



Independent Inking

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Letter from the President



Thanks to you, we were able to permanently cut Colorado's income tax rate and strengthen our Taxpayer's Bill of Rights (TABOR). Just more dividends from your investment in Independence Institute.

Think about what happened in Colorado on Election Day 2020. Voters went on a leftist rampage. They:

- Trampled Trump by 13 points
- Fired Cory Gardner by 9 points
- Expanded Democratic control in the legislature
- Took Democratic control of the CU Board of Regents for the first time in decades
- Destroyed by 18 points the same late-term abortion ban that is law in nearly every other state
- Gave Colorado's electoral votes to other states with the National Popular Vote
- Created a massive payroll tax for an unsustainable family leave program
- Repealed the Gallagher property tax limits
- Obscenely taxed smokers

And Boulder/Denver voters unleashed freakin' killer wolves into someone else's back yard. All-in-all, it was another banner day for progressives.

But in the midst of that orgy of command-and-control victories, Independence Institute struck back and strengthened the backbone of Colorado's fiscal policy—our flat income tax and our right to consent over tax increases.

The victories of Proposition 116, which lowered our flat income tax rate to 4.55%, and Proposition 117, requiring a public vote for new fees, have massive implications for the direction of the state.

Why is this so important to us? Because Colorado isn't purple anymore, we're hardcore blue. To keep Colorado from completely sliding into California-style madness, we at Independence were critical in building the two policy defenses that progressives have yet to fully destroy: our flat-rate income tax which started in the mid-1980's, and our Taxpayer's Bill of Rights (TABOR), passed in 1992, which requires voter consent to raise taxes or debt.

During the switch from a progressive income tax to our current flat one, Independence Institute's economist, Barry Poulson, calculated that to have a revenue-neutral change, the new flat rate should be 4.5%. So, of course, the legislature set the rate at 5% to give themselves a fine windfall. The more things change, the more they stay the same.

When Bill Owens was governor, he twice reduced the rate to the current 4.63%. And some 20 years later when given their first chance ever, voters passed our Proposition 116 to reduce it again to 4.55%. While at first glance this looks like a mild cut, and it is, its importance is outsized.

The Left targeted Colorado for a massive \$2 billion progressive income tax scheme which would have nearly doubled the top tax rate to close to 9%. And like what we are witnessing in high-tax states like California and New York, businesses would flee Colorado.

Proposition 116 not only blocked their progressive tax initiative from even getting on the ballot, but it sent a huge "Open for Business" sign over Colorado.

Thanks to the Colorado Supreme Court's TABOR loophole, the legislature could legally raise taxes without asking for voter permission by simply calling it a "fee." So along came the FASTER Fee, the Mill Levy Freeze, the Hospital Provider Fee and more, taxing us billions more every year without our consent.

But now with Proposition 117's victory on November 3rd, a big part of the Supreme Court's vandalism of TABOR has been corrected. Going forward, any large "fee" must go to the people for approval.

Here's the big takeaway—in the face of a pro-tax, blue-wave election on the state level, voters wanted more say on tax increases, including when those taxes are disguised as fees, and we doubled down on our flat income tax.

Put differently, while Colorado's tectonic shift to the far left continues, thanks in large part to your support, we were successful in achieving a reaffirmation of our business-friendly tax system as well as a strengthening of TABOR.

And this, at the risk of stealing a Trumpism, is HUGE.

Think Freedom,

A handwritten signature in blue ink, appearing to read "John Collier". The signature is fluid and cursive, written over a light blue circular stamp.

Defund the Police

BY DAVID KOPEL

“Defund the police” is not the slogan of people who sincerely believe that black lives matter. Rather, “defund the police” is the program of communists who want to establish a totalitarian police state. In the last year, they have made much progress towards their goal. As lawful, constitutional policing in the United States is defunded and rendered ineffective, the new rulers of the streets are the communist mobs. They exercise their power by assaulting or murdering political opponents; by extorting, looting, and destroying businesses; and by making it clear to all that the only political assemblies allowed are the ones the communists choose to allow.

Mob violence as the replacement for civil policing was the method of the Red Guards in Maoist China, of the *turbas divinas* in Nicaragua under the Sandinistas, and the *colectivos* in today’s communist Venezuela.

The roots go back to the Weimar Republic in 1920s, to the brownshirts organized by the National Socialist German Workers Party (“Nazi” for short.) The national socialist brownshirts often brawled with German communists, who were international socialists. The Weimar communist mobs, who called themselves *Antifaschistische Aktion*, are ancestors of today’s so-called “Antifa.”

Then as now, there was little practical difference between fascism and communism. The brawls between

the supporters of Stalin and Hitler were mostly about semantics—and about which group would get to run a mass-murdering totalitarian government. Indeed, many Nazi street fighters were recruited from the communist party. Whether as national socialists or international socialists, the mobs spread terror and thrilled in murder and mayhem.

The same is going on in the United States right now.

