

Rigging American 'Democracy'

Exclusive: Aided by Republican partisans on the U.S. Supreme Court, America's ultra-rich are buying up the political process with vast sums of cash, some through dummy corporations. The money has made the GOP campaign nasty, but will dirty up President Obama in the fall, writes Robert Parry.

By Robert Parry

Watching the thunder and lightning of attack ads in the Republican presidential primaries is a glimpse of America's political future, where wealthy titans will battle in a shifting war of rivalries and alliances fought far above the average American voter, whose only role will be to be swayed by which ad makes which candidate look the worst.

Today, the titans are fighting mostly among themselves as they select their GOP hero to send down to vanquish The Other, President Barack Obama. But Democrats shouldn't take too much pleasure in the irony of Republicans tearing each other apart with unlimited corporation donations. Soon it will be Obama's turn and if Democrats hope voters will see through all the negativity, they are naive.

Modern advertising and sophisticated propaganda have proved they can prevail over reasoned thought, especially in a population saturated with media. And if money for ads wasn't enough, Republicans are guaranteeing their advantage by investing more money, state by state, to put up roadblocks to voting by Democratic-leaning demographic groups.

Much of this predicament comes from the 2010 ruling by the U.S. Supreme Court in the *Citizens United* case. Five Republican partisans on the court struck down legal restrictions against unlimited corporate and union spending on political campaigns. Of course, with unions weakened and under assault, the justices knew that the biggest spenders would be the ultra-rich.

Thus, casino tycoon Sheldon Adelson almost singlehandedly revived the floundering campaign of former House Speaker Newt Gingrich by giving along with family members millions of dollars to Gingrich's super-PAC "Winning Our Future." Adelson and Gingrich also have made no secret about why. Adelson passionately supports Gingrich's ultra-hard-line in favor of Israel and against Palestinian rights.

Adelson has praised Gingrich's dismissal of the Palestinians as an "invented people" who have no legitimate claim to territory controlled by Israel. Adelson's money and the nasty ads they bought were credited with helping

Gingrich defeat former Massachusetts Gov. Mitt Romney in South Carolina.

However, Adelson has indicated that he might shift his allegiance and money to Romney in the general election against Obama, who is viewed with suspicion and disdain by Israel's Right. Romney has largely handed his foreign policy to neocon ideologues. Both Gingrich and Romney also have taken extremely hawkish positions regarding Iran's nuclear program, the issue at the top of Israel's priority list.

Adelson seems intent on buying the White House for Israel's Likud or at least making sure a staunch ally is in charge of the U.S. government. As one of the world's richest men, he is ready to flood the nation's televisions with ads that will make Obama look like America's Enemy Number One.

Romney's Rich Army

Of course, Adelson is not alone. Wall Street executives and hedge-fund managers have been bankrolling Romney, in particular, counting on him to repeal the modest reforms that Congress approved after the 2008 financial collapse. Vying for the same Wall Street money, Gingrich upped the ante by also promising to repeal an earlier reform law, signed by President George W. Bush, that required CEOs to vouch for the accuracy of their companies' public disclosures.

Obama has his own super-PAC, but it is a piker when compared to the Republican super-PACs. The pro-Obama "Priorities USA" has raised \$4.4 million compared to Romney's "Restore Our Future" at over \$30 million, and Karl Rove's "American Crossroads" at over \$18 million.

While noting that President Obama does lead his Republican rivals in donations to his campaign committee, New York Times correspondents Nicholas Confessore and Michael Luo wrote last week that "the money race is increasingly focused on outside groups that are legally not allowed to coordinate directly with campaigns but pay for advertising and other activities that support particular candidates.

"Most of the money disclosed this week went to independent groups supporting Republicans, giving them an enormous money advantage over similar Democratic groups in the first phase of the 2012 election cycle. The contributions have already helped the Republican Party's elite donor class, who increasingly favor Mr. Romney, regain some control over the party's nominating process.

"Restore Our Future [the pro-Romney super-PAC] raised at least \$5.8 million from corporations during the last six months of last year, along with \$12.2 million from individuals. American Crossroads [founded by Bush's longtime adviser Karl Rove] raised \$4.6 million from corporations and \$7 million from individuals."

On Monday, commenting on the power of this new political money, Washington Post columnist E.J. Dionne Jr. wrote, “We have seen the world created by the Supreme Court’s *Citizens United* decision, and it doesn’t work.

“Oh, yes, it works nicely for the wealthiest and most powerful people in the country, especially if they want to shroud their efforts to influence politics behind shell corporations. It just doesn’t happen to work if you think we are a democracy and not a plutocracy.”

End of the Road

Two years ago, in writing about the ruling and other related developments I called the moment “US Democracy’s End of the Road,” a culmination of not only the Right’s cynical success in short-circuiting American democracy but also the Left’s miscalculations over several decades in undervaluing the need for media outreach to the people.

In January 2010, I noted that the combination of the *Citizens United* ruling and the dissolution of Air America, an attempt by progressives to challenge the Right’s dominance of talk radio, “had the feel of ‘game, set, match’” and that it was “hard to see a road back for American democracy.”

Beyond the massive investments by the Right in media over the past several decades, there was the parallel failure of the Left to build its own media-and-think-tank infrastructure to provide some counter-balance. That mistake was compounded by the bitter divisions between what might be called the “pragmatic” (or accommodating) Democrats and the “purist” (or principled) Left.

While that conflict had simmered since the days of the Vietnam War, it flared up in the crucial election of 2000 when a significant portion of the Left rallied behind Green Party candidate Ralph Nader who argued that there was “not a dime’s worth of difference” between Democrat Al Gore and his Republican rival, George W. Bush.

Though Nader ultimately polled only a couple of percentage points, the margin proved decisive in the key state of Florida where a statewide recount would have shown that Gore narrowly defeated Bush. But Bush was able to rely on his brother Jeb’s cronies in Florida and his father’s friends on the U.S. Supreme Court to deliver the White House back to the Bush Family.

In other words, Nader kept the vote total close enough for Bush to steal Florida and thus the presidency. The next eight years also demonstrated that there was more than a dime’s worth of difference between Bush and Gore, not only on important issues like global warming and preemptive war but on appointments to the U.S. Supreme Court.

The five key Republicans who put Bush in the White House Anthony Kennedy, Sandra Day O'Connor, William Rehnquist, Clarence Thomas and Antonin Scalia relied on an upside-down interpretation of the Fourteenth Amendment to block a Florida recount. But arguably they were more interested in making sure the power to fill court vacancies remained in the hands of a conservative Republican. The last thing they wanted was to lose their majority. [For details, see [Neck Deep](#).]

Their success in blocking a full recount (which [would have narrowly given Gore the White House](#)) and instead handing the presidency to Bush meant that O'Connor and Rehnquist could be replaced by Samuel Alito and John Roberts, who then became key votes in the *Citizens United* decision.

Naive or Not?

Dionne wrote, "Two years ago, *Citizens United* tore down a century's worth of law aimed at reducing the amount of corruption in our electoral system. It will go down as one of the most naive decisions ever rendered by the court.

"The *Citizens United* justices were not required to think through the practical consequences of sweeping aside decades of work by legislators, going back to the passage of the landmark Tillman Act in 1907, who sought to prevent untoward influence-peddling and indirect bribery.

"If ever a court majority legislated from the bench (with Bush's own appointees leading the way), it was the bunch that voted for *Citizens United*. Did a single justice in the majority even imagine a world of super PACs and phony corporations set up for the sole purpose of disguising a donor's identity?"

However, the court's ruling may not have been naive at all. It may have been calculating, cynical and premeditated. The Republican justices may have realized just how important secret campaign money could be in getting the power to appoint future judges back in the hands of a political ally.

[For more on related topics, see Robert Parry's *Lost History, Secrecy & Privilege* and *Neck Deep*, now available in a three-book set for the discount price of only \$29. For details, [click here](#).]

Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. His latest book, *Neck Deep: The Disastrous Presidency of George W. Bush*, was written with two of his sons, Sam and Nat, and can be ordered at neckdeepbook.com. His two previous books, *Secrecy & Privilege: The Rise of the Bush Dynasty from Watergate to Iraq* and *Lost History: Contras, Cocaine, the Press & 'Project Truth'* are also available there.

Selling the 'Supply-Side' Myth

Exclusive: Any rational assessment of America's economic troubles would identify Ronald Reagan's reckless "supply-side" economics as a chief culprit, but that hasn't stopped Republican presidential hopefuls, led by Newt Gingrich, from selling this discredited theory to a gullible GOP base, reports Robert Parry.

By Robert Parry

Despite Newt Gingrich's claim that "supply-side" economic theories have "worked," the truth is that America's three-decade experiment with low tax rates on the rich, lax regulation of corporations and "free trade" has been a catastrophic failure, creating massive federal debt, devastating the middle class and off-shoring millions of American jobs.

It has "worked" almost exclusively for the very rich, yet the former House speaker and the three other Republican presidential hopefuls are urging the country to double-down on this losing gamble, often to the cheers of their audiences – like one Florida woman who said she had lost her job and medical insurance but still applauded the idea of more "free-market" solutions.

Gingrich even boasts of his role in pioneering these theories of massive tax cuts favoring the rich, combined with sharp reductions in the role of government. That approach, once famously mocked by George H.W. Bush as "voodoo economics," was supposed to spur businesses to expand production (the "supply side"), thus creating jobs and boosting revenues from all the commercial activity.

"I worked with Ronald Reagan to develop supply-side economics in the late '70s, along with Jack Kemp and Art Laffer and Jude Wanniski and others," Gingrich declared at a recent town hall event. "We ended up passing it into law in '81. At the time it was very bold. People called it 'voodoo economics.' It had one great virtue: it worked."

But that is not what the historical record really shows.

In 1980, I was working as an Associated Press correspondent covering budget and economic issues on Capitol Hill and at the time, the "supply-siders" had two key arguments in their favor: first, the economy had stagnated in the 1970s largely due to oil price shocks, inflation and an aging industrial base.

Their second key advantage was that nobody could say for sure what the results of the "supply-side" experiment would be. There was little empirical data to

assess how radical tax cuts would play out in the modern economy. One could make common-sense judgments, as George H.W. Bush had done with his “voodoo” remark, but you couldn’t see the future.

No More Mystery

Now, however, with three decades of experience with the experiment, the fallacies of “supply-side” economics are no longer a mystery. For instance, a major obstacle to today’s economic recovery has been the absence of “demand-side” consumers, not the availability of money to build more productive capacity.

And the reason that there are fewer consumers is that the Great American Middle Class, which the federal government helped build and nourish from the New Deal through the GI Bill to investments in infrastructure and technology in the Sixties and Seventies, has been savaged over the past three decades.

Though many Americans were able to cover up for their declining economic prospects with excessive borrowing for a while, the Wall Street crash of 2008 exposed the hollowing out of the middle class. So today, businesses are sitting on vast sums of cash some estimates put the amount at about \$2 trillion.

And the reasons for this dilemma are now well-known: first, when companies have expanded in recent years, the modern factories have relied on robotics with few humans required; second, the companies put many manufacturing sites offshore so they can exploit cheap labor; and third, the shrinking middle class has meant fewer customers, leaving corporations little motivation to build more factories.

For Americans, this has represented a downward spiral with no end in sight. American workers, whether blue- or white-collar, know that computers and other technological advancements have made many of their old jobs obsolete. And modern communications have allowed even expert service jobs, like computer tech advice, to go to places like India.

While painful to millions of Americans who find their talents treated as surplus, these developments do not by themselves have to be negative. After all, humans have dreamed for centuries about technology freeing them from the grind of tedious work and freeing up society to invest in a higher quality of life, for today’s citizens and for posterity.

