CEI PLANET
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COMPETITIVE ENTERPRISE INSTITUTE VOLUME 24, NUMBER 5 SEPTEMBER/OCTOBER 2011

Is Freedom in the Western World Guaranteed?

BY VÁCLAV KLAUS

I remember quite vividly my previous encounter with the Competitive Enterprise Institute (CEI)—a speech in May 2008 devoted to my Czech compatriot and great economist Joseph Alois Schumpeter and his views about the end of capitalism. My feeling was that we believed that Schumpeter was wrong in his pessimism and that, in spite of the many threats we saw around us, capitalism would survive.

I also remember CEI honoring me with the Julian Simon Award. Julian Simon was an optimist and one of the few fellow economists who believed in capitalism, who defended it, and who statistically demonstrated that capitalism had been successful. I am convinced he was right.

In my speech at the recent Ambrosetti Forum in Italy, I argued that Europe has to get rid of the unproductive and demotivating concept of the S*oziale Marktwirtschaft* (you would call it the "welfare state"), which, of course, was not greeted by the mostly European audience there. The former EU commissioner, Mario Monti, replied that Europe needs a "competitive *soziale Marktwirtschaft*," which is, of course, a contradiction in terms, because these two adjectives do not go together.

It motivated me also to think about the reasons for your putting the term "competitive" in the title of CEI. Do you want to compete with other institutes? Or does it mean that you are in favor of competition? Perhaps something else? I was not sure about it.

We find ourselves in a challenging era, challenging for us in Europe, but I am afraid—similarly—for you in America.

Both in Europe and in America, we have experienced years of a very unimpressive recovery that follows after an unexpectedly deep financial and economic crisis. We know that this crisis was caused by a series of well-documented government failures and that the crisis was not a market failure as it is fashionable to argue these days.

There is an undeniable crisis of the whole concept of European integration, the most visible tip of the iceberg being the Eurozone debt crisis.

We witness an evident, extremely rapid economic rise of the so called BRIC countries (Brazil, Russia, India, and China) and their neighbors, and their more and more active participation and influence in world events.

We are confronted with a worldwide mass hysteria connected with the totally irrational global warming propaganda.

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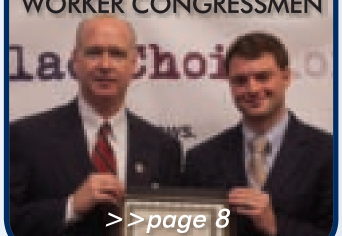

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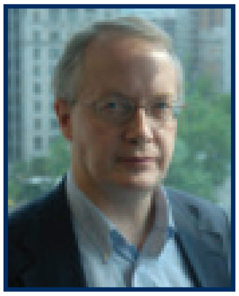

Malcolm Wallop, Stand-Up Guy, R.I.P.

by Myron Ebell

Former Senator Malcolm Wallop died on September 14 after a debilitating illness that had confined him to his home near Big Horn, Wyoming, for several years. He is survived by his wife, Isabel, and four children and their families.

Malcolm was a hero of mine long before I knew him, so it was a great privilege to work for him after he retired from the Senate in 1995 and to become his friend. He was unfailingly polite and considerate, intellectually engaging, and entirely positive. Malcolm had a healthy sense of his own worth, but entirely lacked the swollen head that afflicts many senators.

When Malcolm defeated a Democratic incumbent in 1976, he came to Washington as an uncompromising Cold Warrior and freedom fighter, but as somewhat moderate on many domestic issues. While many conservatives tend to drift toward the center after a few years in Washington (which is variously described as "growing in office" or, more accurately, selling out), he was so appalled by how Washington works that he rapidly became a hardcore conservative across the board.

Besides being a leading advocate for President Reagan's aggressive challenge to Communism, Malcolm devoted much effort to the federal lands and energy issues that are so important to Wyoming and served as ranking Republican on the Energy and Natural Resources Committee at the end of his Senate career.

Malcolm often said that if government ownership of land was the best way to protect the environment, then we should have found a Garden of Eden in the Soviet Union after the Iron Curtain came down. Instead, there was one environmental horror story after another. He understood that secure property rights are the basis of environmental stewardship as well as of freedom and prosperity. That is why he became a leading advocate of radical reform of the Endangered Species Act (ESA), which is an ongoing failure for wildlife because it is a continual threat to landowners.

In 1992, Malcolm led a Senate delegation to the White House that tried unsuccessfully to convince President George H.W. Bush not to attend the Rio Earth Summit and not to sign the U.N. Framework Convention on Climate Change. Malcolm saw clearly that global warming was a contrived crisis designed to put government in charge of the economy.

Following his retirement from the Senate, he founded Frontiers of Freedom to continue working on the issues he cared about. It was through my work on these issues that I first got to know Malcolm and eventually came to work for him as policy director at Frontiers of Freedom. I too grew up on a ranch in the rural West and had the same kind of firsthand experiences of the disastrous management of our federal lands.

