CEI PLANET
ADVANCING LIBERTY FROM THE ECONOMY TO ECOLOGY
COMPETITIVE ENTERPRISE INSTITUTE VOLUME 24, NUMBER 6 NOVEMBER/DECEMBER 2011

Why Obama Officials Lied to Congress about Fuel Economy Standards

BY MARLO LEWIS, JR.

Republicans were in an "Internet uproar" in early November over a false report that Environmental Protection Agency (EPA) Administrator Lisa Jackson had called them "jack-booted thugs." Meanwhile, deeply troubling statements that EPA officials did make have hardly stirred a ripple in the blogosphere.

At a recent hearing before a House oversight panel, three Obama administration witnesses—National Highway Traffic Safety Administration (NHTSA) Administrator David Strickland, EPA Assistant Air Administrator Gina McCarthy, and EPA Transportation and Air Quality Director Margo Oge—denied under oath that motor vehicle greenhouse gas emission standards are "related to" fuel economy standards. In so doing, they denied plain facts they must know to be true.

House Government Oversight and Reform Chairman Darrell Issa (R-Calif.) put it less diplomatically: "Your statements under oath misrepresented the relationship between regulating greenhouse gases and regulating fuel economy." By "obstinately insisting" that regulating greenhouse gases and fuel economy are "separate and unrelated endeavors," the officials "impede the Committee's important oversight work."

Why did they "misrepresent" and "impede"? Had the officials answered truthfully, they would have to admit that California's greenhouse gas motor vehicle emissions law, AB 1493, which the EPA approved in June 2009, violates the Energy Policy Conservation Act's (EPCA) express preemption of state laws or regulations "related to" fuel economy. The officials would also have to admit that EPA is effectively regulating fuel economy, a function outside the scope of its statutory authority.

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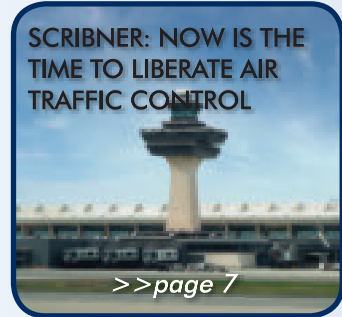

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>>FROM THE PRESIDENT

In Memoriam: William Niskanen

By Fred L. Smith, Jr.

Bill Niskanen was an individual who will be missed sorely in a world where intellectuals of integrity are a rare breed. But he will also be missed as a smiling face in the often grim world of Washington. We at CEI join many others in wishing his wife Kathy and his family our condolences and thoughts.

I came to know Bill many years ago, when I was learning the Washington game at the Council for a Competitive Economy (CCE), which sought to bring together free market business leaders and pro-market public policy scholars. Then, as now, I thought it critical for liberty-minded intellectuals to reach out to business leaders in our fight for economic liberty. After all, how can we defend capitalism, if we cannot enlist capitalists in that effort?

Bill as a fellow intellectual who had worked in business—most notably as Senior Economist at Ford—had experienced the tensions between the tactical expediencies that often dominate business decisions and the core principles critical for sustainable profitability. His insights and advice on reconciling these tensions were invaluable.

Bill, then a member of President Reagan's Council of Economic Advisers, spoke at several CCE events and I came to know and like him. He brought a combination of insights into business, government, and economics that was unusual among prominent economists and gave him the ability to analyze a broad array of issues.

I founded the Competitive Enterprise Institute (CEI) after CCE closed down. As a tiny start-up, we needed third party legitimacy. I formed an advisory group of influential individuals who were willing to vouch that CEI's business model was viable and its aims achievable. Bill accepted and became one of CEI's early advisers. He was rather more respectful of economic orthodoxy than I, but amused and possibly impressed by my enthusiasm.

Bill was always helpful whenever I sought to explore new areas of policy and to venture among academics. He and Chris Culp encouraged me to contribute a chapter, "Cowboys versus Cattle Thieves," in their book, *Corporate Aftershock: The Public Policy Lessons from the Collapse of Enron and other Major Corporations*, which I think it is one of my best. It would not have happened without his push.

In social situations, Bill was always friendly and a bit bemused by the bustle of the business-social life inside the Beltway. Fran and I would often meet Bill and Kathy at the growing number of right-of-center soirees that have come to brighten the statist atmosphere of Washington.

Bill's major role in the free market movement was as Chairman of the Cato Institute from 1985 to 2008. Bill and Cato President Ed Crane made for an interesting and creative leadership team. Ed is one of the most forceful and principled individuals I've known. Bill was equally principled, but put greater priority in exploring new frontiers of economic theory. Together, they made for a formidable team in putting ideas into action. His legacy at Cato extends from the theoretical to the practical. Sound scholarship that forms the underpinnings of creative approaches to solving the problems that ever-expanding government creates.

"*A mark of Bill's influence is the fact that his ideas live on, not just at Cato, but among all those who are working to maximize individual freedom in America and around the world.*"

A mark of Bill's influence is the fact that his ideas live on, not just at Cato, but among all those who are working to maximize individual freedom in America and around the world. He will be greatly missed—for his accomplishments but most of all, for himself. It is an honor to have known and worked with him.

CEI PLANET

Publisher
Fred L. Smith, Jr.

Editor
Marc Scribner

Editorial Director
Ivan Osorio

Contributing Editor
Nicole Ciandella

The CEI Planet is produced by the Competitive Enterprise Institute, a pro-market public interest group dedicated to free enterprise and limited government.