The problem is that the only practical way for a democratic society to achieve that goal is to have a vibrant government using the tax structure to divert a significant amount of the super-profits from the rich into the public coffers for investments in everything from infrastructure to education to arts and

sciences, including research and development for future generations, even possibly Gingrich's "big idea" of a colony on the moon.

In fact, that kind of virtuous cycle was the experience of the United States from the 1930s through the 1970s, with the federal government taxing the top tranches of wealth at up to 90 percent and using those funds to build major electrification projects like the Hoover Dam and the Tennessee Valley Authority, to educate World War II veterans through the GI Bill, to connect the nation through the Interstate Highway system, to launch the Space Program, and to create today's Internet.

Out of those efforts emerged robust economic growth as private corporations took advantage of the nation's modern infrastructure and the technological advancements. Millions of good-paying jobs were created for the world's best-trained work force, giving rise to the Great American Middle Class. The obvious answer was to keep this up, with the government investing in new productive areas, like renewable energy.

Demonizing 'Guv-mint'

Instead, facing economic headwinds in the 1970s, caused in part by rising energy costs, Americans grew anxious about their futures, making them ripe for a new right-wing propaganda campaign demonizing "guv-mint" and telling white men, in particular, that the "free market" was their friend.

Blessed with a talented pitch man named Ronald Reagan, "supply-side" became the new product to sell. After taking office, Reagan pressed for a sharp reduction in the marginal tax rates, slashing the top rates for the wealthy from around 70 percent to 28 percent. Along with the tax cuts, Reagan also initiated an aggressive military buildup.

The results were devastating to the U.S. fiscal position. The federal debt soared, quadrupling during the 12 years of Reagan and Bush Sr. As a percentage of the gross domestic product, federal debt was actually declining in the 1970s, dropping to 26 percent of GDP, before exploding under Reagan, rising to 41 percent by the end of the 1980s. The shared wealth of the country also diverged, with the rich claiming a bigger and bigger piece of the national economic pie.

The nation's debt crisis only began to subside after tax increases were enacted under President George H.W. Bush and President Bill Clinton, with Clinton's tax hike pushing the top marginal rate back up to 39.6 percent. At the time, Gingrich warned that the Clinton tax hike would lead to an economic catastrophe.

The actual result was a booming economy, spurred strongly by the federal government's new "information super-highway," the Internet. The Clinton years

also saw low unemployment and a balanced budget by the late 1990s. The debt-to-GDP measure declined from about 43 percent to 33 percent and was on course toward zero within a decade.

Ironically Gingrich also claims credit for that because as House speaker he worked with Clinton on some cost-cutting measures, but Clinton credits the 1993 tax increase, which passed without a single Republican vote, as the key factor in the budget turnaround.

After George W. Bush claimed the White House in 2001, "supply-side" dogma was back in vogue. Bush pushed through more tax cuts mostly for the rich, reducing the top marginal rate to 35 percent and creating an even bigger tax break for investors, cutting the capital gains rate to 15 percent. Combined with Bush's two wars and other policies, the surplus soon disappeared and was replaced by another yawning deficit.

Even as most Americans struggled to hold a job and pay their bills, America's super-rich lived a life of unparalleled luxury. With this concentration of money also had come a concentration of power, as right-wing operatives were hired to build a sophisticated media apparatus and think tanks to push often with populist rhetoric the policies that were dividing the country along the lines of a pampered one percent and a pressured 99 percent.

Many Americans, especially white men, heard their personal grievances echoed in the angry voices of Rush Limbaugh, Sean Hannity, Michael Savage and Glenn Beck all well-compensated propagandists for "the one percent."

Lesson Unlearned

Now, looking back over the economic and fiscal history of the past three decades, you might think that few Americans would be fooled again by this sucker bet on "supply-side." But the Tea Partiers and many rank-and-file Republicans seem ready to put what's left of their money back down on the gambling table.

All four remaining Republican hopefuls Mitt Romney, Rick Santorum, Ron Paul and Gingrich have proposed lower tax rates especially on the rich with the same enduring but fanciful faith in "supply-side" economics.

Gingrich has gone so far as to advocate eliminating the capital gains tax entirely. It's already down to 15 percent, meaning that many super-rich, from financier Warren Buffett to Mitt Romney, can live off their investments and pay a lower tax rate than what many middle-class Americans pay on their wages and salaries. In a recent Florida debate, Romney noted he would pay virtually no federal income tax under Gingrich's plan.

The Republicans seem to be counting on the parallel propaganda campaign of demonizing “gub-mint.” They’re pinning their hopes on an ill-informed electorate (especially white men) siding with “the one percent” over their own working- and middle-class interests.

The GOP hopes also may hinge significantly on how determined some whites are to get the country’s first black president out of the White House. Historically, demagogic U.S. politicians have had great success in exploiting racial resentments, although these days often with coded language like Gingrich calling Barack Obama “the food-stamp president.”

The Right also has worked diligently to create false narratives to convince many Americans that their hatred of a strong federal government links them to the Founders. Many Tea Partiers have bought into the historical lie that the Founders wrote the Constitution to limit the power of the federal government and to promote “states’ rights” the near opposite of what the framers actually were doing.

Led by Virginians Gen. George Washington and James Madison, the Constitutional Convention in 1787 threw out the Articles of Confederation, which had made the states supreme and the federal government a supplicant.

The Constitution reversed that situation, eliminating state “independence” and bestowing national sovereignty onto the federal Republic representing “we the people of the United States.” Contrary to the Tea Party’s false narrative, the Constitution represented the single biggest assertion of federal power in U.S. history.

When the Tea Partiers dress up in Revolutionary War costumes, they apparently don’t know that their notion of a weak central government and state “sovereignty” was anathema to the key framers of the Constitution, especially to Washington who had watched his soldiers suffer under the ineffectual Articles of Confederation.

And, when the Tea Partiers wave their “Don’t Tread on Me” flags of a coiled snake, they don’t seem to know that the warning was directed at the British Empire and that the banner aimed at fellow Americans was Benjamin Franklin’s image of a snake severed into various pieces representing the colonies/states with the admonishment “Join, or Die.”

Nevertheless, false narratives and false arguments can be as effective as real ones to a thoroughly misinformed population. Thus, many middle- and working-class Americans still cheer when Newt Gingrich references Ronald Reagan and his “supply-side” economics.

But the failure of Reagan's economic strategy should be obvious to anyone who is not fully deluded by right-wing propaganda. Not only has the national debt skyrocketed over the past three decades, but whatever economic benefits that have been produced have gone overwhelmingly to the wealthy while the nation as a whole has suffered.

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Whitewashing History in Arizona

The dispute over Arizona's shutting down of ethnic studies programs that cite white exploitation of Chicano and Indian communities has focused on the impact on Mexican-American children, but the new policy also affects Native American students, as Bill Means explains to Dennis J. Bernstein.

By Dennis J. Bernstein

Arizona is closing public school ethnic studies programs that accuse whites of oppressing Chicanos and Native Americans on the grounds that these historical lessons constitute racist hate speech. But scholars and activists are protesting the state's latest move as racist itself because it keeps students from these communities from learning about their own history and heroes.

Bill Means, co-founder of the American Indian Movement and a member of the board of the International Treaty Council, describes the impact of the state-pressured shutting down of Tucson's Chicano studies program and the banning of books used in the curriculum. Arizona has the largest concentration of Native people in the country.

DB: What was your first thought, what was going through your mind, what was your reaction when you heard that they not only banned the Ethnic Studies for Mexican-American children and Indigenous children, but they had the teachers

pack up the books in boxes, right in front of the students, some of them crying and then gave the teachers, 48 hours to figure out what they're going to teach? Your response.

BM: My response is, this reminds me of the days when they were talking about turning the fire hoses and the dogs loose on the marchers for civil rights, down in Alabama and Mississippi, in the South during the Sixties. It's almost getting to that point in the sense of the denial of rights.

I mean the freedom to read, the freedom to speak, the freedom to write the foundation of freedom in America. This is what makes us a diverse and rich culture. And so it was a shock. I was shocked and dismayed by this continuation of racist policies that seem to be coming out of Arizona.

As you recall, the day we just celebrated Dr. Martin Luther King Day. Arizona was certainly the last to endorse it as a national holiday. And then we got into the various laws they passed where they could arrest you on your skin color, stop you and now this is just another step where it looks like they're trying to create a gated community in the entire state of Arizona.

DB: How do you see the community that you represent affected in this situation? It seems they want a white-only policy there.

BM: Well, that's exactly right and especially in view of the fact that Arizona has the largest number of Indian children in school in the entire nation. The largest number of Indian people, both on reservations, in urban areas. Arizona has even elected several legislators from predominantly Indian districts.

So we see that this is another attack on the sovereignty and the culture of the American Indian. And it's very, very disturbing to Indian people because we consider Spanish-speaking people to be Indians as well. And so it's very appalling and very detrimental to the children of Arizona, especially Indigenous people.

To hear that some of the names of their heroes, authors who spell out the true history of treaties, authors who spell out the contributions of Indian people to American society, authors who talk about the land tenure, the land history in the state of Arizona. These are all subjects. The environmental issues, the extractions of resources which has contaminated a lot of the water and land of state of Arizona. The militarization on the borders, all these things seem to go to the extreme in Arizona.

It's as if the right-wing has said, "We're going to take over Arizona, whether anybody likes it or not, we're going to pass these draconian laws that totally annihilate what's little is left of the First Amendment." So it's very, very

racist. It's taking America back. It's ignoring the contributions of Indigenous people to the well-being of the state of Arizona. And in particular, it's an insult to the intelligence of all Americans.

DB: Why is it important for Indian people to have access to the writers in the community. What does it mean to an Indian child say to, either have access, or not have access. How are kids affected by this?

BM: Well, I think what happens without this we have aculturation, assimilation, it becomes a racist policy because Indian people feel we are relegated to a lower class of people. We have no heroes, we have none of our own people we can look up to and say "This is what they said, this is what their book has documented." So it's very detrimental to the mental well-being, the educational well-being, the character-building of Indigenous youth and children. And it's one of the atrocities of the modern day, that is being committed in the educational systems of Arizona.

DB: Now you are, of course, one of the founders of the American Indian Movement. You are on the board of the International Treaty Council. And you've been working and know perhaps more than anybody else in this world about international law in the context of Indigenous communities. Do you see this issue in Arizona also as an issue for the United Nations, as an issue that affects people in the hemisphere and around the world?

BM: Oh, yes, as we speak we have our staff attorney from not only International Indian Treaty Council but many of the Indigenous, non-governmental organizations affiliated with the United Nations in North America looking into the legalities, looking into this policy. Because this was not the first time, education has continually been, since Columbus got here, a weapon of colonization, to limit the education. They used to have a national policy that said something to the effect that "We have to kill the Indian, and educate him in the white ways."

And so that's reason why this policy of putting our people in boarding schools, isolated, on reservations, comparable to the bantustans of South Africa, [controlling] our children's curricula up until as late as 1972, and AIM founded the first Indian-controlled school in America. Our education was controlled, either by the church or the federal government. So we've been fighting this battle of education, of censorship, since 1492.

DB: We're talking about the banning of books in Tucson and the banning of the ethnic studies programs for Mexican-Americans, Indigenous communities, isolating those communities really from the school system. Bill Means, when you were coming up, did you have access to the literature of your people, was this an issue for you? How were you affected?

