



# FACTS & OPINIONS

*On Public Interest Issues*

## Quotes

**President Barack Obama's  
Inauguration Speech,**  
January 20, 2009, excerpts:

"America has carried on not simply because of the skill or vision of those in high office, but because We the People have remained faithful to the ideals of our forbearers, and true to our founding documents.

"We come to proclaim an end to the petty grievances and false promises, the recriminations and worn out dogmas, that for far too long have strangled our politics.

"We understand that greatness is never a given. It must be earned.

"The question we ask today is not whether our government is too big or too small, but whether it works.... Where the answer is yes, we intend to move forward.

"Where the answer is no, programs will end. And those of us who manage the public's dollars will be held to account -- to spend wisely, reform bad habits, and do our business in the light of day -- because only then can we restore the vital trust between a people and their government."

## Health Care Reform: A Constitutional Perspective

by John Hendrickson

In December a federal court in Virginia declared the individual mandate of the Patient Protection and Affordable Care Act (health-care reform) unconstitutional. The ruling, issued by Judge Henry Hudson, did not declare the entire health-care law unconstitutional, but established a precedent in the ongoing legal battle over the law and whether or not it is constitutional. It raises several important questions such as whether or not the individual mandate, requiring individuals to purchase insurance, is a violation of the Commerce Clause and whether the expansion of Medicaid in the law is a violation of state sovereignty through the 10<sup>th</sup> Amendment. Judge Hudson's ruling is certainly a victory for constitutional government, but it is likely that the United States Supreme Court will have to settle this constitutional dispute.

Although everyone agrees with the need to reform health care, the current law is not financially sound nor is it constitutional. The law, which embodies the cornerstone of the progressive agenda since the early 20<sup>th</sup> century, is an example of the large debate over the role of government and how the Constitution should be interpreted.

In a 1937 Constitution Day address, President Franklin D. Roosevelt stated:

"But when they [Founders] considered the fundamental powers of the new national government they used generality, implication, and statement of mere objectives, as intentional phrases which flexible statesmanship of the future, within the Constitution, could adapt to time and circumstance. For instance, the framers used broad and general language ca-

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## FACTS & OPINIONS

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Dr. Don Racheter  
**Editor**  
Deborah D. Thornton

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## Focus on Iowa Wesleyan College

### Former President Prins Passes Away

Robert J. Prins, the longest serving President of Iowa Wesleyan College (1986-1999), passed away on Sunday, November 14, in Carson City, Colorado. Prins is credited with significantly increasing the college's endowment, stabilizing enrollment, increasing international students, and upgrading campus facilities. His wife, Ruth, and their six children survive him.

### IWC Students Lead at State Music Education Conference

Also on November 14, music majors attended the annual Iowa Music Educators Association all-state conference in Ames. Junior Madeline Sloat of Fairfield was re-elected President of the collegiate division. Sophomores Natalie Cunningham of Marion, Iowa, and Floyd Lewis of St. Louis, Missouri, were elected secretary and treasurer, respectively. Music professor Dr. David Johnson said, "Friday was a wonderful day for Wesleyan students."

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## What's New at Public Interest Institute?

### PII Staff Busy This Fall

At the Federalism in Action Summit in Virginia, attendees, including Amy Frantz, PII's Research Vice-President, discussed strategies to limit federal government overreach, from the exam room to the classroom. Topics included health care reform, education, transportation, and federal bailouts. The conference was sponsored by the State Policy Network.

Research Analyst Jennifer Crull gave a presentation to the Mt. Pleasant Noon Rotary club on the Iowa Transparency Project in October.

Policy studies on "Tax and Expenditure Limits (TELS) Helping to Control Government Spending," and "The Wisdom of President Warren G. Harding," were published by Analysts Deborah Thornton and John Hendrickson, respectively.

Our newspaper columns were published extensively and staff asked to be guests on several radio programs.

We wish to thank all of our generous donors and supporters for encouraging our work in promoting free-market, limited-government policies. We're anticipating a busy and productive year in 2011 also!

## Health Care Reform

*continued from page 1*

pable of meeting evolution and change when they referred to commerce between the States, the taxing power, and the general welfare.”<sup>1</sup>

Roosevelt, among other progressives such as Justice Louis Brandeis, believed in a “living” Constitution that was Darwinian in nature and could change with the times as government saw fit.

