

# Allow Me to Introduce Myself

BY LAWSON BADER

In the cult-classic movie *The Princess Bride*, Mandy Patinkin portrays a memorable character whose purpose in life is to avenge his father's murder by finding and killing the Six-Fingered Man who did the deed. In a recurring daydream, repeated in comedic fashion throughout the film, he fantasizes that his first words of confrontation will be, "Hello, my name is Inigo Montoya..." Now, I am not looking to confront or avenge anybody, (although I do live and work among too many people with all 10 fingers buried deep in the federal trough), but let me begin this New Year and new chapter in the Competitive Enterprise Institute's (CEI) history with, "Hello, my name is Lawson Bader..."

I will repeat that phrase frequently as I spend the coming months visiting many of you who support and follow CEI's work. In that vein, I look forward to conversations where we can become better acquainted. I can learn about your reasons for supporting CEI—and you can ask me why I am crazy to follow in the significant footsteps of Fred Smith! But let me use this space to say something about why I came to CEI and why I believe it is a worthwhile endeavor with endless possibilities.

What CEI does on a daily basis, what motivates me to lead this great organization



Incoming CEI President Lawson Bader (left) accepts a welcome sword from CEI Founder and Chairman Fred L. Smith, Jr. Photo by Katherine Ruddy.

comes down to a simple concept. Our work celebrates and defends "enterprise," which is nothing more than the freedom to prosper. Its specific definition seems straightforward—the freedom to choose a career or hobby, the freedom to accumulate wealth through investing one's savings, the freedom to roll the dice on a new business venture. But this definition revolves exclusively around money and wealth and is so narrow it

pinches. So a broader definition is needed—one that includes the vitality that makes life and work meaningful and satisfying and puts this "prosperity" in perspective.

Wordsworth said, "Getting and spending, we lay waste our powers," which as a friend of mine points out, is the 19th century way of ridiculing the idea that whoever has the most toys wins. Many view market forces as being arrayed against the

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# CEI PLANET

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## Introduction, *continued from page 1*

poets, but many important thinkers, notably Adam Smith among them, have understood that material success is only a means to an end.

What end? The answer is as diverse as humanity itself. Some of us pursue wealth to stockpile villas and private planes. Some start charities to fight malaria, cancer, sex trafficking, or AIDS. Along the way, one creates new jobs for thousands of others. Another soothes shattered souls.

Those of us who defend market principles view all of these endeavors with a non-judgmental eye, as the choices free individuals make to realize their dreams. We give each choice its due, not just out of respect for each person's vision of what gives life its zest, but also out of an understanding that vast piles of money can either constrict the heart or set it free.

Our wealth holds promise and bestows blessings beyond toys—a future without major disease, walks with your spouse at sunset instead of holding down a second job, a cornucopia of food unimaginable a century ago, longer lives, and charitable giving that leads the world. None of these are possible in a world where one must constantly struggle to feed, clothe, and shelter loved ones. In other words, it is through prosperity and the liberty to pursue choices that we can each accomplish our own personal dreams, because without it, our options are drastically limited.

Everyone wants to create a more prosperous society, but finding a place to start is difficult. We are all too aware that problems are everywhere, and that people disagree about which ones are most urgent and what is the best way to solve them. Politics is a process by and through which government wrestles with these problems. But

we know that only a system based on free enterprise has the capability to actually solve them.

Where does this leave us? The year 2013 marks a significant shift in CEI's 29-year existence. As I reflect on our immediate future, however, I am reminded of the saying, "The more things change, the more they stay the same." Fred

*“It is through prosperity and the liberty to pursue choices that we can each accomplish our own personal dreams, because without it, our options are drastically limited.”*

Smith is an icon within the freedom movement, and he has shaped CEI into the dynamic organization it is today. While Fred may no longer serve as president, he remains an active part of our family—along with Fran. Fred is certainly not one to sit idly by nor is he “going gently into that good night” (although he is the first to admit that his knees may be doing so). He is grateful for additional time to devote to policy work and, specifically, to growing his Center for Advancing Capitalism. In addition to his policy duties, Fred and I are prioritizing our time together during the first half of 2013 to ensure that this leadership transition is smooth, effective, and builds for CEI's future.

Fred envisioned an institute that was more than the traditional think tank—one that combined rigorous policy analysis with an activist's ability to market, cajole, educate, and litigate on behalf of CEI's research findings and principles. CEI will remain a full service policy research and advocacy organization dedicated to the belief

that only through free enterprise and limited government can society achieve that freedom to prosper. Having a new president does not change CEI's calling to wage scholarly trench warfare on behalf of economic liberty. In my first few weeks, I have spent time with each and every researcher, policy expert, and staff member. I come away from those conversations only having reinforced my belief that CEI is home to very bright and creative people who conduct excellent work and who have a passion for and an appreciation of public engagement on how and why markets make us all better off. There is much I have to learn from them. Having a new president does not alter that core capability.