The leading organization promoting “defund the police” is the Black Lives Matter Global Foundation, Inc. It was founded in 2012 by Patrisse Cullors, Alicia Garza, and Opal Tometi. It has never actually cared about black lives, except as a pretext for the destruction of the American republic and its replacement with communism.

An organization that really did believe that black lives matter might take into account what black people think about their own safety. A Gallup Poll taken in June-July 2020 asked “Would you rather the police spend more time, the same amount of time or less time as they currently spend in your area?” Among blacks, 20% said “more time”; 61% said “same amount of time”; and only 19% said “less time.” Other racial groups had approximately similar answers. Even among the 19% who said “less time,” there were likely many respondents who did not want “no time.”

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But thanks to Black Lives Matter corporation, what minority and other vulnerable communities are getting right now is much less policing. Some police departments have been partly defunded. Many departments are understaffed because of early retirements, as good officers have been driven out by the hate campaign against the police. Most urban departments are far less proactive than they used to be. They may eventually respond to a 911 call, but when they see a gang of young males perhaps casing a store, the police are now more likely to drive on by than to stop and investigate.

The effects are predictable: a sharp increase in homicide rates in urban areas, including Denver and Aurora. The victims are disproportionately poor and black. The national pullback in policing started after the Ferguson, Missouri, riots in 2014; intensified after the 2015 riots in Baltimore; and became a national catastrophe after this summer's anti-police riots.

Black Lives Matter Global Foundation, Inc., purports to oppose systemic racism. But that's a lie. The

Castro-founded military dictatorship in Cuba has long been notorious for its persecution of black people—not to mention the regime's many other crimes against humanity. When Fidel Castro died in 2016, a BLMGF essay extolled him, concluding "Fidel vive."

The communist regime in China has always practiced systemic racism, in decades of genocide against the many non-Chinese ethnic groups trapped in the communist empire, including Uighurs, Tibetans, Mongols, and Hui. The Chinese

Communist Party's genocide against racial minorities didn't stop a BLMGF corporate spinoff, the Black Futures Lab project, from taking funding from a mouthpiece for the Chinese Communist Party—namely the Chinese Progressive Association, a Marxist organization in San Francisco.

The BLMGF corporation has admitted its communist orientation. In a 2015 interview, founder Patrisse Cullors described herself and cofounder Alicia Garza as "trained Marxists." In a 2018 interview, Cullors recounted her year of studying Marx, Lenin, and Mao, under the guidance of the Labor Community Strategy Center, a pro-communist organization. Her mentor

was Eric Mann, formerly a leader in the Weather Underground, an extreme-left terrorist organization of the 1960s and 1970s.

Alicia Garza, according to promotional material from her publisher Penguin Random House, "describes herself as a queer social activist and Marxist." She also describes herself as a great admirer of Joanne Chesimard, who after being convicted of murdering a police officer escaped to Cuba.

The third BLMGF cofounder, Opal Tometi, advocates strongly for Venezuela's communist tyrant Nicolás Maduro. According to her, the Maduro regime's notorious theft of elections is actually "a fair, transparent election system recognized as among the best in the world."

Communism has always sought the destruction of all civil society, of everything that stands between the individual and the communist dictatorship. That includes the family. As Karl Marx wrote in *The Communist Manifesto*, "Abolition of the family!" Or as Black Lives Matter corporation put it, BLM and its "comrades" work to "disrupt the Western-prescribed nuclear family structure..."

Lately, BLM has been trying to scrub its websites and other publicity materials of some of its Marxist rhetoric. As Ronald Reagan observed of communists, "the only morality they recognize is what will further their cause, meaning they reserve unto themselves the right to commit any crime, to lie, to cheat."

So it is no surprise that BLMGF is now trying to hide its communism—now that people are discovering the difference between the slogan "black lives matter" and the communist organization BLMGF.

"Defund the police" is also touted by Angela Davis, a now-aged communist professor who is venerated by BLMGF and other American communists. Yet Davis is a strong supporter of police violence—as long as the police state is run by communists. When East Germany was under the jackboot of a puppet communist regime controlled by the imperialist Soviet Union, Davis was hosted by the regime and sang its praises. On the eve of a trip to the Soviet Union, Prof. Alan Dershowitz asked Davis to put in a good word on behalf of the Jewish prisoners in the Soviet gulag. She replied that the Jews were "fascists" and "Zionists" who deserved to be in prison.

American communists, including BLMGF and Davis, are big supporters of police states, including Cuba,

Communism has always sought the destruction of all civil society, of everything that stands between the individual and the communist dictatorship. That includes the family.

Venezuela, and China. Nobody who studies Marx, Lenin, and Mao as role models could be otherwise.

So today's "defund the police" should be understood as an intermediate measure, from the communist perspective. The more the existing society is destabilized, delegitimized, and demoralized, the easier it is to replace it with a communist dictatorship. As of today, American police officers are a big impediment to the communist dream. The vast decent people who try to keep the peace in a free society—just the opposite of the thugs and bullies who comprise the police in communist regimes.

