



## THE FOUNDATION

“[T]he Constitution ought to be the standard of construction for the laws, and ... wherever there is an evident opposition, the laws ought to give place to the Constitution.”  
--Alexander Hamilton

## GOVERNMENT & POLITICS

### ObamaCare on Trial

It's official: The U.S. Supreme Court will decide the fate of the Patient Protection and Affordable Care Act, a.k.a. ObamaCare -- and one-sixth of the U.S. economy with it. The Court announced Monday that it will take the case, scheduling an unusual five-and-a-half hours of oral argument, probably in March, with a decision likely in June. The timing is significant because it will come right in the heat of the presidential race, while the length of argument belies Leftist claims that ObamaCare is unquestionably constitutional.

The Court chose from five cases in three appellate courts, where rulings have been issued in favor of each side, deciding to hear the case brought by 26 states and the National Federation of Independent Business. That should be encouraging to the law's opponents, because the 11th Circuit struck down the individual mandate in August.

The justices will rule on four legal questions: jurisdiction, Medicaid expansion, severability and, of course, the central question of the mandate that individuals purchase health insurance. The first question, jurisdiction, deals with whether the law can be declared constitutional or not before it takes full effect. Both sides want this question answered sooner rather than later.

The Medicaid question is described thus by National Journal: “The health care law expands eligibility for Medicaid programs by threatening to withhold all federal Medicaid funds if states don't cover anyone earning up to 133 percent of the federal poverty limit. Critics say that placing such significant financial conditions on a state's behavior is ‘coercive’ and exceeds Congress's spending power. The issue has only come up so far in the 11th Circuit cases, but neither the trial court nor the Appellate Court agreed with this argument.”

The most significant issues, however, are the individual mandate itself, and whether it is severable. A federal judge ruled earlier this year that the mandate is not severable, striking down the whole law. The 11th Circuit partly overruled him, finding the mandate unconstitutional but severable. No other appellate court has agreed with the 11th Circuit. Interestingly, however, both parties before the Supreme Court take the position that the mandate is *not* severable. In other words, even the administration realizes that without the mandate the whole law crumbles.

There are other important factors, as well. For example, Barack Obama will not likely have the chance to appoint another justice before the case is decided. The two he has appointed -- Sonya Sotomayor and Elena Kagan -- are certain to vote to uphold the law. In fact, Kagan is so thoroughly predisposed to favor the law that she should recuse herself. She was, after all, the administration's solicitor general as the law was being crafted and passed, and, upon learning that passage was imminent, she emailed Harvard law professor Larry Tribe, marveling, “I hear they have the votes, Larry!! Simply amazing.” Kagan claims she was not involved in the process and appears to have no interest in recusal, her king-sized conflict of interest notwithstanding.

There have also been calls for Clarence Thomas to recuse himself, because his wife has been involved in efforts opposing the law. Thomas is indeed almost certain to rule against the law, but the case for his recusal is much weaker than that for Kagan. If he does recuse himself, the administration will almost certainly prevail.

When the dust settles in June, the Court may have the final legal say, but the argument certainly won't be over. No matter which side wins, the other side will forever decry the ruling as wrong. Indeed, we believe that ObamaCare is blatantly unconstitutional. If the justices rule otherwise, it is they who will be discarding Rule of Law for the tyranny found in the rule of men.

### This Week's 'Braying Jenny' Award

“When the Affordable Care Act is placed before the highest court in our country, all Americans will have a stake in the debate; therefore, all Americans should have access to it.” --House Minority Leader Nancy Pelosi, urging the

Court to allow C-SPAN to broadcast the arguments

Recall, if you will, that as Speaker, Pelosi ham-handedly blocked any transparency while our “representatives” considered and passed the law. She once said, “[W]e have to pass the bill so that you can find out what is in it.” *Now* she wants transparency.

