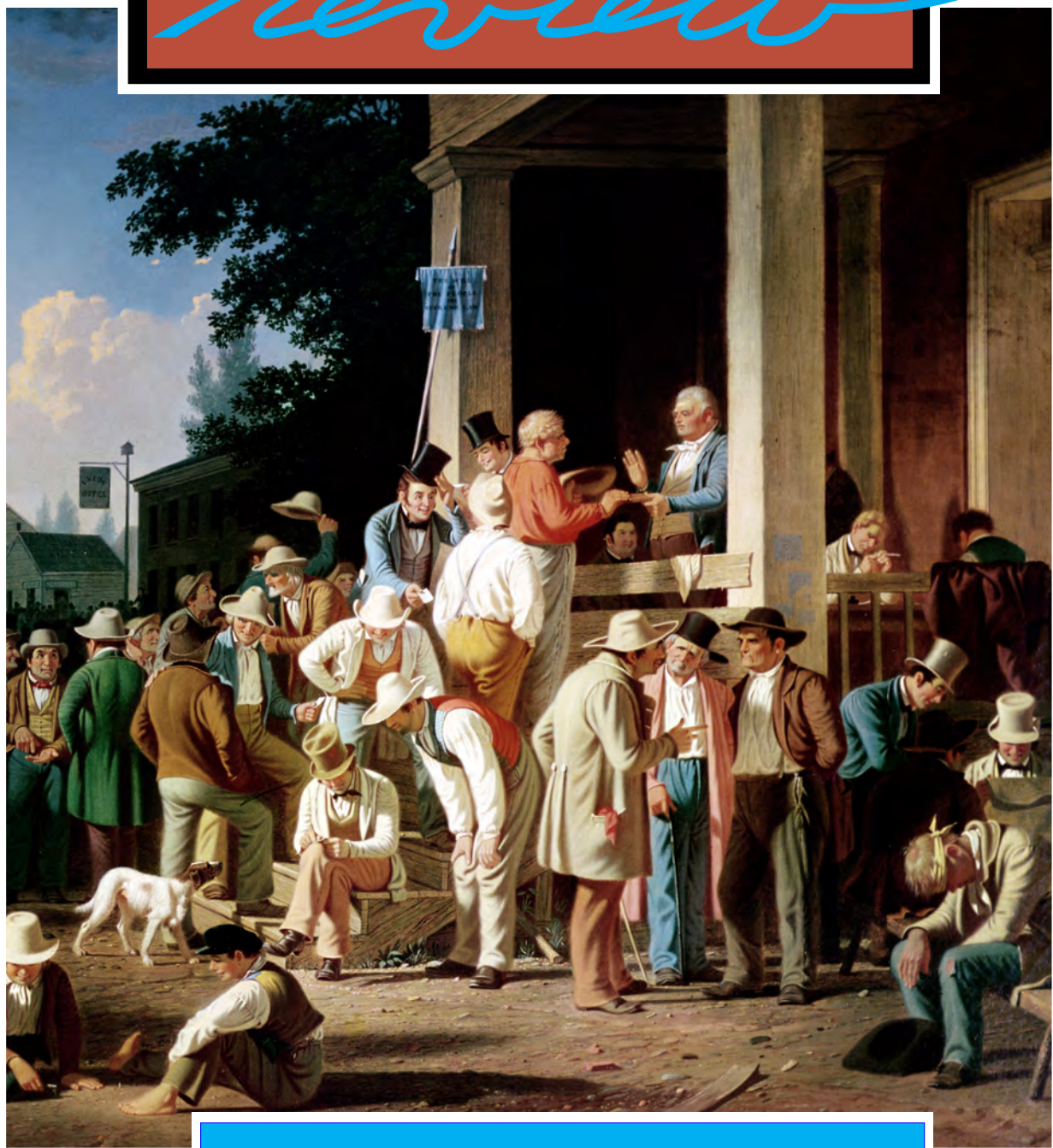


# INDIANA POLICY

*review*



*Federal Dollars Rule*

## REASSERTING LOCAL CONTROL

*"A future that works."*

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



**W**hen 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.



## 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.*

## BOARD OF DIRECTORS

Charles S. Quilhot, Marion County  
Byron S. Lamm, Whitley County  
T. Craig Ladwig, Allen County

*Joyce A. Preest, copy editor; Robert and Lisa Barnum, graphic design.  
Cover: The County Election (oil on canvas) by George Caleb Bingham  
(1811-1879), the Bridgeman Collection.*

## MEMBERSHIPS

*A postage-paid membership envelope is generally included with mailings. The active membership can be defined as those members who have donated \$50 or more to the foundation within the past year. It is the staff's preference to consult these active members when selecting issues for panel discussions in their regions or at our web site. It is also the staff's preference to contact active members by mail when seminars and events are scheduled in their regions. In any case, the foundation makes available its information to all as resources permit. Memberships are tax-exempt. The Indiana Policy Review Foundation is a nonprofit Indiana corporation, established in January of 1989 and recognized under Section 501(c)(3) of the Internal Revenue Service Code. Its officers and staff can be reached at: PO Box 5166, Fort Wayne, IN, 46895; IndianaPolicyReview@verizon.net; [www.inpolicy.org](http://www.inpolicy.org). The foundation is free of outside control by any individual, organization or group. It exists solely to conduct and distribute research on Indiana issues. Nothing written here is to be construed as reflecting the views of the Indiana Policy Review Foundation or as an attempt to aid or hinder the passage of any bill before the legislature or to further any political campaign.*

# A CURE FOR THE SUPERFLUOUS

*One answer to our problem is sitting on the Statehouse steps.*

If you spend any time rubbing shoulders with Indiana's ruling class, you'll recognize the circular logic: "The solutions to our problems are not politically achievable, and in any case they are beyond local control."

The first, of course, is the other party's fault. The second is Washington's in tying our legislators' hands with mandates.

In short, there's nothing to be done but be grateful bright people are in the Statehouse who understand that things could be worse — a plea of superfluosity, if you will.

What then? Do the evermore numerous federal *diktats* mean that a governor or a majority leader can do nothing but try to fashion evermore clever excuses?

Hoosiers, if public-opinion surveys are accurate, reject that. They see their situation as too grave to be finessed by a self-serving office-holder. They are demanding straight answers. The Democrats can't manage that at all, and for the GOP it will require more than the garden-variety Lugar Republicanism.

## *So Far, So Bad*

To be fair, the Indiana Senate already has done something about the debilitating effects of federal mandates. It has talked about them — and to commendable length. Last session it approved a resolution claiming "sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States."

The resolution's 700 words include some of the most high-minded quotes from the Founding Fathers. The legislation, though, was meant for campaigning, not governing. It was nonbinding, of course, requiring no legislative courage and certainly no risk to anyone's reelection. It was a petition to the federal to be less federal.

Meanwhile, representatives in Wisconsin, Texas and even New Jersey are putting their names on straightforward plans to get their citizens out of this mess — plans on which they are willing to bet their political careers, plans meant to realign economic incentives, not just push numbers around on a ledger.



*The County Election (oil on canvas) by George Caleb Bingham (1811-1879)*

Indiana, because it retains a measure of common sense, is in a position to lead the nation in developing a tax and regulatory structure, a simple one that keeps more decisions about using wealth in the hands and minds of its citizens and away from government.

A property-tax cap, another plan better for campaigning than governing, doesn't do that. It merely jumps a legal hurdle to ensure Indianapolis if not your city council a steady stream of revenue. It leaves unchanged what matters — how much government takes from us and how intractable it has become.

## *The Elephant in the Room*

Gov. Mitch Daniels, to his credit, has not hidden behind the excuse that federal mandates have tied his hands. It is also true that he has yet to seriously address the elephant in his room, public education, which remains primarily a state rather than a federal responsibility.

Indeed, a challenge by Dr. Jeff Abbott, a member of Superintendent of Education Tony Bennett's transition team, sits on the Statehouse steps:

Shed most state and federal regulations and put more Hoosier tax dollars to work in the classroom actually teaching students.

Abbott, in the spring 2008 edition of this foundation's quarterly journal, detailed a plan, "Freedom Schools," for reducing the cost of Indiana public education without closing schools, firing teachers or otherwise degrading classroom learning.

In addition to providing students and parents more choice of curricula and schools, Abbott seeks to eliminate regulation for regulation's sake. That, of course, would wipe out the larger part of federal aid and its accompanying mandates.

Abbott's projected savings, mostly from eliminating the administrative positions necessary to comply with all those regulations, is more than \$300 million a year based on a 2007 budget. That, combined with the \$460 million the administration says it can affect in departmental cuts, brings Indiana within \$197 million of eliminating the state budget deficit, all without dipping into hard-won reserves.

The Legislature could then take a further step and repeal the ill-conceived, outdated and expensive Indiana Collective Bargaining Act.

That would be anything but superfluous. — *tcl*



# A 'PLAIN READING' OF THE CONSTITUTION

*Yes, you can vote against costly, intrusive, unaccountable government  
for no better reason than in your opinion it is unconstitutional.*

by CECIL BOHANON

**A**n Introduction to the Reader — Over the course of the last 20 years I have had the privilege of making a number of contributions to this journal. I have strived to both inform and persuade, and I hope this contribution accomplishes these tasks.

From the outset, however, I want to let you, the reader, know that I am not as interested in persuading you to my particular view of the United States Constitution as I am in persuading you to the importance of citizens engaging with the Constitution. I think such engagement is critical to the future of our nation, to our state and to our local communities. I encourage you to read the Constitution, the Federalist Papers and other writings about the Constitution. I encourage you to examine the Constitution from a number of perspectives and to be skeptical of anyone who thinks their status as “scholar” somehow trumps your own informed understanding. The U.S. Constitution’s importance to our civic life, quite interestingly, is affirmed in the document itself: Article VI requires that “Senators and representative Members of the several state legislatures, and all executive and Judicial officers, both of the United States and the several states, shall be bound by Oath or Affirmation, to support this Constitution.”

The Constitution is designed to bind us together as a nation. The Founding Fathers did not require elected officials to pledge loyalty to enlightenment, to progress, to the general welfare, to social improvement or to national prestige. Richard Ebeling, former president of the Foundation for Economic Education, noted that while other nations base their identity on language, race or religion, the United States of America’s identity is based on a written document. This is a remarkable idea, a precious heritage — and one that can only be maintained by an informed citizenry.



*Cecil E. Bohanon, Ph.D., an adjunct scholar of the foundation, wrote the first commissioned article for this journal 21 years ago. He teaches economics with compassion and effect at Ball State University.*

## I. A ‘Plain Reading’ of the Constitution

Like many economists, I have had some exposure to the burgeoning field of law and economics. I have published refereed scholarship on property rights and have recently taught a course on the subject. I am neither a lawyer nor a legal scholar, however, but I am a citizen who hopes that the U.S. Constitution has a plain interpretation. I also firmly believe an essential component of a free society is a popular understanding of the law of the land and a willingness on the part of the citizenry to hold their elected representatives accountable to that understanding.<sup>1</sup>

I am aware that there are a variety of issues of constitutional interpretation likely to defy simple explanations — and from this I surmise that “expert legal opinion varies,” a term of art that will crop up again in this discussion. Here is an example: Several years ago a friend of mine, who also happens to be a high-ranking federal law-enforcement official, assured me that no handgun case would ever be brought to the Supreme Court — and if it were, the court would summarily deny the 2nd Amendment gives the individual a right to own a handgun.

Well, he was wrong, but as the children say, only sort of. The two recent handgun cases decided by the Supreme Court were 5-4 rulings — so “expert legal opinion varies.” Despite the power of precedent it is certainly conceivable that the court could reverse itself at a future date on its interpretation of the 2nd Amendment.

The legal opinion of the majority of the Supreme Court — which for all practical purpose determines the law of the land — can and sometimes is overturned. Nothing in constitutional law is ever settled in a final sense, and no advances in legal scholarship will ever make it settled. So my case is as follows: If “expert

*“I will not attempt to discover whether legislation  
is ‘needed’ before I have first determined  
whether it is constitutionally permissible.”*

— Barry Goldwater,  
*The Conscience of a Conservative* (1960), p. 15

opinion varies,” surely an educated and literate citizen’s opinion based on his “plain reading” of the constitution ought not to be dismissed out of hand.

As I read my Cato Institute embossed copy of the Constitution of the United States, I am drawn to Article I, Section 8 that states “The Congress shall have power . . .” The sentence then continues to list specific activities such as “establish Post Offices” and “to provide and maintain a Navy.” A plain reading suggests that this is a list of what Congress can do, which, in turn, implies that if an activity is not on the list Congress cannot do it.

Move on to Section 10. This begins with “No State shall . . .” I am again drawn to the specificity of what states may not do — such as “enter into any Treaty, Alliance or Confederation . . .” or “pass any Bill of Attainder or *ex post facto* Law . . .” A plain reading suggests that this is a list of what states cannot do, which, in turn, implies that if an activity is not on the list a state can do it.

Finally, continue to the last Bill of Rights passed concurrently with the Constitution, Amendment X. It states, “The powers not delegated to the United States by the Constitution, nor Prohibited by it to the States, are reserved to the States respectively, or to the People.” A plain reading suggests that this restates and clarifies what had been enumerated in Article I, Sections 8 and 10 — that not assigned to Congress and not forbidden to the states is the domain of the states or the people.

Fast forward to Indiana in 2009. Data reveals that 20 percent of Indiana’s spending on kindergarten through grade 12, 76 percent of its public-assistance spending and 71 percent of its low-income medical assistance (a.k.a. Medicaid) spending was from Congressional appropriations. Where in Section I, Article 8 is Congress authorized to fund education, public assistance or medical assistance? By my reading: nowhere. Only by contorting the plain language of the Constitution can one conclude that these Congressional expenditures are anything but unconstitutional. Of course, the implications are devastating: by this reading most all of the programs of the

federal government are unconstitutional. Surely, this can’t be the case.

In a technical sense I suppose it isn’t. If the Supreme Court has upheld the constitutionality of Medicare, aid to education, Social Security, etc., then in a practical sense their court-approved status makes them “constitutional.” However, constitutional boundaries are not fixed, and there is, at least a *prima facie* case in the plain-reading argument that the federal government has overreached at least since the New Deal. What arguments can be proffered against this plain reading interpretation? I will examine two.

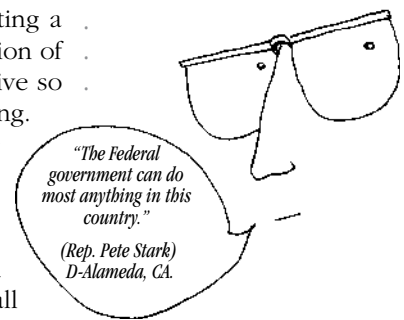
*“Article I, Section 8 allows for an expanded federal role.”*

The first argument goes along the following lines: Article 1, Section 8, can readily be interpreted as allowing for expanded federal spending and authority. Section 8 reads: “Congress shall have the Power To . . . provide for the common Defense and general Welfare of the United States . . .” Congress has the authority to provide for the general welfare as it deems fit implying almost any activity is allowable.

This interpretation is misguided in that it is an abuse of an ellipsis in editing a longer passage. The complete version of Section 8 is at the end of this missive so you can judge for yourself the meaning. Consider the unedited passage: “Congress shall have the Power To lay Taxes, Duties, Imposts and Excises, to pay the Debt and provide for the common Defense and general Welfare of the United States; but all Taxes, Duties, Imposts and Excises shall be Uniform throughout the United States; To borrow Money on the Credit of the United States . . .”

A plain reading links the general welfare squarely with the power to tax — the justification for taxation is to pay debts, provide defense and for welfare, but the enumerated power is to tax. If the clause empowered an open-ended and yet-to-be-defined notion of “provide for common Defense and the general Welfare,” why, pray tell, did the writers continue Section 8 with specific enumerations of powers related to defense and welfare? (Note that Section 8 is one long sentence.)

