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Disabling American Sovereignty

BY IAIN MURRAY AND GEOFFREY McLATCHEY

The United States Senate will likely soon consider ratification the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which fell six votes short of the 67 needed last December. The CPRD's stated purpose is "to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity." While seemingly well-intentioned, the treaty would enable an enormous increase in the potential power of U.N. bureaucrats over the American people and undermine national sovereignty.

CRPD proponents argue that it merely reiterates existing U.S. disability law. President Obama said, "Existing U.S. law [is] consistent with and sufficient to implement the requirements of the Convention." While the CRPD was originally modeled to some extent on the Americans with Disabilities Act (ADA), its provisions far surpass the ADA's.

For example, the Convention's Article 27, which prohibits "discrimination on the basis of disability with regard to all matters concerning all forms of employment," is a giant leap from the ADA's employment standards stating, "no *covered entity* shall discriminate against a *qualified individual* on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment" (emphases added).

In removing the principles of "covered entity," whereby some organizations are exempt, and of a "qualified" individual, the convention removes all common-sense safeguards against unintended consequences and overreach. Moreover, the article commits signatory states to secure this by legislation—meaning that the ADA would need to be amended.

The CRPD also requires the United States to set up a propaganda agency. Yes, you read that right. Article 8 states that signatories must take "immediate and effective measures… to raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities." It becomes the federal government's duty to "combat stereotypes… in all areas of life" by "initiating and maintaining effective public awareness campaigns."

Worst of all will be the loss of U.S. sovereignty. Under CRPD Article 34, U.S. policy would be subject to the "Committee on the Rights of Persons with Disabilities," a U.N.-appointed

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Twenty Years of Ten Thousand Commandments

By Wayne Crews

Regulation doesn't get nearly as much attention as taxes, spending, and deficits do. This is largely a transparency problem. Whether by design or not, the raw numbers on how many regulations there are and how much they cost are scattered far and wide. The press is largely missing an important story because the data are so hard to track down. That's why every year CEI releases an annual report, *Ten Thousand Commandments*, which puts all of this scattered information into one easy-to-use document for public consumption.

Washington's transparency problem is so bad that *The Wall Street Journal*, editorializing on May 20 about this year's 20th anniversary edition of *Ten Thousand Commandments*, writes, "Since Mr. Obama doesn't want to accurately assess the costs of these rules, we'll rely on Mr. Crews." I'll take the compliment, but it would be better if agencies were more forthcoming in the first place about the costs they impose on the country.

> ***These numbers are eye-popping. And they deserve to be as widely known as the size of the federal budget or the national debt.***

The CEI Planet has space limitations, but there is enough room here to share some of the main findings. Drink them in:

- The total cost of federal regulations is $1.8 trillion per year. This is larger than Canada's entire economy.
- The annual per-family cost of federal regulation is $14,768. Regulation costs the average household more than essentials such as food, clothing, and education. Only housing costs more.
- Since the first *Ten Thousand Commandments* report was published in 1993, federal agencies have issued 81,883 final rules. This is equivalent to a new regulation every two hours and nine minutes, 24 hours a day, seven days a week—for 20 years.
- Last year alone, 3,708 new final rules hit the books.
- Compare this to the 127 bills Congress passed over the same period. This 29-fold difference is what we at CEI call regulation without representation.
- All federal regulations are listed in the *Code of Federal Regulations*. The most recent print edition is 174,545 pages long, spread out over 238 volumes. The index alone runs 1,242 pages.
- More regulations are on the way—a lot of them. There are currently 4,062 regulations in various stages of the rulemaking process.
- Of these rules, 224 are classified as "economically significant." That means each one has an estimated economic impact of $100 million or more. This implies a minimum cost of $22.4 billion per year for those rules alone.
- All proposed rules, final rules, and other documents appear in a daily digest called the *Federal Register,* which has been published yearly since 1936. The 2012 edition ran 78,961 pages.
- Three of the four largest-ever *Federal Register* page counts have occurred during the Obama administration.

These numbers are eye-popping. And they deserve to be as widely known as the size of the federal budget or the national debt. Of course, diagnosing Washington's regulatory excesses and getting them the attention they deserve is only half the battle. That is why so many of CEI's other efforts are directed at coming up with ideas for reform—and actually implementing them.

