DR. LEE BUTTON

Every four years it is the privilege of American citizens to vote for a presidential candidate. And every four years the importance of this event is given an increasingly higher priority- as if we were now in the routine of electing a King or Queen. But what exactly is the constitutional role of the President? Jefferson said that in questions of power elected officials must be chained to the Constitution. How many links are in this chain and how should we expect a constitutional president to be bound?

The answer to the first part of the question is simple. How many constitutional powers does a President have? Many are surprised to learn that the executive officer of this nation has but six areas of authority.

The President is the Chief of state, the Commander in Chief of the armed forces. (Not commander and chief. President John Quincy Adams said that “[t]he declaration of war is in its nature a legislative act, but the conduct of war is and must be executive.) The President is CEO of the executive branch, the chief foreign diplomat, the architect of necessary legislation and the caretaker of justice through the appointing of judges and issuing of pardons. These are the only things the President is allowed to do. The limitation to his power is defined by the title of the office. It is an executive position. Executive power is tied to the word executive. The president has authority to enforce the law. This understanding leads to three working principles. First, the executive is not entitled to make laws or judge laws. Executive power is not legislative or judicial power. Second, executive power is active, not passive. As one has stated, “the executive does not wait for someone to come and request enforcement: The vast majority of the CTRs are paperwork, and actually undermines law enforcement. The Bank Secrecy Act of 1970 effectively flooded federal agencies with this requirement. The Carin Reserve Act 1999, Mr. Bovard’s article seems ever more relevant especially in light of how bank and credit card processing companies operate today under government regulation. Money laundering appears to be the target of government concern. But, even small organizations like NHCCS is made to bear this pain. Then too, in contrast to the recent Madoff scandal, one is led to question if government regulation, to the extent it may be justified as necessary, sets its line of sight on the most appropriate targets. We speak from experience, having just spent months proving NHCCS’ credentials to an online processing service with whom we have been doing business for five or more years. To force compliance, the online payment service limited access to our account; we could continue to deposit money, but we were prohibited from withdrawing OUR money until we forwarded all of the information the service requested from us. From that nasty experience, it would appear that personal liberty, not to overlook common decency, is all but dead in the United States of America. This blatant trampling of rights by government, is the subject of Mr. Bovard’s article. Truly a concern that would outright amaze our nation’s founding fathers while giving them yet another reason to roll over in their graves.

Mr. Bovard is a bestselling libertarian author of such titles as: Lost Rights: The Destruction of American Liberty. Freedom in Chains: The Rise of the State and the Demise of the Citizen, and Attention Deficit Democracy to name but a few. He is also a familiar lecturer and political commentator on government abuses of power, waste, corruption and other government misdeeds. The Wall Street Journal considers Mr. Bovard as “The roving Customer* banking regulations were defeated by hundreds of thousands of Americans who took to their keyboards. Unfortunately, federal banking regulations continue to be profoundly intrusive - and a threat to the security and reputation of millions of innocent Americans.

The Bank Secrecy Act of 1970 effectively made it a federal crime for banks to keep secret from the government. This law required banks and other financial institutions to submit a Currency Transaction Report (CTR) to the feds for every transaction involving more than $10,000 cash. Many homebuyers have been reported to the IRS as potential money launderers when they go to a closing to buy a home with a cashier’s check more than $10,000.

Between 1987 and 1995, banks and other institutions delivered 62 tons of Currency Transaction Reports to the feds - more than 77 million separate reports. But only 580 people were convicted of money laundering during that period, according to former Fed Governor Lawrence Lindsey. Twelve million Currency Transaction Reports (CTRs) were filed in 1997 alone.

This requirement floods federal agencies with paperwork, and actually undermines law enforcement: The vast majority of the CTRs are never even examined by bureaucrats. This helps explain why the feds failed to notice the suspicious actions of notorious CIA-turncoat Aldrich Ames, who was receiving wire transmissions of more than $50,000 from Switzerland. His local bank notified the government of “suspicious transactions,” but the

James Bovard

Shaking out your banking secrets?

Internet activists, conservatives, libertarians, civil liberties groups, and others denounced federal banking agencies last month. The proposed expansion of the “Know Your

What Would They Say...

"I believe that banking institutions are more dangerous to our liberties than standing armies. If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around the banks will deprive the people of all property until their children wake up homeless on the continent their fathers conquered." —Thomas Jefferson—(1803)
Biographical Sketch: James Iredell ~ An English Born American Patriot

James Iredell, 1750–1799

You will recognize that statement as the Eleventh Amendment to the Constitution. It was ratified February 7, 1795. But the motivation for its passage began two years earlier with a Court ruling that involved a most unforeseen North Carolinian.