*While other nations base their identity on language, race or religion, the United States of America’s identity is based on a written document. This is a remarkable idea and a precious heritage — and one that can only be maintained by an informed citizenry.*



*Twenty percent of Indiana's spending on kindergarten through grade 12, 76 percent of its public assistance spending and 71 percent of its low-income medical assistance (a.k.a. Medicaid) spending was from Congressional appropriations. Where in Section I, Article 8 is Congress authorized to fund education, public assistance or medical assistance?*

*"A modern government could not operate under such a narrow version of Section 8."*

Perhaps, but that hardly comments on the constitutionality of the government activities in question. The Constitution can and has been amended. In the 19th century, the highest court, for better or worse, considered a federal income tax to be unconstitutional, and so in 1913 the 16th Amendment allowed for a federal income tax. The 18th amendment prohibited the manufacture, sale or transportation of intoxicating beverages — an action that would surely seem bizarre to those Founders who engaged in substantial consumption of alcoholic beverages — and was subsequently repealed by the 21st amendment. Surely, if disaster were to ensue because of the limitations of Section 8 then the constitutional-amendment process would be utilized to expand the federal purview.

At another level, the critics of those who view Section 8 as a hard limit on federal authority often characterize such advocates as Luddites. As there were no airplanes in 1791, so the argument goes, Section 8 does not (cannot) authorize funding for an air force. Congressional appropriations for fighter jets, therefore, are unconstitutional unless the constitution is amended. But this is a *reductio ad absurdum*. Surely the activities authorized by Section 8 are extendable to new technological innovations. The authorization in Section 8 for a national "Standard of Weights and Measures" readily translates into a telecommunication regulation that mandates 911 as a national emergency number, the authorization for "post Roads" leads in a straightforward way to interstate highways, and so on.

#### *A Historical Diversion*

Still not convinced? You need not worry and nor should I. The debate about the meaning of Section 8 is as old as the Republic. Thomas Jefferson and to a lesser extent James Madison considered Section 8 as a hard limit on federal power. What is not authorized by Section 8 is forbidden to Congress. Alexander Hamilton held a more expansive view of congressional power flowing from Section 8. Yes, Section

8 implies all actions must be uniform throughout the land, but there are no real limits on congressional power. The fifth president, James Monroe, held yet another view that the general interest is the operational and limiting component of Section 8. Congress may enact laws that confer benefits to all factions and regions but not ones that confer benefits to specific interest groups or particular regions of the nation.<sup>2</sup>

From the perspective of the Jeffersonian view, subsequent developments in constitutional understanding further eroded sound constitutional government. Many scholars have identified the 1910s as an era when the progressive movement captured the public imagination. It also captured political power and engineered an implicit change in the nature of the constitution. A University of Texas political scientist, Jeffrey Tullis, has argued that the current constitutional order is informed by an agenda-setting presidency that channels the "popular will" toward a more activist federal government that may or may not be part of the vision of the founders. According to Tullis, this "second constitution" developed during the administrations of Teddy Roosevelt and Woodrow Wilson and is said to be "layered" on top of the older constitution, continues to provide the procedural framework for government.<sup>3</sup>

But so what? Americans debate about our Constitution endlessly. There are a variety of different views on the matter. Why is this historical frolic into the Constitution important to local policy issues in Indiana? I now turn attention to an area where I can claim more expertise.

## **II. 'Political Economy' or 'Public-Choice' Analysis of Federal Grants on the Provision of Local Government Goods and Service**

Although few economists can claim expertise in constitutional theory, economists can claim knowledge of issues surrounding resource allocation. The application of economic principles to government taxation and spending is known as "public finance," and the application of economic principles to government decision-making is known

as “public choice.” These fields are in the purview of the economists’ expertise and training. What light can this economic reasoning shed on the relationship between the national, state and local governments as outlined in the Constitution?

A central proposition in economic theory is that under plausible conditions the opportunity cost of using a resource or product is correctly measured by its market price. Another more value-laden but generally accepted normative proposition is that it is a good thing for consumers to pay the full opportunity cost of their use of a resource or product. If the opportunity cost of making and delivering a loaf of bread is \$2 a pound, then consumers of bread ought to pay \$2 a pound. If the bread market is reasonably competitive, we can be assured the market price for bread will be \$2 a pound. Any other price generated by government fiat, however, will reduce social well-being by misallocating resources to bread production, and this will waste resources, destroy wealth and work against general interests.

If through a government subsidy, bread is artificially priced below its opportunity cost, say at 20 cents a pound, bread will be wastefully used. Pig farmers who would normally use unprocessed grain to feed their pigs are induced to use highly processed grain in the form of bread to feed their animals. Consumers will use a lot of bread at 20 cent a pound price but someone pays for the cost of manufacturing and delivering the bread, which is still \$2 a pound.

Observation confirms that government-induced under-pricing of resources and products is responsible for a host of social problems, including over-fishing of the oceans, the over-use of the medical-care system, the depletion of aquifers, poor coastal building practices and disastrous assessments of mortgage risks. As a rule, people behave better, act more responsibly and husband resources more appropriately if they are compelled to bear the full opportunity cost of their actions. The economics of public finance and public choice suggest the same principle holds in collective decision-making.

A local example comes to mind. In my town of Muncie, Indiana, there is at the time of this writing a group of local citizens

who want to see a local public swimming pool (currently in disrepair) expanded into a full-fledged local water-park complex. With a grant from the American Electric Power Company, the group has developed a set of initial plans for an \$8-million water park near downtown. The group proposes the following mechanism to finance the expenditure: \$6 million in local tax-backed bonds, \$1 million from local foundations and \$1 million from a local fundraising effort. The group is circulating through the community and working to drum up support.

As a local citizen who likes to swim and has a teen and near-teen in my household, I am intrigued by this project. A local commentator and fellow Ball State colleague, Larry Riley, has examined the details of the project.<sup>4</sup> His calculations and my independent ones indicate that \$6 million of bonded indebtedness would add around \$415,000 to the local government’s obligations and to local tax bills. We also calculate that this would add about three cents to the local property tax rate (if it were all backed by the property tax). I calculate that this would add about \$40 a year to my local property-tax bill. Around the dinner table, my family concluded that we are probably willing to bear this additional tax burden in exchange for the water-park complex, and are even willing to make a modest contribution to the local fundraising effort.

This support, of course, is contingent on additional details that might be forthcoming. I expect this project to develop more specifics; I hope that discussion about the project will be civil, transparent and productive. I am comfortable with my fellow citizens making a responsible decision in a democratic process, a decision with which I may or may not agree.<sup>5</sup> In my humble opinion, this is the essence of self-government: citizens making an informed decision about public spending and bearing the full opportunity cost of that spending.

The process isn’t perfect: If the proposal passes, there will be some who bear a cost in excess of the benefit they receive. If the proposal fails, it may be the benefits that would accrue to the community exceed the costs. The advocates of the proposal have an incentive to try to persuade non-users

*As a rule, people behave better, act more responsibly and husband resources more appropriately if they are compelled to bear the full opportunity cost of their actions.*



*With freedom comes responsibility. Have we been duped into forgetting our responsibilities and our freedom by the carrot of “free” money from a near-century of expanded federal power?*

of certain intangible benefits (increased tourism, recreation opportunities for youth, etc.). They also have an incentive to tweak the proposal to try to win over reluctant taxpayers. Correspondingly, opponents of the project may well emerge and have every right to air their concerns. In a rough sense, the process of local spending through local tax base mimics the market in that costs and benefits are incorporated in the decision-making process.

But now add federal funding. It is likely that Thomas Jefferson, James Madison, James Monroe and Alexander Hamilton would think it ill-advised and bizarre for the federal government to use the power of national taxation to build a water complex in Muncie, Indiana. There is something untoward about residents of Bangor, Maine, and Bend, Oregon, paying for a water park thousands of miles from their homes. But what is more important for this discussion is that Jefferson, Madison and Monroe would surely see such a federal expenditure as unconstitutional.

As a citizen of Muncie, tentatively in favor of the water park, I have mixed feelings about federal funding. On one hand, if advocates of the project could obtain a \$5-million federal grant for the project, my expected future annual tax liabilities would decline from \$40 to \$8 a year. Moreover, it will be easier to get reluctant taxpayers to accept a local park if the park's price is discounted by 83 percent. Any number of justifications can be made for federal funding that will probably pass legal scrutiny: Recession makes any federal spending desirable, childhood obesity is a national issue and health and education are part of the role of the federal government, and so on. I cannot discourage local water-park boosters from seeking federal funds; I can hardly blame them for responding to incentives structured in Washington. After all, if the federal dollars do not flow to Muncie they will flow elsewhere.

On the other hand, the wisdom of James Madison and Thomas Jefferson seems to cry out through the centuries: Do not replace the tyranny of a monarch with the tyranny of a legislative majority. Coercive extraction of the wealth of all of the nation's citizens to support the interests of a few is precisely what the Constitution is trying to prevent. A society where, to paraphrase the immortal

words of Fredrich Bastiat, “everyone tries to live off everyone through central government” is not only poor but also in chains. A limited and enumerated role for the federal government is a linchpin of freedom not only because it prevents federal interference in local affairs (can one imagine a \$5-million federal grant without strings?) but because it imposes the responsibility of local self-government on local citizens. With freedom comes responsibility. Have we been duped into forgetting our responsibilities and our freedom by the carrot of “free” money from a near-century of expanded federal power?

### III. Where to From Here?

So how are limits on federal spending re-established? Refuse federal funds? Demand an end to earmarking? Vote for candidates who insist on specific constitutional authorization for all spending? Perhaps. I am more inclined to think that two longer-run strategies are more compelling.

In the 19th century it was common for legislators to consider the constitutionality of a proposal in their public discussion. Presidents also vetoed legislation they deemed unconstitutional. The Supreme Court was not and is not the sole guardian of the Constitution — recall that elected officials, both federal and state, are oath-bound to support the Constitution. To call them to account on how their actions are justified by the Constitution is not untoward but a duty of an American citizen. This, in turn, implies a second obligation: to develop and be able to articulate a coherent view of what the Constitution implies about governance. This is a challenging, indeed, daunting task — but one that is essential to the preservation of liberty.

### Endnotes

1. I have argued in previous writings that the political process is inevitably characterized by a phenomenon known as rational ignorance. Most voters are systematically ill-informed about the political process and make poor decisions because of this. The voters aren't stupid; they are simply ignorant for the simple



reason that additional information about the likely consequences of their voting choices is unlikely to influence the outcome of an election. Rather than respond on rational grounds such voters often use ideological “shorthands” to inform their voting decisions. For those of us who flatter ourselves as being informed about the political process nothing can be more convincing to our less-informed friends than making a simple, cogent, understandable and ethical case for constitutionally limited government.

2. See John C. Eastman’s contribution on “Spending Clause” and Charles Cooper’s contribution on “The Spending Clause” in *The Heritage Guide to the Constitution* (David Forte, Matthew Spaulding, eds.), Washington, D.C.: Regnery Publishing, 2005, pp. 93-96 and 371-374; see also

Herman Pritchett’s “Article I” in *An American Primer* (ed. Daniel Boorstein), New York: Meridian Books, 1966, pp. 106-120.

3. See Jeffrey K. Tullis, *The Rhetorical Presidency*, Princeton: Princeton University Press, 1987; and the 2007 Volume 19-20 of *Critical Review* for a number of insightful essays on the Tullis thesis.

4. See Larry Riley, “Toohey Bond Still Afloat,” *Muncie Star Press*, Sunday, July 25, 2010, 1D, 4D.

5. The local property tax may not be the sole tax source for bonding; the local income tax may also be used. I do not know if the proposed expenditure is subject to the newly empowered referendum procedures on local capital expenditures — but I hope it is.

*To call elected officials to account on how their actions are justified by the Constitution is not untoward but a duty of an American citizen.*

## Appendix: United States Constitution Article I, Section 8, “Powers of Congress”

**T**he Congress shall have Power To: lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence (sic) and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; To borrow money on the credit of the United States; To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; To provide for the Punishment of counterfeiting the Securities and current Coin of the United States; To establish Post Offices and Post Roads; To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; To constitute Tribunals inferior to the supreme Court; To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations; To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress; To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

# THE FEDERAL AND STATE: A MARRIAGE OF CONSTITUTION

*Even the Indiana numbers suggest nullification*

*The fact that the money must  
be forcefully extracted from  
the taxpayer is evidence  
enough that something  
non-consensual and sub-  
optimizing is occurring.*

by **GEORGE EDWARDS**

**T**he 10th Amendment of the United States Constitution stands as a memorial to the system of checks and balances that once existed between the states and the federal government. Federal spending and the accompanying mandates, however, have reached an impossible level. And something will give first at the state level, where budgets must be balanced without borrowing or printing money.

“One of two things is going to happen,” says Dr. Kevin Gutzman, a *New York Times* best-selling author, an expert on the Constitution, “we can either cut spending and borrowing or hyperinflation will occur.”<sup>1</sup>

According to census data from 1902 to 2009, government spending has increased from six percent of GDP (Gross Domestic Product) to over 44 percent.<sup>2</sup> Throughout this period, the federal government increased its influence on traditionally state-government activities with intensive spending and funding programs. From education to medicine, the federal government has assumed an ever-increasing degree of control. State and local governments seem little more than bureaucracies doing the bidding of Washington.

Liberal economists such as Paul Krugman who, incidentally, failed to see this crisis coming, call for less austerity and more spending even as the national debt reaches \$13.3 trillion.<sup>3</sup> A single year's interest payment on the national debt could fund Indiana's state government for over 20 years. Individuals are seeing a loss of their liberty, a loss in their

ability to control their own futures. Their local governments are losing power as well, seeing control go to the federal government and state governments, which are abdicating influence to the federal government.

Nonetheless, for Mr. Krugman tax revenue spent by any of these governments represents an increase in GDP. The formula for GDP, incidentally, has a government-spending component that increases GDP for every dime government spends.

So if the goal of government is to provide benefit to constituents in some way, then it would be hard to argue that government spending itself is a measure of benefit. The fact that the money must be forcefully extracted from the taxpayer is evidence enough that something non-consensual and sub-optimizing is occurring.

The mayor of my hometown, Kokomo, recently gave a “State of the City” address of which a large portion dealt with government plans initiated at the federal level.<sup>4</sup> In addition, he spoke of the need for annexation or government centralization at the local level.

His only justification for such a radical change in citizenship, sadly, seemed to be that it would put Kokomo in a better position to rally for more federal money. With mayors like this, some might say, who needs a local government?

With over \$18 million of “American Recovery and Reinvestment Act” money being spent in Kokomo's Howard County it is easy to see the motivation for such an upward shift in power.<sup>5</sup>

Not only is the federal government taxing individuals and depreciating the



*George M. Edwards, an intern for the foundation, holds a B.S. in business with an emphasis in finance and economics from Indiana University at Kokomo. He is now enrolled in upper-level mathematics courses at Indiana University-Purdue University at Fort Wayne in preparation for admittance to a Ph.D. program in economics.*

value of their money, it is skewing state and local spending toward goals defined in Washington rather than in Indiana. Most of the federal funds captured by Kokomo, for example, are to be spent on “green” initiatives, *i.e.*, projects that supposedly produce an officially defined ecological benefit.

A recent *New York Times* article illustrates similar micro-management of federal funding. Ms. Joyce Irving, principal of Wheeler School in the low-income Burlington School District of Vermont, is a woman widely admired for her good judgment and the improvements she has made in classroom learning. Nonetheless, she was unexpectedly replaced.

According to *the Times*, “Ms. Irvine was removed because the Burlington School District wanted to qualify for up to \$3 million in federal stimulus money for its dozen schools.”<sup>6</sup> The article explains:

Under the Obama administration rules, for a district to qualify, schools with low test scores, like Wheeler, must do one of the following: close down; be replaced by a charter (Vermont does not have charters); remove the principal and half the staff; or remove the principal and transform the school.