BM: I was affected just like the people of Arizona. We were not given access to books about our language. We were not given access to books written by Indian authors. It was not until I went to higher education, to college, that college professors began to introduce me to some of the writers that are banned here in Arizona such as Vine Deloria, one of the most noted scholars, historian, treaty rights advocate, attorney, that has ever existed in modern-day Indian country. And now they defame, and degrade his life, and his study, by banning his books, which, in fact, were revolutionary for their time. But that was only in the Sixties so this is something that we face and have faced for a long time.

And, as for myself, growing up in boarding school everything was set. The library was very small, our access to even an open library, let alone some other types of institutions of higher learning was limited. And so I think this is just a continuation of colonial racist policy that was begun to colonize and restrict the culture of Indigenous people all over the world so that they could take our resources, limit our education, write the treaties in one language, not use any kind of interpreter. So this goes back for centuries but now to have it raise its head in this time and age when we have the First Amendment, the civil rights struggle, the Indian's rights movement. It's very insulting, and it's very, very, shall we say, inspirational for us to want to organize against this type of racist policy.

DB: Could you talk about the impact of those schools on the Indigenous community?

BM: Well, I think, now the public school system, here, and I don't mean Minnesota but throughout the upper Midwest and, indeed, most states across the country has engaged the idea that culture can be an enrichment. That the identity of one's culture, the teaching of the true history and contributions of Indigenous people is for the benefit of the overall population of our state. And because we had limited access to that education, and now we've gone as far as the United Nations to create the Declaration on the Rights of Indigenous People, Sept. 13th, 2007, passed by the General Assembly. So it's an international human rights issue, it's not just a civil rights issue.

Because I think that, you know, as we look back in the history of poverty, one of the ways to keep people in poverty whether it's a bantustan or a reservation is to limit and restrict the access to education, a total lack of self-determination, a total colonial system where only things that are approved by the colonists are things that can be taught at school. And so are we regressing in society to allow this to happen? To have an education based on your income?

It's only since the Sixties, the Fifties, that poor people have had access to development of their own studies, be it African studies, Indian studies, Chicano

studies. This has not been here for very long in America. And so to see this set back, to see this reactionary type of implementation of colonial policy, racist policy is, it takes your breath away, it makes, you know, both anger, both determination to do something, become involved, because this was one of the main enemies of Indian people throughout, has been education. And especially, not only just Indian, but poor peoples throughout America.

DB: In that context, not long ago you took members of the United Nations around to various reservations and Indian communities and there was an investigation of the abuse and the poverty, and the lack of proper education happening in the Indigenous communities in the United States. I assume that this is a strike against that attempt to educate the world, educate the members of the United Nations, and I guess this battle needs to continue. Newt Gingrich is saying "Let them be janitors." What do you say?

BM: Yeah, exactly that's why we formed the American Indian Movement, to break down those walls of racism, those barriers to a good cross section, cultural education. To be exposed to the great writers of history and I think that as we look to what's happening, in the world, as we look to the developments at the U.N., the United States is being investigated by the committee, it's called The Committee for the Elimination of All Forms of Racial Discrimination, within the Commission on Human Rights.

And so that will be coming, and starting in this year. The special rapporteur of Indigenous issues, who by the way is a professor, an Indian at the University of Arizona, is going to be going across the United States to take testimony on as to how the United States is implementing the Declaration on the Rights of Indigenous People, and other human rights instruments of the United Nations.

You can imagine that Arizona has painted themselves into a corner on the issue of human rights, especially as it pertains to censorship, especially as it pertains to restricting the education access of children. Mind you, these are the most vulnerable people in our society. We all, whether we're Republican, Democrat, it seems like we want the best for our children. We don't want what's limited, and these are the witnesses that we're going to have testify before this special rapporteur on Indigenous issues. His name is Professor James Anaya, who's the special rapporteur of the third committee that I mentioned, the Committee for the Elimination of All Forms of Racial Discrimination. He'll be visiting various parts of North America in April and one of the hearings will be definitely in Arizona.

Dennis J. Bernstein is a host of "Flashpoints" on the Pacifica radio network and the author of *Special Ed: Voices from a Hidden Classroom*. You can access the audio archives at www.flashpoints.net. You can get in touch with the author at

How Not to Celebrate Liberty

American history can be described as an endless tension between the nation's ideals and its practices, with hypocrisy often winning out over principle – and those contradictions are most obvious when the nation celebrates its liberties while betraying them, both today and in the past, William Loren Katz notes.

By William Loren Katz

When the National Defense Authorization Act cleared Congress on Dec. 15, 2011, some critics noted the irony of the date, the 220th anniversary of the ratified Bill of Rights.

Instead of celebrating those old promises of “speedy” trials and no “cruel and unusual punishments,” Congress sent a bill to President Barack Obama with language authorizing him and his successors to order indefinite detentions under draconian conditions. (Obama signed the NDAA into law on Dec. 31, though expressing “serious reservations” about those provisions.)

But it was not the first time that the United States has desecrated the anniversary of a founding document. A similar defiling of American principles occurred in 1876, during the centennial year celebrating the signing of the Declaration of Independence with its lofty commitment to “self-evident” truths, that “all men are created equal endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the Pursuit of Happiness.”

In that celebratory year of 1876, powerful figures of the U.S. government sided with an unholy alliance of northern railroad builders and land speculators, unrepentant former southern slaveholders and assorted white supremacists, and their obedient lobbyists and media.

What followed was a severe and simultaneous assault on the basic rights of Native Americans and African-Americans, sending the country careening in a new direction.

This fateful change began in late June 1876 as Americans prepared a massive coast-to-coast July Fourth celebration. But as the bunting went up, as bands rehearsed and as corks began to pop, shocking news arrived from the Little Big

Horn, a remote area in what is today southeastern Montana.

A force of about 2,000 Lakota and Cheyenne commanded by Sitting Bull, Crazy Horse and Rain In the Face had surrounded Lt. Col. George Armstrong Custer and a contingent of 226 men in his Seventh Cavalry. In a battle that became known as Custer's Last Stand, not one Bluecoat survived.

Though the U.S. reaction to Custer's annihilation was one of righteous fury, the truth was that the dashing, brilliant and somewhat arrogant officer was not ambushed while on some peaceful mission. Instead, he was seeking to open the Black Hills of South Dakota to gold prospecting by whites. Custer also was set on teaching the Indians a lesson and making a media splash during the summer's Presidential nominating conventions.

If facts and reason had ruled, the reaction of U.S. government officials would have been anger toward Custer. On his own, he chose to ignore the U.S. Treaty of 1868 stating that "no white person or persons shall be permitted" to "enter" the Black Hills.

Custer knew the Lakota loudly proclaimed this was their sacred ground. He was aware that President Ulysses S. Grant publicly pledged, "it is secured to the Indians." Yet, Custer chose to ignore Sitting Bull's flat warning, "If the whites try ... I will fight."

The dashing officer whom Native Americans called "Long Hair" relied on what he called "Custer luck." And his "luck" may have survived the battle even though he didn't. Instead of censure for his flouting of treaties and other government promises not to mention his exceptionally poor military judgment U.S. political leaders embraced Long Hair as a martyr to Indian savagery.

U.S. government officials rose not to castigate Custer but to demand revenge for this defeat of national power. Politicians cagily added, for the benefit of land-hungry easterners, it was time for Indians to surrender their lands. In the centennial Fourth of July celebrations, public grief mixed with greed, anger and glorification, and behind closed doors, leading politicians and generals planned to complete the grim work Custer had begun.

By mid-July, War Department orders nullifying the Treaty of 1868 sent General William Sherman riding off with a mandate to treat Lakota reservation families as belligerents or prisoners of war. By mid-August, U.S. officials demanded the Lakota surrender their Black Hills and Powder River lands. U.S. troops began a march that would not stop until the Wounded Knee massacre in December 1890.

Sitting Bull seemed to sense the inevitable outcome in 1877 when he spoke to fellow commanders at the Powder River Council. He began by recalling the

earliest white invaders as “small and feeble when our forefathers first met them, but now great and overbearing.”

Then he began to speak of the whites’ character, explaining: “Strangely enough, they have a mind to till the soil, and the love of possession is a disease in them. These people have made many rules that the rich may break, but the poor may not. They have a religion in which the poor worship, but the rich will not!

“They even take tithes from the poor and weak to support the rich and those who rule. They claim this mother of ours, the Earth, for their own use, and fence their neighbors away from her, and deface her with their buildings and their refuse.”

Sitting Bull reached a despairing conclusion: “We cannot dwell side by side. Only seven years ago we made a treaty by which we were assured that the buffalo country should be left to us forever. Now they threaten to take that from us also. My brothers, shall we submit? Or shall we say to them: ‘First kill me, before you can take possession of my fatherland!’”

End of Reconstruction

With some minor alterations Sitting Bull’s words could have been addressed to African-Americans of that era. In the southern states, African-Americans faced a powerful planter class committed to white supremacy and to regaining control of those they had recently enslaved.

Determined to cast off northern Reconstruction which had deployed federal troops to protect the rights of African-Americans, the plantation owners saw their chance in November 1876 when a disputed presidential election left the country in turmoil. A special federal commission equally divided between Democrats and Republicans reached a “bargain” that forever changed racial relations.

The commission awarded the White House to Republican candidate Rutherford Hayes who, in turn, promised to recall the last federal troops from the South. In that simple decision, the party of Lincoln which had emancipated the slaves and enacted three new constitutional amendments guaranteeing the rights of African-Americans handed the welfare of the former slaves back to their former masters.

Southern legislatures swiftly moved to install new rules of white supremacy that effectively nullified emancipation, made a mockery of the new amendments, and locked free women and men into a new form of slavery. For generation after generation and through two world wars a regional one-party white dictatorship governed the states of the old Confederacy. Black families were reduced to landless peasants.

Southern bigots who controlled the Democratic Party also used their political clout to advance white supremacy nationally. Southern politicians made sure no national anti-lynching bill passed Congress. A policy of official terror reigned. Night riders killed black leaders, attacked schools, churches and communities.

U.S. presidents after 1876 made no significant effort to ensure that the constitutional rights of people of color were enforced in the southern states (until the civil rights movement of the 1950s and 1960s).

Native Americans suffered a similar fate. The U.S. Supreme Court declared Indians "wards of the state" who must bow to rule by the U.S. cavalry and accept a culture imposed from outside. President Chester Arthur's Secretary of the Interior indicated what was on the way when he announced that his plan for Native Americans would outlaw customs deemed "contrary to civilization" and ban traditional ceremonies, dances and songs.

In 1887, Congress mounted a multi-pronged attack on Indigenous life through Sen. Henry Dawes's General Allotment Act. First, the law mandated the largest American property transfer in history. In less than half a century, Indigenous Americans lost two-thirds of what they still owned 90 million acres of land. Many became landless peasants in the home of their ancestors. Though some plots passed to eager white homesteaders, the largest gainers were railroad builders and unscrupulous speculators.

Sen. Dawes claimed to be speaking for a superior, wiser and triumphant Christian nation when he explained that his aim was to civilize and reform the "savages." Indians had to "learn selfishness" and this meant "cultivate the ground, live in houses, ride in Studebaker wagons, send children to school, drink whiskey, and own property."

In the name of a grand march toward white, Christian ideals and the sanctity of private property, the Dawes Act declared its goal of assimilation and education by requiring the end of Native American identity, religion and society.

The Act authorized placement of Native children in schools run by Protestant missionaries. In those schools, brother was separated from brother, sister from sister, and children were kept from those who spoke their language. Contacts that reinforced their parents' heritage were banned. Severe punishment awaited anyone speaking a Native American language. Far from home and family, children were taught to embrace the values of Christianity and private ownership.