James Iredell, unlike most of the Founders described in this column, was not from the United States. He was born in Lewes, England in 1750. Before tension between the two countries grew most severe, in 1767 his father’s business in Bristol began to fail, and 17 year-old James was sent to the colonies. With the help of his mother’s family he secured a job as King George’s comptroller of customs in Edenton, North Carolina.

His new job afforded him several advantages. Primarily it brought him a living wage. But it also allowed him to study law under Samuel Johnston, a future governor and first Senator of the state. And not least of his job benefits, he met Mr. Johnston’s sister, Hannah, who became his wife.

His saturation with colonial life and growing understanding of the rule of law convinced him that the colonies should no longer be under British Parliamentary authority. This did not gain him much acclaim in England, especially since he was employed by the Crown. But he was committed to the cause and in 1774 wrote an essay To The Inhabitants of Great Britain. His study of the law had shown that British courts could not effectively administer colonial justice. Independence was the answer. His eloquence and wisdom won him the approval of the state and he found himself in the middle of the Revolution.

He continued his rebellion in writing with a second more notable treatise called Principles of an American Whig. This work written before 1776 bears unmistakable similarities to the Declaration of Independence. For example, “Prudence, indeed will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotic government, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.” He condemned British abuses like the Stamp Act, severe taxation and the placement of troops in Massachusetts.

After the War for Independence he served his state honorably. He helped write new state statutes and organized the court system. His plan established three Superior Court Judges and once the Court was organized, he of course became one of the first three. One of his special jobs was to review old lawsuits and determine if they were worthy of trial. His past studies and legal knowledge prepared him well for this new occupation.

After a brief time away from public service he was appointed to the position of State Attorney General. Thus he became the statewide prosecuting attorney. By 1791 he had revised most if the state’s laws and they were received in that year as Iredell’s Revision.

As the nation grew and time advanced, the states had all developed two distinct factions; Judge Iredell was firmly established on the Federalist side. When the Convention of 1787 assembled he led the North Carolina charge for the Constitution’s ratification. Encouraging public participation in the debate he succinctly responded to each of Virginia Governor Mason’s eleven reasons to reject it. A Norfolk, Virginia printer was so impressed by his word crafting in that response that he halted the printing of several other political tracts to publish Iredell’s “Principles.” That work preceded more than half of the Federalist Papers and at the time was as well read.

His arguments were honored and in 1788 when the state delegates met in Hillsborough, NC to discuss the new Constitution, he led the movement for its ratification. It was not an easy step. The Anti-Federalists were well organized and the debate was intense. The most serious questions were related to the judiciary and the lack of a religious test for public office. Judge Iredell drew on his experience as an English citizen and defended the exclusion of religion. He knew well the case with which its ‘establishment’ may occur. “Had Congress undertaken to guarantee religious freedom, or any particular species of it, they would have had a pretense to interfere in a subject they have nothing to do with.” Skillfully, he took the lack of a Constitutionally mandated religious litmus test and turned it into a protection of religious freedom. Though the first convention in 1788 failed to ratify the new Constitution, the Judge drew much applause particularly with statements like this one: “I believe the passion for liberty is stronger in America than any other country in the world.”

North Carolina did ratify the Constitution in 1789 with Iredell as the floor general. For his part in the process, President Washington rewarded him, in 1790, with a seat on the Nation’s Highest Tribunal. James Iredell served as the youngest original judge at 38 years old and was an Associate Justice for 10 years. And since, the system was working well in those days, the Court did not hear its first case until 1792. Justice Iredell wrote opinions in only a few hearings, but two have a great historical merit.

Among these is the 1798 case of Calder v. Bull, a controversy regarding the validity of an act passed by the Connecticut Legislature as ex post facto law therefore contrary to Article 1, Section 9, Clause 3 of the Constitution. Iredell’s opinion was an obvious precursor to the idea of judicial review. He believed that actions of a state that violated an obvious provision of the Constitution could be voided. “The principles of natural justice are regulated by no fixed standard: the abler and the purest men have differed upon the subject; and all the court could properly say, in such an event, would be, that the legislature (possessed of an equal right of opinion) had passed an act which, in the opinion of the judges, was inconsistent with the abstract principles of natural justice.” Five years later in Marbury v. Madison this position became fixed; it has been a consistent practice of the court ever since.