Furthermore, let us also remember that for all of CEI's work and the activities of our free market allies, the challenges to economic liberty remain acute. We are engaged with a growing public for whom the growth of the government's reach is not just desired but preferred. To be honest, this is most discouraging. But we also need to remember that ours is a long term struggle. One hundred years ago, the contest between William Howard Taft and Teddy Roosevelt for the right to challenge Woodrow Wilson for the Presidency centered on some all-too familiar issues:

- A national health service to include existing government medical agencies;
- Social insurance for the elderly, unemployed, and disabled;
- A federal securities regulatory commission;
- Farm relief and worker's compensation;
- A constitutional amendment to allow a federal income tax;
- An inheritance tax; and



Lawson Bader and Fred Smith discuss management philosophy, Joseph Schumpeter, and contemporary Scottish menswear. *Photo by Katherine Ruddy.*

- Strict limits and disclosure requirements on political campaign contributions.

Indeed, the more things change, the more they stay the same...

But for us, it cannot be business as usual. We are entering a dangerous four-year stretch—challenged by a second-term President eager to leave his progressive mark on this city and country but facing a gridlocked Congress. Consequently, he will look to the regulatory process to push through his agenda—which is decidedly and unabashedly anti-free enterprise. Think of the next four years as one long “midnight regulation” designed to cement his vision of a paternalistic and pervasive nanny state.

CEI could not be in a better position to meet this challenge.

This newsletter is full of stories of how we are reacting to this regulatory challenge—how we are utilizing CEI’s unique ability to perform solid analysis, conduct media campaigns, build coalitions, file lawsuits and FOIA requests, engage, harass, and broadcast our message from the top of the Washington Monument if need be.

A reporter recently asked me, “What do you want CEI to become?” I answer that simply—an organization so respected and/or feared that no major regulatory decision is made without some key policy maker, elected official, reporter, or analyst asking,

“What would CEI do?” Let’s call it the WWCEID campaign. Washington, D.C., is full of people and organizations that benefit from today’s failed statist policies and who want to protect the status quo. I want CEI’s detractors to understand that they must address our positions or face irrelevance.

I want our free-market allies at the state, national, and international level to rely on CEI’s intellectual ammunition for their own fights. I want our supporters to provide funds not just because of philosophical or policy-specific opportunities, but because they see us as a willing and engaged partner in their own struggles at every level—within their synagogues, barber shops, PTAs, bowling alleys, or homeowners’ associations—for their own freedom to prosper. I want CEI to expand its already strong position as an intellectual and practical threat to those who seek to undermine our nation’s pro-enterprise heritage.

The fact that the 12th floor of 1899 L Street is home to so many dedicated, delightful, focused, funny, and committed people makes all of this a grand experience of its own. Thank you for helping make that possible.

Now, about that Six Fingered Man...

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# My legacy?

*I need to provide for my loved ones. But like my family, I want CEI to carry on for generations to come. What can I do?*

It’s easy to do both. Talk to us about your options, like...

- ▶ Designating your retirement plan
- ▶ Leaving a life insurance policy
- ▶ Making a bequest through your will
- ▶ Making a gift now, and receiving income for life
- ▶ And much more

Any of these options could help you now and provide for your family in the future. Some you can even put into place today without losing any income.

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# Italy's Zombie Politicians Have Crossed the Atlantic

BY MATTHEW MELCHIORRE

Zombies have overrun Rome—and they are spreading to Washington. Politics on both sides of the Atlantic is stuck in limbo between life and death as politicians stagger about hopelessly to stall on reform. Italy's reformist technocratic government, led by Mario Monti, came to an end in December, which means the country is at risk of losing its only hope to escape political stagnation. Meanwhile, despite all the grandstanding from President Obama and Congress, nothing seems to change in the U.S., either. January's tax-raising deal to supposedly avoid the "fiscal cliff" and punt on cutting spending is just the latest episode of Washington's lifeless routine. Italy's broken political culture represents the political zombie apocalypse that America must avoid.

This "28 Elections Later" end game begins with special interests, with which the political systems of both America and Italy are deeply entangled. But Italy has gone much further down that road to perdition.

For nearly 50 years before the early 1990s, one-party rule in Italy meant huge concessions to special interests, especially unions and professional guilds, to keep the peace in Parliament and thus keep Italy's sizeable Communist Party from exploiting partisan disagreement to gain support. The unions and the guilds said "jump" and politicians asked "how high?"

In Italy, this sorry spectacle continues today. Each special interest has its own sacred cow after five decades of gorging at the public trough, and politicians don't dare to even hint at slimming them down.

The labor unions have Italy's rigid employment law. Article 18 of the Statute of Workers forbids firing an employee for poor performance. Only cases of negligence can be grounds for dismissal. Essentially, older workers have jobs for life while younger workers precariously jump

from job to job under temporary contracts because firms will not take the risk of hiring new employees. It is no wonder that Italian firms are small and refuse to grow, and that Italy has one of the highest youth unemployment rates and the second lowest level of employment in the Euro Zone.

