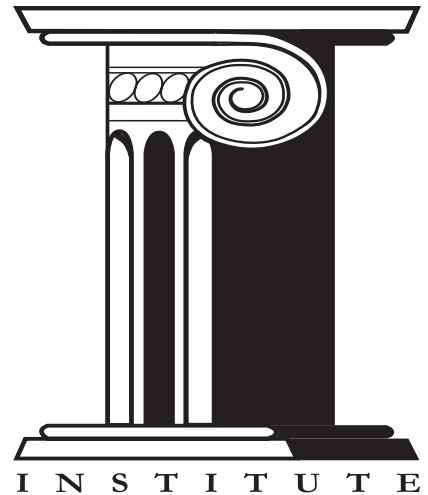


LIMITS



On Power and the Use of Coercion

Tax and Spending Limit Amendments Pick Up Steam

by Josh Culling

Amendments limiting increases in taxes or spending by state and local governments will likely be appearing on ballots in at least two states over the next two years.

Activists in Maine and Florida are confident about the prospect of reform in 2009 and 2010, respectively, because many voters believe in the need to control spending in the wake of a serious economic downturn.

Proponents of the new amendments point to the successes of the original tax and spending limitation amendment, called the Taxpayers Bill of Rights (TABOR), as evidence recommending similar measures in their states.

Colorado voters enacted the first TABOR in 1992. TABOR

limits annual increases in government revenues to inflation plus the rate of population growth, subjects any tax hikes to a citizens' vote, and returns surplus revenues to taxpayers.

The refund threshold in Colorado was first met in 1997, and over the next three years taxpayers received \$3.25 billion in refunds, according to Prof. Barry Poulson of the University of Colorado.

Voters Defend TABOR

Colorado citizens defended TABOR in the November 2008 election by rejecting Amendment 59, which would have repealed surplus rebates forever and weakened the spending limit to the point of irrelevance, essentially scrapping TABOR. The education lobby spent enormous sums of money in support of Amendment 59. Poulson says it "was defeated not because we had a huge,

well-funded effort, but because citizens understand and fundamentally embrace TABOR."

The National Taxpayers Union, a nonpartisan citizen group that promotes lower taxes and limited government, spearheaded an effort to inform Coloradans about the harmful effects of Amendment 59.

The momentum from the pro-taxpayer victory against Amendment 59 has spread to Maine and Florida.

Maine Schools Carved Out

Maine Leads, a nonprofit advocacy group, is the chief organizer of the 2009 effort. A similar drive in 2006 failed, but activists made some changes to the amendment proposal after going on a statewide tour to seek voters' opinions.

Perhaps the most significant event for the Maine amendment

continued on page 3

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Dr. Don Racheter,

President

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Parting Company

by Walter E. Williams

Texas Governor Rick Perry rattled cages when he suggested that Texans might at some point become so disgusted with Washington's gross violation of the U.S. Constitution that they would want to secede from the union. Political hustlers, their media allies, and others, who have little understanding, are calling his remarks treasonous. Let's look at it.

When New York delegates met on July 26, 1788, their ratification document read, "That the Powers of Government may be resumed by the People, whensoever it shall become necessary to their Happiness; that every Power, Jurisdiction and right which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the government thereof, remains to the People of the several States, or to their respective State Governments to whom they may have granted the same."

On May 29, 1790, the Rhode Island delegates made a similar claim in their ratification document. "That the powers of government may be resumed by the people, whensoever it shall become necessary to their happiness: That the rights of the States respectively to nominate and appoint all State Officers, and every other power, jurisdiction and right, which is not by the said constitution clearly delegated to the Congress

of the United States or to the departments of government thereof, remain to the people of the several states, or their respective State Governments to whom they may have granted the same."

On June 26, 1788, Virginia's elected delegates met to ratify the Constitution. In their ratification document, they said, "The People of Virginia declare and make known that the powers granted under the Constitution being derived from the People of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression and that every power not granted thereby remains with them and at their will."