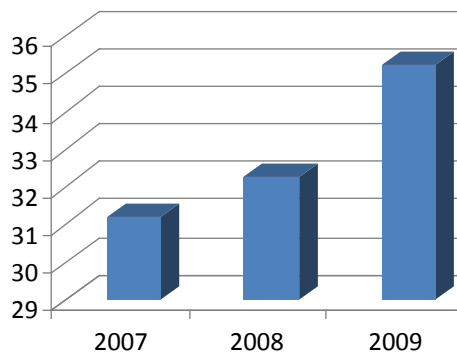
## I. The Federal ‘Alligator’

It is said that federal funding is like an alligator slipping into a pond — it displaces relatively little water but totally changes the ambience.

*The Indiana Policy Review* spent this past summer collecting data on the relationship between federal and state dollars spent on local programs. The primary source of this data was the National Association of State Budget Officers (NASBO), which releases an annual report showing the level of federal influence in state budgets.<sup>7</sup>

During the fiscal year 2008 (from July 1st of 2008 to June 31st of 2009) the level of federal funds used as a supplement to the state of Indiana’s budget had increased significantly to about 31 percent (*see chart 1 above*).<sup>8</sup> This compares

Chart 1: Federal Spending % Indiana



*It is estimated that by 2011 federal spending on K-12 education in Indiana will represent 53 percent of the state budget.*

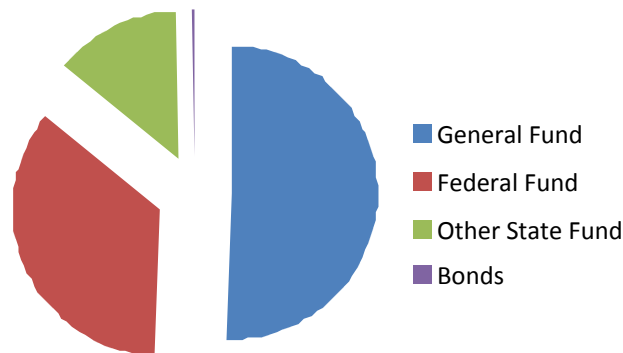
with a federal level of expenditure in state budgets generally of only 26 percent in 2008. Ironically, the remarkable federal influence on Indiana’s state government is due to the relative fiscal conservatism of Indiana’s current administration (*see chart 2 below*).

## Education Dollars

Education funding, historically, has been the responsibility of local government. Now, however, the NASBO data shows a marked increase in federal funds. In just two years, from 2007 to 2009, federal funding for Indiana education jumped from 15 percent to 20 percent (*see chart 3 on next page*).<sup>9</sup>

Dr. Larry DeBoer of Purdue University, an expert on the Indiana budget, estimates that by 2011 federal spending on K-12 (kindergarten through grade 12) education will represent 53 percent of the state budget.<sup>10</sup> This would compare with only 37 percent in 2008. This dramatic increase in spending is marked by an upward

Chart 2: Indiana 2009 (estimated)

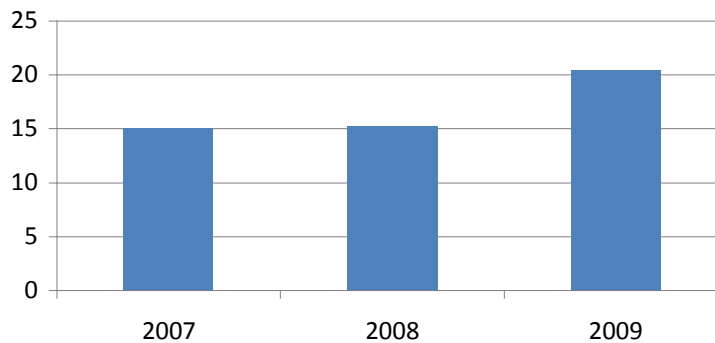


*The source for all charts in this article is the National Association of State Budget Officers.*

*"It is amazing that people who think we cannot afford to pay for doctors, hospitals and medication somehow think that we can afford to pay for doctors, hospitals, medication and a government bureaucracy to administer it,"*

— H.L. Mencken

Chart 3: Federal Spending in Education



flow of power from local to the state government.

More obvious has been the federal government's increasing role in health care. Medicaid is the pluperfect example of a program that has not only overrun its cost but has sucked up a huge proportion of the state budget. As of fiscal year 2008, the federal government contributed almost 64 percent to Medicaid funds in Indiana, individual payers contributing the rest (see charts 4 and 5).<sup>11</sup>

"It is amazing that people who think we cannot afford to pay for doctors, hospitals and medication somehow think that we can afford to pay for doctors, hospitals, medication and a government bureaucracy to administer it," wrote H.L. Mencken more than 75 years ago.

#### Transportation

Transportation is another area of heavy federal influence. Critics argue that instead of letting businesses and individuals work together to produce only roads we need, the federal government over-produces roads, driving out mass-transportation

businesses such as railroads. Now, as if to contradict itself, the federal government is spending money trying to revive rail transportation (see chart 6 on next page).<sup>12</sup>

Why is there so much more influence of the federal government

now than in the past? Again, as is the case with Indiana, the more fiscally conservative state governments will be more heavily influenced by this shift in the relationship between state and federal government.

If a state chooses austerity in order to pay its bills and to live within its means, the federal government, through matching-fund mandates, will undermine that effort. And states trying to attract investment are limited in how much they can reduce taxes in order to offset increasing federal taxes.

Moreover, individual states are at the whim of both the business cycle and of Washington. The ups and downs of the market are often incited by unnaturally low interest rates and monetary expansion caused by the Federal Reserve and Treasury Department.

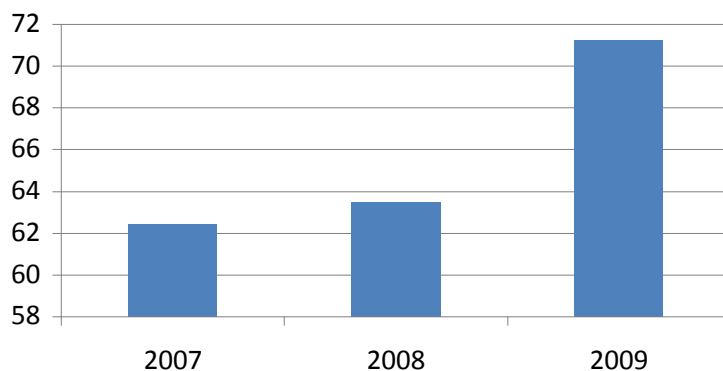
#### The Squeeze Is On

Huge forecasting errors don't help matters. The Fiscal Year (FY) 2009 forecast made in April 2007 was \$1.5 billion more than the updated FY 2009 forecast made in May of 2009.<sup>13</sup> The forecast predicted that Indiana tax revenue would grow two percent. In fact, it fell over seven percent.

The more updated and accurate May 2009 forecast still was too optimistic for FY 2010. The budget shortfall for 2010 is currently down \$1.032 billion, according to a revenue overview found at the state government's website.

In response, Indiana is requiring all state agencies to reduce spending by 10 percent from 2010 budget allocations and 15 percent from 2011 allocations. There also is a freeze on pay raises for state employees. Agencies have been instructed

Chart 4: Federal Funding for Medicaid





to encourage staff to take unpaid days off as well as leave vacant positions unfilled.

Finally, the state government has reduced K-12 spending by \$297 million and general-fund support for colleges and universities by \$150 million or 3.5 percent and six percent of their respective operating budgets. In addition, capital projects are being deferred and Medicaid payments are being reduced. State payroll, in terms of employees, is at the lowest level since 1980. All of these cost-saving actions are estimated to save anywhere from \$796 million to \$906 million.

Will it matter? Such austerity by state and local governments is more than offset by the inflationary and expansionary spending of a federal government. Only a few states and perhaps no local governments have stopped accepting federal support for even a single program. In fact, as mentioned above, it seems as if local officials have become mere functionaries of Washington.

What happened to local representation, that same representation built into our state and federal constitutions? What ever happened to that 10th Amendment?

## II. Unfunded Mandates

As the previous section bore witness, every now and again the populace has cause to become riled about the economy. The legislative branches, for better or worse, try to respond.

In 1995, during the administration of Bill Clinton, Congress passed the Unfunded Mandates Reform Act (UMRA). The law requires the Congressional Budget Office to report information about mandates to Congress before the legislation is considered.<sup>14</sup> This legislation also increased public information regarding mandates.

The state legislatures have reacted as well. Here in Indiana the state Senate passed SR42, which claims sovereignty under the 10th Amendment of the United States.<sup>15</sup> The amendment states that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In addition, Greg Zoeller, attorney general of Indiana, joined with 13 other

Chart 5: Indiana Medicaid 2009 (estimated)

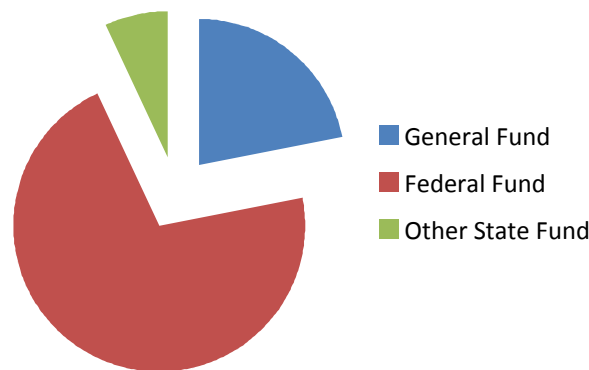
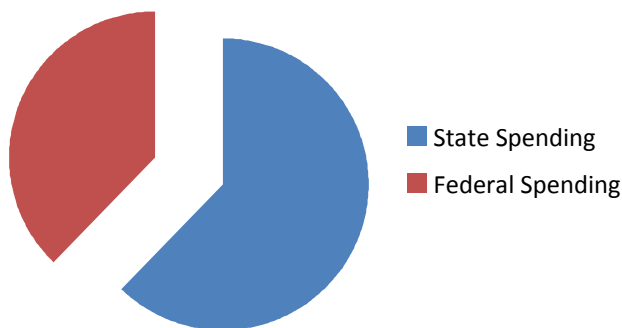


Chart 6: Indiana Transportation 2009 (estimated)



states to sue the federal government over the new healthcare-reform law.

There is, however, a counter reaction. One political scientist, Jess Brown of Athens State University, argues thus:

The Framers of the Constitution had a drafting error in Article 1, Section 8. The best constitution experts cannot go to the U.S. Constitution and find those rights guaranteed to the states.<sup>16</sup>

And in a counter-counter reaction, Michael Boldin, founder of the Tenth Amendment Center, disagrees:

The 10th Amendment codifies in law the intention of the Constitution — that we the people of the several states created the federal government to be our agent for certain, enumerated purposes, and nothing more. The founders promised the people at the time of the founding that much of what D.C. does today would be fully left outside of federal purview, including agriculture, healthcare and banning you from growing a plant in your backyard. Period.

Intellectual debate aside, it can be no surprise that those in power, e.g., the Supreme Court, have little incentive to interpret the Constitution in such a way

· Only a few states  
· and perhaps no local  
· governments have stopped  
· accepting federal support  
· for even a single program.  
· In fact, as mentioned  
· above, it seems as if local  
· officials have become mere  
· functionaries of Washington.

*The cost of gathering information, of reading this article, or of keeping track of mandates on state and federal programs, has been higher for the average voter than the worth of casting a fully informed vote. That cost, however, is rising. Being informed now may be worth the effort in raw survival value.*

as to limit the influence of their particular institution. Power, of course, is as much an incentive as money, a fact that has contributed to our current top-heavy federalist system.

It is unfortunate that laws that would more fully collect and disseminate material information to voters, *i.e.*, the Unfunded Mandates Reform Act of 1995, have not decreased the amount of federal spending. That is so, sadly, even though they may have created a more open government.

Why? Let's face it, If you are reading this article you are already more informed than a majority of the population. Even with acts like UMRA, there still is a huge amount of information for any voter to digest before making an informed decision. And statistically, even if you put in the effort, there is no chance your single vote will matter in any election except the most local.

Economists speak of this as "rational ignorance." The cost of gathering information, of reading this article, or of keeping track of mandates on state and federal programs, has been higher for the average voter than the worth of casting a fully informed vote.

That cost, however, is rising. Being informed now may be worth the effort in raw survival value.

#### *A Mandate Writ Large*

How many mandates are being pushed through each year by the federal government? As a rough measure, the box on the next page lists the mandates for just two years, 2007 and 2008. First, though, let's consider current mandates, their definition and what states are doing to fight them.

The UMRA says a mandate is defined as "any provision in legislation, statute or regulation that would impose an enforceable duty on state, local or tribal governments or the private sector, or that would reduce or eliminate the amount of funding authorized to cover the cost of existing mandates."

The largest and most consequential mandate in history is the one that has dominated recent headlines, House Resolution 3962 reconciled with House Resolution 3200, "To provide affordable, quality healthcare for all Americans and

reduce the growth in healthcare spending, *and for other purposes.*"<sup>17</sup>

The short title for this bill, the "Affordable Health Care for America Act," is an ominous sign of what it *won't* provide for United States citizens. Some believe a more accurate name would have been "The Mandate to Force America to Purchase Health Insurance."

By 2014, according to House Resolution 3962, with a few exceptions for low-income individuals, everyone must purchase insurance or pay an annual fee.<sup>18</sup> The program is supposed to cost \$940 billion over 10 years but save \$130 billion in its first year and \$1.2 trillion in its second 10 years.<sup>19</sup> The savings theoretically come from a government system having to pay out less in healthcare for the poor while others pay in more for mandatory health insurance.

It makes it illegal for individuals to pay for private healthcare without also funding a parallel government bureaucracy. Healthcare expenditures that were previously contracted without insurance will in many circumstances now be contracted with mandated insurance. It is estimated that this could have the effect of increasing the real cost of health expenditures by 100 percent due to bureaucracy alone.

For critics, all this is analogous to an attempt by the government to force both heavy eaters and light eaters to even out their grocery consumption. But in fact, the effect is to increase the incentive of one group to eat at the expense of everyone else.

#### *Is It Even Legal?*

A recent article by two legal experts writing in *the Wall Street Journal* concluded that, "No provision of the Constitution authorizes the federal government to command people to buy insurance."<sup>20</sup> The authors go on to state that this measure cannot be justified under the federal government's power to tax because it does not fall within the three specific constitutionally permissible federal taxes — the duty tax, the excise tax and the capitation tax.

This begs the larger question as to whether any mandate is legal. Can the

## *A Usurpation Sampler*

federal government dictate how states or individuals spend their money?

Medicaid, for example, is a mandate created in 1965 through the Social Security Act. State participation in Medicaid, aimed at those who could not afford other medical care, was initially said to be voluntary. Now the healthcare law loosens standards for the use of Medicaid to include people who earn 1.33 times the poverty limit. Since Indiana and every other state participate in Medicaid, this will necessarily increase the amount the state will have to “voluntarily” dedicate to Medicaid to remain a participant.

To say that Medicaid has been voluntary is a stretch for other reasons. The federal government provides a whole system of matching funds for Medicaid expenditures that forces state governments to adhere to federal requirements. According to the U.S. Department of Health and Human Services:

Federal law provides that a state may qualify for federal Medicaid matching funds only if it designs its program within specific federal requirements.<sup>21</sup>

The choice for a state, then, is a Hobson's choice, either to:

1) Forego revenue irrespective of a tax already collected from its citizens; or 2) create a Medicaid program by federal standards.

Indeed, prior to the federal Affordable Health Care for America Act, Indiana had installed the Healthy Indiana Plan (HIP), which mirrored the federal program in that it sought to even out healthcare options. It did not charge people, however, for avoiding the scheme (save those who were taxed).

Also, Gov. Mitch Daniels, trying to offset a billion-dollar shortfall in the budget, had reduced Medicaid reimbursement to providers. The national law, if upheld, makes moot this and other healthcare austerity efforts. It also effectively destroys the more efficient HIP once the national

In just two years, 2007 and 2008, the mandates that qualify to be listed in the “Mandate Monitor” section of the National Conference of State Legislatures (NCSL), numbered 35.

