



## A DEFINING CASE FOR MARRIAGE

"The foundation of national morality must be laid in private families." --John Adams

The Supreme Court is set to hear a challenge against the Defense of Marriage Act (DOMA), a statute passed by Congress in 1996 to protect marriage (i.e., to define it as a contract between one man and one woman). The case comes along with an appeal of the Ninth Circuit Court's decision striking down California's Proposition 8, itself an attempt by state voters to inoculate against looming legal onslaughts that challenge marriage in its traditional meaning. Marriage, of course, is the building block of society. Thus, this case is of the utmost importance.



Marriage before the Court

While DOMA may not be the best course of action as far as constitutional law is concerned -- the Constitution is silent on the issue of marriage, thus leaving it to the states -- its passage is certainly understandable. The law both protects states from having to recognize marriages formalized in other states and defines marriage for the purpose of federal law, specifically taxes. The latter is the section under challenge, and, frankly, not without justification under the Tenth Amendment.

Redefining the institution is a slippery slope that could end up being wide-open, anything-goes

"marriage" between any two -- or more -- "things," whether humans or not. But the Left thinks they hold the trump card of "rights." Never mind the government's interest in having clearly discernible lines to legal benefits for those qualifying as being "married." Never mind decades of past legislative decisions that will have to be re-examined in light of these new "marriages." Never mind the state's interest in ensuring children don't grow up in dysfunctional homes. Also abandon any notion that states should have a say in the matter under the Tenth Amendment. No, the Left's operative issue is "gay" rights, above all others, and that makes it a federal case, almost by definition.

Although the Constitution is silent about marriage, neither Congress nor the Obama administration has been. Since both the legislative and executive branches are constitutionally restricted to those powers specifically enumerated within that document, neither should have any say as to what the term "marriage" means. Such definitions and decisions -- in a perfect world, at least -- are best left to the individual states. Couples can "vote with their feet" if they are unhappy with a given state's legislative policy regarding marriage.

One of the Founders' original ideas behind federalism was allowing each state to experiment with legislative policy so that those whose policies that worked would serve as trail guides to other states whose policies ended in failure. Their intent was never that the federal government should be the across-the-board arbiter of controversial decisions made by a state or group of states. Unfortunately, today's activists, judicial or otherwise, don't care about the Founders' intent.

Expect the SCOTUS decision to be 5-4 one way or the other. We suppose we'll hear a distorted reading of the Equal Protection Clause, using terms such as

"rational basis," "important" and "compelling" interests and the like, each utterly fraught with subjective bars to clear -- or not clear. We do hope, however, that the decision won't further erode our federalist system.

## Government and Politics

### News From the Swamp: The Cliffs of Insanity

Barack Obama and House Speaker John Boehner exchanged fresh [fiscal bluff](#) proposals this week, although neither offer brings the two sides closer to an agreement. As it currently stands, many Republicans seem to be wavering about stopping a tax hike on top earners, and they are now turning their attention to spending cuts. Republicans are, however weakly, proposing to rein in entitlement spending, which is far and away the biggest driver of government debt. Among those proposals are plans to increase the eligibility age for Medicare, requiring more affluent Americans to pay more for Medicare, and slowing the growth of Social Security benefits by changing the formula for calculating Consumer Price Index adjustments.

Democrats are counting on Republicans caving on the tax hike issue, and they have begun back room discussions about which GOP budget cut proposals they believe they can accept as part of a final deal. Unfortunately, the short answer to that inquiry seems to be "none of the above." Leftist groups like MoveOn and AARP are prompting their followers to refuse any cuts to their favorite programs. The [NeoComs](#) in Congress are actually going the other way on spending, calling for \$250 billion in *new* spending that isn't offset, and is three times what the tax on top earners would supposedly bring in. Among the new spending items are \$60 billion for "emergency" Hurricane Sandy relief (though it's stuffed with the usual pork, some of which wouldn't even be spent until 2018) and an extension of unemployment benefits. They're even now pushing an extension of the payroll tax holiday.

Obama has only been a hindrance in negotiations; he's spending time back on what looks like the campaign trail stirring up his base with class warfare rhetoric.

His latest proposal included a promise to overhaul the corporate tax code, but Republicans figured that was already on the agenda. It's mostly just an attempt to gin up support among the business community, which isn't taking the fiscal bluff uncertainty too well, as recent stock market and employment activity demonstrates.