Malcolm's strong libertarian streak made him an admirer of CEI. As Chairman of Frontiers of Freedom, he worked closely with CEI to oppose the global warming movement's energy-rationing agenda, to reform the ESA, and against the endless cascade of nanny-state regulations aimed at controlling every aspect of our lives.

Malcolm commanded attention by the power of his thought and the elegance of its expression. A skilled and dedicated legislator and a fearsome debater, he brought intellectual clarity to every issue

Malcolm was both rural Westerner and sophisticated cosmopolite, comfortable with and interested in all sorts of people.

Malcolm was a great conservative leader because he was principled, passionate, and courageous. He fought like hell for what he believed in. He loved America and what it stands for. He thought that being an American citizen was a great honor, and consequently he detested the modern devaluation of citizenship that allows government to treat citizens as subjects.

Perhaps Malcolm's central motivating force was his reverence for the Constitution. He often said that the problem with the Senate is that too many of his colleagues view the Constitution not as the guide star for their conduct, but as something to be got around. Malcolm never succumbed to such temptation. In his own political conduct, he was always guided and restrained by the Constitution and America's tradition of ordered liberty.

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Freedom in the West, *continued from page 1*

We are not successful when it comes to blocking attempts to get rid of traditional democracy (which is connected with the institution of a state) and to replace it with global governance organized by experts and public intellectuals chosen without any democratic accountability.

Our criticism of all that is silenced by the aggressive imposition of the tyranny of political correctness, which is nothing else than a misnomer for officially sanctioned hypocrisy.

In comparison with my life under Communism, I live in an infinitely better world now, but it is a world that is more disappointing than I had expected it to be in the moment of the fall of communism. My hope was to live in a more free and liberal (in the European, not American sense of the word) society than I see around me now. Your country did not go through such a radical transition, but you may feel it similarly.

The movement towards a less free and more controlled and administered society is not the outcome of emergency endeavors. As I see it, the problem lies in ideas, in policies based on these ideas, and in human behavior influenced, motivated, and justified by both these ideas and policies.

I am afraid of ideas and policies that suggest that freedom and democracy should be restrained in favor of "higher goods and values," that following private interest is wrong, that public interest should be dominant, that the politicians act altruistically in the public interest and know what it is, that the ordinary people are not rational and moral and must be, therefore, controlled, guided, and made better by those who know what is good for them. The result is a growing disbelief in the power of free markets and of parliamentary democracy, and a growing belief in the omnipotence of state *dirigisme* and in the omnipotent wisdom of public intellectuals.

Environmentalism and a tendency toward the denationalization of countries and towards global governance are the two most relevant threats to freedom and democracy..

With respect to environmentalism, I do not have in mind the practical and rational debate about preventing environmental degradation, which is no doubt our obligation. I refer to environmentalism as an ideology. Its adherents only pretend to be interested in environmental protection. In reality, they try to radically reorganize and change the world, human society, all of us and our behavior, as well as our values. Especially in its current version—global warming alarmism—environmentalism has become the most dangerous vehicle for the suppression of freedom and for the advocacy of large-scale government masterminding of our lives.

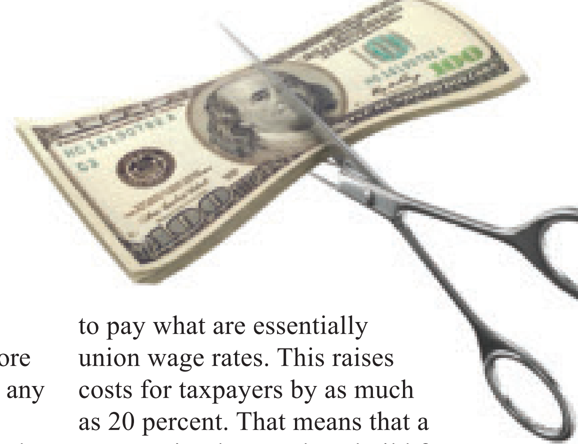
The second issue that bothers me is the accelerating move toward global governance, which means towards the weakening of the traditional pillar of democracy—the nation state. It is very fashionable to argue now that due to globalization, which means internationalization of human activities, we need global governance. I do not agree. The fact that similar problems occur in many countries does not mean that they are global and that they should be confronted by using less of markets and more of governments. The unstoppable and basically positive internationalization of human activities doesn't ask for centralistic solutions.

The solution of the pressing problems of our era doesn't lie in creating new governmental and supranational agencies. It is also not about the technicalities of these solutions. It is about democracy and democracy needs demos, democracy needs citizens and citizenship—without them democracy cannot be constituted. We cannot have democracy at the level of the European Union, with 27 different nation states. Similarly, there cannot be democracy at the level of the world. It is possible to have an efficient intergovernmentalism but not a democratic worldwide supranationalism.