- The Food and Conservation Energy Act increased easements to farmers, resulting in a loss of property-tax revenue. Two mandates increased fees on pesticide registrants. The Terrorism Risk Insurance Revision and Extension Act of 2007 puts a surcharge on purchasers of some types of insurance to pay back federal assistance to these companies.<sup>23</sup>

- Education mandates have affected Hoosier families as they have the rest of America. The Head Start Act puts schools at risk of not receiving otherwise approved funding if they do not comply with federally imposed values. The Higher Education Opportunity Act places heavy financial burdens on varied groups ranging from universities to textbook-providers in order to comply with an amalgam of laws. These include a requirement that schools allow members of the armed forces readmission after taking service-related leave.

- The Consolidated Appropriations Act, 2008 under-funds states complying with No Child Left Behind and the Individuals with Disabilities Education Act. Ditto for the Continuing Appropriations Resolution of 2007.

- Other, more arguably totalitarian mandates, include the Foreign Intelligence Surveillance Amendments Act of 2008, which, according to NCSL (2009) “allows federal law enforcement to obtain information from communication service providers about customers and users” (p. 11). This not only pre-empts state law but eliminates a legal course of action against phone companies by users. This is listed as a mandate against state governments because a state government could possibly be a plaintiff.

- The National Defense Authorization Act for 2008 expands the application of the Family and Medical Leave Act to affect state, local and tribal governments.<sup>24</sup>

Other recent health mandates include: the Ryan Height Online Pharmacy Consumer Protection Act of 2008, which requires in-person consultations before the purchase of medicine using the Internet; and the Medicare Improvements for Patients and Providers Act of 2008, which “requires states to change laws to comply with standards by the National Association of Insurance Commissioners.” This last mandate also increases state expenditures on Medicare because it increases outreach and enrollment efforts. — *gme*

healthcare rules and regulations go into effect.

### *SWOT Modeling*

The private sector uses something called SWOT analysis to evaluate the “Strengths, Weaknesses, Opportunities and Threats” involved in a project or venture.

If, cynically, the federal government were a business with the end goal of collecting power in a central location during the current economic downturn, then every management textbook would praise its execution of the SWOT application. It sees both state and individual liberty (weaknesses) as threats to its goal and uses its monopolized ability to interpret its own rules (a strength), to

*To say that Medicaid has been voluntary is a stretch.*

## COVER ESSAY

*"If (the relationship between state and federal) is not based on consent then it may as well be a dictatorship."*

— Dr. Kevin Gutzman

take advantage of the current recession (an opportunity), creating the desired upward flow of power.

That, however, is decidedly *not* the goal of the federal government, or at least not the goal under a common reading of the U.S. Constitution. Rather, it is to protect the rights and property of the citizenry with the *consent* of the citizenry.

Dr. Kevin Gutzman, a *New York Times* bestselling author, spoke to this author on the states' relationship with the federal government:

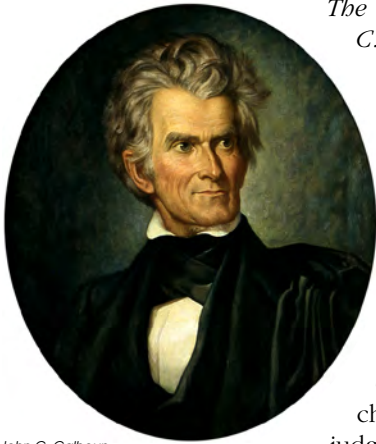
If (the relationship) is not based on consent then it may as well be a dictatorship. If

you want to have a government by the consent of the governed, then the law must be interpreted with the lawmakers' intentions in mind.<sup>22</sup>

Most of us can agree that "might as well be a dictatorship," are not the words that the Founders hoped to hear all these years later.

### III. What to Do

*"If the federal government has the exclusive right to judge the extent of its own powers, warned the Kentucky and Virginia resolutions' authors (Thomas Jefferson and James Madison, respectively), it will*



John C. Calhoun  
by Arthur E. Schmatz Conrad

*The "Fort Hill Address" of 1832 introduced the concept of nullification. John C. Calhoun, considered by John F. Kennedy to be one of the five greatest U.S. senators, argued that the Constitution bound citizens together in consenting states, not as an aggregate of national citizens subject to a central government. He proposed that an aggrieved state could hold a special nullification convention (as they do ratification conventions) to determine if a federal law was unconstitutional. An excerpt follows:*

The great and leading principle is, that the General Government emanated from the people of the several States, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community; that the Constitution of the United States is, in fact, a compact, to which each State is a party, in the character already described; and that the several States, or parties, have a right to judge of its infractions; and in case of a deliberate, palpable, and dangerous exercise of power not delegated, they have the right, in the last resort, to use the language of the

Virginia Resolutions, "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them." This right of interposition, thus solemnly asserted by the State of Virginia, be it called what it may — State-right, veto, nullification, or by any other name — I conceive to be the fundamental principle of our system, resting on facts historically as certain as our revolution itself, and deductions as simple and demonstrative as that of any political or moral truth whatever; and I firmly believe that on its recognition depend the stability and safety of our political institutions.

I am not ignorant that those opposed to the doctrine have always, now and formerly, regarded it in a very different light, as anarchical and revolutionary. Could I believe such, in fact, to be its tendency, to me it would be no recommendation. I yield to none, I trust, in a deep and sincere attachment to our political institutions and the union of these States. I never breathed an opposite sentiment; but, on the contrary, I have ever considered them the great instruments of preserving our liberty, and promoting the happiness of our selves and our posterity; and next to these I have ever held them most dear. Nearly half my life has been passed in the service of the Union, and whatever public reputation I have acquired is indissolubly identified with it. To be too national has, indeed, been considered by many, even of my friends, my greatest political fault.

With these strong feelings of attachment, I have examined, with the utmost care, the bearing of the doctrine in question; and, so far from anarchical or revolutionary, I solemnly believe it to be the only solid foundation of our system, and of the Union itself; and that the opposite doctrine, which denies to the States the right of protecting their reserved powers, and which would vest in the General Government (it matters not through what department) the right of determining, exclusively and finally, the powers delegated to it, is incompatible with the sovereignty of the States, and of the Constitution itself, considered as the basis of a Federal Union. As strong as this language is, it is not stronger than that used by the illustrious Jefferson, who said, to give to the General Government the final and exclusive right to judge of its powers, is to make "its discretion and not the Constitution, the measure of its powers;" and that, "in all cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress." Language cannot be more explicit, nor can higher authority be adduced.



*continue to grow — regardless of elections, the separation of powers and other much-touted limits on government power.”*

— Historian Thomas E. Woods

Policymakers are searching for solutions to budget shortfalls and federally mandated spending. The list of mandates on the preceding page makes clear it will take more than a gimmicky “Contract With America.” It will take profound renewal of the “Contract With the American States,” a.k.a. the U.S. Constitution.

Some believe “nullification,” the other side of the established practice of “ratification,” is the first step in that direction.

According to the Tenth Amendment Center, “When a state nullifies a federal law, it is proclaiming that the law in question is void and inoperative, or ‘non-effective,’ within the boundaries of that state; or, in other words, not a law as far as that state is concerned.”<sup>25</sup>

Indeed, 2010 is not the first year the federal government has tried to grab power for itself at the expense of the states. Only a few years after the brutal struggle for independence from the British Empire, John Adams signed into law four acts known as the Alien and Sedition Acts in 1798.<sup>26</sup>

Thomas Jefferson wrote a legislative response that same year known as The Kentucky Resolutions (Thomas Jefferson, 1798). In Virginia, both James Madison and Jefferson collaborated on legislation called Virginia Resolutions.<sup>27</sup>

The Alien and Sedition acts included restricting any “false, scandalous and malicious writing” against the president, Adams, and other government officials. (Interestingly, there were no restrictions on malicious statements against the vice-president, Jefferson.)

Jefferson and the states pushed back with the Kentucky Resolutions, which stated:

That the several states composing the United State of America, are not united on the principle of unlimited submission to their general government.<sup>28</sup>

#### *Nullification Now?*

“The Real ID” mandate is a good example of nullification in action.

The federal Real ID requires millions upon millions of dollars in changes to information collection and dissemination procedures for state bureaus of motor vehicles. Currently, over 25 states, excluding Indiana, have passed binding laws refusing to implement the Real ID requirements.

On a more individual level, marijuana laws also are a target of nullification campaigns.

Returning to the Kentucky Resolutions, it was reiterated that the ability of the federal government to prosecute states or individuals is limited to the enumerated rights in the Constitution. The resolutions state that not only was the federal attempt to punish frauds committed against the Bank of the United States void but so were “all their other acts which assume to create, define, or punish crimes, other than those so enumerated in the Constitution.”<sup>29</sup>

That, supposedly, would nullify marijuana and other drug laws. Indeed, many states now allow for medical marijuana use in violation of federal laws.

The Indiana Legislature, to my knowledge, has never seriously challenged federal power through the process of nullification. It has passed non-binding resolutions, as mentioned earlier, and has introduced nullification bills, but has not acted on them. Bills for healthcare freedom and constitutional tender never made it through the legislative process.

Critics of nullification note that its scope is limited. It may be true that nullification can be effectively applied to unfunded or partially funded mandates. If attached to matching-fund mandates, however, as is the case with Medicaid, a state risks losing politically impossible chunks of revenue.

Passage of the 17th Amendment, the popular election of senators, effectively negated the ability of independent-minded states to check the power of the federal government.

Economists will tell you the opportunity costs today are prohibitive for any state intent on austerity and the nullification of expensive federal mandates. If you doubt that, review those charts showing the percent of federal spending in Indiana.

*“That the several states composing the United State of America, are not united on the principle of unlimited submission to their general government.”*

— Thomas Jefferson writing in the Kentucky Resolutions

*It is a mistake to dismiss nullification because of historical characterization alone. After all, federal law has been used to commit atrocious crimes against minority groups, i.e., the laws affecting fugitive slaves as well as those stripping Native Americans of their individual and natural rights.*



What state legislator or governor would choose to make up lost mandated funding with new state taxes? And these new taxes, please know, would be imposed on top of existing federal taxes, which would continue to be levied on a politician's constituency to be distributed to citizens of more compliant states.

Proponents of nullification also would have to overcome a historical view that the procedure would have been used to preserve slavery in the cotton-producing southern states.<sup>30</sup> In fact, however, it was used to fight the Fugitive Slave Act, a federal law that made it illegal to harbor runaway slaves.

In any case, it is a mistake to dismiss nullification because of historical characterization alone. After all, federal law has been used to commit atrocious crimes against minority groups, i.e., the laws affecting fugitive slaves as well as those stripping Native Americans of their individual and natural rights. One can imagine several if not many individual states nullifying such abuses of power.

For an institution itself, be it federal or state, has no moral character, only the users of the institution can be said to have character.

*"When all shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another."*  
(Jefferson)

Indeed, this argument against nullification turns back on itself. Moral character can only be assigned to the users of the institutions, regardless of the good intentions assumed by those institutions.

And everything history tells us is about that character is dependably bad — self-interested, to be specific. Power over these institutions, therefore, should be dispersed in hopes of checking man's untrustworthy nature.

That, of course, was the Founders' point — that the men and women who run states commit wrongs and those who run the federal government commit wrongs. They need to keep watch on one another.

Nullification does just that in a modern context: It checks the powers of the federal government and dissolves its concentration in the hands of a Washington few — a worthy goal in these trying times.

## Endnotes

1. Kevin Gutzman, phone interview by George Edwards. (July 8, 2010.)

2. C. Chantrill. (2010). Total US Spending from FY 1900 to FY 2009. Retrieved July 23, 2010, from Government Spending: [http://www.usgovernmentspending.com/downchart\\_gs.php?year=1900\\_2015&view=1&expand=&units=p&fy=fy11&chart=F0-total&bar=0&stack=1&size=m&title=&state=US&color=c&local=s](http://www.usgovernmentspending.com/downchart_gs.php?year=1900_2015&view=1&expand=&units=p&fy=fy11&chart=F0-total&bar=0&stack=1&size=m&title=&state=US&color=c&local=s)

3. Paul Krugman. (2010, June 2). In Ireland, A Picture of the High Cost of Austerity. *The New York Times*, p. A1.

4. G. Goodnight. (2010, March 8). State of the City of Kokomo, Indiana. Retrieved August 3, 2010, from City of Kokomo: <http://www.cityofkokomo.org/main.asp?SectionID=45&SubSectionID=63&ArticleID=291>

5. P. Munsey. (2010, February 4). Mayor Refutes Dunn's Green Bashing. Retrieved August 3, 2010, from *Kokomo Perspective*: [http://www.kokomoperspective.com/news/article\\_8d1aa2d8-1104-11df-92e7-001cc4c03286.html](http://www.kokomoperspective.com/news/article_8d1aa2d8-1104-11df-92e7-001cc4c03286.html)

6. M. Winerip. (2010, July 19). A Popular Principle, Wounded by Government's Good Intentions. *The New York Times*, p. A11.

7. NASBO. (2009). State Expenditure Report 2008. Washington, D.C.: National Associate of State Budget Officers.

8. *Ibid.*

9. *Ibid.*

10. L. DeBoer. (2010, January 15). "An Overview of the Indiana State Budget." Retrieved August 3, 2010, from Agecon: [http://www.agecon.purdue.edu/crd/localgov/Topics/Essays/State\\_Budget/htm](http://www.agecon.purdue.edu/crd/localgov/Topics/Essays/State_Budget/htm)

11. NASBO, *op. cit.*

12. *Ibid.*

13. Mitch Daniels. (2009, June 2). "Governor's Presentation to State Agency Heads." Retrieved August 3, 2010, from Budget Recommendations for 2009 Special Session: <http://www.in.gov/sba/2531>

14. Congressional Budget Office. "An Overview of Key Provisions in the Unfunded Mandates Reform Act." Congressional Budget Office. July 15, 1995. <http://www.cbo.gov/ftpdocs/90xx/doc9068/AppendixA.4.1.shtml> (last viewed July 30, 2010).

15. Tenth Amendment Center. "Indiana Senate Passes SR42 Claiming Sovereignty under the 10th Amendment." Tenth Amendment Center. April 9, 2009. <http://www.tenthamendmentcenter.com/2009/04/09/indiana-senate-passes-sovereignty-under-the-10th-amendment/> (last viewed July 30, 2010).

16. M.J. Ellington. "Alabama's Department Budgets Rely Heavily on Federal Funds." *Decatur Daily*. Decatur, Alabama: *Decatur Daily*, Jan. 31, 2010.

17. House Resolution. "Affordable Health Care for America Act." Washington, D.C.: United States Government, Oct. 29, 2009.

18. *Ibid.*

19. Stephanie Condon. Dem Health Care Bill Pegged at \$940B Over 10 Years. March 18, 2010. [http://www.cbsnews.com/8301-503544\\_162-20000691-503544.htm?tag=contentBody](http://www.cbsnews.com/8301-503544_162-20000691-503544.htm?tag=contentBody) (last viewed Aug. 2, 2010).

20. J. Kenneth Blackwell, J. and Kenneth A. Klukowski. "Why the ObamaCare Tax Penalty is Unconstitutional." *The Wall Street Journal*, July 22, 2010.

21. Health Resources and Services Administration. Opportunities to Use Medicaid in Support of Access to Health Care Services. <http://www.hrsa.gov/medicaidprimer/> (last viewed Aug. 3, 2010).

22. Gutzman, *op. cit.*

23. National Conference of State Legislatures. "June 2009 Catalog." NCLS. June 15, 2009. <http://www.ncsl.org/StateFederalCommittees/BudgetsRevenue/MandateMonitorOverview/tabid/15850/Default.aspx> (last viewed July 29, 2010).

