress: "The great object of the institution of civil government is the improvement of the condition of those who are parties to the social compact." And here his father and those other ignorant Founders thought government's purpose was to "secure" our rights to life and liberty. "Roads and canals," John Quincy continued, " … are among the most important means of improvement.... Let us not be unmindful that liberty is power." — Whoa! *There's* an equation that rocks any lover of liberty back on his heels — "While foreign nations less blessed with that freedom which is power than ourselves are advancing with gigantic strides in the career of public improvement, were we to slumber in indolence or fold up our arms and proclaim to the world that we are palsied by the will of our constituents, would it not be to cast away the bounties of Providence and doom ourselves to perpetual inferiority?"

The track went downhill from there. Over the next 150 years, until Amtrak nationalized passenger service, the railroads and government fed off each other in a fascist frenzy. Railroads expected the government to grant them land, whether undeveloped or already owned; subsidies; and favorable legislation, especially as settlement pushed westward. Politicians in

return demanded the use of the railroads, usually during wars. Mostly, they "borrowed" trains to move troops, but at least once they outright, though temporarily, nationalized them. Meanwhile, they portrayed themselves as the public's savior, rescuing Americans from corrupt and callous railroads, much as their descendants claim to have saved us from corrupt and callous medical insurance companies by requiring us to buy their product.

Railroads were still relatively recent immigrants when California joined the union in 1850. Transcontinental fever infected Congress, and it forced taxpayers to spend $150,000 surveying routes west for laying track.

Congress and Collusion

In 1862, Congress passed the Pacific Railroad Act — "hastily," as Burton Folsom, Jr. says in *The Myth of the Robber Barons*, to capitalize on the absence of Southern, agrarian Democrats. If the feds hadn't previously realized the value of controlling a nationwide network of speedy transportation, the internecine war then raging convinced them. The act's official title blared its purpose: "to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the government the use of the same for postal, military, and other purposes." And it awarded both land and loans of taxpayers' money per mile of track laid to two companies. Coincidentally, no doubt, businessmen who understood politics but not necessarily railroads headed each.

The Central Pacific would lay track from Sacramento eastward, racing the Union Pacific as it lay track westward from Omaha. So there was competition, all right, fierce and plenty of it (as the two lines of track drew together, the Central's Chinese workers attacked and often killed the Union's Irish employees, and vice versa).

But as always when government meddles with business, that competition actively endangered consumers rather than protecting them from high prices and shoddy service. The two Pacifics vied to lay track fastest, thereby grabbing the most acreage and subsidies; nothing else mattered, whether quality of materials and of the resulting track, or safety, or economy in things like laborers' wages and rations, or even the most direct route: Indeed, the companies' tracks ran parallel for miles in Utah as their chances for snatching more soil and subsidies neared an end.

The feds' threat to investigate finally convinced the Pacifics to meet at Promontory Point, Utah. But the famous, golden spike and congratulatory speeches didn't stop the taxpayers' fleecing. The companies had to rebuild and even re-locate large portions of their poorly constructed track. The Union's chief engineer admitted, "I never saw so much needless waste in building railroads. Our own construction department has been inefficient." Actually, it was a model of efficiency in its response to the incentives it received — from politicians, not consumers.

When an industry relies on political favors rather than hard work and competition, excellence, efficiency, honesty, and customers all suffer. Corruption ruled the Pacifics; indeed, the notorious Credit Mobilier scandal, in which officers of the Union Pacific created a sham corporation to construct the railroad and to overbill the government, then sold shares of it to politicians, remains a measure of how much graft such projects spawn.

Voters were outraged. So were the railroads' customers, who were paying far more than their trips were worth to compensate for continuous repairs. Rather than barring Congress, which had created and profited from the mess, once and for all from the entrepreneurial sector, Americans demanded instead that Congress regulate its cronies — or, more accurately, Congress obliged itself and those Americans demanding that it regulate the very lucrative enterprises of its cronies.

And so in 1887, these cynics established the Interstate Commerce Commission

> All the facts confirm that Amtrak's riders are about as scarce as honest politicians. Somehow, supporters of socialized railroads interpret this as reason for ever larger incursions on our pocketbooks.