The recent problems with the euro demonstrate it quite convincingly. When I had been criticizing the concept of the artificially created European common currency for the last two decades, no one wanted to listen. It does not give me any pleasure to see now that I was right. It would have been better for me—as for someone who lives in Europe—if I were wrong.

Václav Klaus is President of the Czech Republic. This article is adapted from a September 2011 speech delivered by President Klaus to the Competitive Enterprise Institute in Washington, D.C.

Needed: Budget Reforms to Save Money Into the Future



BY IAIN MURRAY

It has been more than two years since Congress passed a genuine federal budget. So why can President Obama go on spending so much more of our money? The answer is that Congress can continue spending without a budget. It passed seven "continuing resolutions" that allowed the government to continue operating before it finally agreed in April on a compromise appropriations bill for the current year. That deal runs out in September. Also running out is the American people's patience with overspending.

Members of Congress are vacationing at our expense. As soon as they return to Washington, they need to start work on a real budget for America that will fix the problems government causes. That means a reduction in spending—and in bureaucracy.

The first thing a genuine reform budget needs to do is retool the federal accounting system so we know where our tax money—and the money borrowed against our future tax payments—is going. The federal government does not produce either profit or loss, so it doesn't use the tried-and-trusted accounting tools that apply to private businesses. Instead, it uses a variety of accounting tricks and subterfuges that would land the Treasury secretary in jail if he were to try them in the private sector.

For example, the federal government uses "base-line" budgeting, which presumes spending increases every year. Reductions from the base-line increase are called "cuts"—which means government bureaucrats complain about cuts when their budgets actually go up. The compromise appropriations bill "cut" government spending by $38 billion but, in fact, increased many government agencies' budgets by 10 percent or more. This is a straightforward con job on the American people. It has to stop. We need to know whether our government is spending more or less than the previous year—without any trickery to muddy the picture.

Another example is the way the federal government issues loans to itself via the Federal Financing Bank. Those loans do not appear on the government books as spending increases, but they count as spending reductions when they are paid back. Then there are the budgetary activities of "off-budget" agencies such as the U.S. Postal Service and the Social Security Trust Fund, whose various borrowings do not count against the federal budget.

Transparency is key to bringing this kind of shadowy spending under control. Any future budget passed by Congress has to include significant reforms to the way the federal government reports its fiscal activities to taxpayers. Considering the extremely onerous accounting regulations it has imposed on private businesses, it is only right that the government's own accounting should pass muster.

The budgetary reforms should not stop there. Congress should require a significant reduction in the burden government imposes on our economy beyond taxes—regulation. The cost of the regulatory bureaucracy in the United States amounts to a staggering $1.75 trillion a year.

Yet bureaucracy keeps on growing just like government spending. So far this year, President Obama and his administration's regulatory agencies have issued or proposed 389 new rules that would carry the force of law, at a cost of $65 billion, and repealed just one—the ludicrous rule whereby spilled milk was treated like an oil spill.

Consider federal contracting rules, which include Depression-era rules such as Davis-Bacon, the federal "prevailing wage" law that requires contractors on federally funded construction projects to pay what are essentially union wage rates. This raises costs for taxpayers by as much as 20 percent. That means that a community that needs to build five schools instead can build only four if funding comes from the federal coffers. Obama recently exacerbated that problem by issuing an executive order whereby all federal projects were "encouraged" to use project labor agreements (PLAs), which effectively shut out nonunion contractors, thus raising costs. PLAs also can raise costs by up to 18 percent.

This cannot continue. The next budget should significantly trim the federal bureaucracy, as was done in the budget deals of the 1990s. It should include the provisions of the Small Business Regulatory Freedom Act proposed by Sen. Olympia J. Snowe (R-Maine), which allows small businesses more access to the courts to challenge damaging rules, and the Regulations From the Executive in Need of Scrutiny (REINS) Act, offered by Sen. Jim DeMint (R-S.C.), which requires congressional approval of regulations costing more than $100 million. Virginia Democratic Sen. Mark Warner's proposal that each new regulation be accompanied by the scrapping of an old regulation also should be part of the mix.

The whole point of public spending should be to secure value for the taxpayers' money. The current U.S. federal budget system fails that test utterly. The American people deserve a budget, and they deserve one that respects them more than bureaucrats.

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INFRASTRUCTURE FOLLIES:
Railroads, Cleantech And Crony Capitalism

BY WILLIAM FREZZA

It was more fitting than President Barack Obama could have imagined when he invoked the memory of Abraham Lincoln's backing of the first transcontinental railroad in his bid to boost his latest infrastructure spending stimulus. It's surprising that his speechwriters let him do it, coming fresh on the heels of the Solyndra bankruptcy, subsequent FBI investigation, and the campaign donor scandal that is rapidly gathering steam.

