

January 7, 2012

Here is [Mark Steyn's](#) take down of Newt that appeared in the National Review in December.

I was wrong about Newt. Or, as Newt would say, I was fundamentally wrong. Fundamentally and profoundly wrong. I was as adverbially wrong about Newt as it's possible to be. Back in the spring, during an analysis of the presidential field, I was asked by Sean Hannity what I thought of Gingrich. If memory serves, I guffawed. I suggested he was this season's Alan Keyes — a guy running for president to boost his speaking fees but whose candidacy was otherwise irrelevant. I said I liked the cut of this Tim Pawlenty fellow, who promptly self-destructed. There would be a lot of that in the months ahead: Michele Bachmann ODing on Gardasil, Rick Perry floating the trial balloon of his candidacy all year long, only to puncture it with the jaunty swing of his spur ten minutes into the first debate. And when all the other Un-Romney of the Week candidates were gone, there was Newt, the last man standing, smirking, waddling to the debate podium. Unlike the niche candidates, he offers all the faults of his predecessors rolled into one: Like Michele Bachmann, his staffers quit; like Herman Cain, he spent the latter decades of the last century making anonymous women uncomfortable, mainly through being married to them; like Mitt Romney, he was a flip-flopper, being in favor of government mandates on health care before he was against them, and in favor of big-government climate-change "solutions" before he was against them, and in favor of putting giant mirrors in space to light American highways by night before he was agai . . . oh, wait, that one he may still be in favor of. So, if you live in the I-95 corridor, you might want to buy blackout curtains. ...

[Jennifer Rubin](#) rounds out the Newt stuff for today.

It is symptomatic of Newt Gingrich's ego and the distorted view of the world which accompanies it that he is convinced his woes are traceable to ideological enemies who lie and cheat to prevent his wonderfulness from becoming available to the American people. It was Rep. Nancy Pelosi's fault he was brought up on ethics charges. It is the mainstream media that distorts his own words. And it is Mitt Romney who had the temerity to point out Gingrich's own record and embarrass him, which has robbed him of his golden opportunity.

Sound farfetched? Well, if you saw his post-caucus speech, filled with venom, and watched his behavior thereafter you'll come to see, I think, that he is now motivated purely by anger and spite. His ire is directed specifically at Romney (not Rep. Ron Paul (R-Tex.)) for reasons not entirely clear, although the notion of a viable candidate besting him for the nomination is probably too much for him to bear. ...

Speaking of arrogant people, [WSJ OpEd](#) comments on the president's latest stunt. President Obama's appointments of Richard Cordray as head of the new Consumer Financial Protection Bureau, and of three new members of the National Labor Relations Board, are all unconstitutional.

Each of these jobs requires Senate confirmation. The president's ability to fill them without that confirmation, using his constitutional power to "fill up vacancies that may happen during the recess of the Senate," depends upon there actually being a recess. Both the House of Representatives and the Senate are open for business. The new appointees can pocket their

government paychecks, but all their official acts will be void as a matter of law and will likely be struck down by the courts in legal challenges that are certain to come. ...

... The president has done his new appointees and the public no favors. Both the National Labor Relations Board (NLRB) and the Consumer Financial Protection Bureau are regulatory agencies with profound real-world impact. Those individuals and businesses subject to regulations and rulings adopted during the tenure of Mr. Obama's recess appointees can challenge the legality of those measures in the courts, and they will very likely succeed.

*Only two years ago in *New Process Steel v. NLRB*, the Supreme Court undercut hundreds of NLRB decisions by ruling that the board had not lawfully organized itself after the terms of two recess appointee members expired, leaving it without a quorum. Similar issues will arise when both the new financial bureau and the NLRB begin to act with members whose appointments are constitutionally insupportable.*

The fact that the president has apparently triggered the constitutional crisis without really expecting to produce any lasting policy impact, and for no better reason than to bolster his claim of running against a "do-nothing" Congress (the key part of his re-election campaign), makes his behavior all the more reprehensible.

More from [Nile Gardiner](#).

