

INDIANA POLICY *Review*

'A future that works'



A Constitutional Moment

*A train of abuse and usurpation drives a call
for a state-led constitutional convention.*

*In Congress, July 4, 1776,
the unanimous declaration of the thirteen United
States of America:*

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes: and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.

INDIANAPOLICY *Review*

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A FUTURE THAT WORKS

Our mission is to marshal the best thought on governmental, economic and educational issues at the state and municipal levels. We seek to accomplish this in ways that:

- Exalt the truths of the Declaration of Independence, especially as they apply to the interrelated freedoms of religion, property and speech.
- Emphasize the primacy of the individual in addressing public concerns.
- Recognize that equality of opportunity is sacrificed in pursuit of equality of results.

The foundation encourages research and discussion on the widest range of Indiana public-policy issues. Although the philosophical and economic prejudices inherent in its mission might prompt disagreement, the foundation strives to avoid political or social bias in its work. Those who believe they detect such bias are asked to provide details of a factual nature so that errors may be corrected.

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THE THURSDAY LUNCH

A LETTER TO THE PRESIDENT

From a citizen of a future constitutional republic

May 30, 2020

Dear President Obama:

This may sound strange to you coming from someone like me, but here goes: Thanks for awakening the American people to the dangers of excessive government. Your actions raised an alarm that inaugurated the most radical fiscal reform in America since the 16th Amendment.

Let me explain. Your presidency brought the term “trillion dollar deficit” into our vocabulary and oversaw a doubling of the national debt. While politicians had long professed concern about burdening our children and grandchildren, the uncommon deficits and debt over which you presided woke people up, made them take notice of the future implications of higher taxes, inflation and lower economic growth. They began to demand action from their elected representatives. At the same time, state governments were chafing under a massive regulatory and entitlement burden imposed by the federal government. Like the debt, this burden had been growing slowly for decades before your Obamacare upped the ante of what came to be known as a federal corporatist-welfare system.

You front-loaded the most popular features of your healthcare system and back-ended the costs while dumping the administrative burden on the states through actuarial exchanges. It is ironic that this only catalyzed the states’ frustration with the federal government. State legislatures, already motivated by public alarm over the rapid growth of government, asserted themselves against federal domination under a banner of reinvigorated federalism.

And this brings us to the reforms and restoration of constitutional balance. Many of us now realize these would never have succeeded without the negative examples your programs supplied.

It began with widespread awareness of the need for fiscal restraint. Frankly, some of us had wrongly given up hope. Public choice economics and 70 years of peacetime deficit spending had confirmed the cynical notion that Congress would never reform itself; a balanced budget requirement would have to be imposed from outside. But we couldn’t see how.

Thankfully, the Founding Fathers left us the perfect tool — the Article V constitutional amendment process. As soon as two-thirds of the state legislatures (34 states) called for a convention to propose one specific amendment, real reform was on the table — and Congress couldn’t stop it. When that



Lisa Barnum, graphic design

34th state legislature added its name to the list, American renewal began.

While it was a long, deliberate process for these states to craft a balanced-budget amendment with teeth, it was done. Fortunately, the groundwork had been laid by wise leaders in the state

governments years before. By the final year of your presidency, the amendment was on its way to ratification.

Now comes the hard part: making the actual budget cuts that will eliminate the deficit, pay down the national debt, and ensure future prosperity won’t be wrecked by high taxes, high inflation, and federal micro-management of the economy. And although your successor is an able leader, abetted by some great new people in Congress, there is now no excuse for ongoing deficits. They all know that if they don’t balance the budget, the Supreme Court will force them to do so.

They’ve begun to make those “tough choices” that politicians back in your day only talked about. Proposals to raise the Social Security age, to impose strict means testing on entitlement benefits, and to reduce military spending to a reasonable level on their way to approval.

Again, sir, we owe you a debt of gratitude for sparking this whole process through your bold actions a decade ago. Without your radical expansion of the size and scope of government, revealed to the people through the traumatically large debt and deficits, the cancerous growth of big government might have gone on at its slow pace, relatively unnoticed, until the country was racked by a sudden fiscal crisis.

Thanks to the symptoms of big government that your policies revealed, we got early detection of the government tumor, and sought proper treatment with the powerful Article V medicine. Now, government is being scaled back and the economy is growing like never before.

Thank you once more, Mr. President, for inspiring this grand adventure.

In Patriotism,

Tyler Watts

A CONSTITUTIONAL MOMENT

Renewal does not require a bloody revolt such as those tearing up countries around the globe. Renewal was built into our durable, albeit trampled, constitutional compact by men of typical American genius.

by TYLER WATTS, Ph.D.

The United States are in a constitutional crisis, with a national government that will not and cannot control its growth. A single indicator tells the entire story: In the 68 years since the end of World War II, federal spending has exceeded revenue in 56 of those years.¹ More importantly, the average size of federal deficits has ballooned from less than 1 percent of GDP (Gross Domestic Product) in the 1950s and 1960s to more than 5 percent of GDP today,² leaving young Americans and coming generations with a fiscal burden that will not be resolved without serious economic pain.

America did not become the most prosperous country in human history on the basis of massive, unsustainable government redistribution programs and crony capitalism. Without severe checks on this government growth, prosperity is jeopardized in the present and doomed in the future. Thus the need for reining in expansive government has never been more urgent. The time is nigh for us to review and renew the fundamental principles of government that made us a great, free and prosperous nation.

Fortunately, a powerful check on federal expansion exists in the form of Article V of the U.S. Constitution, which allows the state legislatures to call for a “convention for proposing amendments” to the Constitution. Although most Americans are unaware of this seldom-used tool, the combination of Congressional inertia and a vigorous revival of limited-government activism at the state and local levels means that now is the time, as never before, for state-led constitutional reform to restore fiscal sanity to the national government and ensure America’s future economic success.

The Present Crisis

According to surveys from the Pew Research Center for the People and the Press and the Gallup polling organization, public trust in government is currently at 19 percent — just a hair above its all-time low.³ This mistrust in government cuts across party identification, indicating that the problem is not a purely political, left versus right policy disagreement. Something much more fundamental is at stake: The federal government has morphed into an ill-defined, uncontrollable beast, and this is generating mass frustration among the citizenry.



Lisa Barnum, graphic design

The ongoing turmoil surrounding implementation of the Affordable Care Act (Obamacare) is a case in point, although it is just the latest and largest in a long train of governmental abuses and usurpations that represent a gradual erosion of two pillars of a prosperous society: the rule of law and a market-oriented

economy. While a full treatment of the political and economic problems of Obamacare is beyond the scope of this essay, for now it will suffice to note that the law creates immense uncertainty for entrepreneurs, families and individuals regarding the future cost and availability of healthcare. This puts a serious dent in economic-growth prospects by hindering individuals’ and businesses’ planning.

Moreover, the implementation of Obamacare is quite telling of the top-down rule by bureaucrats that this kind of government program involves.⁴ Aside from the sheer bureaucratic ineptitude on glorious full display, what is disturbing is the capriciousness and raw power of a bureaucracy that is utterly detached and unaccountable, not only from the average citizen, but from the legislature that created it. Every week seems to bring a new delay, a new reclassification (“the Secretary deems . . .”), a new interpretation, a new tweaking of the so-called “law” — whatever is necessary to placate the interest group *du jour*.

The upside of all the fear and loathing arising from the Obamacare debacle, bolstered by revelations about domestic spying programs, Internal Revenue Service political targeting and, of course, the looming fiscal disasters driven by unchecked entitlement spending is the renewed focus on core questions: what, exactly, is the federal government there for? What should it be doing — and, perhaps more importantly, not doing?

We have thus arrived at a constitutional moment. The gradual bloating of the federal government’s role and power has



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brought about a situation that threatens our continued freedom and prosperity — the very hallmarks of the American experience. For many leaders who respect the limited government ethos that made us great, the time has arrived for us to revisit our founding principles and re-install them for the current age. Owing to the “spend now, pay later” dynamics and interest-group capture of Congress, many have suggested that the people, working through the states, take up matters directly through a heretofore little-known, seldom-discussed constitutional safety valve — the Article V amendment process.

This essay explores the rationale and prospects for state-led constitutional amendments aimed at renewing and revitalizing the genius of America’s economic and political success. To wit, the rationale for an Article V convention focuses on the argument that proactive change will not emerge from the same institutions and processes that have given us the mess we’re in. Significant change will need to emerge from outside of the beltway and involve a radical approach. Fortunately, the founders in drafting the Constitution left us just the right tool for this moment in the form of the Article V convention process.

The prospect for success of an Article V convention is based on a growing awareness of inherent dysfunction in the traditional apparatuses of government. In other words, the people know we are suffering from a fundamental problem — a political cancer, rather than a simple chest cold — and that a radical approach is needed. Moreover, state legislatures are in a unique position to impose Constitutional reform on Washington due to a wave of grassroots limited-government activism that swept the country in 2010 and remains a strong political force.

The Roots of the Problem

If you don’t think record federal government budget deficits, over \$17 trillion of accumulated official debt, and upwards of \$200 trillion of unfunded liabilities represent a looming economic crisis of epic proportions, feel free to stop reading here. Many respectable, mainstream economists and accountants, however, such as David Walker⁵ and Laurence Kotlikoff,⁶ think otherwise. Their work indicates that maintaining federal entitlement programs on their current trajectories will require massive tax increases on future generations. Regardless

Article V of the United States 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.

of the precise estimates of the future burden one uses, it is clear to most Americans that the fiscal situation is unsustainable.

Politicians have noticed this, and their oft-repeated platitudes, such as “we must live within our means,” or “we shouldn’t impose a burden on our children and grandchildren,” are at least a professed concern about fiscal irresponsibility and a recognition of traditional budgetary virtue. But as is often the case with politicians, their actions continually belie their words.⁷ My particular branch of study, the Public Choice school of economics, explains clearly why the political process is so prone to overspending and what kinds of reform have a realistic chance of reining in this strong tendency.

Why They Overspend

Most economists acknowledge that we need government to provide public goods — those goods that profit-seeking entrepreneurs are hard-put to provide due to “free-rider” problems. The fact that people can benefit from these goods without paying for them leaves little incentive to pay and thus provides no means for the entrepreneur to recover the costs involved with producing them. So, as the standard story goes, where markets fail to provide public goods, we form governments and agree to tax ourselves to provide courts, police, a military, roads and bridges, etc. Thus the core economic rationale of government is to provide the legal system and the basic public infrastructure within which markets and civic organizations can operate to achieve economic prosperity.

Economics, then, recognizes an important role for government as an underpinning of a successful economy and society. But economics — specifically the Public Choice school — also recognizes some pathologies inherent in governing processes, in particular those of the representative democracy form of government that we hold so dear. Public Choice economics

The rationale for an Article V state-led convention focuses on the argument that proactive change will not emerge from the same institutions and processes that have given us the mess we are in.

Once we realize that continuing the flow of federal funding to key voting and lobbying constituencies is the path to reelection, we can understand why it is in these politicians' best interest to spend like there is no tomorrow, for indeed there may be no political future for a candidate who fails to build a successful election or reelection coalition.

emphasizes collective action problems within both the governmental policy-making process and the bureaucratic administration of government programs that generate built-in incentives toward waste, inefficiency and chronic recourse to overspending funded by government borrowing from the public or printing money by the central bank.

Other People's Money

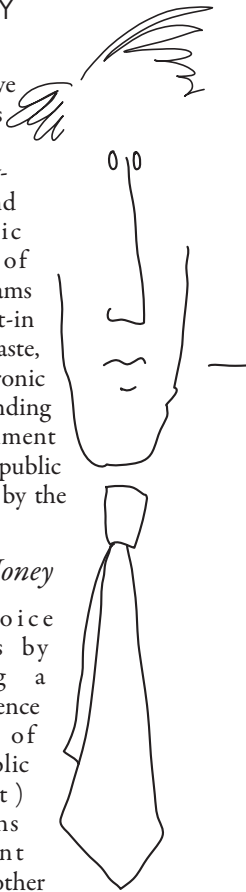
Public Choice thinking begins by acknowledging a fundamental difference in the nature of private versus public (government) action: Politicians and government bureaucrats spend other people's money, whereas individuals spend primarily their own money.⁸ Any average Joe Sixpack, having direct knowledge of his own preferences, is naturally much better placed than anyone else to make purchases that actually improve his welfare.

Moreover, he has strong incentives to economize his spending, because any money he can save on, say, his favorite beer, represents extra money for satisfying his other wants. Joe Bureaucrat, on the other hand, faces much different incentives. Most of his government-agency budget is marked for spending on other people, whether recipients of federal welfare or subsidy programs, government contractors or employees, etc. Our bureaucrat may have a pretty good idea of what these people want, depending on how close of a contact he has with them. But most importantly, Joe Bureaucrat has almost no incentive to economize on government spending, for any money his federal agency saves does not generate any personal reward for him. Tightening his agency budget means spending less money on his own staff and constituencies, while saving federal taxpayers (whom he neither knows nor represents) only a few cents each. Clearly it is in the bureaucrat's best interest to maximize his spending⁹ and never return a cent to the treasury; thus he can increase his influence within the government and over his clients, and be well-positioned to justify further

budget expansions at the next Congressional budget-making session.

Economists and business commentators have long been aware of this bureaucratic inefficiency; what compounds problems in the political process is the unique set of incentives faced by politicians on account of the election process. Public Choice economists assume that politicians are motivated primarily by the goals of seeking and maintaining power; in other words, their main goal is winning election and reelection. Tracing out successful campaign strategies — especially for members of Congress and the president — reveals the strong allure of wasteful government spending. Once we realize that continuing the flow of federal funding to key voting and lobbying constituencies is the path to reelection, we can understand why it is in these politicians' best interest to spend like there is no tomorrow, for indeed there may be no political future for a candidate who fails to build a successful election or reelection coalition.

The voting process itself is fraught with perversities that Public Choice analysis has ably exposed. Mainstream pundits generally lament what they view as relatively low voter turnout.¹⁰ More important than the actual voting rates, though, is the well-documented fact that those who do vote tend to be severely uninformed on the political issues of the day,¹¹ meaning voters can be swayed by emotional appeals, sound bites, negative advertisements, etc. Hence the prevalence of scandal-mongering and attack ads, and the importance politicians place on displaying the right image and being telegenic. The upshot of all of this is that, while the average citizen might claim grave concern about deficits and the size of the government, the average citizen is not a voter, and those who do vote are not well informed on the issues and are vulnerable to identity politics-based voting or crude, emotional appeals. Thus we wind up with a public that expresses concern about excessive government spending, yet systematically keeps voting for it year after year. This is an almost inexorable outcome of the structure of our political institutions; as computer programmers would say, it's a feature of a democratic political process, not a bug.



"(The Constitution) equally enables the general and the state governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other."
(Madison)

Interest-Group Politics

Politicians' strong desire to secure reelection, combined with an easily influenced voting public, culminates in the greatest malady of democratic politics: rent-seeking special-interest groups. Let's take a look at some real-world examples of this spending disease:

A Pentagon-endorsed attempt to trim military spending by cutting back on a program to maintain the Army's tank fleet was derailed by Congressional representatives who feared the loss of government spending — and attendant jobs — in their districts, after an intensive lobbying effort targeting key congressional committee members with substantial donations on the part of the main military contractor involved.¹²

A rare attempt at paring back the growth of unsustainable entitlement spending¹³ was shut down by the American Association of Retired Persons (AARP), the main lobbying organization for senior citizens. When President Barack Obama, in an apparent nod toward fiscal restraint, proposed aligning annual Social Security cost-of-living increases with a more accurate price index — the so-called Chained CPI, the elder lobby immediately lashed out at this imagined assault on their ranks, trotting out ads featuring vulnerable-looking old folks and tag lines such as, "I'm a grandmother, not a line item on a budget."¹⁴

I could go on and on — indeed, one could make a career highlighting and exposing "wasteful government spending programs" (the term itself is redundant). The point here is that each of these programs is effectively untouchable through the normal political process of congressional appropriations. Congressmen are financed by, and answerable to, well-organized constituencies that live by government favor. Cutting spending in any meaningful way amounts to biting off this hand that feeds them and jeopardizing their reelection prospects.

This political formula of electoral success through interest-group spending is perhaps the greatest political perversity of all. The dynamic at work here is captured by a core Public Choice insight: political success comes by concentrating the benefits of government programs on key interest-group constituencies and dispersing their costs among the much larger body of taxpayers or the general public.¹⁵ Members of the interest group, whether Medicare and Social Security recipients, military contractors, subsidized solar-panel companies or government "insured" farmers, receive large individual benefits from their pet government programs ranging from tens of thousands

to millions of dollars per person. They have correspondingly large incentives to vote, lobby, donate and campaign for the continuation of these programs. Indeed, the lobbying arms of such organized interest groups can, through donations, political advertising and voter-bloc mobilization, make or break the reelection prospects of any particular congressman.¹⁶

The average citizen, on the other hand, lacks particular knowledge of most of these wasteful government programs. And even if we all knew the gory details of these forms of government plunder, we'd have little incentive to demand that our congressional representatives put a stop to them. The individual savings for each of us would be puny in comparison with the huge individual benefits for members of the interest group.¹⁷

If such "rent-seeking" behavior, as economists call it, were limited to only a few interest groups scattered here and there, it would not necessarily spell economic doom, only perhaps a minor strain on an otherwise robust economy. The problem is that, by the gradual growth and evolution of government, we have almost all of us become, if not direct members of one or another interest group, at least sympathetic to them. Indeed, by the simple matter of reaching age 65, all Americans become eligible for Medicare and Social Security, and thus members of those entitlement groups. Moreover, their children and grandchildren (yes, the ones the politicians evoke such faux concern about regarding the debt burden), faced with a potential loss of "free" government money to cover grandma's rising healthcare expenses, become highly sympathetic to these programs themselves, a virtual interest group of sorts.¹⁸

Thus the unstoppable train of reckless, wasteful government spending rolls on. We have reached a situation described by the great classic liberal French economist Frederic Bastiat, wherein "The state is the great fictitious entity by which everyone seeks to live at the expense of everyone else."¹⁹

Realistic Reform

What then shall we do? Public Choice exposes problems inherent in politics that might make any attempt at reform seem hopeless. Perhaps this is pessimistic, but we should realize that the most common strategy of replacing our current set of leaders is likely doomed to failure for Public Choice reasons. Reform cannot focus on particular personalities but rather on changing the incentives and constraints within which these political animals operate. As Public Choice scholar William Shugart puts it:

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COVER ESSAY

The opportunity: The last two election cycles have brought nearly unprecedented turnover in the membership of state legislatures. There has rarely been a more fresh viewpoint.

“One key conclusion of public choice is that changing the identities of the people who hold public office will not produce major changes in policy outcomes. Electing better people will not, by itself, lead to much better government . . . Institutional problems demand institutional solutions. If, for example, democratic governments institutionally are incapable of balancing the public budget, a constitutional rule . . . will be more effective in curbing profligacy than ‘throwing the rascals out.’”²⁰

In other words, effective reform involves changing the rules of the political game, and this must be imposed from outside. This is because those in the political class are quite good at playing the game as they know it and are thus loathe to change the rules on their own.

