



Written by [Jack Kenny](#) on July 16, 2012

“Multitude of New Offices” Still Threatens Life and Liberty

When this year’s Independence Day rolled around, I decided to drive out to the rural New Hampshire community of New Boston, where the townsfolk celebrate an old-fashioned, all-American Fourth of July with a parade, food, and games all day at the 4-H grounds and fireworks after dark. They started the whole thing with a burrito breakfast in front of the Community Church in the center of town, which surprised me a bit as I expected it would be a pancake breakfast. But even small-town America has gone multicultural on the most thoroughly American of all holidays and in New Boston, Uncle Sam likes burritos. Who knows? Maybe they have a pancake breakfast on Cinco de Mayo.



I also spent a little time that day looking over the [Declaration of Independence](#) and the charges the Continental Congress threw down like a gauntlet at the feet of the British monarch. Some conservatives and libertarians compare the offenses alleged against King George to those committed by our own government, which rings true on some charges, though not on others. Say what you will about Barack Obama, he has not yet “ravaged our coasts, burnt our towns, and destroyed the lives of our people.” But at least one of those charges may be aimed at this, and any one of the last dozen or so, presidents. It is one that resonated with me and with the rest of the crowd when I first heard it quoted at a gathering for the 10th anniversary celebration of the conservative youth group Young Americans for Freedom.

“He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance.”

Wow! we all thought. What an indictment of our modern bureaucratic state. Surely Thomas Jefferson was an early Goldwaterite. Surely this was an indictment of all those “alphabet soup” agencies that have plagued us like a horde of locusts ever since Franklin Roosevelt’s New Deal. It was why most of us who were then old enough to vote voted Republican in opposition to all the sprawling offices and “swarms of officers” harassing our people in Lyndon Johnson’s Great Society.

But by that time a Republican, one Richard M. Nixon, had been in the White House for barely a year and a half and was already making some alphabet soup of his own — the Environmental Protection Agency (EPA), the Endangered Species Act (ESA), and the Occupational Safety and Health Administration (OSHA), to name a few of the bureaucratic creations that arose out of Nixon’s first term. Nixon, in fact, created the EPA by executive order on July 9, 1970, months before Congress passed the legislation for it in what the chief executive apparently regarded as a legislative afterthought.

The Endangered Species Act, a law passed to save various species and subspecies of plants and animals from extinction, has wreaked havoc with property rights, both private and public. Over the years, the stories have piled up: of a farmer stopped from plowing his land because he was disturbing the habitat



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of a kangaroo rat; of engineers forbidden to repair a dam lest they destroy the home of Elderberry long-horned beetles; of a hospital that couldn't be built at the selected location because it would intersect the flight path of the Delhi sands flower-loving fly. Harvesting lumber from the vast forests of the Northwest became an endangered activity when environmentalists insisted on saving the woodlands for the spotted owl.

If all that sounds like ancient history, be advised that federal "swarms of officers" are still "harassing our people" for the sake of the critters. According to a recent report by [Fox News](#),

The list of endangered species has grown from 271 in 1979 to 1,300 in 1999 to 1,410 at last count. Fairy shrimp and wolves are among the protected species. Under the law, the government can control how private property is used if it is home to privileged creatures, and may even require landowners to pay for efforts to preserve the endangered wildlife. Rob Gordon, senior advisor at Heritage Foundation, told Fox News the law to save endangered species has turned out to be a "land-use tool."

"There are some species that are legitimately endangered, but I would argue that what's more endangered is private property," said Gordon. But it turns out, the four-footed, feathered or water-bound creatures are not the only endangered species.

Clint Bolick, a research fellow with the Hoover Institution at Stanford University, [wrote](#) recently of a revealing response given by the Congressional Research Service (CRS) when asked, following the passage of the massive healthcare bill commonly known as ObamaCare, how many new agencies, boards, and commissions were created by the law. The CRS, after studying the bill, came up with an astounding answer: The number is "unknowable." Not just "unknown." Not "We haven't counted them all yet." No, it's "unknowable," as in infinite, inscrutable, beyond all reckoning. At last we have a healthcare plan that, like the peace of God, "passeth all understanding."

But we do know the law creates an Independent Payment Advisory Board (IPAB) that is expected to be the key player in the effort to stem rising healthcare costs. The IPAB, made up of 15 members appointed by the president with Senate confirmation, has been vested by Congress with vast powers to contain Medicare costs. Its decisions are effectively beyond the control of Congress and unreviewable by the courts. What's more, the law stipulates that the board itself may not be done away with. Its creation is not subject to repeal, thereby giving new meaning to Ronald Reagan's oft-quoted remark that a government board or agency represents the closest thing to eternal life this side of heaven.

Specifically, the law prescribes a narrow one-month window — from Jan 1, 2017 to February 1, 2017 — to introduce legislation to abolish the board and any such bill must be passed by August 15 of that year, and only by a three-fifths majority. Theoretically, those requirements for repeal may themselves be repealed, since one session of Congress cannot prevent or restrict the acts of another. "While that is — or should be — true," Bolick concedes, "the problem is that efforts to repeal IPAB outside of the narrow parameters provided by the health-care law can be ruled out of order by congressional parliamentarians. The same is true of congressional efforts to control IPAB's actions."

The Affordable Care Act promises it will not "ration health care, raise revenues or increase Medicare beneficiary cost sharing (including deductibles, co-insurance, and co-payments), or otherwise restrict benefits or modify eligibility requirements." The only options for containing the cost of healthcare for the rapidly growing Medicare population, then, are either by reducing payments to healthcare providers, thereby reducing the number of doctors who will take Medicare patients, or by withholding



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approval of medical procedures deemed too costly, particularly for those nearing the end of life. Or both. That amounts to a rationing of healthcare, whatever the Congress or the president calls it.

What life-saving measures will be denied for being too costly and impractical? In the past that decision has been made by the patient and/or the patient's family and their doctor. It appears now that for many patients it will be made by government boards and agencies in "a multitude of new offices," making life and death decisions. "We're not going to pull the plug on grandma," the president promised when he was selling his healthcare plan to the public.

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