



# FRIENDS OF THE MIDDLE NEWSLETTER #270 — NOV. 15, 2012

*Welcome to always lively political discussion and whatever else comes up.*  
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## **Conservatives' War on the Constitution**

(posted by Steven W. Baker / SteveB, Nov. 15, 2012)

The cartoon (from 1861) says it all, doesn't it? These radicals are proving to be even stupider than anyone has been willing to give them credit for. So, I want to be among the first, right here and right now, in these very pages, to give the far Right and its media friends credit where credit is due—their gall, arrogance, self-deception, lies, and stupidity are of colossal proportions! Will the Union ever be the same?

"Drudge Goes All In with 'Secession' Meme as the Republican War on the Constitution Escalates" by Joshua Holland, AlterNet

Nov. 14, 2012, (<http://www.alternet.org/drudge-goes-all-secession-meme-republican-war-constitution-escalates>)



(There is no greater oxymoron in America's political discourse than the "Constitutional conservative.")

In the wake of Barack Obama's decisive victory over Mitt Romney, we are again reminded that there is no greater oxymoron in America's political discourse than the "Constitutional conservative." Nobody has less respect for the federalism enshrined in that document than today's Tea Party Right.

Matt Drudge – who dignified himself during the race with endless scare-stories warning that African Americans would launch a race war if Obama won – has fully embraced what he calls the "secession movement" (because a bunch of angry Facebook posts and a petition now qualify as a mass movement).

According to the Daily Caller, "Less than a week after a New Orleans suburbanite petitioned the White House to allow Louisiana to secede from the United States, petitions from seven states have collected enough signatures to trigger a promised review from the Obama administration." The report notes that 69 similar petitions have garnered over 675,000 signatures from all 50 states, prompting a "review" that will no doubt consist of junior White House staffers enjoying a good laugh before placing the petitions in their circular file.

Not to be left out of this little cyber-Civil War, someone offered a competing petition urging the administration to "Strip the Citizenship from Everyone who Signed a Petition to Secede and Exile Them."

Mr. President, please sign an executive order such that each American citizen who signed a petition from any state to secede from the USA shall have their citizenship stripped and be peacefully deported.

It's all fun and games when it comes to the White House's petitions page, but this anti-Constitutional secessionist tendency is playing out in far more serious ways in states with hard-right governors and Republican-controlled legislatures.

The *Milwaukee Journal-Sentinel* reports that in Wisconsin – where Governor Scott Walker appears to have been somewhat chastened by the failed attempt to recall him last year – a group of hard-right law-makers are openly flouting the federal government's authority.

As Gov. Scott Walker contemplates whether to create a state health care exchange under Obamacare, he will have to contend in the coming legislative session with nine lawmakers who have said they back a bill to arrest any federal officials who try to implement the health care law....

...Their stance on the Affordable Care Act, or Obamacare, could cause the most fireworks in the upcoming session. Walker must decide by Friday whether the state will create a health care exchange under the health care law or leave those duties to President Barack Obama's administration.

Rep. Chris Kapenga (R-Delafield) is one of the nine from Wisconsin who told the Campaign for Liberty he would back legislation to declare Obamacare illegal and allow police to arrest federal officials who take steps to implement it in Wisconsin. He said he believes the health care law is unconstitutional, despite the U.S. Supreme Court's ruling that it passes constitutional muster.

"Just because Obama was re-elected does not mean he's above the constitution," Kapenga said.

Kapenga appears to believe he is above the Constitution. Article 3 created the Supreme Court and Section 2 gave the court – and only the court -- the power to litigate disputes between the federal government and the states. Several states sued last year, claiming that Obamacare exceeded the federal government's authority. The Supreme Court considered their arguments and rejected them, ruling that the health-care reforms did pass Constitutional muster. Now we have a group of self-anointed "Constitutional conservatives" thumbing their noses at the court and ignoring the Constitution's Supremacy and Commerce clauses.

A number of Republican governors have talked about "nullifying" the new health-care law, based on a wildly erroneous reading of the 10th Amendment (which reserves powers not given to the federal government for the states). Nullification, like secession, is a concept that we litigated during the Civil War.

Brendan Fischer reports for PR Watch that "several Republican governors -- Rick Scott (FL), Bobby Jindal (LA), Sam Brownback (KS), Rick Perry (TX), Nikki Haley (SC), Nathan Deal (GA), Robert McDonnell (VA) and Jay Nixon (MO) -- announced they would... refuse to implement the state-based health care marketplace 'exchanges' that are key to reducing health care costs and expanding access."