Fortunately, we have a vehicle to do just that: the Article V convention process. The most important aspect of this reform is that it is state-led, a means by which the state governments can impose reform on Washington, D.C. And state governments are primed for constitutional reform as never before.

For starters, we must note the obvious: That the burden imposed on the states by federal bureaucracy and regulation has never been greater, and this federal interference has created distrust and disillusionment with Washington. In addition to being compelled to administer much of Congress’ welfare-distribution schemes, the states have been micromanaged by federal bureaucracies in everything from land and resource use to drinking ages to voting procedures.

Obamacare was perhaps the straw that broke the camel’s back in this regard, because the imposition of its onerous requirements on both states and their citizens led attorneys general of 28 states to file lawsuits aimed at invalidating all or part of that latest federal outrage. The burdens of administering the ever-growing, nebulous federal entitlement bureaucracy are

distracting and frustrating state governments, undermining their core competencies of administering justice and providing basic public goods for their residents.

“We may safely rely on the disposition of the state legislatures to erect barriers against the encroachments of the national authority.”
(Hamilton)

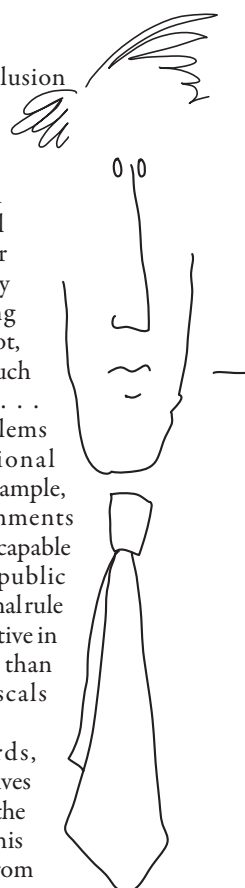
Next, we should note that the last two election cycles have brought nearly unprecedented turnover in the membership of state legislatures.²¹ There has rarely been a more fresh viewpoint in the state

legislatures. This massive turnover arguably brings them more in line with public sentiment as opposed to interest-group sentiment, reduces the influence of the political elites, and makes state governments more amenable to imposing constitutional reform on Congress.

In addition to the fresh faces in their legislatures, state governments are inherently more responsible than the federal government. Yes, state politicians are subject to localized graft, corruption and incompetence. They face real budget constraints, however, in that they cannot borrow and spend indefinitely through the agency of a complicit, money-printing central bank, such as Congress can.²² Moreover, although the magnitude of such effects is a matter of debate in economics literature, every state faces competition from every other state for basic government services, and its overall tax and regulatory climate. Citizens and businesses who are fed up with high state taxes or stifling state bureaucracy may migrate with relatively low cost to a state more to their liking and remain within the world’s largest economy, free-trade zone and currency union — the United States. Perhaps this is why more than 40 states have some form of legal balanced budget requirement, with 33 of those enshrining that requirement in their state constitutions.²³

So there is a unique window of opportunity open to us. Both President John Fitzgerald Kennedy and Soviet President Mikhail Gorbachev said it: “If not us, who? If not now, when?”

While public disenchantment with Congress and the federal government will likely remain at the current nadir if not fall further, the shakeup of state legislatures may wane as activists tire and machine politics reasserts itself. Many astute, intelligent leaders in the fields of law and politics, however, have begun laying the groundwork to prepare for the fruition of this



movement. Indiana, not surprisingly, is among the leaders on this issue, being one of 23 states to have issued a limited (i.e. single-issue) call for an Article V convention for proposing amendments in our state assembly.²⁴

A second meeting of the Mount Vernon Assembly this summer in Indianapolis was again to bring together state legislators to more clearly define how such a convention would operate. These meetings have not been aimed at discussing specific amendments but rather to establish consensus on procedural points so that any future convention can be conducted efficiently and effectively.

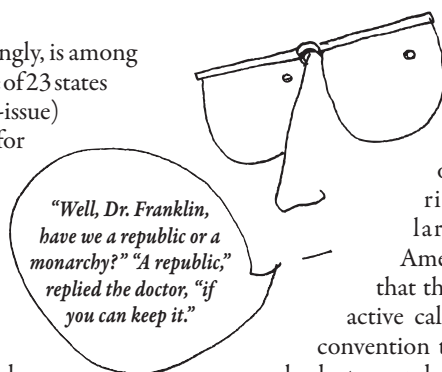
Runaway Convention?

Some *bona fide* fiscal conservatives who would otherwise support a federal balanced-budget amendment are wary of the Article V process. They fear that the purpose of the convention may be altered or expanded to do much more than simply draft a balanced budget amendment.

There are reasons why this fear is unfounded, the most important of which is the states' ability to limit the scope of the proposed amendment to a single issue through their convention-call legislation.²⁵ Model legislation introduced by Indiana state Senator David Long²⁶ and passed into law by the Indiana Assembly allows states to put tight reins on the process, both in terms of the selection of delegates to a convention and how the selected delegates to a convention may vote. Delegates are sent on behalf of the people of a given state via their representatives in the state assembly, and thus their actions may be limited and focused along such lines as the people, through their state representatives, deem appropriate.

Indeed, the only danger of an Article V convention being used to expand rather than limit government power would involve a separate grassroots effort to launch a new, separate Article V movement.

For example, if fiscal hawks were able to achieve a balanced-budget amendment via an Article V convention, progressives might be inspired to attempt a repeal or modification of the 2nd Amendment by the same process. As noted, however, there would be no way for them to piggy-back such reform onto a convention called strictly for the former purpose. Moreover, should they aspire to a fresh round of convention calls, they would face the same hurdles: not only would they have to get such calls through two-thirds of state legislatures, but they would



have to convince three-fourths of the states to then ratify the removal of an ancient right cherished by large majorities of Americans.²⁷ Remember that there are currently 23 active calls for an Article V convention to draft a balanced-budget amendment. There are zero for altering the 2nd Amendment or other "progressive" reforms. Fiscal conservatives already have a huge advantage with the Article V process, and should strike while the iron is hot.

Thus while we shouldn't dismiss fears that activists with different political leanings might start the Article V process anew to achieve their own versions of constitutional reform, my impression is that Americans are a fundamentally conservative — though quite tolerant — people. Constitutional reform intended to radically alter our original constitutional purpose of limiting government won't fly here but constitutional reform meant to strengthen that original intent just might.

Conclusion

There is a palpable angst regarding our political, economic and cultural future. That is so even though America remains the world's largest economy, where 317 million people experience the highest average per-capita standard of living ever achieved in human history. Life is still good here for the vast majority of our citizens, yet we have accumulated the largest government debt burden, created an arbitrary, inscrutable, stifling bureaucracy and stumbled into the most dysfunctional national government legislative and administrative process known to the developed world. All of this is the result of a grandiose attempt to make the national government, originally designated as having "few and defined powers," all things to all people.

The good news is that the genius of our system — limited government and maximum individual liberty under the rule of law — is no secret. Awareness of its principles still motivates many of our citizens and is a rallying point for wiser, more astute leadership.

To borrow an expression from Thomas Paine, we have it in our power to begin the world over again. If we can freshly articulate the first principles of our governmental structure in a bold and resonating way, the people will be able to demand their delegated representatives in the police forces, courts, legislatures and executive

Model legislation passed into law by the Indiana Assembly allows the state to put reins on the process, both in terms of the selection of delegates to a convention and how the selected delegates to a convention may vote.

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bureaucracies adhere to them, respect them and abide by them.

The really good news is that this constitutional renewal does not require a bloody street revolution such as are tearing up countries across the globe. It was built into our durable, yet frayed, constitutional compact by men of typical American genius. Again, it is that constitutional safety valve known as the Article V amendment process.

Let us acknowledge that now is a time of crisis, and, though we are aware of the severity of such action, now is the time to grasp the handle of reform, pull hard and strive to bring about a deep and lasting renewal of those governing principles that have served us so well. Q

Further Reading

Balanced Budget Amendment Task Force
<http://www.bba4usa.org/>

Barry Poulson, "It's Time for States to Call a Constitutional Convention and Pass a Balanced Budget Amendment"

James M. Buchanan and Richard E. Wagner. (1977) 2000. *Democracy in Deficit: The Political Legacy of Lord Keynes*. Indianapolis: Liberty Fund.

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Endnotes

1. Source: usgovernmentsspending.com

2. Calculations based on data from usgovernmentsspending.com and measuringworth.com

3. <http://www.people-press.org/2013/10/18/trust-in-government-interactive/>

<http://www.gallup.com/poll/5392/trust-government.aspx>

4. The Obamacare debacle is so bad that even some supporters — the intellectually

honest ones — who favor the intended goals of the program have admitted it is not workable. See for example Ezra Klein, <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/10/25/obamacares-problems-go-much-deeper-than-the-web-site/>

5. <https://www.youtube.com/watch?v=hsUdK70Jtmc>

6. <http://mercatus.org/publication/assessing-fiscal-sustainability>

7. An aphorism I like to share with my students: "How can you tell when a politician is lying?" Answer: "When his mouth is moving."

8. This typology was popularized by Milton and Rose Friedman in their bestselling book, *Free to Choose*, which was subsequently produced as a 10-part documentary series on Public Television and originally aired in 1980. The entire series is available free online: <http://www.freetochoose.tv/broadcast.php?series=ftc80>

9. Public Choice economics has thus identified the objective of the bureaucrat as "budget maximization," in contrast to the consumer's goal of "utility maximization" or the entrepreneur's goal of "profit maximization." See William Niskanen, *Bureaucracy and Public Economics*, for the seminal contribution to this literature.

10. According to Michael McDonald of George Mason University, overall turnout of eligible voters in the U.S. in 2010 was just under 42 percent, a figure that rose to more than 58 percent in 2012. Typically, overall voter turnout percentages range from around 40 percent in midterm elections to upwards of 60 percent in presidential election years. See http://elections.gmu.edu/voter_turnout.htm

11. See Ilya Somin, "When Ignorance Isn't Bliss: How Political Ignorance Threatens Democracy" <http://www.cato.org/publications/policy-analysis/when-ignorance-isnt-bliss-how-political-ignorance-threatens-democracy>

12. "The Army tank that could not be stopped." <http://www.publicintegrity.org/2012/07/30/10325/army-tank-could-not-be-stopped>

13. Note the very terminology that has become standard here entrenches the status quo, as members of these interest groups are somehow "entitled" to other people's money, and Congress cannot (or dares not) challenge them.

14. "AARP Blasts Obama's Historic Plan to Cut Social Security." <http://www>

businessinsider.com/aarp-chained-cpi-barack-obama-budget-2013-4

15. See Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups*.

16. For example: A staffer from the office of a corn-belt U.S. representative tells me that the powerful lobbying efforts of the Farm Bureau make it difficult for any candidate from a farm-centric district to commit to reducing or eliminating any of the various farm-subsidy programs. A candidate who pledges to represent the general welfare by cutting off uneconomical handouts to the farmers' special-interest group would lose the endorsement of the Farm Bureau — and therefore not only the farmer vote bloc, but their donations, campaign support, etc.

17. According to the Environmental Working Group's Farm Subsidy database (<http://farm.ewg.org>), in 2011 the top 20 percent of farm subsidy recipients (248,642 persons) received average government payments of \$25,319 each, a total of \$6.3 billion. The average number of employed workers was 140 million that year. Given that roughly half of all who file a tax return face a net personal income-tax liability, the cost of farm subsidies that year worked out to about \$90 per taxpayer (\$6.3 billion/70 million net personal-income taxpayers).

18. Interest groups have existed as long as has politics. Indeed, constraining the influence of political "factions" was a major issue in the constitutional-ratification debates. One reason interest groups have become more dangerous in recent decades has been the erosion of fiscal balanced-budget norms due to the effects of the "Keynesian revolution" in macroeconomics, which promulgated use of the government budget as the main tool for economic-stabilization policy. Beginning in the 1930s, Keynes and his followers advocated budget deficits in economic downturns to "stimulate" consumption demand and restore full employment. While Keynes himself advocated a return to fiscal surplus in years of economic prosperity, this part of the message was largely lost on politicians, who took the "stimulus" rationale for deficits as a license for ever-increasing spending. For a full treatment, see James Buchanan and Richard Wagner, *Democracy in Deficit: The Political Legacy of Lord Keynes*.

19. Frederic Bastiat, *Selected Essays on Political Economy*. <http://www.econlib.org/library/Bastiat/basEss5.html>

20. William F. Shugart II, 2008. "Public Choice" in *The Concise Encyclopedia of Economics*. Indianapolis: Liberty Fund. p. 430.

21. Twenty-nine percent of state legislators elected for the first time in 2010, amounting to 1,765 new faces in statehouses across the country. Sources: <http://www.pewstates.org/projects/stateline/headlines/states-brace-for-huge-legislative-turnover-85899424050>

http://www.rasmussenreports.com/public_content/political_commentary/commentary_by_tim_storey/gop_makes_historic_state_legislative_gains_in_2010

22. Several commentators, including Federal Reserve regional presidents, have suggested that the Federal Reserve's massive purchases of U.S. Treasury securities has amounted to debt monetization, a process by which a central bank helps the government

finance or retire its debt through money creation. See <http://www.soundmoneyproject.org/?p=6684> for further commentary on "inflationary finance."

23. Source: National Conference of State Legislatures Fiscal Brief: State Balanced-Budget Provisions <http://www.ncsl.org/documents/fiscal/StateBalancedBudgetProvisions2010.pdf>

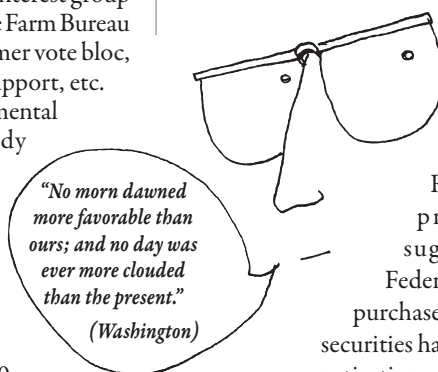
24. According to the Balanced-Budget Amendment Task Force, 23 states have active legislation in this regard.

25. An attorney and legal scholar, Rob Natelson, has fully addressed this matter and concludes that the "runaway convention" fear is high on panic and low on substance: http://www.americanthinker.com/article/2013/08/the_myth_of_a_runaway_amendments_convention.html

26. <http://www.ncsl.org/documents/summit/summit2013/online-resources/SenDavidLong.pdf>

27. According to the Gallup polling organization, although only about a third of Americans own guns, nearly three-quarters believe the "Second Amendment guarantees the rights of Americans to own guns." <http://www.gallup.com/poll/105721/public-believes-americans-right-own-guns.aspx>

If we can freshly articulate the first principles in a bold and resonating way, the people will be able to demand that their delegated representatives in the police forces, courts, legislatures and executive bureaucracies adhere to them, respect them and abide by them.



AN ARTICLE V HANDBOOK

The State Application and Convention Process

Legislatures may limit the subject matter of the convention but they may not dictate particular wording.

by ROB NATELSON

A state legislature seeking an amendment to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention adopts a resolution called an “application.” The application should be addressed to Congress. It should assert specifically and unequivocally that it is an application to Congress for a convention pursuant to Article V. The resolution should not merely request that Congress propose a particular amendment, nor should it merely request that Congress call a convention. An example of effective language is as follows:

The legislature of the State of Indiana hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states...

Who may apply? The Constitution grants the right to apply exclusively to the state legislatures. Applications need not be signed by the governor, and may not be vetoed, anything in the state constitution or laws notwithstanding. Moreover, applying cannot be delegated to the people via initiative or referendum, anything in the state constitution or laws notwithstanding. However, the signature of the governor does not invalidate an application, nor does an initiative or referendum that is purely advisory in nature.

The Scope of the Convention

A legislature may apply for an open convention—that is, not limited as to subject matter. Such an application might read:

The legislature of the State of Indiana hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states for proposing amendments to the Constitution.

Few people, however, are interested in an open convention or in a convention for the sake of a convention. Generally, the goal is to advance amendments of a distinct type, with the convention limited to that purpose. An application for a limited convention might read:

The legislature of the State of Indiana hereby

applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing an amendment to the Constitution of the United States requiring (state the general nature of the amendment).

Although applications may limit a convention to one or more subjects, the existing case law strongly suggests that an application may not attempt to dictate particular wording or rules to the convention nor may the application attempt to coerce Congress or other state legislatures. As the courts have ruled repeatedly, assemblies (Congress, state legislatures and conventions) are entitled to some deliberative freedom when involved in Article V procedures. An application may suggest particular language or rules for the convention, but to avoid confusion, suggestions should be placed only in separate, accompanying resolutions.

Some applications, while not attempting to impose specific language on the convention, attempt to dictate the details of the amendment’s terms. The more detail the application mandates, the more likely a court will invalidate it as attempting to restrict unduly the convention’s deliberative freedom. Additionally, the more terms an application specifies, the less likely it will match the terms of other applications, resulting in congressional or judicial refusal to aggregate them together toward the two-thirds threshold.

Thus, a pair of rules governs legislatures applying under Article V: 1) They may limit the subject matter of the convention; but 2) they may not dictate particular wording.

These boundaries make sense if you think of the convention as what it really is: a committee or task force charged with solving designated



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problems. When charging a task force in business or government, you inform its members of the problems you want them to address. You don't tell them to investigate anything they wish. Additionally, once you have given the task force an assignment, you don't dictate a solution. To serve its purpose the task force has to be free to consider different solutions. Otherwise there would be no good reason for the task force.

The Life of an Application

An application probably lasts until it is duly rescinded. Some have argued that older applications grow "stale" after an unspecified time and lose their validity. However, this argument probably does not have merit. The power to rescind continues until the two-thirds threshold is reached, or perhaps shortly thereafter.

An application probably may provide that it is automatically terminated as of a particular date or on the occurrence of a specific event—as long as the terminating condition is not an effort to coerce Congress, other states or the convention. Thus, a provision is most likely valid if it says, "This application, if not earlier rescinded, shall terminate on December 31, 2015." Also valid would be this language: "This application, if not earlier rescinded, shall be null and void if Congress shall propose a balanced budget amendment to the U.S. Constitution." On the other hand, courts may deem some kinds of automatic terminations to be coercive, and therefore void. A clear example would be a provision automatically terminating the application unless the convention followed specified rules or adopted an amendment in specified language.

The Applications in Congress

Aggregation of applications. When 34 state legislatures have submitted applications on the same subject, the Constitution requires Congress to call a convention for proposing amendments. Both the historical and legal background of Article V and modern commentary clarify that the congressional role at this point is merely "ministerial" rather than "discretionary." In other words, the Constitution assigns Congress a routine duty it must perform. It is important to note, however, that congressional receipt of 34 applications is not sufficient; those applications must relate to the same subject matter.

