

Will We Commit Economic Suicide by Regulation?

Americans have the amazing inherent ability to shoot themselves in the foot. Just look at the World Trade Center attack. America passed the "Patriot Act" that did more to destroy the Bill of Rights than any other legislation or foreign act could possibly have done. What standing armies could not do, we did to ourselves. Then there was the ENRON & WorldCom cases. The legislation that emerged to make corporate officers responsible was so Draconian, where the United States was the financial capital of the world with a 50% share of all IPOs (new stock offerings) in 2000, we managed to once again shoot ourselves in the foot sending the business to London. Now, the US has lost its standing as the Financial Capital of the World and our share of the global IPO market is less than 5%. All the rest of the world has to do is stand on the sidelines like a vulture waiting for ourselves to gnaw off our own legs.

The debate we will now hear is the blame will be placed upon the Republicans and their deregulation policies that caused the collapse of the world economy. This is simply not true! The problem is over-regulation of small firms and no regulation to speak-of for the big firms. Unless we examine the reality of what took place and consolidate the regulation into a single agency, we will destroy jobs, our economy, and our future. This is not a time for partisan politics. This is a time to rise above the political economic chaff. The Republican Party has self-destructed abandoning its economic conservatives for the religious right. The Republican Party may be a non-entity in the future to be replaced by most likely a new Third Party divorced of the religious agendas. But that we may not see until the next Presidential election. What we must look at is the truth. This is our country we are talking about and the future we leave to our children.

This latest financial collapse caused not by Wall Street, but by the Investment Bankers, could no doubt become the final nail in the coffin destroying American capitalism and whatever is left of the Bill of Rights after the Patriot Act that gave rise to the phrase - "Papers please!" Instead of understanding the real problem, we will no doubt create a new "leverage" czar agency who will have no clue what really to do. This may leave the Securities Exchange Commission ("SEC"), the Commodity Futures Trading Commission ("CFTC"), and the Federal Reserve not to mention the Treasury all with regulatory turf-rights that will destroy the economy. If such regulatory reform comes out of this, all we will do is create a vast new reservoir of jobs for more government workers, perpetuate a host of new jobs for worthless lawyers to interpret the new regulations, and most likely a whole new repertoire of statutes that will get you that tax-free living in jail for life. To enforce it, we will no doubt add an army of former prosecutors masquerading as federal judges that basically click their heels under the bench and say "zig heil" under their breadth before just ruling in favor of the Government no matter what they ask for. What no standing army could have ever done to America, we will do to ourselves.

The economic depression we now face has been in part caused by the regulators SEC & CFTC. We are going to wipe out our economy and send it back to the stone age. Just as our forefathers left the over-regulated European systems of the day for freedom, it may soon become time to return home. The last rational person to leave, don't forget to turn out the lights!

American Tendency to Over-Regulate

Perhaps because America was founded by the Pilgrims (religious fanatics), we are just stuck in this self-flagellation mode of being our worst enemy. We must never forget that the Pilgrims were religious fanatics of their day like the Taliban in Afghanistan. Not only did they revolt against the Pope, they could not even get along with the Protestants that created the Church of England. When Oliver Cromwell (1599-1658) became Lord Protector of England (1653-58), he was about as ruthless as the Taliban. The Puritans made kissing your wife in public a felony. They outlawed all sports because they led to cursing, then outlawed all plays because that was a form of lying, and they even outlawed Christmas dinner because you should be praying.

The Republican Party abandoned its economic conservatives and placated the religious right espousing their ideas only no different than the days of Cromwell. Our founding fathers established the Freedom of Religion in the First Amendment not to mean the freedom of the majority to impose their religion upon the rest of the people. When Mr. Ashcroft was put in charge of the Justice Department, he put a tarp over the bronze statue of Justice because her breasts were bare. If this offends Americans, let me warn you now - don't ever travel to Europe. Ashcroft would have been one of those people in history who destroyed every statute he found because in his mind it was an idol. Isn't that similar to the Taliban blowing up the statues of Buddha carved into the mountain-side?

Like it or not, we seem to be very much stuck with this Puritan tendency of self-flagellation that will destroy our society just as Cromwell did to England. The battle cry will be that this was caused by the deregulation of the Republicans. That is dead wrong. The Investment Banks were not regulated at all and created a market between themselves not to mention the fact that the proliferation of regulations is already destroying American jobs and economic growth. If we move down the road of greater regulation of things that did not cause the debacle, you can literally kiss the future good-bye. Regulators, once set in motion, always seek to expand their own powers until then no longer resemble what their purpose once was. Even the Supreme Court for once called a spade a spade stating bluntly that there was a ill-conceived "hydraulic pressure inherent within each of the branches to exceed the outer limits of its power." Bowsher v Synar, 478 US 714, 727 (1986).