In the last several years, and especially in 2020, BLMGF has been quite successful in its attacks on the police. While it hasn't gained formal command of municipal police departments, it has a good substitute: politicians like Michael Hancock in Denver, Bill de Blasio in New York City, and Muriel Bowser in Washington, D.C., who ensure that when communist mobs rampage, riot, and loot—and when communists assault noncommunists for exercising the right to assemble—the police response is tepid.

In cities all across the United States, the real police under the rule of law are being displaced by violent mob "police," who rule the streets whenever they choose. A thrifty proposition for taxpayers, since instead of having to pay taxes for police who operate under the rule of law, the mobs—like their Brownshirt and Red Guard predecessors—work for free, their only remuneration being whatever they loot and steal.

Needless to say, BLMGF, Inc., advocates for gun control. All communist regimes are predicated on a monopoly of force, of keeping people helpless against the communist police and military violence. Although many gun control advocates are not personally racist, gun control in America has always been racist, starting with the first gun control law in the American colonies—a 1619 Virginia statute against slaves having arms.

A genuinely anti-racist organization might have a lot to say about how gun control laws past and present have been used against black Americans. An organization that truly opposes slavery would have a lot to criticize about the Chinese Communist Party's slave labor camps in Xinjiang. An organization that truly opposes unjustified police violence wouldn't idolize the worst police states in the world.

For decades, the Independence Institute has been working to improve American policing—not to defund and

destroy it. Back in the 1980s, we opposed the excesses of the so-called "War on Drugs," at a time when few others dared to speak out. We have published hundreds of thousands of words about reforming oft-abused programs like civil asset forfeiture and the proliferation of offensive military equipment in civil policing. Back in February 2020, I testified in the Colorado House Judiciary committee in favor of a bill to allow Coloradans who were victimized by unconstitutional government action to have a remedy in Colorado courts. Although squashed by House leadership, the bill was—with significant improvements—enacted in the special session this summer.

If you're against systemic racism, then you might applaud the decades of work of the Independence Institute's Education Center Director, Pam Benigno. Thanks to her, many disadvantaged students, of all colors, have been liberated from monopoly schools and have thrived at schools of choice.

The Independence Institute is a true social justice organization. Communist organizations are the opposite. If you want civil liberty, the rule of law, public safety, and fairness for people of all colors, then stand with the Independence Institute. And if you would prefer that the United States were much more like Venezuela and Cuba, then support the work of the Black Lives Matter Global Foundation, Inc, starting with "defund the police."



David Kopel is Director of Second Amendment Project and Research Director.

The Independence Institute is a true social justice organization. Communist organizations are the opposite. If you want civil liberty, the rule of law, public safety, and fairness for people of all colors, then stand with the Independence Institute.

The Subtle Ways Your News Gets Biased

BY MIKE KRAUSE

It's widely understood that reporters and editors have ideological leanings that influence their work, and that media operations have built-in biases that influence the news you consume. But how does that play out in actual practice? While there are many ways to bias the news, I'll share a couple examples of one of the more common ways from some local Colorado media: the "fact vs. claim" game.

The first, an October 7 article about Issue 7A, the Colorado River Water Conservation District property tax measure, written by a reporter for the left-leaning, non-profit Aspen Journalism project. The piece was published in the *Vail Daily* newspaper and included the following line. "In an era when climate change is robbing the Colorado River of streamflows and water shortages are becoming increasingly common, 7A supporters say this is the time to come together to fund a common interest." As an aside, the 7A tax hike passed easily in the November 3 election.

See what happened there? The article states as a matter of fact that "climate change is robbing the Colorado River of streamflows," rather than citing it as a claim by some source, or otherwise offering evidence.

It sounds plausible enough though, right? Colorado river flows have dropped over the last half-century, and we are fed a steady enough mainstream media diet of climate

alarmism that it's become hard to imagine it could be anything else. Well, hold the boat.

In a May opinion piece for *Complete Colorado*, former director of the Colorado Department of Natural Resources, Greg Walcher, calls such claims "patently absurd."