Lest pupils slip back to "Indian ways" with their parents during summers, they were apprenticed to Christian families in order to practice hard work,

discipline and "American values." In Indian schools or white homes, children often suffered abuse that was largely unreported and rarely corrected.

By 1889, Commissioner of Indian Affairs Thomas Jefferson Morgan exultantly announced a great victory over Native Americans their "socialism destroyed." Then he offered new goals and new threats:

"The Indians must conform to 'the white man's ways' peaceably if they will, forcibly if they must. They must adjust themselves to their environment and confirm their mode of living substantially to our civilization. ... They cannot escape it, and must either conform to it or be crushed by it."

As the Bureau of Indian Affairs moved to control Native American life in the West, southern planters pursued a similar path regarding African-Americans. The tools were legally imposed segregation and discrimination laws passed by state legislatures.

These laws were buttressed by a new form of slavery known as the "convict lease system" in which courts sentenced thousands of innocent men to labor for southern planters, mine companies, railroads and local governments. In addition, there was the extra-legal terror of lynching.

Southern legislatures quickly moved to deny African-Americans the right to vote, hold office, bring suit or testify against whites in court, serve on juries, or exercise other human rights. Independent farmers lost their land, communities lost schools, and the skilled and professional people of color were restricted to their own communities. Families and the young began to lose hope.

Then in 1896 in the Plessey case, the Supreme Court voted 8-1 to make segregation the "law of the land."

In 1903, Justice Edward White, forever proud he rode with the Ku Klux Klan, wrote the majority opinion in the Lone Wolf (Kiowa) case. Indian treaties could be broken by Congress, he proclaimed, "if consistent with perfectly good policy toward the Indians." Seven years later, White was elevated to Chief Justice where he lived out his life deciding what was legal and constitutional. He died in 1921.

Beginning in that fateful year of 1876, African-Americans and Native Americans learned again that the words of the Declaration of Independence and the Constitution did not apply to them.

One of the gifts I received as an historian was an attractively encased red, white and blue Centennial banner. In it, 1776 appears on the top left with 1876 on the top right, and a large "United We Stand" is the center. What irony!

This essay is adapted from William Loren Katz's landmark book, *Black Indians: A Hidden Heritage* [New York, Atheneum Publishers, the revised and expanded 2012 edition] His website is WILLIAMLKATZ.COM

Web Sites Protest 'Anti-Piracy' Bills

Exclusive: An unprecedented protest is sweeping the Internet against proposed U.S. legislation that critics contend goes too far in punishing Web sites where copyrighted content might get posted. Wikipedia and other major Internet sites have blacked out pages as a warning of what the laws might cause, Lisa Pease reports.

By Lisa Pease

I watched in awe Tuesday night as the Web started to go dark. Sites around the Internet suddenly sported black backgrounds or big black redactions to protest SOPA, the Stop Online Piracy Act, and PIPA, the Protect IP Act. Both acts are designed to prevent online theft of intellectual property (from written works to software, music, video and types of content).

Wikipedia, perhaps the most visited site on the Internet, has blacked out the pages of most search results to display a message asking us to "Imagine a World Without Free Knowledge." Dozens of other sites, like DailyKos, MichaelMoore.com and others are sporting black pages or blotches and links to online petitions to tell Congress not to pass SOPA and PIPA. Even the non-American-based *Reporters sans Frontieres* has blacked out the English version of its site, *Reporters without Borders*, in protest.

The most surprising protester of all is Google. While other sites are largely funded by individuals on a donation basis, Google is a publicly held corporation. To see the single most used search engine in the world take up this cause is impressive. And while some are heartened by this, others, such as Creative America, think this is a bad sign. (Creative America is a front group for the major entertainment corporations seeking to protect their companies from the damage of piracy.)

As a content producer myself, I am fully in support of anti-piracy legislation that makes sense. But the large-scale protests are a clear sign that the legislation has gone too far. SOPA and PIPA do not target the content pirates. They target instead the sites where piracy has the ability to take place.

It would turn Web site developers into content police, and should they miss a step, it gives the U.S. government the power to shut down the site, force advertisers off the site, intercept payments to the site, and more.

What makes this kind of legislation such a bad idea is that anyone can then force a site they don't like off the Internet simply by posting stolen content there and pointing it out to the authorities. Suddenly, hidden hands could take down some of the most popular and useful sites by deliberately planting illicit material.

If you think that sounds paranoid, review the history of the FBI's COINTELPRO operations in the 1960s, where the FBI infiltrated and sabotaged peace groups (which J. Edgar Hoover thought were Communist efforts) and MHCHAOS, the CIA's own program to disrupt leftists and peace activists during the 1960s and 1970s.

Via YouTube today, you can watch some amazing documentaries that tell the truth about parts of history that we have not been accurately informed about via the mainstream media. For example, you can view a documentary in which British and Israeli leaders discuss how during the 1956 Suez Canal crisis, a three-state pact between Britain, France and Israel caused Israel to attack Nasser's Egypt to give Britain and France the excuse to seize control of the canal to "protect" the Egyptians from the Israelis.

If someone didn't want you to see this history, anyone could post illegal content, bring it to the attention of authorities, and essentially bring down the entire YouTube site via this legislation. All advertising revenue would be cut off. Internet providers in the U.S. would block the site. And the millions who make money from their little YouTube videos would suddenly be out of their own income streams.

A way to protect intellectual property needs to exist. But SOPA and PIPA are not that way. They go too far and don't offer appropriate steps for remediation. If someone has posted pirated content, that individual, not the site itself, should be held responsible.

I'm always shocked when people think nothing of copying an album for a friend, copying a DVD of a film and distributing it to others, and even giving out homemade copies of software that is not specifically designated as freeware. This is theft, and I call others on it. They say oh, my little copy is not hurting anyone's business. But when five million people are saying and doing the same thing, yes, they most definitely are.

I wish there was a way to stop *that* kind of piracy, because it really does cut into the ability of content producers to make a decent living at something

people clearly find enjoyable or useful enough to steal. *But this legislation isn't it.*

If you have a site and want to join the protest today, see <http://sopastrike.com/> for more information. And if you haven't signed a petition yet, why not?

Lisa Pease is a writer who has examined issues ranging from the Kennedy assassination to voting irregularities in recent U.S. elections.

The Gulag That Is Gitmo

Still under powerful neocon influence and fearing the old "soft on terror" label Congress has blocked President Obama's efforts to close "the gulag at Guantánamo," forcing Obama to retreat from his promise to Americans and an outraged world, as Marjorie Cohn notes.

By Marjorie Cohn

Travelers to Cuba and music lovers are familiar with the song "Guantanamera", literally, the girl from Guantánamo. With lyrics by José Martí, the father of Cuban independence, "Guantanamera" is probably the most widely known Cuban song.

But Guantánamo is even more famous now for its U.S. military prison. Where "Guantanamera" is a powerful expression of the beauty of Cuba, "Gitmo" has become a powerful symbol of human rights violations, so much so that Amnesty International described it as "the gulag of our times."

That description can be traced to January 2002, when the base received its first 20 prisoners in shackles. General Richard B. Myers, chairman of the Joint Chiefs of Staff, warned they were "very dangerous people who would gnaw hydraulic lines in the back of a C-17 to bring it down."

We now know that a large portion of the 750 plus men and boys held there posed no threat to the United States. In fact, only five percent were captured by the United States; most were picked up by the Northern Alliance, Pakistani intelligence officers, or tribal warlords, and many were sold for cash bounties.

The Guantánamo story starts in 1903, when the U.S. Army occupied Cuba after its war of independence against Spain. The Platt Amendment, which granted the United States the right to intervene in Cuba, was included in the Cuban Constitution as a prerequisite for the withdrawal of U.S. troops from the rest of Cuba.

That provision provided the basis for the 1903 Agreement on Coaling and Naval Stations, which gave the United States the right to use Guantánamo Bay “exclusively as coaling or naval stations, and for no other purpose.”

In 1934, President Franklin D. Roosevelt signed a new treaty with Cuba that allows the United States to remain in Guantánamo Bay until the U.S. abandons it or until both Cuba and the United States agree to modify their arrangement. According to that treaty, “the stipulations of [the 1903] agreement with regard to the naval station of Guantánamo shall continue in effect.”

That means Guantánamo Bay can be used only for coaling or naval stations. Additionally, article III of the 1934 treaty provides that the Republic of Cuba leases Guantánamo Bay to the United States “for coaling and naval stations.” Nowhere in either treaty did Cuba give the U.S. the right to utilize Guantánamo Bay as a prison camp.

It is no accident that President George W. Bush chose Guantánamo Bay as the site for his illegal prison camp. His administration maintained that Guantánamo Bay is not a U.S. territory, and thus, U.S. courts are not available to the prisoners there. But, as the Supreme Court later affirmed, the United States, not Cuba, exercises exclusive jurisdiction over Guantánamo Bay.

Amanda Williamson, a spokeswoman in the Red Cross’ Washington office, noted that prisoners at Guantánamo “have been placed in a legal vacuum, a legal black hole.” Amnesty International went further, noting an obvious gap between U.S. rhetoric and practice: “Given the USA’s criticism of the human rights record of Cuba, it is deeply ironic that it is violating fundamental rights on Cuban soil, and seeking to rely on the fact that it is on Cuban soil to keep the U.S. courts from examining its conduct.”

Although the Convention Against Torture, a treaty the United States has ratified, forbids the use of coercion under any circumstances to obtain information, prisoners released from Guantánamo have detailed assaults, prolonged shackling in uncomfortable positions, sexual abuse, and threats with dogs.

Mustafa Ait Idr, an Algerian citizen who was living in Bosnia when he was sent to Guantánamo, charged that U.S. military guards jumped on his head, resulting in a stroke that paralyzed his face. They also broke several of his fingers and nearly drowned him in a toilet. Mohammed Sagheer, a Pakistani cleric, claimed the wardens at Guantánamo used drugs “that made us senseless.”

French citizen Mourad Benchellali, released from Guantánamo in July 2004, said, “I cannot describe in just a few lines the suffering and the torture; but the

worst aspect of being at the camp was the despair, the feeling that whatever you say, it will never make a difference.” Benchellali added, “There is unlimited cruelty in a system that seems to be unable to free the innocent and unable to punish the guilty.”

Australian lawyer Richard Bourke, who has represented many of the men incarcerated at Guantánamo, charged that prisoners have been subjected to “good old-fashioned torture, as people would have understood it in the Dark Ages.” According to Bourke, “One of the detainees had described being taken out and tied to a post and having rubber bullets fired at them. They were being made to kneel cruciform in the sun until they collapsed.”

Abdul Rahim Muslimdost, an Afghan who was released from Guantánamo in April 2005, said he suffered “indescribable torture” there.

U.S. and international bodies have verified reports of torture and abuse. Physicians for Human Rights found that “the United States has been engaged in systematic psychological torture of Guantánamo detainees” at least since 2002.

FBI agents saw female interrogators forcibly squeeze male prisoners’ genitals and witnessed detainees stripped and shackled low to the floor for many hours. In February 2006, the United Nations Human Rights Commission reported that the violent force-feeding of detainees by the U.S. military at Guantánamo amounts to torture.

The very existence of the Guantánamo prison camp harms America’s international reputation. A January 2005 editorial in *Le Monde* concluded, “The simple truth is that America’s leaders have constructed at Guantánamo Bay a legal monster.” Moreover, it has created more enemies of the United States. Writing for the *New York Times*, Somini Sengupta maintained that Guantánamo Bay has been a setback in the war on terror insofar as it has “emerged as a symbol of American hypocrisy.”

