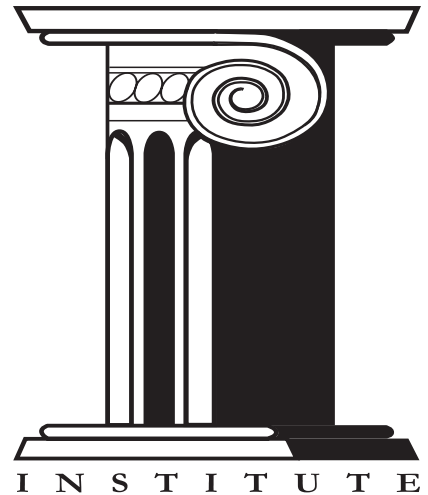


# LIMITS



*On Power and the Use of Coercion*

## Beyond Tea Parties: A New Way for Taxpayers to Fight Back

by Jim Powell

In the more than 100 days since President Obama took office, citizens around the country are doing more to resist the administration's plan for a massive expansion of government. Tea parties and ballot initiatives are among the best-known strategies. Now add independent citizen audits of local governments and public schools — that account for as much as 85 percent of local spending — to the mix.

In Texas, journalist Peyton Wolcott launched the National School District Honor Roll Web site where schools can post their check registers. At last count 461 school districts in 31 states had signed on. This is a vital step for greater transparency.

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What exactly would one do with a public school's check register? "It's the most important financial document in local government," explains Armand Fusco, a retired superintendent of public schools in Branford, Conn. and Hadley, Mass., who works through the Hartford-based Yankee Institute to train volunteers for independent citizen audits of local government and public schools.

With Yankee Institute Senior Policy Analyst Lewis M. Andrews, Fusco co-authored "How to Reduce Property Taxes with a Citizens Audit Committee," a concise guide available at [Yankeeinstitute.org](http://Yankeeinstitute.org).

The first town in America to conduct an independent citizen audit appears to have been Enfield, Conn. — a town of 45,000 north of Hartford. There, a citizen audit committee identified about \$750,000 of

wasteful spending, and last week the town delivered the second consecutive budget without a tax increase. Now, eight more Connecticut towns are in the process of establishing independent citizen audit committees. Out-of-state inquiries are also starting to come in.

These citizen audit committees, consisting of about 15 volunteers, must be independent of the government or school system being audited. When an audit committee was set up as a subcommittee of a school board, it was obliged to conduct all of its business in open meetings. They were packed with union hecklers who made it impossible to conduct business. An independent committee can control its work environment. Once the work has been completed then it

**continued on page 2**

## LIMITS

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## Beyond Tea Parties

by Jim Powell  
(continued from page 1)

goes public with a presentation explaining its findings and recommendations.

A check register shows every expenditure, large and small. Fusco says, "Many people think a budget is the most important financial document, but I analyzed one town's public school budget that shows \$115,000 was spent on heating oil during the year. I went through the check register, added up all the payments to the school's heating oil vendor, and the total was about \$750,000. School boards rarely look at a check register, which is a reason why waste and embezzlement can go on for years."

Would school budget cuts jeopardize the quality of education? To answer this question, Fusco explains, one needs to get a copy of the master teacher schedule that shows who teaches each class and how many students are enrolled. He cautions that the master teacher schedule is the most closely-guarded secret in public schools. It's the hardest document to obtain, because it might reveal that payrolls are inflated.

Fusco cites the example of one school's fifth grade math enrichment program. The master teacher schedule showed that there were three classes: one class had four students, the

second class had six students and the third class had five students. The same school had a sixth grade math enrichment class with 25 students. Fusco wondered why the school didn't consolidate the three small fifth grade classes into one class of 15 students. This would have made it possible to provide the same amount of teaching with fewer teachers and less cost.

Many schools around the country have increased the number of electives students can take by as much as 50 percent. Now, during the school day, students can take guitar lessons, pursue jewelry-making, study foreign films, the history of rock-and-roll, and do other things that used to be considered after-school activities. According to the Center on Reinventing Public Education, public schools spend more money on electives than on academic core courses. More experienced – and more highly paid – teachers tend to teach elective courses that aren't subject to testing. More transparency about the number of electives offered by the school would allow electives to be cut — reducing school costs without affecting the basics.