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Phone:
(202) 331-1010

Fax:
(202) 331-0640

E-mail:
info@cei.org

ISSN#: 1086-3036

Government Bureaucrats Cannot Prevent Data Breaches

BY RYAN RADIA AND LUKE PELICAN

Sony's popular PlayStation Network suffered a massive data breach earlier this year, exposing 100 million users' credit card numbers, home addresses, and more. Numerous other firms, including Morgan Stanley and marketing firm Epsilon, also have suffered major breaches in recent months. With this epidemic of data breaches making headline after headline, it was only a matter of time before Congress got involved. But more government intervention will only make things worse.

Data breaches can occur for any number of reasons—from the carelessness of employees, to the use of an exploit on a server, to a complex orchestrated intrusion of a system. This is similar to your house being burgled. It could be because you left the front door wide open, or a window unlocked, or sophisticated burglars scoped out your place and struck, despite locked doors and an alarm system.

Many businesses need to do more to safeguard users' personal information. But the federal government is not properly equipped to dictate how companies must safeguard customer data. America's unrivaled information security industry is creatively responding to data breach concerns with new technologies that promise smarter, more effective approaches to combating data breaches. Congress cannot even ensure federal agencies secure their data, as illustrated by the recent WikiLeaks snafu and the Conficker worm, which has afflicted millions of government computers.

These lessons have fallen on deaf ears on Capitol Hill. In October, a trio of Senate bills targeting data breaches passed out of committee. The most comprehensive of these, sponsored by Sen. Patrick Leahy (D-Vt.), would enjoin the Federal Trade Commission to regulate the security practices of businesses that collect personal data. The legislation would also require companies to promptly notify customers whenever breaches occur. The other two bills contain similar provisions, although they differ in their treatment of federal agencies and breach notification requirements.

Lawmakers' current approach to data breaches wrongly treats companies as culprits, not the victims they are. Kevin Mandia, founder of the information security company Mandiant, recently told the House Intelligence Committee that data breaches are not necessarily indicative of a company's security standards. Attackers only need to find a single vulnerability, but defenders have to carefully guard their entire systems at all times. Thus, breaches are a real risk even for companies with superlative security practices. By penalizing firms that take data security seriously, we risk encouraging businesses to focus more on keeping regulators at bay than on genuine security improvements.

As AT&T cybersecurity chief Edward Amoroso argues, the essence of robust security lies not in standardization, firewalls or antivirus programs, but in fostering a diversity of systems and methods. If federal bureaucrats ordain a finite universe of acceptable security practices, bad guys benefit from a more predictable set of platforms and technologies on which to focus their attacks.

The evolution of data security and the responsible stewardship of personal information should be driven by consumer demand, not by bureaucratic whim. Companies that fail to protect against data breaches will suffer as consumers seek better security with their competitors. Sony, for instance, took a huge reputational hit for mishandling the massive breach it suffered earlier this year, which also wiped out billions of dollars in shareholder value. This result is hardly surprising—consumers value the integrity of their data and will vote with their wallets against companies that make mistakes.

America's information security sector has grown by leaps and bounds in recent years. From start-ups to industry giants, myriad companies continue to roll out a wide variety of services to help companies secure sensitive data. Security firms like Websense, Fortinet and SourceFire are offering database-hardening services and vulnerability assessments. Other nascent firms, such as Co3 Systems, specialize in helping companies handle the aftermath of a breach.

Data breach insurance is also gaining traction as companies strive to manage data breach risks and safeguard their networks. As data security concerns mount, insurers will increasingly work with companies to meet data security challenges, just as insurers already help businesses improve workplace safety practices to minimize costly employee injuries. The Hartford Group, for instance, now includes data breach coverage in its Spectrum Business Owners Policy package, which is designed for small firms.

The security threats consumers and businesses face are real, but more government red tape and mandates are not the solution. A dynamic threat requires a dynamic response, which is what markets do best. Government-mandated rules could smother this vibrant and growing private market for security and insurance. Congress should stay its heavy hand on data security.

Ryan Radia (rradia@cei.org) *is Associate Director of the Center for Technology and Innovation at CEI. Luke Pelican is a former Policy Fellow at CEI. A version of this article originally appeared in The Daily Caller.*

Fuel Economy Standards, *continued from page 1*

Strongly Related

That greenhouse gas emission standards implicitly regulate fuel economy is evident from the agencies' own documents. As EPA and NHTSA acknowledge in their joint May 2010 Greenhouse Gas/Fuel Economy Tailpipe Rule, no commercially available technologies exist to capture or filter out carbon dioxide (CO2) emissions from motor vehicles. Consequently, the only way to decrease grams of CO2 per mile is to reduce fuel consumption per mile—that is, increase fuel economy. Carbon dioxide constitutes 94.9 percent of vehicular greenhouse gas emissions, and "there is a single pool of technologies… that reduce fuel consumption and thereby CO2 emissions as well."

That EPA and California are regulating fuel economy is also apparent from EPA, NHTSA, and the California Air Resources Board's (CARB) Interim Joint Technical Assessment Report, the framework document for President Obama's plan to boost average fuel economy to 54.5 miles per gallon by Model Year 2025. The document considers four fuel economy standards, ranging from 47 mpg to 62 mpg. Each is the simple reciprocal of an associated CO2 emission reduction scenario. The 54.5 mpg standard is a negotiated compromise between the 4 percent (51 mpg) and 5 percent (56 mpg) CO2 reduction scenarios.