The second case of note, Georgia v. Chisholm, was settled earlier in 1795. The controversy here was whether citizens of one state, S. Carolina, could sue the government of another state, Georgia, with Iredell as the lone dissenter. The majority opinion concluded that a state may be sued in federal court without its consent. But, Judge Iredell was confused by this calling it “a construction, I confess, that I never heard of before, nor can I now consider it grounded on any solid foundation . . .” He went further to say: “That the moment a Supreme Court is formed, it is to exercise all the judicial power vested in it by the Constitution, by its own authority, whether the Legislature has prescribed methods of doing so, or not.” My conception of the Constitution is entirely different. I conceive, that all the Courts of the United States must proceed, not merely their organization as to the number of Judges of which they are to consist; but all their authority, as to the manner of their proceeding, from the Legislature only . . . Having a right thus to establish the ‘Common Law’ and it being capable of being established in no other manner, I conceive it necessarily follows, that they are also to direct the manner of its proceeding. Upon this authority, there is, that I know, but one limit; that is, “that they shall not exceed their authority. If they do, I have no hesitation to say, that any act to that effect would be utterly void, because it would be inconsistent with the Constitution, which is a fundamental law paramount to all others, which we are not only bound to consult, but sworn to observe; and, therefore, where there is an interference, being superior in obligation to the other, we must unquestionably obey that in preference.”

Most Americans agreed with James Iredell and passed the 11th Amendment in protest; it guaranteed that the Supreme Court would never go beyond its Constitutional authority again. James Iredell died suddenly on October 20, 1799 at age 48. But the Englishman from Lincolnshire left an eloquent legacy and a respected name, as one of America’s true statesmen.
have some discretion concerning the use of executive power.

It is remarkable that through the centuries and especially since the early 1900’s the office of president has been parlayed into a far superi-
or authority than was originally intended. How has it happened that one who is posi-
tioned simply to carry out the will of Congress has become the major player in American politics?

The President has presumed the role of law-
maker in two ways: executive orders and regu-
latory agencies. If the President is the maker of law and not the legislature how much sim-
pler the process becomes. The voter is led to believe that one elected person is essentially more important than 535. Unfortunately through executive orders and Federal agencies the President has usurped control over the Congress.

According to the National Archives, “executive orders are official documents, numbered consecutively, through which the President of the United States manages the operations of the Federal Government.” That seems to fit into the constitutional framework, except for this major shortfall. Executive or-
ders are only to be implemented in the execu-
tive department. The Constitution does not give the President authority to dictate how Congress or the Courts should rule. Nor does it allow the Executive officer to determine law for the citizen. That is solely the role of the legislature. It should also be added that the idea of “signing orders” is nowhere to be found in the Constitution. This is the impos-
ing of the President’s will when he signs a bill and outlines how he will execute it.

Most Federal Regulatory Agencies are or-
dered by the executive department. If you take any series of letters and arrange them in
some way you will probably arrive at the ini-
tials of one of these offices, notably, the FCC, USDA, DEA, EPA, INS, IRS, etc. The Whitehouse web site lists more than 130. The issue here is not whether such agencies are in the practical realm of the President’s power. Rather, the overstepping of executive constitu-
tional authority occurs when these groups make rules that are applied to the general pub-
lic without Congressional approval. This goes far beyond interpreting the law, the
Court’s responsibility, and finding the law, the legislature’s task. This is clearly the enacting
of law by the executive office and has no Con-
stitutional approval.

Article 2, Section 2 of the Constitution states clearly what the President’s powers are.

What is the President’s role in regard to law? He may request legislation and encourage its progress through Congress. He may sign it into law or veto it. He must enforce it when made. But he may not write law in any form, not through executive order nor regulatory agency.

The President is the Chief spokesman to the people. He is the chief foreign diplomat. He has the power to make treaties as long as two thirds of the Senate approve. He has the power to appoint judges but here again only with the advice and consent of the Senate. He may grant pardons for offenses against the United States. He may execute a war but cannot declare war. There is no ambiguity present. So with careful observation and com-
parison it is possible to determine when Presi-
dents have diligently kept their oath of Office to preserve, protect, and defend the Constitu-
tion of the United States.

We may begin at the beginning. With little hesitation our first 7 presidents receive high marks. That is to be expected since each of them served during the founding years of the nation. Although, John Adams created harms with his Alien and Sedition Acts which clearly violated the right of free speech among other issues.