Italy's powerful unions will do whatever it takes to keep this law on the books. When the Monti government attempted to reform Article 18 last spring, it met fierce resistance to compromise from Italy's largest trade union, the Italian General Confederation of Labor. Union Secretary-General Susanna Camusso went so far as to claim that reforming Article 18 would have no effect on Italy's employment problem.

The unions have a stranglehold over Italy's center-left Democratic Party, which is poised to gain the most votes in the spring 2013 elections, according to a November 2012 Ipsos poll. During talks on labor reform, Party Secretary Pierluigi Bersani rejected changes to Article 18 on the same grounds as Camusso.

Italy's service guilds hold dear the intricate system of stringent licensing schemes and tough industry standards that allow them to erect barriers to new competition. According to the OECD's professional service regulation index, Italy's service sector is the most regulated in the developed world.

One of the guilds' most glaring protectionist achievements is the scarcity of taxis in Italy's capital. Rome has less than a third fewer taxis per resident than London or Paris, because the Italian taxi guild lobbies and strikes to keep taxi licenses to a minimum and competition non-existent. When Monti introduced modest liberalizations to Italy's taxi sector in January, drivers protested by blocking roads all over the country. Imagine the unrest that significant reform would have caused.

Monti—the technocrat-turned-politician who will be a candidate in the spring

elections—is Italy's only zombie hunter. Although his record has been largely lackluster, he at least has exhibited some courage to take on the entrenched interests and politicians that are keeping Italy's economy and politics stuck in a rut. That's more than can be said for politicians like former Prime Minister (and now 2013 election candidate) Silvio Berlusconi—who was forced to resign last fall after financial markets sent Italy's sovereign bond yields through the roof because of his refusal to countenance reform—and for the union puppet Bersani.

What can Americans learn from this? Plenty, since it offers a glimpse of the future if politicians in Washington fail to confront the country's fiscal challenges. Grand talk of cutting spending and shrinking debt has failed to deliver time and again in the United States. And even when the Beltway zombies made a modest achievement to cut spending through an automatic sequester agreed to in August 2011, they worked for its reversal before it could take place this year. This is the definition of going nowhere.

Democratic zombies hunt for tax money to keep funding unsustainable entitlements, while the Republican undead try to scare the public into believing that a military budget trimmed back to pre-2004 levels will leave America defenseless. Every politician has a special interest to please, whether it is the AARP or a defense contractor. As in Italy, America's political culture is broken.

Super Mario was not able to save Italy from the walking dead. But the spring elections might just give him a second chance. America should seek to avoid using up its nine lives and learn from Italy's mistakes.

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# E-Verify's Hang Everyone Approach

BY LAURA MURPHY  
AND FRED L. SMITH, JR.

If you hang everyone, the old saying goes, you will catch some guilty people. That adage points to the fatal flaw of an employment-verification program tucked into several recent immigration reform proposals in Congress.

The E-Verify program—which several states are experimenting with, but which would become mandatory nationwide under proposed new law—targets every employee that a business hires, in the hope of weeding out a few undocumented immigrants from the work force. In the process, E-Verify erects dangerous hurdles to employment for legal workers and degrades the privacy of working Americans.

Employers enrolled in E-Verify must submit electronic information about all employees to a government database. If an employee's information conflicts with the database, the individual cannot work until he corrects the error. Every potential employee is thus presumed to be ineligible to work until proven otherwise. So much for the presumption of innocence. Resolving E-Verify errors often requires a job seeker to visit the local Social Security Administration office. If you like waiting at the DMV, you will love E-Verify.

Unsurprisingly, E-Verify's database contains inaccurate data. In fact, a 2009 report commissioned by the Department of Homeland Security shows that a national mandate would force 1.2 million of today's legal workers to sort out such problems. Of these, almost 770,000 genuinely legal workers would lose their jobs due to lost

documentation, failure to file an appeal in time, or employers who never inform them of the initial error. E-Verify has improved, but it has never been tested on states with large legal immigrant populations, and Homeland Security refuses to let states make its use dependent on the timely resolution of errors.

Workers aren't the only victims of E-Verify. The program also imposes sizable burdens on job-creating companies, as any small business owner who has read E-Verify's 88-page compliance manual can attest. Implementing a nationwide E-Verify mandate would cost small businesses \$2.6 billion each year, according to a June 2011 report at the Bloomberg Government website. The cost of screening a single new hire: \$147. Perhaps this explains why only slightly more than half of Arizona businesses have enrolled in E-Verify—despite a 2008 state law that requires all of them to do so.

Taxpayers also would suffer under an E-Verify mandate. The Government Accountability Office estimates that implementing the system would cost Homeland Security \$765 million over four years and would require the Social Security Administration to hire 700 new employees and spend \$281 million over five years. Worse, the Congressional Budget Office estimates that a national E-Verify mandate would deprive the government of \$17.3

billion in tax revenues over 10 years. This is largely because E-Verify would push many employees who currently pay taxes into the black market.