CARB's 2004 Staff Report presenting the agency's plan to implement AB 1493 is another smoking gun. Nearly all of CARB's recommended technologies for reducing greenhouse gas emissions were previously recommended in a 2002 National Research Council study on fuel economy. CARB proposes a few additional options, but each is a fuel-saving technology, not an emissions-control technology.

Even the text of AB 1493 implies that CARB is to regulate fuel economy. CARB's greenhouse gas standards are to be "cost-effective," defined as "[e]conomical to an owner or operator of a vehicle, taking into account the full life-cycle costs of the vehicle." CARB reasonably interprets this to mean that the reduction in "operating expenses" over the average life of the vehicle must exceed the expected increase in vehicle cost. Virtually all such "operating expenses" are expenditures for fuel. The CARB program cannot be "cost-effective" unless CARB regulates fuel economy.

Power Grab

The falsehood that greenhouse gas emission standards are not related to fuel economy standards does more than mask EPA and CARB's poaching of NHTSA's statutory authority. It also protects EPA's efforts to legislate climate policy under the guise of implementing the Clean Air Act (CAA).

> ***"EPA has parlayed its new role as de-facto fuel economy regulator into a mandate to regulate greenhouse gases from stationary sources. The Tailpipe Rule—at least as EPA reads the Clean Air Act—compels the agency to regulate greenhouse gases from "major emitting facilities.""***

To begin with, the falsehood facilitated an extortion strategy enabling Team Obama to convert the auto industry from opponent to ally in any congressional debate over EPA's greenhouse gas regulations. Although we may never know the details of these machinations, the basic thrust and outcome are clear.

In February 2009, EPA Administrator Jackson decided to reconsider Bush EPA Administrator Stephen Johnson's denial of California's request for a waiver to implement AB 1493. Jackson confronted the financially distressed auto industry with the bogeyman of a market-balkanizing fuel-economy "patchwork," based on the reasoning that greenhouse gas emissions standards implicitly regulate fuel economy, and the waiver would allow other states to follow suit, so therefore automakers would have to reshuffle the mix of vehicles sold in each "California" state to achieve the same average fuel economy.

Then, in May 2009, in backdoor negotiations conducted under a vow of silence ("We put nothing in writing, ever," CARB Chairman Mary Nichols told *The New York Times*), the White House offered to protect auto makers from the patchwork threat if, but only if, they agreed to support EPA and CARB's newfound careers as greenhouse gas and fuel economy regulators. Specifically, under what President Obama dubbed the "historic agreement," California and other states agreed to deem compliance with EPA's greenhouse gas standards as compliance with their own in return for automakers' pledge not to challenge either the Tailpipe Rule or the California waiver.

The political payoff for Team Obama was not long in coming. In 2010, Sen. Lisa Murkowski (R-Alaska) introduced a resolution to overturn EPA's greenhouse gas Endangerment Rule, the prerequisite for the Tailpipe Rule and all other EPA greenhouse gas regulations. The auto industry lobbied against the resolution, warning that it would undo the "historic agreement" and, thus, expose auto makers to a "multitude" of conflicting state and federal standards.

Of course, the threat of a patchwork exists only because Jackson granted the waiver, but to do so she needed the legal cover provided by the fiction that greenhouse gas emission standards are not "related to" fuel economy standards. A patchwork is exactly what the EPCA preemption of state fuel economy regulation was designed to prevent.

EPA then parlayed its new role as de-facto fuel economy regulator into a mandate to regulate greenhouse gases from stationary sources. The Tailpipe Rule—at least as EPA reads the CAA—compels the agency to regulate greenhouse gases from "major emitting facilities." EPA is now applying CAA preconstruction and

operating permit requirements to large CO2 emitters such as coal-fired power plants, petroleum refineries, cement production facilities, steel mills, and pulp and paper factories. The EPA is also developing greenhouse gas "performance standards" for power plants and refineries, with greenhouse gas performance standards for other industrial categories sure to follow.

Constitutional Common Sense

The EPA contends that its greenhouse gas regulations derive from the CAA as interpreted by Supreme Court in 2007's *Massachusetts* v. *EPA*. The D.C. Circuit Court of Appeals is now reviewing arguments regarding that claim in *Coalition for Responsible Regulation* v. *EPA*.

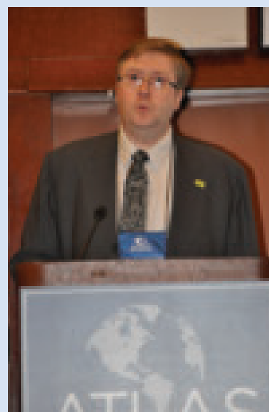
But however that case is decided, Congress has an independent responsibility to assess whether an agency's agenda comports with the statutory schemes it has created. Whether or not EPA correctly interprets *Mass.* v. *EPA*, it should be obvious that the agency has gone rogue.

Congress declined to give EPA explicit authority to regulate greenhouse gases only last year, when Senate leaders pulled the plug on companion legislation to the American Clean Energy and Security Act (ACESA)—the 2009 House-passed cap-and-trade bill sponsored by Reps. Henry Waxman (D-Calif.) and Ed Markey (D-Mass.).

One of ACESA's selling points was that it would preempt regulation of greenhouse gases under several CAA programs. If instead of proposing cap-and-trade, Waxman and Markey had introduced legislation authorizing EPA to do exactly what it is doing now—regulating greenhouse gases via the CAA as it sees fit—their bill would have been dead on arrival. The notion that Congress gave EPA such expansive authority when it enacted the CAA in 1970, years before global warming was even gleam in Al Gore's eye, is preposterous.