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panel consisting of 12 "experts." The history of other U.N. bodies like the Human Rights Council—which includes countries with a long history of human rights abuses and hostility toward the United States—is not encouraging. And the Convention's vague language—such as defining disabilities as "an evolving concept"—suggests that the Committee will have ample opportunity to redefine terms to America's disadvantage.

Advocates of CRPD ratification argue that the powers afforded to the U.N. would likely never be used and are unenforceable. Instead, U.S. ratification would serve as an exhortation of U.S. ideals that would encourage other countries to act in accordance with our values. Secretary of State John Kerry labels the Americans with Disabilities Act the "gold standard" for protecting the rights of the disabled, emphasizing the CRPD's ability to "take that gold standard and extend it to countries that have never heard of disability rights."

This argument contradicts itself. If the U.S. were to ratify CRPD as a signal for others to do the same, its signal would be nullified if it were not to comply with its provisions. Moreover, this argument ignores the fact that, almost uniquely in the world, U.S. citizens can sue their government to ensure that it is complying with all the terms of a treaty it has ratified. The rest of the world can treat a U.N. convention as merely hortatory. The U.S. cannot.

> ***"The Convention's vague language—such as defining disabilities as "an evolving concept"—suggests that the Committee will have ample opportunity to redefine terms to America's disadvantage."***

And, as Senator David Vitter (R-La.) argued when considering an article of the U.N. Convention on the Law of the Sea (about which a similar argument was made and which was never ratified), "If it is not possible for an individual state to violate the provision, why is it in the treaty?" In other words, if the full powers given to the U.N. are not intended to be used, why grant the powers in the first place? The defense that CRPD is unlikely to be enforceable is no defense at all.

Finally, there is strong evidence that the ADA has harmed Americans with disabilities by making it more expensive for employers to hire them. As the Cato Institute found in 2000, a 10 percent reduction in employment among disabled people has occurred since the passage of the Act. If the ADA has harmed Americans, how much worse would the much more expansive CPRD be for them?

Ratification of CPRD would harm the American economy, national sovereignty, and the prospects of people with disabilities. The only people it would benefit would be national and international bureaucrats and lawyers. The Senate should reject it.

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A Supreme Court EPA Decision that could Cost Taxpayers $21 Billion per Year

BY MARLO LEWIS, JR.

Is the Clean Air Act so badly flawed that it will cripple environmental enforcement and economic development alike unless the U.S. Environmental Protection Agency (EPA) and its state counterparts defy clear statutory provisions or, alternatively, spend $21 billion a year to employ an additional 320,000 bureaucrats?

That is a central issue in a recent lawsuit by the Southeastern Legal Foundation, the Competitive Enterprise Institute, a host of lawmakers, and several companies.

They are petitioning the Supreme Court to review an appellate court decision upholding the EPA's global warming regulations. The litigation challenges the EPA's interpretation of both the Clean Air Act and the Supreme Court's April 2007 *Massachusetts v. EPA* decision. In that case, the Court held that the agency must determine whether greenhouse gas emissions may reasonably be anticipated to endanger public health or welfare.

If so, the EPA must establish greenhouse gas emission standards for new motor vehicles. In part, the Court based its ruling on the assumption that an endangerment finding would not lead to "extreme measures." At most, cars might get better gas mileage. What's not to like?

But in July 2008, the EPA argued it might also have to establish greenhouse gas emission standards for aircraft, marine vessels, non-road vehicles, fuels and numerous industrial source categories. It might even have to establish national ambient air quality standards (NAAQS) for greenhouse gases. In short, an endangerment finding could empower the agency to implement an economy-wide de-carbonization program without having to clear any of it with Congress. Somehow none of this was discussed in *Massachusetts v. EPA*.

But wait, it gets weirder. In October 2009, the EPA acknowledged that regulating greenhouse gases through the Clean Air Act leads to "absurd results" and "administrative impossibility."

Here's why. As the EPA reads the statute, "major" stationary sources—entities that emit 250 or 100 tons per year of a regulated air pollutant—must obtain permits from environmental agencies to construct or operate their facilities. Carbon dioxide became a regulated air pollutant when the EPA's greenhouse gas motor vehicle standards took effect on January 2, 2011.

Whereas only large industrial facilities emit 250 or even 100 tons of conventional air pollutants per year, literally millions of small, non-industrial facilities—office buildings, restaurants, schools—emit carbon dioxide in those quantities. The EPA and its state counterparts suddenly faced the prospect of having to process 81,000 pre-construction permits annually (instead of 280) and 6.1 million operating permits annually (instead of 15,000).