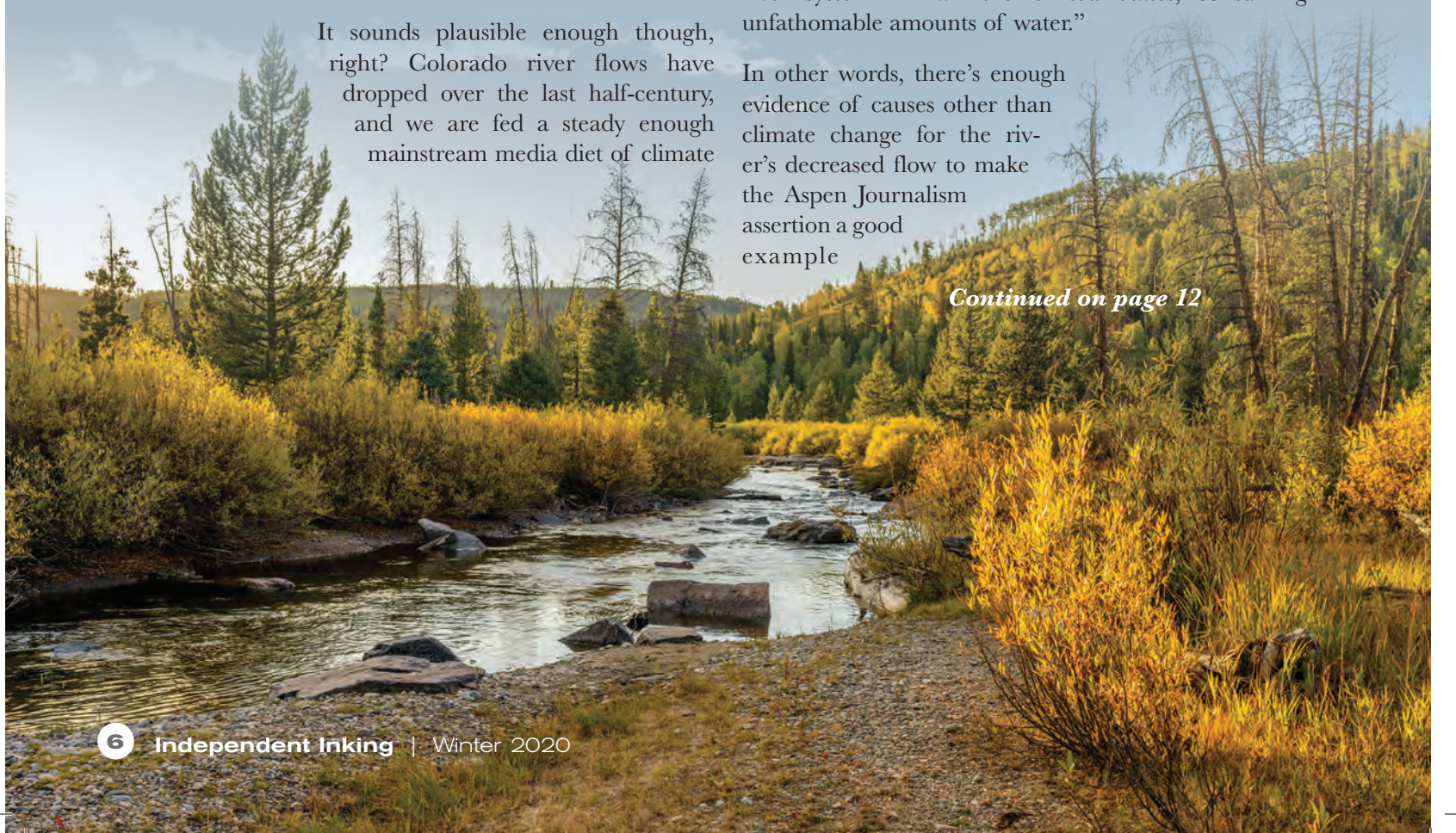
"I am no 'climate denier,'" writes Walcher. "The Earth warmed by roughly 1.6 degrees in the last century and a half. But to attribute a 20 percent drop in the West's largest river to a temperature change that small strains credulity."

Walcher continues that the cause for the drop is two-fold. First is "evapotranspiration," where poor forest management has allowed far too many trees, causing rainwater to evaporate before reaching ground. "The Bureau of Reclamation has estimated that the Colorado River loses almost four million acre feet per year to evapotranspiration – more than the entire "missing" flow," writes Walcher.

Second is the invasive, non-native tamarisk plant, which as Walcher describes, "has spread across virtually every river system in half the United States, consuming unfathomable amounts of water."

In other words, there's enough evidence of causes other than climate change for the river's decreased flow to make the Aspen Journalism assertion a good example

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How Colorado Voters Cut Taxes During a State-Wide Blue Wave

BY BEN MURREY

In an election year where the political Left won nearly every ballot question and contested political race in the state, Colorado voters approved two conservative-backed ballot measures demanding fiscal restraint.

Proposition 116 reduces the state's flat income tax rate from 4.63 percent to 4.55 percent, and Proposition 117 requires the legislature to receive voter approval of large new government fees.

Most outcomes from Colorado's 2020 ballot come as no surprise in a state now largely dominated by the Left. Democrats flipped a seat in the state Senate while losing nothing. The Republican-to-Democrat ratio in the House remained unchanged. Voters rejected a ban on abortion after 22 weeks of gestation. The state agreed to join the "National Popular Vote" compact. Environmental activist groups won on Proposition 114, a measure to introduce gray wolves to the Colorado Rockies. The tax and fiscal issues, however, have left many Colorado policymakers and pundits baffled.

While voters approved a straightforward income tax cut and a check on the creation of large new government fees, they also approved three separate tax increases. The tax cut amounts to about \$160 million annually. When fully implemented, the tax increases will amount to anywhere between \$1.4 and \$1.8 billion annually—if not more. On the surface, the electorate appears to have some kind of split personality disorder, but a closer look explains this apparent contradiction.

Colorado's 2020 Conservative Tax Victories

The 2020 election proved a longstanding trend: Colorado voters support a more conservative fiscal and tax agenda, and a more liberal social policy.

