



THE PATRIOT POST®

VOICE OF ESSENTIAL LIBERTY

DIGEST

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THE FOUNDATION

“If Congress can do whatever in their discretion can be done by money, and will promote the General Welfare, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions.” --James Madison

GOVERNMENT & POLITICS

Chinks in the Armor of ObamaCare

During a recent town hall meeting in Hayward, California, a constituent asked of ObamaCare, “If this legislation is constitutional, what limitations *are* there on the federal government’s ability to tell us how to run our private lives?” California Democrat Congressman Pete Stark’s answer was disturbing -- “I think that there are very few constitutional limits that would prevent the federal government from rules that could affect your private life.”

The questioner responded by asking even more emphatically about the individual mandate to buy insurance and the “right” to health care, “If [Congress] can do *this*, what can’t they?” Stark’s answer sums up a fundamental view of government that is squarely opposed to that of our Founders: “The federal government, uh, yes, can do most anything in this country.”

The men who fought, bled and died to bequeath Essential Liberty to this nation are turning in their graves ... but Stark is right. Congress has become so powerful and has trampled for so long on our Constitution, the states and the people that its power is limited only by the number of votes a piece of legislation garners. Judicial despots rule by diktat and the executive wields far-reaching power via bureaucratic fiat.

But hope is not lost.

U.S. District Judge Henry Hudson declined Monday to dismiss the state of Virginia’s legal challenge against ObamaCare. Virginia is arguing that the individual insurance mandate is unconstitutional and, therefore, the federal government has no power to levy a tax or penalty for failing to buy insurance. Old Dominion is one of 33 states that have begun legal and legislative challenges to ObamaCare.

Hudson thinks the question is worth pursuing: “Never before has the Commerce Clause and associated Necessary and Proper Clause been extended this far,” he wrote. The question, then, is “whether or not Congress has the power to regulate -- and tax -- a citizen’s decision not to participate in interstate commerce.” Arguments are set for Oct. 18 -- just two weeks before the November elections.

The day after Hudson’s ruling, Missouri voters overwhelmingly passed Proposition C, which aims to opt the state out of the insurance purchase mandate and resulting penalties. More than 71 percent said “Show Me” where the Constitution authorizes such power. Arizona, Florida and Oklahoma voters will consider similar measures in November. Missouri went for McCain by 0.1 percent in 2008. Of course, the victory is symbolic because federal law trumps state law, but the symbolism is important ... unless you’re a network news producer. Wednesday’s evening news on all three networks ignored the story.

This fight isn’t about health care; it’s about unfettered government power trampling on individual liberty. Come November, many in Washington will hear that message loud and clear.

This Week’s ‘Braying Jenny’ Award

“I think there has been ... a lot of noise about the mandate that people have gotten so focused on that they don’t realize that there’s going to be more access and affordability and more choices.” --Sen. Claire McCaskill (D-MO) telling Missouri voters that they just don’t know what’s good for them

Open Query

“Are you serious?” --House Speaker Nancy Pelosi (D-CA) back in October, when asked if the Constitution authorizes Congress to mandate that individuals buy insurance

Yes, Nancy. We’re serious and we’re going to support and defend the Constitution.

Senate Confirms Kagan to Supreme Court

The Senate voted 63-37 Thursday to confirm Komrade Elena Kagan to the Supreme Court. Five Republicans

joined all but one Democrat in supporting Kagan. They were the usual suspects: Sens. Susan Collins and Olympia Snowe of Maine, Lindsey Graham of South Carolina, Judd Gregg of New Hampshire and Richard Lugar of Indiana. Nebraska Sen. Ben Nelson was the lone Democrat “no” vote.

The Leftmedia is making much over the fact that she will be the fourth female justice in the court’s history, and will be part of the court’s first three-woman bloc, which includes Barack Obama’s first nominee, Sonia Sotomayor. Here in our humble shop we’re far more concerned with her negative impact on our nation’s Constitution than what’s under her robe.