In December Barack Obama vainly declared himself the fourth best president in American history, up there with the likes of Abraham Lincoln and FDR, just three years into his first term. In an interview with 60 Minutes on CBS he observed:

"The issue here is not gonna be a list of accomplishments. As you said yourself, Steve, you know, I would put our legislative and foreign policy accomplishments in our first two years against any president – with the possible exceptions of Johnson, FDR, and Lincoln – just in terms of what we've gotten done in modern history. But, you know, but when it comes to the economy, we've got a lot more work to do. And we're gonna keep on at it."

Perhaps this display of self-importance is not surprising, coming from a president who enthusiastically accepted the Nobel Peace Prize after just a few months in the job, and even campaigned thousands of miles across the Atlantic in Berlin while running for office. This is a leader who thinks nothing of taking a \$4 million, taxpayer-subsidised vacation in Hawaii – nearly 100 times the average annual salary of an American worker, which currently stands at \$41,673.

And upon his return from the sun-swept beaches of the Pacific, the president decided to bypass the elected representatives of the US Congress on Wednesday by unilaterally installing "three members of the National Labor Relations Board as well as a director for the controversial new Consumer Financial Protection Bureau" (Richard Cordray), in a huge sop to the powerful Left-wing labour unions. The move has been condemned on Capitol Hill and described by a prominent legal scholar as "a tyrannical abuse of power".

There is something rotten at the heart of the White House when the President ignores the separation of powers enshrined in the Constitution and rules with impunity. Not only is it an unhealthy power play by executive authority in the freest nation on earth, but it is also a display

of extraordinary contempt for the American people 14 months after the US mid-terms where voters emphatically rejected the president's agenda. Despite his self-proclaimed "shellacking" at the hands of the US electorate, President Obama continues to behave with impunity, in the belief that most Americans are wrong and that he is right. His approach is remarkably lacking in humility and empathy at a time of tremendous public dissatisfaction with the state of the nation.

...

Jennifer Rubin says even the left is troubled by the latest Obama outrage.

... But on the left there is a growing sense of queasiness. Do they really want to set the precedent for President Romney or Santorum? And really, with this ploy why would the president ever submit to the ordinary confirmation process? The left-leaning [Bloomberg View](#) editorial board writes:

"We understand why the president, out of deep frustration, went around Republican senators. .□.□. Nevertheless, our desire to have effective regulation doesn't trump our reservations over the president's unusual methods. .□.□.

We think the president, who is making confrontation with congressional Republicans a major theme of his re-election effort, is choosing politics over principle, and playing dangerously with the Constitution's checks and balances, in choosing to tell the Senate when it is and is not in session."

Tim Noah at the New Republic likewise grasps the lack of legal support for the president's action: *"I'm having trouble understanding how the recess appointment of Cordray can possibly withstand a legal challenge. And I'm really having trouble understanding why Obama didn't take advantage of his constitutional window [January 3], when the Senate was inarguably in recess." Because he wants the fight, not the appointees.*

Obama is playing to the very worst inclinations on the left — the contempt for the strictures of precedent and the Constitution, which act as a check on needless confrontation, government overreach and legal chaos. Obama has made worse decisions in his presidency (putting the Afghanistan war on an election timetable), but he has never made one so destructive of the fabric of the Constitution and the comity that is essential for productive governance.

American.com says we have more ethanol regs to repeal.

Deficit hawks, environmentalists, and food processors are celebrating the expiration of the ethanol tax credit. This corporate handout gave \$0.45 to ethanol producers for every gallon they produced and cost taxpayers \$6 billion in 2011. So why did the powerful corn ethanol lobby let it expire without an apparent fight? The answer lies in legislation known as the Renewable Fuel Standard (RFS), which creates government-guaranteed demand that keeps corn prices high and generates massive farm profits. Removing the tax credit but keeping the RFS is like scraping a little frosting from the ethanol-boondoggle cake.

The RFS mandates that at least 37 percent of the 2011-12 corn crop be converted to ethanol and blended with the gasoline that powers our cars. The ethanol mandate is causing corn demand to outstrip supply by more and more each year, creating a vulnerable market in which

even the slightest production disturbance will have devastating consequences for the world's poor. It is time for the federal government to stop requiring cars to burn food.

Human mouths and motor engines provide the main sources of demand for corn. ...