The benefits of E-Verify don't come close to justifying these massive costs. Homeland Security's 2009 report found that E-Verify failed to catch 54 percent of unauthorized workers. These failures were caused largely by falsified identity documents, which E-Verify is ill-equipped to detect. It is hard to imagine how a system so ripe for circumvention will meaningfully curb unauthorized immigration.

In the longer run, an E-Verify mandate would further erode individual privacy. If the system goes national, it may well mutate into a catch-all method of ascertaining Americans' identities. A similar fate befell the Social Security number, which was created solely to distribute benefits.

Imagine all the ways government could repurpose an electronic system supposedly capable of verifying our identities. After employment eligibility, airports, voting booths, and office buildings might well be next. How long before we will all need E-Verify's blessing before attending college, signing up for Internet access, or buying a legal firearm?

All Americans have a right to earn an honest living through hard work. Congress shouldn't create a huge new bureaucracy to stand in the way. Only one in 20 U.S. workers is undocumented, yet E-Verify would intrude into the lives of all Americans and their employers. Lawmakers should focus instead on the only proven way to address illegal immigration: an efficient and effective legal pathway for immigrants to enter and work in the U.S.

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*Laura Murphy is Director of the American Civil Liberties Union's Washington Legislative Office. Fred L. Smith, Jr. (fsmith@cei.org) is Founder and Chairman of CEI. A version of this article originally appeared in The Wall Street Journal.*

# BPA Resin Replacements May Be More Harmful

BY ANGELA LOGOMASINI

As we look back at 2012, it is a good time to reassess one of the biggest alarm stories of the year: the alleged health impact of the chemical bisphenol A (BPA). Were the claims against BPA true, and what might we expect to happen in 2013?

In 2012, news headlines were awash with faulty claims about dangers lurking in food, cosmetics, cleaning products, and even cash register receipts—all allegedly posed by BPA. Green groups targeted

their message to women, who were—and continue to be—barraged with one-sided stories suggesting that BPA containers pose a serious threat to children.

These activists claim that BPA is an “endocrine disrupter”—a chemical that affects human hormone systems. Supposedly, it impacts human development starting in the womb and eventually leads to everything from breast cancer, heart disease, obesity, and more. But women should be wary of such hype.

Manufacturers have used BPA for more than 60 years to make hard, clear plastics and resins that line food containers,

and there are no documented cases of BPA-related illnesses from consumer exposures. Research shows that the human body quickly metabolizes and passes out trace levels of BPA found in food, producing no adverse health effects. Comprehensive studies conducted by researchers from the World Health Organization, United States, European Union, Canada, Japan, and elsewhere have deemed the current uses of BPA safe.

Yet, rather than focus on these comprehensive reviews, greens continue to cite random and largely inconclusive studies that claim to “link” BPA to health problems. But many of these studies are more akin to junk science than hard science as they simply don’t have good data to assess BPA exposures. In fact, researchers highlighted this problem in a recent article in the online journal PLOS ONE.

Nonetheless, governments have already begun taking action on BPA merely to alleviate anxieties generated by environmental activists rather than to address legitimate public health problems. For example, following Canada’s lead, the U.S. Food and Drug Administration banned BPA use in baby bottles and sippy cups in 2012 even though it deemed those uses safe. And France recently banned its use in food packaging.

If there is anything to fear, it is the regulations that may result from the hype. In fact, products that replace BPA may not be any safer and in some cases may be more dangerous. Early in 2012, researchers pointed out that the chemical used to replace BPA for plastic baby bottles and reusable water bottles, known as bisphenol S (BPS), is a more potent “endocrine disrupter” and that the human body does not metabolize BPS as easily.

Fortunately, there are many reasons to doubt that trace exposures to BPS—or any synthetic chemical for that matter—could have significant hormonal effects. Synthetic chemicals simply are not potent enough. Consider the fact that natural substances in our diets that we consume every day—such as soy, almonds and a variety of legumes—contain endocrine mimicking substances that are tens of thousands of times more potent than synthetic chemicals. And we all know soy and nuts are not only safe, they are pretty good for you.

Accordingly, while BPS plastic alternatives probably are no more dangerous than BPA, they certainly are not any safer.

Other options are potentially more dangerous. For example, greens suggest using glass, but who could seriously deem it safer? We all know the risks associated with broken glass. Indeed, children face far higher risks from cuts and subsequent infections than they do from a trace chemical that has been used in plastics for decades without any documented adverse health impacts.

Bans on BPA resins that line cans may pose more serious risks. Specifically, BPA resins line food containers—from soup to soda cans—to prevent the spread of deadly pathogens like E. coli. Manufacturers pointed out in *The Washington Post* that there are no good alternatives for this use. Accordingly, bans that force us to buy inferior alternatives may mean increased food-borne illnesses.

Now that is something to worry about.