Marlo Lewis, Jr. (mlewis@cei.org) *is a Senior Fellow in the Center for Energy and Environment at CEI. A version of this article originally appeared on BigGovernment.com.*

Iain Murray, director of the Center for Economic Freedom at CEI, recently made a couple of major public appearances before influential pro-freedom audiences, as he describes below.



In October, I went to Atlanta to attend Hillsdale College's annual Free Market Forum, to present a paper in the panel somewhat pessimistically entitled, "Can We Shrink the Federal Bureaucracy?" The title of my paper was emphatic: *Abolish the Commerce Department!* In the paper, I outline various ways to eliminate most of the functions of the Commerce Department from the Federal Budget, including: breaking up the National Oceanic and Atmospheric Administration, privatizing the National Weather Service and other government laboratories, and abolishing a host of government programs, such as the Economic Development Administration. My description of the federal government as a newsroom—with the Secretary of State as Foreign Correspondent, the Treasury Secretary as the Economics Correspondent, and the Commerce Secretary as the Weather Guy—went down extremely well.

A couple of weeks later, I was on the road again, this time at the Atlas Economic Research Foundation's annual Liberty Forum, held in New York City this year. I always look forward to the Liberty Forum as the foremost gathering of liberty lovers from around the world. It was a pleasure this year to see more attendees from Africa and the Islamic world. My presentation, part of the panel on the fiscal crisis, was again optimistic, explaining how the vicious cycle of government power, public sector labor unions, and redistributionist politicians can be broken, using examples like Margaret Thatcher and Wisconsin Governor Scott Walker. I also managed to sneak in a reference to the Greek epic poet Archilochus! My fellow panelists—Tom Clougherty of the Adam Smith Institute, Veronique de Rugy of the Mercatus Center, and Nicole Gelinas of the Manhattan Institute—were far less optimistic. But of course, it's CEI's role to be the (despairing) optimist!

Lawmakers Talking Trash

BY ANGELA LOGOMASINI

The past several years have seen a groundswell of bans on plastics—from plastic bags to foam cups. The rationales for such policies range from the downright foolish to the simply misguided.

Lawmakers offer the more outlandish claims. For example, California state Sen. Alan Lowenthal (D-Long Beach) recently told the press that his bill to ban foam cups and packaging is "a job booster for California." Italy's Minister of the Environment exclaimed last January that her nation's ban on plastic bags was "a great innovation."

Goodness, where do they come up with this stuff?

Government bans never promote innovation or growth—they do the opposite. Bans destroy the investment, productivity, and creativity that go into making products. They divert resources from useful enterprises as investment must go into replacing products often banned for no good reason.

While such hype about economic benefits is easily dismissed, consumers should be equally suspicious of claims that plastic bans serve Mother Nature.

In fact, plastics are usually more energy efficient and more easily disposed of than alternative products. For example, a review of several "life-cycle assessments" produced for a group called Use Less Stuff found that when compared to paper bags, plastic bags require 6 percent of the water, consume 71 percent less energy, and produce one-fifth the amount of solid waste.

Plastic bags even outperform reusable bags. A study produced for the Environment Agency in the United Kingdom found that cotton bags must be used 103 times before they yield environmental benefits, yet most people only use them 51 times.

And reusable bags also require additional water and energy to wash—lest they become carriers of dangerous pathogens. A study conducted by researchers at the University of Arizona and Loma Linda University measured bacteria in a sample of reusable bags. Many contained dangerous bacteria, such as coliform and E. coli. Clearly, banning sanitary, plastic alternatives is a bad public health policy.

Similarly, foam cups are more energy efficient than reusable ceramic cups in many cases. University of Victoria chemistry professor Martin B. Hocking demonstrated back in the 1990s that plastic foam cups were far more energy efficient than paper cups and even more energy efficient than ceramic cups that were used less than 1,006 times.

More recently, a 2011 Franklin Associates study found that the average 16-ounce foam cup uses a third less energy, produces 50 percent less solid waste by volume, and releases a third less of greenhouse gases than does a 16-ounce paper cup with a sleeve. Foam packaging also require 20 to 30 percent less water than do paper alternatives.

But what about using bans to eliminate plastics in the environment? You may have heard the stories about trash collecting in the ocean to form several massive trash "islands" made mostly of plastics that kill or deform wildlife. *The New York Times* reported in 2009 that a patch in the Pacific Ocean was believed to be twice the size of Texas.

The reality is less dramatic. According to university researchers, these patches are not dense islands, but instead consist of areas where bits of plastic pieces float here and there. The Pacific patch is only a "small fraction" of the land mass of Texas, says Angelique "Angel" White, an assistant professor of oceanography at Oregon State University. And that patch has not grown in size since the 1980s, according to the research by the Woods Hole Oceanographic Institution.

In any case, trash in the oceans is a real problem, yet bans on plastics are a phony solution that is unlikely to make much of a difference. Fortunately, there is a better answer: litter control.

Keep America Beautiful, which has taken the lead in the United States to fight litter since 1953, demonstrates that private, voluntary efforts are the best solution. KAB educates the public through public service announcements and mobilization of businesses, individuals, and local governments around the nation to implement litter control programs.

In fact, KAB reports that litter in the United States has declined by 61 percent since 1969, which may explain why the Pacific garbage patch has not been growing much in recent decades.

Policy makers who desire to address the real problems associated with litter should look to existing private initiatives with a proven record of success. Such policies may not offer the same opportunities for high-profile media coverage and credit claiming as do bans. They do, on the other hand, actually work.