AP Images

The golden spike: Political propaganda never changes. This photograph reveals none of the graft, corruption, and waste that saturated what politicians then and historians now bill as a monumental achievement.

The famous, golden spike and congratulatory speeches didn't stop the taxpayers' fleecing. The companies had to rebuild and even re-locate large portions of their poorly constructed track. The Union's chief engineer admitted, "I never saw so much needless waste in building."

(ICC), the first of the anti-constitutional, unelected, and unaccountable agencies that rule so much of our lives. The ICC's birth had an Attorney General at the still-new Justice Department counseling one railroad executive, "The Commission is, or can be made, of great use to the railroads. It satisfies the popular clamor for a government supervision of the railroads, while at the same time that supervision is almost entirely nominal. The part of wisdom is not to destroy the Commission, but to utilize it." Yet Americans persist in fantasizing that bureaucracies protect them from Big Business.

Among the ICC's toxic legacies: a system of accounting it compelled the railroads to adopt that prevented them from accurately pricing their services and controlling costs. So it's no surprise railroads never recovered from their bout with the government or from the distrust that fusion inspired among customers. By World War I, the feds bridged the small gap remaining between private and public by nationalizing the industry under the United States Railroad Administration. In return, the government guaranteed operating expenses regardless of actual income, destroying all incentive for pleasing customers. That lasted for only two years, so that railroads returned to the fiction of "private" ownership by 1920 — though the government saddled them with exorbitant new costs before handing them back. Perhaps because Americans believed the fiction, they took 1.2 billion rides on 9,000 daily intercity trains that year, making it the industry's best.

The government has subsidized and regulated railroads so heavily that they have long been nationalized in fact, if not in name. Transporting troops during WWII made obvious D.C.'s tacit control.

Railroads continued to seek subsidies and freebies, the very things that had poisoned the Pacifics during the 1860s. Technologies emerging during the late 19th and early 20th centuries gave them the excuses they needed, too. First it was automobiles, then planes, against which trains couldn't compete without funds from taxpayers. That refrain continues today: Amtrak's defenders complain with a regularity its schedules must envy that Washington heavily subsidizes automobiles with a national network of highways and airlines via the FAA and the TSA as well as state and local governments' ownership of commercial airports. They are correct. But rather than strangling all forms of transportation equally, wouldn't we do better to drive government out of the business entirely?

The relationship between the feds and the railroads was cozy enough by the time of World War II that President Franklin Roosevelt didn't bother nationalizing them. Instead, the huge numbers of troops moving about the country pretty much did *de facto*. Railroads and associated companies cooperated by paying for propaganda thinly disguised as advertising: Pullman, manufacturer of the famed "sleeping car," advised customers in 1945 that "no other wounded in the world are cared for with the skill and devotion which the men and women of the Army Medical Corps give American wounded. No other wounded in the world are brought home so speedily. Motor vehicles, ships, planes and trains all play a part in getting them here *fast*.... So please — if you should be unable to get the Pullman space you want exactly when you want it — remember this: About half the Pullman fleet is assigned to carrying out mass troop movements and transporting other military personnel.... PULLMAN For more than 80 years, the greatest name in passenger transportation." And if appeals to jingoism didn't reserve trains for the troops, the feds helped by taxing tickets 15 percent. Like so many measures politicians claim they're instituting because of a war, this tax outlasted the war. The government slightly reduced it in 1954, but only in 1962 did it completely disappear.

Hauling freight was usually more profitable than hauling passengers. As the railroads battled cars and planes after the war to survive, many companies wanted to stick with freight and forgo passengers.

Their political masters said no. Other regulations increasingly hobbled the railroads just when they needed the most agility to beat the competition coming from streets and skies.

Few industries could survive such repeated governmental assaults. Add to that the ruinous demands from unions that legislators and bureaucrats codified as law, such as featherbedding with overpaid staff and forbidding modernization. This made for a load so weighty no railroad could haul it, let alone survive under it. But rather than defending themselves, the victims complied and connived. Most of the industry's executives preferred government's regulation — so long as it came with lavish subsidies — to striving honestly, in an open market, free of the State's supervision and "help."

AP Images

High-speed Acela was yet another of the magic bullets that would boost Amtrak to profitability. Untold billions of our taxes later, Acela's on the fast track to failure.