National Review

The Gingrich Gestalt

You take a dubious record, you take some wacky ideas, you take a narcissistic personality. . .

by Mark Steyn

I was wrong about Newt. Or, as Newt would say, I was fundamentally wrong. *Fundamentally* and *profoundly* wrong. I was as adverbially wrong about Newt as it's possible to be. Back in the spring, during an analysis of the presidential field, I was asked by Sean Hannity what I thought of Gingrich. If memory serves, I guffawed. I suggested he was this season's Alan Keyes — a guy running for president to boost his speaking fees but whose candidacy was otherwise irrelevant. I said I liked the cut of this Tim Pawlenty fellow, who promptly self-destructed. There would be a lot of that in the months ahead: Michele Bachmann ODing on Gardasil, Rick Perry floating the trial balloon of his candidacy all year long, only to puncture it with the jaunty swing of his spur ten minutes into the first debate. And when all the other Un-Romney of the Week candidates were gone, there was Newt, the last man standing, smirking, waddling to the debate podium. Unlike the niche candidates, he offers all the faults of his predecessors rolled into one: Like Michele Bachmann, his staffers quit; like Herman Cain, he spent the latter decades of the last century making anonymous women uncomfortable, mainly through being married to them; like Mitt Romney, he was a flip-flopper, being in favor of government mandates on health care before he was against them, and in favor of big-government climate-change "solutions" before he was against them, and in favor of putting giant mirrors in space to light American highways by night before he was agai . . . oh, wait, that one he may still be in favor of. So, if you live in the I-95 corridor, you might want to buy blackout curtains.

But, when you draw them, Newt's still there, shimmering beguilingly, which is the one adverb I fundamentally never thought I'd be using for this most fundamentally adverbial of candidates. A year ago, we were still talking about Palin and Daniels and Christie and Jindal and Ryan, an embarrassment of riches. Barely a month ago, Cain and 9-9-9 were riding high, an embarrassment of a different kind, and Gingrich was still a single-digit asterisk. But, like Gussie Fink-Nottle, we are all Newt-fanciers now. On the eve of Iowa it seems the Republican base's dream candidate is a Clinton-era retread who proclaims himself a third Roosevelt, with Taft's waistline and twice as many ex-wives as the first 44 presidents combined; a lead zeppelin with more baggage than the *Hindenburg*; a self-help guru crossed with a K Street lobbyist, which means he's helped himself on a scale few of us could dream of. For this the Tea Party spent three years organizing and agitating?

Gingrich's timing is brilliant — if it was planned. And, if it's accidental, it's kind of freaky. You'll recall that two decades ago, in one of his many Post-it notes to himself, Newt wrote: "Gingrich — primary mission. Advocate of civilization. Definer of civilization. Teacher of the rules of

civilization.” I’m not sure I’m quite ready to acknowledge Newt as the “definer of civilization,” but he is certainly the teacher of the new rules of primary season. Consultants, money, endorsements are for schlubs. The daring candidate is out there running on portentous adverbs: In the land of Cain and Perry, the polysyllabic man is king. Iowa is now all that stands between Newt and the nomination. If he wins there, you might expect New Hampshire to protect its brand by voting for the non-Newt. Instead, what’s left of Romney’s softening lead in the Granite State will vanish as legions of nominal “independents” flood the Republican primary to vote for the candidate they figure will be easiest to beat in the general — as happened in 1996, when more than a few of my liberal neighbors figured why waste your vote renominating Clinton when you can cross over, boost Pat Buchanan, and sabotage Bob Dole. From New Hampshire, the race moves to South Carolina and Florida, where Gingrich is already ahead, and thence to a slew of southern primaries, to the vast majority of whose electorate Mitt is a Massachusetts squish and to the rest a demonic cultist. So the fate of the Romney campaign now rests on some other candidate — Ron Paul — figuring out a way to stop Newt in Iowa.