The court’s term starts in October, and Kagan, who is only 50, will see too many more terms to come. With major issues such as health care, immigration and marriage on the horizon, her vote assures us that leftist ideology will continue to corrupt the court’s decisions.

News From the Undrained Swamp: Rangel and Waters Face Trial

Democrat fortunes for the 2010 midterms took a turn for the worse this week as the Office of Congressional Ethics (OCE) voted to move forward with ethics trials against two of the party’s long-standing liberal members. Rep. Maxine Waters (D-CA) and Rep. Charles Rangel (D-NY) stand accused of violating a number of ethics rules. Of course, the Congressional Black Caucus has played the race card, claiming that the OCE is only going after black members.

Read more [here](#).

New & Notable Legislation

The Senate passed a \$26 billion bailout for states struggling to pay for Medicaid and to help them avoid laying off public union members. The issue is such an “emergency” that the House will head back to Washington from its August recess to hold a vote on the bill. Wonder how much that will cost taxpayers...

Senate Majority Leader Harry Reid (D-NV) announced this week that he’s pulling the energy bill from the docket for the summer. Predictably, Reid blamed Republicans for obstructing the legislation, which was a purely political maneuver on his part. The reality is much different. After all, if the Demos were able to ram through ObamaCare and their Wall Street package with little or no GOP support, why should energy be different? The bill had been

stripped down to a shell of its former economy-wrecking glory over the last several weeks due to a lack of *Democrat* support. Republicans had little to do with it. Sens. Mary Landrieu (D-LA) and Mark Begich (D-AK) were just two lawmakers who refused to support the legislation. Reid claims he will revisit the energy legislation after the August recess, but with the most contentious midterm election since 1994 just 12 short weeks away, it’s highly unlikely that Democrats will be any more eager to take on such controversial legislation in the fall.

From the Left: Leahy Stonewalls Black Panther Case

A small incident of voter intimidation in the 2008 election has become a festering sore for the Justice Department and Attorney General Eric Holder. The seven Republicans on the Senate Judiciary Committee were rebuffed by committee chairman Sen. Patrick Leahy (D-VT) when they asked for an oversight hearing for the DoJ’s Civil Rights Division. While the bizarre dismissal of the New Black Panther case is the most widely known, reports have surfaced about other Civil Rights Division cases involving black defendants where employees assigned to work on the cases were harassed by supervisors or outright refused to prosecute the cases.

Leahy claims in his response that Republicans had their chance to ask questions in an earlier oversight hearing where Thomas Perez, Assistant Attorney General for Civil Rights, testified, but several new allegations of misconduct in the Civil Rights Division have surfaced over the three months since that hearing took place.

Unfortunately, the specter of possible voter harassment and fraud may play a part in November’s elections, as the Obama Justice Department appears willing to turn a blind eye to those practices while overturning the will of the people in at least one other case. Look for a contentious (and perhaps enlightening) two years leading up to the 2012 elections if Republicans somehow take the House and Senate.

NATIONAL SECURITY

Warfront With Jihadistan: Iraq Drawdown

On Monday, Barack Obama reiterated his intention to keep his campaign promise to end U.S. combat operations in Iraq by the end of August. Speaking in Atlanta to the Disabled American Veterans, Obama said, “I made it clear that by August 31, 2010, America’s combat mission in Iraq would end. And that is exactly what we are doing, as promised and on schedule.” Of course, Obama failed to note that the troop drawdown was negotiated by President

George W. Bush and is not his idea, but what's truth to this administration? He also said all troops will leave Iraq by the end of 2011, including the 50,000 troops who will serve as advisers and trainers to Iraqi forces. Now that *is* his idea.

With relatively good news coming from Iraq, Obama is hoping to bask in whatever glory he can by shamelessly adopting the Iraq war -- the war that as an Illinois state senator he once called "a dumb war, a rash war." So he naturally hailed the improved security in Iraq, yet somehow forgot to mention that he had vehemently opposed the troop surge ordered by President Bush, which, along with the change in war-fighting strategy, is credited with turning the war around. But if Obama is claiming this war, he will have to accept the consequences of his total disengagement from Iraq.