The list of Guantánamo critics is a long one. Archbishop Desmond Tutu dubbed it a stain on the character of the United States. Former U.N. Secretary General Kofi Annan said the United States must close the camp as soon as possible.

The Economist called for the facility to be dismantled, described the treatment of the prisoners there as “unworthy of a nation which has cherished the rule of law since its very birth,” and claimed it “has alienated many other governments at a time when the effort to defeat terrorism requires more international cooperation in law enforcement than ever before.”

The National Lawyers Guild, Association of American Jurists, Inter-American Commission on Human Rights, and Amnesty International have all called for

closing the prison camp and releasing or charging prisoners with criminal offenses in accordance with international legal norms.

In addition to legal and political problems with Guantánamo, there are enormous human costs to consider. Attorney Joseph Margulies has been to death row in six states and watched his client be executed. But as he noted, "I have never been to a more disturbing place than the military prison at Guantánamo Bay. It is a place of indescribable sadness, where the abstract enormity of 'forever' becomes concrete: this windowless cell; that metal cot; those steel shackles."

Indeed, Army Col. Terry Carrico, the first warden at Guantánamo, complained that when he was there, the men were held in "basically outdoor cages," adding, "It's what you would normally find in a veterinarian's facilities to hold animals." Carrico said "very few" of the men imprisoned during his tenure had useful intelligence. He favors closing Guantánamo, but doubts that will ever happen.

President Barack Obama said a year ago that he was committed to closing Guantánamo because it was a symbol that was "probably the No. 1 recruiting tool" on terrorist websites. But Obama signed the National Defense Authorization Act (NDAA), which bars any transfer of detainees to U.S. prisons, even for trial.

The act also restricts the President's authority to transfer detainees to other countries. Of the 171 men remaining at Guantánamo, 89 have been cleared for release by a review conducted by the CIA, FBI, military, and Department of Homeland Security. But those men will likely die at Guantánamo because Obama refused to put the brakes on Congress's use of the issue as a political football in the NDAA.

In a recent op-ed in *The New York Times*, Harvard lecturer Jonathan M. Hansen wrote, "It is past time to return this imperialist enclave to Cuba," adding, "It has served to remind the world of America's long history of interventionist militarism."

Obama should heed Hansen's words. For the abiding presence of the Guantánamo gulag is not simply illegal and immoral. It also continues to be a symbol of U.S. hypocrisy, and makes us a target for more terrorist attacks.

Marjorie Cohn is a professor at Thomas Jefferson School of Law and past president of the National Lawyers Guild. Her most recent book is *The United States and Torture: Interrogation, Incarceration, and Abuse*. See her blog: www.marjoriecohn.com.

Ron Paul's False Founding Narrative

Exclusive: Rep. Ron Paul and other right-wingers have lured many average Americans into their camp by creating a false narrative about America's Founding, claiming that the drafters of the Constitution wanted a weak central government. But that's not the real history, Robert Parry writes.

By Robert Parry

Ron Paul, the libertarian congressman from Texas who has topped 20 percent in the first two Republican contests, is fond of claiming that the U.S. Constitution was written "to protect your liberty and to restrain the federal government," thus making modern laws – from Social Security, to civil rights statutes, to health-care reform – unconstitutional. But that isn't really true.

While the framers of the Constitution in 1787 undeniably cared about liberty at least for white men they were also practical individuals who wanted a vibrant central government that would enable the new nation to protect itself both militarily and economically, especially against European rivals.

The broad powers that the Constitution granted Congress were designed to let this central government address national problems that existed then as well as others that would arise in the future. For instance, the Constitution gave control over interstate commerce to Congress in order to counter economic advantages enjoyed by foreign competitors.

Far from Paul's assertions that the Founders wanted a weak central government, the Founders at least those at the Constitutional Convention in Philadelphia understood that a great danger came from having a national authority that was too weak, what they had experienced under the Articles of Confederation, which governed the nation from 1777 to 1787.

The Articles of Confederation embraced the concept of state "sovereignty" and called the United States not a government or even a nation, but "a firm league of friendship" among the states. The Confederation's Article II declared: "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated." And very few powers were delegated to the federal government.

The result had been severe problems for the young country, ranging from the failure of states to make voluntary contributions in support of the Continental Army to opening regional divisions that foreign rivals could exploit.

So, in 1787, the framers of the Constitution – led by Gen. George Washington, James Madison and others in the Virginia delegation – scrapped the Articles and put forward a very different plan, eliminating state sovereignty and creating a strong central government with broad powers, including control over “interstate commerce.”

The Commerce Clause wasn’t some afterthought, either. It was part of the original proposal outlined on the Constitutional Convention’s first day of substantive business on May 29, 1787. The Virginia delegation had one of its members, Edmund Randolph, include it in his opening presentation.

Virginia’s plan laid out the framework that would later become the U.S. Constitution, transferring sovereignty from the 13 original states to “we the people of the United States” as represented by a new national Republic.

Economic Strategies

Beyond giving the central government authority over the common defense, foreign policy and currency – as well as its own taxing power – the Founders also recognized the need to coordinate American commerce so it could compete effectively with Europe and other nations around the world.

James Madison’s convention notes on Randolph’s presentation recount him saying that “there were many advantages, which the U. S. might acquire, which were not attainable under the confederation such as a productive impost [or tax] counteraction of the commercial regulations of other nations pushing of commerce ad libitum &c &c.”

In other words, the Founders at their most “originalist” moment understood the value of the federal government taking action to negate the commercial advantages of other countries and taking steps for “pushing of [American] commerce.” The “ad libitum &c &c” notation suggests that Randolph provided other examples off the top of his head.

Historian Bill Chapman summarized Randolph’s point in his teaching materials as saying “we needed a government that could co-ordinate commerce in order to compete effectively with other nations.” So, from that first day of substantive debate at the Constitutional Convention, the Founders recognized that a legitimate role of Congress was to ensure that the nation could match up against other countries economically.

Though the likes of Ron Paul have worked hard in recent decades at constructing an alternative narrative claiming that the Founders envisioned a weak national government and were big supporters of states’ rights that storyline is simply not supported by the history. Key framers of the Constitution even objected to

adding a Bill of Rights to the original document, accepting the first 10 amendments only later as part of negotiations over ratification.

Yet, on Tuesday, celebrating his second-place finish in the New Hampshire primary, Paul told his cheering supporters that “the Constitution was written for a very precise manner. It was not designed to restrain the individual – not to restrain you – it was to protect your liberties and to restrain the federal government.”

But that simply is a distortion of what the framers were up to. And for right-wingers who cite the Tenth Amendment as supposed support for their position, they should read the amendment’s weak language on states’ rights compared to what it replaced, Article II of the Articles of Confederation, which established the supremacy of the states.

After the Constitution wiped away the sovereignty of the states and established the supremacy of the federal government, the Tenth Amendment amounted to a minor concession to the anti-federalists, giving the states only ill-defined leftover powers.

Endorsing Obamacare

The Right’s revisionist version of the nation’s Founding isn’t even accepted by serious conservative legal scholars, including one of the most right-wing members of the U.S. judiciary, senior Judge Laurence Silberman who was appointed to the influential U.S. Court of Appeals in Washington by President Ronald Reagan.

On Nov. 8, 2011, Silberman issued a ruling supporting the constitutionality of the Affordable Care Act, often called “Obamacare.” In it, Silberman explained how the law and even its most controversial feature, the individual mandate requiring the purchase of health insurance coverage fit within the language of the Commerce Clause and within prior legal precedents.

“We look first to the text of the Constitution,” Silberman wrote in his opinion. “Article I, § 8, cl. 3, states: ‘The Congress shall have Power . . . To *regulate Commerce* with foreign Nations, *and among the several States*, and with the Indian Tribes.’ (Emphasis added by Silberman).”

“At the time the Constitution was fashioned, to ‘regulate’ meant, as it does now, ‘[t]o adjust by rule or method,’ as well as ‘[t]o *direct*.’ To ‘direct,’ in turn, included ‘[t]o prescribe certain measure[s]; to mark out a certain course,’ and ‘[t]o order; to command.’”

“In other words, to ‘regulate’ can mean to require action, and nothing in the

definition appears to limit that power only to those already active in relation to an interstate market. Nor was the term 'commerce' limited to only *existing* commerce. There is therefore no textual support for appellants' argument" that mandating the purchase of health insurance is unconstitutional.

Silberman's opinion also examined decades of Supreme Court precedents that affirmed the power of Congress to establish regulations over various national markets.

"Today, the only recognized limitations are that (1) Congress may not regulate non-*economic* behavior based solely on an attenuated link to interstate commerce, and (2) Congress may not regulate intrastate economic behavior if its aggregate impact on interstate commerce is negligible," Silberman wrote.

Neither limitation applied to the health-care law, Silberman noted, because medical insurance was clearly an economic activity and surely had sizable interstate implications.

As for the claim that people had a constitutional right not to participate in the purchase of health insurance, Silberman was not persuaded. For instance, he cited a Supreme Court precedent that a farmer who wished to raise wheat for his own consumption could still face federal restrictions because his production (and that of other likeminded farmers) could affect the overall supply of wheat and thus undermine federal policy regarding the wheat market.

Addressing National Problems

Silberman also recognized Congress's power to address difficult national problems, like the tens of millions of Americans who lack health insurance but whose eventual use of medical services would inevitably shift billions of dollars in costs onto Americans who must pay higher insurance rates as a result, what courts have described as "substantial effects."

"The shift to the 'substantial effects' doctrine in the early twentieth century recognized the reality that national economic problems are often the result of millions of individuals engaging in behavior that, in isolation, is seemingly unrelated to interstate commerce," Silberman wrote.

"Its very premise is that the magnitude of any one individual's actions is irrelevant; the only thing that matters is whether the national problem Congress has identified is one that substantially affects interstate commerce.

"It is irrelevant that an indeterminate number of healthy, uninsured persons will never consume health care, and will therefore never affect the interstate market. Broad regulation is an inherent feature of Congress's constitutional

authority in this area; to regulate complex, nationwide economic problems is to necessarily deal in generalities.

“Congress reasonably determined that as a *class*, the uninsured create market failures; thus, the lack of harm attributable to any particular uninsured individual, like their lack of overt participation in a market, is of no consequence.”

Silberman wrote that “Congress, which would, in our minds, clearly have the power to impose insurance purchase conditions on persons who appeared at a hospital for medical services as rather useless as that would be is merely imposing the mandate in reasonable anticipation of virtually inevitable future transactions in interstate commerce.”

He noted that since those challenging the health-care law “cannot find real support for their proposed rule in either the text of the Constitution or Supreme Court precedent, they emphasize both the novelty of the [individual] mandate and the lack of a limiting principle,” i.e. some example of when the government could not require citizens to purchase a specific product.

Silberman acknowledged that “the Supreme Court occasionally has treated a particular legislative device’s lack of historical pedigree as evidence that the device may exceed Congress’s constitutional bounds,” but added that “we are obliged and this might well be our most important consideration to presume that acts of Congress are constitutional” absent “a clear showing to the contrary.”

Silberman also addressed the core political objection to the health-reform law, its supposed intrusion on individual liberty. He wrote: “That a direct requirement for most Americans to purchase any product or service seems an intrusive exercise of legislative power surely explains why Congress has not used this authority before but that seems to us a political judgment rather than a recognition of constitutional limitations.”

He added: “It certainly is an encroachment on individual liberty, but it is no more so than a command that restaurants or hotels are obliged to serve all customers regardless of race, that gravely ill individuals cannot use a substance their doctors described as the only effective palliative for excruciating pain, or that a farmer cannot grow enough wheat to support his own family.