As demonstrated by the ratification documents of New York, Rhode Island, and Virginia, they made it explicit that if the federal government perverted the delegated rights, they had the right to resume those rights. In fact, when the Union was being formed, when the states created the federal government, every state thought they had a right to secede otherwise there would not have been a Union.

Perry is right when he says that there is no reason for Texas to secede. There are indeed intermediate actions short of secession that states can take. Thomas Jefferson said, "Whensoever the

continued on page 5

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(continued from page 1)

proposal took place when Gov. John Baldacci (D) instituted his own version of TABOR on every school board in the state, according to Roy Lenardson, Executive Director of Maine Leads.

“Our first effort in 2006 got 46 percent of the vote,” said Lenardson. “As a direct result of its initial popularity, the Governor now requires a town vote on every school district budget. The result has been school districts coming to the table with increasingly modest budgets.”

For that reason, Maine Leads has been able to remove school districts from its version of TABOR, likely preempting teacher unions’ anti-TABOR activities like those seen in Colorado.

Voters Back Restraint

The current economic downturn has made budget restraint increasingly popular with voters.

“Spending is already going to grow beneath the TABOR limit,” said Lenardson. “When this amendment passes, what we’ll have is built-in brakes on spending growth when the economy rebounds.”

The measure is similar to Colorado’s TABOR. It restricts spending to the rate of inflation plus population growth, and subjects any increases beyond that to a popular vote. It does the same for tax increases, and

it returns the majority of any surplus to the taxpayers.

Petition signatures already have been collected and submitted to the Secretary of State. Lenardson foresees no problems getting the initiative on the ballot.

Florida Businesses Back Limits

In Florida, the National Federation of Independent Business is sponsoring an effort called “Your Dollar, Your Decision” to enact a spending limit on local governments via the initiative process. The measure is scheduled for the ballot in 2010.

Unlike the amendments in Colorado and Maine, the Florida initiative does not explicitly impose any restrictions on tax hikes, nor does it return any surpluses to taxpayers. It is strictly a revenue limitation amendment, allowing local government receipts to increase only as fast as the rate of inflation plus population growth. Any excess tax collections go into a separate cash reserve, which is applied as revenue in the following year.

The initiative is meant to encourage tax cuts, as local governments will be unable to amass huge “slush funds.”

The Florida initiative also allows voters to approve revenue increases. This makes citizens more likely to support the initiative, as they tend to find such an “opt-out” reassuring,

according to Allen Douglas, Legislative Affairs Director for NFIB in Florida.

Initial polling has shown overwhelming support for the initiative, “in the mid-70 percent range,” said Douglas. “Once they realize there is a voter approval aspect, support jumps.”

State Court Must Weigh In

To make the ballot, 675,000 valid petition signatures are required. The Florida Supreme Court also must review the proposition for clarity and to ensure it meets the state’s “single-subject rule” requiring any initiative to be tightly written to cover only one issue. Douglas is cautiously optimistic the court will approve it.

“We did go to great lengths to pare this thing down to be as narrowly focused as you can get,” Douglas said.

“Democrats and the ‘usual suspects’ have been trying to change TABOR for years” in Colorado, said Poulson. “I think the most important thing to consider is that when people understand TABOR, and once they understand that it gives them control over fiscal policy, they support it.”

Josh Culling is State Government Affairs Manager for the National Taxpayers Union. The article first appeared in the June issue of Budget & Tax News published by the Heartland Institute and is reprinted with permission.

Entitlement Reform: An Urgent Need to Return to Limited Government

by John Hendrickson

In May, the federal government provided new information which forecasted that both the entitlement programs of Social Security and Medicare will be bankrupt in the near future. The report stated that the “Medicare fund for hospital care will be depleted in 2017” and “the Social Security trust fund wouldn’t be exhausted until 2037.”¹ The CATO Institute estimates that “spending on the three main entitlement programs — Social Security, Medicare, and Medicaid — is expected to roughly double from \$1.2 trillion in FY 08 to \$2.42 trillion by FY 18.”² Entitlement programs consume a large portion of the federal budget accounting for “53 percent of total spending.”³ Without entitlement reform the federal government will not be able to afford continuing these programs, because the amount of taxes needed to fund each program would result in collapsing the economy.