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*Angela Logomasini (alogomasini@cei.org) is a Senior Fellow at CEI’s Center for Energy and Environment. A version of this article originally appeared in The Hill.*





# TRANSATLANTIC FREE TRADE MUST BE DONE RIGHT

BY IAIN MURRAY

There is a buzz, says *Washington Post* columnist David Ignatius, in both Berlin and Washington these days, for free trade as a potential path back to growth for the ailing economies on both sides of the Atlantic. Indeed, a Transatlantic Free Trade area would be a very good idea. And it would be a welcome admission of the fundamental economic truth that free trade benefits all involved. But achieving it is easier said than done. Therefore, policy makers should seek to make a Transatlantic Free Trade Area truly free. A highly regulated trade area would not deliver the benefits promised. Thankfully, there is a way to avoid that lackluster result.

The potential benefits and framework of a Transatlantic Free Trade area (TAFTA) are laid out in a new paper by the German Marshall Fund. The Transatlantic trade economy is already huge—the Center for Transatlantic Relations at Johns Hopkins University calculates its size at \$5 trillion in annual commercial sales while it supports 15 million jobs. Yet substantial trade barriers remain, in the shape of tariffs and non-tariff barriers like regulations, restrictions on investment, and government procurement practices. Removing these barriers could significantly increase the size of that trade, leading to more jobs and higher wages. Such economic gains were achieved under the North American Free Trade Agreement (NAFTA), but there is significant risk for such an agreement to be much less effective than NAFTA.

The problem is not in Berlin or Washington, but in Brussels. That particular federal “capital” has shown a complete misunderstanding of the benefits of free trade, having turned what was once a good idea—the European Economic Community—from a free trade zone into a highly regulated customs union. Early efforts at trade liberalization, which bore fruit and helped expand trade, were replaced in the 1990s with “harmonization” of the single market through the imposition of uniform regulations. Brussels (by which I mean the European Union institutions) turned from a facilitator of trade to a supranational regulator with ambitions of its own, as evidenced by the failed EU Constitution (most of which was enacted by backdoor means) and the continuing failure of the euro single currency.

Brussels is likely to insist on a free trade agreement that looks much more like the EU’s customs union than NAFTA. This will significantly reduce the benefits to the United States. As James C. Bennett, co-author of the forthcoming book, *America 3.0*, says, “The increased volume of trade might tempt American manufacturers to adopt EU standards in any event, although the advance of automated manufacturing reduces the costs of producing to multiple standards.” It would be preferable to maintain separate regulatory standards.

Moreover, the EU is unlikely to survive in its current form for long. The Euro Zone crisis probably has only two solutions that are viable in the long term.

The first is the abandonment of the euro, which will probably lead to the messy breakup of the EU itself. The second is much deeper integration of the Euro Zone, eventually leading to political union. That will leave several EU member countries outside the Euro Zone that value their sovereignty, such as the United Kingdom, with withdrawal from the EU as their only viable option. This will significantly reduce the size of the EU economy.

Therefore, it would be in America’s interests to finalize a trade agreement not with the European Union, but with its individual member governments. This would solve the problem of potential changes within the EU, and at the same time offer the EU a simple solution to its internal problem of what trade relations would look like with departing members.

Of course, there is no reason to stop at the Atlantic. The Trans-Pacific Partnership (TPP) already offers some of the benefits of a free trade area, and could be usefully expanded along the same lines as a potential TAFTA. Combining the three agreements (NAFTA, TAFTA, and TPP) could finally produce a global free trade area that everyone but the most autarkic of dictators would want to join. It would be a truly liberal achievement to the benefit all of the world’s people.

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# We Cheer for Michigan

BY IVAN OSORIO

What a difference. December's enactment of a right to work law by Michigan lawmakers comes only three years after the 2009 government-directed bankruptcies of General Motors and Chrysler seemed to cement the United Auto Workers union (UAW) as kings of Detroit. The Obama administration, eager to please a key union constituency, moved the UAW to the front of the creditors' queue in the bankruptcy proceedings for both firms, at the expense of secured creditors who got a fraction of what they were due. Now, it turns out, the bankruptcy that seemed like a display of union muscle was more like a huge bite taken by a snake eating its own tail.

Rather than a testament to the UAW's endurance, the GM and Chrysler bankruptcies were indicative of the Big Three's unsustainable accommodation with Big Labor. In fact, union-negotiated work rules and pension benefits helped bring the Detroit automakers—and Michigan—to the brink of ruin. Today, the state has the nation's sixth-highest unemployment rate, at 9.1 percent, and has lost 7,300 jobs since January 2012. Clearly, the state's economy wasn't working, so something had to give, but the quickness and extent of the change was unexpected by just about everyone across the political spectrum. As *U.S. News*' Rick Newman aptly describes it, "[T]he turn of popular opinion against

unions in Michigan is akin to pot-smoking pagans driving the Mormons out of Utah: It's a revolution of sorts, with the old order being unceremoniously booted."