Resuscitating Rail Service

No wonder that "by the 1960s the passenger train was rarely considered as a means of travel," as the Amtrak Historical Society puts it. "Schedules were erratic, trains were run down, and more often than not the journey was a miserable experience." Government's interference, strictures, and taxes had made transporting passengers so unprofitable that the railroads actively shunned them. Naturally, the feds "helped" once more. This time, the new Department of Transportation beat the drum for riders. The government that had tried for so long to kill the railroads now prodded the corpse in hopes of resuscitation.

One after another, railroads filed for bankruptcy throughout the 1960s. Finally, in 1968, the once-mighty, now-shaky Pennsylvania Railroad and the New York Central merged. Like the Almighty, the federal government superintends even a sparrow when it falls, let alone the country's two largest railroads. And they must seek permission even if the sparrow doesn't. That gave politicians an opportunity to lard the venture with so many regulations and requirements, including forcing the new company to incorporate a bankrupt railroad, that they doomed it to failure. Amtrak emerged from the shambles.

"It was once inconceivable that the government would own and operate America's railroads," Gregory Bresiger mourned in "Train Wreck" (*The Freeman*, August 1999). "They were at the foundation of industrialization and so profitable they were a big part of the early Dow Jones Industrial Average." In contrast, Amtrak was a rolling money pit from the start: During its first quarter-century, it gobbled $13 billion of our taxes. Somehow, the fortune Congress transfers from our pockets to it are never enough. Amtrak has vowed to break even every year since it hatched, and every year it fails. "Amtrak said it covered about two-thirds of its operating costs in 2006," the *New York Times* reported, "bringing in revenue of about $2.05 billion while incurring expenses of about $3.07 billion."

And that's while practicing such duplicity as would send executives of private companies to prison. "Even as WorldCom and Enron officials were being indicted for cooking the books," Hudgins continued in the *Atlanta Journal-Constitution*, "Amtrak was asking and being urged by some members of Congress to abandon generally accepted accounting principles so it could shuffle money between operating and capital accounts to hide its dire financial situation. Amtrak also fakes its on-time numbers. It measures punctuality only at select stops and will build in lots of extra time before those stops so trains can make up for lost time."

Speaking of dishonesty, the current administration hypes "high-speed rail" as the newest nostrum. Amtrak tried this — and failed, naturally — with its Acela Express just five years ago. You would think even a President who can't remember a single campaign promise would recall that.

Meanwhile, what the *New York Times* calls "conservative" Republicans often talk of "privatizing" Amtrak, by which they mean that they want it to turn a profit, not that they want to get government out of the business of running a railroad, while Democrats lament Amtrak's "starvation budget," as Rep. Jerrold Nadler (D-N.Y.) put it. Nadler considers the budget, rather than the bureaucrats running Amtrak, to be the railroad's "basic problem."

The credulous *Times* also tells us that Amtrak was "created by Congress to be a for-profit private corporation." But the lifelong politicians who warm most congressional benches proved they have absolutely no idea how to pull off such a feat when they also "required" Amtrak "to provide a minimum level of intercity passenger service — even if that means maintaining unprofitable lines." Sen. Kay Bailey Hutchison (R-Texas) succinctly summarized Congress' criminal ignorance and bumbling when she announced in April 2005, "My motto for passenger rails is 'national or nothing.'"

"Nothing" certainly works for the Constitution. ■

Gun Control Leads to Militarized Law Enforcement

The *Austin Weekly News* reported on April 28 that State Representative LaShawn Ford (D) is calling for the deployment of National Guard units on the streets of the Windy City to deal with escalating gang violence. Ford wants the military to augment the 13,400-strong Chicago police force, which is already the second largest in the nation.

Ford, along with fellow State Rep. John Fritchey (D), is encouraging Illinois Governor Pat Quinn to work with Chicago Mayor Richard M. Daley to militarize the streets of the nation's third-largest city. In a press release, Ford reasoned that local law enforcement should be backed up with armed forces because "we cannot accept it as a normal situation that someone is shot and killed in Chicago almost every day, with the West Side citizens whom I represent being affected at a much greater rate."