Obama has stubbornly insisted that Republicans must first accept the tax hike before he makes any budget trimming proposals public. That would be because he has no real intention of making any budget cuts (see the *added* spending above). As [Investor's Business Daily](#) writes, "Over the next 10 years, Obama's plan would tack \$8.6 trillion onto our nation's debt." Yet on the campaign trail, Obama "vowed to cut \$2.50 in spending for every \$1 raised with higher taxes. Instead, in one of the great switcheroos of all time, Obama now proposes \$4 in spending increases for every dollar of extra tax revenue. Call us simplistic, but shouldn't 'balance' include spending cuts?" Boehner remains publicly optimistic that a deal can be struck, but what kind of deal is another matter entirely.



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

"Why are we having all this subterfuge and this, that and the other thing [on the fiscal cliff]? Why are we being told make a reservation on Christmas Eve and one on the day after Christmas to come back? Is there not an appreciation for the Jewish holidays? The Christmas holiday? Kwanzaa? All the other things that families come together around?" --Nancy Pelosi

### The BIG Lie

"We all do better when the money is circulating. Those up on the top end -- they're going to continue to make money. But those who are just working people and those who aspire for the middle class -- when that money is circulating then we can all collectively become more wealthy." --Rep. Hank Johnson (D-Guam) explaining why we should raise taxes on the wealthy

### Support Liberty

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### Quantitative Easing, Take Four

Amid the 2008 financial panic, the Federal Reserve took the opportunity to begin printing more money to supposedly "rescue" the economy. They euphemistically call this quantitative easing so it won't sound like what it actually is. Chairman Ben Bernanke announced Thursday that the Fed will undertake a fourth round of printing. This practice hasn't worked for the last four years. Why does the Fed think another round will do the trick?

The question is rhetorical, of course. The Fed even admits that their *goal* is 2.5 percent inflation, and as economist [Thomas Sowell explains](#), printing money and the resulting inflation is a massive stealth tax on the American people, especially the poor. All that merely provides some cover for Obama's deficit spending because it makes borrowing so much cheaper. Once Obama is safely out of office and the

government has to refinance that debt at a higher interest rate, well, then the fun will really begin.

### Hope 'n' Change: We Keep Finding Out What's in It

The Obama administration tacitly admitted once again that ObamaCare will result in higher insurance premiums. Buried in a rush of recent regulations released by the Department of Health and Human Services is a \$63 fee that will be charged to every health insurance plan in America to help fund the cost of covering the uninsured and people with pre-existing conditions. It's expected to collect \$30 billion and will be charged to insurers and private companies who insure their workers, but it will ultimately be passed along to the people who actually pay for these plans. The fee is supposed to take effect in 2014 when insurance companies will no longer be allowed to turn away the sick, but HHS says it will be phased out in 2017 because, by that point they say, all the sick will be covered. Don't be fooled: This new fee is permanent.

Also this week, a group of 18 Senate Democrats are seeking to delay the \$28 billion medical device tax, due to take effect in January, because -- lo and behold -- it will result in a loss of jobs in the medical manufacturing industry. Among the newly enlightened are Chuck Schumer and Kirsten Gillibrand (NY), Patty Murray (WA), Debbie Stabenow (MI) and Dick Durbin (IL). It's awfully rich that suddenly these leftists are concerned with the impact of their policies on the economy because the tax was a rare ObamaCare measure that was publicly debated in 2009 and 2010 and could have easily been struck at the time.

Meanwhile, today is the latest deadline for states to set up the government-run exchanges under ObamaCare. The provision was a thinly veiled attempt to appear to use federalism to achieve the Left's goals, but in reality, it's a plan to use states as henchmen. HHS has been ominously silent when states requested information about how to set up the exchanges, leaving many states unwilling to step out into the unknown. In fact, just 15 states (and possibly

three more) have signed on, leaving an unprepared HHS to figure out how to set up and run (or at least offer substantial aid to) more than 30 exchanges.