So how did Michigan come to this point? Part of the answer lies in the key to the UAW's power: limited competition among employers. The world in which the UAW and other large industrial unions grew up is long gone. The UAW first organized the Big Three through a series of strikes in the mid to late 1930s. Then came World War II, and Detroit joined the war effort, producing for a guaranteed customer—the U.S. military. After the war, large U.S. industrial firms, including automakers, faced little competition from abroad. In Detroit, this led to a comfortable arrangement between management and labor, where unions could negotiate generous pay and benefits because strikes would be even more costly to the employers. Each automaker, meanwhile, could pass on to consumers the added costs because their competitors were bound by similar labor contracts.

Foreign competition changed all that. As the Detroit auto industry went into decline, the political forces it sustained were bound to weaken, but inertia in politics is hard to resist. Detroit's crumbling big business/big labor modus operandi appears to have finally run out of steam, but it needed someone to push it to topple over. What is surprising is that the final push was made by an unlikely champion of right to work.

Michigan Republican Governor Rick Snyder ran as a technocratic problem-solver, and took office in 2010 seemingly well aware of the constraints he faced as a Republican executive in America's fifth most unionized state. His support for right to work legislation was soft; he said that he would not pursue it, but would sign a bill if it reached his desk. He told reporters as late as December

4, 2012, "Right to work is not on the agenda; we are having discussions on it." But Republicans, in control of both houses of the legislature, sensed an opportunity and took it. Only two days later, right to work bills passed the Michigan House and Senate. Governor Snyder signed the final legislation into law on December 11.

Republicans had good reason for optimism. In November, voters in Michigan rejected Proposition 2, a union-backed state constitutional amendment that would have embedded collective bargaining as a "right" in the state constitution, by a 16-point margin. The measure would have given unions a de facto veto over legislation they oppose. As my former CEI colleague Vinnie Vernuccio, now with the Mackinac Center, explains:

Prop 2 says, "No existing or future law of the state or its political subdivisions shall abridge, impair or limit" unions' ability to "negotiate in good faith regarding wages, hours, and other terms and conditions of employment..." In other words, government unions will no longer be governed by elected officials, the taxpayers, or even the laws of the state; those would all be subordinated to a collective bargaining agreement.

Union leaders promoted Prop 2 as a response to what they considered state-level "anti-union" legislation, such as the recent public sector labor reform in Wisconsin. Had Prop 2 succeeded, unions might have tried to push it to other states as a model.

To organized labor, the resounding defeat of Prop 2 and the passage of right to work in Michigan is a one-two punch. Naturally, the unions will do everything in their power to turn back the tide, but their options are limited. The Wisconsin labor reform went through several legal challenges, but the unions likely will find that route more difficult in Michigan, were such a challenge to come forth. "I think the

The world in which the UAW and other large industrial unions grew up is long gone.



To organized labor, the resounding defeat of Prop 2 and the passage of right to work in Michigan is a one-two punch.

law was well-enough written that there's no legal basis to block implementation," says Greg Mourad of the National Right to Work Legal Defense Foundation. "A biased judge could try to delay implementation anyway, but I think an order to that effect would be overturned on appeal relatively easily."

Union representatives have indicated that they hope to place a referendum on the law on the 2014 ballot, and are certain to pour considerable effort and resources into defeating Snyder that year. But they may find that a tough (though not impossible) sell. A recent EPIC/MRA poll found a 51 percent approval rating for Snyder and a slight plurality in favor of a right to work law—47 percent versus 46 percent opposed. Moreover, the same poll found that the *concept* of right to work (allowing workers to decide on their own whether to join a union) polled especially well, which gives supporters of the law a good opportunity to put forward a winning message. Demography doesn't help the unions, either. While their share of the workforce is still higher in Michigan than in most other states, membership is in the midst of a long-term decline (though with a slight recent uptick).

The right to work law does come with some caveats. While it covers both private and public sector workers, it

doesn't apply to public safety personnel. More importantly, the law grandfathers in existing contracts, many of which don't expire until 2015. But for firms considering setting up business in Michigan, the greater labor market flexibility will make the state more attractive.

Michigan could be seen as the private sector version of Wisconsin, in terms of both significance and symbolism. For government employee unions, losing collective bargaining privileges in Wisconsin meant a lot not only in terms of dues money. Wisconsin was the first state to allow government employees to bargain collectively with the state. It is also where the American Federation of State, County & Municipal Employees, the nation's largest government employee union, was founded. Meanwhile, Michigan has long been the nation's epicenter of industrial unions. It is home to the UAW and the place where Jimmy Hoffa turned the Teamsters into a political powerhouse. If they can't hold on to the status quo in Michigan, where else will be left for them to go?