“The right to be free from federal regulation is not absolute, and yields to the imperative that Congress be free to forge national solutions to national problems, no matter how local or seemingly passive their individual origins.”

Politicized Rulings

So, even a very conservative legal scholar examining the Constitution and precedents could not find a convincing argument to overturn "Obamacare" and that is because the Founders intentionally empowered Congress to address national economic problems. It was, as the Virginian delegation understood, one of the key reasons for the Constitutional Convention.

That does not mean, of course, that the partisan Republicans who currently control the U.S. Supreme Court might not overturn health-care reform anyway, to deal a blow to Obama right before Election 2012.

Some of the Republican justices have shown before that they would twist the law for partisan ends, such as in December 2000 when they invoked the 14th Amendment to stop the counting of votes in Florida and thus hand the White House to their political favorite, George W. Bush.

It didn't matter that these Republican justices were turning their backs on their prior support for states' rights and their insistence on only following the "originalist" intent of those who wrote the Constitution and the amendments. What was at stake in Election 2000 was more important to them who would get to fill vacancies on the federal courts.

Thus, Republican justices William Rehnquist, Antonin Scalia, Clarence Thomas, Anthony Kennedy and Sandra Day O'Connor suddenly saw in the "equal protection clause" of the 14th Amendment an "originalist" intent by its post-Civil War authors to shield a white plutocrat like George W. Bush from variations in ballot standards in Florida.

That was especially odd for Scalia, who has argued forcefully that the 14th Amendment despite its language that no state shall "deny to any person within its jurisdiction the equal protection of the laws" does not protect the rights of women or gays because it was originally written to guarantee only the rights of black males.

However, when the power of the presidency was at stake and the possibility loomed that a Democratic president might make appointments that would leave the court's right-wing faction in the minority Scalia had a remarkable change of heart. [For details, see Consortiumnews.com's "[Justice Scalia's 'Originalist' Hypocrisy.](#)"]

It is one of the dirty secrets of the U.S. system that ultimately the Constitution means whatever a majority of the current justices on the Supreme Court says it means. Ideally, the court would be filled with honorable people who would put the law ahead of partisan interests, but that does not appear to be the current makeup of the court's majority.

So, it would not be surprising if the court's right-wing majority would overturn Judge Silberman's opinion even though it is based on a fair reading of the Constitution and the powers that the Founders granted to Congress. A chance to damage Obama's reelection hopes might prove too tempting.

After all, the larger goal of the American Right is not to uphold the ideals of the Founders, who wanted a vibrant central government, but to reverse government policies dating back to President Franklin Roosevelt's New Deal. The plan is to return the United States to a pre-Depression "gilded age" of a society divided into a few haves and many have-nots.

The Right is engaged in an ideological war with the intent of making the rich richer and marginalizing the rest of us. Creating a false narrative about the American Founding is just a convenient way to get some ill-informed Tea Party types to vote against their own interests.

[For more on related topics, see Robert Parry's *Lost History, Secrecy & Privilege* and *Neck Deep*, now available in a three-book set for the discount price of only \$29. For details, [click here.](#)]

Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. His latest book, *Neck Deep: The Disastrous Presidency of George W. Bush*, was written with two of his sons, Sam and Nat, and can be ordered at neckdeepbook.com. His two previous books, *Secrecy & Privilege: The Rise of the Bush Dynasty from Watergate to Iraq* and *Lost History: Contras, Cocaine, the Press & 'Project Truth'* are also available there.

The Enduring Shame of Guantanamo

On President Obama's second full day in office, he promised to close the Guantanamo Bay prison, but then encountered fierce resistance from Congress, leading to a humiliating retreat underscored now by the prison's tenth anniversary – and by renewed worldwide condemnation, as Nat Parry reports.

By Nat Parry

When the Guantanamo prison camp, originally dubbed by the U.S. military Camp X-Ray, opened in January 2002, the United States came under [international criticism](#) that was nearly unprecedented in its intensity.

Some of the loudest complaints came from the staunchest U.S. ally, the United

Kingdom, where three cabinet ministers Robin Cook, Patricia Hewitt and Jack Straw expressed concern that international agreements about the treatment of prisoners of war were being breached. The U.N. High Commissioner for Human Rights, Mary Robinson, also objected to the camp and called on President George W. Bush's administration to follow the Geneva Conventions.

In a Jan. 19, 2002, column in the British Independent, Robinson argued that because the Afghanistan conflict was of an international nature, "the law of international armed conflict applies." She took issue with the administration's assertion that the prisoners were "unlawful combatants" and thus outside the protections of the Geneva Conventions.

European Union foreign policy chief Javier Solana said that despite the Sept. 11 atrocities, "changing our values and our way of life would be terrorism's first victory."

Amnesty International expressed concern about the tactics being used and the secrecy surrounding the camp. "Keeping prisoners incommunicado, sensory deprivation, the use of unnecessary restraint and the humiliation of people through tactics such as shaving them, are all classic techniques employed to 'break' the spirit of individuals ahead of interrogation," the human rights group said.

The International Committee of the Red Cross – in an unusual deviation from its practice of not publicly criticizing detaining governments – said the United States might have violated Geneva Convention rules against making a spectacle of prisoners by distributing pictures of the detainees being subjected to sensory deprivation, which were published worldwide.

British human rights attorney Stephen Solley said the treatment of the suspects was "so far removed from human rights norms that it [was] difficult to comprehend."

Seven years later, just two days into his administration, President Barack Obama's announcement that he would close the Guantanamo camp was greeted with international praise equally intense. An Executive Order Obama signed on Jan. 22, 2009, seemed to unambiguously mandate the closure of Guantanamo within a year:

"The detention facilities at Guantanamo for individuals covered by this order shall be closed as soon as practicable, and no later than one year from the date of this order. If any individuals covered by this order remain in detention at Guantanamo at the time of closure of those detention facilities, they shall be returned to their home country, released, transferred to a third country, or

transferred to another United States detention facility in a manner consistent with law and the national security and foreign policy interests of the United States.”

Michele Cercone, spokesperson for the European Union Justice and Home Affairs Commission, said at the time that the commission “has been very pleased that one of the first actions of Mr. Obama has been to turn the page on this sad episode of Guantanamo.”

UN High Commissioner for Human Rights Navi Pillay also praised Obama’s Executive Order, saying that it was a good day for the rule of law. “The fact that President Obama has placed such a high priority on closing Guantanamo and set in motion a system to safeguard the fundamental rights of the detainees there is extremely encouraging,” she stated.

“The United States has in the past been a staunch supporter of international human rights law, and this is one of the reasons that the regime that was established in Guantanamo has been viewed as so damaging,” the High Commissioner added.

Now at Guantanamo’s ten-year anniversary and nearly three years after President Obama’s Executive Order there is a palpable sense of disappointment and betrayal from the human rights community. The United States is finding itself on the receiving end of now-familiar criticism of its indefinite detention policies, with human rights organizations and intergovernmental bodies renewing their complaints that for the past ten years, the U.S. has flouted international human rights standards in its practices at the notorious prison camp.

“Human Rights Watch opposes the prolonged indefinite detention without trial of terrorism suspects at Guantanamo Bay and elsewhere,” said HRW in a statement on Jan. 6. The group reminded the U.S. of its obligations to prosecute terrorist suspects and to compensate detainees who have been wrongly imprisoned and mistreated over the past decade:

“The practice [of indefinite detention] violates U.S. obligations under international law. Human Rights Watch has strongly urged the U.S. government to either promptly prosecute the remaining Guantanamo detainees according to international fair trial standards, or safely repatriate them to home or third countries.

“We have also called for investigations of U.S. officials implicated in torture of terrorism suspects and for adequate compensation for detainees who were mistreated. Human Rights Watch will continue to press for compliance with these obligations. Failure to do so does enormous damage to the rule of law both

in the US and abroad.”

On the eve of Guantanamo’s tenth anniversary, Amnesty International said, “Guantanamo has politicized justice internationally by portraying detainees as having no human rights.” Amnesty has described the legacy of the Guantanamo Bay prison as a “decade of damage to human rights” not only in the United States, but across the world.

In a report released on Dec. 16, 2011, Amnesty stated:

“The USA speaks the language of human rights fluently on the global stage, but stumbles when it comes to applying human rights standards to itself. The Bush administration promised to put human rights at the centre of its counter-terrorism strategy, but singularly failed to do so. The Obama administration has promised the same thing, but the USA continues to fall short of this commitment, despite what were undoubtedly positive initial steps in the right direction.”

“From day one,” said Amnesty, “the USA failed to recognize the applicability of human rights law to the Guantanamo detentions.”

Ambassador Janez Lenarcic, the Director of the Organization for Security and Cooperation in Europe’s Office for Democratic Institutions and Human Rights (ODIHR), also expressed dismay over the failure to close the Guantanamo facility.

“Universal human rights standards require that the detention of terrorist suspects shall be accompanied by concrete charges and the persons detained under these charges shall be immediately informed of them and brought before a competent judicial authority,” Lenarcic said.

In a press release, ODIHR reminded the United States of its OSCE obligations:

“As a participating State of the OSCE, the United States has committed itself to respect human rights in the fight against terrorism and to ensure the right to a fair trial within a reasonable time before an independent and impartial tribunal. In the OSCE Bucharest Document of 2001, participating States expressed their determination to protect their citizens from security challenges such as terrorism ‘while safeguarding the rule of law, individual liberties, and the right to equal justice under law.’”

Lenarcic regretted that the practice of indefinite detention without trial has been codified into U.S. law with the recent adoption of the 2012 National Defense Authorization Act (NDAA). He called for a swift closure of the Guantanamo detention center and urged the authorities to prosecute promptly the remaining Guantanamo detainees in accordance with international fair trial

standards, or release them.

Moazzam Begg, a 43-year-old British Muslim who was wrongly detained at Guantanamo for three years two of them in solitary confinement until British authorities negotiated his release in January 2005, is more despondent about the prospects of closing the prison camp.

“Gitmo will never close. That is a fantasy,” Begg recently told CNN. “I’ve stopped wishing for it. Even if it closes its doors, it will be only symbolic. The detainees who are still there will go somewhere else to be held and be treated possibly worse, and still not get their time in court. And Gitmo, in a way, will always be open. It will be in my memory, in my head, just like everyone else who experienced that hell.”

Colonel Morris Davis, a chief prosecutor at Guantanamo Bay during the Bush administration, concurs with Moazzam Begg, saying that Obama “doesn’t have the balls” to close Guantanamo.

Nat Parry is co-author of *Neck Deep: The Disastrous Presidency of George W. Bush*.

Fleecing the Angry Whites

Exclusive: Subtly and not so subtly, Republican presidential contenders are playing the race card again, hoping to win over the votes of angry whites by implicitly blaming the shrinking of the middle-class on preferential treatment of blacks and other minorities, reports Robert Parry.

By Robert Parry

Since the days of Richard Nixon’s “Southern strategy,” the Republican Party has wooed angry whites with coded messages designed to play to racial prejudices and that pattern has come back strong in Campaign 2012 as the GOP seeks to rid the White House of a black Democrat.

Usually, the dog whistle comes in appeals to “states’ rights” and allusions to “welfare queens,” but sometimes the implicit becomes explicit, as occurred when former Sen. Rick Santorum blurted out, “I don’t want to make black people’s lives better by giving them somebody else’s money. I want to give them the opportunity to go out and earn the money.”

This comment was directed to white Republicans in Iowa, some of whom nodded

knowingly, receiving the message that President Barack Obama wanted to take their hard-earned money and give it to shiftless blacks. It's a message as old as time in America and it apparently helped boost Santorum into a virtual tie with GOP front-runner Mitt Romney.