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

NOW IS THE TIME TO LIBERATE AIR TRAFFIC CONTROL

BY MARC SCRIBNER

The Federal Aviation Administration (FAA) is scheduled to roll out its Next Generation Air Transportation System, known as NextGen, beginning next year and continuing into 2025. NextGen, among other things, will replace outdated ground-based radar tracking with modern GPS tracking. This will greatly enhance precision and allow for increased airway capacity and improved safety.

However, a recent report from the Department of Transportation's inspector general found that the FAA was behind schedule and over budget in implementing the $2.1-billion En Route Automation Modernization computer system, a critical link between other NextGen peripherals. It has been calculated that delaying NextGen implementation by only five years would cost $20 billion.

The FAA, as one might expect given recent severe safety lapses among its controllers, has not inspired confidence among air carriers and other aviation industry stakeholders. At the very least, the agency should spin off its air navigation service from its regulatory apparatus. One solution is to privatize the FAA's Air Traffic Organization.

This is not some far-right pipe dream, as claimed by the National Air Traffic Controllers Association, the union representing FAA controllers. In 1996, then-Canadian Prime Minister Jean Chrétien's Liberal government privatized Canada's air traffic control system. Nav Canada, a private firm, purchased the air navigation system from Transport Canada, a government agency, for CA$1.5 billion. Nav Canada's stakeholders appoint 10 directors to the board: four from airlines, three from the Canadian federal government, two from unions, and one from the general aviation business. These directors then appoint four independent directors. The 14 then select a president and CEO. Interests are represented in a balanced yet fair manner, and political interference is kept to a minimum.

This model has served Canadians well. It allowed for the phase-out of traveler taxes and the adoption of an efficient user-fee system. When Nav Canada took over the air navigation system, the legislation gradually phased out the Air Transportation Tax, an excise tax paid by individual airline travelers and those hiring chartered flights. Nav Canada's broader service charges, which were phased in fully in March 1999, are about 30 percent lower than the tax they replaced.

Privatization would help solve present funding problems. Until the 2000s, more than 90 percent of the FAA's budget was supported by the Airport and Airway Trust Fund, a federal program established in 1970 that collects revenue from excise taxes on airline tickets, international arrivals and departures, frequent flyer mileage rewards, fuel, and domestic cargo.

In recent years, the trust fund has proven inadequate. Federal bureaucrats are charged with forecasting future tax revenues and then creating budgets around those predictions. Yet the government cannot accurately predict the future economic landscape. In nine of the past 11 years, forecast trust fund revenues exceeded actual revenues—for a total revenue shortfall of $9 billion during that period. As a result, the FAA has increasingly relied on general revenues from the U.S. Treasury, which amounted to 34 percent of its budget in FY 2010. This situation will likely worsen if we remain chained to the status quo.

Nav Canada, in contrast, began putting its GPS air traffic monitoring system into place several years ago—all funded privately. With the FAA forced to increasingly rely on general revenue funds, policy makers need to consider the threat that politicized funding poses to U.S. air travel safety, efficiency, and competitiveness.

Implementing NextGen for American civil aviation is a far more complex undertaking than anything Nav Canada had to experience, but that is no excuse to shy away from more robust and responsive institutions. Canada is not alone. Indeed, in addition to Canada, every large OECD country other than the United States and Mexico has separated air traffic control from its aviation regulatory bodies.

It was not so long ago when a Democrat in the White House strongly supported separating the FAA's regulatory mission from air traffic control. A push during the Clinton administration led by then-Vice President Al Gore proposed the creation of the U.S. Air Traffic Services Corporation, which was to be a self-financing, federally chartered corporation charged with administering the nation's air traffic control system.

The proposal eventually died in Congress, but the notion that the nation's air traffic control system could operate far better as a non-FAA entity has already proven its bipartisan appeal. President Obama and Transportation Secretary LaHood would be wise to heed former Vice President Al Gore's warning with respect to leaving air traffic control in the hands of the FAA: "We shouldn't wait until the system … collapses before we bring change."

Marc Scribner (mscribner@cei.org) *is a Land-use and Transportation Policy Analyst in the Center for Economic Freedom at CEI.*

Will Western Civilization Rediscover the Moral Foundations of Sound Money?

BY WILLIAM FREZZA

What is money, and from where does it draw its value? This is a question Greece is facing as its people stare into the abyss. Our turn will come.

We are not the first to wonder. The 19th century French economist Frédéric Bastiat asked and answered that question in 1849, stating that money was a promise to "Pay the bearer a service equivalent to what he has rendered to society." Note the past tense—a product or service must be rendered *before* money can properly come into existence.

Just as importantly, Bastiat recognized that equivalence was not fixed or even defined. Instead, it is up to the knowledge and judgment of each individual every time he or she engages in voluntary exchange. This freedom creates the information content that is known as a "price." It is also how economies learn to effectively allocate resources and promote growth. Adam Smith dubbed it the "Invisible Hand."

Wealth, or capital, is simply deferred consumption that is put to work. When done wisely, wealth multiplies, leaving more to consume tomorrow.

Money's unredeemed promise might be tokenized by a paper note, a gold coin, or a few bits in a computer database. Every form of tokenization has its strengths and weaknesses. History demonstrates that the soundness of the token is directly proportional to the difficulty of its creation, as this helps ensure stability of the money supply.

The moral claim real money places on society on behalf of its bearer comes not from the intrinsic value of the token but from the fact that the bearer had previously produced some good or service deemed valuable by others. This is what gives money its moral legitimacy.