24. *Ibid.*

25. Tenth Amendment Center. (2010). The 10th Amendment Nullification Movement. Retrieved August 4, 2010, from The Tenth Amendment Center: <http://www.tenthamendmentcenter.com/the-10th-amendment-movement/#10thbills>

26. Wikipedia. (2010, August 4). Alien and Sedition Acts. Retrieved August 4, 2010, from Wikipedia: [http://en.wikipedia.org/wiki/Alien\\_and\\_Sedition\\_Acts](http://en.wikipedia.org/wiki/Alien_and_Sedition_Acts)

27. John Madison and Thomas Jefferson. (1798, December 24). Virginia Resolutions of 1798. Retrieved August 4, 2010, from Constitution.org: <http://www.constitution.org/cons/virg1798.htm>

28. Thomas Jefferson. (1798, November 10). The Kentucky Resolutions 1798. Retrieved August 4, 2010, from Constitution: <http://www.constitution.org/cons/kent1798.htm>

29. *Ibid.*

30. T. Woods (2010, April 6). The Ivy League Hates Nullification. Retrieved August 4, 2010, from Lew Rockwell: <http://www.lewrockwell.com/woods/woods131.html>

*Moral character cannot be assigned to an institution like the federal or state government. It can only be assigned to the users of those institutions, regardless of any good intentions assumed by those institutions. And everything history tells us about that character tells us it is dependably bad — self-interested, to be specific.*

Is ObamaCare constitutional? 'If you ask any constitutional law professor whether Congress can do something, the answer is always yes,' says Randy Barnett. But Mr. Barnett, who teaches legal theory at Georgetown, isn't just any law professor. A self-described 'radical libertarian,' he is the author of a 2004 book, *Restoring the Lost Constitution*, that argues for a fundamentally new approach to jurisprudence. Since the New Deal, Supreme Court justices have generally assumed a law is constitutional and overruled it only when it infringes on an individual right that is enumerated in the Constitution (free speech) or not (privacy). 'If you're talking about the regulation of economic activity, the presumption of constitutionality is for all practical purposes irrebuttable,' Mr. Barnett says. Instead, Mr. Barnett would have the court adopt a 'presumption of liberty,' placing the burden on the government to show that a law has a clear basis in Congress's constitutional powers. 'The easiest way to explain it is, it would basically apply to all liberty the same basic protection we now apply to speech,' he says. It's an attractive theory to those of us with libertarian sympathies — a group that seems to be growing in reaction to the Obama administration's unprecedented expansion of federal power. — *James Taranto, the Wall Street Journal, July 24, 2010*

## PHOTO ECONOMICS: THE POWER OF PROPERTY

*Sometimes a picture is worth a thousand central planners.*

*The fact that the two Koreas are so far apart in economic institutions and economic outcomes is a useful reminder that living standards don't just happen. The goods and services responsible for our survival and enjoyment of life must be produced.*

by NORMAN VAN COTT

**I**suggested in an earlier article that aerial photography of the border between barren Haiti and the heavily forested Dominican Republic was a predictor of the recent Haitian earthquake devastation. Not the earthquake, mind you, but the devastation that followed.

The property-rights vacuum that encouraged Haitians to cut trees down without replanting also motivated them to skimp on construction durability. When the “big one” came, buildings collapsed and tens of thousands died. Incentives mattered, big time.

A satellite photo of the Korean peninsula provides a similar border-economics lesson. Taken at night, the photo shows South Korea lit up like a Christmas tree but North Korea has just one isolated dot of light. The message: In a vibrant region, North Korea is a failure, especially compared with its brethren just over the DMZ.

Economic statistics confirm the message. South Korea is the world's 15th-largest economy. North Korea is an economic coffin, at or near the bottom of all national economic rankings except misery. Things were not always this way, however. Some 60 years ago living standards were actually higher in the north.



What happened? The short answer is that the South Koreans accepted private-property rights as an organizing principle for economic activity. The North Koreans shunned such rights, opting for the seeming sureness of top-down economic decision-making. Institutional choices trumped Koreans' common cultural heritage and language to produce a disparity in living standards surely unimaginable to those who made the choices.

The Heritage Foundation publishes an Index of Economic Freedom, of which the security of private property is an important component. Of the 179 countries in the 2010 index, South Korea is 31st and North Korea is . . . you guessed it, 179th. Economic data for closed societies like North Korea are sketchy. Nevertheless, Heritage estimates South Koreans' average income to be a double-digit multiple of that of their northern counterparts.

The contrast is sobering. But before we get too gushy about South Korean economic institutions, a note of caution is in order. South Korea has long pursued “crony capitalism,” where a number of chaebol (large industrial conglomerates, usually controlled by a single family) enjoy preferential status with the government. Samsung, Hyundai and LG are three of the better-known chaebol. Among the special privileges of chaebol is access to

*T. Norman Van Cott, Ph.D., an adjunct scholar of the Indiana Policy Review Foundation, is a professor of economics at Ball State University. A version of this article first appeared in the July/August 2010 issue of The Freeman. Copyright © 2010 The Freeman. All rights reserved. Reprinted by permission.*





Source: Orbiting Defense Meteorological Satellite Program (DMSP) satellite; <http://www.globalsecurity.org/military/world/dprk/dprk-dark.htm> (last viewed July 22, 2010).

*The notion that market closure somehow promotes economic advancement is fatuous and at odds with all economic logic and evidence. Market closure, with or without a miraculous ability to “pick winners,” stunts advance, reducing living standards below what they otherwise would be.*

government finance not open to others. The effect of such “privileges” is to limit entry of non-chaebol competitors. It also lets them deploy various tariffs and subsidies to keep imports — especially those from politically unpopular countries — artificially expensive.

Attempts at market closure are certainly not unique to South Korea, but it does make it difficult to label South Korea a wide-open, free-market economy. That South Korea has experienced prosperity in the presence of such impediments leads statist-types to assert that its government officials must have “picked the winners.” How myopic, risk-averse bureaucrats, largely immune from the consequences of their decisions, can have such insight goes unexplained.

#### *Success Despite Cronyism*

The more important point, however, is that the notion that market closure somehow promotes economic advancement is fatuous and at odds with all economic logic and evidence. The adage about correlation not implying causation certainly applies here. Market closure, with or without a miraculous ability to “pick winners,”

stunts advance, reducing living standards below what they otherwise would be. South Koreans enjoy relatively high living standards despite their government’s crony capitalist practices, not because of the practices, though the families in charge of the chaebol and people pursuing lifetime employment certainly get some extra benefits. Absent such practices, overall living standards would be even higher.

At the same time, the fact that the two Koreas are so far apart in economic institutions and economic outcomes is a useful reminder that living standards don’t just happen. The goods and services responsible for our survival and enjoyment of life must be produced. They don’t spontaneously appear like Old Testament manna or multiply like New Testament loaves and fishes.

The problem is that there’s not enough land, labor and capital to produce everything people want. Consequently, every society must have processes that determine what gets produced and who produces it. The yardsticks for measuring the effectiveness of these processes are the extent to which people value what is produced and that this production

## SPECIAL REPORT

*It's not that benevolence and love are incapable of motivating our actions. It's just that their operative range is limited by the extent we want to live in an economy with the high living standards that follow on a substantial division of labor and its accompanying anonymity.*

occurs at minimum cost or sacrifice. For example, raising beef cattle in downtown Boston for the American Vegetarian Society conventions fails on both counts. Not only would the beef be of no value to its intended users, it would also be exceedingly costly in terms of other things that could have been produced on the Boston real estate. It would destroy wealth.

Raising cattle on, say, Montana ranches for National Football League training camps would be at the other end of the spectrum. Low opportunity cost and high consumption value translate into wealth creation.

Private property in a truly free market harnesses self-interested sellers and buyers to act as wealth creators, not destroyers. First, such sellers will seek out the buyers who value their products most highly, since they will be willing to pay the most. Second, self-interested buyers will be drawn to lower-cost producers, since they will be most willing to sell at lower prices. The result is high consumption value at low cost—more wealth.

### *Smile Like You Mean It*

Lest you think that this process begins and ends in self-interested behavior, note that self-interested sellers are also constrained to act as if they cared about buyers. To wit, they must offer buyers terms that benefit buyers. Otherwise, buyers don't buy. Likewise, self-interested buyers must act as if they cared about sellers by offering terms that benefit sellers, or sellers don't sell. Wealth accrues to people on both sides of the transaction.

My idealistic students tell me that acting as if you care about your counterparts in the marketplace isn't good enough. It's so shallow; we need to really care, say these students. Put differently, my students are telling me that economic actions should be grounded in benevolence and love. It's a fair comment. What's the answer?

Interestingly, Adam Smith noted in his 1776 masterpiece, *The Wealth of Nations*, that "In civilized society (man) stands at all times in need of the co-operation and assistance of great multitudes, while his whole life is scarce sufficient to gain the friendship of a few persons." It's not that benevolence and love are incapable of

motivating our actions. It's just that their operative range is limited by the extent we want to live in an economy with the high living standards that follow on a substantial division of labor and its accompanying anonymity.

So I tell my students that if they want to really care, join a commune. Not surprisingly, they take a rain check.

To think that top-down, czar-like government directives could even remotely approximate the market's assignments of production tasks and consumption benefits is wrongheaded. There is no way so-called economic czars could ever command the millions upon millions upon millions of bits of information about buyer valuations and producer opportunity costs for countless numbers of goods and services. It simply cannot be done. And if a society tries? Lights out! Look again at that satellite photo.

Individual sellers and buyers in free markets have no need for information on such a cosmic scale. Readily observed prices provide each, individually, with the economic equivalent of green lights and red lights to guide their activities in wealth-creating directions. The lights flash green when selling prices rise relative to costs; they flash red when costs rise relative to selling prices.

Moreover, and this is key, each seller only needs to know the price of what he sells and his costs, just as each buyer only needs to know the price of what she buys relative to the value she places on the item. Do sellers have to know why prices are what they are, or why their costs are what they are? No. Do buyers have to know why prices are what they are, or why their consumption valuations are what they are? No.

Sellers and buyers responding individually to the green and red lights embodied in prices permit these millions of bits of information about potential sellers and buyers to get processed into market outcomes. Production assignments for a vast array of goods and services go to their lower-cost producers and the corresponding consumption benefits go to their higher-valued users. No one knows a lot, but lots of lights go on.

Look at that photo again.



# WHY TOWNSHIPS MATTER

*Democracy is process, not personality; we should learn how it works.*

by MARYANN O. KEATING

(Aug. 9)—Even school children recognize and respond to the personalities of politics. Given a quick across-town drive, a young Hoosier on Memorial Day managed to shake hands with two mayors, one leading the South Bend “West Side Parade” at 8:15 a.m. and another on Main Street in Mishawaka at 9 a.m. Other politicians worked the sidelines, their names and functions not as well recognized.

At a recent neighborhood party, however, less than half the adults present were able to identify their township. And most admitted to their chagrin that they were clueless as to congressional, general assembly or county-commissioner district numbers.

The discussion turned to local taxes (the federal marginal tax rate being off-limits socially). Some consensus prevails that about 3.4 percent of taxable income plus sales tax revenue, now 6.5 percent, goes to Indianapolis. These folks guessed that another 1.25 percent of taxable income, more or less, goes to county government. This revenue is shared with city government and school districts that receive as well the one percent collected yearly on the assessed

value of a family’s primary residence. The nuances of homestead exemptions, the County Option Income Tax and the County Economic Development Income Tax are beyond most of us, merely trying to hang onto jobs and bring home the brats.

So wouldn’t it be more simple and efficient if all these taxing authorities and their functions were centralized?

No, it would not. The value of fiscal federalism is recognized in the study of economics, sometimes defined as “the science of efficiency.” There are distinct ways in which local government provides benefits that centralized government cannot. We should recognize them. In other words, we should know our township.

In general, areas flourish when they are permitted to make as many decisions as possible at the lowest level possible. It makes sense to finance and provide national defense, bridges and highways beyond the local level. Certain allocations,

*“So wouldn’t it be more simple and efficient if all these taxing authorities and their functions were centralized? No, it would not.”*

— Keating



The Indiana Writers Group is distributed each Monday to 22 of Indiana's leading newspapers and blogs. Editors may subscribe by contacting the foundation at [IndianaPolicyReview@verizon.net](mailto:IndianaPolicyReview@verizon.net).



Maryann O. Keating, Ph.D., a South Bend resident and an adjunct scholar of the Indiana Policy Review Foundation, is co-author of *Microeconomics for Public Managers*, Wiley/Blackwell, 2009.

*"South Africa today is sad proof that skewing markets to favor a particular group of people, however wronged in the past, can have disastrous economic consequences."*

— Mansfield

however, emergency rooms and education being examples, represent regional demographics. Ideally, local government adapts more quickly and efficiently than centralized government to changing circumstances. And within some range we should not expect the portion of local finance allocated to libraries, say, to be uniform throughout the state and from year to year.

Each family allocates its income between housing and recreation in a different manner, as does each community. Even for those advocating a state-national curriculum, it is desirable that vocational programs reflect local occupational opportunities and expertise. The cost to construct and maintain a mile of highway will differ from place to place depending on terrain. And diverse communities celebrate certain national holidays more or less intensively according to local preference and tradition.

In many instances, then, variety is the spice of life. Local government units learn from and compete with one another. The economist Charles Tiebout observed how residents vote with their feet by moving to obtain their desired package of local services at the least cost. Relocations do not disparage either individuals or local communities; they represent free choice. Every town is limited by the quality and quantity of public goods it can offer. On a trivial level, one city may offer great public tennis courts and beach volleyball. Individuals have different values and interests, and it may be easier to move than try to change local politics. One family may locate where public schools offer a program suited to the special needs of a particular child, or another family will move to an area providing services for senior citizens. A community that chooses to retain a variety of households will take care not to excessively tax one group to provide services for another.

Now, if I can get the children of North Central Indiana to learn that they reside in the 2nd Congressional District . . . and as soon as they can identify their township, they can figure out that District H006 and District S10 represent their interests in the Indiana General Assembly. In addition, they should be made aware that their allegiance rests with the 3rd District county

commissioner and the council member representing District G.

Got that, you adults?

## Hype and the New South Africa

by CHARITY MANSFIELD

(July 13) — Viewers of the World Cup finals last weekend were treated to the pageantry of the "beautiful game" but little of the reality of post-Apartheid South Africa. That is unfortunate, for it includes an important lesson for the rest of the world.

Beginning with the obvious, Apartheid was blatant and brutal. Black South Africans were held down by multiple levels of interlocking economic restrictions. Minimum-wage legislation was a particularly cynical example, written not to ensure a living wage but to price blacks out of the labor market. Additionally, labor unions and work permits (issued by white officials) limited opportunity.

Since Apartheid's end, South Africa has cut its murder rate, made advances in child nutrition, doubled enrollment in public schools, provided welfare benefits to millions and begun the world's largest HIV/AIDS treatment program.

Few know, however, decades after the installation of majority rule, that new laws intended to correct injustices between races are crippling the nation's hope of prosperity. In fact, South Africa today is sad proof that skewing markets to favor a particular group of people, however wronged in the past, can have disastrous economic consequences.

South Africa's average life expectancy has decreased from 62 years in the 1990s to 47 years. Over half the nation is impoverished and lacks access to electricity or heat. The country is experiencing the world's highest unemployment rate (25 percent).

So if not Apartheid, what's holding down South Africa, particularly its black majority?



Charity Mansfield, Russiaville, is an undergraduate studying economics and law at Ball State University and the winner of its 2010 Koch Foundation competition. She wrote this for the foundation.



First, there is widespread government corruption. Black South Africans are given government jobs regardless of qualification. Capable white citizens flee, contributing to the drop in national productivity.

A recent article in *the Wall Street Journal* made ominous mention of possible violence against the *makwerekwere* — slang for outsiders, immigrants from neighboring African countries.

Second, there is healthcare. Even the South African minister of health describes the public hospitals as “deathtraps” — dirty, overcrowded, inadequately supplied and poorly staffed. That is said as the government shells out over 3.7 percent of the nation’s Gross Domestic Product for the healthcare system.