This tendency to over-regulate ourselves that seems to stem from Puritanism of days long since past, can be illustrated even at the local level. In 1985, I had just purchased a new convertible car. They had placed the paper temporary registration on the window. The address I used was always the office so no one would be able to find where I lived personally. So the new plates arrived at the office with the new registration. I put them on the front seat and was headed home where I had a screwdriver. A local police officer pulled me over and asked for the registration. I handed him the new one I had on the seat. He told me to get out of the car, for he was having it towed. I asked why? He said the registration I gave him was for those plates and the plates were not on the car. So I told him to use the one on the windshield since it was still valid. He said it was too late, I had already gave him the new one. I hired a lawyer and spent \$1,000 to fight

Too Many Agencies Destroy the Economy

Thomas Jefferson (1743-1826) was one of the three great minds that established the United States - the other two being James Madison (1751-1836) and the world renown Benjamin Franklin (1706-1790). Jefferson accomplished much including being President of the United States. Yet of all of his accomplishments, he regarded those he recorded for his own epitaph to be most significant.

Here was buried

Thomas Jefferson

Author of the Declaration of American Independence
of Statute of Virginia for religious freedom
and Father of the University of Virginia

Of all the accomplishments of this great man, the first among his deeds he always considered the drafting of the Declaration of Independence. Jefferson shocked many for he declared rights that he viewed as "self-evident" truths. "All men are created equal ... they are endowed by their creator with certain inalienable rights." He also proclaimed that "governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it and to institute new government." These were the words that set this nation into motion. But we must not forget, that government once established, will always seek greater power than it was granted. This is the "hydraulic" pressure of which the Supreme Court once admitted quite candidly. Jefferson established another great evil of government we cannot lose sight of in this dark hour. He listed among the tyrannies of the King:

"He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance."

These are not my words. They are the words of one of the greatest minds in history. If we do not listen to him now, then we will continue down a path that will lead to revolution. Do not think for one minute that as Americans we are above revolutionary violence. Take the ability to earn income away from the people through economic collapse, and you will suddenly see the short-temper of the mob. Both Russia and China collapsed because a communistic state that owns everything, controls everything. That is where over-regulation leads. It is the collapse of money supply and progress taking society back to the dark ages after the fall of Rome.

When capital will not freely invest, the velocity of money collapses and there is no self-interest that creates the economy. There can be no central planning. Governments cannot determine what would be good or bad. The same is true in the corporate world. Just look and you will see that large companies will buy the smaller innovative companies to gain progress. Why? Because the board of directors in major companies want no risk. They have no vision and rarely will further great economic advances. All innovation usually comes from the small firm that has the idea, the courage and conviction to implement it, and thus profit by its development. The big firms, lacking that same entrepreneurship, merely acquire the smaller firms to gain

new technology and market share. Innovation rarely comes from the big corporation and never comes from government. This is why the theories of Karl Marx were wrong both in communism and socialism. Government's self-interest will always be merely to increase its own power. It is this "hydraulic pressure inherent within each of the branches to exceed the outer limits of its power," Bowsher v Synar, 478 US 714, 727 (1986), that is the reality of government. Just like we need checks and balances against the excessive leverage of Investment Bankers, we likewise need the checks and balances against this "hydraulic" pressure within government.

To make sure we do not shoot ourselves in the foot and destroy more of our economy wiping out Wall Street entirely, we must consolidate everything into one coherent agency. We cannot make the same tyrannical mistake of which Jefferson listed among the injuries that justified revolution. We do not need 5 agencies all competing over the same turf and pointing fingers when the next collapse takes place because we failed to do the job right again. We need one agency, not a multitude. Why are there hedge funds and all are offshore? Because they cannot exist onshore for when they obey the CFTC regulations, they will go to jail for life under the SEC regulations. It has been our multiplicity of agencies that has destroyed our financial industry and this competition feeds the Investment Bankers who create their derivative market outside the regulation of both. If you manage money in stocks and know that the stock market will collapse, you cannot use futures to hedge that risk because the CFTC says that makes you a commodity fund subject to their regulation. This was one reason I refused to manage money. The regulations would not allow me to do the job clients expected. Why are there so many different types of funds onshore from junk-bonds, T-bill funds, high risk funds, commodity funds, stock funds and so on? Because you cannot as a fund manager do everything in a single fund because of so many different competing regulations.

London is the new financial capital of the world. If the rest of the world is smart, they will recognize that the regulated markets did not cause this nightmare. It was the unregulated Investment Banks. Correct what is wrong, don't create a multitude of new agencies making it impossible to do anything so everyone leaves. Americans are always their worst enemy. The rest of the world should look closely and learn.