

The Obama Administration's Attack
On Constitutionally Limited Government

Remarks by Jack Painter
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“What is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.” - James Madison

“The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse.” - James Madison

Introduction

Over the next four months, we're going to have a series of talks at our meetings about what's at stake in the Presidential election this November.

We're going to start tonight with the topic of constitutionally limited government.

To a lot of Americans, this idea is a bit of an anachronism. They either are not aware of or reject the statement in the Declaration of Independence that the purpose of government is to secure our rights. Instead, they think the purpose of government is to solve economic and social problems, and they view any discussion about limits on government power as an attempt to stop progress.

President Obama is one of the biggest proponents of this view. But it assumes something that has never been the case and that Madison clearly rejected - the idea that you can give government unchecked power and keep your freedom.

This November, we have a chance to say no to this vision and start the long road back to our founding vision - a vision that preserves personal and economic freedom and the prosperity that comes from it.

The idea of constitutionally limited government

The idea of constitutionally limited government comes from what Madison referred to as our reflections on human nature. Our founding fathers believed all human beings are born free and equal with an inherent right to liberty. The government has only the powers we give it, and we need protections in place to prevent it from exceeding those powers and threatening our liberty. Those protections include both vertical and horizontal limits on government power.

Our Constitution imposes vertical limits by making the powers of the federal government few and defined and including a Bill of Rights that specifies certain things the federal government cannot do.

It establishes horizontal limits by creating three branches of government with checks and balances to prevent the concentration of power in one place.

How the Obama Administration is attacking these ideas

The Obama Administration is attacking both of these ideas.

- They are attacking the idea that the federal government has limited powers by claiming Congress has virtually unlimited powers and by undermining the Bill of Rights.
- They are attacking the checks and balances among the three branches of government by expanding executive power way beyond what was ever intended.

This expansion of government power is transforming our government into something our founding fathers would not recognize. At our founding 225 years ago, we had a system much like a sea of liberty with islands of government power. The Obama Administration has a vision of a sea of government power limited only by islands of individual rights, and they are working every day to make those islands of individual rights smaller.

I believe this is dangerous and poses a threat to our liberty. It also threatens our prosperity because personal and economic freedom is essential to that.

Specific examples

Let me give some specific examples of attacks on constitutionally limited government.

1. **Expansion of federal power.**

a. President Obama's health care reform law

The best example is the Patient Protection and Affordable Care Act, which requires most Americans to purchase health insurance or pay a penalty, starting in 2014.

We could have a sophisticated debate about the constitutionality of this mandate, but one fact remains. When the federal government says it can force you to buy health insurance, it is abandoning the centuries-old legal principle that binding contracts require mutual assent and cannot be coerced.

This crosses a line the federal government has never crossed and effectively tramples on "The powers . . . reserved . . . to the people" under the Tenth Amendment.

It also asserts that the government has the power not just to regulate us once we enter the stream of commerce but to force us to enter the stream of commerce. A government that can do that has virtually unlimited power over our lives.

b. Attacks on the Bill of Rights

At the same time, the Obama Administration is trying to chip away at the Bill of Rights.

The most recent examples involve freedom of speech and freedom of religion.

-- Freedom of speech - All you have to know about free speech is that the federal government doesn't want organizations like Liberty Alliance Cincinnati to be able to endorse candidates for election the way it did last week or say anything positive or negative about any candidate.

That's the position it took in the *Citizens United* case decided by the Supreme Court two years ago.

Fortunately, the Obama Administration lost, but the vote at the Supreme Court was close.

-- Religious liberty - Another example is the recent controversy over mandating that religious institutions provide their employees contraceptives and abortion-inducing drugs.

Our Constitution says, "Congress shall make no law . . . prohibiting the free exercise of religion.

Religious charities, schools, and hospitals engage in this "free exercise" in two ways. One is through good works, which are a way of expressing and acting on their faith. The other is by following the tenets of their faith in conducting their operations.

President Obama is telling these institutions they cannot do both. If they want to express their faith through good works, they must now violate their faith by providing their employees contraceptives and abortion-inducing drugs.

It doesn't matter whether the government forces employers to pay directly for these drugs or forces them to hire insurance companies that provide the drugs for free. Either way, the Obama Administration is eliminating the ability of these institutions to engage fully in the free exercise of religion.

This follows the Administration's recent failed attempt to give the government a say in the hiring and firing of ministers, which the Supreme Court unanimously rejected.

2. Erosion of checks and balances (You can click on underlined language below for more information about each item.)

The Obama Administration is also attacking the checks and balances that prevent federal power from being concentrated in a few hands.