Despite opponents mounting a multi-million dollar campaign—funded primarily by out-of-state donors—to confuse voters, Coloradans remained supportive of conservative tax policy. The tax-cut proposition benefited from very simple ballot language and support from our Democrat governor. The simple and honest message appealed to voters in every corner of the state.

No matter how many negative ads voters heard, the ballot language spoke for itself: "Shall there be a change to the Colorado Revised Statutes reducing the state income tax rate from 4.63% to 4.55%?" While the ballot language necessary for Prop. 117 proved more technical, the message was simple and successful: Should Coloradans have the right to vote on large new government fees? The answer from voters was a resounding "yes" and "yes."

So, if Coloradans maintain such strong support for conservative tax policy, why did they approve three measures that will massively increase taxes?

Colorado's 2020 Tax Increases

Every tax increase was successfully framed primarily as a social issue—the official ballot language and its advocates either obscured or entirely disregarded the tax side at hand.

Proposition 118 creates a new payroll tax, which will generate \$1.2 billion in revenues by fiscal year 2023–24, to pay for a mandatory paid family and medical leave program. It passed easily with 57.3 percent of the vote. This tax may, in fact, need to increase within a couple years to prevent the program from going insolvent.

Amendment B, which passed with 57.4 percent of the vote, eliminates the Gallagher amendment to the

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New Tools in the Pandemic Toolbox: School Choice for Kids Website Expanded

BY PAMELA BENIGNO

Unique to any other project at the Independence Institute, our SchoolChoiceforKids.org website directly serves thousands of Colorado's English-and Spanish-speaking families. The site empowers parents with the knowledge they need to make decisions about their children's education and pertinent to our mission, encourages them to consider options beyond their government-assigned schools.

Resources offered on the site are in even greater demand than ever as parents are desperately trying to determine how to best educate their children in the midst of the pandemic. On August 24 alone, there were 875 parents who visited School Choice for Kids, a notable increase for an individual day. A dive into the analytics showed an especially high number of visitors to our informative homeschooling and online schooling Spanish-language pages. It took only a few minutes to discern why, on that particular day, we had more website traffic than usual. It was back-to-school day for Denver Public School students, but with no in-person option available, only remote learning. Parents were looking for options. In fact, over the past 12 months, School Choice for Kids saw a 76 percent growth in traffic, with the largest gains being since the start of the COVID-19 crisis.

We created the School Choice for Kids website in-house 12 years ago to offer parents a one-stop school shopping website with information about every Colorado public and private school, public school open enrollment, homeschooling, online schools, learning styles, private school scholarships, and numerous different types of education programs.

The trailblazing website was truly a labor of love. A former intern and then-employee, Joe Weaver, often worked into the wee hours of the morning writing the program language that tied schools and their geographic location to a searchable database that included individual school programs/area of focus, websites, grade levels, and more. Similar to other innovative projects from Independence



Institute, the website was the first of its kind in the nation.

Who could predict that 12 years later, in the midst of a global pandemic, our site would be such an important resource for students at risk of falling behind? The “COVID slide” could have long-term and detrimental consequences on students’ educational and career paths, and not surprisingly low-income students show a greater likelihood of significant academic gaps. Our site serves to bridge this gap with options and information in an easy to use format for parents and students alike. And with more parents turning to us for assistance, it was important to us to add relevant “new tools in the toolbox” to help parents educate their children during the COVID-19 pandemic.

We hired a classroom teacher to compile hundreds of grade-leveled activities to help children in grades K-8 negate the academic losses caused by the lack of in-person learning. The new supplemental enrichment activities, found on the website, also assist parents as

they try to juggle work and other commitments with their children’s schooling. Designed to fit seamlessly into a parent’s workday, the organized methods and activities are engaging and stimulating as well as instructional.

There is none more qualified than the Independence Institute to inform parents about learning pods and micro-schools and all the other educational options in the state. A silver lining of this pandemic is that many parents are reengaged with and rethinking their children’s education. Some have learned more about their children’s learning styles or how the values imparted by school curricula conflict with their own values. The increased traffic to our site indicates that more and more parents are taking control of their children’s future, which is a good thing. And we remain as committed as ever to provide resources on which they can rely.



Pamela Benigno is Director of Education Policy.



Supreme Court Curbs the COVID Police

BY ROBERT G. NATELSON

The Supreme Court has protected religious liberty against the COVID police. The case was *Roman Catholic Diocese of Brooklyn v. Cuomo*. The “Cuomo” was New York Governor Andrew Cuomo. Let’s unpack the court’s decision.

The Facts

There were really two cases—one brought by the Diocese and the other by Agudath Israel of America, an orthodox Jewish denomination. I’ll call the Diocese and Agudath Israel the “applicants” because they applied for a preliminary injunction. They sued to stop one of Cuomo’s executive orders addressing the CCP virus.

The order divided New York into red, orange, and yellow zones. Restrictions were most severe in the red zones, least severe in the yellow.

The restrictions included limits on the size of gatherings. The limits for each kind of gathering depended on whether the governor deemed it “essential.”