### Support *The Patriot Post* Today

“The battle is not to the strong alone; it is to the vigilant, the active, the brave.” --Patrick Henry

From our inception to this day, we at *The Patriot Post* have been vigilant against the threats to our Constitution, and we remain steadfast in our advocacy for Rule of Law. Not since the first American Revolution has our nation faced more crucial battles for Liberty, and with each edition, we endeavor to defend that Liberty.

So far we have raised nearly **36 percent** of the funds toward our [2011 Year-End Campaign goal](#). We must still raise **\$230,400** to keep *The Patriot Post* coming to you.

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### News From the Swamp: \$15 Trillion

On Tuesday, our nation’s cumulative federal debt crossed the \$15 trillion mark, or roughly \$200,000 per American family, and nearly \$6 trillion higher than when Barack Obama won his office three years ago. That certainly puts into perspective the congressional super committee’s laughable charge to reduce the *rate of increase* in the debt -- not reduce the debt itself -- by \$1.2 trillion over 10 years.

As for Obama, back in 2008, he slammed then-President George W. Bush -- justifiably, we might add -- for increasing the debt so drastically. “The problem is,” Obama said then, “that the way Bush has done it over the last eight years is to take out a credit card from the Bank of China in the name of our children, driving up our national debt from \$5 trillion for the first 42 presidents, [and] number 43 added \$4 trillion dollars by his lonesome, so that we now have over \$9 trillion of debt.” He called such profligate spending “unpatriotic.” Now he’s campaigning against “unpatriotic” Republicans who opposed his own spending binge. The guy has no shame.

### New & Notable Legislation

This week the House passed by a 272-154 vote H.R. 822,

the National Right-to-Carry Reciprocity Act. The bipartisan bill allows concealed carry permit holders to carry concealed handguns in any of the 49 states that currently have such laws. Illinois is the lone state that prohibits the Second Amendment within its borders. Introduced by Reps. Cliff Stearns (R-FL) and Heath Shuler (D-NC), the legislation has predictably come under fire from anti-Second Amendment zealots who claim that all states would have to abide by the laws of the least restrictive states. However, the bill specifically requires permit holders to abide by the restrictions of the state in which they are traveling. It merely offers reciprocity much the same way drivers’ licenses do from one state to the next. That doesn’t mean there aren’t federalism questions, though, and in particular, it’s ironic that this has the opposite effect of the Defense of Marriage Act, which specifically *exempts* states from having to honor each others’ licenses.

### From the Left: Obama Tees Off ... Again

Barack Obama claims that America is not doing enough to attract foreign business. “We’ve been a little bit lazy over the last couple of decades,” he lectured. His own efforts to combat this problem are certainly unique, including a stop in Hawaii to play golf with a longtime friend -- one who was arrested and charged in April for soliciting a prostitute. Robert Titcomb (yes, that’s his real name) has been a frequent golf buddy who has joined the president on some of the *87 golf outings* he has enjoyed since taking office.

Speaking of living the high life, we have the First Lady’s makeup artist, Derrick Rutledge, whose clients include Oprah Winfrey and singer Patti LaBelle. He is sometimes summoned to Washington on short notice to paint up Michelle’s face for various public appearances at the bargain price of \$15,000 per day. The White House is quick to point out that this is a personal expense not billed to taxpayers, but that technicality notwithstanding, it hardly reflects the lives of the “99 percent.” Still, the latter *are* disrupting the lives of “lazy” working Americans -- just like the Obamas.

### Insider Trading Inside the Beltway

In his new book, *Throw Them All Out*, Peter Schweizer writes that House Minority Leader Nancy Pelosi and her millionaire real estate developer husband were beneficiaries of a 2008 Visa IPO that greatly increased their personal wealth. The Pelosis bought somewhere between \$1 million and \$5 million worth of Visa stock (ethics rules don’t require further specificity) in an IPO that saw their investment bring a 203 percent return. The vast majority of purchase options in this offering were targeted for institutional investors, pension funds and Pelosi herself, who

at the time was Speaker and the gatekeeper of legislation in the House. She was invited to “invest” just two weeks after the Credit Card Fair Fee Act was introduced, a bill that would have strictly curtailed the fees that credit card companies charged to retailers. Oddly enough, the bill never made it to the floor for a vote, despite passing the Judiciary Committee and being lobbied by the National Association of Convenience Stores.