Warned against his tendency to self-glorification, Gingrich reacted to his amazing revival by modestly comparing himself to Reagan, Thatcher, and the founders of Walmart and McDonald’s. He left it to Joe McQuaid, publisher of the *New Hampshire Union Leader*, to produce a comparison more appropriate to a statesman-historian of his stature: Winston Churchill. Like Churchill resigning as first lord of the Admiralty after the debacle of Gallipoli, Gingrich resigned as Speaker after the humiliation of the 1998 midterms. Like Churchill spending years in the political wilderness, Gingrich spent years in the wilderness of K Street. Like Gingrich demanding that Barney Frank and Chris Dodd be sent to jail for political profiteering, Churchill favored summary execution for the Axis leaders. Like Gingrich getting \$1.8 million for services as a “historian” to Freddie Mac, Churchill was on a seven-figure retainer from Goebbels. No, hang on . . . Like Newt on Air Force One, Winston was made to exit King George VI’s Gold State Coach from the rear door. No, that’s not it . . .

Newt, says former New Hampshire governor John H. Sununu, is “inconsistent, erratic, untrustworthy, and unprincipled.” But, up against an untrustworthy, unprincipled opponent of consistently non-erratic soporific caution, that’s more than enough. Mitt Romney flutters no hearts. If you believe, as many Republican voters do, that a second Obama term is an existential threat to the republic, the house-trained torpor of the Romney campaign is an affront. Whether Newt is the antidote to it is a thornier question. The 44th president doesn’t loom especially large on the Gingrich canvas: If Newt were a disaster movie, Obama would be one of those bit players who get swept away in the general avalanche of devastation. As Gingrich laid it out to *Newsweek*, “You take brain science, you take personal and Social Security savings, you take offering the poor the opportunity to work and have a paycheck instead of food stamps, you take Lean Six Sigma” — a management-efficiency doctrine, his latest fascination — “and suddenly you have a Gestalt that is in many ways conservative, but in many ways very moderate.”

“You have a Gestalt”? Would Rick Perry have a Gestalt? Or Herman Cain? Romney might, but the consultants would have advised against mentioning it after it tested badly with the focus group. Bush was never in danger of having a Gestalt, nor Dole. And, with Newt’s Gestalt, brain science and Social Security savings accounts are only the beginning! You take the repeal of Obamacare, you take a 12.5 percent corporate-tax rate, you take community illegal-immigrant-legalization boards, you take airborne lasers and fire them at North Korea, you take the oceans and pump nitrogen into them to end global warming, you take *Men Are from Mars, Women Are from Venus* and apply it as a business model to the Congressional Budget Office, you take

Deepak Chopra on deep-pan pizza, and suddenly you have a candidate who knows the difference between Gestalt and Gstaad in a way that is kind of conservative but also very . . .

Whoa, hold up there. What exactly is so conservative about the Newt Gestalt? When Romney dared him to return his Freddie Mac windfall, Gingrich responded by demanding that Mitt “give back all of the money he’s earned from bankrupting companies and laying off employees over his years at Bain.” That’s a cute line if you’re a 32-year-old Transgender and Colonialism major trying to warm up the drum circle at Occupy Wall Street, but it’s very odd coming from the supposedly more-conservative candidate on the final stretch of a Republican primary. When Romney attacked Perry’s views on Social Security by accusing him of wanting to shove Granny off a cliff, he was recycling the most shopworn Democratic talking point. Newt effortlessly trumps that by recycling the laziest anti-globalist anarchist talking point. At Freddie Mac, Newt was peddling influence to a quasi-governmental entity. At Bain Capital, Mitt Romney was risking private equity in private business enterprise. What sort of “conservative” would conflate the two?

With his numbers sinking, Mitt was driven to go negative. Asked where his policies differed from Gingrich’s, Romney cut to the chase: “We could start with his idea to have a lunar colony that would mine minerals from the moon.” You can’t tell the players without a scorecard, folks. Both leading conservative candidates have supported government mandates on health care. Both leading conservative candidates have supported massive expansion of entitlements. But they differ on the critical issue of whether we should use large numbers of welfare claimants to mine unpasteurized green cheese from the dark side of the moon. To be fair to Gingrich, he’s generally sounder on economic issues than Romney: Mitt’s reforms would leave us with a corporate-tax rate twice as high as Newt’s, and, in contrast to the Gingrich abolition of taxes on capital gains, Romney is proposing to end them only for those making under \$200,000 because it would be wrong to “spend our precious tax dollars for a tax cut.” When “conservatives” think tax cuts are government “spending,” who needs Nancy Pelosi and Barney Frank?