Anticipating this kind of intransigence, the Affordable Care Act has a provision that allows the federal government to set up the exchanges in states that refuse to do it themselves. But Fischer notes that the American Legislative Exchange Council (ALEC) – the right-wing corporate front-group – and the Koch-backed libertarian CATO Institute are pushing an obscure legal theory that they say would render the entire health-care scheme inoperable in states that choose not to enact the exchanges.

The online insurance marketplace exchanges are not only where individuals can shop and compare insurance coverage, but also where low-income individuals can qualify for "premium assistance" tax credits from the federal government to offset the costs. Cato's Michael Cannon and Case Western Reserve University School of Law Professor Jonathan Adler have argued the health care law was drafted in such a way that the tax credits are only available through a state-run exchange, but not a federally run exchange -- and without those subsidies, the law would collapse, since many low-income people could not afford coverage.

Additionally, Cannon and Adler argue, because the tax credits trigger the "employer mandate" requiring all companies that employ more than 59 workers to provide insurance, defaulting to a federally run exchange means businesses would not be subject to tax penalties if they fail to purchase coverage for their workers.

The Cannon and Adler position is at odds with that of the IRS, which has interpreted the law to provide tax credits regardless of whether an exchange is run by the states or the federal government.

The State of Oklahoma is relying on Cannon and Adler's theory in a lawsuit challenging those IRS rules and arguing the tax credits are only available for state-run exchanges. Oklahoma's suit has been described as a way for states to "protect job creators from being subject to large and variable penalties." If Oklahoma were to prevail in its suit -- a prospect many scholars believe is unlikely -- the individual mandate could still be in place, but the subsidies for low-income residents would disappear, leaving many individuals in a precarious situation.

This kind of litigation will likely amount to little more than a waste of tax-payer dollars – the chances of this argument surviving judicial scrutiny are slim. But the Supreme Court did give states the ability to opt out of the health-care law's expansion of Medicaid without facing steep penalties. This is where ideology does real damage to real people, as millions of poor people and low-income retirees in deep Red states are at risk of being denied the health-care available to those living elsewhere in the United States.

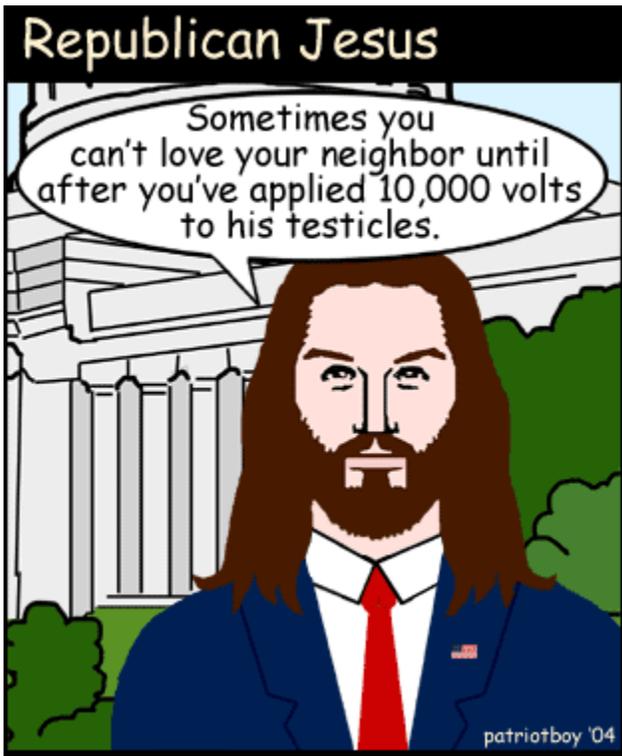
We've litigated these issues in the past. Consider this description of the view of government that prevails on the Right today:

The progressives believe in strong and effective government that would ensure commercial growth and international prestige; the conservatives saw such goals threatening liberty and preferred local control. The conservatives saw a strong national government as a threat to the liberties of Americans, believing its distance from the people and its extended territory only increased the threat. Not surprising, then, was the fact that progressives tended to reside in coastal areas, where commercial growth was high on the agenda.

But that's not a description of today's ideological debates. It's a paragraph from University of North Carolina-Chapel Hill historian John Semonche's monograph on the issues that divided the delegates to the Grand Convention in Philadelphia in 1787. I replaced "Federalists" – who favored the Constitution, with a central government with direct authority over the citizens of the states – with "progressives," and "Anti-Federalists" – who opposed the Constitution – with "conservatives."

As Semonche pointed out, "the opponents of the Constitution were forced on the defensive both in regard to the appellation, Antifederalist, and in regard to the fact that they had no ready alternative to suggest. .. The fact that the Antifederalists lost the battle and the fact that the Constitution quickly became a revered document combined to relegate their cause to the scrap heap of history."