Many high school advanced placement courses can also be done online. These courses enable students to take college-level courses even if a school doesn't have qualified teachers for them. Reduced staffing for advanced placement courses would save \$1,000 to \$2,000 per student, according to Florida

**continued on page 5**

# Missouri Would Be Better Off Without an Income Tax

by Rik W. Hafer

The Missouri House recently took an ambitious step toward improving the state's economic competitiveness. House Joint Resolution 36 calls for a popular vote in 2010 to repeal the state's income, corporate and estate taxes. This amendment of the state constitution would, as a number of studies show, improve Missourians' economic well-being.

HJR 36 would replace the revenue lost from eliminating these taxes primarily through raising existing sales taxes. The resolution would ask voters to raise the state's sales tax to 5.11 percent from its current rate of 4.225 percent. The new sales tax would cover more services and goods than the existing sales tax.

Vocal opponents of the resolution are quick to point out that sales taxes are more regressive than income taxes. That is true.

But this undesirable outcome can be circumvented as the tax plans are developed in switching from income tax to sales tax revenue. One method would be to means-test the sales tax. Individuals below a certain income level would pay no sales taxes on purchases up to some established amount. Of course, means testing is straightforward for someone filing an income tax form. For those who do not, it is more difficult, but not insurmountable.

Another approach is to exclude certain items or services — such as food, medicine or medical services — from the sales tax.

Arguing that repealing the income tax would put the tax burden on the backs of the poor is simply a scare tactic that diverts reasoned debate.

Opponents also argue that if the proposed change is revenue neutral — the state would receive the same amount of tax revenues after the switch as it does before — why bother? Isn't a dollar in taxes the same regardless of its origin? The answer is no.

According to standard economics, imposing a tax on income, whether a tax on individuals' labor or on corporations' earnings, diminishes those activities generating taxable income.

Think of it this way: In a world with no taxation, employers and workers settle on some market clearing wage that is beneficial to each. With an income tax, a worker's take home income must go down for the same hours worked. Unless firms raise wages to make up the difference, rational workers supply less after the tax is imposed. The tax reduces the amount of work, which reduces the goods and services available to consume.

Proponents argue that eliminating the existing income tax

will be economically beneficial. Economic theory says the change should lead to more work, more goods and services being produced. And that equals an overall increase in economic well-being. Is there hard evidence to support this notion?

An oft-cited study conducted by the Federal Reserve Bank of Atlanta found that — after holding constant the effects of many different factors explaining state economic growth — a state's marginal tax rate has a significant and negative effect on its relative growth rate. The higher a state's marginal income tax rate the lower is its rate of economic growth compared with low marginal income tax states.

This important finding has been replicated many times across states (and countries). The weight of the evidence is that low-tax states economically outperform high-tax states. On average, low-tax states have higher comparative growth rates in personal income and in employment.

Why should voters in Missouri seriously consider this proposed change?

Missouri ranks in the lower third of states when it comes to economic improvement. Using data from 2006, on a per capita basis, Missouri ranked 37th in real output growth, 31st in personal income growth, and 36th in the growth of wage and salary income.

**continued on page 8**

## The Constitution and Politics: The Enumerated Powers Act

by John Hendrickson

One of the most fundamental questions that has faced and is facing the United States is what is the proper role of government? During the debates over ratification of the Constitution, Federalists such as James Madison and Alexander Hamilton championed the need for a stronger central government with limited powers, while Anti-Federalists, led by Patrick Henry and George Mason, feared that the new government would be too centralized and drown both state governments and liberties. The major political controversies and debates leading up to the Civil War also focused on the role and powers of the federal government. The Constitution is at the center of the debate over the role of government, and how members of Congress, the President, and the Supreme Court interpret and view the Constitution will have lasting legacies on both public policy and the future of the nation.