“No greater threat exists to America’s long-term fiscal health than the skyrocketing cost of entitlement programs,” noted Cato scholar Michael Tanner.⁴ Reform of entitlement programs should take a free-market direction. For example,

younger individuals should have the option of privately investing for their retirement. “Allowing American workers to save and invest a portion of their income in accounts that they would own is the lowest-cost way to ensure that they have an adequate retirement income,” noted Heritage Foundation scholar David C. John.⁵

President Obama and Democrat leaders in Congress are also pushing for a nationalized universal healthcare which will only add to the entitlement crisis as the federal government keeps spending more money. The federal budget is already set at \$3.6 trillion and the national debt and deficit are rising. “Unless we start rolling back the welfare state now, a horrendous fiscal crisis is coming... The future depends on smaller government” wrote Terence Jeffrey.⁶

Endnotes:

¹T.W. Farnam, “Social Security, Medicare face insolvency sooner,” *The Wall Street Journal*, May 13, 2009, <<http://online.wsj.com/article/SB124212734686110365.html>> (May 13, 2009).

²“Cutting Federal Spending,” in *Cato Handbook for Policymakers*, 7th edition, Cato Institute, Washington, D.C., 2009, p. 49.

³Ibid.

⁴Michael D. Tanner, *Leviathan on the Right: How Big-Government Conservatism Brought Down the Republican Revolution*, Cato Institute, Washington,

D.C., 2007, p. 119.

⁵David C. John, “2009 Social Security Trustees Report Continues to Show the Urgency of Reform,” *WebMemo*, No. 2439, May 13, 2009, The Heritage Foundation, 2009, p. 4.

⁶Terence P. Jeffrey, “The Day the American Dream Dies,” *Human Events.com*, May 6, 2009, <<http://www.Humanevents.com/article.php?id=31753>> (May 14, 2009).

John Hendrickson is a Research Analyst with Public Interest Institute.

LIMITS

Question of the Quarter:

Do you think Iowa should have a TABOR law?

Send your thoughts on this issue to us at public.interest.institute@limitedgovernment.org

We may publish some of your ideas in the September 2009 issue of *LIMITS*.

Parting Company

by Walter E. Williams
(continued from page 2)

General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force." That suggests that one response to federal encroachment is for state governments to declare federal laws that have no constitutional authority null and void and refuse to enforce them.

While the U.S. Constitution does not provide a specific provision for nullification, the case for nullification is found in the nature of compacts and agreements. Our Constitution represents a compact between the states and the federal government. As with any compact, one party does not have a monopoly over its interpretation, nor can one party change it without the consent of the other. Additionally, no one has a moral obligation to obey unconstitutional laws. That's not to say there is not a compelling case for obedience of unconstitutional laws. That compelling case is the brute force of the federal government to coerce obedience, possibly going as far as using its military might to lay waste to a disobedient state and its peoples.

Finally, here's my secession question for you.

Some Americans accept and have respect for the Tenth Amendment, which reads, "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." Other Americans, the majority I fear, say to hell with the Tenth Amendment limits on the federal government. Which is a more peaceful solution: one group of Americans seeking to impose their vision on others or simply parting company?

Walter E. Williams is a Professor of Economics at George Mason University. This article appeared on April 22, 2009 on the Author's personal website, <http://economics.gmu.edu/wew> and is reprinted with permission.