It is not surprising, then, that many medical professionals choose to work for the private sector while many families choose to pay substantially more for private care.

And there is public education. If better schools had been provided to post-Apartheid black citizens, productivity levels may not have dropped so drastically.

Those public schools accessible to impoverished blacks today are the same inferior schools that were once “all black” during the Apartheid era. (In 1989, for instance, the pass rate at the black schools was 41 percent compared with 96 percent at all-white institutions).

In an attempt to make up for past injustices, South African universities now make exceptions for disadvantaged black students, lowering admission and other standards. The quality of education is thereby compromised.

This has a trickle-down effect upon productivity levels in South African industry. In fact, private schools are offering such a better education that even poorer families pass up the free public schools to give their children an advantage finding jobs.

South Africa, beyond the lights and spectacle of the World Cup stadiums, is a tragic lesson being learned for a second time: Government interference to advance a particular group — white or black, either to assert supremacy or as an attempt to rectify a past wrong — has severe consequences.

## Resources

Matthew Kaminski. “South Africa: After the Vuvuzelas Go Quiet.” *The Wall Street Journal*, July 10, 2010.

“Don’t Get Ill: Or if You Do, Go Private.” *The Economist*, June, 2010.

Stephan Gelb. “Inequality in South Africa: Nature, Causes, and Responses.” November 2003, The Edge Institute. June 2010 <www.commerce.uct.ac.za>.

“Hold your nose: The Smell of Corruption.” *The Economist*, June, 2010.

“Jobless Growth: The Economy Is Doing nicely —But at Least One Person in Three Is Out of Work.” *The Economist*, June, 2010.

“Last in Class: Education Needs to Take a Giant Leap.” *The Economist*, June, 2010.

“The Price of Freedom: Since Embracing Full Democracy 16 Years Ago, South Africa Has Made Huge Strides.” *The Economist*, June, 2010.

Walter Williams. *South Africa’s War against Capitalism*. New York, New York: Praeger Publishers, 1989.

## My Immigrant Grandfather

by JOE SQUADRITO

(July 1)—I spent over three decades in law enforcement. It was a time when our society faced complicated issues. America was changing rapidly. Our values, our laws and the fundamental principals for which the nation stood were challenged as never before.

Even as a young officer, I was from time to time concerned about our nation and our way of life. What would freedom, as I knew it, be like in the next decades? What value system would replace our Judaic/Christian ethics? Would there be a “silent majority” or would we all be drones led by an elite that ruled on high? Everything about the way we lived seemed to be coming undone then, too. In sum, the things I was taught about America were being challenged; everyone seemed

*“I can proudly say that I watched my parents become citizens of the United States, watched them vote for the first time. But above all, I remember what my parents and grandparents told me about Sicily (the old country) and about making their way in their new homeland.”*

— Squadrino



Joseph Squadrino, an adjunct scholar of the Indiana Policy Review Foundation and a custom carpenter in Fort Wayne, served two terms as sheriff of Allen County.

*"We need strict enforcement of the existing laws, both in regard to immigration and to labor. And all this talk about racial profiling is just over the top. It gives the politicians in Washington a chance to spin the focus and confuse the topic."*

— Squadrito

to be saying that this great nation wasn't so great after all.

That struck me hard. I am a first-generation American. I can proudly say that I watched my parents become citizens of the United States, watched them vote for the first time. But above all, I remember what my parents and grandparents told me about Sicily (the old country) and about making their way in their new homeland.

It's important to say here that Sicilians consider themselves Sicilians first and Italians second. There was no love of the mainlanders who were the ruling class and who saw Sicilians as uncivilized mongrels and assassins. I well remember my family saying: "Joe, if things were so good in the old country do you think we would have left our families for America? No, people were starving. If you lived to age 50 there, it was a miracle of God. Sicily is a beautiful island, but the people are impoverished and the government is both cruel and corrupt."

I was my paternal grandfather's namesake, and he spent many hours walking with me along the towpath between the locks of the Erie Canal. We talked about a multitude of subjects, and when he felt his words would be important in my life he spoke in his native tongue. I remember his hazel eyes being as expressive as his words.

One late-summer day I asked my grandfather why he came to America. He explained that unlike other immigrants he came here not to escape poverty but to escape the priesthood, a life his father had dictated. Here in America he could make his own way.

Nor did my grandfather come to America poor and illiterate. He knew a great deal of America's history and its Constitution, so he had one leg up on most immigrants. He never worked in a sweatshop but he helped those who did. He could read and write English, Latin, Italian and Greek. From our walks along the towpath, I learned a great deal. His lessons on who we were, what we were and why immigrants came to America are as true today as they were with the Pilgrims.

To a great extent, immigrants of my grandfather's generation came to America

to escape something, *i.e.*, religious persecution, abject poverty, servitude, political upheaval or war. They didn't know about the Constitution, Bill of Rights, Democracy or our guaranteed freedoms for individuals. Today's immigrants, for the most part, don't know these things either. They know that if they keep their heads down, work hard and are inconspicuous, they'll get by. They'll do any job, work long hours without complaint and at a pay scale far less than minimum wage.

This is just as it was at the turn of the 19th century. The difference is that the Europeans came here with work visas, and if they chose to stay they applied for citizenship. The first wave of immigrants applied for entry and were documented. They went through what was then "the system" — Ellis Island, medical isolation, authentication of documents and verification of sponsor.

These immigrants never asked for anything from the government except a chance to prove themselves worthy of entry and eventually earn citizenship. They worked in the sweatshops for the industrial barons but they knew someday the situation would improve — if not for them, then for their posterity. They invested in America when America needed it most, and they would sacrifice their sons in war again and again defending it. They made America stronger.

So could it be that we don't need new laws? We need strict enforcement of the existing laws, both in regard to immigration and to labor. And all this talk about racial profiling is just over the top. It gives the politicians in Washington a chance to spin the focus and confuse the topic.

For years, I have had occasion to ask immigrants from Europe what they think about the current problem. Many of those entering the country today are not refugees, they say to me, but persons violating our laws and persons who should be sent back. Yes, they feel sorry for them, but they must respect the rule of law if they wish to work and live in America.

While the motivation of today's immigrants may be the same, the methods of entry are vastly different. All three branches of the federal government have failed to deal with this issue for decades. The problem, as one would expect, has

grown into a national crisis threatening the safety of our citizens and bankrupting our states. And in the absence of federal action, states and municipalities are enacting supplemental laws.

That, in and of itself, should tell us that something is dreadfully wrong.

## Quizzing the College Board

by ANDREA NEAL

(June 22) — *Newsweek's* ranking of the nation's best public high schools gives disproportionate attention to one variable of school quality: the percentage of students who take an Advanced Placement or similar test. It should also focus attention on one of the rarely questioned yet more mercenary institutions in the educational bureaucracy: the designer of the Advanced Placement program, a.k.a. the College Board.

This is the organization best known for the SAT exam that almost every college-bound student takes once and sometimes multiple times at \$47 a pop. Now, through its heavily marketed AP Program offering college-level coursework in 30 subjects, College Board holds increasing sway over state education departments and curricula used in the nation's high schools.

And yes, it has mercenary traits. Notwithstanding its not-for-profit status and its mission "to connect students to college success and opportunity," the College Board charges high prices for tests and test-prep materials while promoting policies that encourage more testing and more buying of test-prep materials. Families of high-school age students and taxpayers bear the costs.

In Indiana, as in many states, the costs are rising. The Indiana Department of Education has made it a priority to increase the number of schools offering AP courses and the number of students taking AP tests. The intent is to encourage a climate of academic rigor that will prepare students for college and beyond. But before the state buys wholeheartedly into the AP culture, it should take note of recent criticisms.



Andrea Neal is an adjunct scholar and columnist with the Indiana Policy Review Foundation.

Americans for Educational Testing Reform (AETR), a Prescott, Ariz.-based group launched to draw attention to unethical practices in the test-development industry, studied the most recently available IRS forms filed by College Board and reached these conclusions:

- College Board in 2007 made gross profits of \$55 million or 9.5 percent of revenue, a margin that would be respectable for a commercial venture but is excessive for a not-for-profit. "If the money were being spent in the non-profit spirit of helping educate and inform test-takers, such profits might be acceptable. However, the money is going toward lining College Board's own pockets — between cash, savings and investments. College Board has a surplus worth 69.5 percent of its revenue. College Board needs to start charging less for its exams and other services or drop its non-profit status."

- College Board's officers are extravagantly paid in relation to comparable not-for-profit and government officials. Its CEO Gaston Caperton received \$830,832, more than the CEO of United Way and twice the salary of President Barack Obama. (Almost nine times the pay of Indiana Gov. Mitch Daniels.) "More than half of the top 41 officers, including 10 senior vice presidents and 28 vice presidents, are compensated more than a quarter-million dollars per year."

- College Board spent \$794,417 on political lobbying at local, state and national levels, which is not illegal but should raise eyebrows. This money was used to influence legislators "to adopt and even require College Board tests for various educational and professional purposes."

Another complaint involved College Board's dual role as test designer and test preparation service for the SAT. This is something parents intuitively question as they consider whether to plunk down \$69.95 for the "Official SAT Online Course." Said AETR, "It is unethical for a testing company to sell test-prep materials because it is morally and legally obligated to treat all test-takers fairly. Selling test materials gives an advantage to wealthier students."

Another advocacy group, Fair Test, has criticized the College Board (as well

*"Notwithstanding its not-for-profit status and its mission 'to connect students to college success and opportunity,' the College Board charges high prices for tests and test-prep materials while promoting policies that encourage more testing and more buying of test-prep materials."*

— Neal

*"Because Indiana's employment for decades has been more concentrated in manufacturing than in any other state, the reduction of wage levels in this sector may be temporary. As recently as 2003, the average weekly pay in Indiana's manufacturing sector was still 36 percent above that in its non-manufacturing industries."*

— Keating

as the other two major non-profit testing companies: ETS and ACT) as virtually indistinguishable from for-profit testing companies that try to compete for business but lack the tax advantages given to their non-profit cousins.

Trevor Packer, vice president of the Advanced Placement Program, said any suggestion that the College Board "profiteers" from its exams is both simplistic and inaccurate. "I see what we're doing as something very, very altruistic. We want more students to go to college" and succeed. College Board officials insist their salaries are in line with other New York-based non-profits and school principals.

These issues aside, the AP Program is rarely questioned because of the perceived academic benefits to high schoolers of doing college-level work. But the program came under scrutiny in San Diego where the school board voted in April to no longer require students who take AP classes to take the corresponding tests. The students can still get "weighted" grades for taking the classes and thus boost grade-point averages. The district adopted the policy in an effort to trim \$680,000 from its 2010-11 budget.

Leading up to the vote, *the San Diego News Network* published a series of articles suggesting the AP Program has morphed from an exclusive program for exceptional students to a "commonly accepted program accessible to most students" and used by schools to enhance their rankings, goaded on by the annual *Newsweek* report which assesses participation, not passing rates. "There are definitely far more kids in AP classes than are qualified for them," one teacher said. As more students take the AP test, passing rates are falling, the news service noted.

One AP test costs \$86, which in Indiana is paid by parents, school districts or the state, depending on circumstance. A reduced fee of \$56 is available for students with financial hardship. Indiana uses state dollars to cover any test in a math or science field — \$1.22 million in 2009 — and federal grant money to cover all other tests taken by students on free or reduced-price lunch. Look for the taxpayer contribution to rise as the state pursues a goal of 25 percent of all students passing one or more AP-

like test before they graduate. The current rate is 10 percent.

State School Superintendent Tony Bennett said he justifies the \$86 investment by comparing it to the cost of college classes and is convinced that more Indiana pupils can meet the high expectations of AP coursework. He says his experience with the College Board has been nothing but positive. "I have seen an organization that has been incredibly responsive and flexible when it comes to our needs."

Even so, he should heed this advice from Fair Test, which sees limited benefits to the sorts of products peddled by the big-three testing companies. "As is the case in dealing with any other self-interested business selling products, the rule for dealing with exam-makers should be *caveat emptor*, 'let the buyer beware.' "

## Indiana's Manufacturing Future

by MARYANN O. KEATING

(June 15)—Recessions are characterized by their length and severity. The average number of months from high to low in recent business cycles was 10 months. With respect to the current recession, however, the economy seems to have taken 18 months to start its recovery. U.S. output declined by about four percent from its high in 2007, and overall employment declined by six percent. In Indiana, employment declined by eight percent.

In general, recessions have been getting shorter and milder with recovery periods getting longer. This recession has been uncharacteristically long and deep. Will its expansionary recovery period defy generalizations and be mercifully short?

Some doubt that a recovery has even taken hold. Dr. Art Laffer warned recently in *the Wall Street Journal* that the economy is likely to turn south again. That would make this recession "W" shaped.

Dr. Laffer argues that the purported recovery may be due to taxpayers accelerating the receipt of income and bonuses.

If that is true, national income will again decline as Bush-administration tax cuts on dividends, capital gains and inheritance are phased out.

Long or short, deep or mild, economies inevitably climb out of recession. Forced



to relocate, couples agree to sell homes at a loss. Others accept lower salaries and less-desirable positions. Those, having earned their last paycheck, come to terms with reduced retirement balances. Orders for machine tools remain low but begin to increase. Markets begin to clear. Recession havoc wreaked on social well-being begins to stabilize.

Ultimately, long-term economic potential and the “new-normal” rate of unemployment become more important than the recession. Will the economy return to a sustainable growth rate exceeding two percent? Will the unemployment rate ever again hover around five percent? New health, financial, tax and environmental regulations will certainly have long-term effects on one or the other or both of these indicators. (It is too early to determine, for example, the net effect on employment as medical coverage is extended to employees’ children up to age 26.)

Closer to home, we see that manufacturing, still a significant sector of the Indiana economy, tends to be pro-cyclical. This means that as U.S. output increases (declines), Indiana’s output will increase (decline) by a greater amount. Because Indiana’s employment for decades has been more concentrated in manufacturing than in any other state, the reduction of wage levels in this sector may be temporary. As recently as 2003, the average weekly pay in Indiana’s manufacturing sector was still 36 percent above that in its non-manufacturing industries. This was in spite of an overall reduction in manufacturing in the state and nation.

The issue of how to retain Indiana’s manufacturing advantage is addressed in “What Indiana Makes, Makes Indiana,” a report prepared by Thomas P. Miller and Associates under contract to the Central Indiana Corporate Partnership. The report, written in 2005 prior to the recession, is relevant because it analyzes how jobs on the factory floor must be recreated into manufacturing support positions. The story about Indiana’s manufacturing, then, coming out of the recession, will deal with the continual decline in the number of workers needed to produce an additional unit of output but also with the increased need for technicians and

mid-level manufacturing positions. Public policy does not “grow” the economy or “create” jobs. Although public-private partnerships are appropriate in some instances, these partnerships exhibit great potential for moral hazard and poor decision-making. To survive in a crisis, private firms often need to pull out of these agreements shifting costs to the public at large. At its best, public policy limits itself to removing the barriers to investment in capital, research and development while providing education, training and infrastructure.

The Miller report is cautious about anyone’s ability to select industrial winners. It does, however, identify potential manufacturing opportunities competing with existing technologies. These are likely to be in the areas of advanced energy technology, advanced environment technology services, advanced materials, coating technologies, product software and in nanotechnology (controlling matter on an atomic and molecular scale). Virtually all of these represent extensions or spin-offs from the existing body of knowledge and practice in Indiana’s mainstream manufacturing.

So manufacturing in Indiana is down but not out. From processing ducks in Milford to rolling steel in Gary, there remains a large group of people in the state who enjoy being associated in some way with a good product.

## Raise the Flag, Hold the Pledge

by ANDY HORNING

(June 12)—The U.S. flag is a powerful symbol. It is in outer space, on T-shirts and bumper stickers. We pledge allegiance to it. Coffins of heroes have been draped with it. It flies in even other nations. It’s been burned in protest and praised in song.