Western Civilization has forgotten this, and we are all paying the price.

Ironically, the inventors of democracy may be the first to rediscover the moral foundations of money, as barter networks begin springing up across a demonetized Greece. Hundreds of them are now in operation, many in anticipation of the shock to come when Greece is inevitably forced to say goodbye to the euro. These networks are lubricating commerce just as jobs and euros in the formal economy are running dry.

Members of barter clubs receive Local Alternative Units, or TEMs for their Greek acronym, in return for some product or service rendered to another member of the closed community. Fellow community members agree to redeem these TEMs in kind, and are cast out if they don't. While the process sounds primitive—and it is—TEMs are real money.

Through the use of TEMs, Greeks are becoming reacquainted with the moral foundations of money. "The most exciting thing you feel when you start is this sense of contribution," a participant reports in a recent news story. "You have much more than your bank account says. You have your mind and your hands."

Compare this to government fiat currency, which has largely displaced real money. Manufactured on the whim of unaccountable officials and rooted in government debt rather than private assets, fiat money is circulated, pyramid-like, through a fractional reserve banking system until its connection to reality is entirely severed.

Modern fiat currency fuels the growth of both government and the financial sector because it is not a promise to repay that which has been produced. Rather, it is a threat to squeeze the taxpayers of the future, including the yet unborn. And because the tokens can be manufactured at will, governments can harness the power of inflation to pay off their debts in coin that is worth less than the currency in which those debts were incurred.

Those near the source of modern money creation are expert at its manipulation, weaving it into complex financial instruments that function more like casino chips than real money. Wealth accumulated under this system is not capital at all, but rather a pile of IOUs, the sum total of which can never be redeemed. When too many customers try to redeem these IOUs at the same time, financial institutions fail—unless these institutions are bailed out by governments, propped up with more IOUs. This can cascade until too many people try to redeem those IOUs, at which point governments begin to fail.

Which brings us back to Greece.

While more extreme in magnitude, what is going in Greece today is also going on throughout the Western world. Lined up like dominoes are other governments whose accumulated IOUs vastly exceed their ability to bully taxpayers into making good on them. Governments that squeeze producers and consumers too hard soon learn that growth suffers, making anticipated tax revenue evaporate before it is even collected.

It doesn't have to be this way. But if we don't learn from Greece's mistakes we will surely repeat them. Let's hope the rest of us rediscover the moral foundations of money before we are forced to experience barter clubs firsthand.

William Frezza (wfrezza@cei.org) *is a Fellow in Technology and Entrepreneurship in the Center for Technology and Innovation at CEI. A version of this article originally appeared on Forbes.com.*

My Job Creation Proposal

BY RYAN YOUNG

There is a lot of talk lately about how regulation affects the job market. In November, *The Washington Post* ran a front-page opinion piece by Jia Lynn Yang, in which she argues that regulations have little effect on the number of jobs and that some rules even create jobs. Installing EPA-mandated scrubbers in one coal-fired power plant in Ohio created 1,000 temporary jobs to build the things, and 40 permanent jobs to keep them running.

She makes a good point. It does take a lot of man-hours to comply with Washington's various commands and controls. Regulatory agencies employ more than 260,000 people to enforce federal rules. Almost every private sector worker spends at least some time complying with regulations. For some people, that's their full-time job. It all adds up to a lot of jobs.

Not everyone thinks this is the wisest path to full employment. *The Washington Examiner*'s Tim Carney, reacting to Yang's article, points out that power plant scrubbers are not free. The power plant's Mr. Burns-esque owner passes on the costs to his customers. And when a family pays more money for electricity, that leaves less money left over for other things—clothes, movies, the kids' college fund, you name it. That means fewer jobs in those sectors.

Maybe scrubbers are worth that cost. Maybe they're not. The environmental benefits from scrubbers are debatable; that they are economically costly is not. The point is that scrubbers aren't net job creators. Money and jobs are transferred from other companies to the power plant.

The money that pays 40 scrubber monitors' salaries could have gone to something else, and created jobs there. One more waiter at a restaurant here, one more investment manager there and so on. Yang only tells half the story.

That is why I am proposing a regulation that really would create jobs. As everyone knows, winter is coming. And many of the nation's least-employed states will see a lot of snow this year. Already, giant snowplows are beginning to traverse the highways and byways of Michigan, Ohio, and other states going through hard times. With these plows, one man can do the work of 100.

I say we ban snowplows and hand out some shovels.

In Michigan alone, nearly 520,000 people are looking for a job and cannot find one. Tens of thousands of miles of roads zig and zag across the state. If this winter lives up to lofty Midwestern standards, it is possible that every last one of those 520,000 could work at least part time clearing the way for their fellow citizens. And all because of regulation!

My proposal would create white-collar jobs, too. The shovels would be handed out by employers. They would be required to audit the shovelers to make sure they are putting in an honest day's work. That requires auditors. More jobs!

Sometime in July, employers would be required to return the shovels to Washington. That would create jobs at FedEx, UPS, and the US Postal Service. Reimbursing employers for shipping costs would create countless jobs for office managers; someone has to keep track of the receipts.

Some economists would poo-poo the fact that shovels are less efficient than plows. They say spending all that additional money on snow removal leaves less left over for other things, like college funds.

They say it matters whether those jobs are creating products and services that people value, rather than digging and re-filling regulatory ditches.

They say the best way to increase the number of jobs is to repeal regulations that make it difficult and expensive to start a business or bring a new product to market.