The progressive view of the Constitution rejected limited government and economic liberty in favor of a broad reading of the powers of Congress under Article 1, Section 8, and the Commerce Clause, Necessary and Proper Clause, and the General Welfare Clause. With the Great Depression, Roosevelt and other progressives believed that the New Deal could be used not only to fight the Depression, but to change the nature of government by creating a system of “economic security.”

“The task of statesmanship has always been the redefinition of rights in terms of a changing and growing social order. New conditions impose new requirements upon government and those who conduct government,” stated Roosevelt.<sup>2</sup>

President Obama is not only following the philosophy of Roosevelt economically, but also constitutionally as well.

In a recent article in *The Washington Post*, Attorney

## *Facts & Opinions* Question of the Quarter:

**Should Governor Branstad ask the Attorney General to join the lawsuits against “Obamacare?”**

Send your thoughts on this issue to us at  
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We may publish some of your ideas in the next issue  
of *Facts & Opinions* in April 2011 and on our Website at:  
[www.LimitedGovernment.org](http://www.LimitedGovernment.org).

General Eric Holder and Secretary of Health and Human Services Kathleen Sebelius defended the health-care law as being constitutional and a necessary policy reform.

“The legal arguments made against the law gloss over this problem even as opponents have sought to invent new constitutional theories and dig up old ones that were rejected 80 years ago,” noted Holder and Sebelius.<sup>3</sup> Both dismiss the claim that the individual mandate is a violation of the Commerce Clause because “none of us is a bystander when it comes to health care.”<sup>4</sup>

In contrast, in *Commonwealth of Virginia v. Sebelius*, Judge Henry Hudson stated that “an individual’s personal decision to purchase — or decline to purchase — health insurance from a private provider is be-

yond the historical reach of the Commerce Clause, the Necessary and Proper Clause does not provide a safe sanctuary.”<sup>5</sup>

In addition Judge Hudson wrote:

“A thorough survey of pertinent constitutional case law has yielded no reported decisions from any federal appellate courts extending the Commerce Clause or General Welfare Clause to encompass regulation of a person’s decision not to purchase a product, notwithstanding its effect on interstate commerce or role in a global regulatory scheme.

“The unchecked expansion of congressional power to the limits suggested by the Minimum Essential Coverage Provision would invite unbridled exercise of federal police powers. At its core, this dispute is not simply about regulating

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the business of insurance — or crafting a scheme of universal health insurance coverage — it's about an individual's right to choose to participate.

“Article I, Section 8 of the Constitution confers upon Congress only discrete enumerated governmental powers. 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.”<sup>6</sup>

Both Congress, in passing the law, and the President by signing the Act overstepped their constitutional bounds by greatly expanding the power of Congress to regulate commerce.

Currently the State of Virginia's suit against health-care reform is one of several lawsuits working their way through the courts. Two federal courts in Michigan and in Virginia have looked favorably on the law, while over 20 states and the National Federation of Independent Businesses have filed suit in Florida. Florida's Attorney General Bill McCollum has led the effort in defending the Constitution.

Incoming Governor Terry Branstad, is on record that he believes health-care reform is unconstitutional, but until he is sworn in, he cannot join the lawsuit in an effort to uphold the Constitution and state

sovereignty.

The arguments of the several states focus on the individual mandate and the penalty that is imposed for not complying with the law.<sup>7</sup> In addition the states argue:

“By imposing such a mandate, the law exceeds the powers of the United States under Article 1 of the Constitution. Additionally, the tax penalty required under the law constitutes an unlawful direct tax in violation of Article 1, sections 2 and 9 of the Constitution.

The lawsuit further claims the health care reform law infringes on the sovereignty of the states and the Tenth Amendment to the Constitution...”<sup>8</sup>

If the law is not repealed, it would require states “to spend billions of additional dollars without providing funds or resources to meet the state's cost of implementing the law.”<sup>9</sup>

The overreach of the Patient Protection and Affordable Care Act is symbolized by the constitutional philosophy of the New Deal. During the early stages of the New Deal, the Supreme Court, especially under the direction of four conservative Justices, declared several of Roosevelt's measures unconstitutional.

Roosevelt and other progressives charged that the Justices were engaged in judicial activism, but in reality the Justices were defending

the Constitution against federal encroachment. Roosevelt even tried, and failed, to “reform” the Court with his Court Packing plan, but nevertheless, he was able to remake the Court by appointing more progressives.