I have little fear that a Gingrich administration will be spending money on lunar mining or giant space mirrors or genetically modifying plant life around the planet to suck all the carbon out. But I rather doubt we’ll get the 12.5 percent corporate-tax rate and the abolition of the tax on capital gains, either. Newt is said to be “unpredictable.” This is true in the narrow sense that one would not have predicted that a social faux pas in placement on state transportation to the Yitzhak Rabin funeral would lead him to shut down the federal government. But, aside from such offenses to his amour-propre, Newt is actually extremely predictable. The surest way to bet is that the big-government stuff will happen and the rest won’t. It was Newt who gave us S-CHIP, the biggest expansion of Medicaid since the program was created. On the other hand, when it came to holding the line on “tax credits” for people who don’t pay any taxes, Gingrich looked into Clinton’s eyes and melted. Newt defends his big-government inclinations by placing them in an historical context of a muscular activist Washington, citing, for example, the Homestead Act of 1862. As it happens, I would be in favor of a new Homestead Act. Government owns far too much land, greater than the sovereign territory of many other major nations, and that fact alone supports the self-indulgent delusion that America can chug along as the Sierra Club writ large, a giant wildlife preserve that no longer needs to be in any business so vulgar as energy extraction, all of which can be outsourced (if you’re Obama) to Latin America or (if you’re Gingrich) to the moon. A small-government conservative might conclude that America would benefit from the equivalent of Mrs. Thatcher’s decision in 1979 to sell off public housing to its tenants: It’s not an especially big thing, but it’s a way of communicating your understanding of the relationship between the citizen and the state. In that sense, few of Gingrich’s proposals bear comparison with the Homestead Act: Instead of enabling Americans to take risks and push the frontiers, they

incline mostly to the expansion of bureaucracy and an increase in dependency. As a result of Gingrich's "reforms," four out of ten American children are on Medicaid.

Presumably this is what he meant when he told *Newsweek* that his Gestalt is "in many ways conservative, in many ways very moderate." I'd prefer to formulate it this way: Gingrich is a pushover for progressivism who's succeeded in passing himself off as a hard-line right-wing bastard. Which is why Democrats who make the mistake of believing their own talking points on Newt invariably have to improvise hastily. In 2007 John Kerry found himself booked for a debate with Gingrich on climate change and had his speechwriters prepare some boilerplate about Newt's "marching in lockstep with the climate-change deniers." Unfortunately for him, the former Speaker spoke first and announced that man-made global warming was a real threat that we needed to address "very actively." He praised as "a very interesting read" Kerry's unreadable book on the subject, and for good measure added that he was "very worried about polar bears" because "my name 'Newt' actually comes from the Danish 'Knut,' and there's been a major crisis in Germany over a polar bear named 'Knut.'" Kerry abandoned his prescribed attack on Gingrich, hailed his candor, and put his arm around him. Lest the paying customers feel cheated by the bipartisan love-in, the senator attempted to put a bit of clear blue water between him and the ruthless right-wing bastard by raising the possibility that perhaps Gingrich did not share his enthusiasm for cap-and-trade. Newt said he was willing to be persuaded. "I am going to sell a few more books for you, John," he declared.

I'm not saying that the presidential debates will end with Gingrich offering to pen a new foreword to *Dreams from My Father*, only that anyone banking on Newt to clobber Obama is flying on blind faith.

By the way, "Knut" is not the name just of a German polar bear, but also of the Danish and English king better known to us as "Canute" — the fellow who, at what is now Westminster, took his throne to the shore and commanded the incoming tide not to wet his feet. It declined to obey, as Canute knew it would: He staged the performance in order to teach his courtiers a lesson in the limits of kingly power. No such intimations of human limitation afflict the new Knut. Few politicians are more incisive at identifying the absurdities of America's bloated, sclerotic leviathan — as he pointed out recently, the headquarters of the U.S. military's Africa Command is in Stuttgart, which even Herman Cain might recognize as barely qualifying as the general ballpark. But no other candidate on the right shares the boundless confidence that Leviathan will work just swell if only Knut the Great is there to command it. For Republicans, this is not someone who is both "very conservative" and "very moderate," but someone who is potentially the worst of all worlds: a man who embraces big-government solutions to health care, climate change, and all the rest, but who gets damned as a mean-spirited vindictive right-wing hater — the Gingrich who stole Christmas, to revive *Newsweek's* 1994 cover story.