It is apparent that he is not familiar with the Posse Comitatus Act of 1878 that strictly prohibits the deployment of federal armed forces from exercising normal state law-enforcement functions. Proponents argue that the Posse Comitatus Act does not apply to Ford's suggestion because the Act only prohibits National Guard units from direct involvement in local law enforcement when they are federalized, and Ford is requesting it be done solely under state authority. Such an argument overlooks the obvious fact that state national guards units *are* already federalized. For a long time, "state" National Guard units have been "state" entities in name only. Between the huge portion of federal funding for state guard units and the fact that units are actively deployed under federal direction in foreign war zones, the Founders' ideas of state militias of old are as dead as the dodo bird.

Ironically, the "state authority" defense is clearly disingenuous, as supporters of the initiative specifically cite the foreign combat training of the Guard, under federal direction, as a chief reason to deploy them domestically. Rep. Ford actually believes the fact that these units will be coming back with war experience from the battlefield is a good thing. "We know the U.S. troops have been winning the hearts and minds in Iraq, they stabilized those communities, those communities are safe and that's what we want right here in Illinois for the National Guard to come in and help stabilize the community with the Chicago police department."

Ford's like-minded associate and former Assistant Attorney General, Rep. Fritchey, repeated similar sentiments. "As we speak, National Guard members are working side-by-side with our troops to fight a war halfway around the world. The unfortunate reality is that we have another war that is just as deadly taking place right in our backyard." Yes, you read that correctly! The top advocates for deployment of National Guard units to conduct law-enforcement in a major U.S. city actually cite the war tactics of National Guard units as a benefit. Can these two actually want the same occupation strategy of "clear and hold" used on Iraqis and Afghanis to be used for Americans?

In the *Chicago Tribune*, the National Black Police Association (NBPA) reacted with outrage at Ford's suggestion in an April 29 op-ed piece written by a member of NBPA who also served in the U.S. Marines:

> A police department's officers are trained to enable Constitutional due process safeguards. Armies are not designed with this purpose — armies are trained to kill.… Our members know that there is stark difference between military duties and police duties.

Chicago Police Superintendent Jody Weis weighed in on Ford's suggestion by reminding the people that the military does not operate under the same constitutional restraints as local law enforcement, and mentioned the Kent State shootings in 1970 where National Guardsmen fatally shot four student protesters and seriously injured others (which, ironically, was just revealed by declassified FBI records to be instigated by a federal provocateur). "When you mix military functions with law enforcement functions, there is sometimes a disconnect." Weis then went on to display the same mindset that has contributed to the increasing violence by calling for "tougher gun control laws," which has been echoed by the Mayor of the city and other public officials.

Already referred to as the "U.S. gun control capital," Chicago has banned the private ownership of handguns and rifles since 1982 with some of the most stringent gun laws in the country. The city's excessive gun ban is currently under fire in the top Second Amendment case in the country, *McDonald v. Chicago*, which is presently before the Supreme Court. And now, with nearly 30 years of failure and violence rising to astronomical proportions, local residents are left longing for the pre-gun control days with lower levels of violence.

Even with such blatant facts plainly staring them in the face, officials are ratcheting up their anti-gun rhetoric and renewing calls for more drastic efforts to strip citizens of the right to bear arms. Mayor Daley even advocated during the Global Cities Forum at the University of Illinois-Chicago on Monday, April 26 that globalist institutions like the World Court allow "plaintiffs" to sue U.S. gun manufacturers for exorbitant amounts, his end goal being to effectively ban the production of guns for civilians globally. Not only does Mayor Daley refuse to face the obvious facts about his own city's abysmal failure with gun control, he seeks to spread his misery around to the entire planet.

The unfortunate occupants of Chicago have a bleak future, indeed, as one public official after another seems committed to a policy of more government and fewer individual rights. The ideas of Daley, Ford, and their ilk for possible solutions are the "pick-your-poison" variety of more gun control or a police state lockdown on the city — with the strong likelihood that both scenarios will come to pass if they get their way. Could Chicago be only a glimpse of what the rest of America will eventually look like: a hyper-violent, militarized region constantly under martial law and plagued with civil unrest? If America continues to follow the same draconian policies as Chicago, then, regrettably, it seems the answer may be "yes." ■

— Patrick Krey, J.D.