Perhaps that's because no one in the administration ever got past fourth grade history and the driving of the golden spike at Promontory Summit. If they did, they would have known that the Union Pacific Railroad, organized by an act of Congress and backed by millions in government 30 year bonds, went bankrupt not once but twice. The story of graft, corruption, land grant shenanigans, and outright bribery of U.S. Congressmen went on to consume the Grant administration. And the folly of paying track-mile subsidies led to the construction of an artificially tortuous route that maximized pork at the cost of operating efficiency. That boondoggle stands in direct contrast to the tremendous success of the Great Northern Railroad.

Never heard of the Great Northern? That's because they don't teach about it in government schools. That transcontinental railroad, completed in 1893, was the only one built entirely with private money on privately purchased land, by a self-made railroad tycoon, James J. Hill. Not only that, but by building it in careful stages Hill kept the line profitable every step of the way. Many believe Ayn Rand got her inspiration for Taggart Transcontinental in her novel, *Atlas Shrugged*, from the Great Northern.

So we are repeating history in more ways than the stimulus spenders let on, with a gusher of money flowing into crony corporations promising a clean-tech cornucopia. There is a difference this time, though. The outcome is going to be a lot worse. While the first transcontinental railroad was a financial disaster for both investors and U.S. taxpayers, the line continued to provide valuable service to customers even after going into receivership. That's because no matter how badly the politicians and financiers screwed up or how much money they stole to line their pockets, taking the train still beat covered wagons and stagecoaches.

Can the same be said for Solyndra, Evergreen Solar, and SpectraWatt, once providers of 25 percent of American solar photovoltaic output and now on the bankruptcy scrap heap? Or the massive corn ethanol infrastructure resting on a mountain of subsidies temporarily shielded by protective tariffs? Or the struggling windmill business whose $2 billion in federal subsidies last year went largely to overseas manufacturers?

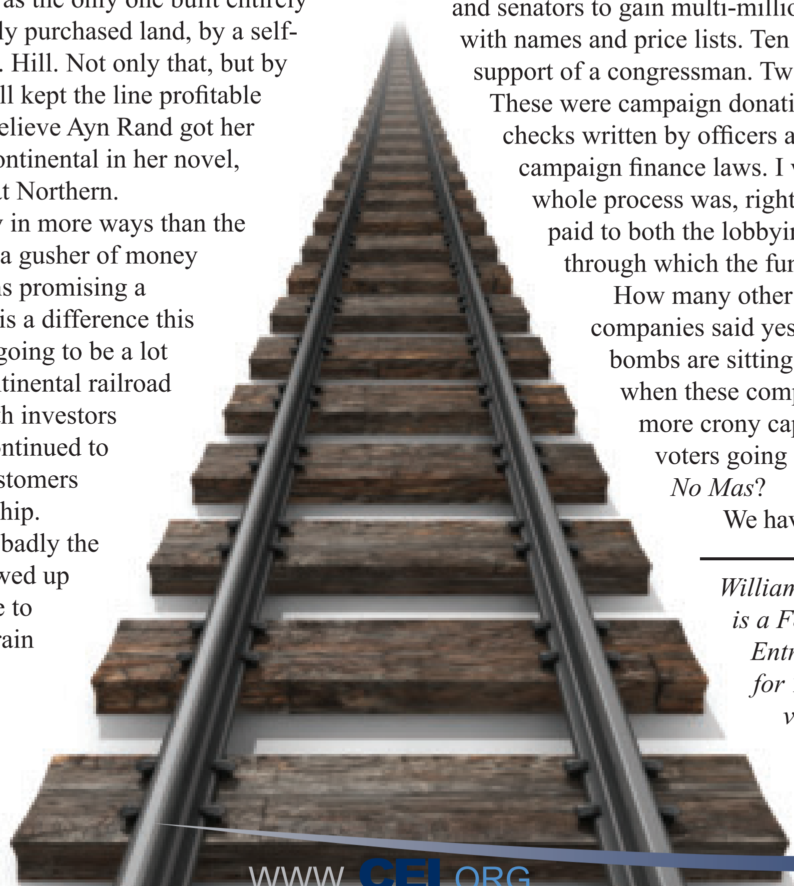
All of these cleantech companies are building not geographic monopolies for which few alternatives exist, but commodity conversion businesses, whose economic viability is exquisitely sensitive to shifts in both feedstock prices and energy alternatives across global markets. As we let politicians play venture capitalist with our money, can you think of any industry that offers more competitive alternatives than energy?

The cleantech collapse destined to come after the next election is going to be a spectacle to behold. As these turkeys go down you can expect a parade of horribles when investigators finally examine their books and follow the breadcrumb trails back into politicians' pockets. Having dodged that bullet myself I can tell you exactly how the baksheesh machine works.