Andrew Jackson is to be commended for his refusal to re-charter a national bank. But he
effectively declared war on the Cherokee Indi-
ans, violating the treaty between the Cherokee Nation and the United States when he re-
fused to order federal troops out of sovereign Cherokee territory in Georgia, ostensibly to "assist" the Cherokee in their compulsory re-
move from resource-rich land. Jackson’s re-
ful to enforce a Supreme Court’s decision favoring the Cherokee Nation led to the now famous Trail of Tears. Here, the Cherokee were forced to march westward "supervised" by federal soldiers. Four thousand Cherokees died on the march westward. In his own de-
fense, Jackson said: "Each public officer who
makes rules that are applied to the general pub-
lic may be brought before them for judicial deci-
sion."

The constitutional incompetence of other presidents may be illustrated by summarizing a few well known violations. Consider, first of all, the creation of the Department of Educa-
tion. Does the Federal government have any
jurisdiction over education? Hopefully you are shaking your heads from side to side.

Since the government has no constitutional authority here we have, now, a Federal Depart-
ment of Education? Because, President Carter signed rather than vetoed the Department of
Education Act of 1979. That Act reached far into the heart of the unalienable rights of par-
ents. A congressional committee justified the
legislation giving the following reasons: “The Congress declares that the establishment of a Department of Education is in the public in-
terest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively.”

Notice the phrase “promote the general wel-
fare.” Where did they come up with that phraseology? It first appears in the Pream-
ble to the Constitution. But... where does the power of Congress actually begin? Not until Article 1 of the U.S. Constitution. This promotion of the general welfare notion is, most specifically, a part of the people’s plan for govern-
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ment, not the government’s plan for people. A constitutional President will enforce laws that are so clearly be-
(C... Continued from page 1 - Constitutional Presidency)

Author: Thomas Jefferson

"Called upon to undertake the duties of the first executive office of our country, I avail my-
selves of the presence of that portion of my fel-
low-citizens which is here assembled to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, ... I shrink from the contem-
plation, and humble myself before the magni-
tude of the undertaking… To you, then, gentle-
men, who are charged with the sovereign func-
tions of legislation, and to those associated with you, I look with encouragement for that guid-
ance and support which may enable me to steer with safety the vessel in which we are all em-
barked amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unwise to think freely and to speak their minds... But every difference of opinion is not a differ-
ce of principle. We have called by dif-
ferent names brethren of the same principle. We are all Republicans, we are all Federalists. If there be any among you who would wish to dis-
solve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is free to combat it… [emphasis added]

Let us, then, with courage and confidence pur-
sue our own Federal and Republican principles, our attachment to union and representative gov-
ernment. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure

(C... Continued from page 4 - Jefferson—First Inaugural Address)

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banks have been required to file Suspicious Activity Reports (SARs) to the Treasury Department's Financial Crimes Enforcement Network (FinCEN) on any transaction involving $5,000 or more which "has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, excluding the background and possible purpose of the transaction."

The feds now receive almost 100,000 SARs a year. And a federal appeals court ruled in February that banks do not need a "good faith belief" of criminal activity before filing an SAR on someone: The "safe harbor provisions" provided by federal regulators allow defamatory statements by anonymous informants against innocent citizens, thus making the reports an easy way to smear people. What's more, as Greg Nojeim of the American Civil Liberties Union observed, "Congress barred financial institutions from telling their customers that their bank had spied on them by reporting their transactions from telling their customers that their bank transactions be "expedited." A money laundering bill that passed the House by voice vote last fall would have required banking agencies to speed-up authorization of the release of SARs to "any supervised entity and to other persons, without a request for records or testimony." The agency's discretion in passing out titillating tidbits is effectually unlimited. The GAO reported last summer that 13 state agencies have violated federal rules for the use of SAR information they receive, and Money Laundering Alert, a leading newsletter, cited reports that "in two major U.S. cities local police departments have made SAR filings available to private investigators."

The KYC debacle signified the first time congressional Republicans have torpedoed a drug-war-related expansion of government power. GOP indignation is a bit ironic, since 12 Republican senators are co-sponsoring the "Drug-Free Schools Act," which urges Congress to create a rule last November authorizing the release of SARs to "any supervised entity and to other persons, without a request for records or testimony." The agency's discretion in passing out titillating tidbits is effectually unlimited. The GAO reported last summer that 13 state agencies have violated federal rules for the use of SAR information they receive, and Money Laundering Alert, a leading newsletter, cited reports that "in two major U.S. cities local police departments have made SAR filings available to private investigators."