And, as predictably unpredictable as Gingrich is, there remains the drearier routine of his post-Speaker career. When Churchill was forced from the Admiralty in 1915, he went on to serve with the Sixth Battalion, the Royal Scots Fusiliers on the Western Front. By contrast, when he was forced from the speakership, Newt stayed in Washington working his Rolodex. These are different times, but even so the Freddie Mac business is not a small thing. Perhaps the single most repellent feature of the political class that has served America so disastrously in recent decades is its shameless venality in parlaying "public service" into a guarantee of an eternal snout at the trough. Newt writes bestselling books about government, produces DVDs about government, sets up websites about government, but he is as foreign to genuine private-sector wealth creation as any life politician. Indeed, his endurance in Washington represents one of the

worst aspects of contemporary “public service” — that a life in politics no longer depends on anything so whimsical as the votes of the people.

So what does that leave? Tonally, his confident swagger is more appealing to the Republican base than Romney’s unctuous aw-shucks wholesomeness — just as John McCain’s maverickiness was more appealing than Romney last time around. And we know how that worked out for the GOP. The Dems are confident that this is a gift from the heavens: The Stupid Party is stupid enough to put up a scowly, jowly fat guy whose name is a byword for everything from the Nineties Mr. and Mrs. Moderate don’t want to revive.

But Newt wouldn’t be where he is right now if the conventional wisdom were all that wise. It’s easy to dismiss the futurological mumbo-jumbo of his accumulated brainstorm — “the Triangle of American Progress,” “the Four Great Truths,” “the Five Pillars of American Civilization,” “the Five Pillars of the 21st Century,” “the Nine Zones of Creativity,” “the Fourteen Steps to Renewing American Civilization” — except that right now he’s heading for the nomination and Paul Ryan and Mitch Daniels aren’t. The Nine Zones and Fourteen Steps have been distilled to the One Singular Sensation: Newt *lui-meme*. The SAS, the British special forces, have a motto: “Who dares wins.” Unlike Mitt, Newt dares — and he may yet win. As the old Dem bumper stickers used to say, “Newt Happens.”

Right Turn

Gingrich is out for revenge

by Jennifer Rubin

It is symptomatic of Newt Gingrich’s ego and the distorted view of the world which accompanies it that he is convinced his woes are traceable to ideological enemies who lie and cheat to prevent his wonderfulness from becoming available to the American people. It was Rep. Nancy Pelosi’s fault he was brought up on ethics charges. It is the mainstream media that distorts his own words. And it is Mitt Romney who had the temerity to point out Gingrich’s own record and embarrass him, which has robbed him of his golden opportunity.

Sound farfetched? Well, if you saw his post-caucus speech, filled with venom, and watched his behavior thereafter you’ll come to see, I think, that he is now motivated purely by anger and spite. His ire is directed specifically at Romney (not Rep. Ron Paul (R-Tex.)) for reasons not entirely clear, although the notion of a *viable* candidate besting him for the nomination is probably too much for him to bear.

Consider his [angry man routine](#) in Iowa:

I’ve frankly not seen a more self-destructive and mean spirited speech. Howard Dean’s yell was weird, but not malicious. A [PR specialist](#) described his performance this way:

If there’s one word to describe how Gingrich came across tonight, it’s this: pissed. He emanated anger, directed at Romney, for the negative ads run against his campaign. He went so far as to suggest that the negative ads against him were not worthy of the sacrifices of American men and women in combat. He then proceeded to unequivocally slam Mitt Romney’s leadership as the governor of Massachusetts. Americans do not elect angry candidates. Just ask Pat

Buchanan or Howard Dean. If Gingrich can't get a grip on his temper and radiate some optimism again, he's going to implode before he ever makes it to South Carolina.