However, Santorum quickly came to regret his caught-on-video frankness, realizing that many Americans find such blatant appeals to racial prejudice offensive. So, he proceeded to lie about what he actually said, claiming absurdly that he never said "black people" that he "started to say a word" and then "sort of mumbled it and changed my thought."

The word, in Santorum's revisionist tale, had come out something like "blah," not "black." Yet why the government would be so determined to give "other people's money" to "blah people" was not explained. Perhaps so the "blah people" could buy snazzier wardrobes or snappier cars to make them less "blah."

Thus, Santorum hoped he could have it both ways. The white racist voters in Iowa and in other states could hear that the ex-Pennsylvania senator wasn't going to use government programs "to make black people's lives better," while non-racists were supposed to believe that he simply stammered out a word that sounded like "black," but was really "blah."

Not to be outdone, former House Speaker Newt Gingrich went beyond his usual disparaging of "food stamps" by adding a reference to the NAACP, in case some slow-witted whites didn't get the racially tinged "food stamps" message. After all, many struggling whites also rely on food-assistance programs, indeed a much higher number than blacks.

Evil Guv-mint

These crude appeals to racial bigotry often framed as a well-meaning desire to help blacks by ending their "dependency" on government help fits, too, into the broader right-wing narrative, that the federal government and its do-gooder programs are what's holding America back.

If only Washington got out of the way along with its regulations, its taxes on the rich and its social safety net then the entrepreneurial spirit of America would be revived and prosperity would spread from sea to shining sea, the right-wing message goes.

This message resonates with many Americans, especially whites, because it panders to their rose-colored personal mythologies that they and their parents climbed the economic ladder solely due to their hard work and grit. It's always an easy sell for politicians to flatter people by saying "you made it on your own."

Yet, for the vast majority of Americans, the reality is quite different. Especially after the Great Depression of the 1930s, the federal government took the lead in creating the social and economic framework that undergirded the nation's later success.

Even right-wing icon Dick Cheney has acknowledged that the New Deal lifted his family from economic hardship into the middle-class and contributed to his own renowned personal confidence, which he ironically has put to use dismantling the New Deal. [See Consortiumnews.com's "[Dick Cheney: Son of the New Deal.](#)"]

Government activism also wasn't a deviation from the Founders' "originalist" intent, as the Right would have you believe. Decisive action by a strong central government to protect the nation's interests was precisely what the drafters of the Constitution had in mind.

The driving goal of the Constitutional Convention in 1787 was to create a vibrant federal system that could address national problems and make the new country competitive with and invulnerable to the then-stronger nation-states of Europe.

Contrary to Tea Party ideology, the Constitution was not about embracing states' rights. Instead, the Constitution eradicated states' sovereignty which had existed under the Articles of Confederation. The Constitution asserted the sovereignty of "we the people of the United States" and the national Republic, with the states relegated to a secondary status.

To understand what happened, all you have to do is examine the Articles of Confederation, which governed the new country from 1777 to 1787, in comparison with the Constitution, or read even popular histories of the Constitutional Convention like *Miracle at Philadelphia* by Catherine Drinker Bowen.

Gen. George Washington despised the notion of "state sovereignty," which the states had cited during the Revolutionary War and afterwards as an excuse not to contribute promised funds to the Continental Army. "Thirteen sovereignties," Washington wrote, "pulling against each other, and all tugging at the foederal head, will soon bring ruin to the whole."

It is true that some Revolutionary War leaders, such as Virginia's Patrick Henry, ardently opposed the Constitution, but they did so *because* they saw it as an infringement on states' rights. In other words, both proponents and opponents recognized what the Constitution's drafters were doing: creating a strong central government.

The Constitution, which was ratified by the 13 states in 1788, represented the most dramatic shift of power from the states to the national government in U.S.

history.

Lost Battles

Still, ratification of the Constitution did not stop proponents of states' rights from resisting federal authority, especially in the slave-owning South.

But the battles over what the Constitution intended including President Andrew Jackson's facing down the Nullificationists in the 1830s, President Abraham Lincoln's defense of the Union in the Civil War, and the desegregation of the South in the 1950s and 1960s were ultimately settled in favor of national sovereignty. Federal law prevailed over states' rights.

Having lost those historic fights, the Right latched onto a new strategy: to confuse the American people by rewriting the nation's founding history. The Right's influential politicians and pundits began claiming that the drafters of the Constitution were opposed to a strong federal government and were big advocates of states' rights.

For instance, last year on the campaign trail, Gov. Rick Perry, R-Texas, declared, "Our Founding Fathers never meant for Washington, D.C. to be the fount of all wisdom. As a matter of fact they were very much afraid of that because they'd just had this experience with this far-away government that had centralized thought process and planning and what have you, and then it was actually the reason that we fought the revolution in the 16th century was to get away from that kind of onerous crown if you will."

Besides being 200 years off on when the Revolutionary War was fought, Perry had the larger point wrong, too. The Founders at least those who drafted the Constitution saw the gravest danger to the new country coming from disunity. They viewed a vibrant central government as a way to protect the young Republic from renewed encroachments from Europe's monarchies, which otherwise could turn one state or one region against another.

The Tea Party's revisionist history of the Founding also has required a gross exaggeration of the Tenth Amendment's significance. It states: "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."

While references to the Tenth Amendment draw cheers from today's Tea Party crowds, its wording must be compared to the Confederation's Article II, which says: "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated."

In other words, the Constitution flipped the balance, stripping the states of their “sovereignty, freedom, and independence,” while granting broad powers to the national government, including over interstate commerce. The Tenth Amendment was essentially a sop to the anti-federalists, added three years after the Constitution was ratified.

The New Deal

The Founders’ “originalist” vision of a strong central government was vindicated in the 1930s when President Franklin Roosevelt led a national effort to recover from the Great Depression, which had been caused largely by lightly regulated “free-market economics.”

Roosevelt’s strategy, which involved large-scale development programs for modernizing the nation, such as the Tennessee Valley Authority providing electrification for much of the rural South, was carried forward by subsequent presidents, Republican as well as Democrat, through the post-World War II years.

President Dwight Eisenhower initiated the Interstate Highway project which improved the national transportation system; President John F. Kennedy launched the space program which achieved major technological breakthroughs; President Lyndon Johnson pushed medical programs and research that aided later pharmaceutical advances; and even the “failed” presidencies of the 1970s Richard Nixon, Gerald Ford and Jimmy Carter focused the United States on environmental safeguards and energy self-sufficiency.

During this era from the 1930s into the 1970s millions of Americans were lifted into the middle-class and others grew rich from exploiting the innovations that government projects made possible.

All companies benefited from the U.S. transportation infrastructure; many piggybacked onto the technological breakthroughs in electronics; the drug industry exploited taxpayer-funded research in the development of new medicines. It turned out that government could create jobs, especially through alliances with the private sector.

Indeed, it is fair to say that the great American middle-class was largely the creation of the federal government – from the New Deal, which guaranteed labor rights and created Social Security, to the GI Bill which sent World War II veterans to college, to more recent developments such as the creation of the Internet and GPS devices.

It was not until Ronald Reagan’s presidency in the 1980s that the political dynamic shifted. As Reagan declared that “government is the problem,” the role of Washington in the lives of Americans was demonized. Many middle-class

Americans forgot how much they and their families had benefited from actions of the federal government.

The myth of self-reliance proved seductive. The government was recast as an instrument for helping the lazy at the expense of the productive. Through subtle and not-so-subtle messaging, white Americans were told that the government was hurting them to help undeserving blacks and other minorities.

Government regulations were redefined as meaningless red tape that penalized important innovations, such as the exotic “financial instruments” that Wall Street was devising to “revolutionize” the banking industry. The thinking was that the government just had to get out of the way and let industry “self-regulate.”

It followed, too, that Reagan’s economic theories, such as “supply-side economics,” would evolve into gospel on the Right. Since the beloved Reagan more than halved the top marginal tax rates on the rich so they could invest in “supply-side” production and thus create more jobs many conservatives embraced this notion with religious zeal.

Today, Gingrich boasts about his role in helping to formulate and enact “supply-side economics” despite the fact that it has proved a crushing failure, as the American super-rich do little to create American jobs with their extra wealth. Indeed, U.S. corporations are sitting on trillions of dollars in capital because of a lack of consumer demand.

That lack of consumer demand has resulted from the decline in the American middle-class over the past few decades as Reaganomics has increasingly transformed U.S. society into one of extreme wealth and widespread want. In other words, the shrinking middle-class is proof that “supply-side” economics doesn’t work, even as Republicans keep promoting it.

But the now-undeniable damage to the American middle-class inflicted largely by right-wing ideology creates a political problem for Republicans. Many voters may be hesitant to double-down on a bad bet.

So, it is perhaps not surprising that some of the current crop of GOP presidential candidates have turned again to more and more blatant appeals to racial prejudice. After all, racism is the primeval “wedge issue.”

In this sour economic climate, more racist messaging like Santorum’s opposition to giving money to “blah people” and Gingrich’s endless allusions to “food stamps” can be expected as the Republican primary season rolls on.

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Privilege and Neck Deep, now available in a three-book set for the discount price of only \$29. For details, [click here.](#)]

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A Betrayal of the Founders

Exclusive: Though voicing “serious reservations” about encroachments on civil liberties in a military authorization bill, President Obama signed the law anyway to avoid a nasty veto fight with Congress. But ex-CIA analyst Ray McGovern says courage, not timidity, is what’s needed at such moments.

By Ray McGovern

President Barack Obama desecrated the Constitution that he and I swore to defend when he signed the National Defense Authorization Act of 2012, which includes language violating the Bill of Rights and other constitutionally protected liberties.

The NDAA affirms that the president has the authority to use the Armed Forces to detain any person “who was part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners.”

Under the law, the president also may lock up anyone who commits a “belligerent act” against the U.S. or its coalition allies “without trial, until the end of the hostilities.” The law embraces the notion that the U.S. military can be used even domestically to arrest an American citizen or anyone else who falls under such suspicion and it is “suspicion” because a trial can be avoided indefinitely.

Yes, I know that the Obama administration’s allies got some wording put in to say that “nothing in this section is intended to limit or expand the authority of the President or the scope of the [2001] Authorization for Use of Military Force,” nor shall the NDAA “be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of

the United States, or any other persons who are captured or arrested in the United States.”

And there were some waivers stuck in to give the president discretion over whether to send someone into the gulag of the Military Commissions system possibly for the rest of a detainee’s life, given the indefinite nature of what was formerly called the “war on terror” and what the Pentagon has dubbed the Long War.

It’s true as well that after signing the NDAA on New Year’s Eve, President Obama engaged in some handwringing. He expressed “serious reservations” about some of the law’s provisions and declared, “I want to clarify that my Administration will not authorize the indefinite military detention without trial of American citizens.” He added that he would interpret the law “in a manner that ensures that any detention it authorizes complies with the Constitution, the laws of war, and all other applicable law.”

But those who hoped that Barack Obama, the onetime constitutional law professor, would begin rolling back the aggressive assault on civil liberties that President George W. Bush began after the 9/11 attacks must be sorely disappointed.

Those existing laws including the original post-9/11 use-of-military-force authorization and the Military Commissions Act passed in 2006 and modified in 2009 opened the door for presidents to declare anyone of their choice, American citizen or non-citizen alike, an “enemy combatant” and to subject the person to military prison or even assassination.