The KYC episode is also a warning to all future regulators of the danger of clear English. If the banking agencies had simply proposed convoluted amendments to existing statutes - and avoided the "Know Your Customer" title - the regulations would have generated far less controversy. Since the New Deal, federal bureaucrats have become masters of subjugation through obfuscation. Levitan has expanded through ink-storm after ink-storm of impermeable Federal Register notices. The more complex the regulations become, the easier it is for bureaucrats to browbeat and bully their victims.

Rep. Ron Paul, Texas Republican, is sponsoring legislation to immediately abolish existing KYC regulations and block any attempt to revive or expand such intrusions in the future. Mr. Paul has 56 co-sponsors, including House Whip Tom DeLay, Texas Republican; the fate of his bill will determine whether Congress is serious about respecting American privacy. The trouncing of the proposed regulations will be a hollow victory unless Congress abolishes the bad laws that already mean a federal thumb in every pie. Permission to reprint Mr. Bovard's article was granted by the Ludwig von Mises Institute. The Ludwig von Mises Institute is the research and educational center of classical liberalism, libertarian political theory, and the Austrian School of economics. Please visit the Mises website at www.mises.org.

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(Continued from page 3 - Banks as Spies)

federal rules for the use of SAR information they already collect. The comptroller of the currency is supposed to regulate and, by extension, help curb the flow of drugs. By 1990, most banks had some system of this type in place, at least on paper. But the regulations proposed last December went far beyond what any bank was already doing - and thus a routine tightening of the screws turned explosive.

The proposed regulations were a logical extension of the growing pressure on banks to become government informants. Since 1996, banks have been required to file Suspicious Activity Reports (SARs) to the Treasury Department's Financial Crimes Enforcement Network (FinCEN) on any transaction involving $5,000 or more which "has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, excluding the background and possible purpose of the transaction."

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(Continued from page 3 - Jefferson - First Inaugural Address)

the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow-countrymen, resulting not from birth, but from our actions and their sense of them; enlightened by a benign religion, professed, indeed, and practiced in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter -- with all these blessings, what more necessary to make us a happy and a prosperous people?

Still one thing more, fellow-citizens -- a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government, and consequently those which ought to shape its Administration.

I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations.

Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people -- a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism; a well-disciplined militia, our best reliance in peace and for the first moments of war till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burthened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information and arraignment of all abuses at the bar of the public reason; freedom of religion; freedom of the press, and freedom of person under the protection of the habeas corpus, and trial by juries impartially selected.

These principles form the bright constella tion which has gone before us and guided our steps through an age of revolution and reformation.

The wisdom of our sages and blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.
yond the jurisdiction of the federal government.

The founders clearly understood this. That is why federal jurisdiction over education was rejected at the Convention in 1787. James Madison supposed that the legislative power of the United States did include power to encourage by “proper premiums and provisions, the advancement of useful knowledge and discoveries.” This, however, was rejected along with the power to establish a university and seminaries for the promotion of literature, the arts and sciences. On each of these points, Congress and the President have subsequently acted contrary to this original intent. National endorsements now exist for arts and literature, as well as a Federal Department of Education.

President Jefferson acknowledged that if the federal government wanted to get into the education business, then the Constitution would have to be amended! Referring to education and the arts in his Sixth Annual Message, he declared: “I suppose an amendment to the Constitution, by consent of the States, to be necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public monies to be applied.” Furthermore, when President Madison recommended a university, Congress concluded: “The erection of a university, upon the enlarged and magnifcent plan which would become the nation, is not within the powers conferred by the Constitution and to which it permits the public monies to be applied.” Moreover, when President Madison recommended a university, Congress concluded: “The erection of a university, upon the enlarged and magnificent plan which would become the nation, is not within the powers conferred by the Constitution and to which it permits the public monies to be applied.”

For, he clearly saw that the people had not extended to any branch of the national government authority or power to make or execute any law related to welfare, social security or health care.

To that end, President Pierce vetoed an act granting land to the states for the benefit of indigent, insane persons. He said: “[t]h is is / my deliberate conviction that a strict adherence to the terms and purposes of the federal compact offers the best, if not the only, security for the preservation of our blessed inheritance of representative liberty.” He also said: “This bill … presents at the threshold the question whether any such act on the part of the Federal Government is warranted and sanctioned by the Constitution, the provisions and principles of which are to be protected and sustained as a first and paramount duty.”