Historically some members of Congress have tried to find excuses for avoiding any duty to call a convention. One possibility is that Congress may refuse to "aggregate" toward the two-thirds threshold any applications that try to dictate to

the convention different ways of solving the same problem. Thus, if 17 states have applied for a clean balanced-budget amendment and another 17 have applied for a balanced-budget amendment with a requirement of a two-thirds vote to raise taxes, Congress may refuse to treat both groups as addressing the same subject. The more differences exhibited by the applications, the more justification Congress will have in refusing to aggregate them.

One way to forestall such obstruction is to specify in the application that it be aggregated with certain other state applications. For example, an application may include the following language:

This application is to be considered as covering the same subject matter as any other application for a balanced-budget amendment, irrespective of the terms of those applications, and shall be aggregated with them for the purpose of reaching the two thirds of states necessary to require the calling of a convention.

An alternative might be to name applications already submitted by other states:

This application is to be considered as covering the same subject matter as presently outstanding balanced-budget applications from Nebraska, Kansas and Arkansas, and shall be aggregated with them for the purpose of reaching the two-thirds of states necessary to require the calling of a convention.

This process is for the states, not Congress. In the past, well-meaning members of Congress have introduced bills to resolve issues that properly are for the state legislatures or for the convention to resolve. If adopted, these bills would have dictated how delegates are selected, how many delegates each state may have at the convention, and what voting and other rules the convention must follow.

That kind of legislation is probably unconstitutional for several reasons. First, congressional efforts to control the convention would handicap its fundamental purpose as a mechanism for the states to amend the Constitution without interference from Congress. Also, the historical record shows that such provisions exceed the scope of what the Constitution means by "calling" an interstate convention.

The power to "call" an interstate convention authorizes Congress only to count and categorize the applications by subject matter, announce on what subjects the two-thirds threshold has been reached, and set the time and place of the convention. Any further prescriptions by Congress exceed the scope of powers reasonably incidental to the constitutional power to "call."

The power to "call" an interstate convention authorizes Congress only to count and categorize the applications by subject matter, announce on what subjects the two-thirds threshold has been reached, and set the time and place of the convention.

APPENDIX I

The convention is, as James Madison once asserted, “subject to the forms of the Constitution.” In other words, it is not plenipotentiary in nature. Accordingly, a convention for proposing amendments has no authority to violate Article V or any other part of the Constitution.

The Selection of Delegates

As noted above, the Founders modeled the interstate convention on international diplomatic practice. As in diplomatic meetings, each sovereignty decides how to select its own delegation or “committee” and how many to send. The records of the Founding era interstate conventions tell us that states selected delegates (commissioners) in any of several ways:

1. Election by one house of the state legislature, subject to concurrence by the other, with a joint committee negotiating any differences.
2. Election by joint session of both houses of the state legislature.
3. Designation by the executive.
4. Selection by a designated committee.

Moreover, when selecting delegates to the Confederation Congress (which, strictly speaking, was a legislative body rather than a convention), Rhode Island provided for direct election by the people.

For the 1861 Washington Conference Convention, which served as a sort of “dry run” for an amendments convention, most state legislatures selected their own commissioners, but some authorized the executive to appoint commissioners or nominate them subject to the consent of the state senate.

Election by legislative joint ballot has several advantages. First, it makes sense for the legislature to select commissioners, because they serve as legislative agents subject to legislative instruction and removal. Second, joint ballot elections are less prone to deadlock than election by each chamber *seriatim*. Third, because the applications and legislative instructions will define the policy behind the amendment, the commissioners’ role at the convention is primarily to serve as a legal drafting committee, calling for technical abilities and diplomatic skills. Lawmakers are likely to know which individuals possess those abilities.

Each commissioner is empowered to act by a document called a “commission,” issued in such matter as the state legislature directs.

The Convention

All states, not merely the applying states, are entitled to send committees to a convention for proposing amendments. The convention is, as James Madison once asserted, “subject to the forms of the Constitution.” In other words, it is not “plenipotentiary” (or constitutional) in nature. Accordingly, a convention for proposing amendments has no authority to violate Article V or any other part of the Constitution. According to the rules in Article

V, the convention may not propose a change in the rule that each state has “equal Suffrage in the Senate,” nor may it alter the ratification procedure.

Prior rules and practice governing interstate conventions show that conventions must honor the terms of their call and limit themselves to the scope of the subject matter they are charged with addressing. The scope of the subject matter is set by the scope of the 34 or more successful applications, and ideally Congress should reproduce that scope in its call.

Delegates to American conventions generally have had power to elect their own officers and adopt their own rules, and this has been universally true of interstate conventions.

These rules include the standards of debate, daily times of convening and adjourning, whether the proceedings are open or secret, and other matters of internal procedure. Interstate conventions traditionally have determined issues according to a “one state-one vote,” although a convention is free to change the rule of suffrage. The convention also may limit how many commissioners from each state can occupy the floor at a time.

Like other diplomatic personnel, convention commissioners are subject to instruction from home — in this case from the legislature or the legislature’s designee. The designee could be a committee, the executive or another person or body. Although state applications cannot specify particular wording for an amendment, a state could instruct its commissioners to not agree to any amendment that did not include particular language.

In accordance with Founding Era practice and the convention’s purpose, each state should pay its own delegates.

The convention may opt to propose one or more amendments within the designated subject matter or it may adjourn without proposing anything. Unless altered by convention rule, proposal requires only a majority vote. Some have argued that a formal proposal requires a two-thirds convention vote — or that Congress may impose such a rule — but there is nothing in law or history to support this argument.

The Constitution does not require that a proposal be transmitted to Congress or to any other particular entity; the proposal is complete when the rules of the convention say it is. Because Congress must choose a mode of ratification, however, the convention should officially transmit the proposal to Congress.

Once amendments are proposed or the delegates decide not to propose any, the purpose of the convention has been served, and it must adjourn.

INDIANA PUBLIC LIBRARY IDENTITY AND FUNDING CRISES

by BARRY KEATING and MARYANN O. KEATING

Coursera, a massive online provider of university classes, now has 600 free courses and seven million registered students. Rick Levin, former president of Yale University and presently the chief economic officer of Coursera, said that online education and Coursera represent “an unmitigated public good.” Actually, any place in which people are assisted in accessing data essential for coping with contemporary life is a public good. Public libraries are also an unmitigated public good.

Public libraries function both as an institution facilitating residents in their quest for life-long learning and as a disinterested dispenser of information serving the public interest. Yet, Indiana libraries are experiencing funding challenges and enormous changes in public expectations with respect to essential services.

Hoosier use their public libraries, more than residents in all but two other states. According to the Public Library Survey 2001-2010, library circulation per capita in Indiana (13.73) exceeds the national average of (8.27). Also, Indiana's public-library expenditure per capita (\$50.06) exceeds the national average of (\$36.18). But, between 2009 and 2010, both measures of Indiana public libraries' robustness fell. Indiana public libraries are experiencing unprecedented changes in demand for their services and reduced funding.

Public libraries in general in the United States are experiencing increases in circulation, but the composition of their collections and services are changing faster than ever before. The share of non-print materials and electronic books is increasing. Computer access is one of the fastest growing services in public libraries, representing one out of every five library visits. Increasingly, the general public coordinates online learning and its search for employment with library services.

The Indiana University (IU) Public Policy Institute surveyed two types of library patrons

at Indianapolis Public Libraries. One group provided email addresses and responded to the survey on-line. The second consisted of adult visitors to 22 library branches. More than 59 percent of online library responders (the first group) reported household income exceeding \$50,000 compared with less than 27 percent of in-person responders (the second group). More than three quarters of in-person responders in 2012 had used library computers in the previous six months as compared with less than a quarter of on-line responders.

The IU Public Policy survey of public library users does not determine whether high- or low-income patrons place a higher value on library services; interestingly, a majority of respondents in both categories own computers and cell phones with Internet access. The study, however, offers hard evidence of the types of services used by distinct groups and suggests that increased Internet accessibility can actually increase demand for traditional as well as new library informational sources.

Indiana libraries have legal, funding and usage characteristics that differentiate them from libraries in other states. Although it is virtually impossible to predict how Indiana public libraries will evolve in the future, declining real revenue presently hinders their ability to adapt to increasing demand for both traditional and new services.

Indiana libraries are experiencing funding challenges and enormous changes in public expectations with respect to essential services.



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SPECIAL REPORT

Library advocates would do well to use cost-benefit analysis to communicate the value created by libraries to benefit the general public.

I. The Economic Case For Public Libraries

There are two permanent economic principles, accepted by economists on both sides of the political debate, that justify maintaining library funding out of general tax revenue. First, libraries require public funds because accessing and dispensing information, their core mission service, is a public good that provides positive benefits for all residents. The information and services that libraries house are often not available to the general public because they are too costly to acquire or it is not in the interest of alternative institutions to provide them.

Secondly, public library services function as an “inferior good,” an unfortunate term representing an important economic concept. Use of inferior goods (hamburger helper, board games, camping, used cars, etc.) as compared with luxury goods (BMWs, trips to Disney World and other high-ticket items) increases as income declines and economic growth stagnates. Whenever household incomes are stagnant or falling, public libraries offer services that, in an economic sense, are considered “inferior.” If public library services are truly “inferior,” we would expect demand for them to be greater in areas where low-income households dominate and in all districts during recessions. This suggests that library funding should be maintained or even increased when times are adverse relative to other public services that are not as income sensitive.

Ultimately, library budgets are decided through a public-choice process in which elected officials, constitutionally constrained, vote yea or nay for any particular proposal related to their support. With respect to types of services provided, interest groups and staff competencies (preferences) explain the allocation between community-centered socializing and recreational programs versus traditional librarian and computer-technical assistance.

Library advocates would do well to expand their role in communicating the value created by libraries to benefit the general public. One means of doing this is through the use of cost-benefit analysis which, at a minimum, provides transparency in what public libraries are about.

Consider the example of a Service Matrix for Public Libraries in Table 1. This is not

Table 1. Matrix of Types of Public Library Services and Users of these Services

Taxonomy	Households	Teachers	Businesses
Books and Periodicals	X	X	X
DVD, CD, Audio, Video	X	X	X
Webpage	X	X	X
Downloads	X	X	X
Repair Manuals	X		X
Documents	X	X	X
Staff Help in Accessing Materials	X	X	X
Financial and Legal			X
Computers/Job Related	X		
Computers/Enrichment and Recreation	X	X	X
Instructional Events	X		X
Community Events	X		X

meant to represent a one-grand-scheme-fits-all model, which would be totally out of sync with the individualization that technology permits each library to design. Table 1 merely suggests that each library can list its core functions and approximate the number (X) of times a particular class of users availed themselves of that service.

Now, suppose that we could make a reasonable attempt to quantify the value of each service for a library district. Benefits received equal the sum of average dollar value of each service multiplied by users. Annual operating and capital budget represents the cost of providing these services. If benefits exceed cost, library net benefits are positive:

$$\text{Net Benefits} = (\text{Average dollar value of each Services} * \text{Number of Users}) - \text{Annual Library Budget}$$

The challenge in any library cost-benefit exercise is to determine and assign a dollar value to their services. This can be approached in two ways.

The “hypothetical contingent valuation” approach surveys residents with questions, such as, “Suppose that public libraries did not exist. How much would your household be willing to pay per year to establish your public library as it exists today?” Notice, these surveys include all resident taxpayers as well as only users-patrons. The focus of library outreach must be based on willingness to pay, not on the fanciful wishes of randomly surveyed patron-users.

The second approach is to approximate a realistic dollar value for each library service through the use of what is referred to as “a hedonic index.” A hedonic index attempts to uncover the actual market value for similar services, such as purchasing and reselling a used book or journal, an hour of business-center computer time for use by hotel guests, or the services of an employment agent. By developing or availing themselves of dollar values for services in areas with similar demographics, researchers can approximate shadow prices for each library service.

In 2002, the City of Skokie, Illinois, employed cost-benefit analysis to estimate the net dollar value of services provided by its public libraries. Net benefits (benefits minus costs) were positive and in fact were estimated to be a multiple of full costs, including both operating and capital expenses. The Skokie study unambiguously fails to prove that library services are an inferior good. In fact, Skokie library users at a single point in time were much more likely to have higher incomes and advanced degrees than library nonusers. However, this fact does not contradict the observation that both high- and low-income residents generally increase their use of library services when their real incomes decline.

II. A Critical Look At Tax Incremental Financing (TIF) and Public Library Funding

Indiana’s Redevelopment Act of 1972, establishing Tax Incremental Funding districts (TIFs), was aimed at rehabilitating decaying and dilapidated inner-city neighborhoods. TIF districts retain a percentage of all increases in real property taxes paid by the property owner within the TIF due to an increase in assessed values within the district. Freezing the property-tax base of a large number of properties within a district constrains Indiana library budgets in adapting to the demand for new and additional services.

By the late 1980s, the Indiana General Assembly permitted the creation of Economic Development Areas (EDA) and Economic Revitalization Areas (ERA) to offer property-tax abatement incentives to private developers and even permitted

these areas, under the co-ordination of the Indiana Economic Development Corporation (IEDC), to issue bonds financed from expected TIF revenues. In some instances, these TIFs have morphed into credit-granting entities crafting agreements to help private-property developers finance commercial investments. The incremental tax revenue is allocated by commission members who are not necessarily elected representatives.

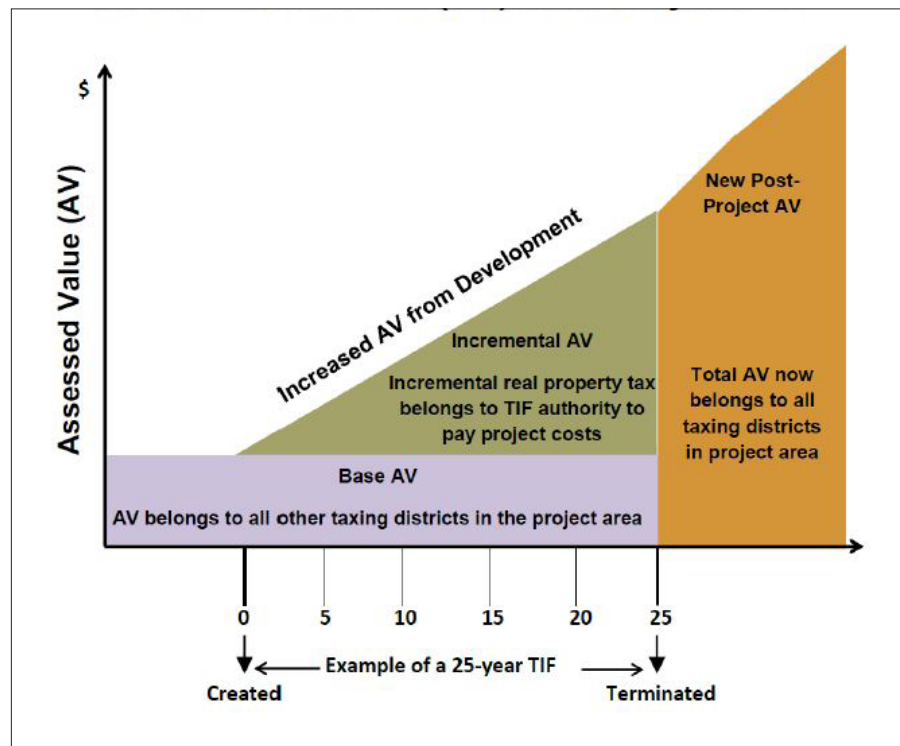
Consider Table 2. Any captured property-tax incremental revenue is retained. It does not flow into the general revenue stream of the municipality, county or township within which a library district is located. In other words, any increase in assessed value (AV) within a TIF does not contribute a dollar toward libraries.

As represented in Table 2, a TIF is expected to pass through a base amount of property-tax revenue into the general fund, retain any increased tax revenue due to increased property values and, on expiration, pass through all tax revenue into the general fund.

Indiana and all other states, with the exceptions of Arizona and Wyoming, have legislation enabling TIFs. Forty percent of the city of South Bend’s geographical area is located within TIF districts. In addition, St. Joseph County, in which South Bend is located, has

The observation is that both high- and low-income residents generally increase their use of library services when their real incomes decline.

Table 2. TIF Assessed Value (AV) Over Project Life



Source: San Antonio Housing and Neighborhood Services Department

The issue is how the burden in lost property-tax revenue is divided between TIF districts and the overall local taxing units in which the libraries are located.

three TIF districts and is considering additional ones. Presently, Chicago's 163 TIF districts encompass a third of all property within the city, and approximately one-third of property taxes collected within these districts are diverted from city services.

California discontinued incremental tax financing due to a lack of evidence that TIFs were associated with economic development more than any other area. The assumptions under which TIFs are created may be incorrect, in which case the loss of public services yielding positive net benefits to residents is significant.

The difficulty with a TIF is that circumstances do not always proceed according to the stylized vision as represented in Table 2. Suppose that inside the TIF there is no increase in property values and that incremental tax revenue is insufficient to pay interest on development bonds. Further, suppose that assessed values for taxation purposes is changed and defined in terms of actual market value rather than value when purchased adjusted for trend. In addition, suppose that throughout the area the market value of property declines but population growth places increased demands on certain public services, such as libraries. Then property-tax abatements, inside and beyond TIF districts, along with inflation, shift the cost of public services to a diminishing source of revenue outside TIFs. Or, suppose local taxing authorities are unsuccessful in collecting taxes billed to resident and absentee property owners. Or suppose a state law caps property-tax rates as assessed property values fall.

Indiana has experienced in full measure every one of these unintended consequences. The issue, then, is how the burden in lost property-tax revenue is divided between TIF districts and the overall local taxing units in which the libraries are located.

Each year, county auditors prepare so-called neutralization worksheets for submission to the Indiana Department of Local Government Finance certifying assessed value for each parcel of land inside a TIF. An overall neutralization factor for each TIF, based on a complicated formula, compares assessed value of changes in the TIF property with respect to changes in the total assessed value of property in the county. The purported purpose of the neutralization factor is given as a way of adjusting the pass through to the general taxing authority of property taxes collected within a TIF.

Most TIF districts, unlike South Bend's Erskine Village, are not in a position to retire debt issued by the Redevelopment Commission

as scheduled. In fact, for Indiana in 2013, 251 out of a total of 933 TIF districts did not yield any pass-through revenue to their relevant local fiscal authorities. And it appears that another 225 additional TIF districts are rapidly eroding their ability to pass through the amount of tax revenue that was projected annually when the TIF was initially created.

Corrections are being proposed. In 2012, the General Assembly has limited the life of any newly created TIF district to 25 years and indicated that any bond, financed with property-tax revenue, cannot be refinanced with lengthened terms. In 2013, HB 1116 directed the Department of Local Government Finance to take measures to stop erosion of the tax base within new TIFs. More importantly, Indiana has not yet limited the amount of land that can be absorbed into TIFs or set a sunset limit on the lives of existing TIFs. (If TIFs actually produced the benefits claimed, perhaps the entire state of Indiana should be declared a TIF.)