That gigantic work load would overwhelm their administrative resources unless, the EPA estimated, agencies hire 320,000 additional full-time staff at a cost of $21 billion annually. Otherwise, ever-growing bottlenecks would paralyze environmental enforcement and freeze economic development. Both the application of complex and costly permitting requirements to tens of thousands of non-industrial facilities and the quantum jump in taxpayer burden qualify as "extreme measures."

To avoid an administrative meltdown, the EPA in July 2012 adopted its Tailoring Rule, which defines the major source cutoff for greenhouse gases as a potential to emit 100,000 tons per year. But the statutory cutoff is a potential to emit 100 to 250 tons per year of "any air pollutant." Interpretive leeway may be appropriate when statutory language is vague, but there is nothing unclear about "250 tons." The Tailoring Rule actually amends law. It, too, is an extreme measure, because agencies constitutionally have no power to amend statutes.

The SLF-CEI lawsuit shows the way out of this morass. Read in context, the pre-construction permit program applies only to pollutants for which the EPA has issued national ambient air quality standards. Since there are no NAAQS for greenhouse gases, the EPA has no authority to regulate stationary sources—hence has no need to play lawmaker and flout clear statutory language.

What if the EPA is correct and regulation of "any" air pollutant under any part of the Clean Air Act automatically imposes permitting requirements on "major" sources? There are only two possibilities. Either *Massachusetts v. EPA* brought to light a flaw previously hidden in the Act, or the Court misread the statute and the EPA has no authority to regulate greenhouse gas emissions from motor vehicles.

To maintain, as the EPA does, that both *Massachusetts v. EPA* and the agency's interpretation of the permitting provisions are correct, one must suppose that when Congress enacted the Clean Air Act in 1970, it somehow inserted the statutory equivalent of malicious code into the text, the bug lay dormant for 40 years, and then suddenly the malware became active, causing programs that had worked reasonably well since their inception to go haywire, implode, and block shovel-ready projects throughout the land.

And if EPA officials truly believe that, I have a bridge I'd like to sell them.

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E-Verify's Biometric Database

A Huge Step toward a Permission-Slip Society

BY DAVID BIER

"Maybe we should just brand all the babies." With this mocking remark, Ronald Reagan dismissed a national ID proposal in 1981. In the 32 years since, Americans have rejected various forms of national ID. But now biometric national ID is back at America's doorstep, and most Americans don't even realize it.

Inside the Senate's immigration reform proposal is a section on electronic employment verification. This will mandate employers use a system, known as E-Verify, to check the Form I-9 information of all employees—citizens and immigrants—against a federal database containing their name, Social Security number (SSN), address, date of birth, and work authorization status.

The Senate bill expands the current system by reimbursing states for the costs of submitting driver's license and state ID photos to the database. Unless states refuse the hundreds of millions of dollars allocated by the bill for this purpose, which is highly unlikely, the Department of Homeland Security will have a national biometric identification database that includes every U.S. worker.

Some have argued this is not truly "biometric" because it fails to include fingerprints or retina scans. But biometrics are simply physiological identifiers—as opposed to artificial ones, such as your name or SSN. In fact, as identity expert Jim Harper of the Cato Institute notes, photos actually include a host of biometric information, including facial features, hair color, eye color, skin color, and gender.

It's not just experts who consider photos "biometric"—the U.S. government does as well. Under 46 USC 70123, biometric identification includes "digital photography images" and "facial scan technology." Using facial recognition software, the digital photos from state IDs and passports will enable the Department of Homeland Security to easily identify people with publicly available pictures.

E-Verify also creates a digital history of employers, worksites and locations of E-Verify queries. Such a system is surveillance no matter how benign it may appear initially—it centralizes information on the whereabouts, employment and activities of citizens, and makes that information readily available for a variety of purposes in the future.

Sen. Charles Schumer (D-N.Y.), a lead sponsor of the bill, claims this would not be a national ID because that's something "you'd have to show whenever a police officer or anyone came up to you." Of course, national ID would not initially be used in all instances. What is relevant is whether it can be used to identify a person at any given time.

E-Verify, enhanced with photos, creates a system that can easily be mobilized to monitor or restrict access to anything. This is not hypothetical. E-Verify's present purpose is to restrict access to employment—a radical increase in federal control over the workforce.