Then referring to the text of the bill: “The question presented, therefore, clearly is upon the constitutionality and propriety of the Federal Government assuming to enter into a novel and vast field of legislation, namely, that of providing for the care and support of those among the people of the United States who by any form of calamity become fit objects of public philanthropy. I readily and, I trust, feelingly acknowledge the duty incumbent on us as men and citizens, and as among the highest and holiest of our duties, to provide for those who, in the mysterious order of Providence, are subject to want and to disease of body or mind; but I cannot find any authority in the Constitution for making the Federal Government the great almoner of public charity throughout the United States. To do so would, in my judgment, be contrary to the letter and spirit of the Constitution and subversive of the whole theory upon which the Union of these States is founded”

President Pierce maintained the standard of the Constitution as supreme. He was not convinced by the rhetoric concerning the general welfare clause. He even spoke of promoting general welfare. “I shall not discuss at length the question of power sometimes claimed for the General Government under the clause of the eighth section of the Constitution, which gives Congress the power ‘to lay and collect taxes, duties, and excises, to pay debts and provide for the common defense and general welfare of the United States,’ because if it has not already been settled upon sound reason and authority it never will be. … It is not a substantive general power to provide for the welfare of the United States, but is a limitation on the grant of power to raise money by taxes, duties, and imports. If it were otherwise, all the rest of the Constitution, consisting of carefully enumerated and cautiously guarded grants of specific powers, would have been useless, if not delusive. …”

President Grover Cleveland also spoke out on the general welfare position. “I can find no warrant for such an appropriation [federal aid to drought-stricken Texas farmers] in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering which is in no manner properly related to the public service or benefit… The friendliness and charity of our countrymen

Answers:
1) 1935. 2) 1913. 3) 1933 under Franklin Roosevelt, Democrat President. 4) Gouvernor Morris—he had a father who arranged the layout of the draft of the Constitution. 5)
The People’s Liberty: A Commentary on the Constitution of the State of New Hampshire  

The Honorable Dan Itse

To that end, the public’s right of access to governmental proceedings and records shall not be unreasonably restricted. June 2, 1784. Amended 1976 by providing right of access to governmental proceedings and records.

Consistent with Article 1, Article 8 shows that from inception the people of New Hampshire always recognized the submission of government to the governed. Sovereignty or independence is the origin of power. Sovereignty is defined as the supreme and independent power or authority in government as claimed by a State or community. A sovereign is a group or body of people or a State having sovereign authority, having supreme rank, power or authority. If all power resides in, originates in, and is derived from the people, and if the people are equally free and independent, then the people are the sovereigns of the State, and therefore, of these United States. That the members of government are the substitutes and agents of the people, embodies the Evangelical principle of servant leadership. The 1976 amendment resulted in N.H. Right to Know laws.

Art. 9. [No Hereditary Office or Place.] No office or place, whatsoever, in government, shall be hereditary - the abilities and integrity requisite in all, not being transmissible to posterity or relations. June 2, 1784.

Article 9 ties directly to Article 2 (that all men are born equally free and independent) and Article 10 (that government is not for the emolument of any man, family, or class of men). It is interesting to note that the Constitutions of the States included this prohibition. This together with the discussions in the Federalist Papers showed many aspects of the Constitution for the United States of America were derived from the Constitutions of the States. It embodies the Evangelical principle of no divine right of kings.

Art. 10. [Right of Revolution. Government being instituted for the common benefit, protection, and security, of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old, or establish a new government. The doctrine of nonresistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind. June 2, 1784.

Article 10 ties back to: Article 1 in both the sovereignty of the people and the purpose of government, Article 2 in the common benefit, and Article 11 prohibiting emolument. It is this Article that prohibits special grants to earn money such as the casino gambling and licensing professions. Article 10 also is the embodiment of the Declaration of Independence; it establishes the obligation to resist tyranny, and is the only direct reference to the outside the Declaration of Independence. Here to, it is noteworthy that the New Hampshire Constitution itself was subject to a Constitutional convention in 1791; it was amended to comply with the Constitution for the United States of America wherein Article 10 was retained, unaltered. Therefore, we can assume that the ratifiers of both Constitutions assumed they retained the right to throw off the Government of the United States of America should it be injurious to their liberty. Moreover, it embodies the evangelical principles of personal sovereignty, responsibility and authority. In addition, one of the most important aspects of Article 10 is that the word ought is a moral imperative; the people have an obligation to throw off tyrannical government, the summation of the preceding Articles. It demonstrates that due subjection in Article 6 is not subjection of the people to government, but of government to the people (Article 8) and of both to God.  