TIF authorities are not evading the law; rather, they are using the law as written. State statutes authorize these tax diversions. They are a legal mechanism to take authorized taxes for one purpose and use them for something else. This is bad news for Indiana public libraries. The problem is that these diversions can erode the will of the public in affecting how well a library can provide expected services.

III. Indiana's Decoupling of Assessed Values, Property Taxes And Maximum Levies

The will of the public in funding library services has traditionally been expressed by levies that public libraries together with other public entities are legally permitted to assess on local property. But with TIF diversions, problems arise whenever certain properties are exempted from taxes, when overall permissible levies are inconsistent with an individual's tax bill, and when state and county income-tax revenue become a more important component of financing local public services. To assist in understanding this, we first must consider the difference between tax rates and tax levies.

A "tax rate" is the percentage used to determine how much a property taxpayer is billed per one hundred dollars of net assessed value. A "tax levy" is the amount, specified in dollars, that a local taxing unit (city, town, township, etc.) raises each year in property-tax dollars. A maximum levy is a limit on the amount of property-tax dollars a local government is allowed by law to collect.

A local government unit's "maximum levy" equals the amount of property taxes raised in

the previous year plus a growth factor based on changes in income. Until recently, levies in Indiana were based exclusively on assessed value and growth in assessed value. The maximum levy adopted in 2002 assigns a property-tax limit to each county adjusted in terms of “income” (specifically the past six years of personal income growth). This represents a change from the fundamental building block of property taxes, namely assessed property values. The growth factor, based on income, is designed to compensate somewhat for assessed property erosion. This is how schools and other local taxing districts have been “immunized” from any erosion of their AV, including that located inside a TIF. However, maximum levies that include an income growth factor can result in higher tax rates on assessed values.

The actual tax levy is related to three factors: assessed valuation of real estate in the district, the growth factor and the extent to which the local authority agrees to tax at or below the maximum levy. Following the determination of a local government unit’s levy, the tax rate is merely a mathematical ratio of levy over net assessed valuation.

$$\text{Tax Rate} = \text{Total Tax Levy} / (\text{Total Net Assessed Value}/100)$$

For example, in Ohio County, Indiana, dividing total net assessed value of property in 2010 (about \$257 million) yields \$0.7090. The Ohio County Public Library was allocated \$93,672, equal to about 5 percent of the total property-tax levy.

In response to escalating taxes due or paid on assessed property, the Indiana General Assembly in 2008 adopted three distinct property-tax rate caps, depending on ownership type. The General Assembly authorized three additional local-option income taxes to compensate local governments’ need for revenue as burdens on property owners was capped or reduced. In addition, the state budget took over approximately 15 percent of school operating costs and other local government services. Public library costs were not specifically included.

Following the passage of the bill to cap property-tax rates, when Mitch Daniels was Indiana’s governor, thousands of property owners believed their tax bills to be inconsistent with the market value of their properties. If a property with an assessed value of \$100,000 has a tax bill of \$2,100 and the percentage cap is 2 percent, a tax credit in the amount of \$100 would be issued for that property, thereby reducing the property-tax amount due to \$2,000 or 2 percent of its assessed value. Counties

are responsible for rebating or reducing any property-tax amounts billed in excess of amounts due per capped rates. The term “circuit breakers” was coined to describe the amount of funds local authorities had to budget to meet this contingency. Circuit-breaker credits exceeded 30 percent of the net levy in Madison and Delaware counties in 2011. Statewide, average county 2011 circuit breakers was 10.68 percent. Delaware County, Indiana, in which the city of Muncie is located, experienced a decline in property-tax revenue between 2011 and 2012. Nevertheless, the county had to rebate over \$29 million due to residents and businesses under the circuit-breaker provision.

Local public services have had to adapt to falling state and local property-tax revenue. State income and sales taxes account for less than 10 percent of local library budgets nationally, and this amount is declining. In Indiana, Property Tax Replacement Credits (PTRC) represent a program designed to shift overall state and local taxation away from local property taxes toward state sales and income taxes. Libraries must fall into line behind other units vying for these funds.

A few counties with population between 55,000 and 65,000 can promote the development of libraries by using economic development income-tax revenue to replace some of the funds lost from property taxes. However, libraries in general have been forced to be resourceful in seeking additional funding through increased user fees and grants. The Indiana State Library manages federal government funds distributed to states in the form of Library Services and Technology Act Grants.

In some instances, private groups are able to compete with public libraries’ traditional services. Dolly Parton’s Imagination Library program currently exists in over 1,600 local communities worldwide, providing books to almost 700,000 children each month. Indiana alone has 25 Imagination programs. Independent reports have shown Dolly Parton’s Imagination Library drastically improves early childhood literacy for children enrolled in the program.

State Variation

Indiana public libraries not only have experienced a unique property-tax history but they differ from other states in law and board composition.

More importantly for Hoosiers, there are 238 independent town, city, township and county library systems with appointed rather than elected trustees. Indiana public

In 2008 the state budget took over approximately 15 percent of school operating costs and other local government services. Public library costs were not specifically included.

The actual levy allocated to a public library in Indiana is not determined by any objective criterion, *i.e.*, by increases or decreases in the number of public-school students relative to increases or decreases in demand for library services.

library board members, who serve without compensation, are appointed by county, city or school corporation units. Generally, three of seven board positions are appointed or held by local public school corporation trustees. Board composition, weighted in terms of local public school boards, is a unique (and not necessarily desirable) characteristic of Indiana public libraries.

The library board works out a budget and determines the rate of taxation for the library district that is necessary for the proper operation of the library. The library board certifies the rate to the county auditor. The county auditor shall certify the tax rate to the relevant county tax authority. However, library boards must accept the decision of the applicable local fiscal authority of the city, town or county with respect to a final budget and tax levy. Library boards may not issue bonds or enter into a lease payable in whole or part from property taxes unless they obtain the approval of the same local fiscal body, generally defined as the county fiscal body in which the library district has most net assessed valuation.

Generally, three out of seven trustees are appointed by elected members of local school boards. All trustees serve without pay. Unlike TIFs, public library districts do not “capture” property-tax revenue but continue as independent taxing authorities, each with the ability to levy property taxes to fund the library. Taxpayers pay only one library tax, and library budgets must be approved by the Department of Local Government Finance and audited by the State Board of Accountancy. In 2010, Indiana public libraries accounted for 4.58 percent of each dollar raised through property taxes.

In Michigan, on the other hand, district library board members are elected and they are also, unlike Indiana, authorized to levy a specified millage. Local levy authorizing agencies, in some instances, have been awarded opt-out or opt-in voice with respect to TIF decisions. The Ann Arbor public library argued for this right based on an ordinance placing a cap on the amount of incremental tax revenue that can be captured by the Development Authority. Even prior to this, however, if incremental TIF revenue in any given year exceeded that anticipated in the 2003 plan, then at least 50 percent of such amounts had to be shared with the taxing authorities in relation to the proportion of the tax levies. If the actual TIF capture grows over twice the anticipated growth rate, then all such amounts over twice the anticipated growth rate is shared with the taxing authorities. (Of course, for these funds

to kick in to supply funding for local services, there has to be some incremental income.)

IV. The Scramble for a Diminishing Pot of Property-Tax Revenue

With respect to levy control and board composition, Indiana libraries are certainly less independent than those in other states, and this should be seen as a problem in providing library services to Hoosiers. However, a rising tide lifts all boats, and until recently indexed tax rates on increasing assessed valuations favored expanding budgets for all local taxing units, including libraries. Presently, the unique issue facing public libraries is that they either are, or in danger of, being allocated a smaller share of decreasing property-tax revenue.

The actual levy allocated to a public library in Indiana, for example, depends on complicated rules concerning debt, politics and, indeed, the value placed on public libraries as expressed in the ballot box. More importantly, it is not determined by any objective criterion, for example, by increases or decreases in the number of public-school students relative to increases or decreases in demand for library services.

In Indiana, budget requests of all property-taxing units, such as libraries, are summarized. This amount is divided by assessed valuation to determine the property-tax levy. Proposed budgets must be reduced if the overall tax levy exceeds what the jurisdiction mandates. The Department of Local Government Finance checks to verify that the budget is consistent with state property-tax controls.

The 2006 levy for the Muncie Public Library was \$3,593,840 and in 2007 it was \$3,874,548, an increase of 7.8 percent. However, the total tax levy for Delaware County, in which the library is located, increased by 10.6 percent. Between 2011 and 2012, the levy for the whole county went down by 1.3 percent but decreased 8.6 percent for the Muncie Public Library from \$4,210,456 to \$3,847,505. In good times, the library budget goes up but not as much as for other taxing units. And when times are bad the library budget goes down more so than for other county taxing units.

Legally in Indiana, tax levy can be shifted from one sub-taxing unit to another. Local financing authorities can increase one controlled fund levy and decrease another as long as the total stays within the permissible maximum. Certain controlled funds, such as those for school bus replacement, depend on how well those units can demonstrate need. Percentage increases needed to service principal and interest on approved property-tax supported debt is not predetermined. Such

payments take priority over increasing library staff and equipment.

Ultimately, the decision about allocations to the library appears to be one of political discretion rather than one related to Indiana property-tax law, the economy, or even TIFs and abatements.

Conclusion

Over the past decade and a half, free access to computers and the Internet in U.S. public libraries evolved from a rare commodity into a core service. Now, people from all walks of life rely on this service every day to look for jobs, find health care and read the latest news. As the nation struggled through a historic recession, nearly one-third of the U.S. population over the age of 14 used library Internet computers, and those in poverty relied on these resources even more. The library's role as a technology resource and training center has exploded since 1996, when only 28 percent of libraries offered access to the Internet. Internet access is now one of the most sought-after public library services, and it is used by nearly half of all visitors.

In 2010, Indiana ranked eighth in the country in terms of the number of public-use Internet computers available in public libraries (according to the Institute of Museum and Library Services). The same study shows Indiana fifth in the country in the number of library visits per capita. Hoosiers use their public libraries.

But both visitation and circulation have been falling in Indiana; in the most recent year, circulation has fallen by 2.3 percent and visits per capita fell by 3.9 percent. Perhaps even more importantly, public use of Internet PCs in public libraries has fallen by 9.9 percent (while nationally public usage of Internet PCs has risen by about 2 percent).

Like education and healthcare, library services are labor intensive; staff-related expenditures in 2010 accounted for 67 percent of total public library expenses. However, the recession has had an impact on the public library workforce, which has decreased between 2008 and 2010 by 3.9 percent.

We argue that disseminating information to improve the quality of life and material well-being of all residents is a public good justifying funding from tax revenue.

Libraries, however, should not be given an unlimited mandate to provide whatever they decide, but rather justify services offered and quantify given the public's evaluation of their

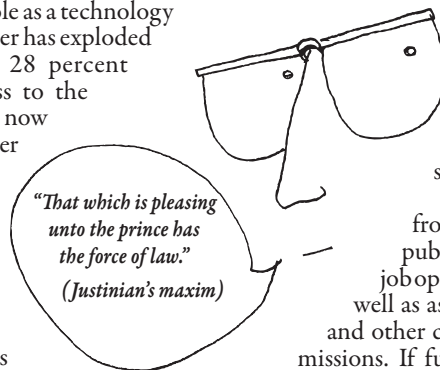
worth. Library mission has not changed but everything about how libraries accomplish that mission is changing.

For a variety of reasons, including TIF ability to retain incremental revenue, library budgets have been impacted by diminishing amounts of collected property-tax revenue. In addition, libraries, in some instances, have experienced reduced shares of reduced amounts of property-tax funds collected. Compensating sources of revenue, in the form of income and sales taxes, have also been less forthcoming with respect to libraries.

Library usage in Indiana will continue to fall, unless Hoosiers address funding problems caused by TIFs and the priority given to public debt issued by competing institutions. Library board members. However, because library usage is a public good benefiting all Indiana residents, it would be unfortunate if, due

to conflicts of interest, appointed library board members fail to work in favor of reallocating local tax revenue to meet an increasing need for library services.

Again, libraries are on the front line in connecting the public to government agencies, job openings, life-long learning, as well as assisting businesses, schools and other civic organizations in their missions. If funds are not forthcoming from tax revenue, in addition to Dolly Parton's Imaginative Library Program, we await another Andrew Carnegie.



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Library usage in Indiana will continue to fall, unless Hoosiers address funding problems caused by TIFs and the priority given to public debt issued by competing institutions.

By the middle of the 19th century, the stereotype, “the only good Indian is a dead Indian,” was an accepted attitude. It would be another 100 years before federal law recognized Native Americans as having full rights of U.S. citizens.



INDIANA AT 200

ANDREA NEAL

For the past 10 years, the foundation has distributed Andrea Neal's biweekly essays on Indiana public-policy issues. Twenty-five Indiana newspapers have routinely published her column, making her one of the most widely read opinion writers in the state. Beginning with the spring 2013 journal, her essays began focusing on another passion — Indiana history. Neal will produce 100 columns before December 2016 that describe Indiana's most significant historical events, generally in chronological order, tying each to a place or current event in Indiana that continues to tell the story of our state.



Massacre at Fall Creek Tested Frontier Justice

(May 5) — In 1975, Jessamyn West wrote a novel based on a true yet astonishing Indiana story. The Massacre at Fall Creek recounts the 1824 murders of nine Indians in Madison County and the ensuing trial and death sentences of the white male perpetrators. In the last chapter, a respected white preacher by the name of Caleb turned to his Native American acquaintances to reflect on the executions they witnessed:

“This will be remembered as a great day both for the red man and the white man. On this day for the first time, white men punished their own kind for killing Indians . . . Now we will live peacefully together.”

Caleb's prediction, like West's book, was fiction. The executions at Fall Creek were not long remembered nor did the case lead to lasting peace. It was a fleeting moment of frontier justice that received scant attention from legal scholars and historians.

Yet this is a story all Hoosiers should know because it reflects pioneer Indiana at its most enlightened. On the morning of March 22, 1824, a roving band of white men killed a peaceful clan of Seneca and Miami natives camped along Deer Lick Creek — a tributary of Fall Creek — near Pendleton.

Three of the victims were women and four were children. One of the men was a subordinate chief of the Seneca, “a person of great distinction and greatly esteemed among the Senecas,”

according to Conner Prairie historians. The murderers presumed they could get away with their crime, a reasonable expectation considering cultural norms of the day.

Instead, they were hunted down by the citizens of Madison County. Although one suspect escaped, the others — James Hudson, Andrew Sawyer, John T. Bridge and his son, John Bridge — were charged, tried, convicted and given the death penalty. “It was perhaps,” writes Professor James H. Madison of Indiana University, “the first time in the history of the United States that the law worked with full recognition of Indian humanity.”

In his sentencing statement at the conclusion of Hudson's trial, Judge William Wick expressed his outrage. “O my God! How could you do it?” he asked Hudson. “Did you persuade yourself that because he was an Indian it would be less criminal to take away his life than that of a white man?”

Hudson's hanging took place on Jan. 12, 1825, the others' on June 3, 1825. A huge crowd, including Indian chiefs in full dress, gathered around the falls at Fall Creek to watch. In a moment of high drama, Gov. J. Brown Ray came riding to the scene on horseback to pardon the youngest, 18-year-old John Bridge, because of his youth and ignorance.

Although justice had been served, the case set no enduring precedent, and, in coming decades, prejudice toward native peoples hardened. By the middle of the 19th century the stereotype, “the only good Indian is a dead Indian,” was an accepted attitude. It would be another 100 years before federal law recognized Native Americans as having full rights of U.S. citizens.

A stone marker in Falls Park, Pendleton, marks the spot of the executions. A state historical marker stands at the massacre site near Markleville. They are enduring symbols of a case that, for one shining moment, challenged and overcame prejudice on the Hoosier frontier.

Committee Picked Indy

(April 21) — Anyone who's ever served on a committee can relate to the old laugh line that a committee is a group of people who keep minutes and waste hours.

Such was not the case, however, in 1820, when 10 Hoosier men were named to a committee to find a new state capital. They were focused, efficient and prescient. Traveling from different counties in southern Indiana, they met at the home of William Conner on

the west fork of White River near present-day Noblesville. From there, they headed out to scour the middle section of the state.

A clerk accompanied them to record their proceedings. Each received an allowance: \$2 a day and \$2 for every 25 miles traveled.

Their official business resembled a camping trip more than a meeting. In preparation for the task, Joseph Bartholomew of Clark County wrote to John Tipton of Harrison County: "You inform me you are preparing a tent to carry on our route to White River. That is very well, and in order that I may not be entirely dependent, I will carry the coffee kettle. . . . As for the cooking I know you was formerly a very good cook and if you have forgotten I can learn you."

From May 22 to June 7, the committee surveyed land options before settling on an area "at the mouth of Fall Creek . . . 83 miles from Madison, 108 miles from Corydon, 107 miles from Vincennes and 71 miles from Terre Haute."

Within a year, the area they described would be dubbed Indianapolis.

At the time, the capital was in Corydon, but, from the earliest days of statehood, Indiana's framers expected to move it northward as settlers headed that way, populating former Native American lands. The state constitution set Corydon as the capital only until 1825. An 1816 Enabling Act granted land for a new capital "on such lands as may hereafter be acquired by the United States from the Indian tribes within the said territory."

In October 1818, U.S. Treaty Commissioners Jonathan Jennings, Lewis Cass and Benjamin Parke met in St. Marys, Ohio, with Delaware and Miami tribal leaders and negotiated the "New Purchase" treaty. The tribes gave up their claims on the middle third of Indiana in exchange for promises of annuities, other economic assistance and bushels of salt.

The treaty cleared the way for the Indiana General Assembly to go capital hunting.

On Nov. 29, 1820, the committee delivered its final report to lawmakers: "In discharging their duty to the state, the undersigned have endeavored to connect with an eligible site the advantages of a navigable stream and fertility of soil while they have not been unmindful of the geographical situation of the various portions of the state to its political center, as it regards both the present and future interests of its citizens."

On Jan. 6, 1821, the legislature approved the state's new political center.

The next task was to pick a name for this seat of Indiana government. Although Indianapolis seems obvious now ("polis" means city), it was not without controversy. The Jan. 13, 1821, Indiana Centennial mocked the choice, saying

"Such a name, kind readers, you would never find from Dan to Beersheba; nor in all the libraries, museums and patent offices in the world."

Needless to say, the name stuck.

Slavery in 'Free' Indiana

(April 7) — Although the state constitution expressly prohibited it, slavery existed in early Indiana. Two court cases filed by enslaved black women put an end to the practice.

In the early 19th century, Polly Strong and Mary Clark challenged prevailing attitudes to claim their civil rights as U.S. and Indiana citizens.

"People get really uneasy about saying Indiana practiced slavery," said Eunice Trotter, a Clark descendant, who has researched the story. "This is our history, and we don't ignore it like it never happened. We embrace it, we learn from it, and we move on."

In a legal sense, slavery was always forbidden in Indiana. The Northwest Ordinance of 1787 prohibited slavery's spread north of the Ohio River into the future states of Ohio, Indiana, Illinois, Michigan and Wisconsin.