The Founders established a government based on a written Constitution that limits the powers of government, while specifically enumerating the powers government can exercise.

Clearly, when examining the health-care law in the context of the Constitution, it is unconstitutional.

Judicial review should be exercised cautiously, but like the conservative Justices who struck various New Deal measures, Judges have a responsibility, in defending the Constitution against excessive federal power.

In writing about the difference between an “activist” and “engaged” judge, columnist George F. Will states that the “former (activist) creates rights not specified or implied by the Constitution,” while the latter (engaged) “defends rights the Framers actually placed there and prevents the elected branches from usurping the judiciary's duty to declare what the Constitution means.”<sup>10</sup>

The battle over health-care reform will determine the longer term course of

of individuals like you who believe in individual liberty and free-market solutions. Please contact your Representative to request a tax-deductible contribution envelope to make your tax-deductible contribution to this effort today.

constitutional government in our nation.

(Endnotes)

<sup>1</sup> Franklin D. Roosevelt, "Address on Constitution Day, September 17, 1937," *The New Deal, Franklin D. Roosevelt Speeches*, Pepperdine University School of Public Policy, <<http://publicpolicy.pepperdine.edu/faculty-research/new-deal/roosevelt-speeches/fr091737.htm>> (December 14, 2010).

<sup>2</sup> Franklin D. Roosevelt quoted in John Marini's, "Roosevelt's or Reagan's America? A Time for Choosing," *Imprimis*, March 2007, vol. 36, no. 3, Hillsdale College, Hillsdale, Michigan, p. 4.

<sup>3</sup> Eric H. Holder and Kathleen Sebelius, "Health reform will survive its legal fight," *The Washington Post*, December 14, 2010, <<http://www.washingtonpost.com/wpdyn/content/article/2010/12/13/AR2010121303816.html>> (December 14, 2010).

<sup>4</sup> Ibid.

<sup>5</sup> *Commonwealth of Virginia v. Sebelius*, United States District Court for the eastern District of Virginia, December 13, 2010, p. 24.

<sup>6</sup> Ibid.

<sup>7</sup> Office of Attorney General Bill McCollum, "The States' lawsuit challenging the constitutionality of the health care reform law," <<http://www.healthcarelawsuit.us/>> (December 14, 2010).

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> George F. Will, "The case for engaged justices," *The Washington Post*, December 5, 2010, <<http://www.healthcarelawsuit.us/>> (December 13, 2010).

*Have you renewed your membership with Public Interest Institute?*

## Meet the New Leadership of the Iowa House of Representatives by Deborah D. Thornton

### Republican Leadership is Unique and Innovative

The Iowa House of Representatives is being led by three unique and innovative individuals in 2011.

The new Speaker of the House, Republican Representative Kraig Paulsen from Hiawatha, is a military veteran, having served in the U.S. Air Force as a weapons system instructor.

The new Majority Leader, Linda Upmeyer from Garner, is a cardiology nurse practitioner and will likely be a key player in health care reform issues. She is also the first woman to hold this position.<sup>1</sup>

Speaker Pro-tem Jeff Kaufmann of Wilton is a college professor with a doctoral degree and a farmer.

All three are married and have children of their own, even grandchildren. All list their church affiliation on their biographies.

A warrior, a nurse, a teacher, and a farmer. Someone who fought for our country and someone who heals. Someone who teaches and grows, both food and students.

They have their families

and their God to hold them responsible and accountable. (I've also met Representative Kaufmann's wife, and though I doubt it will be necessary, she will hold his feet to the fire!) I think we'll be in good hands.

### Speaker of the House Kraig Paulsen

Paulsen was first elected in 2002. He served as Republican Whip in the 2006-2008 session and was the Republican Leader for the 2009-2010 session. He is employed by CRST International as corporate counsel.<sup>2</sup>

Kraig was born on September 9, 1964, in Monticello, Iowa. His father is a Veterinarian. His mother is a retired Hospital Transcript Manager. He attended school in the Cedar Rapids Community School District, graduating in 1983 from Cedar Rapids Kennedy High School. He went on to attend Iowa State University in Ames, Iowa, where he graduated in 1987. Paulsen received his MBA from the Embry-Riddle Aeronautical University in 1994 and a Juris Doctorate from the University of Iowa in 2003.