Paving the Way for Future Bailouts

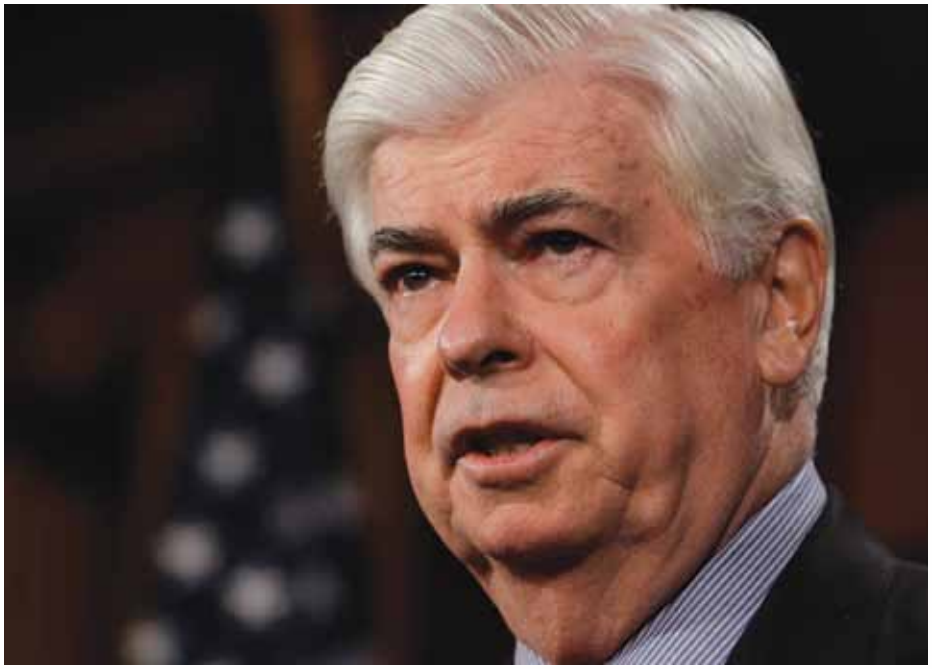
Item: *The April 22* Washington Post *reported that President Obama was making an "assertive stride into the debate on financial regulatory reform." The President flew to New York "to deliver a stern address to an audience that included prominent financial executives, telling them that greater government oversight is in the best interest of the industry — and the country. 'Unless your business model relies on bilking people, there's little to fear from these new rules,' he said."*

Item: *The Democrats, reported the May 1* Los Angeles Times, *"are seizing every opportunity to warn that failure to create more effective financial oversight could bring on a repeat of the economic crisis that has cost millions of ordinary people their homes, jobs and financial security."*

For example, Treasury Secretary Timothy Geithner, "who usually discusses controversial issues in only the most careful, often technical terms, dismissed critics in an unusually blunt manner …, saying, 'Opponents have tried to convince the American people that these reforms will hurt Main Street or help Wall Street. Those arguments won't work because they aren't true.'"

Item: *In* Newsweek *for May 10, Daniel Gross argued for financial reform, in part because "Wall Street opposes calls for change." History, declared the business writer, "has shown that banks often don't know what's good for them. In the 1930s, banks opposed the creation of the SEC and FDIC, which laid the groundwork for the industry's remarkable growth over the next 80 years."*

Correction: Those resisting the imposition of some 1,400 pages of financial regulatory legislation, one gathers from the sermonizing of the righteous backers of the reforms, are crooks, liars, or ignoramuses. The proponents of onerous and expensive government controls, on the other hand, are all honorable men looking out for our best interests. We know this because they tell us so, repeatedly and in full voice.



AP Images

Selling scruples? The *Wall Street Journal* noted last year: "According to ... the Center for Responsive Politics' opensecrets.org, Mr. Dodd raised more than $6.3 million this election cycle ... from banks, finance and real estate companies." Since then, his bills have benefited big banks.

Yet, somehow, the observation of Emerson springs to mind: "The louder he talked of his honor, the faster we counted our spoons."

And speaking of such honorable men, there's Senator Chris Dodd (D-Conn.), the lead Senator behind financial reform. After a much criticized $50 billion industry-financed liquidation fund was removed from the bill recently, Dodd insisted: "We've ended the 'too big to fail' debate. So no longer do I expect any argument to be made that this bill exposes the American taxpayer."