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An Economic Bill of Rights: Two Different Philosophies

by John Hendrickson

The economic recession is fostering a national debate over not only economic policy, but the role and responsibility of government in general. President Barack Obama is holding up the legacy of President Franklin D. Roosevelt and the New Deal as a symbol of leadership in times of economic crisis, while most Republicans are emphasizing the ideas of President Ronald Reagan. Roosevelt and Reagan offer two different views of not only the role of the federal government, but also the Constitution. Both Presidents argued that their administrations were rooted in the traditions of the American founding, but their interpretations were totally different. The legacy and principles of Ronald Reagan upheld constitutional limited government of the Founders, while Franklin Roosevelt offered an alternative view based on a progressive notion that an active federal government is necessary. In order to resolve the major issues confronting the nation today, it will be necessary to follow the example of President Reagan rather than Roosevelt.

The nation was steeped in depression during the presidential election of 1932. President Herbert Hoover and the Republican Party faced most

certain defeat by a nation who referred to the economic crisis as "Hoover's Depression." New York Governor Franklin D. Roosevelt had been nominated by the Democrat Party and he offered the nation a "New Deal." The New Deal was not clearly identified, but Roosevelt called for bold experimentation by the federal government in confronting the Depression. Bold experimentation was a code for "if something fails, try something else, and if that fails, keep on trying until something works."

President Hoover during the campaign saw a prophetic vision of the reality behind the New Deal, which would have lasting consequences on American government. "This campaign is more than a contest between two men. It is more than a contest between two parties. It is a contest between two philosophies of government," noted Hoover.¹ Hoover proved to be correct as Roosevelt's New Deal institutionalized the administrative state, which originated in Theodore Roosevelt's and Woodrow Wilson's administrations, and the beginnings of the modern welfare state.

Roosevelt believed that the federal government had the responsibility of providing economic security and protecting

the nation from the uncertainties of the market. "We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence," argued Roosevelt.² President Roosevelt believed that limited government could no longer work. He believed that a Second Bill of Rights was needed in order for the federal government to provide the necessary economic security to the nation.

Roosevelt's Second Bill of Rights called for:

- a right to a useful job;
- a right to earn enough to provide for adequate food and clothing;
- a right of every farmer to earn a decent living;
- the right of every businessman to trade in an atmosphere of freedom;
- a right of every family to a decent home;
- a right to adequate medical care;
- a right to protection against economic fears of old age, accident, and unemployment;
- a right to a good education.³

President Roosevelt's Second Bill of Rights is very similar to many of the policy objectives of the current administration and Democrat leaders in Congress. President Ronald Reagan, who was the first President to directly challenge the New Deal

legacy, campaigned to restore traditional limited government. President Reagan admired Roosevelt and in fact he often quoted Roosevelt, but it was also Reagan who hung the portrait of President Calvin Coolidge in the cabinet room, which demonstrated the change in policy direction.

Reagan understood that the Founders' vision of a limited federal government was a necessity to preserve not only a healthy nation, but liberty. President Reagan believed that economic liberty went along with the Constitution. "Inextricably linked to these political freedoms are protections for the economic freedoms envisioned by those Americans who went before us. While the Constitution sets our political freedoms in greater detail, these economic freedoms are part and parcel of it," noted Reagan.⁴

President Reagan's Economic Bill of Rights consisted of:

- freedom to work;
- freedom to enjoy the fruits of one's labor;
- freedom to own and control one's property;
- freedom to participate in the free market.⁵

Reagan's Economic Bill of Rights also called for specific policy objectives to return toward traditional limited government. The "centerpiece" of Reagan's Economic Bill of Rights was a call for a Constitutional Amendment to balance the budget.⁶ A Balanced Budget Amendment would require Congress to balance the

federal budget. Reagan also called for tax reform. "Taxation, for example, is more than mathematical calculations. It is harnessing of free people; it is forced labor; and if it goes beyond reasonable bounds, it is a yoke of oppression," argued Reagan.⁷

Since Reagan considered raising taxes a serious business, he proposed "that every American's paycheck be protected — as part of a Balanced Budget Amendment — by requiring that tax increases must be passed by both Houses of Congress by more than a mere majority of their members."⁸ Reagan argued that in addition to a Balanced Budget Amendment and tax reform, reducing the size and scope of the federal government was necessary.