Kraig married his wife,

Cathy, in 1985. They have four children, one daughter and three sons. They attend the New Covenant Bible Church. Representative Paulsen served his country in the U.S. Air Force where he served as an Operations Group senior weapon system instructor, maintenance flight commander, and squadron director of operations.

Speaker Paulsen said, “I don’t do New Year’s resolutions. However, I am resolved to make sure the House Republicans respond to Iowans’ concerns with good, thoughtful public policy.”<sup>3</sup>

### **Majority Leader Linda Upmeyer**

Linda Upmeyer was first elected in 2002. Linda is a cardiology nurse practitioner, graduating from the University of Iowa with her B.S. in nursing and from Drake University with her master’s in nursing.

Linda was born on July 23, 1952, in Mason City, Iowa, and grew up in Garner on the family farm, graduating from Garner High School in 1970.

Linda and her husband Doug farm near Garner. They have five children, all of whom live in Iowa, and two grandchildren. She attends Zion Evangelical and Reformed Church of Garner, where she has been a Sunday school teacher, choir member and Bible school teacher.

She is a former trustee for North Iowa Area Community College and a former board

member of both the National and Iowa Associations of Community College Trustees.

Majority Leader Upmeyer said, “As a nurse, my New Year’s resolution would be to find ways to be healthier, reduce stress, and make my health and well-being a priority. As the leader of the House Republican caucus, this is something I will be encouraging my colleagues to do as well. This year I am also resolved to spend more quality time with my family and grandsons.”<sup>4</sup>

### **Speaker Pro-tem Jeff Kaufmann**

Jeff Kaufmann was first elected to the House in 2004. He is a teacher and farmer. Jeff was born on January 9, 1963, and raised in Wilton. His father was a farmer and his mother a homemaker.

Jeff graduated from the Wilton Community School District in 1981 and received his B.A. from the University of Iowa in 1985. He continued pursuing his higher education by receiving his M.A. in 1990 and his Ph.D. in 2000, also from the University of Iowa.

In 1984, Jeff married his wife, Vicki. Together they have three children and attend the United Methodist Church in Wilton. Representative Kaufmann is a professor at Muscatine Community College where he teaches history and government.

*(Information taken from the biographies on the House Republican*

*website, www.iowahouserepublicans.com)*

(Endnotes)

<sup>1</sup> Jennifer Jacobs, “Kraig Paulsen will be House speaker, Linda Upmeyer majority leader,” *Blog: Iowa Politics Insider*, November 8, 2010, <<http://blogs.desmoinesregister.com/dmr/index.php/2010/11/08/kraig-paulsen-will-be-house-speaker-linda-upmeyer-majority-leader/>> (December 17, 2010).

<sup>2</sup> *Iowa House Republicans*, <<http://www.iowahouserepublicans.com/members>> (December 17, 2010).

<sup>3</sup> Josie Albrecht, Communications Director, Iowa House Republicans, email communication, December 21, 2010.

<sup>4</sup> *Ibid.*

## **Introducing New Lieutenant Governor Kim Reynolds**

**by Deborah D. Thornton**

Kim Reynolds, a first-term State Senator from Osceola, is our new Lieutenant Governor. Though only elected to the Senate in 2008, Reynolds has significant political experience. She was the four-term Clarke County Treasurer and elected president of the state association in 2000. She worked to help research, develop, and implement the on-line treasurers’ Website, which, “brought online property tax and vehicle registration applications to all 99 counties at no cost.” She also served on the Iowa Public Employees Retirement System Board.<sup>1</sup>

Reynolds attended Southwestern Community College

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## Hot Topics During the Long, Cold Iowa Winter!

by Deborah D. Thornton

### Taxes, Spending, Economic Development, and Jobs Top Priorities of New Legislature

Representative Kraig Paulsen, new Speaker of the House of Representatives, was clear about his and the Republican majority's priorities for this legislative session.