The is same Senator Dodd who was one of the leading recipients of political contributions from Fannie Mae and Freddie Mac — the troubled government-sponsored entities under his purview, since nationalized, that were at the heart of the housing bubble. He has been plagued by accounts of sweetheart mortgage loan deals. Less than two months before the government deemed it necessary to start bailing out Fannie and Freddie in 2008, the Honorable Mr. Dodd declared: "To suggest somehow that [Fannie Mae and Freddie Mac] are in trouble is simply not accurate." Such a checkered history and evidence of fatuity might have embarrassed a less honorable man.

Fannie and Freddie are perfect examples of entities given a pass as "too big to fail." Accordingly, taxpayers are being bled white to cover their losses. The Congressional Budget Office estimates that it will cost $389 *billion* to bail them out by 2019. They are *not* covered by the Dodd bill. "Unreformed, they are sure to kill taxpayers again," observes the *Wall Street Journal*. The Obama administration, notes the paper, "won't even put the companies on budget for fear of the deficit impact."

Nor do Dodd's assertions about the taxpayers' supposed lack of exposure square with the facts. Indeed, the measure virtually assures that risky lending practices will continue, with the government back-stopping the action; it would also create what critics term "Fannie Mae 2.0." As noted in the Heritage Foundation's "Foundry" blog:

> The problems with the Dodd bill go beyond its failure to let Fannie and

Freddie wither into extinction. While Dodd has agreed to get rid of the $50 billion bailout fund, the underlying bailout authority still remains. Now taxpayers are expected to front the government money while firms are liquidated. But the irresponsible creditors who let those firms borrow money irresponsibly would still be eligible for taxpayer bailouts. According to the *Washington Post*, "a failing firm would be forced to pay back the government any money they received above what they would have gotten under a bankruptcy proceeding." But how does the government know what creditors would have got if the company went into bankruptcy?

While there are flourishes of misdirection about punishing big firms on behalf of the little people, this is largely lip service for the naïfs. The legislation, as is typical, is being sold under false pretenses. *Newsweek's* business writer may prefer to pretend otherwise, but bureaucrats really do not know how to run intricate markets better than the markets would if allowed to operate freely. As demonstrated in any number of historical accounts, influential business interests have long colluded *with* government to exclude competitors. During the 1930s, the SEC enforced price-fixing on behalf of Wall Street against the interests of investors, and the creation of the FDIC transferred risks from depositors to taxpayers, a move that eventually cost hundreds of billions of dollars in the savings and loan bailout. (For details and citations see, for example, *FDR's Folly* by Jim Powell.)

Demagoguery still works, however. What the Treasury Secretary says is one thing, but what he does is something else. As Cato Institute senior fellow Alan Reynolds has noted, the Obama team has actually made big banks even bigger. Geithner and others, he writes, have spent "the past two years using arm-twisting, sweetheart deals and FDIC guarantees to make sure the biggest banks became much bigger — by taking over failing banks, brokerage house and mortgage lenders."

The reform is filled with loopholes and exclusions; it restricts credit and targets real competition. As summarized by Richard Rahn, chairman of the Institute for Global Economic Growth, "The 'Dodd financial reform' bill … will make it illegal for 99.6 percent of the population to invest in needed new and promising start-up companies while at the same time ensuring that the 33 largest banks, which control 92 percent of all bank assets, will be required to purchase more federal government debt before giving loans to businesses and individuals. Quite simply, the government is continuing to practice financial fascism."

Even when he was taking some public heat, the head of Goldman Sachs, Lloyd Blankfein, admitted to a Senate subcommittee: "The biggest beneficiary of reform is Wall Street itself." Imagine.

As former Oklahoma Representative Ernest Istook explained in the *Daily Caller*: Obama claims that so long as taxpayer money doesn't go directly to a company or to its shareholders, it's not a bailout. But he considers it okay to send billions to pay off that company's creditors — who typically are big companies and Wall Street firms. To the rest of us, paying a company's debts IS the bailout, as we've already seen happen multiple times....