A second bill crafted later that year, the Credit Card Interchange Fee Act, likewise died before making it to the House floor. In 2009 Pelosi supported the Credit Card Reform Act, which didn’t address the retailer fee issue, claiming that it sent a “strong and clear message to credit card companies.” Certainly Pelosi is not the only member of Congress from either party who has been the beneficiary of such industry kickbacks. But this also wasn’t the only IPO that she was invited to partake by a company that later benefited from legislation she backed or quashed. On Dec. 6, the House Financial Services Committee will hold hearings on insider trading by members of Congress.

## NATIONAL SECURITY

### Department of Military Readiness: Defense Cuts

As the crucial date approaches for the “super committee” to finish a budget deal, Secretary of Defense Leon Panetta warned Congress that failure would lead to automatic defense budget cuts that would jeopardize U.S. national security. Over the next 10 years, the Pentagon is already facing \$450 billion in reduced growth, but Panetta said that the additional \$600 billion in automatic decreases would devastate U.S. defense capabilities, including possible cancellation of the Joint Strike Fighter and elimination of America’s land-based nuclear missile system, one of the legs of our strategic nuclear triad.

In a letter requested by Republican senators John McCain of Arizona and Lindsey Graham of South Carolina, Panetta said that a further round of reductions would lead to a combined decrease of 23 percent, or \$100 billion, in 2013 alone. Such drastic measures could leave the Navy with just 230 ships, the smallest force since 1915, and would leave the Air Force with the smallest number of tactical fighters in its history. Given the current and rising threats in the Middle East, Russia and China, allowing such cuts would seriously jeopardize national security. Nevertheless, it’s welcome to see Panetta take his job seriously. We hope Congress is listening.

Speaking of the Chinese threat, Barack Obama this week moved boldly (cough, cough) to counter that threat in the

Pacific. Starting next summer, the U.S. will send 250 Marines to bases in Australia for six-month tours. Eventually, 2,500 troops will rotate through the country, which will hardly put a scare into China’s army of 2.3 million. “The United States is a Pacific power, and we are here to stay,” Obama said, apparently with a straight face, to the Australian Parliament. Exactly how we intend to stay, Obama didn’t say, though maybe, with no ships in the Navy and no planes in the Air Force, we simply won’t have a way to bring anyone home.

### Warfront With Jihadistan: Explosion Kills Key Iranian Figure

An explosion at an Islamic Revolutionary Guard Corps base near Tehran killed 17 people over the weekend, including Brig. Gen. Hassan Moghaddam, who was prominent in Iran’s ballistic missile program. The Iranian government is publicly maintaining that, while Moghaddam is “irreplaceable,” the explosion was accidental. Perhaps. And maybe it was coincidental that Moghaddam was there at the time of the explosion.

Israeli Defense Minister Ehud Barak certainly made an interesting comment: “I don’t know the extent of the explosion, but it would be desirable if they multiply.” While it isn’t clear if the explosion was, in fact, an Israeli greeting card, it is in their interest to spread the perception that it might have been. For Iran to wonder if the Israelis were able to conduct such sabotage is valuable. The *best* case scenario for Iran is that it was a miserable failure in munitions handling by the IRGC, and we hope the episode will distract some of Iran’s attention away from its nuclear program.

### Argument Continues Over Bin Laden Raid

Last week, we reported on former Navy SEAL Chuck Pfarrer’s new book, *SEAL Target Geronimo: The Inside Story of the Mission to Kill Osama Bin Laden*. The title says it all -- his effort was to correct the administration’s version of events. This week, however, U.S. Special Operations Command disputed Pfarrer’s account. “It’s just not true,” said spokesman Col. Tim Nye. “It’s not how it happened.”