### **From the Left: PSY Photo Ops**

South Korean rapping sensation PSY performed at the White House Christmas in Washington concert this week, despite widespread condemnation of the performer's anti-American past. The rapper, whose current hit "Gangnam Style" has become a worldwide sensation, performed at a concert in 2004 protesting the war in Iraq, where he sang a little ditty called "Dear American." The lyrics include, "Kill those f---ing Yankees who have been torturing Iraqi captives ... Kill their daughters, mothers, daughters-in-law and fathers. Kill them all slowly and painfully."

A petition on the White House's "We the People" website collected signatures calling for PSY's removal from the Christmas festivities, but it was taken down for violating the site's terms and conditions. The White House didn't elaborate on what those conditions were, but it probably had something to do with posting items that might be critical of Barack Obama. PSY issued a standard non-apology and performed at the concert anyway, with the First Family in attendance. Obama and PSY later took some photos together. We're sure they had a good ol' anti-American time.

### **Cabinet Updates**

UN Ambassador Susan Rice withdrew Thursday from consideration to replace Hillary Clinton as secretary of state. Rice's nomination was almost certainly doomed due to Republican opposition over her key role in the cover-up of the Benghazi murders of our ambassador to Libya and three other Americans. Of course, the Left says this opposition is racist and sexist, but what else is new? Her withdrawal makes John Kerry the most likely successor for Clinton.

Meanwhile, former GOP Sen. Chuck Hagel will almost certainly be nominated as secretary of defense to replace the outgoing Leon Panetta. It's noteworthy that the narcissistic Hagel voted for the invasion of Iraq in 2003, but then against the surge in 2007 that

secured victory there. Hagel, a Leftmedia darling, is also known for his frequent criticism of Israel and our close alliance with that nation. His nomination would be yet another unfriendly signal from the Obama White House to Israel.

### **Economy**

#### **Around the Nation: Michigan Becomes Latest to Give Workers a Choice**

It's the home of many of the manufacturers that made Big Labor the potent political force that it has been, but earlier this week the freedom to choose was restored for Michigan workers. Over the violent protests of union members, Michigan's legislature passed a bill to give both private- and public-sector workers the right to forgo union membership in formerly closed shops if they so desire. Signed by Republican Gov. Rick Snyder, it completed a lightning-fast turnaround that began last month when Wolverine State voters rejected a proposal to enshrine the right to collective bargaining in the state constitution.

Yet on the heels of setbacks to their cause in Wisconsin and Indiana, Michigan union workers weren't going down without a fight -- literally. Protesters were [caught on camera](#) assaulting Fox News contributor Steven Crowder and destroying a tent belonging to a pro-business group, Americans for Prosperity. Unlike the situation in Wisconsin, though, Michigan's bills passed through the process so quickly that unions and their Democrat allies were caught off guard, with one union leader absurdly comparing the process to the attack on Pearl Harbor.

But of all who came to protest, those leading the way were teachers, many of whom are among the best-paid and least-worked unionites in the nation. In fact, so many teachers from two Detroit-area districts called in "sick" to attend the protest that their districts had to cancel classes. Not that students were learning much anyway -- only 7 percent of eighth-graders in the Detroit Public Schools are grade-level proficient in reading, and only 4 percent are grade-level proficient in math, according to federal Department of Education statistics.

Obviously, the unions have done the math, as a poll of Michigan workers found nearly one in four would leave the union given the choice. With union dues averaging \$600-900 per year, one estimate pegs the financial cost to Big Labor at \$100 million annually. That's a lot of campaign commercials Big Labor can't buy, and Democrats around the country (including Barack Obama) are crying foul. And here we thought Democrats were all about "choice."



### Income Redistribution: Moving 2013 Income to 2012

Corporate America has gotten wind that tax rates will rise significantly next year. With the possibility of taxation of dividends dramatically increasing from its current 15 percent rate to a rate of 43.4 percent -- the old Clinton dividend tax rate of 39.6 cents on the dollar plus a special ObamaCare tax that adds another 3.8 cents -- many companies are considering ways of getting around the tax for their investors.