Obama's tough talk against Wall Street draws headlines. But when whipping boy Goldman Sachs says they like the proposed punishment, they're not being masochists. They know that they're getting a government guarantee that they and their friends — as creditors — won't suffer losses when a business partner goes under.

The financial regulatory bill will lead to more harm should it become law. The overall objective doesn't change: privatize profits and socialize risks. When the smoke clears and the mirrors are put away, the true costs would be borne by Main Street and the taxpayers, not the "Wall Street" bogeyman. ■

— William P. Hoar

BY KURT WILLIAMSEN

The Evolution of Rights

I find it interesting that many people believe they have a right to demand "rights" — such as jobs, welfare, and healthcare — in the United States even if they are present here illegally. Disregarding for now the rightness or wrongness of their claim of rights, I begin to wonder, "Where will their rights end?" If the only real claim that people have to being entitled to stuff, stuff that must be paid for by other people who are forced by government to "donate" cash to the cause, is that they reside in the country (again, illegally) and that it's unfair for them to go without something that others have, then doesn't it seem that there ought to be many more rights?

Why not a right to a new car or truck? After all, it is just *not fair* that some people's transportation can get them to work more reliably and more cushily than others'. And just as it's not fair that some women can't have children, and so they are "entitled" to in vitro fertilization, shouldn't it be fair to include breast augmentation, nose jobs, tummy tucks, and teeth caps as rights — because it is surely *not fair* that some people obtain more attractive mates and better job opportunities solely based on their looks? (Studies repeatedly show that attractive people are more apt to get job offers than ugly people.) Of course, since there only is just so much money in the world and there are apparently many fewer handsome people than homely ones — I've noticed this in spades since I got LASIK done and can see, especially when I look in the mirror — maybe it would be easier and more cost effective to give homely people the right to require svelte people to be uglified, to level the playing field. I've already got my own personal list of candidates prepared!

Think about this: If you can demand things *from others* against their will in the name of fairness, isn't it logical that you can also demand that things be done *to others* in the name of fairness?

Sound ludicrous? It is already being done to a degree. To extend a right to a college education to blacks and Hispanics who didn't study adequately in high school, preference is given to them on college applications over others who have studied harder and scored better — including minority-class Asians, who are often displaced from college roles, along with whites. Supposedly this qualifies as fair because Hispanics and blacks come from repressed cultures and have suffered extreme psychological distress that makes them unable to compete — as if Asians, especially the Chinese, and whites, especially the Irish, weren't also repressed in America at one time or another. So the question really should not be, "Do modern 'rights' allow us to do things to others?" but, "What rights can I exercise against others?"

The answer to the second question seems to be: "Anything politicians will let me get away with in the name of fairness." For instance, if people have a right to enter this country illegally and take jobs either off the books (so they don't pay taxes) or take jobs at very low wages (and afford to live in America by not paying for any form of insurance and by receiving welfare), those people's "rights" inevitably lead to U.S. workers losing their jobs and causing immense emotional and physical suffering for U.S. residents. And illegal immigrants' right to healthcare, which is often obtained by going to emergency rooms that are required under U.S. law to treat them and then skipping out on the bill by lying about their names and addresses, means that hospitals and hospital emergency rooms have gone out of business from unreimbursed care, leading to delayed care and even death for Americans.

Under the new version of rights being touted nowadays, rights for some are allowed to lead to others' deaths — even if only indirectly — and that just doesn't seem "right." U.S. law used to essentially say that your rights ended when your actions hurt another person, either physically or monetarily: It was said that one's right to punch ended where another person's nose began. The minute we moved away from that conception of rights — in the name of fairness — we became inherently unfair because the only way we can provide for these new rights is through harming others, demanding from them their goods, services, and talents.

As writer Brian Farmer has said, "All legitimate rights have one thing in common: they are rights to *action*, not to goods and services from other people. Legitimate rights impose no obligations on other people, except for the obligation to leave you alone.... If your desire for something imposes a duty on other people to satisfy you, then their right to liberty is violated, and the right to pursue their happiness is hindered. Your right to happiness at their expense means that they become, in effect, your slaves."

Add to the unfairness of taking one's property or time the fact that there are now no definable boundaries on the suffering that one group of people can impose on another — in the name of "rights" and with the help of government — and we can virtually depend on the political guillotine eventually descending upon us. ■

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