According to the Associated Press, Nye issued “an on-the-record denial on behalf of Navy SEAL Adm. Bill McRaven, who took command of all special operations in midyear. In his previous role, McRaven oversaw the raid in May as head of the military’s elite counterterrorism unit, the Joint Special Operations Command.” The AP also reports that Pfarrer got numerous facts wrong, such as the date of McRaven’s appointment, as well as the method of al-Qa’ida ringleader Abu Musab al Zarqawi’s demise in 2006.

This latest dispute only muddies the waters of what should be a great success story for our military heroes. Some facts remain certain, however. Osama is dead and Obama cost the U.S. valuable intelligence by celebrating his victory too quickly. We suppose the answer to the questions of when the helicopter crashed or when bin Laden was shot may remain unanswered.

## BUSINESS & ECONOMY

### Europe Discovers the Problems of Confederacy

We have heard much in the past several months about the economic travails of Greece, Italy, Spain, Ireland and Portugal -- to name a few. Now we hear rumblings of a "European breakup," and this time these rumors are no longer simply idle claptrap. In fact, the question seems to center not on "if" but "when." What were once known as the "European Union" (EU) and the "Euro" could soon be relics in the ash heap of history, thanks to the EU's recent discovery of something the U.S. learned well over 200 years ago: Confederations don't work.

The idea of a "European Union" was good, as far as it went: European countries would form a "seamless" union with a single currency (the "Euro," rolled out in 1999), a single expansive market and freedom of movement for all European nationals within the "Eurozone." The only hitch was that everyone had to follow the same rules. In a federal republic like that of the U.S., no problem -- if a state gets out of line, the federal system keeps it in check. In a confederacy like the EU, however, with no authority reigning supreme over many *sovereign* nations, that condition is fatal.

The latest symptom of this failure manifested itself in the unhinging of the 1993 Maastricht Treaty. Under this accord, no EU country is permitted to have a deficit of more than 3 percent of GDP or a total debt exceeding 60 percent of GDP. But several countries do have deficits exceeding 3 percent, in fact, exceeding 10 percent of GDP, and those mentioned above have debts averaging 112 percent of GDP as well. Cradle-to-grave welfare-state spending and socialist beggar-thy-neighbor policies constitute a great deal of these excesses, of course, but the real problem is that inequalities and uneven economic playing fields are unavoidable in confederacies. Any nation-state can decide simply to ignore confederation rules, because no enforcement mechanism exists to prevent it from doing so. In a confederacy consisting of "haves" and "have-nots," such inequalities and rule flouting are inevitable.

The fallout from these economic disparities is just begin-

ning. Italy and Greece have both unseated longtime leaders, France is calling for "modifying" the EU into two pieces ("have" nations on the one hand, "have nots" on the other), and German trade unions are screaming to save the Euro "at all costs," to include sticking everyone else with the tab. Meanwhile, debtor nations slide deeper into debt and everyone demands that "someone else" fix the problem.

Were the U.S. not joined at the financial hip with the EU, all of this might appear to be an academic discussion. Unfortunately, as Europe's debt crisis worsens, U.S. banks face a serious risk that their creditworthiness will likewise tank. Naturally, the S&P dropped like a rock on this news, but this is just the beginning of our own woes. Regrettably, the U.S. government failed to grasp another lesson nearly as old as the one on confederacies: Fiat currencies -- those not tied to an absolute standard, such as gold -- are too wrought with political pitfalls to last. Just ask Germany.

### Solyndra Documents Parceled Out by Obama Administration

After initially taking a hard line against releasing the thousands of pages of documents requested by a congressional panel reviewing the failed Solyndra project, the Obama administration surrendered another 135 pages that "do not contain evidence of favoritism ... or any wrongdoing by the White House." Yet they still refuse to release thousands more pages that just *might* contain damaging secrets. Naturally, the administration denies any "political considerations." Secretary of Energy Steven Chu even declared that he made decisions on Solyndra "with the best interest of the taxpayer in mind." He concluded, "Was there incompetence? Was there any undue influence? I'd have to say no." Defiant to the last.