But I suspect it doesn't matter to Gingrich whether he wins or not. He's lost control. How else to explain his inability to even observe common courtesy? [Politico](#) noted that, after a speech in which he "seethed" at Romney, his anger did not cool :

Newt Gingrich still won't congratulate Mitt Romney for winning the Iowa caucuses. At a news conference in Concord, N.H., Gingrich was asked by CBS correspondent Dean Reynolds why he congratulated Rick Santorum but not Romney. Gingrich stared at the reporter and raised his eyebrows in silence, eventually drawing laughter from some of the reporters. "Because I know you would be a man of great professionalism, I know that's a rhetorical question. And a good one," Gingrich said.

This is not the behavior of a man aiming to win. It's someone who has nothing to lose and who is willing to tear down the building around his own head to make his point.

There are two unintended consequences of this campaign-turned-public temper-tantrum. First, he's doing the dirty work for Rick Santorum and Gov. Rick Perry, who can send Gingrich off as their errand boy to rough up Romney. They can sit back and pick up the support that Gingrich dislodges. Gingrich is now too scary for most voters, but the other two can reap the benefits of a Gingrich meltdown.

But more to the point, Gingrich's behavior, his mere presence in the race in South Carolina, will likely ensure a Romney win. Romney knows Gingrich is unhinged and will meet Gingrich fury with calm resolve, making Romney look all the more presidential. That will also take time and attention away from more credible attacks on the issues. Moreover, so long as Gingrich is drawing 10-15 percent of the vote, he's making it impossible for the only real candidate with a shot, Rick Santorum, to consolidate the not-Romney base.

It is useless to appeal to Gingrich rationally, for he is acting out of rage. It is possible, however, for the people of New Hampshire to short-circuit a faux campaign which is nothing more than a stunt that inevitably damages the party. They can put him in last place in New Hampshire. That would potentially cut him out of the CNN debate and make clear that any Gingrich votes from thereon out would be wasted. Heck, the Union Leader could even redeem itself by appraising the situation and selecting a different candidate to endorse, one who is not putting his personal satisfaction above the conservative movement and the party.

WSJ

Obama's Reckless Recess Ploy

No president has resorted to recess appointments when Congress is in session. Expect serious legal challenges to new financial regulations.

by David B. Rivkin, Jr. and Lee A. Casey

President Obama's appointments of Richard Cordray as head of the new Consumer Financial Protection Bureau, and of three new members of the National Labor Relations Board, are all unconstitutional.

Each of these jobs requires Senate confirmation. The president's ability to fill them without that confirmation, using his constitutional power to "fill up vacancies that may happen during the recess of the Senate," depends upon there actually being a recess. Both the House of Representatives and the Senate are open for business. The new appointees can pocket their government paychecks, but all their official acts will be void as a matter of law and will likely be struck down by the courts in legal challenges that are certain to come.

The Constitution's Framers assumed that Congress would convene only part of each year, and that there would be long stretches during which the Senate would be unavailable to play its critical "advice and consent" role in the appointment of federal officials. Their solution was to allow the president to make temporary, "recess" appointments permitting the individuals chosen to serve for up to two years, until the end of Congress's next session. This, it was thought, would give the Senate time to act upon actual nominees for the offices once it reconvened without leaving these—perhaps critical—posts vacant for many months.

Presidents have used this authority with alacrity, especially in recent times, as a means of putting a favored nominee on the job even in the face of significant Senate opposition. Historically, the president's lawyers have advised that this is a constitutionally permissible exercise of his recess-appointment power, so long as the Senate is actually in recess.

The Constitution does not define a "recess," but in view of the original purpose of the recess-appointment power, a senatorial absence of more than a few days has been considered a necessary prerequisite. This is particularly the case because the Constitution also provides (in Article 1, section 5, clause 4) that neither house of Congress can "adjourn for more than three days" without the other's consent—thus ensuring that the flow of legislative work cannot be unilaterally interrupted. The Senate can hardly be in recess in the absence of such an agreement—and there is none now.

In more recent years, and especially during President George W. Bush's administration, the Senate has attempted to limit recess appointments even further by remaining "in session" on a pro forma basis. Whether such sessions are inherently sufficient to defeat a presidential recess appointment is debatable. However, in circumstances where the Senate is not merely in session as a theoretical matter, but is actually conducting business—albeit on the basis of agreements that measures can and will be adopted by "unanimous consent" without an actual vote—there can be no question that it is not in recess.