Several years ago, while sitting on the board of an internal combustion engine startup, I had to nix a proposal to seek a cleantech earmark. The respected K Street lobbying firm pitching us gave us chapter and verse on how you can rent congressmen and senators to gain multi-million dollar earmarks, complete with names and price lists. Ten thousand dollars bought the support of a congressman. Twenty thousand bought a senator. These were campaign donations, of course, split into $2,000 checks written by officers and directors so as to dodge campaign finance laws. I was aghast at how open the whole process was, right down to the commissions paid to both the lobbying firm and the federal agency through which the funding was directed.

How many other directors of cleantech companies said yes? How many scandal time bombs are sitting there ticking, ready to go off when these companies go down? How much more crony capitalist corruption are American voters going to put up with before they say *No Mas*?

We have 14 months before we find out.



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What works for business should work for government, right? *Not necessarily.*

BY FRED L. SMITH, JR. AND JACQUELINE OTTO

Law professors Frederick Tung of Boston University and M. Todd Henderson of the University of Chicago recently asked that question about the banking industry. They propose that bank regulators should receive incentive pay linked to banks' performance. They argue that giving regulators a stake in the success of the firms they regulate will motivate them to make better decisions. Freakonomics blogger Matthew Phillips commented that Tung and Henderson "are essentially proposing giving regulators stakes in the banks they oversee, by tying their bonuses to the changing value of the banks' securities. …The proposal would completely change the role of the regulator, from antagonist to partner."

While this particular study is new, the idea is not. Every so often academics rediscover the superior incentives that private companies provide to ensure their employees work to advance the central mission of the organization—to overcome what is known in management parlance as the principal-agent problem.

The principal-agent problem occurs when individuals in a department of a firm face incentives to pursue departmental goals that conflict with the overall goals of the firm. For example, environmental compliance officers have an incentive to please environmental lobbyists and EPA regulators. In other words, they face a strong temptation to, as diplomats say, "go native." Firms need incentive structures to motivate employees to resist and overcome that temptation.

Tung and Henderson seek to quantify and duplicate how private companies accomplish this so that public agencies can adopt similar structures—to advance the "public interest" rather than institutional self-preservation and advancement.

Big Difference

This may sound like a good idea at first, but there are inherent differences between the private and public (government) sectors that hinder its successful adoption by government.

Private firms have a clear objective—to maximize profits for shareholders. This requires managing risks and planning for the future. For example, a loan officer's job is to not only make loans but to ensure that those loans are profitable. They must balance the risks of overly strict lending standards against the risks of overly lax ones. When government rushes in with explicit and implicit guarantees, this balancing task is distorted.

The government's clumsy response to the financial crisis made the shortcomings of state regulation evident, but the problem is not new.

The problem with trying to adapt business-like incentives to a government agency's overall focus is . . . government. Government cannot utilize market mechanisms because it is a monopoly by definition, and that creates incentives unique to state actors. In government, the distortion is built in.

Perverse Incentives

Public Choice theory helps explain the incentives faced by those working in government. As Nobel Prize-winning economist James Buchanan, one of the founders of Public Choice, points out, "[T]here is no center of power where an enlightened few can effectively isolate themselves from constituency pressures." In other words, actors within the bureaucracy cannot operate away from the political pressures of trying to please politicians and the voters who elect them. Thus, institutional self-preservation wins out.

The government's clumsy response to the financial crisis made the shortcomings of state regulation evident, but the problem is not new.

In fact this lesson should have been learned during the savings and loan (S&L) crisis of the 1980s and early 1990s. The Federal Savings and Loan Insurance Corporation (FSLIC), which was expanded greatly during that crisis, ensured that "smart money" was attracted to poorly managed S&Ls willing to offer high interest rates. The managers of these S&Ls recognized their bankrupt status, but they were being kept alive by a government guarantee.

A government-guaranteed entity isn't allowed to die until the government says it can. Until that time (which rarely arrives), the risks were transferred from the S&Ls and the depositors to the taxpayer. Indeed, S&L management shifted from small-town bankers to some of the world's most, well, "creative" financiers. As a colleague at the time, Catherine England, noted, no system was better designed to attract "crooks, scalawags and sharp dealers" than the then-existing regulatory structure.

Responsive to Politics

Why didn't regulators do their duty? Because the FSLIC was more responsive to its political leaders than to financial reality. House Speaker Jim Wright (D-Texas) argued zealously that Texas banks were not insolvent but illiquid.

Sound familiar? Zombie S&Ls stayed open far longer than they should have, and the S&L crisis was the result—with over 1,000 failed institutions and an estimated cost to taxpayers of $124 billion.

Do Tung and Henderson believe regulators would have done a better job if their rewards for doing so had been greater? The rewards of government service are not necessarily economic. Avoiding trouble with lawmakers is a strong motivation on its own. So when asked to solve zombie S&Ls' "illiquidity," regulators could be counted on to bend to political pressure.