Reagan firmly believed that "our own overly centralized government poses a threat to our liberty far beyond anything imagined by the patriots of old."⁹ To reduce the size and scope of the federal government, Reagan offered two strategies. Since reducing government cannot be done overnight, Reagan understood that this was "an ongoing battle," and the Balanced Budget Amendment would be key in reducing spending.¹⁰ The second part of the strategy consisted of privatization, which calls for elements of the private economy to handle certain government activities. In addition, Reagan believed that the President should have the power of the line-item veto

to strike unnecessary spending provisions from legislation. In reference to the line-item veto, Reagan stated: "The first step in reestablishing these checks and balances is giving the President the authority to cut out the fat, yet leave the meat of legislation that gets to his desk."¹¹

Economic liberty was central to the political philosophy of President Reagan. "Ours is a vision of limited government and unlimited opportunity, of growth and progress beyond what any can see today," stated Reagan.¹² Reagan's Economic Bill of Rights is vastly different when compared to President Roosevelt's.

President Reagan's notion of economic liberty is forgotten. Congress has passed the President's requested budget which is \$3.5 trillion, the deficit is moving close to \$2 trillion, and the national debt is over \$10 trillion. President Obama and Democrat leaders are pushing a big-government agenda with the centerpiece being the economic stimulus bill molded after Keynesian economic theory. The objective of the administration is to usher in a new Great Society and pick up after Roosevelt and Lyndon Johnson.

"Yet it's indisputable that the President's recovery plans and proposed new programs would leave government permanently bigger, more costly, and more intrusive, which in turn would sap the foundations of personal freedom and responsibility," wrote

continued on page 8

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An Economic Bill of Rights: Two Different Philosophies

By John Hendrickson

(continued from page 7)

Charles Kesler.¹³ The current policies of the administration and the Democrat leadership not only bring forth serious constitutional questions, but also violate the tenets of limited government. In addition, both the entitlement programs of Social Security and Medicare are on the verge of bankruptcy and now the nation is considering adding an additional entitlement under nationalized health care.

The economic recession has given President Obama and Democrats a new opportunity to launch a fourth wave of

progressivism in America. As Charles Kesler noted: “Obama’s agenda for nationalized health care, draconian environmental taxation and regulation, and steady expansion of government (except for national defense) was already in place before the economy tanked.”¹⁴

Reagan’s ideas for economic liberty — ideas which are rooted in the American Founding — need to be resurrected and taken seriously. The United States is at a critical crossroads and the nation cannot afford to continue our already lengthy drift away from the Constitution. Reagan’s Economic Bill of Rights should be applied to policies, rather than initiating dangerous policies to expand government taxation, regulation, and entitlements.

Endnotes:

¹Herbert Hoover, “Campaign Speech:

Madison Square Garden, New York, October 31, 1932,” quoted in *The Two Faces of Liberalism: How the Hoover-Roosevelt Debate Shapes the 21st Century*, by Gordon Lloyd (ed.), M & M Scrivener Press, Salem, Massachusetts, 2007, p. 123.
²Franklin D. Roosevelt, “State of the Union Message to Congress,” January 11, 1944, *The American Presidency Project*, <<http://www.presidency.ucsb.edu>> (May 13, 2009).

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⁴Ronald Reagan, “Remarks Announcing America’s Economic Bill of Rights, July 3, 1987,” *The Public Papers of President Ronald Reagan*, <<http://www.reagan.utexas.edu/archives/speeches/1987/070387a.htm>> (April 29, 2009).

⁵Ibid.

⁶Ibid.

⁷Ibid.

⁸Ibid.

⁹Ibid.

¹⁰Ibid.

¹¹Ibid.

¹²Ibid.

¹³Charles R. Kesler, “The New New Deal,” *Claremont Review of Books*, Spring 2009, p. 3.

¹⁴Ibid.

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