In practice, slavery not only existed but was accepted by leading citizens. Pioneers moving to Indiana from Virginia or Kentucky, where slavery was legal, considered slaves property and brought them along, sometimes as "indentured servants" whose contracts exceeded their life spans. The 1810 census counted 237 slaves and 393 free blacks in the Indiana Territory.

Any questions about their status should have been settled by the Constitution of 1816, which declared, "There shall be neither slavery nor involuntary servitude in this state, otherwise than for the punishment of crimes." But it took two lawsuits to enforce the constitutional protection.

Strong had been a slave since birth and became the property of Hyacinth Lasselle of Vincennes around 1808. Lasselle was a tavern keeper and an officer in the Indiana militia. After Indiana became a state, Strong filed for her freedom in Knox County Circuit Court.

Judge Jonathan Doty's ruling reflected the attitudes of many who lived in the former territorial capital: Despite living in a free state, Strong was Lasselle's property because she was born into slavery and had come legally into his possession.

The Indiana Supreme Court in Corydon ordered that Strong be freed. "It is evident that . . . the framers of our Constitution intended a total and entire prohibition of slavery in this state, and we can conceive of no form of words

"People get really uneasy about saying Indiana practiced slavery. This is our history, and we don't ignore it like it never happened. We embrace it, we learn from it, and we move on."

— EUNICE TROTTER

The story is told of two passersby who spotted a drunk Jennings leaning against a tree in Charlestown. Overhearing one explain that he was a former governor, Jennings said, “Yes, a pretty governor. He can’t govern himself.”

in which that intention could have been more clearly expressed.”

In 1821, the case of Mary Clark came to the state’s high court, and again the court minced no words.

Clark was born circa 1801 and purchased in Kentucky by a B. J. Harrison, who took her to Vincennes in 1815. There Harrison freed Clark from slavery and signed her to a personal services contract — an indenture — of 30 years.

In 1816, Harrison’s uncle, G.W. Johnston, purchased Clark’s indenture for \$350 and employed her as his housemaid. Johnston had served in the Territorial House of Representatives and as territorial attorney general.

In 1821, Clark asked the Knox Circuit Court to cancel her indenture because she had been forced to serve it. Johnston claimed she had signed a contract of her “own free will.”

Although the trial court sided with Johnston, the Indiana Supreme Court found that Clark’s service was involuntary in violation of the 1816 Constitution.

The ruling set important precedents. Others who served as indentured servants were freed after filing suits in Knox County. Nationally, the case was a turning point that led to a new understanding of indentured servitude as a form of slavery.

Gov. Jonathan Jennings

(*March 24*) — In the rough-and-tumble world of frontier politics, Jonathan Jennings experienced the highest of highs and the lowest of lows.

Indiana’s first governor, Jennings was credited with pushing Indiana from territory to statehood, defeating an old guard loyal to William Henry Harrison and insisting that the 16th state would not have slavery.

By the time of his death at the young age of 50, Jennings had suffered political defeat, debt and health problems caused by years of alcohol abuse. He was buried in an unmarked grave and forgotten by history until the 1893 Legislature arranged for a tombstone.

“He was so instrumental in Indiana’s statehood,” says Bill Brockman, former manager of the Corydon Capitol State Historic Site. Most memorable, says Brockman, was his rivalry with Harrison, the Indiana territorial governor and military hero who oversaw much of Indiana’s progression toward statehood. The two had different views of what Indiana should become.

“Harrison was generally pro-slavery and anti-statehood while Jennings was just the opposite,” Brockman explains. “Jennings’

faction won out and changed the course of Indiana’s future.”

It is ironic that Harrison’s popularity as a military hero put him in position to become President of the United States in 1841 (albeit for 31 days) while Jennings’ alcoholism cost him his career. By 1831, “the once premier Hoosier politician . . . found himself without a public office,” wrote his biographer Randy Mills.

Historians consider Jennings to be Indiana’s first professional politician. Although he owned a farm, his income came from government service from the time he moved to Indiana from Pennsylvania in 1806 to his last unsuccessful run for Congress.

While living in Vincennes, Jennings found work as a clerk in a federal land office, and planned career moves. He soon realized options were limited in the Harrison-dominated capital, so he moved to Jeffersonville, where more citizens shared his political views.

In his first campaign for territorial delegate to Congress, his supporters attacked the Harrison faction as aristocratic and pro-slavery. The latter was a fair charge due to the territory’s Indentured Servant Act, which essentially legalized slavery by permitting contracts with servants that exceeded their life expectancy. The message resonated with voters.

“The 1809 Indiana territorial election for congressional representative featured one of the biggest political upsets in the region’s history,” Mills says. Jennings defeated Harrison’s choice: Thomas Randolph, “a thirty-eight-year-old Virginian of great refinement.” Jennings was 25.

For the next two decades, Jennings enjoyed spectacular success. He was re-elected territorial delegate in 1811, 1812 and 1814, and he presided over the 1816 convention that drafted the state’s first constitution.

Jennings was elected governor in 1816, handily defeating incumbent territorial Gov. Thomas Posey. He was re-elected to the governor’s office and then spent four terms in the U.S. House.

Jennings lost his seat in Congress in 1830 no doubt because he could no longer hide the effects of alcoholism. In Mills’ book, the story is told of two passersby who spotted a drunk Jennings leaning against a tree in Charlestown. Overhearing one explain that he was a former governor, Jennings said, “Yes, a pretty governor. He can’t govern himself.”

Jennings died a pauper in 1834 and was buried on his former farm. Almost 60 years later, the Indiana General Assembly appropriated \$500 for a modest headstone, and his body was exhumed and moved to Charlestown Cemetery.

Indiana Becomes 16th State

(*March 10*) — It's a date every Hoosier should know: Dec. 11, 1816. On that day, Indiana became the 16th state.

We've been observing it formally since 1925, when the Indiana General Assembly passed a law requiring the governor to "issue a proclamation annually designating the eleventh day of December as Indiana Day."

Indiana Code 1-1-10-1 encourages public schools and citizens to celebrate "in appropriate and patriotic observance of the anniversary of the admission of the state of Indiana into the Union."

Statehood was the culmination of a lengthy process, set out in the Northwest Ordinance of 1787, through which territories proved they had enough population — 60,000 "free white inhabitants" — and enough political experience to govern themselves.

Among the final steps: Petitioning Congress for statehood, passage of an enabling act by Congress, drafting of a state constitution in June 1816 and Aug. 5 elections of state and local officials and U.S. representative.

"A spirited campaign for the governorship was waged between Jonathan Jennings and Thomas Posey," note historians John Barnhart and Dorothy Riker in "The History of Indiana." Jennings won by a vote of 5,211 to 3,934 and took office on Nov. 7. He served two terms and was later elected to Congress.

Voters elected 29 representatives and 10 senators to the first General Assembly. Most of the winners had political experience as delegates to the constitutional convention or as members of the territorial legislature.

Their introductory session began Nov. 4 in the new state capital building in Corydon. The first order of business was to select the men who would serve as secretary of state, auditor and U.S. senators — positions that would not be chosen by popular vote until the 20th century.

On Dec. 11, President James Madison signed into law the congressional resolution that admitted Indiana to the union "on an equal footing with the original states, in all respects whatever." That day has been considered Indiana's birthday ever since.

If the typical Hoosier does little to celebrate this landmark date, our younger citizens make up for our oversight. Indiana history is taught in fourth-grade classrooms, and many students take part in the Statehood Day essay contest, which takes place every year in the fall with finalists invited to the statehouse for a ceremony in the rotunda.

Corydon is an especially popular field-trip destination because its historic buildings tell the story of Indiana's infancy. The original federal-style capital still stands on East Walnut Street; its 40-foot-square walls were made of limestone from local quarries, a testament to what would become a significant Indiana industry.

The first state office building was constructed in 1817 and housed the state auditor and treasurer. The state's money allegedly was kept in a vault in the cellar.

Corydon remained the state capital until 1825, when the seat of government moved north to Indianapolis, and the capital building became the Harrison County Courthouse. The building was restored and opened as a state historic site in 1930.

Statehood was the culmination of a lengthy process, set out in the Northwest Ordinance of 1787, through which territories proved they had enough population — 60,000 "free white inhabitants" — and enough political experience to govern themselves.

Who Invented Freedom? Not Rome or Greece

It never occurred to the authors of the U.S. Constitution literally to copy the Roman model, and establish an oligarchy complete with aediles, praetors, consuls and the rest. They wanted, rather, to retain the parliamentary tradition whose roots they traced to pre-Norman England. They saw themselves as conservatives, not innovators; defenders of an ancient inheritance, not creators of new rights; revolutionaries only in the sense that they were completing the turn of the wheel, restoring that which had been tipped on its head. There was a categorical difference, in their minds, between English and Roman liberties. . . . Rome had lacked the common-law emphasis on individualism, ownership and the sanctity of contract. Its economy was based on slavery, inherited status and heavy taxation. Property rights were contingent; confiscations common. A citizen was not free to make agreements with other citizens as he pleased: his social relationships were dictated by caste and custom. Politics was a high-stakes game in the Roman republic. It was well understood that losers of elections might face expropriation, exile or execution. The law existed, but it never truly stood above the government. Now consider how aptly those words might apply to, say, contemporary Italy, where losing politicians equally know that they might face prosecutions, and where office is often sought for the legal immunity it brings. Not that I want to pick on Italy. Winner-takes-all government is the normal condition of humanity. Consider, to pluck a current example, events in Ukraine, where all sides seem to take it for granted that a change in regime means a series of impeachments and incarcerations. Most people, in most ages, live in Ukraines; very few live in Canadas. Anglosphere values can flourish wherever the right institutions are in place. The Ukrainian constitution notionally guarantees people the right to freedom of speech, assembly, worship and so on, but if you want to find a place where large numbers of Ukrainians can confidently exercise those freedoms, go to Canada. You can, of course, find abuses in Anglosphere societies, too, but not the assumption of abuses. We may not go in for flashy human-rights codes, but, over the years, we have had a pretty good record of defending civil freedoms when others have fallen to authoritarianism. — *Dan Hannan in the London Telegraph, March 28, 2014*

Although the Quaker, Presbyterian, Baptist, Unitarian, Congregationalist and other sects made up only 3 percent of the English population, they accounted for more than 50 percent of the late 18th- and early 19th-century industrialists.



CECIL BOHANON

Mixing Religion and Economic Disciplines

(April 28) — It is graduation season, and college seniors move from the hallowed halls of the university to the wider world and workplace. The ceremony itself includes a procession, numerous speeches, awarding each graduate a diploma, and an official confirmation of the degrees. It takes on a religious aura even in a secular university. This isn't surprising because the modern university evolved from church institutions.

So what role does religion have in a state-run university? What can or should a course outside a religious studies class say about religion? There are two extremes that I think are misguided. The first is the professor who uses a course to proselytize for a particular religious faith. The other is the professor who avoids or ignores relevant references to religion that emerge in his discipline out of fear of censure.

The former error in my estimation is quite rare; few of my colleagues, Christian or agnostic, use the classroom to evangelize for their faith.

The latter error may become more common because of the controversies surrounding discussion of religion in the classroom. Better to avoid discussion rather than risk offending someone — a position that I am afraid is becoming too common in higher education.

Most people probably assume that economics, the discipline I teach, has nothing to do with religion. In most areas of economics this is correct. So is a professor proselytizing if he uses a biblical reference in class? I think not. As I outlined in an earlier column, I regularly use the example of Joseph in Egypt to examine issues about speculators in the marketplace. I

make clear to my students the intent is not to promote any religious view, but rather because the story is familiar to Christian, Jewish, Muslim and secular students, it is an example that helps them understand a number of economic concepts.

Economic history and the history of economic thought are two areas in my field in which the discussion of religion — as it affected events and thinking — is quite appropriate and hardly avoidable. Max Weber, sociologist and economist, claimed over a century ago that a Protestant work ethic both animated and directed modern capitalism.

James Burke, English writer and filmmaker, argues that non-conforming English Protestants were an essential component of the industrial revolution. He cites data indicating that, although the Quaker, Presbyterian, Baptist, Unitarian, Congregationalist and other sects made up only 3 percent of the English population, they accounted for more than 50 percent of the late 18th- and early 19th-century industrialists. No mystery, according to Burke. These “dissenters” were excluded from university education, government and military jobs, and most professions. So they took on the only job available to them: that of tycoon merchant-industrialist, one beneath the dignity of the snobbish Anglican gentry. Lucky for them, and lucky for us.

Contemporary economist Robert H. Nelson divides his discipline into two camps: Those who believe scientific management of the economy is both possible and desirable, and those who are deeply skeptical of such propositions. He calls the first a Roman perspective and the second a Protestant perspective. The source of the division predates Christianity but was augmented in western European Christian history.

Although one is free to agree or disagree with any of these propositions, I don't think examining them implies that one is forcing religion on students. I suspect there are issues and topics in most disciplines that touch on the domain of religion. Although professors should

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clearly avoid using the classroom to convert students to his or her religious viewpoint, there is no reason to avoid topics that touch on religion. That too can be an academic sin.

Economics in Las Vegas — or in Bible Study

(April 14) — I am writing this article on an airplane to Las Vegas. I'll be attending the annual conference of the Association of Private Enterprise Education with two of my colleagues and six of my students. We'll share some of the work we have done in economics at Ball State University — and yes, we'll really attend sessions to learn about what scholars and students from other universities are doing.

Are we crazy? Why go to Las Vegas to talk about economics? My answer is straightforward — because, as a colleague of mine says, economics is fun. Lots of folks think of economics as boring details about Dickensian “money-changing holes.” But economic principles are everywhere — in daily life, in art museums and even in the Bible. Let me share a pedagogical example developed by my colleague T. Norman Van Cott.

Consider the story of Joseph in the Book of Genesis. Those familiar with the story recall that his resentful older brothers sold him into slavery. Yet the lad managed to rise to prominence in the Egyptian court by correctly interpreting Pharaoh's dream. Joseph foresaw an impending famine and used his newly acquired position in the Egyptian government to store up grain in a time of abundance for use in a time of scarcity. In economics, we call this “inter-temporal resource allocation.” My grandma called it savin' up for a rainy day.

The issue of directing resources today for use in future periods is a central question in any society — ancient Egypt or modern America. So it is fitting that economic students consider how this occurs under a variety of economic means. We all agree that Joseph “did a good thing” by making grain available in the time of famine — indeed, his foresight not only fed Egypt and many surrounding nations, it led him to reconcile with his brothers and advanced the history of the children of Israel.

But now let's add a twist to the story. Suppose instead of rising in Pharaoh's court Joseph had been a grain dealer in ancient Egypt. One morning, lounging in his penthouse overlooking the Nile, he opens the Cairo Times and reads the headline: “Pharaoh has Strange Dreams.” He immediately buys storehouses and fills them with low-priced grain. When the famine comes, Joseph sells the grain at a high price and

manages to pocket a handsome gain. Joseph is a grain speculator.

Since ancient times, most people have viewed speculators as the embodiment of evil. Profiting from a famine, how wicked. But consider what a successful grain speculator does: He stores up grain in a time when it is abundant and makes it available in a time when it is scarce — just like Joseph did in the Bible story.

But wait, you protest — when Joseph acts as a civil servant he is acting in the public interest, while as speculator he only pursues his private gain. Well, perhaps, but maybe not. If we examine the details of the Bible story, it appears that Joseph confiscated the grain from Egyptian farmers. (Genesis 41:34-35 NRSV) As a speculator, he would have had to pay the farmers. In the Bible story, Joseph sold the grain back to the people during the famine (Genesis 41:56 NRSV), just as he would have done as a speculator.

So, you say, speculators are good, and civil servants are bad? Not really. This example illustrates that the benefits of holding back grain in plenteous years for use in years of famine can be accomplished in a number of ways. It also uses a story that is familiar to many students. This is why I love economics — its fundamental principles are of everlasting interest.

Downton Abbey And Political Labels

(March 31) — I persistently characterize my political philosophy as that of a classical liberal. This sows some confusion. Those who share my deep skepticism about the redistributionist tendency of a modern welfare state are usually characterized as conservatives. So why muddy the water? A short political history is in order.

For those who follow the PBS series “Downton Abbey,” one cannot help but note that the Crowley family's wealth flows from their ownership of land. The British landed gentry lived off agricultural rents. They were the bastions of the established order of King and Country, Blood and Soil, Church and State, and were conservatives because they desired to maintain the existing social order.

The Industrial Revolution raised the status and wealth of the mercantile and new manufacturing class. This class was not attached to the rigid structures of the British aristocracy. They were both the byproduct and cause of a changing social order: They were political liberals.

A persistent debate of early 19th-century Britain was over tariffs on grain. The conservatives favored high tariffs, while the

Joseph in the Book of Genesis foresaw an impending famine and used his newly acquired position in the Egyptian government to store up grain in a time of abundance for use in a time of scarcity. In economics, we call this “inter-temporal resource allocation.”

The conservatives in the time of *Downton Abby* saw part of the function of the state as protecting the wealth arrangements of the existing order. On the other hand, the liberals had developed a philosophy that argued the state had no legitimate business in redistributing wealth to any favored class.

liberals opposed high tariffs. Tariffs on imported foodstuffs kept domestic food prices high and supported the rental incomes of British landlords. The British mercantile and industrial class, however, found their wealth augmented by a regime of free trade.

One can examine this political history exclusively through a narrow economic lens, but economic interests have a way of morphing into sincere political philosophies. To the British land-owning conservatives, protective agricultural tariffs were part of a larger philosophy of government. In their view, part of the function of the state was to protect the wealth arrangements of the existing order. On the other hand, the liberals developed a philosophy that argued the state had no legitimate business in redistributing wealth to any favored class.

However, economic interests in the United States were quite different — the philosophy of free trade was long associated with a liberal position. But starting around 1880, liberals began to split into two philosophical camps. One group maintained the classical “hands-off” position on state-directed income redistribution. The second group — the progressives — embraced an active role for government-directed income redistribution — but putatively for the interests of the lower-income classes.

David Starr Jordan (1851-1931), one-time Indiana University president and the founding president of Stanford University, argued the classical position as late as 1908. On a protective tariff justified on the grounds that certain interests deserved “a reasonable profit,” Jordan stated, “. . . in the theory of our republic, it is no part of the state to guarantee to anyone ‘a reasonable profit’ nor to protect anyone from a reasonable loss. Its function is to see fair play and freedom of operation. It is a breach of the principle of equality before the law that the state should do anything more.”

He also said that the greatest harm of a protective tariff was “moral, not economic. It lies in the perversion of our theories of government, the introduction of the idea of class enrichment through legislation.”

Despite rumors to the contrary, the classical liberal position did not die out with Jordan’s generation. Although contemporary conservatives more-or-less embrace the free market principles of classical liberals, conservatives and classical liberals are not always or even usually in sync on issues of immigration, national defense, drug decriminalization or the hot-button social issues of abortion and gay rights. Fighting among the Republicans quite

often is a conflict between classical liberals (Paul, Rubio) and conservatives (Santorum, Huckabee).