Jim Wright left Congress many years ago, but his successors are doing as much damage today. The bureaucrats enforcing the slew of new regulations—from Dodd-Frank to Obamacare to CAFE on steroids—will face the same incentives as did the staffers at the FSLIC.

Markets work by rewarding the success of individuals who, at their own risk, venture forth and succeed—whether by brilliance or luck—in fulfilling unmet consumer needs. Bureaucrats, by contrast, are risk-averse and respond to political incentives. No "bonus" for making the right decision can change that.

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Camping at Liberty Summer Seminar.
Photo by Janet Neilson.

This summer, Bureaucrash went north of the border to visit Orono, Ontario, and take in the Institute for Liberal Studies's annual Liberty Summer Seminar (LSS). Liberty lovers from the U.S. and Canada come together to put on a lecture series at a campground about an hour northeast of Toronto. Bureaucrash brought refreshments to this year's event and filmed the lectures.

This year's seminar was especially exciting, coming off LSS's recent court victory. Because of protectionist economic restrictions that labeled the Jaworski family's rural property a "commercial conference center," attendees were denied the pleasures of the family's cooking and couldn't swim in the pond. But freedom of assembly triumphed in the end, and the homemade sandwiches and barbecue tasted that much better because of it.

The August event featured lectures by Lawrence Reed, head of the Foundation for Economic Education; Nimish Adhia, visiting professor at Beloit College; Jasmin Guénette, vice president of the Montreal Economic Institute; and several other speakers.

My favorite moment of the trip actually came when CEI's Brian Bisek and I were crossing the border back into America. We kept getting shuffled back and forth between lanes when border guards temporarily closed down the lane we were in to perform an inspection on the car ahead of us.

We finally got up to the booth and began answering the standard questions: Where are you going? How long were you in Canada? Are you bringing anything into the country? Another border agent, walking back to his booth, walked toward the agent questioning me from behind my car.

"Sorry to interrupt," he said, "But I just wanted to say—this guy has lots of great bumper stickers."

Well, my car *does* have a lot of great bumper stickers, and almost all of them are libertarian, including a very snazzy "Enjoy Capitalism" design that CEI gave out at last year's CPAC. Sometimes, even the government distrusts the government.

–Grant Babcock

CEI Thanks Pro-Worker Congressmen at Ceremony

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On September 21, CEI held an award ceremony to recognize Members of the House of Representatives who, in their voting records, have stood up for workers' rights and against job-killing regulations. Representatives who earned a 100-percent pro-worker score on the Workplacechoice.org labor scorecard received the award. The score is calculated and updated by CEI labor policy analysts after each congressional vote on a workers' rights issue.

Twenty-five Congressmen attended the event. Rep. Steve King (IA) thanked CEI for recognizing his and his colleagues' efforts to create jobs: "CEI understands this, and I am honored to receive their award for compiling a 100% pro-worker voting record. I will continue to work to repeal job-killing regulations, like those established under the Davis-Bacon Act, so that the government will get out of the way of workers looking for jobs." Twelve of the Representatives being recognized announced the award in press releases of their own.

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1. Rep. Robert Aderholt (R-Alabama)
2. Rep. Rick Berg (R-North Dakota)
3. Rep. Diane Black (R-Tennessee)
4. Rep. Kevin Brady (R-Texas)
5. Rep. Paul Broun (R-Georgia)
6. Rep. Michael Burgess (R-Texas)
7. Rep. John Campbell (R-California)
8. Rep. Howard Coble (R-North Carolina)
9. Rep. Jeff Denham (R-California)
10. Rep. John Fleming (R-Louisiana)
11. Rep. Bill Flores (R-Texas)
12. Rep. Phil Gingrey (R-Georgia)
13. Rep. Paul Gosar (R-Arizona)
14. Rep. Tom Graves (R-Georgia)
15. Rep. Morgan Griffith (R-Virginia)
16. Rep. Frank Guinta (R-New Hampshire)
17. Rep. Doc Hastings (R-Washington)
18. Rep. Tim Huelskamp (R-Kansas)
19. Rep. Jack Kingston (R-Georgia)
20. Rep. Jeffrey Landry (R-Louisiana)
21. Rep. Robert Latta (R-Ohio)
22. Rep. Kenny Marchant (R-Texas)
23. Rep. Mike Pompeo (R-Kansas)
24. Rep. Scott Tipton (R-Colorado)
25. Rep. Robert Wittman (R-Virginia)

THE GOOD

CEI Praises Obama's Review of Sarbanes-Oxley

On September 8, President Obama delivered a speech before Congress in which he introduced his American Jobs Act and urged legislators to pass it. CEI scholars criticized the expensive proposal and offered their own "Ten-Point Plan to Create Jobs" hours before the address. However, one surprising aspect of the president's otherwise unimpressive speech was his call to review misguided and destructive financial regulations. Passed in the wake of the Enron collapse in 2002, Sarbanes-Oxley has long been criticized by financial experts for retarding economic growth. John Berlau, director of CEI's Center for Investors and Entrepreneurs, welcomed the president's proposal. "Politically, if Obama wanted to scale back or repeal a big regulation, this would be an excellent candidate," said Berlau. "The law was signed by George W. Bush and Republicans foolishly never took the opportunity to relax or repeal it when they were in power. Thus, Obama does not have to go back on legislation he supported and can even triangulate to the 'right' of the Bush administration."