Although E-Verify currently targets immigrants, the way the system operates shows it can be used to restrict legal activity to anything and that there is no logical or practical limit to its use. It is illegal to rent to unauthorized immigrants, for example, so a logical next step would be to mandate that landlords use E-Verify.

Sen. Schumer has stated he wants biometric IDs to "be used in the same cases when you use a Social Security card." But Social Security numbers are already used in hundreds of ways, to prove identity for jobs, health records, bank accounts, credit cards, and much else. If E-Verify were ultimately used in this manner, it would create an extensive digital record of movement and activities.

Beyond such surveillance, the system quickly could be turned to monitor or restrict access to guns, the Internet, or anything else. The federal government already can prohibit individuals from flying by placing them on the "no fly list," and banks and financial institutions must check with the government before allowing citizens to open bank accounts, make certain types of deposits, or take out loans.

E-Verify's justification—that it will end illegal immigration—defies everything we know about black markets and its $8.5 billion price tag should give us pause. But the best reason to oppose E-Verify is that it takes America one huge step toward a permission-slip society, vastly increasing the power of government over its citizens.

As then-Supreme Court Justice John Paul Stevens wrote in the Court's majority opinion in the 1995 case *McIntyre v. Ohio Elections Commission*, "Anonymity is a shield from the tyranny of the majority"—by which he meant that anonymity protects us from tyranny by keeping our actions private and unreviewable by others. Let's reinforce that shield.

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How Estonia Made Austerity Work, and What America Can Learn from It

BY MATTHEW MELCHIORRE

Another month of disappointing job numbers is a painful reminder that the U.S. economy is struggling after almost five years of fiscal and monetary stimulus.

Since 2008, Washington policy makers have been pacing around the doctor's office too afraid to take the bitter but effective pill America needs: slash federal spending and end the Fed's life support for zombie banks.

Economically stagnant Britain shows us where this continued procrastination leads. Instead of dashing after our tea-drinking transatlantic neighbors, American policy makers should look to Estonia, which took its austerity meds and quickly returned to prosperity.

First, let's look at the UK. In the four quarters following the British government's announcement of austerity in June 2010, general government spending increased by 4.3 percent, a rate of growth that has increased since then.

Some "austerity."

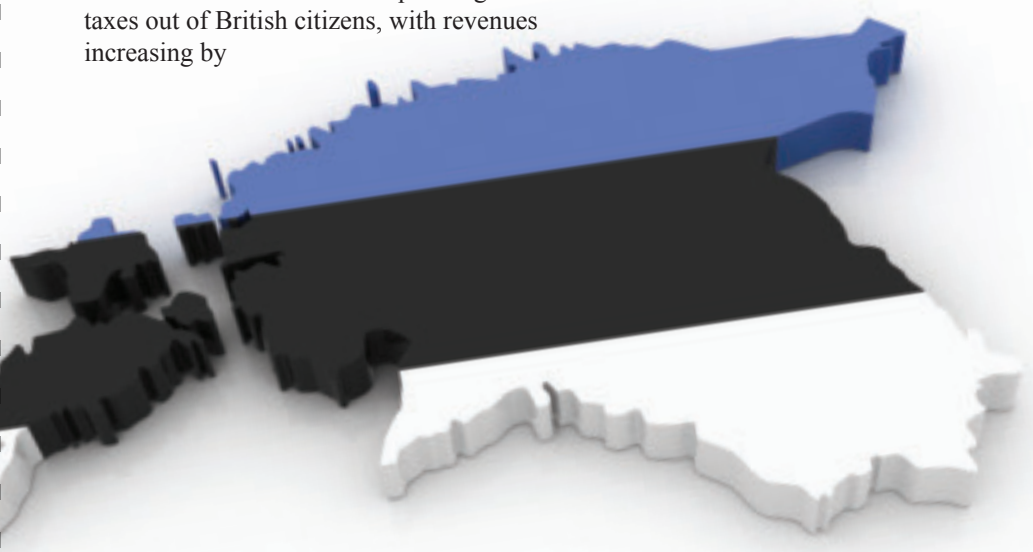
Whitehall also has been squeezing more taxes out of British citizens, with revenues increasing by 7.8 percent the first year and the rate of growth shooting up into double digits the next two.

And the Bank of England's balance sheet has grown by 334 percent since September 2008, as it has tried to prop up bad assets held at London banks.

What can American politicians learn from this? Quite simply, not to be afraid of the short-term consequences of pro-growth policies.