You can understand why we have a Flag Day. It’s that Pledge of Allegiance I want to talk about. The pledge’s author was Francis Bellamy, a fired and apostate

*“How does one obey a flag other than as a signal in battle? To what end and degree, and by what rules must we citizens obey it? It’s certainly contrary to the spirit of 1776.”*

— Horning



*Andrew M. Horning, an adjunct scholar of the foundation, was the GOP candidate for the 7th Congressional seat and more recently the Libertarian candidate for governor.*

*"In 2006, the nonpartisan Justice at Stake reported the median expenditure of state supreme court candidates was \$250,000. In Alabama \$8.2 million was spent on one race for chief justice.*

*If the public wants an unbiased legal system, it can't ask judicial candidates to grovel for money."*

— Neal

New York minister and rabid "one-world" socialist. His original 1892 pledge was written when there was no official U.S. flag. At the time, it was called "idolatry" by many Christians who tried to have this child-indoctrinating, stiff-armed salute of a ritual banned. Bellamy in 1923 angrily opposed replacing his words "to my flag" with "to the flag of the United States of America." And he certainly would have opposed the addition of "under God" 30 years later. His point was to replace individualism with statism, after all.

Perhaps the pledge's origin doesn't matter. But perhaps its origin explains why we have an oath to a symbol, and not to the Constitution.

Until 1892, the only nationalistic oaths in America were oaths sworn by politicians and soldiers to preserve, protect and defend the Constitution. Our nation's founders knew what had happened to the Jews and early Christians who refused to make oaths to idols, or to "Lord Caesar." They wanted no citizen oaths to a person or abstraction such as those demanded by feudal lords, churches or the King of England. After all, no man is above the law, right?

That's why the Oath of United States Citizenship clearly replaces oaths to people or abstractions with a dedication to the written contract that binds us as a nation:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic . . . What a great oath. A person could read the Constitution and understand exactly, literally, what this oath entails. For despite how much politicians pull against any leash on their power, the Constitution is clear.

But how does one obey a flag other than as a signal in battle? To what end and degree, and by what rules must we citizens obey it? It's certainly contrary to the spirit of 1776. And for any Christian or Muslim, can an oath of allegiance to a symbol be anything other than idolatry? Why pledge to what was officially, until

1923, only a military banner? It may be true that we can no longer use words like "socialism" and "idolatry" without invoking tribalist loyalties and defenses. The point here, though, is that we should think hard about what we're promising, and to whom. And the politicians we choose should keep their oaths of office — to the Constitution, too.

Is it too much to ask that our words mean what they say, and that our actions fit our promises?

How about we actually read the U.S. Constitution to see what we've been missing? I could face the flag and pledge allegiance to that.

## Electing Judges

by ANDREA NEAL

(June 8) — Despite efforts to give Indiana voters more say on big issues — referenda over public spending being a notable example — there's no such movement when it comes to judges of the state Supreme Court and Court of Appeals.

Indiana has enjoyed a competent judiciary thanks to: 1) A selection process that uses an appointed commission to narrow down applicants, and 2) has the governor pick from a pool of three finalists and gives the public the chance to throw out rascals every 10 years during "retention votes." No judge has ever been thrown out that way, but somehow the process works.

A case in point is Theodore Boehm who is retiring after 15 years on the Indiana Supreme Court. Appointed by Gov. Evan Bayh, he's been praised for his legal acumen by Democrats and Republicans, including Gov. Mitch Daniels who said it would be no easy task to find a worthy successor.

His choice may face extra scrutiny because of what's going on in Missouri, which developed the selection model on which Indiana's system and that used in about 30 other states is based.

The Missouri Plan took effect in 1940 and ushered in the era of merit selection. According to the American Judicature Society, prior to its adoption, "judicial selection in Missouri was controlled by political machines and party bosses

who sought to unseat judges who issued unfavorable rulings.”

A group called Show Me Better Courts says there’s still politics in the courtroom, but now it’s controlled by trial attorneys — “greedy personal-injury lawyers” — who want favorable rulings for clients. The reformers have collected signatures for a ballot initiative that would replace the appointment system with elections.

The debate has drawn national attention. *The Wall Street Journal* recently endorsed the initiative arguing that merit selection gives too much control to lawyers. “The effect has been to give a single profession control over a third of state government with little political accountability.” Similar worries have been raised in Tennessee where Gov. Phil Bredesen chastised a nominating commission for trying to force the bar association’s cronies on him.

Although such concerns are legitimate, a thornier problem occurs when top judges are elected. In 2006, the nonpartisan Justice at Stake reported the median expenditure of state supreme court candidates was \$250,000. In Alabama \$8.2 million was spent on one race for chief justice. If the public wants an unbiased legal system, it can’t ask judicial candidates to grovel for money.

Several provisions in Indiana’s law make it unlikely our system could be hijacked by special interests. The seven-member Judicial Nominating Commission is chaired by Chief Justice Randall Shepard and, while it includes three lawyers elected by bar association members, it has three citizen members appointed by the governor. The process is transparent so it’s hard to rig. Applications and initial interviews are made public.

The bar association likes Indiana’s system so much that it has called for its extension to the trial-court level where voters still elect judges on partisan ballots. The argument can be made, however, that lawyers would then have too much say. Our dual system in place since 1972 — one level elected and the other appointive — is itself a check on judicial behavior. If lower-court judges act politically they can be reined in on appeal.

Governor Daniels declined to comment for this column in light of the pending appointment. He made his views known

in 2009 in vetoing HB 1491, which would have replaced merit selection in St. Joseph County, one of two counties that does not elect trial judges, with elections. He said, “The current method of selecting judges for the St. Joseph Superior Court has prevailed successfully for 35 years. It is a model to be emulated, not discarded . . . It has produced outstanding jurists and contains sufficient measures of public accountability.”

The same can be said of Indiana’s process for appellate and supreme court judges. It’s why Indiana should stick with the Missouri Plan even if Missouri decides not to.

## Veterans’ ‘Sacrifice’ Day

*“And that is why we are laying a new foundation for our economy so that when our troops return home and take off the uniform, they can find a good job, provide for their families, and earn a college degree. These are some of the ways we can, must, and will honor the service of our troops and the sacrifice of their families.”*

— Barack Obama, Memorial Day 2009

by CRAIG LADWIG

(May 31)—As both a veteran and the son of a veteran, I have come to dread Memorial Day. I recoil at the postured talk about “sacrifice” for our country. Whatever the good intention, it’s the wrong word; it makes me feel like a sap.

It is a primitive concept, bringing to mind the sacrifices that ensured plentiful harvests, a successful hunt and so forth — all to the benefit of those who managed not to be sacrificed, of course. And it suggests finality — over and done, move on, even forget.

*n.* An act of slaughtering an animal or person or surrendering a possession as an offering to God or to a divine or supernatural figure. — first definition, Oxford Pocket Dictionary of Current American Usage, 2009

There is a particular implication for my generation, drafted by lot into jungle combat. It has even more meaning for my father’s generation, piled up as cord wood on distant beachheads long ago abandoned as footnotes in diplomatic

*“Sacrifice — there is a particular implication for my generation, drafted by lot into jungle combat. It has even more meaning for my father’s generation, piled up as cord wood on distant beachheads long ago abandoned as footnotes in diplomatic paperwork.”*

— Ladwig

*“The last thing we want is a lockstep national curriculum with all students learning the exact same material at the exact same time. It would stifle creativity at the state and local level and invite political bias . . .”*

— Neal

paperwork. As young men yanked from home and friends, some of us felt a momentary sense of sacrifice (OK, it was self-pity). But not too far into our tours it waned. No, that’s not right, it was eclipsed — by the self-confidence, self-worth and reverence for liberty that somehow comes with honor and duty.

Those are the right words, honor and duty, describing the men and women who did their duty, who proved an honor first of all to their fellow soldiers, then to their families and hometowns (not to the elites in that amalgam of power and privilege that has become Washington). And I have learned that such obligation, such heroism, has no finite moment; it must be renewed each day for a lifetime.

To give this distinction more weight, try an experiment: A Google search of the keywords “Afghanistan,” first with “sacrifice” and then with “honor and duty.” The former results in 3.5 million hits, the latter less than 10 thousand.

So this Memorial Day we will talk a lot about sacrifice and only a little about honor and duty. Here is a theory about that: We don’t mention honor and duty because the words drag us into reality — kicking and screaming, for we hate being reminded that our obligation is not buried with our fallen soldiers. We have a continuing duty as citizens, albeit middle-aged and unfit, to elect democratic representatives who will honor their office. We have a duty to throw out those who don’t, even when their dishonor awards us preference and privilege.

As fathers and mothers we have a duty to care for our children above all, to honor our own parents. We have a duty to protect the innocent. We (and not bureaucratic proxies) have a duty to feed and care for the poor, the ill and the aged. It is our duty, not their right — an important point if we are to remain free in a Constitutional Republic.

And as office-holders we must honor the rule of law rather than of personality, to honor our state and national constitutions and their histories, including the always politically testy sections on private property, the bearing of arms, states’ rights, sanctity of contract and individual freedom. We have a duty to defend our nation from enemies within and without.

We have a duty to . . . Yes, the list goes on and on. None are postures, please know, but principles — now unfashionable, perhaps, but ones for which so many volunteered to fight and for which so many died.

## A Local Curriculum

by ANDREA NEAL

(May 25) — It was the last teaching day of the school year and I was rushing through my lecture, “After the Civil War.” I had to get to the Election of 1876 before the bell rang or my students would miss what they needed to understand as to why Reconstruction collapsed. I made a Hobson’s choice. I would skip over the administration of Ulysses Grant in order to get to Rutherford Hayes

As a result, my eighth-grade students heard nothing about the Credit Mobilier scandal, the Panic of 1873 or Grant’s efforts to advance Native-American and African-American rights, all important events of the era.

That’s the sort of choice teachers make every day in a social studies classroom. With only 180 days in a school year, it’s not possible to cover everything with the level of detail students need to absorb and retain. And that’s what makes the controversy over social studies standards in Texas amusing and alarming.

Last week, the Texas Board of Education voted for changes in the state curriculum guidelines that determine what social studies teachers teach from elementary grades through high school. Most of the changes were suggested by conservative board members who said they were trying to restore balance after years of liberal bias. The guidelines, to take effect in 2011-12, will affect the content of textbooks and standardized tests.

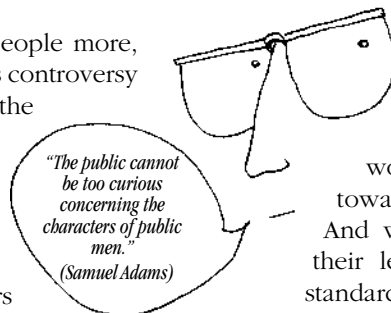
It’s amusing because it’s almost impossible to micromanage instruction at the level of detail dictated by the Texas standards. For example, Texas eighth graders will be expected to study Confederate President Jefferson Davis’s inaugural address alongside Abraham Lincoln’s inaugural speeches. High schoolers are to learn about the causes and leaders of the conservative resurgence



of the 1980s and 1990s including Phyllis Schlafly and the Moral Majority. It's alarming because Texas, with 4.7 million students, is an influential state when it comes to the textbook market. "Decisions that are made in Texas have a ripple effect across the country," Phillip VanFossen, head of the Department of Curriculum and Instruction at Purdue University, told *the Christian Science Monitor*. Large publishers might rewrite texts to reflect Texas's new standards.

What should worry people more, however, is that the Texas controversy will add momentum to the effort to create common academic standards to be used in all 50 states. Although the initiative is described as voluntary, is backed by 48 governors (including Mitch Daniels) and involves only math and language arts for now, it's a slippery slope that could lead to the "federalization" of curriculum. In fact, President Obama has said he won't award federal Race to the Top dollars to states that don't buy into this.

The last thing we want is a lockstep national curriculum with all students learning the exact same material at the exact same time. It would stifle creativity at the state and local level and invite political bias beyond anything Texas has experienced.



If you don't think ideology enters into math and language arts standards like it does in social studies, think again. From the whole language versus phonics debate to the role of calculators in the elementary classroom, politics will find its way into every standards discussion.

Neal McCluskey, associate director of the Cato Institute's Center for Educational Freedom, writes, "When each state is responsible for its own standards there is

at least some pressure to keep benchmarks high; caring parents, or companies in search of a better-educated

workforce, might gravitate toward high-standard states. And when states stand alone, their leaders can't adopt poor standards and use the fact that they are common as an excuse. Perhaps most important, in a diverse nation it's simply logical to have multiple standards."

Indiana is fortunate to have exemplary standards in social studies, language arts and math. They've received the highest possible rankings from the Thomas B. Fordham educational research organization for comprehensiveness, clarity and lack of bias. We would have nothing to gain by entering into a compact to adopt standard curriculum guidelines. And we could have a whole lot to lose.

*"Although it is described as voluntary and is backed by 48 governors (including Mitch Daniels) and involves only math and language arts for now, it's a slippery slope that could lead to the 'federalization' of curriculum."*

— Neal

*"Ethanol is a high-performance fuel. It is time to increase the availability of E85 pumps and flex-fuel vehicles so that all Americans have access to this high-performance, renewable fuel."*

— Sen. Richard Lugar commending the Indy Racing League for its decision to use ethanol in its race cars, March 21, 2007, *InsideIndianaBusiness.com* (last viewed July 28, 2010)

### *Ethanol Reduces Dependence for \$1.78 a Gallon — Maybe*

"The Congressional Budget Office (CBO) reveals that it costs taxpayers \$1.78 in ethanol 'incentives' to reduce U.S. gasoline consumption by one gallon — or nearly two-thirds of the current average retail gas price. The CBO also estimates that cutting carbon emissions by one metric ton via ethanol runs to \$754. . . . The CBO is honest enough to mention that in reality \$754 may be purchasing a net carbon emissions *increase*. 'Because the production of ethanol draws so much energy from coal and natural gas,' the authors write, 'it can be thought of as a method for converting natural gas or coal to a liquid fuel that can be used for transportation.'"

— *The Wall Street Journal*, July 26, 2010

# THE REAL CLASS WARFARE

*Reducing income (even income from those evil rich) without cutting spending also adds to the deficits.*

*"The Republicans seem to be having trouble making that message clear, perhaps in part because they have not always been such anti-spending purists, and no doubt largely because so many 'watchdogs' in the press are just cheerleaders for the political class."*

— Morris



by LEO MORRIS  
Opening Arguments  
www.news-sentinel.com

(July 19) — Americans have voted for limited government, but they've never actually gotten it, and a growing number of people have figured out why (powerlineblog.com):

I think the more significant cause, however, is the general one — a growing conviction that America is governed by a political class that has its own agenda, involving its own enrichment as well as the endless expansion of its own power, and that this political class is contemptuous of the opinions of ordinary Americans and is determined to impose its will regardless of how Americans vote. I think this perception is in fact true. It remains to be seen whether the American people can finally break the grip of a political class that remains determined to run their lives and misappropriate trillions of dollars of their wealth. It will be, I think, a close-run thing. In the meantime, there is no mystery as to why most Americans do not regard the federal government as legitimate in Jeffersonian terms.

I'm beginning to believe it won't be "a close-run thing" at all. The current level of debt cannot be sustained without new taxes and large infusions of taxpayer dollars, and the political class has no interest whatsoever in reducing spending.

I was struck by a *Washington Post* editorial reprinted in *the Journal Gazette* this morning in which the GOP was lambasted for disapproving of an extension of unemployment benefits "because it would cost \$35 billion" but being untroubled by "digging the hole \$678 billion deeper by extending President Bush's tax cuts for the wealthiest Americans."

It would be hard to find a more clichéd rendition of the effete class-envy justification for the progressives' redistribution-of-wealth agenda. *The Post* then trots out Republican Jon Kyl

as the whipping boy for "Republican incoherence."

(Chris Wallace of Fox News) persisted: "But, sir, . . . how are you going to pay the \$678 billion?" — at which point Mr. Kyl descended into nonsense. "You should never raise taxes in order to cut taxes," he declared. Huh? No one's talking about cutting taxes on the wealthy to stimulate the economy. The issue is whether the tax cuts for the wealthiest Americans should be extended, adding another \$678 billion to the deficit over the next decade.