THE BAD

Abstract Patent Process Threatens Innovation

The Supreme Court will hear a case in December brought by a Mayo Clinic subsidiary challenging two patents on diagnostic processes that consist of observing correlations between blood test results and patient health. In mid-September, CEI, the Reason Foundation, and the Cato Institute filed a joint *amici brief* supporting the petitioners. The issue at stake is whether patents should be allowed to monopolize basic observations of the way varying the dose of a medicine affects a patient's response. Adjusting the dose of drug to get optimal results is a routine medical practice doctors use in treating their patients, say the Mayo Clinic petitioners. "Giving anyone the right to prevent doctors from observing those basic facts of nature would send medical practice back to the stone age," said Ryan Radia, associate director of CEI's Center for Technology and Innovation. "It would stifle medical innovation and prevent doctors from giving the best possible care to their patients."

THE UGLY

Misguided E-Verify Mandate Would Destroy Jobs, Freeze Labor Market

On September 21, the House Judiciary Committee passed the Legal Workforce Act (H.R. 2885), which mandates use of the electronic employment eligibility verification system known as E-Verify for all Americans. The law is now on its ways to the House Floor. "If the Legal Workforce Act actually becomes law, American workers and employers will be thrust into a bureaucratic nightmare that will slow economic growth," said CEI Immigration Policy Analyst Alex Nowrasteh. "Americans should not have to ask permission from the federal government to work." Mandatory E-Verify has already been tried at the state level in Arizona—with dire consequences. Employers there are hiring off the books in record numbers and job growth lags behind the rest of the nation partly because of E-Verify's regulatory tax. "American workers and small businessmen cannot afford to be bled dry by E-Verify," warned Nowrasteh.

Media**MENTIONS**

Compiled by Nicole Ciandella

Vice President for Policy Wayne Crews argues that deregulation will create jobs and reduce spending, unlike President Obama's American Jobs Act:

Our fiscal budgetary process fails to streamline spending in any direction but up. Nonetheless, we need a budget for off-the-books regulation. After all, we have to start somewhere.

Many have noted with increasing alarm that regulations cost more than $1 trillion annually, with more financial, health and environmental regulations spewing forth as you read these words. Compliance costs are equivalent to the entire fiscal budget of the 1990s—and rising. The president was forced to delay implementation of Environmental Protection Agency ozone rules just last week.

Regulations are a desperate drag on jobs now and have to be tracked and reduced.

- September 7, *The Washington Times*

Labor Policy Counsel Vincent Vernuccio and Policy Analyst Trey Kovacs present the "Big Labor vs. Taxpayers Index":

Until recently, union bosses—not elected representatives—have been in control of the government employee compensation process. Using taxpayer dollars they obtain through mandatory dues, they elect the management they later negotiate with. However, across the country in states such as Wisconsin, Ohio, and Michigan, taxpayers are fighting back and the tide of Big Labor control is starting to change.

Now there is a new online tool to give taxpayers and policy makers critical information on which states favor Big Labor. The Competitive Enterprise Institute and Crossroads GPS recently launched a "Big Labor versus Taxpayer Index" that analyzes 1,150 labor laws and regulations throughout the country and exposes states that make coddling Big Labor a top priority.

- August 31, BigGovernment.com

Senior Fellow Marlo Lewis advises presidential candidates to push for scaling back the Environmental Protection Agency:

GOP presidential candidates should emphasize that reining in the EPA is a constitutional imperative. Yes, Americans are worried about jobs and the economy, but arguing from constitutional principle immediately puts you on the moral high ground.

Which constitutional precepts are relevant here? Only the people's representatives, not non-elected bureaucrats, should have the power to decide national policy. Legislative intent, not semantic cleverness, should determine the extent of an agency's power. No one should be judge of his own cause.

The EPA today is legislating climate policy under the guise of implementing a statute, the Clean Air Act, enacted in 1970, years before global warming was even a gleam in Al Gore's eye. This is an egregious breach of the separation of powers. The claim that Congress gave EPA such expansive powers in 1970 but just forgot to tell anybody is absurd.