The result: A still-unaddressed gap between wages and labor productivity that has sapped British competitiveness over the past decade, stagnant export growth (which was actually negative in 2012), and net negative economic growth since 2008.

Meanwhile, Britain's phony "austerity" program, which will last through 2018, has only served to prolong the pain by covering up fundamental problems with taxpayer money and newly minted pound sterling.



It doesn't have to be this way. For a better way forward, let's look at Estonia, which took its medicine as soon as the global financial crisis broke. It drastically cut government spending relative to its pre-crisis level—2.8 percent in 2009 and 9.5 percent in 2010—and is now one of Europe's fastest growing economies.

Tax revenues fell, too. Moreover, Estonia's central bank refused to prop up banks that shipwrecked on the rocks of a real estate bubble.

Today, the country's number of non-performing loans is half what it was during 2009-2010. Export growth rebounded strongly during 2010-2011 and has since remained above its pre-crisis level.

Estonia's economic recovery is impressive enough, with unemployment now below the Euro Zone average and having made up its total economic losses by 2012.

But the most astounding element of this story is that in 2011 Estonian voters reelected the very politicians who implemented austerity—and in greater numbers than the previous election.

What can American politicians learn from this? Quite simply, not to be afraid of the short-term consequences of pro-growth policies.

Unfortunately, we seem to be following the Brits, echoing their denunciations of "savage austerity" with fear mongering about futile budget measures like the sequester—which doesn't even cut spending but only its rate of growth.

Federal spending has averaged 29 percent above its pre-crisis level and is expected to keep going up. Government

revenues, which had been falling prior to 2012, increased last year and will shoot up by double-digit percentages by year's end.

Meanwhile, the Federal Reserve has more than tripled its balance sheet since September 2008 and continues to be the backstop for an inefficient financial sector beset by non-performing loans even as it finances a heavily indebted federal government that spends 17 percent of its revenues on interest payments alone—roughly the same as Spain and Italy.

The Fed cannot keep interest rates at rock bottom forever. U.S. policy makers must stop pretending it can and begin paying down the almost $17 trillion national debt before interest payments bankrupt the federal government.

Washington needs to cut spending—now at its highest peacetime level ever—and rein in the ever-growing federal regulatory state, which restrains entrepreneurialism and job creation.

According to my colleague Wayne Crews, regulations will cost the U.S. economy a whopping $1.8 trillion in 2013—that's 13 percent of the economy. Add that to total spending and government's burden is equal to nearly half the entire U.S. economy.

With 3,708 rules issued in calendar year 2012—and 4,062 new regulations at various stages in this year's federal pipeline—government's economic footprint will grow even larger.

It's no surprise that in a January 2013 Gallup poll, 56 percent of small business owners said they are not seeking to hire new employees because of future costs associated with new regulations.

America is sick. Government is fat and the economy is fatigued. Worse, politicians suffer under the continuing delusion that if only they had more taxpayer money, then they could solve the very problems created by spending too much taxpayer money.

They need to snap out of the same fantasy world they share with their counterparts in the UK, where dieting means eating more, and take the austerity pill. It will make everyone feel better. Just ask the Estonians

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Nutritious Apples, Poisonous Claims

BY ANGELA LOGOMASINI

Eat fewer apples, strawberries and grapes, and more corn, onions and pineapples, and you'll protect yourself and your children from "toxic" pesticides, according to the Environmental Working Group's (EWG) *2013 Shopper's Guide to Pesticides in Produce*. This advice is dangerous hogwash.

Every year, the group issues its "study" and "shopping guide" using the U.S. Department of Agriculture's (USDA) annual review of pesticide residues found on food. It always includes a "dirty dozen" list of fruits and veggies that contain the highest pesticide residues in the department's sample.

This year's list includes: apples, celery, cherry tomatoes, cucumbers, grapes, hot peppers, imported nectarines, peaches, potatoes, spinach, strawberries, sweet bell peppers, kale and collard greens, and summer squash.

The Environmental Working Group has lots of healthy alternatives on its "clean 15 list." Its report claims, "The health benefits of a diet rich in fruits and vegetables outweigh the risks of pesticide exposure." Still, the group suggests that people eat fewer of some items stating, "You can lower your pesticide intake by avoiding the 12 most contaminated fruits and vegetables and choosing the least contaminated produce."