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(Continued from page 6 - Seize the Reins) days to come.

When I finished my ride, the horse stood patiently at the side of the mounting block where he expected me to gracefully climb off. He was an optimistic fellow. I got one foot onto the block and tried to pull my right leg off the saddle. Much to my surprise, it would not move. The hump on the back of the saddle prohibited my leg from joining its partner on more firm ground. Funny, I thought, Roy Rogers never seemed to have problems like this.

Continuing to hop on one foot, it was obvious that the mounting block was not as wide as I would have wished. I was moving farther away from the horse, with my right leg still firmly attached to his back. I looked like some peculiar bouncing biding, hopping on one foot while the other pointed up toward the sky. I glanced at my daughter and grand- son who didn’t seem amused by my plight: “Hurry up and get off or he is going to bolt.” My daughter’s voice indicating she was clueless about my predicament.

With one foot on a three foot high platform and the other wrapped around a beast who had the potential to rip me in two, I pondered my situation. On the one hand, I was in a precarious position. On the other, I was doing hyper extended splits which I had not been able to do since my pre-puberty days. That certainly raised my self-esteem. However, by now the horse was casting an impatient glance at me which inspired me to avoid a potentially painful experience.

Moving to the opposite side of Hollywood, my grandson began to push my leg over. It refused to budge. He lifted it even higher to force it over the hump at the back of the saddle. My hyper extended splits extended even more hyperly. Proudly, I realized I had not been able to touch my leg to my shoulder since the age of 10 when my bones began to fuse into my life would become more miserable as the blood to directly feed the beast astride my back. Taking energy from me, the beast began to increase its size dramatically and I realized my life would become more miserable as the beast continued to gain control of me. My condition was deteriorating rapidly; there was little I could do. Looking around, I saw others in the same dilemma, but they were so busy trying to stay alive that they could not give me any assistance. A government gains dominance over a nation in much the same way, through unchecked growth. When it overpowers the people, its control becomes overwhelming and impossible to combat. We become one with the beast as it sucks our blood to enlarge itself. Our capability to cast it off is gone; our strength sapped, transferred to the beast. It gains complete control over our lives and there is little we can do except allow it to drain all of our blood. It is as George Washington warned: “Government is not reason, it is not eloquence, it is force. Like fire, it is a dangerous servant and a fearful master.” The time to take control of a government is when it is still small, when there is some ability to manage it. But, here in the United States, we have almost reached the point of no return. Our income is being consumed by taxes, and we cannot restrict the amount of blood government depletes from us.

Our only hope is to find a way to throw off the out-of-control beast. In doing this, we must have the audacity to hope that others have not become so enamored with government that they prefer to be completely conquered by it. This has happened to many powerful nations precipitating their collapse. As Lord Tyler warned: “The average age of the world’s greatest civilizations has been 200 years. These nations have progressed through this sequence: from bondage to spiritual faith; from spiritual faith to great- age; from courage to liberty; from liberty to abundance; from abundance to selfishness; from selfishness to complacency; from complacency to apathy; from apathy to dependence; from dependence back again to bondage.”

The sequence is not inevitable unless good men (and women) choose to do nothing to prevent it. America is 232 years old...where would you place her on this chart? I believe we are between “dependence” and “bondage.”

A Frame’s View of the Special Interest: “Some states have lost their liberty by particular incidents: But this calamity is generally owing to the decay of virtue. A people is travelling fast to destruction, when individuals consider their interests as distinct from those of the public. Such notions are fatal to their country, and to themselves...Miserable men! Of whom it is hard to say, whether they ought to be most the objects of pity or contempt; But whose opinions are certainly as detestable as their practices are destructive.”

John Dickinson

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can always be relied upon to relieve their fel-
low-citizens in misfortune...Federal aid in such
cases encroaches on the proprietor's au-
ternal care on the part of the government and
weakens the sturdiness of our national char-
acter, while it prevents the indulgence among our
people of that kindly sentiment and con-
duct which strengthen the bond of a common
brotherhood.”