Just think of U.S. citizens Jose Padilla (who was tossed into the Navy Brig in Charleston, South Carolina, for years) and Anwar al-Awlaki (who was murdered in a drone attack in Yemen in 2011). So, it’s not especially reassuring that President Obama insists that the new law doesn’t dramatically worsen the decade-long erosion of constitutional rights.

Sweeping Provisions

The American Civil Liberties Union also disputed Obama’s claim that the NDAA was essentially business as usual. “The statute contains a sweeping worldwide indefinite detention provision,” the ACLU said, without “temporal or geographic limitations, and can be used by this and future presidents to militarily detain people captured far from any battlefield.”

In other words, the ACLU is noting that since the United States relies on the principle of “laws, not men,” the assurance of any individual president that he won’t exploit an abusive legal power doesn’t mean that the next president won’t.

The right thing to do in such a case is to veto legislation that contains that kind of unconstitutional provision, not simply sign it, promise not to use it, and express “serious reservations.”

Sure, if President Obama had exercised his veto, he would have been criticized in some corners as “soft on terror” and he would have undercut his political message about the need for bipartisanship amid the dysfunction of Washington. But compromising on the Constitution isn’t like adding a road project to secure some congressman’s vote.

Fifty years ago, when I was commissioned a 2nd lieutenant in the U.S. Army, I took an oath to support and defend the Constitution of the United States against all enemies foreign and domestic. I knew that the oath carried no expiration date. Back then, I could not conceive of the possibility that one day this would pose a problem. I felt that we Americans were pretty much all on the same team. But how will I honor my oath in today’s circumstances?

The winter is getting cold and I am getting old. Still. Do I have enough integrity; do I have enough genuine love for my country to be a “winter soldier” and do what I can to stop this steady encroachment on liberties that many other soldiers fought so valiantly to establish and protect?

It is a challenge not wholly different from the cold reality faced 235 winters ago by George Washington’s army. The British had forced the army’s retreat from New York just months after the signing of the Declaration of Independence on July 4, 1776. Not only was the American cause at low ebb, but Gen. Washington faced the annual crisis caused by the expiration of the Continental Army’s period of enlistment. Some kind of success was desperately needed.

So Washington decided to cross the Delaware River at Christmas, surprise the defenders of Trenton, and seize it. Washington feared that what seemed like a desperate attack plan was unlikely to buck up troop morale, so he had his officers read to the troops an essay fresh from the pen of Thomas Paine, himself a soldier in Washington’s army.

Paine’s first words became the watchword of the attack on Trenton and are said to have inspired much of the uncommon bravery displayed that night and for the next five years: “These are the times that try men’s souls: The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered.”

Blood on the Snow

The Delaware River was already running high with flowing ice on Christmas Day,

when at 11 p.m. a heavy snow and sleet storm broke. Washington's force did not reach the east bank until around 3 a.m. His soldiers then marched to Trenton, the ones without shoes leaving traces of blood on the snow. Though they reached Trenton hours later than Washington had planned, his troops still surprised and overwhelmed a garrison of Hessian mercenaries on the day after Christmas.

Capt. Alexander Hamilton commanded an artillery section. Capt. William Washington, second cousin to the commanding general, and Lt. James Monroe (yes, that James Monroe) were wounded, the only American officer casualties. Two American soldiers were killed; and two others froze to death. The Hessian defenders suffered 20 killed and around 100 wounded, with 1,000 captured.

Not a major battle, you may be thinking. But remember, the effect of the Battle of Trenton was out of all proportion to the numbers involved and the casualties. The success at Trenton galvanized the American effort across the colonies and reversed the psychological dominance enjoyed by the British in the preceding months.

So why all this history? Because, remember, actions often have a larger impact, a greater significance, than numbers can impart. Bravery and ideas can touch the heart and focus the mind. They can inspire.

Perhaps you will sense the same hope I do in recognizing that this kind of thing can, and does, happen. And can happen again. What are required are integrity, courage, and imagination. Americans still can revive the spirit around the Battle of Trenton and start to turn the tide against a new tyranny.

We may have to leave some "blood on the snow," so to speak, but perhaps we owe that to the soldiers who had no shoes 235 Christmases ago. We are Washington's foot soldiers now, facing the resurgent face of tyranny. But there are already enough of us to defend our Constitution from all enemies, foreign and domestic.

Traitorous Law

Lawyers and historians may argue over whether the National Defense Authorization Act of 2012 is the deepest wound ever inflicted on the U.S. Constitution or just another debilitating cut. They may note that the United States has lost its way before from the Alien and Sedition Acts to Cointelpro.

But the NDAA strikes me as the most serious affront to American rights in my already pretty long lifetime. That, and the lifetime of my eight grandchildren, constitutes my horizon. Yet, why do so few of my neighbors understand the assault on the Bill of Rights that President Obama advanced with his signature?

Is it the old story of the frog that lets itself get slowly boiled to death

because the water temperature is raised only gradually? Or is it that the law was signed on New Year's Eve when most Americans were distracted? Or perhaps because the following day, the journalists of the Fawning Corporate Media had convenient hangovers, excusing them for ignoring this latest dark turn in our nation's history.

Just as former CIA Director George Tenet protested to Scott Pelley on *60 Minutes* five times in five consecutive sentences, "We do not torture!" Obama may now declare, "We don't violate the Constitution!"

But where are our journalists now, this week in January 2012? Why aren't they investigating how this travesty occurred and how curious it is that this steady encroachment on American rights continues even as U.S. intelligence agencies say al-Qaeda is on the verge of defeat with only a couple of "high-value targets" left from its core operation?

Shouldn't this be the moment when the United States begins winding down this decade-long anti-constitutional state of siege rather than giving it new life and even expanding its reach? Is there a message here about the future, especially given the new neoconservative propaganda initiative associating al-Qaeda with Iran?

Secret Covenants

Behind closed doors, the law's chief co-conspirators Sens. Carl Levin, D-Michigan; John McCain, R-Arizona; Lindsey Graham, R-South Carolina; and Joe Lieberman, I-Connecticut injected into the NDAA ambiguous language that could be applied by this president or the next to Americans who resist endless war against "associated forces" somehow linked to al-Qaeda or the Taliban.

All four of these co-conspirators are prominent supporters of harsher and harsher sanctions against Iran, actions that have put in place the dry kindling that awaits some spark to touch off a new conflagration in the Middle East.

Now that neocon operatives have "associated" al-Qaeda with Iran does that mean protesting a new war with Iran constitutes the kind of "support" that could prompt a long vacation at Guantanamo Bay? That may be too big a stretch, but it does seem odd that we're having this debate after al-Qaeda has been reduced to a sliver of its past self and as the Obama administration seeks negotiations with the Taliban.

The media play, or lack thereof, is another back-story here. Painfully clear is the success enjoyed thus far by those determined to use artificially whipped up fear of "terrorism" in the same way Sen. Joe McCarthy used the dread of "communism" to deprive Americans of their constitutional rights.

Let it not be forgot that our Founders, one of whom (George Mason of Virginia, author of the Bill of Rights) grew up a stone's throw from where I live, had the courage to declare how importantly urgent was the enterprise upon which they, and the foot soldiers of George Washington's army, were embarked toward freedom.

In 1776, at a time when it seemed far more likely than not that they would hang at the end a rope, they formally declared their support for a common effort to defeat tyranny. They declared: *"We mutually pledge to each other our Lives, our Fortunes and our sacred Honor."*

And we are the beneficiaries of their decision to risk all to ensure the blessings of liberty to us and our posterity. Are we, 235 years later, unable to recognize what is at stake? Do we lack the courage to act in the tradition of the Founders when government becomes destructive of these ends?

I came across the following on my bookshelf. It's nice. Anyone know what it's from? It reads: *We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.*

—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,

—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.

But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

THAT is how strongly our predecessor patriots from Virginia, Massachusetts and points south, north, and in between felt about all this. Many of them knew first-hand the evils of unchecked tyranny. THAT is why courageous foot soldiers were willing to mark the snow with blood from their feet as they marched on Trenton.

The Bill of Rights?

It is generally known that my former neighbor, George Mason, worked side-by-side with James Madison in crafting the Constitution. What is less known is that, when the draft was finished, Mason shocked Madison by refusing to sign the Constitution in 1787. His reason? He demanded that it contain a Bill of Rights.

Madison and other Founders pledged and honored their pledge to incorporate a Bill of Rights as the first Ten Amendments to the Constitution. They did so by riding through the towns and villages of the young country, making the case for a Bill of Rights, which was approved by Congress and ratified in 1791.

Can you visualize that in your mind's eye? How many of us can envisage riding horseback far and wide to persuade Carolinians and Vermonters alike that their liberty could not be assured without those Ten Amendments to the Constitution?

What about us? Can we not get up from our armchairs and do what we can to insist that those liberties be protected? How have we reached such a pass? Have we grown so inured to the repetition from our leaders, including both George W. Bush and Barack Obama, that keeping us "safe" is their first priority, that we have forgotten that the Founders risked everything for liberty, not for "safety"?

Madison already knew far too well what could pose the greatest danger to the Constitution. He recognized the inevitable effects on our liberties of "continual warfare" of the kind we have been waging for more than a decade now:

"A standing military force, with an overgrown Executive will not long be safe companions to liberty. The means of defense against foreign danger, have been always the instruments of tyranny at home."

"Of all the enemies to public liberty war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies; from these proceed debts and taxes; and armies, and debts, and taxes are the known instruments for bringing the many under the domination of the few." [Or put in today's parlance, the 99 percent under the boot of the one percent.]

"The same malignant aspect in republicanism may be traced in the inequality of fortunes, and the opportunities of fraud, growing out of a state of war, and in the degeneracy of manners and of morals, engendered by both. No nation could preserve its freedom in the midst of continual warfare."

Speaking Out

While horses and sailing ships of the 18th Century are slower than today's

newspaper delivery trucks and electronic news outlets, those riders and ship captains who delivered Thomas Paine's pamphlets up and down the colonies encountered a much less distracted, much more engaged and eager readership.

There was no competition from faux-news on TV, or in what pass for newspapers these days. There was not even any football. And for the Founders and their families, freedom and politics were not spectator sports. They knew all too well how tyranny could be ushered in not only from overseas but also from behind closed doors.

Who has exposed Congress's latest poaching on our liberties and President Obama's hand-wringing decision to compromise those liberties? In fact some have, but you won't find them on U.S. network TV or even on most American cable channels.

You either have to know your way around the Internet, or purchase the kind of service that will permit you to see foreign-sponsored channels like PressTV, Aljazeera, and RT. Even Secretary of State Hillary Clinton has admitted that by watching Aljazeera and RT when she travels abroad, she has gotten used to better news coverage than she gets in Washington.

I have been keeping track: CNN domestic has been punctual in interviewing me every three and a half years. I have flunked out of Fox News altogether, although there have been a few rare occasions when a local Fox station invites me on to comment on a fast-breaking event. And forget the rest of the FCM.

So when someone from, say, PressTV, which is run by Iran, asks to interview me on a subject I know something about, I normally say yes if a convenient time can be arranged. On Monday, PressTV invited me to join two others (Dave Lindorff in Philadelphia and Don DeBar in New York) in a panel discussion of the implications of the President's signing of the NDAA.

I haven't a clue how many Americans might have been able to watch such a program on their TVs. But it is usually possible to access such programs on the Web, where many more may have already seen it, or can see it now. The interview touched on many things that I would have welcomed a chance to say on CNN.

It will be necessary to keep informed as we face down this resurgence of tyranny. Sunshine patriots will deceive themselves into thinking they can do that, while staying malnourished by the Fawning Corporate Media. You readers know better, right?

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