Hogwash. Why do more with less when you can do the opposite? Jobs are at stake.

Of course, it is possible that my shovel regulation wouldn't create enough jobs. If that happens, I have another idea that would all but guarantee full employment.

Give them spoons.

Ryan Young (ryoung@cei.org) *is a Fellow in Regulatory Studies in the Center for Technology and Innovation at CEI. A version of this article originally appeared in* The American Spectator.

THE GOOD

CEI President Fred Smith Urges Electronic Privacy Reforms on Capitol Hill

On October 17, CEI President Fred L. Smith, Jr., joined Senators Ron Wyden (D-Ore.) and Mark Kirk (R-Ill.) at a Capitol Hill press conference to urge Congress to pass much-needed reforms to the 1986 Electronic Communications Privacy Act (ECPA). ECPA is the primary federal law governing law enforcement access to private electronic information. Smith was joined by representatives from the American Civil Liberties Union (ACLU) and the Center for Democracy and Technology (CDT). All urged that ECPA, which was enacted before the World Wide Web even existed, is badly in need of an update in order to protect consumers and firms from government overreach in the rapidly evolving information technology market. In addition to CEI, the ACLU, and CDT, the event was co-sponsored by Americans for Tax Reform, Electronic Frontier Foundation, and Tech Freedom, among others.

THE BAD

Bank of America Decision Doesn't Negate Dodd-Frank's Consumer Costs

News that Bank of America was planning to introduce a monthly fee to be paid by its debit card customers sparked a consumer backlash. In early November, Bank of America relented and dropped its plan to impose new fees on customers. But a question rarely asked was, where did the push for this fee come from? John Berlau, director of CEI's Center for Investors and Entrepreneurs, blames the recent Dodd-Frank "financial reform" bill's Durbin Amendment, which established severe price controls on the fees banks could charge their retail customers. "The costs of debit card processing—from computer equipment to fighting fraud and identity theft—don't simply vanish with the wave of Congress' hand," Berlau said. "If it is mandated that retailers pay less of these costs, then consumers will almost automatically pay more. Competition can overcome a lot of things, but not the dead-weight loss of government mandates."

THE UGLY

Obama Science Czar Led U.N. Effort to Hide Proceedings, Subvert FOIA

On October 17, CEI filed a Freedom of Information Act (FOIA) request with the White House Office of Science and Technology Policy (OSTP), which is run by controversial White House Science Adviser John Holdren. The FOIA request seeks records involving an apparently coordinated effort between OSTP and the United Nations Intergovernmental Panel on Climate Change (IPCC) to subvert and circumvent U.S. laws, particularly FOIA. "Shortly after taking office, the Obama administration moved the lead role on IPCC work from the Department of Commerce to OSTP, run by Dr. John Holdren. The plan to create a FOIA-free zone was then implemented," said CEI Senior Fellow Christopher Horner. "This scheme sought to free U.N., European Union, and U.S. bureaucrats and political appointees from oversight and the threat of prying taxpayers which accompanies the use of official email channels, for official work of high public interest, performed on official time and using government computers and facilities."

MediaMENTIONS

Compiled by Nicole Ciandella

Warren Brookes Journalism Fellow Matt Patterson urges state governments to advance labor reforms:

Anyone who doubts the thuggery and rapacity of unions should look to Ohio and Wisconsin, where Republican Govs. John Kasich and Scott Walker, respectively, pushed collective bargaining reforms in an attempt to rescue their states from fiscal collapse—and were met by vilification campaigns, rowdy protests, and vows of electoral vengeance from unions.

In Ohio this week, unions got their way. After a massive public-relations campaign (one union coalition group raised more than $24 million for the battle), Big Labor convinced Buckeye State voters to toss Kasich's reforms.

But this decisive victory may not deter other governors from attempting similar reforms, for one reason: For many politicians, the financial danger ahead is more terrifying than the unions behind.

–November 9, *The Washington Examiner*

Fellow in Regulatory Studies Ryan Young criticizes proposed return-free income taxation:

Return-free taxes sound quite convenient. After all, the average American spends 26 hours filling out tax forms every year—over half a work week. But there is a catch—a lot of them, actually. One is that the IRS would have to collect a lot more information about you than it already does. This requirement would exasperate already overburdened human resources departments across the country, which will need to collect, organize and report much more information than they already do.

Joseph Cordes of George Washington University and Arlene Holen of the Technology Policy Institute estimate that the increased paperwork burden of a return-free system would cost businesses at least $500 million, and possibly as much as $5 billion.

–November 8, *The Hill*

Director of the Center for Investors and Entrepreneurs John Berlau explains why federal regulations on "crowdfunding" need to be relaxed for the digital age:

"Tweet for Jobs." So says a section of Barack Obama's campaign website encouraging the public to use social networks to lobby Congress for passage of the American Jobs Act. For years already, savvy politicians have demonstrated how social networking can bring people together and raise money. "Crowdfunding" has also enabled many causes to mobilize funds and supporters. But try following their cue in the business world and you might just be breaking the law.

It's common to have hundreds or even thousands of "friends" on Facebook, "connections" on LinkedIn and "followers" on Twitter. Although such networks provide great opportunities for entrepreneurs, securities laws make it virtually illegal to ask members of a social network to invest small amounts in a microenterprise.