From day one they will work to trim the current state budget. For the past four years state spending has "topped historic levels," Paulsen said. "Government has become accustomed to spending more money than it takes in, saddling Iowans with millions of dollars of debt and using tax dollars to pay for ridiculous pork projects."<sup>1</sup> Republicans are determined to get the state's fiscal house in order, cutting waste and streamlining programs. The majority Democrats in the Senate will still have significant input, as they should. Senate Majority Leader Mike Gronstal, D-Council Bluffs, has said the Democrats look forward to "ensuring fiscal accountability."<sup>2</sup>

Paulsen believes there are "several hundred million dollars" in the current budget, which can be cut with little or no notice by average Iowans on a daily basis.<sup>3</sup>

For example, Legislators are interested in saving \$25 million from the state Power Fund, which many believe has not served its purpose in renewable energy research, development, and new jobs.

House Republicans are also concerned because the \$700 million in one-time funding and federal stimulus money used to balance the current budget will not be available in fiscal year 2012, which begins July 1, 2011.

Property taxes will be another key focus. The 10 percent across-the-board budget cut in 2009 by former Governor Chet Culver shifted expenses to local property owners. "For too long, the state's obligations have been pushed on the backs of the property taxpayers," said Paulsen. Accordingly, House Republicans will work to reform the property tax system.

Getting the 113,000 unemployed Iowans back to work is the next priority. Unemployment in Iowa has been over 6 percent since June of 2008, with no signs of decreasing, even after hundreds of millions of dollars in federal "stimulus" spending.

The Republican leadership is "committed to getting government out of the way of business owners, making it easier to be an employer." They are interested in finding ways to "cut out burdensome regulations." Specifically, bills that try to "dismantle Iowa's right-to-work law, deal with prevailing wage, or doctor shopping"

will not be brought up.<sup>4</sup>

Education issues are also expected to take a significant amount of time as the majority of the state budget is dedicated to public education. Currently, the education budget continues to grow, especially at the Area Education Agency overhead level, while the number of students continues to decrease and achievement is flat.

A specific interest is the state funded pre-school program for four-year-olds implemented by former Governor Chet Culver. The new Republican leadership is questioning the effectiveness of the program and the cost to taxpayers.<sup>5</sup> Additionally, the cost of higher education and the budgets of the three regent universities and the community colleges are key items.

(Endnotes)

<sup>1</sup> Josie Albrecht, Communications Director, Iowa House Republicans, email communication, December 20, 2010.

<sup>2</sup> Jennifer Jacobs, "Top priority is to cut several hundred million from Iowa budget, Republican leader says," *Des Moines Register*, November 8, 2010.

<sup>3</sup> Ibid.

<sup>4</sup> Josie Albrecht.

<sup>5</sup> O. Kay Henderson, "Top priority for House GOP: cutting current state budget," *Radio Iowa*, November 8, 2010.

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## Meet Lt. Governor Kim Reynolds

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and Northwest Missouri State University, where she studied business administration and marketing. Reynolds moved back to Iowa, married, and worked as a pharmacist assistant in Mt. Pleasant. In 1991, she and her family moved to Osceola where she worked in the Clarke County Treasurer's office. Kim is a member of the Osceola Tourism Board and served on Osceola Main Street.

Her Senate district covered Adams, Clarke, Decatur, Montgomery, Ringgold, Taylor, and Union counties and was the largest geographically in the state, so even before pledging

to visit all 99 counties in Iowa during the campaign (a promise she kept!), Kim was an experienced road warrior.<sup>2</sup>

She is a member of the Osceola United Methodist Church, and resides with her husband, Kevin. Though she looks much too young, Kim has three grown daughters and two grandchildren.

(Endnotes)

<sup>1</sup> "Kim Reynolds: Iowa Lt. Governor," Susan B. Anthony List, <<http://www.sba-list.org/endorsed-candidates/kim-reynolds-iowa-lt-governor>> (December 17, 2010).

<sup>2</sup> Jason Clayworth, "Kim Reynolds resigns from the Senate," *Blog: Iowa Politics Insider*, November 12, 2010, <<http://blogs.desmoinesregister.com/dmr/index.php/2010/11/12/kim-reynolds-resigns-from-the-senate/>> (December 17, 2010).

***Deborah D. Thornton is a Research Analyst at the Public Interest Institute.***

## New Year's Resolutions 2011

**Dr. Don Racheter  
President of Public  
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"In 2011 a return to the wisdom of the Founding Fathers on the importance of limited government, traditional values, and free markets will improve the lives of all Iowans. Read the publications of Public Interest Institute to find out how. The staff and I resolve to continue presenting you with interesting, informative, and timely research and policy proposals!"