While conditions in Iraq have vastly improved since the surge, there are fears that al-Qa'ida and other Iraqi militants are just biding their time, waiting for U.S. troops to leave before they pounce on a still-weak Iraqi government. Obama noted this, saying, "[T]here are still those with bombs and bullets who will try to stop Iraq's progress. The hard truth is we have not seen the end of American sacrifice in Iraq." Let's hope he isn't throwing that sacrifice out the window.

Obama did his best to suck up to his audience, speaking of the need to be "humbled by the profound sacrifice" of U.S. troops. He also said, "There are patriots who supported going to war, and patriots who opposed it. But there has never been any daylight between us when it comes to supporting the more than one million Americans in uniform who have served in Iraq." What about the traitors in Washington who actively sought to undermine the war?

Department of Military Readiness: Petraeus Modifies Air Strike Rules

Gen. David Petraeus, the newly installed commander of Allied forces in Afghanistan, has eased rules governing the use of force. Petraeus will now allow troops to request artillery and air strikes against insurgents hiding in dilapidated structures. The restricted rules had succeeded in reducing civilian casualties, which was central to former Gen. Stanley McChrystal's counterinsurgency efforts, but were also a source of contention among soldiers who view them as unnecessarily endangering American lives.

Speaking of air strikes, the Obama administration sent a U.S. delegation to a ceremony in Japan marking today's

65th anniversary of the bombing of Hiroshima. It marks the first time such a delegation has been sent and it hasn't gone unnoticed. Fox News reports, "Gene Tibbets, son of Brig. Gen. Paul W. Tibbets, Jr., says Friday's visit to Hiroshima by U.S. Ambassador John Roos is an act of contrition that his late father would never have approved." Tibbets, whose father piloted the B-29 -- nicknamed the Enola Gay -- that dropped the bomb, said, "It's an unsaid apology." But he says veterans regularly thanked his father, who died in 2007, saying that if it weren't for him, they wouldn't be here. That includes the father of The Patriot's publisher.

LTC Faces Court Martial Over Obama's Birth Certificate

U.S. Army LTC Terrence Lakin will face Court Martial at Fort McNair before October for "missing movement" and for refusing to obey orders. If convicted, Lakin faces four years' hard labor in a federal penitentiary. Lakin is a doctor who has served in the Army for 18 years; he was awarded the Bronze Star for actions in Afghanistan, and he was recognized as one of the Army Medical Department's outstanding flight surgeons in 2005. That makes the reason for his disobedience all the more interesting. "I am not guilty of these charges," he said, "and will plead 'not guilty' to them because of my conviction that our commander in chief may be ineligible under the United States Constitution to serve in that highest of all offices. The truth matters. The Constitution matters. If President Obama is a natural-born citizen then the American people deserve to see proof, and if he is not, then I believe the orders in this case were illegal."

Profiles of Valor: USMC Cpl. Matt Garst

Ask Cpl. Matt Garst about his recent experience in Southern Shorsurak, Afghanistan, and he'll tell you first that "it pissed me off." Garst is the fortunate survivor of an IED blast that tossed him 15 feet where he landed on his head and shoulders. Once he regained consciousness and gathered his wits, the Marine ordered the area secured and led his squad back to their post four miles away. "I wasn't going to let anybody else take my squad back after they'd been there for me," said Garst. "That's my job."

The rather humble Garst said, "I'm not happy to get blown up by any means ... but, if it's going to be anyone, I'd rather it be me, and if it's going to be a bomb, I'd rather it be that bomb, because it didn't do s---." Suffering only from a pounding headache and residual soreness, Garst was ready for action again after one day of rest and some ibuprofen. If the enemy who planted that particular

IED (which only partially blew up) gets off that lightly, he should consider himself lucky.