But they didn't go away. They would rear their heads again in 1861, when secessionists prevailed in the South, and they've returned in the early years of the 21st century, personified by those anti-Constitutionalists on the right who claim their fealty to "constitutional government."



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<a href="#">20121114-01</a>	15:53	Ben	Photo: Today's Seafood Lunch at Apple
<a href="#">20121114-02</a>	16:53	SteveB	"Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor"
<a href="#">20121114-03</a>	17:13	Ben	Re: "Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor" (reply to SteveB, above)
<a href="#">20121114-04</a>	18:02	SteveB	Re: "Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor" (reply to Ben, above)
<a href="#">20121114-05</a>	23:57	Marci	Cool Photos #7 (Autumn in the Adirondacks)
<a href="#">20121114-06</a>	23:58	GaryF	Photos: Trust Me, I'm an Engineer... #7 (Quicker Picker-Upper & Safety First!)
<a href="#">20121114-07</a>	23:59	SteveB	Photo: The Tobago Cays (Looking toward Mayreau)

<a href="#">20121114-01</a>	15:53	Ben	Photo: Today's Seafood Lunch at Apple
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The Asia line provided the superb dish below, today. Wish I had more time to talk about it, but -- perfect lightly crusted (I bet on a simple seasoned rice flour dredge, then a quick sear in a hot pan) unbelievably flaky, soft, moist delicate sweet white flesh, a perfect complement to jasmine rice. The red stuff on top I asked about once before; I think it's shaved strands of dried peppers. Veggies included butternut squash, scallions, and eggplant. The eggplant I managed somehow to eat comfortably, paired with other items... from me, this is VERY high praise of eggplant, which I studiously avoid.

A great dish, a classic prep: wonderful lunch!

(This is an iPhone 4s photo. I really DO need a nice camera like this! But, there's no hurry: I can use this one... and it's still true that in electronics, many mass-produced items tend to get better and/or cheaper over time. It's only one example, but the base price on an iPhone is unchanged after over five years, but look how much more you get!)



20121114-02

16:53

SteveB

"Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor"

[Dear FotM members and readers, sorry to have this next to the food! –SteveB]

Remember, years ago, when I invented odor-eating panties and pantyhose and you guys laughed at me? Even though all I ever try to do is make the world a better place for all of us?

Well, laugh no more (though the comments are pretty funny)!

"Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor" by AFP RELAXNEWW, *New York Daily News*

Nov. 13, 2012, (<http://www.nydailynews.com/life-style/health/odor-eliminating-pants-hot-seller-japan-article-1.1201110>)

(The company's range has now expanded to 22 items, including socks that prevent feet from smelling and t-shirts that mask the whiff of sweaty armpits.)



Seiren's DEOEST underwear

Underpants which are claimed to neutralise the smell of flatulence are proving a hit in Japan, whose hard-working businessmen seem to like the idea of breaking wind without getting caught.

A Japanese textile company has developed a range of underwear which it says prevent unwelcome odors.

"It took us a few years to develop the first deodorant pants that are comfortable enough to wear in daily life but efficient in quickly eliminating strong smells," said Nami Yoshida, a spokeswoman for the company, Seiren.

"At first we thought about selling them to those who require nursing care and to hospitals.

"But to our surprise, lots of ordinary people, like businessmen who are in positions that require them to see people on a daily basis, bought them," she said.

The underwear is manufactured with niff-absorbing ceramic particles in the material fibres.

Seiren developed the technology after being contacted by a doctor who wanted something to disguise the regular parps emitted by people suffering from irritable bowel syndrome.

The company's range has now expanded to 22 items, including socks that prevent feet from smelling and t-shirts that mask the whiff of sweaty armpits.

[20121114-03](#) 17:13 Ben Re: "Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor" (reply to SteveB, above)

Um: I think I actually DO remember you saying something about that.

But who's laughing now? Not ME.

[20121114-04](#) 18:02 SteveB Re: "Odor-Eliminating Pants Are Hot Seller in Japan; Undergarments Disguise Smell of Flatulence, Body Odor" (reply to Ben, above)

Well...@@@...good! I should have gone ahead and done the patent. Oh, well! I have many more world-improving inventions and more work than I need.

[20121114-05](#) 23:57 Marci Cool Photos #7 (Autumn in the Adirondacks)



<http://twistedifter.com/2011/11/picture-of-the-day-autumn-in-the-adirondacks/>



This is Egg Reef. World's End Reef is further out (approximately below the point from which where this photo was taken). The Tobago Cays have to be one of my favorite spots on the planet, and the old saying is so completely true...getting there is half the fun!

<http://www.charterworld.com/index.html?sub=The-Tobago-Cays>



—Friends of the Middle,  
Steven W. Baker (SteveB), Editor/Moderator

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