On the other hand, that second strain of 19th-century liberals have increasingly preferred to self-identify as progressives. So I say hooray. Let us recognize now that there are three major strains of American political-economic philosophy: conservatism, classical liberalism and progressivism.

When Government Kills Jobs

(March 17) — Alice’s Restaurant in Hometown, Ind., makes the best pancakes and tenderloins this side of heaven. It also employs 150 workers, some full-time, some part-time. Suppose Alice, for whatever reason, announces she is going to let go an equivalent of two full-time workers. The sacking could take a number of forms: She could let two full-timers go, she could let four part-time workers go, she could reduce four full-timers to part-time . . . you get the picture.

Now let us change the story slightly: In this case, suppose an equivalent of two full-time workers give notice they are leaving. Again, this can take a couple of forms: two full-timers quit, or four full-timers are reduced to part-timers.

In either case — whether Alice fires or workers quit — the number of hours worked at Alice’s Restaurant goes down by the same amount. To the economist-as-social-scientist whose job it is to keep track of what happens to hours worked, it is irrelevant whether the reduction in labor supply is a result of firing or quitting. In either case, the equivalent of two full-time workers don’t work.

The brouhaha about the Congressional Budget Office (CBO) recent report on the employment impact of the Affordable Care Act (ACA) must be seen in this light. The ACA gives workers incentives to quit their jobs and/or reduce their hours. This is because it reduces health-insurance costs for many workers through a combination of mandates and subsidies.

The CBO did what appears to be an honest assessment of the impact of those provisions. The result is not surprising: It estimates an equivalent of about 2 million full-time workers will not be working in 2020 because of the ACA provisions. Given a labor force of 150 million, this is about a 1.3 percent reduction in labor supply.

Is this a good or bad result? The CBO, quite wisely in my opinion, did not offer an opinion. They refused to take the role of economist-as-social-philosopher. I, however unwisely, have

no such scruples. I think the ACA-induced labor-supply reductions are a bad thing.

This is not so much because it makes national output less than what it would otherwise be. As a classical liberal, I'm fine with anyone's work-leisure decision. Every man and woman has a right to his or her own labor effort. However, they are also responsible for their own expenses — including their health-insurance expenses. To me, that's what freedom is: choice and responsibility.

My progressive friends seem to have another idea of freedom: the ability to do as one pleases and the responsibility of "society" to enable such actions. But that is license, not freedom. I think such a notion of freedom promotes irresponsibility, not prudence. And make no mistake, the ACA coerces taxpayers to pick up part of the tab of the health insurance for those who choose to reduce their work hours.

I do not blame those who cut back the work-hours because of the ACA — they are simply responding to incentives. (Indeed, I may join them and sign up for ACA coverage if I retire before I am Medicare eligible.) But I think the ACA is misguided because it seduces otherwise competent and autonomous individuals to be wards of the state. I agree with Democrat President Grover Cleveland who said that "it is not the job of the government to take care of the people."

The ACA is yet another policy that expands government power, perverts individual freedom and responsibility and fundamentally changes the character of America.

Is Health Care a Right?

(*March 3*) — As a former cigarette smoker, I have a nightmare. Somewhere down the road, I get a diagnosis of lung cancer. The doctor tells me the cancer is treatable, the prospects for a full recovery are better than 60 percent and the costs of the treatments will be around \$250,000.

Now let's change the scenario. The doctor tells me the cancer is difficult to treat, but there is hope. A regimen is available at a cost of \$5,000,000 with the chance for recovery under 10 percent. Most people would make the following call: I should get the treatment in the first case, but should prepare to meet the Lord soon in the second case.

But wait, isn't health care a right? Aren't I entitled to the best health care available independent of cost?

What constitutes a "right" is a place where classical liberals (aka libertarians) and progressives dramatically part ways. To classical liberals, rights are God-given or natural and "negative" in form. A right implies that one is

free to engage in an activity. A right does not guarantee, however, the resources necessary to engage in the activity. My right makes no claim on your property.

An instructive example is religious liberty. I am free to practice my Anglican faith, and you are free to be a Wiccan. Religious liberty, however, does not entail — is in fact at odds with — the Wiccan being coerced to pay for my chapel. Neither of us are entitled to a place of worship, but both of us can, with our compatriots, build and support our respective places of worship.

In a similar vein, a patient has the right to obtain any cancer treatment offered but only if he pays for it, has purchased an insurance agreement that pays for it or can persuade others to pay for it.

Progressives have for some time argued that the notion of a negative right is too narrow. A more expansive notion of a right — a positive entitlement right — is appropriate in the case of health care. Economic progress and wealth allows, indeed, requires that all have health services. This implies that government should seize by force the legitimately held property of some — that is, tax them — to pay the medical bills of others.

Note that by definition positive entitlement rights imply that someone else's right — a private property right — must be violated. A "right" that by nature takes away another "right" is in my humble opinion better called something else. I propose calling it an entitlement — and insist it not be confused with genuine rights.

Moreover, unlike the "negative" rights of classical liberals, the "positive" rights of progressives can hardly be seen as God-given or natural. If one asserts a "right" to health care, what does that mean? To any conceivable health-care treatment? Here the progressive must equivocate and assert that the actual practice of the "right" must be limited by political constraints. This is at odds with the notion of rights being inalienable as proclaimed in the Declaration of Independence.

To a classical liberal, the rights to worship God as an Anglican or as a Wiccan or to purchase medical services are never legitimately subject to political compromise. One's ability to pay for a cathedral, a pine grove or a cancer treatment probably will be.

So-called positive rights are an awkward and unwieldy construct. In my opinion, it is better to dispense with them. Defending fellow citizens' true rights — the rights to free speech, to freedom of worship, to private property, to engage in free exchange — are matters of justice. Entitlements are not rights at all but rather, at best, matters of mercy.

Every man and woman has a right to his or her own labor effort. However, they are also responsible for their own expenses — including their health-insurance expenses. To me, that's what freedom is: choice and responsibility.

BACKGROUNDS

Expert commentary on Indiana issues of moment.

“A warmed-over version of Common Core was the goal set for the committees established by Gov. Michael Pence’s education policy director and the Indiana Department of Education staffer co-directing the project with her.”

— STOTSKY

Education Standards: A Bait and Switch

(April 19) — Writing in *National Review Online*, Rick Hess and Mike McShane of the American Enterprise Institute make the complaint that critics of Common Core have not come up with the next steps to “repeal and replace” for states that want to restore academic integrity to their K-12 curriculum in English-language arts and mathematics.

Hess and McShane should have asked me what I’ve done instead of presenting such a baseless complaint. In fact, I’m getting exhausted from all the “next steps” I’ve been doing.

First, two years ago, I crafted an updated set of English-language arts standards based on the first-rate set I helped develop in Massachusetts in 1997. This set of standards, copyright-free and cost-free, has been available for districts and states to use in place of Common Core’s inferior standards since May 2013. The document can be accessed at my old home page at the University of Arkansas and on the website of the Association for Literary Scholars, Critics and Writers (ALSCW).

In an introduction to the document, John Briggs, an English professor at the University of California, Riverside, and current ALSCW president, notes:

“The role of literature and the literary imagination in K-12 education is of particular concern to the ALSCW. The . . . carefully articulated and detailed set of English Language Arts standards prepared by Sandra Stotsky . . . will contribute to the national conversation by emphasizing the importance of literary study in the education of the young.”

Far from being so obscure that few know about this document, it was listed in the recently released Indiana standards document as one of the resources to which the standards-drafting committee referred. Nothing in my document was used, of course, but not for the reason Hess and McShane cook up.

That the standards-drafting and evaluation committees came up with an imitation of Common Core is not because Common Core was the default position for educators under a “tight time line.” It was because a warmed-over version of Common Core was the goal set for

the committees established by Gov. Michael Pence’s education policy director and the Indiana Department of Education staffer co-directing the project with her.

After the barrage of public criticism of drafts 1 and 2 as mostly cut-and-paste jobs (in both subjects), they realized that the standards had to look a bit different from Common Core’s to salvage Mike Pence’s reputation. The major problem was that the committees selected by the co-directors weren’t capable of much more than making the standards weaker and more incoherent.

“Not making mathematical sense (NMMS),” as most of the mathematics standards were described by Hung-Hsi Wu, one of the reviewing mathematicians, and at University of California, Berkeley.

In addition to making a complete set of English Language Arts (ELA) standards easily available, I have also written a book to help secondary English teachers develop a coherent literature curriculum. “The Death and Resurrection of a Coherent Literature Curriculum” was published by Rowman & Littlefield in 2012 and addresses a topic that needs concentrated attention. The secondary literature curriculum in our public schools has been in shambles for decades, and Common Core’s stress on “informational” texts in the English class is serving to damage it even more.

Third, I am now helping two local school districts, one in Wisconsin, the other in New Hampshire, to develop first-class standards for ELA. I do this pro bono, too. The school boards in both districts voted out Common Core unanimously and, using their own legal authority (which local school boards in most states have), also voted to develop their own standards and curriculum.

The idea is beginning to cascade. The school board in Wakefield, New Hampshire, just voted out Common Core, four to two, two days ago, and then voted to adopt the old Massachusetts standards (four yes votes, with one abstention). This is what is known as self-government in action.

Sandra Stotsky, Ed.D., is professor emerita at the University of Arkansas. She wrote this for the foundation.

A Matter of Leadership: Indiana's Flawed Vision for Public Education

(April 17) — Nearly a year ago, Gov. Mike Pence called for the suspension of the implementation of the Common Core state standards. His appeal was predicated on the lack of pedagogical substance within the Common Core standards and Indiana's subservient position to Washington that is required under its tutelage. It seems that Governor Pence recognized that Common Core's adoption under former Education Secretary Tony Bennett was an unwelcome education revolution.

Governor Pence, we thought, understood the disturbing reality that Hoosiers were no longer in control of the public education of their sons and daughters. Big Philanthropy, backed by the federal government, was now in the lead. Pence, we thought, grasped that the education portended by the Common Core standards (and its accompanying testing apparatus) was not an improvement over our now discarded excellent standards. Have we been wrong? The content of the new draft standards, released Tuesday, April 15, indicates that the answer is, unfortunately, yes.

Discerning citizens see in the drafts a disregard of Pence's call for "uncommonly high" standards written by Hoosiers and for Hoosiers. The elaborate committee structure and process instituted by the governor's aides to draft new standards didn't produce a product commensurate to his insistence on having superior education standards. For the current result, the governor surely bears responsibility.

Michael Cohen, president of Achieve Inc., a nonprofit group that developed the Common Core standards, states that the draft's resemblance to Common Core reveals that the process of formulating new Indiana standards has been a waste. Nothing has really changed. Cohen notes that the state could easily remain within an official Common Core testing consortia because of how tightly aligned the draft standards are to Common Core. Other states considering leaving the Common Core will surely rethink enduring a similar superfluous process, Cohen further observes.

He's right. For what has become clear in each successive draft of standards (earlier drafts have been panned by academic reviewers and citizens) is that Indiana will remain a satellite in Common Core's pedagogical universe. We can conclude that the governor and Republican leaders in the legislature were not serious about Hoosiers becoming masters of our education domain. Of this fact, they should take note.

As Neal McCluskey of the Cato Institute observes, what the left hand giveth in SB 91 ordering the state out of Common Core standards, the right hand taketh in the same bill with its instructions that Indiana remain under the yoke of the federal government.

The translation: Indiana will continue to rest under a waiver from No Child Left Behind given by Obama's Education Department.

The price: Adopt college and career-ready standards, i.e., the Common Core or its equivalent. We are now poised to adopt the latter. Alas, the waiver will likely be ours, but so also will be a deficient education product that masquerades as top standards. Pence's call for excellence stands mocked.

Undoing Indiana's fealty to the federal government in education requires leadership. Instead, our governor and the so-called conservative legislature hid behind a shield from No Child Left Behind. Indiana's leaders were not ready to step out from Washington's rule. Freedom comes with responsibilities and duties, its journey more arduous than living under Washington's educational leave. Keeping the waiver seemed easier to our leaders. It has translated into our current shoddy draft standards that retain an overwhelming amount of Common Core content.

What has really transpired is a low form of politics. That is, Pence's forces sought to appease an increasingly restive citizenry turning against the Common Core revolution. Pence's first move was publicly condemning Common Core while still wanting the approval of Obama's Department of Education for any new standards.

The calculation was that the folks would applaud like trained seals because of the governor's public declamations against the Common Core and not notice his approval of deceptive legislation.

Pence pushed one button while, unbeknownst to us, he pushed an opposing button undoing any real burdens on him of authentically exiting the Common Core. It didn't work, though. It is clear that the governor has given us half-baked standards.

Many of us believed that Pence as a congressman showed great courage in his opposition to key policies of George W. Bush, ranging from No Child Left Behind to the Medicare drug benefit. Pence knew why he came to Washington, even while many fellow conservatives had forgotten why they came. The same integrity and independence that Pence displayed would now find even greater expression, we thought, in the governor's seat.

On this particular issue we were wrong, it seems. Being conservative isn't enough here;

"The calculation was that the folks would applaud like trained seals because of the governor's public declamations against the Common Core and not notice his approval of deceptive legislation."

— REINSCH

BACKGROUNDERS

“Americans spend more than a billion dollars and more than six billion hours on filing their 1040’s. If they’re going to take our money, can’t they do it more efficiently?”

— SCHANSBERG

there is need for a reformer, and that requires statesmanship.

So the question for the governor now is whether he will make right what has gone so wrong. There is still time, until July 1, for better standards to be adopted. Indiana could re-adopt its former high education standards, widely praised by leading academics.

I urge the governor to embrace the moment he created and find the “uncommonly high” standards in education for which he first called.

Richard M. Reinsch II is a Carmel resident and editor of the online journal Law and Liberty. He wrote this for the foundation.

The 1040 Tax Form Turns 100

(April 8) — The 16th Amendment to the U.S. Constitution brought us the federal income tax in 1913. A year later, the 1040 tax form was born.

The 1040 had a modest debut but has grown impressively since. The original was so compact it was published on the front page of the New York Times. Today, it has hundreds of supplemental forms and thousands of instruction pages. The supporting tax laws now total more than four million words on 74,000 pages.

The growth of the 1040 matches that of the income tax itself. The original Internal Revenue Service had 4,000 employees; now, there are 90,000. Less than 1 percent of Americans filled out a tax form in its first year; now, there are about as many filed returns as there are workers.

The initial 1040 imposed a tax of 1 percent on taxable income above a standard deduction of \$4,000 for married couples (almost \$100,000 in today’s dollars). The 1 percent tax applied to income up to \$20,000 (\$470,000 today) and a top tax of 7 percent was applied to taxable income above \$500,000 (\$11.5 million today). The top tax bracket briefly reached 94 percent during World War II, before settling in at 91 percent after the war. JFK dropped the top rate to 70 percent (on income earned above \$1.5 million in today’s dollars) before Reagan reduced the top rate to 28 percent (on income earned above \$60,000 in today’s dollars).

Not surprisingly, the growth of the 1040 has matched the growth in the size and power of government. In its first year, the income tax raised about \$10 billion (in today’s dollars) and now raises more than \$1.3 trillion annually. Interest groups lobby for exemptions, deductions and credits — part of a lobbying industry that benefits politicians and “the organized” at the expense of the general public.

It turns out that federal “payroll” (FICA) taxes on income impose a larger burden on most workers because those taxes are applied to every dollar earned (no deductions, exemptions or credits). Amazingly, those in working-poor households at the poverty line pay no “income taxes” but lose \$3,000 to payroll-FICA taxes each year.

Part of FICA’s burden is hidden because it looks as if employers pay half of it for their employees. And its burden is more subtle because it is simply withheld from our paychecks. In this way, the 1040 is far worse. It’s rough enough to have the government take so much money from the half of the population who pay “income taxes.” On top of that, though, Americans spend more than a billion dollars and more than six billion hours on filing their 1040’s. If they’re going to take our money, can’t they do it more efficiently?

In the recent minimum-wage debate, one of the more reasonable arguments was that the policy hasn’t changed recently. If states or the federal government are going to insist on having a minimum wage, it should be updated regularly. Or better yet, it should be adjusted annually (“indexed”) to deal with the effects of inflation.

One could easily make the same argument about income taxes. We haven’t had substantive federal income-tax reforms since the 1980s under President Reagan and a bipartisan Congress. The number of tax brackets was reduced from 16 to two, marginal tax rates were reduced for everyone, and the tax code was finally “indexed” for the effects of inflation. Since then, many of their improvements have been reversed: top marginal tax rates have increased (to nearly 40 percent), the number of tax brackets has crept back up to seven, and the tax code has become more complex.

A “flat tax” on income could replace current income taxes and the flat FICA tax with a single marginal tax rate on all income earned above the poverty line (with the possible exception of charitable contributions). It could raise the same amount of money with far less cronyism, inequity and inefficiency.

Unfortunately, few of our current national political leaders seemingly have the courage for anything so bold. But talk of hope and change can rise again. As we enter electoral cycles in 2014 and 2016, perhaps the public will make it a priority to insist on more efficiency and equity in our federal income-tax code.

Eric Schansberg, Ph.D., is an adjunct scholar of the foundation and professor of economics at Indiana University Southeast.

How to Deal With A Public-Employee Union

(March 28) — The problem: A public-employee union has no check, no market mechanism, to temper its power. The solution: You, the councilman.

A free market theoretically provides a check on private-sector unions except that government so often steps in to establish special rules. Couple that with a general body of law biased toward union labor, and we face a situation in which public-employee unions (PEUs) can and will lead local and state governments and their taxpayers to ruin — think San Bernardino, Harrisburg, Detroit, Illinois.

But again, you can change that. The check on PEU excesses is the councilman, a principled representative of the taxpayer and all private citizens. You, legally and practically, are our only effective protection.

That said, I would recommend as a tactical matter not confronting local unions directly by questioning their legitimacy, existence or certification. That sets up a scenario of you versus them, management versus employee, and that is the unions' game.

Approach the issue from your constituents' point of view. Indeed, it is your job to represent them in the purchase of local government services.

You must assess the purchase of that service the same way you assess the purchase of an item or service you make for yourself. That means the seller, the union or its administrative sponsor must justify the price, make clear what will be done and detail every other aspect of the potential transaction.

In the private sector, if you, the buyer, object to some part of a transaction, you would tell the seller "no." The same is true even when the seller is a municipal government or a public-employee union.

These sellers must meet your standard, and they should be willing to move heaven and earth to do so. It is not unreasonable to expect them to prove the value of what they are selling. And as a councilman, the buyer, it is your responsibility to continuously, tirelessly, persistently demand that the seller prove this value — every single time — or there is no sale. In the context of municipal government, this may mean a lot of "no" votes.

On the other hand, if a PEU wants your "yes" vote, it should be prepared to prove its costs. In addition, you, on behalf of your constituency, can reasonably demand that a union justify why it is engaging in functions that can be provided

or are being provided by tax-paying individuals or companies in the private sector.