BUSINESS & ECONOMY

Regulatory Commissars:

Geithner Prepares Even More New Regulations

The administration is wasting no time wielding its new powers over Wall Street, with Treasury Secretary Timothy "Tax Cheat" Geithner promising a quick implementation of the financial "reform" bill signed into law last month by Barack Obama. Exactly what this means, though, is anyone's guess, and even Geithner seems to concede the new regulations can be confusing. "We will move as quickly as possible to bring clarity to the new rules of finance," he said.

One would think Sen. Chris Dodd (D-CT), the bill's chief author and champion in the Senate, would be able to expound on the law, but alas, even Dodd said, "No one will know until this is actually in place how it works." Of course, Democrats have become increasingly adept at passing sweeping bills and then trying to figure out exactly what's in them. If you're wondering how the new law will affect you, Dodd ominously observed that the bill "is about as important as it gets, because it deals with every single aspect of our lives."

Speaking of sweeping, while giving lip-service to "sweeping, fundamental change" of Fannie Mae and Freddie Mac (despite the bill's lack of any meaningful reform for the duo), Geithner appears to be sweeping the issue of real reform under the rug, claiming the system "worked very well for many, many decades" and pointing to "basic problems" that will supposedly not be hard to fix. Funny how it was a huge crisis but, at the same time, not really that big a deal.

Income Redistribution: Soaking the Rich

Defending the Democrats' plan to raise taxes on the "wealthy," House Speaker Nancy Pelosi (D-CA) claimed, "I don't see any reason why we should renew a tax cut that only gives a tax cut to the wealthiest people in America, increases the deficit and doesn't create jobs. That doesn't make any sense." Uh, Nancy, it makes perfect sense if you're a small business owner who won't be able to hire that extra person because your taxes are going up. Note the 131,000 lost jobs in July -- there are plenty of people who could use jobs better than the federal government can use a few extra tax dollars.

Meanwhile, the Associated Press reports, "Wealthy Americans aren't spending so freely anymore. And the

rest of us are feeling the squeeze." Wait -- do they mean that wealthy Americans actually fuel economic growth?

So why aren't the wealthy spending? "In addition, the most sweeping tax cuts in a generation are due to expire in January, and lawmakers are divided over whether the government can afford to make any of them permanent as the federal budget deficit continues to balloon," the AP says. "President Barack Obama wants to allow the top rates to increase next year for individuals making more than \$200,000 and couples making more than \$250,000. The wealthy may be keeping some money on the sidelines due to uncertainty over whether or not they will soon face higher taxes."

The question, of course, isn't whether the government can "afford" for taxpayers to keep more of their money. The question is whether the economy can sustain a massive tax increase.

In related news, a record number of Americans are now on food stamps. The White House estimates that, in the year that began Oct. 1, more than 40 million people -- or one-eighth of the population -- will receive food stamps each month. Now *there's* Hope 'n' Change for you.

Jackpot Justice

Winston Churchill once noted that some men change their party for the sake of their principles while others change their principles for the sake of their party. He just as easily could have described today's abrupt role reversal where we find Democrats pushing for a tax break against Republican opposition. No, really.

It's ironic that Democrats are claiming it's irresponsible *not* to raise taxes on the wealthy while Barack Obama is working hard to give rich trial lawyers their first-ever tax break for fronting lawsuits. Of course, it's unclear why these loans are suddenly transformed into expenses so as to be tax deductible. A loan, including costs an attorney pays during a lawsuit, is made with the expectation of repayment. Thus, it's not deductible unless it's uncollectable (such as when an attorney loses the lawsuit or any other kind of loan that's defaulted). We sincerely doubt rich trial attorneys will stop collecting repayment for their costs in lawsuits, because a loan by any other name is still just a loan.