A proper definition of general welfare was never
out of reach. Yet in 1856, while Bu-
cham was president Congress asserted that
the Constitution’s general welfare clause em-
powered it to establish a Federal Department
of Agriculture for the purpose of collecting
agricultural statistics, promoting agriculture,
and procuring and distributing seeds, cuttings,
and bulbs. The proponents of the Bill claimed
that “the general welfare could in no way be
better advanced or promoted, than by such
means as shall secure the largest amount of
wealth from its original source, the cultiva-
tion of the soil.”

After several years of debate in Congress,
President Lincoln signed, in 1862, the act
to establish a Department of Agriculture.
The language of the new act was consistent with
the general assertions of 1856. The President
acknowledged that while the department was
established for the “immediate benefit of a
large class of our most valuable citizens,” it
should eventually become “the fruitful source
of wealth to all our people.”

Finally, consider foreign policy and the
Constitution. Foreign policy always involves
commerce, treaties and military involvement.
The Constitution establishes that: First, Con-
gress has power to regulate commerce with
foreign nations. Second, the President and the
Senate have power to make treaties. Third,
the President is Commander in Chief, but
Congress controls the actual declaration of
war and has the power of the purse.

The President has never had and still does not
have the authority to engage in foreign war
without a formal declaration from Con-
gress. Yet in 1973 Congress wrote and Rich-
ard Nixon signed into law the War Powers Resolution. The purpose statement of this act
noticeably reveals a deliberate attempt to un-
dermine Constitutional authority:

(a) It is the purpose of this joint resolution to
fulfill the intent of the framers of the Consti-
tution of the United States and insure that
the collective judgment of both the Congress
and the President will apply to the introduc-
tion of United States Armed Forces into hos-
tilities, or into situations where imminent in-
volvement in hostilities is clearly indicated by
the circumstances, and to the continued use of
such forces in hostilities or in such situations.
If Congress had the intent of the framers, how
did they somehow not know it and write it?

(b) Under article I, section 8, of the Consti-
tution, it is specifically provided that the Con-
gress shall have the power to make all laws
necessary and proper for carrying into execu-
tion, not only its own powers but also all other
powers vested by the Constitution in the Gov-
ernment of the United States, or in any depart-
ment or officer thereof. The twisting of
Constitutional language here is deliberate.

(c) The constitutional powers of the Presi-
dent as Commander-in-Chief to introduce
United States Armed Forces into hostilities, or
into situations where imminent involvement in
hostilities is clearly indicated by the circum-
stances, are exercised only pursuant to (1) a
declaration of war, (2) specific statutory au-
thorization, or (3) a national emergency cre-
ated by attack upon the United States, its ter-
ritories or possessions, or its armed forces.
Note take of how the Constitution was
amedoned without the people even being asked.

One treads on dangerous ground when de-
valuing the presidency of Abraham Lincoln.
Yet, in terms of Constitutional interpretation,
his political philosophy was quite liberal:
“The legitimate object of government is to do
for a community of people whatever they need
to have done, but cannot do at all, or cannot
do so well, for themselves, in their separate
and individual capacities.”

Perhaps Mr. Lincoln fully intended to rein-
state Constitutional policy after the War Be-
tween the States; but unfortunately we will
never know for the many unconstitutional acts
he instigated during those Civil War years set
an unfortunate precedent. For example, he
launched a military invasion without the con-
sent of Congress and blockaded Southern
ports; he suspended the writ of habeas corpus
for the duration of his administration and had
his military arrest tens of thousands of North-
ern political opponents using a secret police
force.

On May 18, 1864 Lincoln sent this order to
General John Dix: “You will take possession
by military force, of the printing establish-
ments of the New York World and Journal of
Commerce...and prohibit any further publica-
tion thereof...you are therefore commanded
forthwith to arrest and imprison...the editors,
proprietors and publishers of the aforesaid
newspapers.” Then, the border states were
systematically disarmed, and two “confiscation acts” were written into law wherein any U.S. citizen could have his pri-
ivate property confiscated for such “crimes” as
inflaming party spirit among ourselves.

Cleveland: “I shall to the best of my ability and within my sphere of
duty preserve the Constitution by loyalty pro-
tecting every grant of Federal power it con-
tains, by defending all its restraints when at-
tacked by impatience and restlessness, and by
enforcing its limitations and reservations in
favor of the States and of the people.”

What may we expect in the next four years?
Time will tell; but, judging by the 2008 cam-
paign rhetoric the Constitution is in trouble
again.

Lee is Vice-Chairman of NWCDC. He is also a Distinguished
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