However, another set of emails released earlier this week described how the Obama administration pressured Solyndra to wait until the day after the 2010 election to announce the layoffs of 190 employees and contract workers along with the shutdown of its original factory. At that time, Solyndra chief executive Brian Harrison warned that rumors were already circulating about the planned shutdown and he wanted to address them in late October; instead he was "convinced" to wait until Nov. 3.

Solyndra executives were also clear on the political considerations. "The DOE really thinks politically before it thinks economically," wrote one board member in an email. An investment adviser likewise wrote, "DOE is willing to accommodate Solyndra ... but they appear to be

concerned about ‘looking bad.’”

Solyndra could be the tip of the melting iceberg. Peter Schweizer, a fellow at the Hoover Institution, says that \$16.4 billion of the \$20.5 billion DOE 1705 Loan Guarantee Program went to “individuals who were bundlers, members of Obama’s National Finance Committee, or large donors to the Democratic Party.” It looks more everyday as if the “scandal-free administration” Jonathan Alter famously hallucinated is anything but.

### **Income Redistribution: The Wrong Way to Fix Housing**

In 2009, the Obama administration began yet another redistributive plan to provide new, first-time homebuyers with an \$8,000 tax credit to prime the housing pump. Between the beginning of 2009 and Sept. 30, 2010, eligible buyers could reduce their amount owed or even get up to the full amount of the credit back as a refund if they owed no tax. All told, the government “invested” \$26 billion in the housing market through this tax credit.

Predictably, a new study by a real estate information company shows that the decline of home prices in 110 of 157 markets has entirely offset the \$8,000 credit. Only six markets have seen an increase in values. Yet the recipients can’t sell at a loss or walk away from the home they purchased. A clause in the law requires that they remain in the home for three years or be liable to Uncle Sam for the \$8,000. Like millions of others, they’re now trapped in a home that continues to decline in value, with a mortgage debt greater than the house is worth -- all because they thought there was “free” money available from the government. Lesson hopefully learned: Free stuff always comes with strings.

Meanwhile, the Federal Housing Administration has continued to expand over the last three years, with loans up to \$729,750 now guaranteed. FHA-backed loans accounted for 40 percent of all home purchase mortgages in 2010, up from just 4.5 percent in 2006. They require just 3.5 percent down, as opposed to many private lenders who require the traditional 20 percent. Such low down payments were a significant catalyst in the housing collapse, as many writers have explained. For Washington, however, the solution is always more of the same.

### **Good News, Bad News**

The federal government’s bailout of General Motors didn’t cost taxpayers \$14.3 billion, as estimated previously; it cost \$23.6 billion. The total 2009 auto industry

bailout was \$85 billion, and the Treasury Department now estimates that more than a quarter of that will be a loss. That also brings the total loss from the Trouble Asset Relief Program (TARP) to \$57.3 billion. Treasury’s number is a result of GM’s stock price, which fell by one-third to \$20.18 per share at the end of the third quarter. According to the Detroit News, “The government has recovered \$23.2 billion of its \$49.5 billion GM bailout, and cut its stake in the company from 61 percent to 26.5 percent. But it has been forced to put on hold the sale of its remaining 500 million shares of stock.”

## **CULTURE & POLICY**

### **Media Double Standard**

It’s old hat now that the Leftmedia have a double standard when it comes to covering the Right and Left. In January, the Leftmedia hastened to blame the Tea Party when a madman opened fire at a rally in Tucson, Arizona, killing six and wounding 13, including Rep. Gabrielle Giffords (D-AZ). (We should add that Giffords’ recovery has been remarkable and miraculous. We wish her the best.) The shooter, as it turned out, was merely a mental case with no ties to the Tea Party or conservatives. We’re still waiting to see an apology from the likes of The New York Times for their depraved editorials at the time.