Eating fewer of these items will not lower health risks, as the EWG's rhetoric suggests. Residues are too low—on even the organization's "worst" examples—to make any public health difference to children or adults. Accordingly, placing any of these healthy foods on a "dirty dozen list" isn't simply highly misleading, it's dirty politics designed to scare everyone from ma to grandma.

Contrary to the Environmental Working Group's scary depiction is the U.S. Environmental Protection Agency (EPA), whose press statement on Agriculture Department data reads: "The newest data from the [Pesticide Data Program] confirm that pesticide residues in food do not pose a safety concern for Americans. EPA remains committed to a rigorous, science-based and transparent regulatory program for pesticides that continues to protect people's health and the environment."

The USDA's "Message to Consumers" related to its residue report explains further: "This report shows that overall pesticide residues found on foods tested are at levels below the tolerances established by the U.S. Environmental Protection Agency (EPA) and that overall pesticide residues found on baby food are lower than the levels found on other commodities."

The Department notes further in its questions and answers that residues at levels above the Environmental Protection Agency tolerance standards occurred in just 0.27 percent of the samples. That means 99.73 percent of the samples met the agency's very stringent standards. This is consistent with past USDA reports, which barely found any residues, year in and year out.

Unfortunately, the Environmental Working Group's *Shopper's Guide* may discourage consumption of listed healthy fruits and vegetables, which could undermine public health. Eating a large amount and a wide range of fruits and veggies is one of our best defenses against cancer and other health problems. The quarter of the U.S. population consuming the least amount of fruits and vegetables has a cancer rate twice as high as the quarter of the population consuming the most, according to one study. Accordingly, the World Health Organization recommended increased intake of fruits and vegetables to reduce the cancer-incidence rate by 30 percent across the board in its *2000 World Cancer Report*.

As a partial solution, the Environmental Working Group suggests buying organic food, which is often more expensive and not a reasonable option for consumers on fixed budgets. There isn't any compelling body of evidence demonstrating that organic food is any safer, as recently reported in a Stanford University study and another study in the journal *Pediatrics*.

If we all ate organic food, the environment would suffer because organic farming is less productive. If we abandoned high-yield farming with pesticides, farmers would need to plant about 10 million additional square miles to produce the same amount of food, notes researcher Dennis Avery in *True State of the Planet*. That is more land than all of North America (about 9.4 million square miles), leaving no space for wildlife conservation.

A consumer's best option is to ignore the Environmental Working Group and follow the Agriculture Department's advice of eating more fruits and vegetables. The department explains: "Health and nutrition experts encourage the consumption of fruits and vegetables in every meal as part of a healthy diet. This is affirmed in the Dietary Guidelines for Americans and My Plate, the federal nutrition graphic that shows that people should fill half their plate with fruits and vegetables."

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KEYNOTE SPEAKER
SENATOR RAND PAUL

JUNE 20, 2013

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THE GOOD

CEI Launches New Obamacare Lawsuit against IRS

Led by CEI, a group of small business owners and individuals in six states sued the federal government on May 2 over an IRS regulation imposed under the Affordable Care Act (Obamacare), which will force them to pay huge fines, cut back employees' hours, or severely burden their businesses. Under the Act, businesses in states that refuse to set up Obamacare exchanges should be free of the employer mandate, and the scope of the individual mandate should be reduced as well. But because of the IRS rule, both mandates will be greatly enlarged in scope, depriving states of the power to protect their residents. "Agencies are bound by the laws enacted by Congress," said CEI General Counsel Sam Kazman. "Obamacare is already an incredibly massive program. For the IRS to expand it even more, without congressional authorization and in a manner aimed at undercutting state choice, is flagrantly illegal." Michael Carvin, who co-argued the Supreme Court Obamacare cases in March 2012, represents the plaintiffs in this lawsuit.

THE BAD

Another Sweet Deal for Big Sugar

In a loss for consumers and taxpayers, Congress once again voted in May to continue the outdated, wasteful sugar program. The U.S. Senate voted 54-45 against a bipartisan amendment to the farm bill, cosponsored by Sens. Jeanne Shaheen (D-N.H.), Mark Kirk (R-Ill.), Patrick Toomey (R-Pa.), and others that would have instituted much-needed reforms of the program. The amendment specifically addressed some add-ons in the 2008 farm bill that made the program even worse by imposing further restrictions on imports, higher price supports, and a costly sugar-to-ethanol program. "We are extremely disappointed the Senate voted down Senate Amendment 925 to the Farm Bill that would have taken important steps to reform the costly sugar program," said CEI Adjunct Fellow Frances B. Smith. "Since the Great Depression, this program has operated as a central planning scheme that sets the domestic supply, provides guaranteed and high prices to sugar producers and restricts competition."