As Justice Gorsuch observed in his concurring opinion, the border between essential and unessential “perfectly align[ed] with secular convenience.” The governor deemed liquor stores, big box stores, bike shops, and acupuncturists as “essential.” But not churches or synagogues.

A house of worship in a red zone could admit no more than ten people at once, no matter how large and airy the building was. For orthodox Jews this was a huge problem. Jewish law imposes a quorum of ten men for worship. A limit of ten thereby excludes women entirely.

For Catholics it was also a huge problem. Catholics outside church, even if watching remotely, cannot take communion.

But “essential” establishments could admit customers almost without limit.

In orange zones, houses of worship could admit 25 at a time. There were no numerical limits on most other establishments, “essential” or not.

On the other hand, Cuomo’s order treated some gatherings even more harshly than houses of worship: Theaters in red zones were closed entirely, and in orange zones they were limited to ten patrons at a time.

The Remedy

The applicants claimed Cuomo had violated the First Amendment to the Constitution by discriminating against religion. They asked for a preliminary injunction stopping it. To get this, they had to show they would probably win after a full trial. A majority of the Court thought they would, and issued the preliminary injunction.



The Constitutional Background

The First Amendment says, “Congress shall make no law . . . prohibiting the free exercise [of religion]” Properly understood, the Amendment restricts only Congress. One likely reason the Founders did not extend the rule to other federal agencies was that the executive branch needed flexibility to address religion in treaties and the courts would have to apply those treaties. The reason the Founders did not extend the First Amendment to the states was that state religious institutions then varied greatly.

In 1905, the Supreme Court decided *Jacobson v. Massachusetts*. The court upheld a state law mandating smallpox vaccination. The justices ruled that states have broad power over health issues, and that the vaccination law did not violate the Constitution.

During the current pandemic state officials and judges have relied on the *Jacobson* case. But in doing so, they forgot that much has changed since 1905. Throughout the 20th century, activist liberal Supreme Court majorities largely re-wrote constitutional law.

Their revised constitutional law tends to favor the “progressive” agenda and lean against some traditional American values and practices. Today nearly all the justices—including those the media call “conservative”—adhere to the 20th century cases that remodeled the Constitution.

The justices who rewrote constitutional law decided that rights they deemed most important were “fundamental” and deserved extra protection. Among these were rights in the First Amendment. Despite the Amendment’s limiting language, those justices extended it to the states¹ and to all agencies of the federal government. They demoted many other rights as less worthy, and refused to fully enforce them.

Furthermore, much of this new constitutional law was structured to allow justices to manipulate the rules to serve their own political views. That’s why the 20th century Supreme Court could uphold sending innocent Japanese-Americans to concentration camps, while springing vicious criminals on technicalities.

Why This Latest Case Wasn’t a Slam Dunk

You’d think this case should have been a slam dunk for the applicants. But it wasn’t, because the court follows 20th century case precedents and the “rules” laid down by those precedents are easy to manipulate. They state that free exercise of religion is a “fundamental” right

and that government generally may not “discriminate against” religion. But discriminate compared to what? Did Cuomo’s order discriminate against houses of worship because it treated them worse than essential businesses? Or was his order okay because it actually favored houses of worship over other areas of assembly, like theaters?

Moreover, even if you persuade a court that a measure discriminates against religion, the 20th century case precedents say the measure is still valid if (1) it was adopted for a “compelling purpose” and (2) it is “narrowly tailored” (targeted) to that purpose. Whether a purpose is “compelling” is more of a political than a judicial decision. Whether it is “narrowly tailored” sometimes is doubtful.

Now add another ingredient to all that mush: 20th century religion precedents were mostly laid down to protect small or marginal sects rather than mainstream denominations like Catholicism or Judaism. So in ways that only a person indoctrinated by law school can understand, this case could have gone against the applicants.

How the Justices Divided

All the justices concluded that fighting the CCP virus was a compelling purpose. Otherwise, they formed three camps:

Camp #1: A majority of five justices ruled that the order had discriminated against religion. They said it was not “narrowly tailored” because there were less restrictive ways of protecting against the virus. They pointed out that both applicants were following rules of hygiene and social distancing, and that they had never had a CCP virus outbreak.

Camp #2: Justices Breyer and Kagan and Chief Justice Roberts had constitutional doubts about Cuomo’s order. But they dissented because during the litigation the Catholic churches and Jewish synagogues had been reclassified to yellow zones. These justices said the applicants could come back if severe restrictions were re-imposed.

Camp #3: This consisted only of Justice Sotomayor. She agreed with the other dissenters’ technical point. But she added that she didn’t think there was unconstitutional discrimination because houses of worship were more like theaters than like most businesses: they collect groups together for an extended period of time. Cuomo’s order treated religious congregations more favorably, not less favorably, than theaters.

Observe this: No justice applied the Constitution’s actual meaning. If one had, he or she probably would have concluded that the applicants should lose on First Amendment grounds but win on the Fourteenth Amendment’s Equal Protection Clause (“No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”).