That means you can demand that the union provide a comparison of its cost with those of a private provider. You can demand the costs be put to a market test by open and transparent bidding. You can demand that any compensation be based on objective, verifiable and understandable standards.

The list of such buyer demands can be endless. It is essentially the same one that you go through, spoken or unspoken, whenever you buy anything for yourself — from a hamburger to a new house.

And keep in mind the true nature of taxation and the ultimate penalty that awaits any citizen who doesn't pay up. Your constituents can't say "no" to the sales your council negotiates. Only you can do that.

If you can summon the courage, you will be surprised how effective you can be in this regard. My experience is that public-sector unions have little desire to compete. That is unfortunate because they would be better for it.

They're on a gravy train, and they like it — it's good for them but not so good for those paying for the ride. If you can force a market test, *i.e.*, competition and accountability in meeting high standards in return for fully justified compensation, you will begin a process of real change.

In any case, representing your constituents by protecting their purchases of public services is in accordance with every elected Hoosier's oath of office. Nobody — mayor, unionist or citizen — can expect more of you than that.

Ryan Cummins is an adjunct scholar of the foundation, a business owner and a former chairman of the appropriations committee of the Terre Haute Common Council.

'Jobbers' and Reviving U.S. Manufacturing

(March 19) — In 1960, garment workers in a four-story walk-up factory in Philadelphia await the return of the shop's owner-manager from New York. If the fashion industry, headquartered in New York, anticipates a good season, the owner-manager returns with a pattern and stacks of cloth to be assembled by cutters, machine operators, pressers and finishers. First, though, the returning manager sits down at each workstation and demonstrates how to construct a sample product.

By 2010, groups of workers, together with their manager in a manufacturing plant in northern Indiana, pore over statistics issued each Monday from automobile companies

“The check on public-employee union excesses is you the councilman, a principled representative of the taxpayer and all private citizens. You, legally and practically, are our only effective protection.”

— CUMMINS

BACKGROUNDEERS

“Jobbers operate in the rough-and-tumble economy of experimentation, exploration and innovation. They neither present themselves as ‘creating’ jobs nor complain about Main Street’s lack of tax-financed cultural amenities. Rather, they assume risk and overcome obstacles from the bottom up in bubbling-and-sizzling global markets that are subject to seasonal, cyclical and structural variability.”

— KEATING

based in Detroit. These reports represent a plant’s output for the previous week, average production and cost per worker, and, inevitably, the number and rate of products that failed to meet specifications. Plant managers and workers together realize that they are in direct global competition for continuing contracts.

The person who acts as an intermediary in the supply chain between industry giants and such workers at small production plants is sometimes referred to as a “jobber.” Jobbers operate in the rough-and-tumble economy of experimentation, exploration and innovation. They neither present themselves as “creating jobs” nor complain about Main Street’s lack of tax-financed cultural amenities. Rather, they assume risk and overcome obstacles from the bottom up in bubbling-and-sizzling global markets that are subject to seasonal, cyclical and structural variability.

It is impossible to ignore the fact that over the last half century there has been a persistent decline in the share of total employment in the U.S. attributable to manufacturing. Recently, there has been an alarming drop in the absolute number of manufacturing employees. Many of the largest U.S. corporations continue to shift their production facilities overseas. The fall in manufacturing employment post-2000 has coincided with the U.S. trade deficit, but the problem with U.S. manufacturing is more complex than one for which another country or groups of countries can be blamed.

Economists Martin Neil Baily and Barry P. Bosworth (“U.S. Manufacturing: Understanding Its Past and Its Potential Future,” *Journal of Economic Perspectives*, Winter, 2014, 3-26) suggest that trade imbalances largely reflect a gap between the willingness of residents of one country to save and the willingness, at the same time, for foreigners to invest in that country. What they are suggesting is that the U.S., and its manufacturing in particular, remains an area of significant technological innovation. Therefore, the U.S. has continued

to attract global capital that feeds its way into U.S. private and government spending abroad.

Baily and Bosworth argue that, although consumption has increased in past decades, a falling share of total U.S. spending is used to purchase manufactured goods and, in particular, goods produced in the U.S. Due to the twin deficits of federal government entitlement spending and international trade, major sectors of the economy have experienced negative job growth, with manufacturing being among the hardest hit.

Economists agree that manufacturing is important in creating higher-paying jobs, insuring against supply disruptions, and maintaining U.S. comparative advantage in research and manufacturing machinery. It does not follow, however, that the manufacturing sector justifies special treatment. Nevertheless, in order to offset its large global trade deficit and provide good-paying employment, the U.S. must become a better exporter, particularly of manufactured products.

Appropriate methods of supporting manufacturing include: a) reducing the federal budget deficit to increase total national saving; b) negotiating trade agreements to pry open foreign markets; c) reducing the U.S. corporate tax rate, which is the highest rate among economically advanced nations; d) reversing the deterioration of U.S. workforce skills; and e) repairing and modernizing physical infrastructure.

Corporations have shifted away from the prior model of large integrated production units to focus on product design and marketing. They undertake little of their own production, but contract with firms that are part of transnational production networks. Capital and technology move around the globe in search of available skilled and unskilled labor and good manufacturing environments. Some of this manufacturing is in “processing trade,” an activity whereby locals add value to imported inputs that are assembled into higher-value intermediate or final products and then re-exported.

There is some indication that robotics, 3D printing and less-expensive energy supplies will assist in a revival of the U.S. manufacturing sector. In the meantime, we are in need of knowledgeable and proficient jobbers willing to assume personal financial risk by jumping onto the global-processing supply chain in order to bring home good paying jobs for local residents.

Maryann O. Keating, Ph.D., is a resident of South Bend and an adjunct scholar of the foundation.

In the current discussions about increased inequality, few researchers, fewer reporters, and no one in the executive branch of government directly addresses what seems to be the strongest statistical correlate of inequality in the United States: the rise of single-parent families during the past half century. The two-parent family has declined rapidly in recent decades. In 1960, more than 76 percent of African-Americans and nearly 97 percent of whites were born to married couples. Today the percentage is 30 percent for blacks and 70 percent for whites. The out-of-wedlock birthrate for Hispanics surpassed 50 percent in 2006. This trend, coupled with high divorce rates, means that roughly 25 percent of American children now live in single-parent homes, twice the percentage in Europe (12 percent). Roughly a third of American children live apart from their fathers.

— Robert Maranto and Michael Crouch
in the April 20, 2014, *Wall Street Journal*

THE OUTSTATER

What Indianapolis isn't telling you.

A 'Surprised' Labor Union

(May 11) — In a May 10 article in the *Fort Wayne Journal Gazette*, “Two on Council Favor Limiting Unions,” union officials express surprise that their council would be considering legislation that might end mandatory collective bargaining with city employees.

Both officials were active and welcome participants at an all-day Indiana Policy Review Foundation seminar last year titled “The Economics of Public Safety.” Four different presentations by credentialed speakers that day made clear why a city council might want to withdraw mandatory collective-bargaining privileges from a municipal work force.

In his summation, for instance, Dr. Tyler Watts, an economist and adjunct scholar of the foundation, explained why the union leaders might characterize such a move as “an attack on workers” and why a mayor might vigorously defend that characterization:

Public-sector unions' political clout generates a uniquely perverse set of incentives for the bureaucrats and politicians who manage government budgets. In a striking contrast to private-sector union dynamics, public-sector unions face a situation in which the interests of 'management' are strangely aligned with those of the workers.

It is not difficult, then, to understand why city union leaders would fight to maintain this relationship. It is difficult, however, to imagine that they are surprised in these economic times by a council's attempt to take politics out of the municipal payroll.

Republicanism's Big Mistakes

“We stand athwart history, yelling stop, at a time when no one is inclined to do so, or to have much patience with those who so urge it.” — William F. Buckley in his 1955 mission statement for National Review magazine

(May 4) — Indiana is an example, a bad one, of what a friend dubs “Republicanism,” the tendency, when in the majority, to trade away an electoral mandate in the interest of appearing reasonable.

Bipartisanship may feel good but politics isn't tiddlywinks. Indeed, to twist Clausewitz, it is war by other means. So when, exactly, should a Hoosier Republican hold the line?

There are two markers set down in our political history, points in time when the GOP should have manned up. In both cases, being thought of as reasonable carried too heavy a cost.

1. State Income Tax — The first was the GOP's decades-old acquiescence to a very, very bad Democrat idea. It was rationalized as only a small step — an eminently “reasonable”

one, of course — to put government on a business-like footing. It was the state income tax.

In their new book, Arthur Laffer and Stephen Moore include Indiana among the 11 states they use to illustrate the cost of making what they call “the big mistake.” The political promise was the same in each state: The damage of an income tax would be minimal but the increase in public services would be considerable.

That promise was not fulfilled. The study breaks out comparisons of subsequent state performance:

Population — The population of every one of the 11 “big mistake” states over the past 50 years has declined relative to a control group of states.

Production — Each of the 11 states experienced a decline in gross state product relative to the control group.

Education — The study found no case to be made that added tax revenue improved test scores as promised.

Migration — The income-tax states suffered a greater loss of high-paying jobs in comparisons based on IRS tax-migration data.

Public Services — Comparisons of health services, police protection, welfare and highways were similarly unfavorable.

2. Collective Bargaining — It is one of Indiana history's ironies that the law giving the teacher unions a headlock on statehouse business was put forward by a popular conservative Republican governor.

Collective bargaining for the unions was the concession Democrats extracted for passage of a property-tax reform. The reform, compromised by subsequent legislation, soon fell apart. Public-sector collective bargaining lives on.

The Indiana Policy Review Foundation commissioned an assessment of the 1973 Collective Bargaining Law (CBL) that compared the labor agreements of all 295 Indiana school districts. It found the contracts practically identical even though written by independent school boards. It was testimony to the statewide control of the unions and their empowerment by the CBL.

The opening section of the CBL statute pertains to our argument here. The General Assembly makes references to “harmonious and cooperative relationships,” the alleviation of “various forms of strife and unrest” and the state's obligation to “protect the public” from “material interference” in the educational process.

The adoption of the CBL was partly in response to threats from the teacher unions but, clearly, it also was an involuntary twitch of that Republican compulsion to just get along.

Would loss of the federal aid (about 10 percent of Indiana's education budget) make a difference in that most critical of all determinants — classroom learning?

So we slumped into the spring primaries not only falling behind the leading states in economic growth but powerless over our own tax and budget processes. The Indiana State Teachers Association, no longer operating as a union but rather as a political machine, retains the ability to thwart any initiative, challenge any campaign. And the Indiana Republican Party, with a conservative governor and majorities in both houses, is too gentlemanly to challenge the state of affairs.

The optimist in us says there is time. Leadership can decide to give up on Republicanism and progressive governing. It can return the GOP to a useful role in public policy — sitting a thwathistory and yelling stop. Yes, it is unreasonable, but it is critical.

Who Cares About Education Spending?

(April 28) — For all the pointed discussions about Indiana public education this past month, there were questions that went unaddressed — obvious questions, some would say. Everybody likes to talk about process, we learn, but nobody likes to talk about efficiency.

What would happen, for example, if Indiana turned down federal money for education? And by the way, how well is that aid being spent now? Would it be missed in the classroom? Does it get to the classroom?

Some of the answers might surprise. Certainly and predictably there would be havoc among school administrators. And, sad to say, insecurity would sweep the Indiana Department of Education. Those left standing would be expected to determine what spending is essential, an exercise that requires budgetary muscles atrophied over the last 40 years. Politically, there might be embarrassment on the discovery that compliance with federal regulations had been costing more than the aid was worth.

And finally any such change would require a higher-information polity, one that could think of education not as an inarguable good but as a public-service expenditure that must submit to cost-benefit analysis and testing.

But those considerations aside, would loss of the federal aid (10 percent of the education budget) make a difference in that most critical of all determinants — classroom learning?

No, it can be argued, and here comes the surprising part: Federal aid, given current spending levels, is irrelevant. Budgetary adjustments can produce the same academic results; our public education system apparently has more money than it can use effectively.

A recent Cato study finds the correlation nationally between spending and academic performance over the past four decades was a miserable 0.075. That is on a scale from 0 to 1 where 0 represents absolutely no correlation and 1 a perfect correlation.

“The data suggests there is essentially no link between state education spending, which has exploded, and the performance of students at the end of high school, which has generally stagnated or declined,” the authors conclude.

A similar study in 2003 by the Indiana Policy Review Foundation compared per-pupil spending with test performances in 209 Hoosier school districts. It found an even lower correlation.

In the 2001-02 school year, for instance, there was a negative correlation of -0.00321 between spending per pupil to SAT (Scholastic Assessment Test) scores. There was a negative correlation of -0.18474 between spending per pupil to 10th-grade ISTEP (Indiana Statewide Testing for Educational Progress) passing rates. For the next school year, there was a positive correlation of only 0.009338 between spending and SAT scores and a negative correlation of -0.16391 between spending and 10th-grade ISTEP passing rates.

Dr. Cecil Bohanon contrasts the study's significance with an inexplicable disinterest:

Both sides have facilitated an ever-increasing flow of resources to K-12 education. No candidate has ever proposed a frank discussion of how resources are supposed to improve educational quality. Both Republicans and Democrats are afraid to even hint at limiting K-12 spending. There has been a deafening silence on an obvious issue.

Okay, but a decade later, knowing what we know now, isn't that something the Education Roundtable could take up? The Indiana school board? The governor's office? The legislature? The Chamber of Commerce? The state superintendent of schools? One or the other of the political parties, or both?

With millions of tax dollars at stake, not to mention the efficacy of a system entrusted with the future of our children, it would be a pity for the deafening silence to continue indefinitely.

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Confessions of a Baby Boomer

"I'm drowning here, and you're describing the water." — Melvin Udall (Jack Nicholson) in "As Good as It Gets"

(April 18) — There is a troublesome thought that occurs to Hoosiers of a certain age. They are the ones who lived through the agonizing reappraisals of the 1960s and 1970s, the narcissism that followed, the staged social sensitivity, the massive spending to eliminate every unmet need or want and, finally, the ongoing and forced transfer of wealth by politically determined formulae.

That thought? A series of questions really. What if in your halcyon youth you mistakenly took for granted what turned out to be an exceptional, fragile mechanism — we will call it the American Middle Class — that needed your protection at all cost?

Conversely, what if the poverty, corruption and woe that so activated you was not the result of Republican callousness but rather the default setting of the world — that is, life as good as it gets, life without the America you found so laughably banal.

That would be a revelation. It would mean that the suburban cul-de-sacs, the groomed lawns and, yes, the traditional nuclear family clinging to its guns and religion, all of which have been the subject of a thousand skits on Saturday Night Live, were not jokes but identifiers of something admirable and precious.

A little story: A child from half-way around the world, a darling and extremely bright four-year-old in Indiana with her graduate-student parents, tells her teacher that she has a favorite place. Indeed, she treats it as a treasure offered only to her dearest friends. It is the promise to take them with her family the next time they visit Walmart.

The store, at least in the eyes of the preschooler, represents not materialism but the marvel of individual choice and freedom that is America — or, more broadly, as the pop historian Dan Hannan has famously described it, the Anglosphere, the melting pot, freedom's meme, the one place in the world where deoxyribonucleic acid does not predict citizenship.

But our preschooler, please know, came from the default setting. In her homeland, anything not specifically approved by the government is presumed illegal. And that, if our most selfish generation had ever bothered to think about it, puts such a damper on personal initiative that a hundred Peace Corps could never overcome it. From hence comes the disparagement known

as a "soviet supermarket," a place where you can buy unlimited potatoes but not a stalk of broccoli. By contrast, a Hoosier Walmart surely must seem a wondrous place.

A simple challenge: Revisit what people consider the "bad" part of your town, the most distressed neighborhoods. That is the place, remember, where you as a callow youth were inspired by social conscience. Your mind raced with ideas on how the city could be reinvented through zoning, food and housing subsidies, progressive taxation, economic development and such. You impressed the girls with your decision to become a community organizer and save the world.

How did that work out? If you are as honest today as you were then, your main concern is getting out of that part of town fast — that and how much your inspiration has sullied adjacent neighborhoods. For illustration, here is a map of what has happened to Chicago during your span of civic concern.

In hindsight, maybe you should have worked at the problem from the other direction. That would have meant growing the middle class rather than laughing at it, forging cross-cultural agreement on a list of principles that historically distinguish American society: the integrity of a ballot box; popular consent for taxes, laws and regulations; the primacy of the individual in public policy; secure and absolute property rights; independently courageous magistrates; freedom of speech, religion and assembly; and, most important, personal responsibility.

It is whining to say that all of that is routinely debased in your council chamber, legislature or congress.

It is important to note, though, that your generation turned America upside down — when once individual freedom was assumed as God-given, it now is merely awarded by this or that government office, *i.e.*, by the shifting rules of the default setting.

And there is one thing more. You might have been listening in class — if indeed you were taught at all — when it was explained that our governing authority comes from a common law of the land and not of men. That is the basis of an exceptionalism even a preschooler can recognize. And these are laws first written in the language you are now reading, which, politically correct or not, is the language of liberty.

So would you like to see the decline in English proficiency scores that has occurred in that distressed neighborhood of yours, in that default setting, during your tenure of good works?

It is understandable that you might not.

In hindsight, maybe you should have worked at the problem of poverty from the other direction. That would have meant growing the middle class rather than laughing at it, and forging cross-cultural agreement on a list of principles that historically distinguish American society.

Luke Kenley, an honest and widely respected legislator, made a career of that budget position. It can be called the Kenley Rule, i.e., legislation and policy should be revenue neutral. If a tax is reduced over here, a tax must be increased over there.

The Kenley Rule And Common Core

(April 10) — At a small table at an Indianapolis club some years ago, an argument began — or perhaps more an intense discussion. It was between two strong personalities: Luke Kenley, the Noblesville businessman who would become chairman of the state Senate Appropriations Committee, and Stephen Moore, an economist and frequent guest of our foundation who a few years later would join the editorial board of *the Wall Street Journal*.

We had brought the two men together informally that afternoon because it was thought they would have an affinity for fiscal discipline and smaller government. We were half right. The one was a fiscal disciplinarian; the other was dedicated to smaller government. The two positions, though, didn't mix, especially on the issue of public education.

Kenley had been named Freshman Legislator of the Year. He was beginning to formulate his education policies and surprised some at the table with his support for a plan to distribute state school funds somewhat equally. (Have you ever noticed that in politics, nothing is ever equal: it is somewhat equal, nearly equal or grievously not equal? The work is never done, apparently, in the equality business.)

Moore saw parental choice as the path to reform. Let those schools responsive to patron expectations prosper, he argued, and let the rest follow or get out of the way. He seemed incredulous that someone introduced to him as a conservative would champion what he considered a redistribution scheme.

A founder of the Club for Growth, that bane of the GOP establishment, Moore fired a series of questions at Kenley that mostly went unanswered, perhaps out of politeness. It is my recollection, though, and I will allow there may be different interpretations by others at the table that day, that Kenley's responses were reduced to his belief that the important thing was to protect government's balance sheet.