Leftist politics is the art of looking for trouble, finding it whether it exists or not, diagnosing it incorrectly, and applying the wrong remedy. This explains why, 30 months

into the Great Recession, Democrats finally found an interest group needing a tax break to get ahead despite today's prevailing leftist canard that high taxes somehow grow our economy. We just wonder what perceived difference exists with the legal profession that quixotically exempts trial lawyers.

Oil Spill Contained, Congress Moves In

After more than three months, BP finally seems to have permanently halted the flow of oil from the Macondo well, putting an end to a gusher that dumped nearly five million barrels of oil into the Gulf of Mexico and established itself as the world's largest accidental oil spill. Even at that, cleanup crews are having a hard time finding any oil. How has Congress responded? By now criticizing BP for environmental damage -- not damage from the spill, mind you, but from the cleanup. In May, the EPA demanded a 75 percent reduction in the use of dispersant to break up the spilled oil, giving the Coast Guard the authority to issue waivers for more dispersant in "rare cases." Since then, BP and the Coast Guard have achieved (only) a 72 percent reduction, and now a congressional panel, which apparently has nothing better to do, wants some answers.

In a letter to Coast Guard Admiral Thad Allen, Rep. Ed Markey (D-MA) argued that the "exemptions are in no way a 'rare' occurrence" and said dispersant use has contributed to a "toxic stew of chemicals, oil and gas." Yet, even the EPA contends that the dispersants have "prevent[ed] millions of gallons of oil from doing even more damage to sensitive marshes, wetlands and beaches and the economy of the Gulf coast."

Why, then, the congressional song and dance? As Rush Limbaugh explained, "They have to justify their existence. ... They have to justify the chaos that they caused. They have to justify the \$20 billion shakedown." One thing they *should* do, now that the oil spill, according to The New York Times, poses "little additional risk," is to rescind the drilling moratorium and let the Gulf economy recover in full.

CULTURE & POLICY

Immigration Front:

Arizona Denied Expedited Hearing

Last week a federal court barred several key aspects of SB 1070, the controversial Arizona bill aimed at stemming the flow of illegal immigration into that state. Arizona Republican Gov. Jan Brewer has appealed to the Ninth Circuit Court of Appeals, but that notoriously leftist court

has already denied her request for an expedited hearing on the lower court's ruling. State attorneys argued that SB 1070 addresses "serious criminal, environmental, and economic problems" that Arizona is suffering because the feds are not securing our borders. The Ninth Circuit, however, agreed with the Justice Department's claim that a September hearing wouldn't give them enough time to prepare, so the hearing will remain scheduled for the first week in November.

In the meantime, criminals are so emboldened by the lower court's decision that they're not even bothering to cross the border to commit crimes. An Arizona couple received text and voice messages, allegedly sent by the Juarez Cartel, offering \$1 million to kill Maricopa County Sheriff Joe Arpaio. The messages, both in Spanish, included an international number and instructions to be forwarded; law enforcement has determined that they were in fact sent from Mexico.

Other sheriffs are feeling the pinch as well. An ACLU "racial profiling" suit named as defendants every county attorney and sheriff in all of Arizona's 15 counties. Pinal County Sheriff Paul Babeu has been especially vehement in his criticism of the federal government's mishandling of illegal immigration in general and its treatment of his state in particular. "If the president would do his job," Babeu said, "and secure the border; send 3,000 armed soldiers to the Arizona border and stop the illegal immigration and the drug smuggling and the violence, we wouldn't even be in this position ... where we're forced to take matters into our own hands."

While we await the outcome, other states are weighing in on illegal immigration. Virginia Attorney General Ken Cuccinelli has issued a legal opinion supporting Arizona while also distinguishing itself. Virginia law enforcement officials are allowed to check the immigration status of anyone stopped or arrested, but they are not *bound* to, as they would be in Arizona. Cuccinelli also made it clear that illegals should be arrested on criminal immigration charges, but not civil. Perhaps he's trying to keep both the ACLU and the Justice Department off his back. This comes on the heels of news that an illegal alien driving drunk killed a nun when he hit her car in Virginia. Unbelievably, he was released on his own recognizance while awaiting deportation.