The current policies that are being championed by President Obama and other Democrat congressional leaders, just as with all policies regardless of political party, need to be measured by the Constitution. A serious debate needs to take place over the economic stimulus bill, the “cash for clunkers program,” the dozens of “czars”

that have been appointed to oversee various aspects of the economy, the push for universal health care, among other policy programs and proposals to see if they actually are constitutional. The question of constitutional interpretation is key to public policy, because how an individual views the Constitution will determine whether the above policies are constitutional. It is often forgotten or assumed that constitutional interpretation is strictly for the judicial branch — it also includes separation of powers, executive and legislative powers, the role of bureaucratic agencies, among other aspects of our governmental system. Constitutional interpretation also addresses the issue of federalism and questions of rights and liberties.

The general conservative view of the Constitution is that the document should be interpreted from the original intent of the Framers. In addition, conservatives see the Constitution as a written document that limits the role and powers of the federal government to specific powers, while delegating additional powers to the states and the people. As James Madison wrote in *Federalist Paper No. 45*: “The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the

State governments are numerous and indefinite.”<sup>1</sup> The Tenth Amendment to the Constitution reinforces what Madison wrote in *Federalist No. 45*: “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.” Hence, conservatives prefer that states take a leading role in policies such as health care and welfare.

The idea of economic liberty and private property is also a significant aspect of the Constitution that conservatives hold in high regard. “The Framers of the Constitution and Bill of Rights believed that respect for private property was closely linked to political liberty,” noted constitutional and legal scholar James W. Ely, Jr.<sup>2</sup>

Liberals or progressives tend to view the Constitution as a “living” document that changes with each decade and evolves to meet the challenges of a new society. In this interpretation the Constitution is seen through Darwinian lenses. The constitutional and legal scholar Cass Sunstein summarized the progressive view of the Constitution when he wrote:

The American Constitution is a flexible instrument, one that allows for a great deal of change over time. It does

**continued on page 6**



## Beyond Tea Parties

by Jim Powell  
(continued from page 2)

Virtual School Chief Learning Officer Pam Birtolo.

Shocked by an \$11.2 million embezzlement scandal at the Roslyn, N.Y., public school system (a scandal which ultimately sent superintendent Frank Tassone to jail) the state legislature passed a so-called "Five Point Plan" that requires school officials and boards be more involved in audits. The five point plan thwarted the independence of an audit — the very thing that is essential for candor and transparency. Alan Hevesi, the New York Comptroller who pushed for the plan, later resigned from his post after having entered into a plea agreement for defrauding the government of \$200,000.

Considering the huge amount of taxpayer money going into public schools, it shouldn't be surprising that over the years districts across the country have had various scandals — Bridgeport, Conn., Chicago, Cleveland, Hartford, Kansas City, Miami-Dade County, Newark, New York, Oakland, Philadelphia, Richmond and Washington, D.C., are just some of the cities that come to mind.

Is it any wonder then that independent citizen audits

seem to offer great potential for taxpayers?

*Jim Powell, a senior fellow at Cato Institute, is the author of FDR's Folly and Greatest Emancipations, among other books.*

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## The Growth of Government

by John Hendrickson

The United States, especially in the 20th century, has seen a continual growth in the size and power of the federal government. At the start of the 20th century the Progressive era saw a push by reformers to increase the regulatory power of the federal government to respond to the economic, political, and social problems that resulted from the industrialization of the Gilded Age. Progressives believed that the social contract of limited government and economic liberty was no longer sufficient to deal with the complications of a modernizing society.

"The task of statesmanship has always been the redefinition of these rights in terms of a changing and growing social order. New conditions impose new

requirements upon government and those who conduct government," stated President Franklin D. Roosevelt.<sup>1</sup> The progressives launched a reform agenda during the administrations of Theodore Roosevelt and Woodrow Wilson, which launched the origins of the administrative state and the modern presidency. During the Great War the federal government grew in response to war-time mobilization and economic centralization and the Great Depression ushered in a second wave of progressive reform with the New Deal. The New Deal institutionalized the administrative state, the modern presidency, and initiated the origins of the welfare state. Roosevelt and the philosophy behind the New Deal argued that "as our industrial economy expanded" the federal government needed to step in and further regulate the economy and provide new "rights" to subdue the fears caused by depression and war.<sup>2</sup> President Lyndon Johnson in the 1960s followed suit by building upon the Roosevelt legacy by launching a series of policies under the Great Society and declaring war on poverty.