Significance of the Case

This case was unusual in that it applied liberal precedent to reach a “conservative” result. It also reminded the COVID police of limits on their power, and that the Constitution survives, even in an emergency.

The most memorable opinion was written by Justice Gorsuch. In joining the majority, he reminded us that

Government is not free to disregard the First Amendment in times of crisis . . . Yet recently, during the COVID pandemic, certain States seem to have ignored these long-settled principles. Today’s case supplies just the latest example. . . . In recent months, certain other Governors have issued similar edicts. At the flick of a pen, they have asserted the right to privilege restaurants, marijuana dispensaries, and casinos over churches, mosques, and temples. . . . In far too many places, for far too long, our first freedom has fallen on deaf ears.

Media Bias cont.

of a baked-in bias presented as truth and allowed into print.

My second example comes from an October 20 Denverite piece by reporters David Sachs and Andrew Kenney which lays out details of the downtown Denver protest killing of Lee Keltner by 9News security guard Matthew Dolloff. The article states early on, “Since late summer, small groups of armed and armored people have occasionally chased each other through downtown Denver in the dark of night, as protesters on the left try to keep the social justice movement from earlier this year alive, and right-leaning groups claim to patrol against vandalism and destruction.”

Catch that? The reporters again tell us as a statement of fact the positive intent of the “protesters on the left,” despite evidence that many left-wing agitators have taken advantage of the George Floyd protest movement as cover for their more run-of-the-mill vandalism and rioting. Conversely, any positive intent from the “right-leaning groups” is not a fact, but merely their own “claim.”

He added, that “Even if the Constitution has taken a holiday during this pandemic, it cannot become a sabbatical.”

¹ The court ruled that the Fourteenth Amendment, adopted in 1868, imposed the First Amendment on the states because the Fourteenth Amendment prohibited states from denying “due process of law.” There is almost no evidence for this position and a lot against it. Many scholars, however, contend that the Fourteenth Amendment imposed the First Amendment on the states because it prohibits the states from abridging “the privileges and immunities of citizens of the United States.” There is more evidence for this, but, I think, not enough to be persuasive. Elsewhere in the Constitution, “privileges” and “immunities” are merely government entitlements.



Robert G. Natelson is Senior Fellow in Constitutional Jurisprudence.

Shocking disclosure: Denverite is an ideologically progressive digital news operation owned by the left-leaning Colorado Public Radio.

In all fairness, had this story been from a right-of-center publication, it could have just as easily been reversed to bias the story in the opposite direction: “...as protesters on the left claim to be keeping alive a social justice movement from earlier in the year, right-leaning patriots work to keep the peace; patrolling to protect the community from vandalism and destruction.” See how that game works?

While bias is present in both articles, they also offer valuable information about timely events. Having a bias isn’t the same as shoddy work. The point is that knowing how to spot the signs of an ideological preference will make you a savvier media consumer, allowing you to digest your news with an appropriate grain of salt.



Mike Krause is Editor-in-Chief of Complete Colorado.

Blue Wave cont.

state constitution—a protection against property tax increases on homeowners that has been in place since the early ‘80s.

And Proposition EE will increase taxes on tobacco, cigarettes, and nicotine, generating about \$170 million in new revenues annually. The measure includes a broad directive that funds be used for public education and programs to discourage youth smoking. Revenues will go into the fungible state general fund where the legislature can easily redirect them for other purposes.

Voters were not sold on these as tax increases and did not vote for them because they were tax increases. Rather, they voted on the social outcomes that these measures promised to deliver. When it came to the tax changes, however, proponents did not tell Coloradans the whole story in clear and honest terms.

Paid Family and Medical Leave

Proposition 118 was on the ballot because the state constitution requires that all new taxes receive voter approval. Yet the ballot language focused more on the creation of a new social program (paid family and medical leave) than the matter of how to pay for it.

The ballot question began with a lengthy discussion of whether Colorado law should require businesses to provide paid family and medical leave to their employees. Buried beneath the description of these shiny new benefits came a brief discussion of “a premium of 0.9% of each employee’s wages.”

Not a penny of the millions raised in support of the measure went to educate voters on the impact it would eventually have on their taxes. The measure was pitched as pure benefit, omitting the taxation aspect.

Notably, over \$8 million of the money raised to support the proposal came from Washington, D.C. Only a small portion of donations came from Colorado. Opponents of the measure raised only \$785 thousand, almost all from Colorado-based donors.

Residential Property Tax

Similarly, proponents of Amendment B sold the measure to voters as a way to fund beloved services.

Because the state legislature referred the measure to the ballot, they also had the privilege of writing the ballot language. It begins, “Without increasing property tax rates . . .” While property tax rates will not go up as an immediate result of the amendment, assessment rates

will. These rates determine how much of a home’s value is taxed; therefore, an assessment rate increase will translate to a property tax increase without an attendant change in tax rates. So the legislature did not exactly lie, but as a British politician once (more or less) put it, was economical with the truth.