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# CEI on the Web

## OpenMarket.org



*Empowering people to take back their liberty*

## GlobalWarming.org

*Dispelling the myths of global warming alarmism*



## WorkplaceChoice.org

*A comprehensive, up-to-date website for news on labor regulation, private and government unions, pensions, and pro-worker legislation.*





## THE GOOD

### Web Users Dodge Bullet as FTC Closes Google Probe

On January 3, the Federal Trade Commission (FTC) announced a settlement with Google, marking the end of a two-year antitrust probe of the online search giant. While the company agreed to change certain business practices involving patent licensing and advertising portability, the FTC's investigation concluded that Google's search engine does not unlawfully disadvantage competitors' websites or deliver "biased" search results. "The FTC has predictably concluded that Google did not violate antitrust laws—that is, Google does not create consumer harm or inappropriately favor its own products," said CEI Vice President for Policy Wayne Crews. "A finding against Google would have meant that Washington would, in effect, have needed to justify coming up with some way to force people to directly or indirectly disfavor Google."

## THE BAD

### Virginia Governor Proposes Risky Transportation Plan

In early January, Virginia Gov. Bob McDonnell (R) released a new transportation funding plan that would eliminate the gasoline tax, making up for revenue losses largely by increasing the sales tax and redirecting general revenue. CEI raised a number of concerns with the plan. "Gov. McDonnell proposes to largely abandon the traditional user-pays/user-benefits transportation funding principle—in which users bear the cost of transportation enhancements—in favor of more speculative, and therefore risky, revenue streams," said CEI Fellow in Land Use and Transportation Studies Marc Scribner. In addition, more than one-third of the claimed funding requires congressional action that may not take place.

## THE UGLY

### "Richard Windsor" Email Release Reveals "Deeply Troubling" Agency Actions

CEI Senior Fellow Christopher Horner first discovered Environmental Protection Agency (EPA) Administrator Lisa Jackson's secret secondary email account, which was under the alias "Richard Windsor." After filing a lawsuit to force the release of 12,000 "Richard Windsor" emails, the EPA finally began turning over the emails on January 14. Unfortunately, the 2,100 emails initially received were well under the "approximately 3,000" expected. "This response is deeply troubling," said Horner. "Perhaps seeking to take the air out of a growing scandal, EPA's defective compilation boasts an impressively anemic content-to-volume ratio. It starts with *Washington Post* daily news briefs, then follows with Google alerts for 'Lisa Jackson EPA' (none for 'Richard Windsor')." Jackson and the agency's general counsel at the time have both resigned since Horner's discovery. Multiple investigations are being conducted by Congress and the EPA's Inspector General.

# MediaMENTIONS

Compiled by Nicole Ciandella

## CEI Senior Fellow **John Berlau** advocates a bipartisan proposal to ease regulations on credit unions:

The Obama administration and Senate majority leader Harry Reid (D., Nev.) have committed to a modest deregulation of the rules governing credit unions. They are supporting bipartisan legislation that lifts by a small amount the arcane member-business lending (MBL) cap, which severely constricts credit unions' ability to make business loans to their member depositors.

Solid economic evidence shows that raising this cap—from the current limit of 12.25 percent of bank assets to 27.5 percent in the pending legislation—would have substantial benefits on businesses and job growth. The Credit Union National Association estimates that this increase in the cap would create 138,000 jobs in the first year, a figure that Pepperdine University economist David M. Smith calls “conservative and well within the bounds of a reasonable projection.”

Further, this policy change would merge good policy with good politics.

—December 7, *National Review*

## CEI Founder and Chairman **Fred L. Smith** defends Grover Norquist's tax pledge against detractors:

Grover Norquist's Tax Pledge isn't perfect. But it successfully forces lawmakers and taxpayers to address America's current fiscal path.

Opponents of the pledge say it is blocking the “reasonable” compromises needed to avert the dreaded fiscal cliff. They say we need a “balanced” approach that includes not just spending cuts—or, at least, reductions of the rate at which government spending increases—but also “revenue enhancements,” in essence, taxes. The pledge makes that hard and, opponents say, therefore must go.

But before we burn Grover and the pledge at the stake, let us consider what's at the root of our fiscal difficulties. Nations run into deficit problems when economic growth stagnates and tax revenues fall. A primary cause of that stagnation is

wealth transfers that stymie wealth creation. There is no shortage of entrepreneurial creativity in America, but our complex regulatory structure and tax code has favored wealth transfers at the expense of wealth creation in many ways.

—December 20, *The Atlanta Journal-Constitution*

## Senior Fellow **Gregory Conko** and Adjunct Scholar **Henry I. Miller** explain why regulations are preventing the growth of a generic biotech crop market:

Regulators treat these important products as though they pose uniquely worrisome risks, in spite of a longstanding consensus in the scientific community that the newer techniques are essentially an extension of more primitive ones. Federal regulation discriminates against the most precise and predictable techniques for genetic improvement, requiring endless, redundant case-by-case reviews of plants crafted with those techniques. By contrast, the testing and commercialization of similar seeds and crops made with less precise, less predictable techniques are usually subject to no regulation at all.

Federal regulators' approach to biotech oversight violates two fundamental principles of regulation: similar things should be regulated in similar ways, and the degree of oversight should be proportional to the expected degree of risk. Regulators have, in fact, turned the second principle on its head, with more precisely and predictably crafted products subjected to the most expansive and costly regulatory requirements.