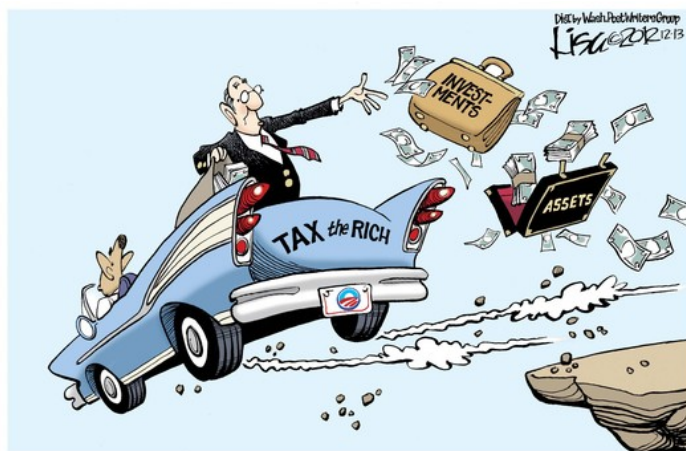
Those who contributed heavily to Barack Obama's reelection and even stumped for his demanded tax increases are now shamelessly trying to avoid those very taxes. For example, the Washington Post Company that publishes its namesake paper will pay its entire projected 2013 dividend as one lump sum on Dec. 27. This will allow shareholders to save about \$2.78 per share in taxation on the \$9.80 per share lump sum they'll receive.

Similarly, Costco, the big-box retailer whose former CEO, Jim Sinegal, made a prime-time speech on job

creation at the Democratic National Convention, is borrowing \$3.5 billion to make a special \$7 per-share dividend payout before year's end. Naturally, Costco board members -- who collectively own about four million shares of the company -- will see a multimillion-dollar payday and avoid paying millions of dollars in taxes.

Nor is tax avoidance simply a matter of dividends. Google recently came under fire for using a shell company based in Bermuda (which has no corporate income tax) to avoid paying \$2 billion in taxes to countries around the world. It's a perfectly legal loophole, but one that a European tax researcher called "a deep embarrassment to governments around Europe." Last year Google funneled \$9.8 billion in revenues to a subsidiary in Bermuda; however, even with the \$2 billion saved, the firm still paid over \$1.5 billion in taxes worldwide.

Let this be a message to those who think taxes don't change behavior: You're dead wrong.



### AIG Finally Out From Treasury's Shadow

The long, slow process of rebuilding insurer American International Group (AIG), a company whose near-collapse began the federal government's era of bailouts in 2008, will come to an end soon when the Treasury Department finalizes the sale of practically all of its remaining holdings of the insurance giant. The estimated \$7.6 billion in proceeds from the sale will give Uncle Sam a \$22.7 billion overall profit on the deal, at least on paper. All

the Treasury Department will have left in AIG is the option to buy 2.7 million shares at \$50 per share, a package adopted as part of the bailout.

Yet AIG will be losing big on a deal to spin off its last remaining non-insurance subsidiary to a group of Chinese companies. ILFC, a company specializing in the leasing of passenger aircraft such as the Boeing 787, owns or manages a fleet of over 200 such planes worldwide with China already being its largest market. AIG will claim a \$4.4 billion non-operating loss on the sale of ILFC, which it purchased in 1990.

While the bailout of AIG and the subsequent return on investment is being hailed as a TARP success story, the federal government is still holding the bag on billions in losses from other companies that couldn't rebound or that were initially overvalued. The "success" of AIG simply allows government bean-counters to reduce their estimate of TARP losses from \$32 billion to \$24 billion, although the exact figure may never be known. Such figures also ignore the real issue, which wasn't profit or loss, but constitutional authority -- or, more to the point, the lack thereof.

### **Security All Your Information**

A government program enacted by Attorney General Eric Holder in March of this year, [according to The Wall Street Journal](#), allows "the little-known National Counterterrorism Center [NCTC] to examine the government files of U.S. citizens for possible criminal behavior, even if there is no reason to suspect them." The Journal extracted the information from the "most transparent administration in history" only through a Freedom of Information Act request -- and, as it happens, only after the election.

The collection and use of this information about ordinary citizens -- anything from flight records to financial assistance applications to health records to firearms permits -- is unprecedented. The NCTC, established in 2003 by George W. Bush, may keep said information for up to five years, but if the information is "reasonably believed to constitute terrorism information," it may be retained

permanently. Information can also be given to foreign governments. Indeed, the Journal quotes a "former senior administration official" as saying the new power is "breathtaking" in its scope. As usual, the Obama White House completely bypassed Congress.