THE UGLY

Senate Votes for More Internet Taxes

Senators crossed a dangerous line on May 6 when they voted to approve the dubiously named Marketplace Fairness Act, which would usher in a confusing patchwork of Internet sales taxes that could force small online retailers out of business. "America's economy and American consumers have long benefited from the requirement that politicians can tax only those who can vote them out of office," said Fred L. Smith Jr., founder of CEI and now director of its Center for Advancing Capitalism. "The Constitution established a system of competitive federalism to prevent states from violating this 'no-taxation-without-representation' restraint. Those voting for this measure have no regard for the Constitution or for the restraints it established." CEI Policy Analyst Jessica Melugin noted, "This legislation will raise compliance costs for online retailers, reduce healthy downward pressure on tax rates, tax online retailers for services they cannot use, increase consumer privacy concerns, remove political accountability for tax authorities, and create new inequities between bricks-and-mortar and online businesses."

MediaMENTIONS

Compiled by Nicole Ciandella

Warren Brookes Journalism Fellow Matthew Melchiorre examines Italy's recent past and sees little hope for political solutions to its economic woes:

In 1994, the courts exposed the five decades-old system of buying votes from politicians, unions, businesses, and ordinary citizens alike. When the dust settled, Italy's political system went through radical restructuring, but Italy's economy did not.

Now Italy's contemporary parties, fatigued after two months of wrangling to form a government, need the stamina to embrace bipartisanship for as long as it takes to reform Italy's electoral law, which is responsible for the inconclusive results of February's elections. President Napolitano should then call for new elections.

Italy is in desperate need of reform. Taxes on labor are the highest in Europe, according to Eurostat. Businesses refuse to hire new workers because archaic regulations from the heyday of political patronage prohibit dismissing workers for poor performance, and make it difficult to lay off workers during economic downturns. Italy's broken legal system, which the World Bank ranks last among OECD countries in efficiency, worsens an already poor business climate by making the resolution of contract and labor disputes prohibitively costly.

–April 23, *City AM*

Senior Fellow Gregory Conko and Adjunct Fellow Henry I. Miller note that the cost of regulatory compliance harms health:

How big a deal is a little gratuitous, save-us-from-ourselves regulation? Very big. The diversion of resources to comply with regulation—good, bad, or indifferent—exerts an "income effect" that reflects the correlation between wealth and health. It is no coincidence that richer societies and segments of the population have lower mortality rates than do poorer ones.

To deprive communities of wealth, therefore, is to compromise their health, because wealthier individuals are able to purchase better health care, enjoy more nutritious diets and lead generally less stressful lives. Conversely, the deprivation of income itself has adverse health effects—for example, an increased incidence of stress-related problems, including ulcers, hypertension, heart attacks, depression, and suicides.

Although it is difficult to quantify precisely the relationship between mortality and the deprivation of income, academic studies suggest as a conservative estimate that approximately every $7 million of regulatory costs will induce one additional fatality through this indirect "income effect." Because unnecessary deaths are the real costs of regulators' "erring on the side of safety," excessive regulation has been dubbed "statistical murder."

–-May 4, *Orange County Register*

Immigration Policy Analyst David Bier highlights fundamental flaws in the Heritage Foundation's study on the fiscal impact of immigration:

Heritage is absolutely correct to point out that entitlements are unsustainable, but this is true with or without immigration reform—that is an argument for fixing entitlements, not stopping immigration reform. At current deficits, the federal government will spend $67 trillion more than it will bring in taxes over the next 50 years. By Heritage's logic, that means America should be emptied.

As should be obvious, America would not gain from removing between 50 and 70 percent of its workforce. This fact exposes the fatal flaw in the Heritage study—it ignores the economic benefits that low-skilled workers bring. Under progressive taxation, the majority of taxes are paid by the highest income levels, but low-wage workers still form a critical base without which the top earners would suffer and tax revenues would fall.

–-May 8, *The Huffington Post*

Fellow in Technology and Entrepreneurship William Frezza argues that African policy entrepreneurs need to take charge of their own development, rather than seek handouts from developed nations:

Broader initiatives include training programs to help turn small scale agribusinesses into investible enterprises that can attract outside capital and generate real economic growth—the basis for advancement in other areas, including infrastructure and education. This requires the introduction of modern accounting, planning, management, and reporting practices as well as economies of scale.