The carefully crafted, deceptive ballot language led voters to believe that a “yes” vote would redirect existing funds to “fire protection, police, ambulance, hospital, kindergarten through twelfth grade education, and other services” without raising taxes. It even implied that it would guarantee property taxes don’t go up when it included the line, “and to avoid automatic mill levy increases . . .”, duping taxpayers into a \$490 million property tax increase.

New “Sin” Taxes

Proposition EE promised to backfill revenue shortfalls to public education and then establish free universal preschool. Surprisingly, the ballot language began with an admission that the measure would increase existing taxes on cigarettes and tobacco and create a new tax on nicotine.

The explanation for overwhelming support of an obvious tax hike is simple: Voters will generally approve taxation of a political minority’s perceived vice, especially when they’re told it’s “for the sake of the children.” With a majority of Coloradans not standing to be affected by the policy change themselves, they won easily.

Takeaway

The lesson is this: When the drafters of ballot language mislead voters by burying the tax increase, when millions of dollars come flooding into the state in an effort to deceive voters about what a measure does, and when tax increases are sold only as social policy, Colorado voters will give their approval. But when Coloradans are presented with clear, simple, and honest accounts of what a measure does, they vote with conservatives and libertarians on tax policy. They support TABOR and our flat income tax, and they believe that their legislature should have to ask their permission if they want to increase taxes or government fees.

Coloradans are still fiscal conservatives at heart, and their approval of Propositions 116 and 117 prove that.



Ben Murrey is Director of Fiscal Policy.



My Journey to Activism

BY CAROLYN WOLVIN

Some time back, a friend invited me to the Arapahoe County Republicans breakfast meeting. It was fascinating—a room filled with like-minded people. People who are willing to get involved to make sure that conservatives are elected to our local and state governments. Each month I would listen to the presenters and feel their passion and dedication as they shared their stories about stepping up to make a difference. It made an impact on me.

I found myself wondering, what can I do? How can I get involved? The more I learned, the less comfortable I felt sitting on the sidelines. I decided to start by dipping my toes in the water. My first experience was gathering signatures for a petition. It was easy and didn't take a lot of time. After that, I gathered signatures for a second petition. Again, simple and not a big-time commitment. However, by then the fire had been lit. It was time to look for additional ways to be involved.

The next step on my journey was to set up a meeting with Kathleen Chandler of Independence Institute. Kathleen was the first person I met at the breakfast meeting. She told me a bit about Independence Institute and offered to help when/if I wanted to learn more about how to get involved. At a coffee meeting we discussed where I live, the issues I care about, and my background. The discussion turned to the idea of serving on a board or commission in the town where I live. Kathleen suggested that I look at the city website and read about opportunities to apply for a board position. Kathleen also mentioned that if I knew anyone on the city council, I

should reach out to them. As it turned out, I did know a city council member. I sent an email and that person promptly replied.

During my meeting with the councilperson, we discussed the importance of boards and which of them were best suited for my business experience and expertise. I applied to one board position and was invited to interview with the council and the mayor. The time spent meeting with Kathleen and the councilperson helped me prepare for the interview. As such, during the interview I was relaxed and quietly confident. I left with a strong indication from the council members that I had interviewed well. It was invigorating.

A week later, I received a call from the mayor. He let me know that the city council had appointed me to the Board of Adjustment, where I am now serving a 3-year term!

Fast forward a few months and I've continued to get more involved. For instance, I hosted a meet-and-greet in September for Steve House during his Senate campaign. Now I can proudly say I am no longer on the sidelines. Instead, I am turning my beliefs into action.

I realize it can be intimidating to take the first steps to getting involved, but it is important to stay involved no matter the challenges we are up against. If you're ready to join us, a great place to start is to talk with Kathleen Chandler (kathleen@i2i.org) and Independence Institute.

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We need your help now more than ever...

2020 is nearly (finally!) over but some good can still come of it. Before this bizarre year winds to an end, you still have time to donate to Independence Institute to help with our important mission, while also saving some dough when you file your taxes! As a 501(c)(3) nonprofit organization, your gift is tax-deductible and here at Independence Institute, we are ALL about saving your hard-earned money from going straight into the government's pocket! Please consider helping us restore this state's true values of individualism, free markets, and low taxes. Make your donation today to ensure your 2020 tax return reflects your generosity.

We wish you and your loved ones a very merry Christmas, a happy Chanukkah and a healthy and prosperous new year.



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These live, call-in video podcasts/drinking parties, started as a way to come together during the government-mandated lockdown and have morphed into a fun way to connect with friends new and old, talk politics, and revel in political incorrectness.

We do them about once a month on a Tuesday evening. Guests have included P.J. O'Rourke, George Brauchler, John Fund, Grover Norquist and many others.

Join us via Zoom and jump in with your questions, comments, and perspectives and hear what others, including some II staff, have to say.

If you want to "video in" live and talk with us, you **MUST** be connected via Zoom and you **MUST** have a drink in your hand. You can also view live from Facebook, Youtube and Caucus Room, but you **MUST** have a drink in your hand. If you don't want to join us at all, well then, you're drinking alone and that's just sad.

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