Finally, the Associated Press reports, "Leading Republicans are joining a push to reconsider the constitutional amendment that grants automatic citizenship to people

born in the United States.” As we have argued in the past, however, the 14th Amendment confers no such “automatic citizenship” to the children of illegal aliens, and Republicans are right to urge reconsideration of that policy.

Around the Nation: NYC Mosque Gets Green Light

Amid cries of “shame on you!” the NYC Landmarks Preservation Commission removed the last major hurdle to the building of a 13-story mosque two blocks from Ground Zero when it denied landmark status to the warehouse currently on the site. The American Center for Law and Justice has promised to bring the case to court, contending that the Commission has “acted arbitrarily and abused its discretion.”

New York City Mayor Michael Bloomberg, posing in front of the Statue of Liberty, hailed the decision as a victory for American ideals. Republican Rick Lazio, a former U.S. congressman now running for governor of New York, issued a statement much more apropos: “It’s about this particular mosque called the Cordoba Mosque, it’s about it being at Ground Zero, it’s about it being spearheaded by an imam who has associated himself with radical Islamic causes and has made comments that should chill every single American, frankly.”

As the “right” to build is fought in court and protested on the city streets where so many lost their lives nearly nine years ago, William McGurn’s particularly astute Wall Street Journal op-ed drives the point home. We can debate for another nine years whether Imam Feisal Abdul Rauf has the right to build the mosque, or we can realize an essential truth that escapes Rauf and Bloomberg alike: “[H]aving the right to do something doesn’t mean it’s the right thing to do.”

Judicial Benchmarks: California Prop. 8 Overturned

Chief U.S. District Judge Vaughn Walker struck down California’s Proposition 8 Wednesday, ruling it unconstitutional and thus extending the battle over same-sex “marriage” into the next round. We’re going to go out on a limb and say that it probably didn’t hurt that Walker is homosexual. In 2000, voters approved Proposition 22, or the California Defense of Marriage Act, which properly defined marriage as between only one man and one woman. In May 2008, the state Supreme Court struck

down that law. In November 2008, voters again approved the definition of marriage, this time as a constitutional amendment known as Proposition 8 that overturned the court’s ruling. But now, for the second time, a judge has ignored the will of the people in order to rule by judicial diktat. Walker attached a stay on his own ruling, however, and proponents of Prop. 8 plan to appeal to the Ninth Circuit Court. If the Ninth Circuit upholds Walker’s decision, which we think is likely, the case will no doubt reach the U.S. Supreme Court.

And Last...

Comedian Jay Leno is unquestionably a liberal, but he’s more or less an equal opportunity mocker when it comes to politics, and Wednesday night was no exception. That, of course, was Barack Obama’s birthday, which he celebrated without his family as they gallivanted in Spain. “[W]e want to start off by saying Happy Birthday to President Barack Obama,” Leno said. “He is 49, which is eight points higher than his approval rating.” He didn’t stop there. “If you would like to get him a gift, he’s registered at Bed, Bath and Blame it on Bush.”

He saved the best for last though, offering a joke about Obama’s cake. It was “a little different than most birthday parties. What he did was he didn’t blow out the candles, he just taxed them until they finally gave up and went out on their own.”

Publisher’s Note

Following Monday’s Brief, there will be no other editions of *The Patriot Post* next week as we will be taking a much-needed August recess -- or, as Congress now calls it, a “District Work Period.” We’ll be back with the Brief on Aug. 16.

Veritas vos Liberabit -- Semper Vigilo, Fortis, Paratus, et Fidelis! Mark Alexander, Publisher, for *The Patriot Post*’s editors and staff. Read online at <http://patriotpost.us>

(Please pray for our Armed Forces standing in harm’s way around the world, and for their families -- especially families of those fallen Soldiers, Sailors, Airmen, Marines and Coast Guardsmen, who granted their lives in defense of American liberty.)