Despite assurances from the administration that there will be "rigorous oversight," this new power grab is deeply troubling. For starters, collecting information without probable cause would seem to violate the Fourth Amendment prohibition on unreasonable searches. However, just how this applies to records the government creates and then shares isn't clear. The Federal Privacy Act of 1974 prohibits the sharing of government-collected data in a way incompatible with its original purpose, but it also leaves room for agencies to exempt themselves so long as they provide notice in the Federal Register. The Obama administration has a disturbing penchant for fretting over [right-wing extremists](#), meaning American Patriots have much to fear.

We certainly don't think the Founders intended to grant this sweeping power to the federal government. Benjamin Franklin once said, "They who can give up essential Liberty to obtain a little temporary safety, deserve neither Liberty nor safety." He was right.

### **Department of Military Correctness: Army Manual**

A new manual for the U.S. Army is being drafted, and it's already raising hackles for bringing political correctness to new heights. [According to Judicial Watch](#), "the new manual, which is around 75 pages, suggests that Western ignorance of Afghan culture -- not Taliban infiltration -- is responsible for the increase in deadly attacks by Afghan soldiers against the coalition forces." The draft was leaked, and it reportedly contains a whole list of taboo subjects, including "making derogatory comments about the Taliban," "advocating women's rights," "any criticism of pedophilia," "mentioning homosexuality and homosexual conduct" or "anything related to Islam."

This is the same sort of thinking that blames guns for crime. Instead of treating the Taliban like the enemy,

our soldiers will be forced to show "sensitivity" toward them, even as the Taliban gradually wrests back the nation we've spent 11 years and more than 2,000 lives to liberate from their iron grip. Gen. John Allen, the top U.S. commander in Afghanistan, disapproves of the manual, and we hope his opinion prevails over the mushy sentiment of leftists.

### **Continuing Trouble in Egypt and Syria**

The much ballyhooed "Arab Spring," which leftists told us would somehow give birth to an Arab love of democracy, instead continues to devolve into the usual Arab thuggery, while Islamist Sharia law metastasizes across the region. In Egypt, the world's largest Arab country, President Mohamed Morsi, former leader of the Islamist Muslim Brotherhood, prepared to deploy the Egyptian military to safeguard balloting during a referendum on the country's new, Sharia-heavy constitution. Over the past two weeks, hundreds of thousands have protested in the streets against the new charter, MB offices and headquarters have been attacked, and at least seven people have died in clashes between Islamists and secular political factions. Morsi followed through on plans to authorize the military to protect national institutions and polling places, an order that amounts to a form of martial law, as it allows soldiers, under the direction of the defense minister, to arrest civilians under a military code of justice.

Why would the powerful Egyptian military, a partner of the West for decades under deposed President Hosni Mubarak and recipient of billions of dollars from the U.S., agree to go to bat for the MB? First, there are more Islamists in the military's leadership than previously thought, and second, the military seems to have reached a mutual "do not disturb" agreement with the MB.

Indeed, the new constitution creates a 15-member national defense council that will be an autonomous overseer of the Egyptian military, thus allowing the military to operate as it pleases. And by keeping the military free from MB control -- at least for now -- the MB is saying that it's just fine to keep U.S. dollars and weapons coming, including more than 20 F-16 fighter

jets that are part of a \$1 billion foreign aid package. The first four of these jets will be delivered to Egypt in January, joining more than 200 of the planes already in the Egyptian arsenal. Of course, as soon as Morsi and the MB get their constitution and consolidate power, Islamists in the military will purge any remaining secularists, and Egypt's powerful military will become an Islamist hammer, ready to pound on neighboring Israel.

In Syria, meanwhile, the U.S. formally recognized the primary rebel group as the "legitimate representative of the Syrian people," and invited the rebel leader, Moaz al-Khatib, to the White House. Now that staunchly pro-Syrian Russia is hedging its bets on President Bashar al-Assad's ability to retain power, the Obama lead-from-behind foreign policy team is exploring possible U.S. involvement in the civil war there. On the other hand, the U.S. is sending two Patriot missile batteries to Turkey to defend against any Syrian missiles.