—January 9, *Regulation*

## Immigration Policy Analyst **David Bier** warns against the electronic employment verification system known as E-Verify:

Ken Nagel thought it would be no problem to hire his daughter at his Phoenix restaurant. He had not considered



that Arizona's new employment verification system, E-Verify, would deem her ineligible to work. E-Verify, which attempts to screen out unauthorized immigrants by checking employees against federal databases, failed his daughter, a U.S. citizen. “It was just another frustration,” Nagel told *The Arizona Republic*.

Despite its problems, Congress and the President will consider a national E-Verify mandate in immigration reform proposals this spring.

President Obama called for “a system to give employers a reliable way to verify that their employees are here legally.” But E-Verify is not reliable and shifts enforcement costs onto citizens.

According to E-Verify's government audit, a national mandate would deem 1.2 million to 3.5 million legal employees, like Ken Nagel's daughter, initially ineligible to work.

—January 10, *Forbes*

## Labor Policy Analyst **Trey Kovacs** slams partisanship at the National Labor Relations Board:

When former SEIU Associate General Counsel Craig Becker left his post at the National Labor Relations Board in December 2011, he quickly segued into a cushy job as the AFL-CIO's co-general counsel. Likewise, a year later, former management lawyer Brian Hayes exited the Board after his two-year term and immediately landed a plum position representing management with one of the nation's prominent labor law firms.

It wasn't supposed to be like this. In 1935, Congress established the NLRB as a body made up solely of “three impartial Government members” to represent the public interest in labor disputes. An impartial NLRB was seen as crucial because of the contentious nature of labor relations in the United States.

But 78 years later, NLRB members on both sides of the labor-management debate use the post as a stepping stone to bigger things. The damage, of course, is decisions made while on the Board could well be altered by members' desire to increase their marketability after their service.

—January 17, *The Hill*



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**Nader Labels Video Game Industry  
“Electronic Child Molesters”**

Ralph Nader is known for targeting various industries to supposedly further consumer rights. But more often than not, he positions himself against consumer choice and sound science by supporting bans on products or services that he personally dislikes or ideologically opposes. His latest target: video games. In an interview in January, Nader expressed disappointment in President Obama’s response to the Sandy Hook shootings. “We are in the peak of [violence in entertainment]. Television program violence? Unbelievable. Video game violence? Unprecedented,” he told *Politico*. “I think he should sensitize people that they should protect their children family by family from these kinds of electronic child molesters.” Years of study on a possible relationship between video game play and violence has found no correlation, but this is unlikely to stop Nader’s call for censorship by junk science regulation.

**After One Year of Not Meeting, Obama Disbands Jobs Council**

Launched in February 2011 and headed by General Electric Chairman Jeffrey Immelt, the President’s Council on Jobs and Competitiveness was tasked with soliciting ideas and recommending employment-boosting policies to the president. Given the heightened position of government contractors and Big Labor on the Jobs Council, few independent observers expected any suggestions beyond the tried and failed policies of crony capitalism and fiscal stimulus. But most had assumed the council would still show up to meetings. By January 17, 2013, it had been one year since the last meeting. Six months ago, the White House claimed the president had “too much on his plate” to meet with his Jobs Council. But on January 31, President Obama announced he was letting the rubber-stamp council’s charter expire. Perhaps the president finally realized his executive authority did not extend to creating actual jobs.

**...END  
NOTES**



**Our Failed Education System:  
“Disability” Litigation Edition**

National School Choice Week was January 27 through February 2 and many important issues were raised. These ranged from the rise of digital learning to the controversy surrounding proposed Common Core standards across the United States, which critics argue dumb down reading and writing curricula in order to allow educators to more easily “teach to the test.” These are very important debates, to be sure. But a legal complaint from a 40-year veteran public high school teacher from Cincinnati two weeks prior underscores the dire need for education reform in the United States. Maria Waltherr-Willard filed suit against the Cincinnati school district alleging her rights were violated under the Americans with Disabilities Act (ADA) when she was transferred to a junior high school in 2009. Her alleged disability? A fear of children. A judge has since dismissed most of her claims, but perhaps it is irresponsible—ADA be damned—to put a teacher with a youth phobia in a classroom in the first place.

**Retro Entrepreneurs Run Afoul of Modern Nanny State**

Lynden’s of St. Paul, Minnesota, founded just last April, offers Twin Cities resident a carbonated blast from the past in a 1950s-style soda fountain. Like any thorough retro-themed business, Lynden’s went out of its way to stock products that would have been common in the era. Unfortunately, one such product happened to be candy cigarettes. St. Paul inspectors acting on a complaint gave the shop a warning in December, cautioning that they could receive a \$500 fine if they didn’t remove any candy resembling a tobacco product. The owners have pulled the candy cigarettes, but lament that they had been their best-selling candy. “We weren’t trying to promote smoking or tobacco use of any kind,” said owner Tobi Lynden, noting that the complaint had come from someone out of town. “The whole thing is pretty weird.”