When I spoke to Self Help Africa's head of U.S. operations to compliment him not just on his programs but on his profit-centric message, he replied "I would like to get to the point where I am not just pitching venture capitalists for their philanthropic dollars. I would love to be pitching them for their investment dollars. Africa is not just a continent of need. It is a continent of opportunity."

–-May 21, *Forbes*

Senior Attorney Hans Bader explains why the Obama administration's attempt to expand the definition of "sexual harassment" is unconstitutional:

The "reasonable person" standard is a cornerstone of sexual-harassment law, set forth in the Supreme Court's 1993 decision in *Harris v. Forklift Systems*, and amplified in its 1999 *Davis v. Monroe County Board of Education* decision, which states that conduct must be "severe, pervasive, and objectively offensive" to constitute illegal sexual harassment in the educational setting.

The Education Department's demand that the University of Montana define harassment as "any unwelcome conduct of a sexual nature," including speech about sexual issues that offends a single hypersensitive member of an audience, defines sexual harassment even more broadly than the harassment codes struck down by the courts on First Amendment grounds in *DeJohn v. Temple University* (2008) and *Saxe v. State College Area School District* (2001).

–-May 24, *The Wall Street Journal*

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...END NOTES

Beer Temperature Regulation Cools Economy

Indiana, like several states in the U.S., still has a number of Prohibition-era laws on the books aimed to inconvenience alcohol consumers. One is Indiana's law forbidding the sale of cold beer in convenience stores. The thinking behind this strange law is that it prevents the instant gratification of purchasing and consuming a beer immediately. Beer drinkers must go home and refrigerate their purchase before drinking. But strangely, Indiana allows the purchase of chilled wine in convenience stores, so any wino can walk into 7-11 and immediately begin guzzling after purchase. An employee of convenience store chain Thorton's spoke to a local television statement and said, "Thorton's has not built a convenience store in Indiana since 2006 for the sole reason of its antiquated alcohol laws." Not only is Indiana's room temperature beer law inconveniencing beer consumers, it's standing in the way of business growth.

Absurdly Litigious America: Bowling Shoe Edition

In New York State, a lawmaker has proposed a bill that would require bowling alley operators to post signs warning bowlers that it is dangerous to go outside wearing bowling shoes. While America is a generally litigious nation, New York is arguably one of the most litigious states. The odd bill is in response to a supposed rise in "bowling for dollars," patrons who fake slip-and-fall accidents to collect damages in court. The trial lawyers are unsurprisingly opposed, but should the government require bowling alleys to post signs warning of slippery shoes? Unfortunately, New York is not alone. In 2009, Illinois enacted a similar law. Which state will be the next to address this looming crisis?

Rep. Markey Wants Democrat Disciplined for Allowing Republican into Home

Jim Regan, a member of the Braintree, Massachusetts, Democratic town committee, is facing a firestorm of criticism from Congressman Ed Markey's Senate campaign for allowing Republican Senate candidate Gabriel Gomez into his home. "I have been getting calls all day, because the story just grew and this has gotten blown out of proportion," Regan told the *Patriot Ledger*. "All put together, it makes me into a bad Democrat and I know I am a good Democrat." The invitation came from Regan's elderly in-laws, registered Democrats who live in an apartment in Regan's house. He claims his mother- and father-in-law merely wanted to hear another point of view. Braintree Democratic Committee Chair Mark Cusak later told Regan that the Markey campaign was apoplectic and wanted to know what disciplinary action Cusak was going to take against Regan.

Loose Spending Sinks Ships

Spain is facing economic ruin. Its economy contracted during all quarters in 2012 and its unemployment rate is approaching 30 percent. This crisis did not deter Spain's defense ministry from spending nearly one-third of its budget to build four of the world's most advanced submarines. The problem: Engineering errors led to the production of submarines that are too heavy to float. Fixing the problem will likely cost hundreds of millions of dollars. The submarine fleet was championed by Spanish politicians because the vessels were to be the first to be entirely designed and produced by Spanish defense suppliers. The Spanish military hired a subsidiary of General Dynamics to evaluate the project, and it appears likely the U.S. defense contractor will be hired to salvage the project—literally—from the ocean floor.