### **Culture**

#### **Second Amendment: Illinois Carry**

Illinois is known for its stringent gun control laws while the city of Chicago is known for its out-of-control gang problem. To date, the state bans the carrying of concealed weapons, and a tsunami of regulatory hurdles makes it next to impossible to even own a firearm in Chicago (note how much that's reduced violence in the city). But good news came on Tuesday as the Seventh Circuit Court struck down the long-standing carry ban and gave the state 180 days to pass a bill permitting concealed carry. "The Supreme Court has decided that the amendment confers a right to bear arms for self-defense, which is as important outside the home as inside," declared Judge Richard Posner. "Illinois had to provide us with more than merely a rational basis for believing that its uniquely sweeping ban is justified by an increase in public safety. It has failed to meet this burden."

As expected, gun control advocates plan to continue the legal fight and are pressuring the state to implement highly restrictive carry requirements. Citing escalating gang violence, Chicago aldermen

have promised to do whatever it takes to fight the decision. Alderman Joe Moore seemingly outlines their next move: "I believe that the city would be well within its rights to prohibit [concealed carry] within its borders, and then we'll take that up to the Supreme Court." The city already responded to the Supreme Court's decision striking down its gun ban by keeping as many draconian restrictions on ownership as possible.

The Illinois House previously failed to get the 71 votes needed to pass a concealed carry bill in May 2011. The sponsor of that bill, Rep. Brandon Phelps, is contemplating an attempt to pass another bill in January's lame-duck session. Phelps says that many Chicago city workers are afraid to speak out in support of concealed carry legislature.

This week's ruling is certainly good news that should at least limit the state's unconstitutional prohibition on gun rights, but it's only the start of an uphill road. No word yet on whether Barack Obama has scheduled a flight to Chicago to publicly bash the court's decision.

### **Judicial Benchmarks: 'Choose Life' Plates Struck Down**

Miffed at not getting their own way, pro-abortion crusaders are trying to silence those who stand for life. Last week in North Carolina, a federal judge caved to the ACLU by declaring unconstitutional the state's "Choose Life" license plates, all because the state doesn't also offer "reproductive freedom" plates. In order for a license plate to be offered in North Carolina, the state legislature -- that governing body elected *by the people* -- must authorize it. In 2011, the legislature did just that with the "Choose Life" plates. Six times, however, the legislature rejected plates saying either "Trust Women. Respect Choice" or "Respect Choice." Unable to win through the democratic process, the pro-choice crowd hired the ACLU to file a lawsuit. And in November of last year, a judge temporarily blocked production of the pro-life plates. The recent ruling made that block permanent.

The truth is that pro-abortionists aren't satisfied with free speech -- no one is stopping them from saying

anything. Their goal is to silence those who disagree with them. Failing through representative government, they're trying to succeed through judicial censure. The ACLU called the ruling "a great victory for the free speech rights of all North Carolinians, regardless of their point of view on reproductive freedom." Only the Left could claim that silencing one side is free speech for all.

### **Thieves Steal, but Toymaker Makes Right**

A few weeks ago, thieves broke into a storage shed on the grounds of St. Anne's Roman Catholic Church in Shrewsbury, Massachusetts, and stole toys intended for 300 needy children. It's not clear how many individuals were involved in the theft, but they were no doubt aware of the affect their crime would have on already struggling families. Many of these children are supported by St. Anne's pantry, and the church collected the toys for the past year so that they could have something to open on Christmas.

When news of the theft broke, toy giant Hasbro teamed up with church officials to replace the gifts; they even matched the children's Christmas "wish lists." To those who believe in both the meaning of Christmas and private industry, this story is heartwarming but not all that hard to believe. Those who have made a career of vilifying "big business," however, might be surprised to learn that corporations are actually run by real people capable of extraordinary kindnesses and real Christmas spirit.

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

Elizabeth Warren won her Massachusetts Senate seat for a number of reasons, not least of which being that when the Bay State elected Ted Kennedy in perpetuity, it set the bar incredibly low. Even Warren's false claims to Native American ancestry didn't derail her bid. But now that she's laid claim to a life-long Senate seat, she needs to pay off \$400,000 in campaign debt. What better experience for governing does she need than running a campaign deficit? She blames the debt on the problem of having so many volunteers late in the campaign that they had to buy "more last-minute coffee and pizza" than she could afford. The truth is, the debt resulted from dullard



things like printing, mailing and accounting costs -- well, that plus wigwams, powwows and peace pipes.

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