This week, a man fired upon the White House from long range, striking it several times, including cracking a window in the wing where the Obamas reside. A few days later, police arrested Ramiro Ortega-Hernandez, of Idaho Falls, Idaho, for the shooting, and he is charged with attempting to assassinate the president, who was in California at the time. As it turns out, Ortega-Hernandez spent some time at the Occupy DC gathering. Did the media immediately indict the entire movement? Not a chance. In fact, The Washington Post practically heaved a sigh of relief when reporting that “investigators searched the Occupy D.C. campground near the White House but have found no connection between him and the Occupy protesters, according to three law enforcement officials familiar with the case.”

We wonder how much airtime the networks will give to the moment of silence held at Occupy San Diego ... for the *shooter*.

### **Embryonic Stem Cell Researcher Stops Program**

For years, human embryonic stem cell research (hESCR) has been touted as the great hope for medical breakthroughs, and people who opposed it on scientific or (heaven forbid) moral grounds have faced harsh criticism.

Now, one company at the forefront of this research is abandoning it altogether. Geron Corporation, which performed the first government-approved test of embryonic stem cell therapy, announced Monday that it is stopping development of its stem cell program “after a strategic review of the costs, ... timelines and clinical, manufacturing and regulatory complexities associated with the company’s research and clinical-stage assets.” In other words, the return on investment isn’t there.

The reason is simple: For all the hype, embryonic stem cell research has yet to produce a single proven cure or treatment. Even the National Institutes of Health admits this, stating on its website, “Although hESCs are thought to offer potential cures and therapies for many devastating diseases, research using them is still in its early stages. ... Adult stem cells such as blood-forming stem cells in bone marrow ... are currently the only type of stem cell commonly used to treat human diseases.” Indeed, adult stem cells have been used to treat more than 70 diseases or conditions.

This inconvenient truth doesn’t sit well with those who continue to claim the best way to improve the lives of some is by destroying the lives of others. Even as Geron closed its doors on hESCR, the company’s chief executive, Dr. John Scarlett, said, “Stem cells continue to hold great medical promise.” Tragically, when it comes to human embryonic stem cell research, lives have been aborted simply to prove this promise empty.

### **Village Academic Curriculum: Conservatives Are Crazy**

In George Orwell’s *1984*, as well as the Soviet Union after which it was patterned, political dissidents were often diagnosed as having psychological disorders, permitting the authorities to imprison them in psychiatric hospitals, isolate them from the rest of society and discredit their ideas. So it should come as no surprise that those who support moving the United States to the left in order to establish the socialist utopia that eluded the Soviets would eventually claim that conservatives suffer from a variety of psychological disorders.

The latest academic “study” in this area comes from University of Tampa professor Marcus Arvan. He claims to have found “significant” correlations between key anti-

social personality traits and bedrock conservative views, such as opposition to same-sex marriage and support for capital punishment. He claims his research finds elements of narcissism, psychopathy and Machiavellianism among test subjects.

It would seem that Dr. Arvan is quite the psychologist. However, the University of Tampa lists his specialty as “social and political philosophy and ethics,” and his “primary avenues of research [as] social justice and human rights.” Even Arvan has problems with his published findings, saying more research is needed to follow up on his study. He also hedges that many positive personality traits may also correlate with conservative views, adding, “It’s not to say that those people are certifiably crazy.” On the sane side of life, qualified people challenge Arvan’s study. We can’t wait for his bookend study on the admirable psychological traits of leftists.

### **And Last...**

Well, it’s that time of year again -- time for the political correctness police to start their annual assault on Christmas. A medical center in South Carolina informed their own personal Santa Claus this week that his services would not be needed. “Because of our state affiliation, we decided not to have a Santa presence this year,” said a spokeswoman, citing complaints from patients who aren’t Christian. “We don’t want to offend a volunteer with good intentions, but we need to think of the bigger picture. People who are Muslim or Jewish or have no religious beliefs come here for treatment.” Predictably, the ban created an uproar, and the center soon backed down and told St. Nick he was welcome after all. We have to say, with tongue planted firmly in cheek, nothing says “Christmas” quite like an oversized elvish impersonator.

Semper Vigilo, Fortis, Paratus et Fidelis! Nate Jackson for *The Patriot Post* Editorial Team. 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.)