- August 25, *The New York Times*' Room for Debate blog

CEI President Fred Smith explains why Standard & Poor's downgraded America's credit rating:

S&P realizes it must provide reliable information on how it sees America's financial issues if its reputation is to survive. What it sees isn't pretty: a nation with slow growth, crippling regulations, burdensome tax policies, and ever-expanding entitlement and other spending programs. On top of that, we have a budget deal that only addresses these problems at the margins, a Republican House reluctant to take on politically sensitive entitlement reform, a Democratic Senate unwilling even to discuss such reform, and a president running for reelection on a soak-the-rich platform.

The ruling class isn't eager for Cassandras telling them that their spending binge cannot go on much longer, yet that is precisely what they *need* to hear. The last thing we need is Pollyannas to lull the Washington political class back into its usual stupor.

For that reason, the S&P downgrade offers actual hope.

- August 17, *Forbes*

Assistant Director of the Center for Energy and the Environment William Yeatman argues that President Obama is prioritizing an environmentalist agenda over his promise to create jobs:

President Obama claims to see the need to create jobs at this time of endless 9-plus percent unemployment—yet his administration continues to relentlessly destroy jobs for ideological reasons. The best example may be the Obama Environmental Protection Agency's "war on coal."

The EPA's regulatory crusade directly threatens hundreds of thousands of jobs—and "rolling blackouts" that threaten even more.

Start with a proposed regulation under the Clean Air Act that's set to be finalized in November. The Utility MACT ("Maximum Achievable Control Technology") rule seeks to cut U.S. power plants' emissions of mercury from 29 tons a year to just five. Yet EPA itself estimates that cutting even as much as 41 tons out of total emissions of 105 tons "is unlikely to substantially affect total risk."

For zero benefit, the Utility MACT is one of the most expensive federal regulations ever. In comments submitted to the EPA, Unions for Jobs and the Environment, an alliance of unions representing more than 3.2 million workers, estimated that this needless regulation would jeopardize 251,000 jobs.

- August 9, *The New York Post*

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...END NOTES

"Occupy Wall Street" Activists Demand… Something?

In late September, several hundred left-wing activists converged on Lower Manhattan to protest the existence of the U.S. financial sector. Rather than focusing on pro-bailout corporatist politics, which certainly deserve harsh criticism, many of the protesters zeroed in on markets themselves—and other, er, issues. One placard sighted near the New York Stock Exchange read, "Even if the World Were to End Tomorrow I'd Still Plant a Tree Today." When asked for specifics on the goals of the movement by a *New York Times* reporter, John McKibben of Vermont answered, "I want to get rid of the combustion engine." Another protestor, Becky Wartell of Maine, responded a bit more realistically, admitting, "I want to create spectacles." Needless to say, business has been operating as usual in America's finance capital.

California Legislators Seek to Outlaw Babysitting

Facing a tidal wave of fiscal pressure thanks to years of government mismanagement, California legislators still have time to focus on real threats to society: babysitting. The proposed bill was described by critical California state Senator Doug LaMalfa: "Under AB 889, household 'employers' (aka 'parents') who hire a babysitter on a Friday night will be legally obligated to pay at least minimum wage to any sitter over the age of 18 (unless it is a family member), provide a substitute caregiver every two hours to cover rest and meal breaks, in addition to workers' compensation coverage, overtime pay, and a meticulously calculated timecard/paycheck." While presumably well intentioned, the bill would make most babysitting as we currently know it illegal. This would further worsen youth unemployment, which currently hovers above 50 percent, and keep young parents from enjoying much needed nights out.

British "Safety" Organization Pushes Fire Extinguisher Ban

In the United States, government regulations describe in tedious detail the permissible procurement, placement, and use of fire extinguishers. But on the other side of the Atlantic, Britain has taken an odd take on the overrregulation of handheld fire suppressors. The Orwellian-named Royal Society for the Prevention of Accidents has been issuing warnings to high-rise apartment managers, advising them to remove all fire extinguishers from their buildings. One resident explained the Society's intentions: "They are worried we will point them in the wrong direction or use the wrong extinguishers. But if you are trapped in a burning building, you will work out how to use one." Apparently, to the Royal Society for the Prevention of Accidents, the risks of fire extinguisher misuse outweigh the risks of burning to death.

Government Auditors: DOJ Spent $16 Per Muffin

In 2009, the Justice Department's Executive Office for Immigration Review held a legal training conference at a Hilton hotel in Washington. Breakfast was, of course, catered, as is the case for most conferences. However, what the office paid might surprise you: $4,200 for 250 assorted muffins-which works out to $16.80 each. Hilton representatives claim this price included coffee, juice, fruit, and tax. But if true, the DOJ still approved an invoice listing "muffins" at $16.80 each. The department's inspector general unearthed some other unsavory food service figures. Conference organizers in San Francisco spent $76 per person on lunch and coffee at $8.24 a cup. This is not the first time the Justice Department has wound up with egg on its face over excessive catering costs. A 2007 audit revealed that the top law enforcement agency had served Swedish meatballs priced at $5 each.