Today the federal government continues to grow under both Republican and Democrat administrations and neither the Congress nor the President is taking a serious look at reducing the size and scope of government.

**continued on page 7**

## The Constitution and Politics

by John Hendrickson  
(continued from page 4)

not forbid experiment and adjustment. To some extent, it allows for new understandings of rights. It permits changes in institutional arrangements. This is part of its genius.<sup>3</sup>

For progressives the American Founding is not complete, that is, the Constitution and the Declaration of Independence need to include modern rights, such as the right to health care and education. President Franklin D. Roosevelt and the philosophy behind the New Deal believed that a second bill of rights was needed to bring about economic security and calm the fears caused by the Great Depression.<sup>4</sup> Political theorist Charles Kessler has noted that the theory of the “living” Constitution does not just apply to the judiciary, but “the whole Constitution, in which all branches of government have to be regarded as changeable and adaptable.”<sup>5</sup> Many progressives, for example, would support an expanded view of such clauses in the Constitution as the General Welfare, Necessary and Proper, and Commerce clauses, to allow for a more aggressive federal government at the expense of economic liberty and federalism.

The Obama administration

and the Democrat Party have followed the lead of their forefathers such as Woodrow Wilson and Franklin D. Roosevelt in championing the “living” Constitution. The current economic and social policies outlined above and the nomination of Judge Sonya Sotomayor are examples of the Democrat effort to continue to push an agenda that focuses on the use and expansion of federal power. Criticism can also be applied to Republicans as well for pursuing policies that drift away from constitutional government such as the McCain-Feingold and No Child Left Behind legislation that was passed in President George W. Bush’s administration.

In his farewell address to the nation President George Washington urged fidelity to the Constitution and warned against constitutional drifting. In order to reverse the current tide of drifting away from constitutional government members of government and all citizens need to be aware of America’s founding principles and history. Civic education is a crucial remedy. The nation also needs Congress to start debating issues in a constitutional framework. Some of the greatest political debates in our history have focused on constitutional interpretations and the role of the federal government.

Representative John Shadegg (R-AZ) and Senator Tom Coburn (R-OK) have introduced the Enumerated Powers Act (H.R. 450 and S. 1319).<sup>6</sup> “The

Act would require all legislation introduced in Congress to contain a concise explanation of the constitutional authority empowering Congress to enact it.”<sup>7</sup> Andrew Grossman, a legal scholar with The Heritage Foundation, stated that “requiring legislation to state the basis of its authority would reveal the hollowness of the constitutional doctrine underlying so much congressional action.”<sup>8</sup>

The impact of the progressive view of the Constitution is not only an intellectual debate, but it affects public policies such as taxation, property rights, and other aspects of government. The philosophy behind the New Deal is still influencing policy today. Judge Robert H. Bork described the effects of the New Deal when he wrote:

The New Deal was an economic and governmental upheaval. It stood for a sudden and enormous centralization of power in Washington over matters previously left to state governments or left in private hands, a centralization accomplished largely through the assumption of greatly expanded congressional powers to regulate commerce and lay taxes.<sup>9</sup>

In fact the New Deal marked an end of an era as Roosevelt remade the Court in his image and the last of the Supreme Court Justices to uphold economic liberty were replaced by pro-New Deal

justices who shared the same constitutional vision as Roosevelt. John Knox, a law clerk to Associate Justice James McReynolds, wrote about seeing a conference of the infamous “four horseman of reaction” — Justices McReynolds, Van Devanter, Sutherland, and Butler. “I was, however, witnessing the end of an era in the law and the death of an entire way of thinking...America was indeed at a turn in the road.”<sup>10</sup>

Endnotes:

<sup>1</sup>James Madison, *Federalist Paper No. 45*, in *The Federalist Papers*, ed. by Clinton Rossiter, Signet Classic, New York, 2003, p. 289.