Mr. Kyl does sound a little incoherent there, but it's easy to make someone sound that way if you don't agree with his agenda or just don't understand it, both of which are likely true in *the Post's* case. It's true that raising taxes in order to cut taxes is bad policy, but the unstated corollary is that cutting spending in order to cut taxes is the good policy.

That's what unites the two cases, in fact: Extending the unemployment benefits without offsetting budget cuts elsewhere adds to the deficit (and goes against the paygo system calling for such offsets, a program Congress started violating as soon as it approved it).

And reducing your income (even income from those evil rich) without cutting spending also adds to the deficits. It's all about spending: Approve the unemployment benefits and offset with cuts. Keep the tax breaks and offset with cuts.

The Republicans seem to be having trouble making that message clear, perhaps in part because they have not always been such anti-spending purists, and no doubt largely because so many "watchdogs" in the press are just cheerleaders for the political class.



by **ERIC SCHANSBERG**  
*Schansblog*  
[schansblog.blogspot.com/](http://schansblog.blogspot.com/)

(July 16) — From an interview of Gov. Daniels by author Jonathan Rauch on the website *FiveBooks.com* (asking the subject his five favorite books):

Daniels' five books:

- 1) Friedrich Hayek, "Road to Serfdom."
  - 2) Milton Friedman, "Free to Choose."
  - 3) Charles Murray, "What It Means to Be a Libertarian."
  - 4) Mancur Olson, "The Rise and Decline of Nations."
  - 5) Virginia Postrel, "The Future and Its Enemies."
- Q — *Hayek?*

... when I thumb back through it and look at what I marked when I first read it, was the book that, to me, convincingly demonstrated what was already intuitive: namely, the utter futility, the illusion of government planning as a mechanism for uplifting those less fortunate.

Q — *How does this book inflect how you deal with that?*

With humility and caution. ... led me to a view that government clearly has to establish rails around certain behavior and economic activity. But simplicity, clarity of the rules, a caution about overprescriptiveness in how to achieve a certain outcome or prevent a certain externality from happening.

Q — *Friedman?*

I think that "Free to Choose" probably is there because it expressed best to me the moral — I hate to say superiority — but the moral underpinnings of free economics, if one starts from the premise that the highest value is the autonomy and dignity and freedom of the individual ...



by **FRED MCCARTHY**  
*Indy Tax Dollars*  
[www.indytaxdollars.typepad.com/](http://www.indytaxdollars.typepad.com/)

(June 6) — Since a basketball team is involved, we guess it would be correct to say "the full-court press is on." But some of the goings-on seem more fitted to gymnastic descriptions — say, "a double back flip with a reverse triple twist." We refer to the editorial in today's local daily, plus a column in support written by an alleged sports economist.

Last April 17 the paper editorialized with the headline, "City Shouldn't Forfeit to

Pacers." It seemed apparent, surprisingly, that the last thing the editor wanted to see was the Capital Improvement Board increasing the annual subsidy to the Pacers by another \$15 million.

We have to admit to having been delighted in the apparent reversal of the long-standing policy of the paper backing every giveaway to professional sports.

Today, we came crashing back to reality. Now that the price tag has gone up to \$18 million, the editor is saying the deal will be a "win-win" situation for the city. (Don't want to be a piker only offering \$15 million.)

So the "full-court press" is on, and the paper is back in form, supporting the raid on the taxpayer for the benefit of men who say they're losing money with their basketball team.

But the "triple twisting, double back-flip," comes from Mr. Mark Rosentraub. This is the author of a book, *Major League Losers*, in which he details how professional sports franchises are always losers for taxpayers. (The book will now be found in the "fiction" section of your local bookstore?)

This is not Rosentraub's first effort at speculative gymnastics. Some time ago he did a "survey" from which he was astoundingly able to determine that even taxpayers who would never go to a Colts game were willing to shell out money to keep them in town. Our memory puts the figure at about \$75 per person annually.

Yes, Mr. Rosentraub, it is "nice" that the teams are here. It would also be "nice" if all those who suffer with the alleged transportation system called IndyGo had their own Cadillac. But they can't afford that. Neither can Indianapolis afford to keep pouring tax dollars into the coffers of private, for-profit businesses claiming they aren't making enough money.

But, no doubt, as in the past, the giveaway will take place and the taxpayers will wait. The last paragraph of today's editorial starts, "Once a deal is reached, however, the city's work really will just begin."

We hand out the money. Then we start trying to figure out how we'll break even.

Any odds on a time frame? Any odds on infinity?

*"It is 'nice' that the teams are here. It would also be 'nice' if all those who suffer with the alleged transportation system called IndyGo had their own Cadillac. But they can't afford that. Neither can Indianapolis afford to keep pouring tax dollars into the coffers of private, for-profit businesses claiming they aren't making enough money."*

— McCarthy

# GOVERNMENT NEWSPAPERS AREN'T FUNNY

*Mark Twain captured the essence of a uniquely independent, perchance lost, American journalism.*

*Two decades ago the large newspapers, secure in monopoly, abandoned en masse their constitutional charge, i.e., the difficult and expensive job of digging up facts to provide a check on the powerful.*

*"If the press is stopped and the people kept in ignorance, we had much better have the first magistrate and senators hereditary." — John Adams*

by CRAIG LADWIG

A delegation from *Izvestiasat* in our conference room one afternoon in the late 1970s as the long-running regime of Leonid Brezhnev came to a close. They were eager to tell us why Soviet journalism was better than ours.

Their presentation went something like this: We have the only truly free press; you are dependent on advertisers and subscribers. We can write whatever we want to further mankind for the good of all, not for just for the rich.

Today that view survives at — of all places — the nation's richest journalism school, Columbia University. The president there, Dr. Lee Bollinger, blames the troubles of the large daily newspapers on technological innovations and resulting market shifts. He proposes as remedy a new model of government-subsidized American journalism.<sup>1</sup>

Our Soviet journalists would not find Bollinger's model all that new. It would look a lot like their daily *Izvestia*, also government subsidized, also free of capitalist whim in the form of crass advertising or fickle subscribers — but full of tendentious "news" and politically skewed analysis.<sup>2</sup>

Let us step into an alternate reality.

It is the work of another expert on journalism, Dr. Marvin Olasky, now



editor of *World Magazine* and formerly a professor at the University of Texas School of Journalism.<sup>3</sup>

Dr. Olasky's writings tell us that the journalism Dr. Bollinger would save, the journalism predominate in our largest markets today, is itself a recent model — the monopoly version of one first constructed at the turn of the 20th century by Joseph Pulitzer and other so-called "muckrakers."<sup>4</sup>

Moreover, the Internet is not the critical factor here. Look at the all-important market penetration charts. Two decades ago the large newspapers, secure in monopoly, abandoned en masse their constitutional charge, i.e., the difficult and expensive job of digging up facts to provide a check on the powerful.

Instead, they sought to instruct and improve their readerships through application of higher social and political sensitivity — cut-rate propagandizing, if you will. Market penetration began to decline accordingly, decades before the Internet took hold.

How can anybody be surprised we don't want to pay for that, whether it be print or digital?

In this new school of journalism, Olasky explains, problems arise not from personal corruption but from external influences: "The role of (this new) journalist is to put a spotlight on those influences. The hope is that if man's environment is changed, man himself changes, and poverty, war, and so on, are no more."

Again, it is a tough sale, as the decline of big-time journalism attest. The market for social and political lecturing is exceedingly small among the non-masochistic. And that

*T. Craig Ladwig, editor of The Indiana Policy Review, has worked 40 years in newsrooms, small and large, writing on journalism reform to no avail for the Wall Street Journal, the Washington Times, the Kansas City Star and Editor & Publisher.*



brings us to a critical point that escapes Bollinger entirely.

The death of *the New York Times* or even our beloved *Indianapolis Star* would not result in a net decline in the necessary, prescient information that has characterized successful American journalism since Ben Franklin.

Indeed, an information system modeled, say, after *the Wall Street Journal*, *the Elkart Truth*, or even your brother's-in-law blog might well step into any market void with a more successful business plan and editorial philosophy.

*The Wall Street Journal*, perhaps the last traditional major newspaper left, continues to add subscribers both in print and online. There is the inarguable success of *Fox News* with its more traditional "fair and balanced" approach.

And publishers of the smaller community newspapers and media systems throughout the nation were out-performing the big shots until the recession hit Main Street, their closeness to their readerships saving them from the hubris of advocacy journalism.<sup>5</sup>

Our gifts to the Soviet delegation that day included Mark Twain's classic short story "Journalism in Tennessee." There is a passage where the editor-in-chief, a fiercely independent fellow in the tradition of American newsrooms, gives his young assistant the schedule for the day:<sup>6</sup>

Jones will be here at three — cowhide him. Gillespie will call earlier, perhaps — throw him out of the window. Ferguson

will be along about four — kill him. The cowhides are under the table; weapons in the drawer; ammunition there in the corner; lint and bandages up there in the pigeonholes. In case of accident, go to Lancet, the surgeon, downstairs. He advertises — we take it out in trade.

The humor was lost on our Russian visitors — as it is, we suspect, on Dr. Bollinger.

## Endnotes

1. Lee Bollinger. *Uninhibited, Robust, and Wide-Open: A Free Press for a New Century*. Oxford, 2010.

2. *Pravda* means "truth"; *Izvestia* means "delivered messages" from the Russian verb *izveshchat* "to inform," "to notify." Common Russians have a saying about the two newspapers: "There is no truth in *Pravda* and no news in *Izvestia*."

3. Marvin Olasky. *Central Ideas in the Development of American Journalism: A Narrative History*. Erlbaum, 1991.

4. As a young man, Pulitzer actually mucked horse stalls.

5. Joe Mahon. "News Flash: Small-Market Papers Prosper." *The fedgazette*, the Federal Reserve Bank of Minneapolis, [http://www.minneapolisfed.org/publications\\_papers/pub\\_display.cfm?id=1274](http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=1274) (last viewed July 15, 2010).

6. Mark Twain. "Journalism in Tennessee." *The Complete Short Stories of Mark Twain* (1871). Digireads.com, Stillwell, Kansas, 2008.

*Publishers of the smaller community newspapers and media systems throughout the nation were out-performing the big shots until the recession hit Main Street, their closeness to their readerships saving them from the hubris of advocacy journalism.*

There is nothing wrong with opinion writers honing their thoughts by bouncing them off each other, or with people who see the world in a certain way discussing their insights. The real problem with *Journalist* is much of it consisted of exchanges among people who worked for institutions about how to best hijack their employers for the cause of progressivism. Thus, the *Journalist* discussions revealed in the *Daily Caller* were about how the group could get their media organizations to play down the Rev. Jeremiah Wright affair, and how to embarrass Sarah Palin, to help elect Barack Obama. Were I an editor of one of these institutions, I would instantly fire any employee who participated in this gross violation of his duty. For example, the J-List included *Washington Post* reporters, and the idea that the paper has been turned into a propaganda organ is a big reason it is bleeding readers and influence. Of course, it is possible *the Post's* editors were on the list, since the membership is not known, in which case the corporate executives should fire the editors. Or the board should fire the executives, or the stockholders should fire the board. (If director Warren Buffett was on *Journalist*, I give up.)

— James DeLong of the American Enterprise Institute

## THE REALITY CHECK

# ANYTHING BUT THE STATUS QUO

(Aug. 11) — Frustration mixed with disgust was out in the open for this survey. Respondents blew past the screening question, (only 2.5 percent for the affirmative) to get to the courses of action:

■ (53 percent) — “Urge the Legislature to exercise its presumed right under the 10th Amendment to ‘nullify’ a federal law it finds unconstitutional.”

■ (42 percent) — “Oust senators and congressmen whom you consider unaccountable to the U.S. Constitution.”

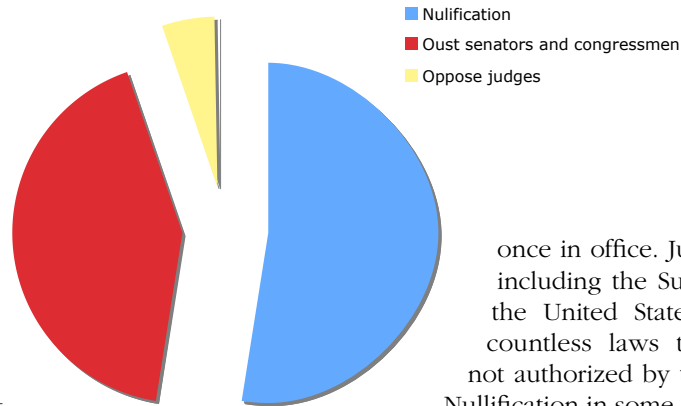
■ (5 percent) — “Oppose judges whose reading of the state and federal constitutions disagrees with your own.”

There was a high number of completed surveys (40 out of 140 opened and 526 delivered). And even then, some seemed to pull back out of fear and uncertainty. “My heart is so fearful,” one non-respondent wrote, “I cannot trust my voice to speak.”

The intensity of the others spoke for itself:

- “The 10th Amendment is the only course left to us, but I honestly feel we have gone too far down the road toward fascism to retrieve the ideal embodied in the Declaration. The cultural divide is too deep. There is no room for compromise; the communists have found refuge in our universities, media, churches, and foundations, and we will never ever root them out. We can find relief in neither major political party; both care only for power and authority. The soap box is meaningless, the ballot box is no longer secure, the jury box has been suborned.”

- “The third option sounds radical (although I don’t think it is) but it is certainly more viable than the first two based on real-world experience. Countless state and federal officeholders, even those who campaigned and were elected on a platform of upholding the Constitution, have consistently abandoned constitutional principle



once in office. Judges up to and including the Supreme Court of the United States have upheld countless laws that are clearly not authorized by the constitution. Nullification in some form is about all we have left. Good luck finding enough Hoosier officeholders to assert their 10th Amendment authority.”

- “Nullification is a dangerous idea. It has already led to one Civil War. Let us not have another. Right or wrong, the federal government must have supremacy over states. Otherwise, we revert to pre-Constitution anarchy.”

- “We still have the power of the vote — to change government, to change the people who run it.”

- “Term limits would solve a host of problems caused by ‘lifetime’ senators and representatives.”

- “Voters-citizens-proles have allowed too much. The blood of tyrants won’t do us any good as long as most of us are so arrogantly, embarrassingly, self-destructively stupid.”

- “Given the economic, social, political and geopolitical challenges the United States faces, re-boot the system and restore a constitutional republic.”

- “All three of the choices are alternately applicable. Especially dangerous to our nation, however, is the overturning of the people’s will, whether expressed by their elected representatives or referendum, by a solitary judge.”

- “Congress needs to exercise its Article III Section 2 power to limit jurisdiction of the federal courts.”

- “The answer is ‘All of the Above.’ Not one of the three branches is currently following Constitutional limitations. States are going to have to take matters into their own hands.”

- “I’m afraid that many of our elected officials have forgotten the words and meaning of our Constitution.”

**Q: In your opinion are the checks and balances written into the U.S. Constitution functioning properly?**

*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 membership and eagerly anticipate their opinions about this or that. This quarter, the survey was opened by 140 members, correspondents and friends (persons on its monthly newsletter list) between Aug. 6 and Aug. 10) using SurveyGizmo. There were 40 completed questionnaires for a response rate of 29 percent.*

# 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 very 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 task ahead. Our mailing address is PO Box 5166, Fort Wayne, IN 46895 (your envelope and stamp are appreciated). Be sure to include your full street and e-mail address. You also can join at the website, <http://www.inpolicy.org>, using your credit card or our PayPal system.
- 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.



Copyright © 2010 Brian J. Lee, M.D.  
Members may purchase framed copies of this image  
by writing the artist in care of the foundation.



An Indiana Journal of Classical Liberal Research and Opinion  
Observing its 21st Year