–November 4, *The Wall Street Journal*

CEI President Fred L. Smith and Vice President for Strategy Iain Murray compare fiscal policy in the European Union and the United States:

Europe's mistake was not that it did not indulge in fiscal union when it created a monetary union, but that it harmonized too deeply and quickly in the pursuit of a common market. The entire principle of the *acquis communautaire*—law that all EU member states must share—is the root of Europe's current problems. It has already led to such a buildup of pan-European rule making that few economic issues or other problems can be addressed at the national level.

America, with its states as laboratories of democracy, does not yet have this problem. Yet the Obama administration is doing its best to Europeanize America. The regulatory onslaught in everything from environmental protection to health insurance mandates and workplace standards threatens to overwhelm states and reduce the differences between them. At a time when Europe needs to learn from America's competitive model, it seems instead that America is repeating Europe's mistakes.

–October 27, *The Wall Street Journal Europe*

CEI President Fred L. Smith argues that Occupy Wall Street protestors should be protesting crony capitalism, not capitalism itself:

The Occupy Wall Street crowd has a few things in common with the Tea Partiers. Both would sign onto the slogan, "The banks got bailed out, I got sold out!" Both oppose "fat cats," though for different reasons. Occupiers tend to be anti-capitalist, believing that bank profits reflect the exploitation of the people. Tea Partiers favor free enterprise but focus on how too often some businesses rely on politics rather than markets.

The problems we face come not from capitalism, Wall Street variety or any other, but rather from crony capitalism.

Tea Partiers distinguish capitalism from crony capitalism. Occupiers confuse them. In fact, some Occupiers seek their own form of cronyism—an expanded government that will help the "right" beneficiaries, such as students and homeowners, instead of bankers and automakers.

–October 12, *USA Today*

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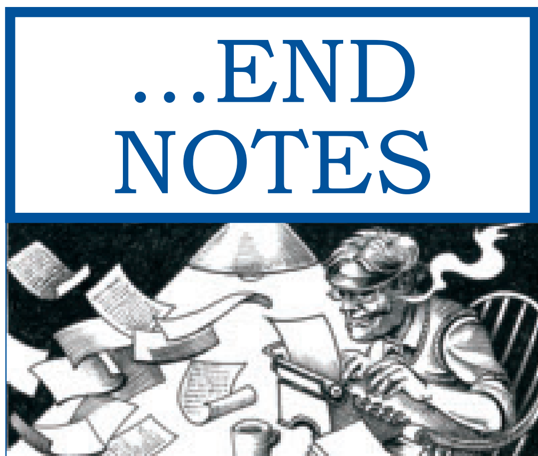

At EPA, Timing is Everything

Human resources departments generally prefer to issue pink slips on Fridays, lest the firings provoke an "incident" from disgruntled now-ex-employees. But according to a new report from Resources for the Future (RFF), the U.S. Environmental Protection Agency follows the same logic in the regulatory realm. After reviewing 21,493 EPA press releases from 1994 to 2009, RFF found that announcements of new regulations or enforcement actions were most likely to hit the presses on Fridays or before a long holiday. This is not particularly surprising. Government agencies are well-known to make "positive" announcements at the beginning of the week in order to bask in the favorable coverage, while pushing negative releases toward the slower weekends.

Public School Promotes Eco-Scaremongering on Plastic Bags

One of the latest in-vogue environmentalist crusades is pursuing misguided taxes and bans on plastic bags. Washington, D.C., has a five-cent plastic bag tax, while cities such as San Francisco and Malibu have banned them outright. Now the Environmental Club at a public high school in Blaine County, Idaho, is leading an effort to ban bags in their municipality. Residents in Hailey, Idaho, had previously rejected a bag tax, so the government-subsidized eco-warriors opted to push for a ban instead. Unfortunately, it is unlikely that the public school teacher advising the Environmental Club has promoted the truth about plastic bags. Studies have repeatedly found that plastic bags are far less resource-intensive than paper bags or even re-useable cloth bags for most consumers, and that cloth bags pose health hazards due to dangerous bacteria that thrive in them if they are not washed after each use.

Political Shenanigans Cost Illinois Taxpayers Nearly $500 Million

Longtime Illinois House Speaker Michael Madigan (D-Chicago) wasted nearly half a billion dollars between 2005 and 2010. Politicians regularly waste money, and Illinois's fiscal woes are among the worst in the nation, but how Madigan did it should shock even the most cynical political observer. McCormick Place in Chicago, the country's largest convention center, was blocked by Madigan from refinancing its bonds and taking advantage of lower interest rates. Why? Madigan was feuding with then-Governor Rod Blagojevich after Blagojevich-appointed McCormick Place CEO Juan Ochoa fired a Madigan ally, according to an investigation by *Crain's Chicago Business*. The business newspaper discovered the petty backroom political infighting when McCormick Place was facing an uncertain future over out-of-control union contracts in 2009. *Crain's* also found that a land-swap deal that occurred due to the funding problems was handled by Speaker Madigan's law firm. Some are calling for an investigation by the Illinois Attorney General's office, although this seems unlikely given that the current state AG is Madigan's daughter.

U.S. Regulators Create Turmoil in Caribbean

On January 1, 2012, the U.S. Food and Drug Administration is set to begin enforcing sweeping new regulations contained in the recently passed U.S. Food Safety and Modernization Act. Some of those involve new inspection rules for foreign companies that export food to the United States. In Jamaica, panic gripped food industry employees as conflicting reports on deadlines were being reported in the media. The opposition People's National Party capitalized on the confusion, claiming that the FDA had imposed an export ban on Jamaican food. While this allegation was false, it shows that American businesses are not the only ones terrified by U.S. regulators.