<sup>2</sup>James W. Ely, Jr., “Rufus W. Peckham and Economic Liberty,” *Vanderbilt Law Review*, Vol. 62:2:591, p. 605.

<sup>3</sup>Cass R. Sunstein, *The Second Bill of Rights: FDR’s Unfinished Revolution and Why We Need It More Than Ever*, Basic Books, New York, 2004, p. 59.

<sup>4</sup>For more information on Roosevelt’s Second Bill of Rights, read “An Economic Bill of Rights: Two Different Philosophies,” in the June 2009 edition of Public Interest Institute’s *LIMITS*.

<sup>5</sup>Charles R. Kessler, “The fate of Constitutional Government,” in *The Enduring Principles of the American Founding*, ed. by Matthew Spalding, The Heritage Foundation, Washington, D.C., 2001, p. 56.

<sup>6</sup>Andrew Grossman, *The Enumerated Powers Act: A First Step Toward Constitutional Government*, *Legal Memorandum*, No. 41, The Heritage Foundation, June 23, 2009.

<sup>7</sup>*Ibid.*

<sup>8</sup>*Ibid.*

<sup>9</sup>Robert H. Bork, *The Tempting of*

*America: The Political Seduction of the Law*, The Free Press, New York, 1990, p. 53.

<sup>10</sup>John Knox, *The Forgotten Memoir of John Knox*, ed. by Dennis J. Hutchinson and David J. Garrow, University of Chicago Press, Chicago, 2002, p. 191.

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## The Growth of Government

by John Hendrickson  
(continued from page 5)

The current economic recession has provided another opportunity for progressives to call for further reform and for additional Keynesian spending proposals. The federal budget is over \$3 trillion, the national debt is \$11 trillion, and \$1 trillion budget deficit for the current year. In addition the federal government is thirsting for more additional tax revenues, but quenching that thirst is getting more difficult.

Chris Edwards, Director of Tax Policy Studies at the Cato Institute, recently wrote that “the government is also increasing the scope of its activities, intervening in many areas that used to be left to state and local governments, businesses, charities, and individuals.”<sup>23</sup> Edwards has reported that by 2008 “there were 1,804 different

subsidy programs in the federal budget.”<sup>24</sup> “We are in the midst of the largest federal gold rush since the 1960s,” noted Edwards.<sup>5</sup> Edwards and his colleagues at Cato Institute have done remarkable work in finding solutions to reduce government programs and spending. The current path of government growth and spending is not sustainable and perhaps policy leaders could ask the question of what would Alexander Hamilton and Andrew Mellon do?

Endnotes:

<sup>1</sup>John Marini, “Roosevelt’s or Reagan’s America? A Time for Choosing,” *Imprimis*, Vol. 36, No. 3, Hillsdale College, Hillsdale, Michigan, March 2007.

<sup>2</sup>*Ibid.*

<sup>3</sup>Chris Edwards, “Number of Federal Subsidy Programs Tops 1,800,” *Tax & Budget Bulletin*, No. 56, CATO Institute, April 2009.

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

<sup>5</sup>*Ibid.*

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**Missouri Would Be Better  
Off Without an Income Tax**

**By Rik W. Hafer**

**(continued from page 3)**

Missouri did rank high in one category: It was 6th in firm termination. Not an enviable economic track record.

I am not Pollyannaish enough to think that eliminating the state's individual and corporate income tax would vault Missouri to the upper echelon of high-growth states. But doesn't that possibility beg for open and informative dialogue on the issue?

*Rik W. Hafer is distinguished research professor and chair of the Department of Economics and Finance at Southern Illinois University Edwardsville and a*

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*The article first appeared in the St. Louis Beacon and is reprinted with permission by the Show-Me Institute, [www.showmeinstitute.org](http://www.showmeinstitute.org).*

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**Question of the Quarter:**

Would Iowa be better off without a state income tax?

Send your thoughts on this issue to us at [public.interest.institute@limitedgovernment.org](mailto:public.interest.institute@limitedgovernment.org)

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