Kenley, an honest and widely respected legislator, made a career of that budget position. It can be called the Kenley Rule, i.e., legislation and policy should be revenue neutral. If a tax is reduced over here, a tax must be increased over there. It is a strategy that in good times can keep the wheels of government humming along without ruffling too many political feathers. It is a strategy, however, that leaves few opportunities to reduce the size of government.

A few years ago, the Kenley Rule was applied to delay repeal of the state inheritance tax. It now is being applied to compromise the move to detach Hoosier education standards from the

national Common Core. The Indiana standards are now in their third draft before going to the quasi-government Education Roundtable.

Whatever the final set of standards, statehouse leadership and the governor's office may insist on a statist corollary to the Kenley Rule. That is, on the matter of education standards, Indiana will defer to Washington whenever federal aid is at risk. Such language would subvert the intent of the original measure, according to one of its two authors.

All of which is a pity. It quashes the sincere populist motivation behind this session's only serious reform legislation, i.e., to reassert Indiana control of public education content and method. Both the Pence administration and the statehouse majorities will appear not so much interested in a renewed federalism as in simply fooling people. And when educators attempt to apply the new standards next fall, some will be able to say convincingly that no standards would have been better than the hollow ones forced upon them.

There are better ways, but they require abandonment of the Kenley Rule. They would cut Indiana free of the estimated 10 percent of its education budget coming from Washington. We could write new standards based on expert advice rather than political blackmail.

Dan Mitchell of the Cato Institute proposes the Fiscal Golden Rule, an alternative to either GOP austerity or Democrat stagnation. He notes that the Congressional Budget Office estimates that nominal GDP will climb 4.5 percent annually over the next 10 years. The Indiana Legislature need only ensure that the burden of government spending here climb at a slower rate. Even if Kenley and the statehouse leadership allow a 2 percent increase each year (about the rate of projected inflation), that would reduce the relative size of Indiana government significantly.

Dr. John Tatom, an adjunct of our foundation and a fellow at the Institute for Applied Economics, endorses a plan called the Penny Plan. It simply reduces the growth of government spending one percent per year. It would get spending down even faster with negligible disruption of anything that could reasonably be called an essential government service.

There are negatives to abandoning the Kenley Rule, of course. A calculator could not be substituted for real leadership. Someone would actually have to cut something — perhaps entire departments. Government would have to get smaller, however gradually.

But if Indiana Republicans are interested in true economic growth, allowing more

resources to be allocated by markets rather than government officials, public education surely is the place to start. If they are not interested, then they might want to change their party name so as not to unduly confuse voters in the next general election.

Hispanics and a Phony Baloney GOP

“On average (since 1995), 69 percent of nonwhites have identified as Democrats or said they were independents who leaned Democratic, and 21 percent have identified as Republicans or leaned Republican.” — Gallup Politics, March 24, 2014

(March 26) — The Republican Party has a crisis. No, it isn't the national debt, or the imploding social security and health systems, or a snooping homeland police force, or a tyrannical Washington detached from any law of the land.

Reasonable Republicans have made peace with all that. The crisis is that these Republicans need Hispanics in order to maintain control of the party, to keep it on “the right side of history.”

That is bad news for Hispanics. The Republican Party is going to help them.

There has been a belated realization at the upper levels that either the culture or the economy, or both, has destroyed so many white, suburban families we don't have enough left to keep career GOP politicians in office. This next generation will be the first in American history to have a “non-white” majority.

So it is said that Republicans need a new message. Something must be done — and quick. Or to quote Gov. William J. LePetomane in *Blazing Saddles*, we must “protect our phony baloney jobs here, gentlemen.”

Their solution is an update of the immigration “Dream Act” and an attendant social-service infrastructure designed to appeal to Hispanic voters. They see the challenge as convincing Hispanics that Republicans are just as good as Democrats at bribing voters with exception, privilege and money borrowed from the fortunes of their children and grandchildren.

But will Hispanic households appreciate the pandering? Or will the thoughtful among them see this as the same kind of upside-down, democratic side-stepping, top-down corruption as . . . well, Mexico?

Let my great-grandmother answer that.

Wilma Philipina Bader expressed no particular interest in citizenship per se. During World War I, she dutifully reported every

month to the local post office on orders signed by a young J. Edgar Hoover. She was there to prove she carried a card identifying her (with the blanket judgment only a bureaucracy can manage) as an “enemy alien.”

English was always difficult for her, as was much else American. Let us just say she was not a proper dinner guest of any of the preferred bloodlines in our town.

Nonetheless, she did not expect America to be changed on her behalf. Nor did she want her political allegiance leveraged for government favor. She knew how that had worked out in the old country. Her family did not go to the heroic effort of immigrating so she could be assured a minimum wage or, worse, dependency on the local sozialhilfe.

Rather, and excuse the patriotic puffery here, they came on the promise of individual freedom, that greatest of all economic engines, that spark of liberty that arises in every human breast be it Anglo-Saxon, Bavarian, Czech, Irish, Italian, African or Hispanic.

My great-grandmother, a nominal and decidedly casual Democrat, could no more have missed this uniqueness of the United States of America than could today's Hispanic immigrant. Standing armies and centralized governments, whether under the command of instituted monarchies and tyrants or an elected national socialist, had been crushing the spirit of families like hers for generations.

She didn't need a classic education, then, to know that she had had enough of the past. She was ready for the future. She certainly didn't intend to drag an ethnic bag of systemic misery with her.

Similar thoughts may go through the heads of Hispanics here when the pollster asks which party they intend to support. Considering what they have at stake, the choice must seem a hollow one between a party that governs by factional loyalty and a party that promises to keep them in mind for the next election cycle.

Which brings us back to the GOP crisis. For starters, its campaigners need to become more expert at explaining such basics as:

- Why a minimum wage hurts entry-level teenage job-seekers most.
- Why parental choice is critical to education reform (Hispanics come from a strong private-school tradition).
- What serious, independent thinkers such as Thomas Sowell, Dinesh D'Souza, Charles Murray and Walter Williams have to say about race and economics.

The party might make one more change. It could promise Hispanics what our nation promised great-grandmother Bader:

My great-grandmother, a nominal and decidedly casual Democrat and an unreconstructed German alien here could no more have missed the uniqueness of the United States of America than could today's Hispanic immigrant.

And because government will continue to plunder (that is its business), those same commercial corridors will be in distress again in a few years. New facade grants will have to be awarded. It is a perpetual ribbon-cutting ceremony.

We will protect your individual liberty and property as established in a thousand years of Common Law, including two hundred years of specific constitutional guarantee, keeping the state subject to the people rather than the reverse — and we will do so whether you vote for us or not.

Granted, that hasn't been field-tested for 2016. And it may not be the surest way to salvage a political career. But if one party or the other doesn't sell it to this immigrant generation, we're all sunk.

The Farce Of Facades

(March 18) — Now that the Legislature has agreed to let our friends at Ball State University regularly evaluate the effectiveness of the various tax “incentives,” here is a nomination for the next-worst economic-development program.

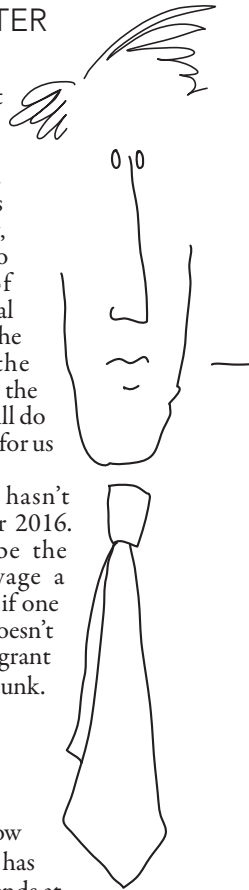
Popular throughout Indiana, it is called a “façade” grant. Tens of thousands of tax dollars are awarded each year to select businesses to dress up their exteriors. We like them not because they work but because they demonstrate what city hall thinks of you, which is not much.

The name itself is fair warning. *Façade* is of course French, the language of a people who reduced liberty, the noblest stirring in the human breast, to a basketful of guillotined heads. The portent could only be clearer if there were a reference to Gen. Grigory Potemkin and his fake Ukrainian villages.

But we risk slanting our little report; let one mayor present the program in its best light:

Our Commercial Façade Grant program helps local businesses invest in our community and provide welcoming atmosphere for their customers. This program ensures that our commercial corridors remain vibrant so that our citizens have convenient access to goods and services they need.

Mayors throughout Indiana, noticing ragged storefronts here and there, conclude that commercial property owners are indifferent to how their property looks. Progress requires an outside incentive (government money) to get them to attract customers and make profits.



But what if Hoosier businessmen already know that? What if they understand that the appearance of their business is important to bringing in customers, making money?

“To the liberalism they profess, I prefer the liberty we enjoy; to the Rights of Man, the rights of Englishmen.”
(Disraeli)

That would mean something else is interfering with our commercial ideal. May we make a suggestion? How about taxes, regulations and zoning restrictions that have built up over the years on those

distressed properties — all of them the result of bad government decisions detached from either market forces or customer preferences, decisions that can ruin even the most thoughtful business plan.

And if that were the case, the grants would be good money thrown after bad. In my city, that means almost \$3 million “leveraged” by more than 60 businesses over five years.

With that kind of investment, Indiana should look like Las Vegas. It doesn't because a new facade in itself cannot significantly move a bottom line. Again, if it could, the owner would have made that investment long ago.

Those “commercial corridors” targeted by the mayors contain a high proportion of aged business whose problems are the mayors themselves, *i.e.*, their anachronistic taxes, regulations and other self-defeating policies.

The typical city hall is inept at selecting those businesses where its help would help. One of my mayor's first grants this year, for instance, was to a heating and air-conditioning company (in a heavily Democratic district, interesting enough). It is a business that draws its customers from phone and Internet listings, and most of them never set eyes on a façade, renewed or otherwise.

Considering the conflicting assumptions of façade grants and their obviously self-serving political structure, the temptation to indulge in a flippant critique should be resisted. It must be said, nonetheless, that in a public-policy sense, the program is plain silly.

Better to post signs outside distressed storefronts showing what proportion of gross revenues there have been paid in taxes and regulatory costs. An added touch would be chart-tracking that percentage over time.

Oh, and you might post the faces (*las facades*) of the mayors in office during the property's decline.

The Outstater, an occasional column distributed to member newspapers, is written by the editor of the journal.

Q. If a state-led constitutional convention (second option below) were held today, what amendment would you like proposed?

Article Five of the United States Constitution describes the process whereby the Constitution may be altered. Altering the Constitution consists of proposing an amendment or amendments and subsequent ratification. Amendments may be adopted and sent to the states for ratification by either:

- 1) Two-thirds (supermajority) of both the Senate and the House of Representatives of the United States Congress; or
- 2) By a state-led constitutional convention assembled at the request of the legislatures of at least two-thirds (at present 34) of the states.

Amendment Proposals

- “Caps on federal spending that work.”
- “A balanced budget amendment that limits spending to the amount of taxes collected in the prior year and would require a three-fourths majority vote for any spending over that amount.”
- “An amendment that would require all members of the Federal Reserve Board of Governors to resign if inflation is greater than 4 percent for two consecutive years.”
- “No current holders of elective office may be appointed as delegates to any convention on the Constitution.”
- “The federal government shall not spend more money than it takes in except in times of declared war.”
- “Federal taxes can be assessed only by the two-thirds vote of both houses of Congress.”
- “I propose that private enterprises cannot benefit from the expropriation of property by a government entity in order to increase taxable income.”
- “Restate the 10th Amendment.”
- “A maximum tax rate of 25 percent.”
- “Allow the president (like our governor) to cut expenditures to stay within revenues.”
- “Something to restore the federal courts to their proper role, restricting their ability to override state law and voter referenda at will.”
- “Congressional salaries tied to inflation.”
- “Campaign-finance reform.”
- “Term limits.”

Comments

- “Despite all the reassurances that a ‘runaway’ convention wouldn’t occur, it’s hard to see how you could impose limits, within the Constitution, on what could be proposed at such a convention. I think there’s a real danger that things could be proposed, and passed, that would both be extremely unpopular and would ultimately cause further political polarization and dysfunction.”

- “I’m worried that leftists would destroy what we have.”
- “I think this would be a great idea.”
- “Good idea.”
- “It would be a horrible mistake. The naive, deluded and desperate people who think a convention could be held without establishment domination and alterations are drastically misguided.”
- “Long overdue. The federal government is absolutely out of control. We’ve made these jobs too lucrative and these guys think they own their desks.”
- “We instead should ensure that our elected officials abide by the constitution we already have in place.”
- “It will probably be necessary for a step like this — to save the country fiscally.”
- “A convention scares me; it is just as likely to be hijacked by progressives and statists. Don’t do it.”
- “A train of abuse and usurpation has brought us to the critical moment.”
- “I totally support it. Kudos to Sen. David Long for his support of this convention.”
- “I am against a constitutional convention because there is no way to control what will happen at the convention. The convention of 1787 had the purpose of amending the Articles of Confederation. The outcome of that convention was to scrap those articles and write our present Constitution. Those men had the best intentions at heart. We do not know where this one will go as we are lured by the thought of a balanced budget and other amendments; we may end up with a radically different constitution such as those of the European countries. Let’s amend the Constitution through the houses of Congress and not this way. In reality, our problem is not the U.S. Constitution itself but the fact that we are not following it.”
- “Any radical attempt to take over the convention is safeguarded by the required ratification by the states.”
- “Well overdue. Appropriate.”
- “I think it is a great idea to be able to amend the Constitution without involving Congress.”

People who know about opinion surveys don’t think much of ours. The sample is inherently biased and so small as to be little more than a focus group. The questions, sometimes confusing, are casually worded and transparently drive at one point or another. That said, we have learned to trust our members and eagerly await their thoughts on this and that.

THE DESTINIES OF THOSE WHO SIGNED

*From an essay on the signers of the Declaration of Independence
by Rush H. Limbaugh Jr., distributed by the Federalist Magazine*

• **Francis Lewis** — A New York delegate saw his home plundered and his estates, in what is now Harlem, completely destroyed by British soldiers. Mrs. Lewis was captured and treated with great brutality. She died from the effects of her abuse. • **William Floyd** — Another New York delegate, he was able to escape with his wife and children across Long Island Sound to Connecticut, where they lived as refugees without income for seven years. When they came home, they found a devastated ruin. • **Phillips Livingstone** — Had all his great holdings in New York confiscated and his family driven out of their home. Livingstone died in 1778 still working in Congress for the cause. • **Louis Morris** — The fourth New York delegate saw all his timber, crops and livestock taken. For seven years he was barred from his home and family. • **John Hart** — From New Jersey, he risked his life to return home to see his dying wife. Hessian soldiers rode after him, and he escaped in the woods. While his wife lay on her deathbed, the soldiers ruined his farm and wrecked his homestead. Hart, 65, slept in caves and woods as he was hunted across the countryside. • **Dr. John Witherspoon** — He was president of the College of New Jersey, later called Princeton. The British occupied the town of Princeton, and billeted troops in the college. They trampled and burned the finest college library in the country. • **Judge Richard Stockton** — Another New Jersey delegate signer, he had rushed back to his estate in an effort to evacuate his wife and children. The family found refuge with friends, but a sympathizer betrayed them. Judge Stockton was pulled from bed in the night and brutally beaten by the arresting soldiers. Thrown into a common jail, he was deliberately starved. • **Robert Morris** — A merchant prince of Philadelphia, delegate and signer, raised arms and provisions which made it possible for Washington to cross the Delaware at Trenton. In the process he lost 150 ships at sea, bleeding his own fortune and credit dry. • **George Clymer** — A Pennsylvania signer, he escaped with his family from their home, but their property was completely destroyed by the British in the Germantown and Brandywine campaigns. • **Dr. Benjamin Rush** — Also from Pennsylvania, he was forced to flee to Maryland. As a heroic surgeon with the army, Rush had several narrow escapes. • **William Ellery** — A Rhode Island delegate, he saw his property and home burned to the ground. • **Edward Rutledge** • **Arthur Middleton** • **Thomas Heyward Jr.** — These three South Carolina signers were taken by the British in the siege of Charleston and carried as prisoners of war to St. Augustine, Fla. • **Thomas Nelson** — A signer of Virginia, he was at the front in command of the Virginia military forces. With British General Charles Cornwallis in Yorktown, fire from 70 heavy American guns began to destroy Yorktown piece by piece. Lord Cornwallis and his staff moved their headquarters into Nelson's palatial home. While American cannonballs were making a shambles of the town, the house of Governor Nelson remained untouched. Nelson turned in rage to the American gunners and asked, "Why do you spare my home?" They replied, "Sir, out of respect to you." Nelson cried, "Give me the cannon," and fired on his magnificent home himself, smashing it to bits. But Nelson's sacrifice was not quite over. He had raised \$2 million for the Revolutionary cause by pledging his own estates. When the loans came due, a newer peacetime Congress refused to honor them, and Nelson's property was forfeited. He was never reimbursed. He died, impoverished, a few years later at the age of 50. • **Abraham Clark** — He gave two sons to the officer corps in the Revolutionary Army. They were captured and sent to the infamous British prison hulk afloat in New York harbor known as the hell ship "Jersey," where 11,000 American captives were to die. The younger Clarks were treated with a special brutality because of their father. One was put in solitary and given no food. With the end almost in sight, with the war almost won, no one could have blamed Abraham Clark for acceding to the British request when they offered him his sons' lives if he would recant and come out for the king and parliament. The utter despair in this man's heart, the anguish in his soul, must reach out to each one of us down through 200 years with his answer: "No."



Emanuel Gottlieb Leutze, oil on canvas, 1851



Thomas Hoepker, photograph, Sept. 11, 2001

Please Join Us

In these trying times, those states with local governments in command of the broadest range of policy options will be the states that prosper. We owe it to coming generations to make sure that Indiana is one of them. Because the foundation does not employ professional fundraisers, we need your help in these ways:

• **ANNUAL DONATIONS** are fully tax deductible: individuals (\$50) or corporations (\$250) or the amount you consider appropriate to the mission and the immediate tasks ahead. Our mailing address is PO Box 5166, Fort Wayne, IN 46895 (your envelope and stamp are appreciated). You also can join at the website, <http://www.inpolicy.org>, using your credit card or the PayPal system. Be sure to include your e-mail address as the journal and newsletters are delivered in digital format.

• **BEQUESTS** are free of estate tax and can substantially reduce the amount of your assets claimed by the government. You can give future support by including the following words in your will: "I give, devise and bequeath to the Indiana Policy Review Foundation (*insert our address and amount being given here*) to be used to support its mission." A bequest can be a specific dollar amount, a specific piece of property, a percentage of an estate or all or part of the residue of an estate. You also can name the foundation as a contingency beneficiary in the event someone named in your will no longer is living.



"The Battle of Cowpens," painted by William Ranney in 1845, shows an unnamed patriot (far left) firing his pistol and saving the life of Col. William Washington.

INDIANAPOLICY

Review

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