The latest example is the unconstitutional appointments to the new consumer finance bureau and to the National Labor Relations Board. Former Attorney General Ed Meese wrote a column in the *Washington Post* recently to [explain](#) why President Obama's recess appointments are unconstitutional. As he said, "[N]ever before has a president purported to make a recess appointment when the Senate is demonstrably not in recess." "That is a constitutional abuse of a high order."

This follows a long line of similar encroachments on Congressional power, as outlined by the Heritage Foundation at <http://blog.heritage.org/2012/01/10/morning-bell-obamas-arrogant-authoritarianism/>. Here is how Heritage describes it:

- "The Democrat-controlled Senate rejected his cap-and-trade plan, so Obama's Environmental Protection Agency [classified carbon dioxide](#), the compound that sustains vegetative life, as a pollutant so that it could regulate it under the Clean Air Act.
- After Congress defeated his stealth-amnesty immigration proposal, the DREAM Act, the Department of Homeland Security instructed Customs Enforcement officials to adopt enforcement parameters that bring about the same ends as the DREAM Act (<http://blog.heritage.org/2011/07/05/morning-bell-beware-obamas-backdoor-amnesty-dream/>).
- When the woefully misnamed Employee Free Choice Act—explicitly designed to bolster labor unions—dwindling membership rolls—was defeated by Congress, the NLRB [announced a rule](#) that would implement "snap elections" for union representation, limiting employers' abilities to make their case to workers and virtually guaranteeing a higher rate of unionization at the expense of workplace democracy.
- After an innovation-killing Internet regulation proposal failed to make it through Congress, the Federal Communications Commission announced "on Christmas Eve, no less" that it would regulate the Web anyway, despite even a [federal court's ruling](#) that it had no authority to do so.
- In its push for national education standards, the Education Department [decided](#) to tie waivers for the No Child Left Behind law to requirements that states adopt those standards, shutting Congress out of the effort.
- Rather than push Congress to repeal federal laws against marijuana use, the Department of Justice (DOJ) simply [decided](#) it would no longer enforce those laws.
- DOJ made a similar move with respect to the Defense of Marriage Act: rather than seeking legislative recourse, DOJ [announced](#) it would stop enforcing the law."

These actions threaten the checks and balances that are essential to preserving liberty.

What we can do about this

This threat to constitutionally limited government will continue as long as President Obama is in office and Democrats control the Senate, so defeating President Obama and Senator Brown are our top goals.

But let's be realistic ó replacing them won't be enough. Going forward, we have to hold our elected officials accountable. Unless we can give them some spine to do the right thing, things won't change.

Achieving these goals isn't going to be easy, and we can't do it unless people step up, make a commitment and get involved.

It's a lot like the situation the continental army faced at the end of 1776.

As you may recall, the battle of Trenton occurred on December 26, 1776, when Washington and his troops crossed the Delaware by boat at night in the dead of winter and defeated the British at Trenton, New Jersey.

A few days later, on December 31, Washington called a large part of his troops out into formation to speak to them. The way the system worked, all enlistments for the entire army were up on January 1, 1777. Every soldier was free to go home.

Washington appeared before his men on horse and urged them to reenlist. He said that if they would sign up for six more months, he'd give them a bonus of \$10, which was almost a month's pay at the time.

Keep in mind that these were volunteers from every walk of life ó farmers, shop keepers, blacksmiths. These men were cold and hungry, and many of them were sick. In many cases, their families were in financial difficulty. In other words, they were desperate for pay of any kind.

The drums rolled, and Washington asked people who were willing to stay on to step forward.

No one stepped forward.

Washington turned on his horse and started to ride away. Suddenly, he stopped, turned around and returned. He then said the following three sentences to his men. We know this because someone wrote down his exact words.

“My brave fellows, you have done all I asked you to do, and more than could be reasonably expected, but your country is at stake, your wives, your houses, and all that you hold dear. You have worn yourselves out with fatigues and hardships, but we know not how to spare you. If you will consent to stay one month longer,

you will render that service to the cause of liberty, and to your country, which you can probably never do under any other circumstance.ö

Washington was telling his men they were fortunate to have this chance to serve their country. They had a chance to do something others couldn't, and years from then people would be jealous of them. This would be the most valuable service of their lives.

After Washington spoke, the drums rolled again, and men began stepping forward. This was a pivotal moment that saved the cause and eventually led to victory.

We face a pivotal moment again this November, and we need everyone here tonight to answer the call and step forward. Get involved in whatever way works for you.

- You can hand out our new brochure at the polls on March 6 and help recruit new people to our cause.
- Or you can get involved in the get out the vote effort we'll be engaged in between now and November.
- You can also continue to speak out by writing letters to the editor and our political leaders.
- And you can give money to help us with printing, advertising and other expenses.

Ultimately, it's up to us to change the course our country is on and reestablish constitutionally limited government. If we don't do it, no one else will. So I urge you to think about how you can help.

Now is the time to step forward and make a difference!!

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