That is the situation today. The traditional test, as articulated in a 1989 published opinion by the Justice Department's own constitutional experts in the Office of Legal Counsel, is "whether the adjournment of the Senate is of such duration that the Senate could 'not receive communications from the President or participate as a body in making appointments.'" Today's Senate, which is controlled by the president's own party, is fully capable of performing both functions in accordance with its rules. Indeed, the Senate is so much in session that on Dec. 23—three days after beginning its pro forma session—it passed President Obama's current highest legislative priority: a two-month payroll tax holiday, which the president promptly signed.

Mr. Obama is claiming an open-ended authority to determine that the Senate is in recess, despite that body's own judgment and the factual realities. That is an astonishing and, so far as we can tell, unprecedented power grab.

It is not up to the president to decide whether the Senate is organized properly or working hard enough. However much the supposedly power-hungry President George W. Bush may have resented the Senate's practice of staying "in session" to defeat his recess-appointment power, he nevertheless respected the Senate's judgment on the point.

The president has done his new appointees and the public no favors. Both the National Labor Relations Board (NLRB) and the Consumer Financial Protection Bureau are regulatory agencies with profound real-world impact. Those individuals and businesses subject to regulations and rulings adopted during the tenure of Mr. Obama's recess appointees can challenge the legality of those measures in the courts, and they will very likely succeed.

Only two years ago in *New Process Steel v. NLRB*, the Supreme Court undercut hundreds of NLRB decisions by ruling that the board had not lawfully organized itself after the terms of two recess appointee members expired, leaving it without a quorum. Similar issues will arise when both the new financial bureau and the NLRB begin to act with members whose appointments are constitutionally insupportable.

The fact that the president has apparently triggered the constitutional crisis without really expecting to produce any lasting policy impact, and for no better reason than to bolster his claim of running against a "do-nothing" Congress (the key part of his re-election campaign), makes his behavior all the more reprehensible.

Messrs. Rivkin and Casey are Washington, D.C., lawyers who served in the Justice Department during the Reagan and George H.W. Bush administrations. Mr. Rivkin is also a senior adviser to the Foundation for Defense of Democracies.

Telegraph, UK

Barack Obama, the most arrogant US president in decades

by Nile Gardiner

In December Barack Obama vainly declared himself the fourth best president in American history, up there with the likes of Abraham Lincoln and FDR, just three years into his first term. In an interview with *60 Minutes* on CBS he observed:

"The issue here is not gonna be a list of accomplishments. As you said yourself, Steve, you know, I would put our legislative and foreign policy accomplishments in our first two years against any president – with the possible exceptions of Johnson, FDR, and Lincoln – just in terms of what we've gotten done in modern history. But, you know, but when it comes to the economy, we've got a lot more work to do. And we're gonna keep on at it."

Perhaps this display of self-importance is not surprising, coming from a president who enthusiastically accepted the Nobel Peace Prize after just a few months in the job, and even campaigned thousands of miles across the Atlantic in Berlin while running for office. This is a leader who thinks nothing of taking a \$4 million, taxpayer-subsidised vacation in Hawaii – nearly 100 times the average annual salary of an American worker, which currently stands at \$41,673.

And upon his return from the sun-swept beaches of the Pacific, the president decided to bypass the elected representatives of the US Congress on Wednesday by unilaterally installing "three

members of the National Labor Relations Board as well as a director for the controversial new Consumer Financial Protection Bureau” (Richard Cordray), in a huge sop to the powerful Left-wing labour unions. The move has been condemned on Capitol Hill and described by a prominent legal scholar as “a tyrannical abuse of power”.

There is something rotten at the heart of the White House when the President ignores the separation of powers enshrined in the Constitution and rules with impunity. Not only is it an unhealthy power play by executive authority in the freest nation on earth, but it is also a display of extraordinary contempt for the American people 14 months after the US mid-terms where voters emphatically rejected the president’s agenda. Despite his self-proclaimed “shellacking” at the hands of the US electorate, President Obama continues to behave with impunity, in the belief that most Americans are wrong and that he is right. His approach is remarkably lacking in humility and empathy at a time of tremendous public dissatisfaction with the state of the nation.

A major Gallup poll published just before Christmas underscored in sharp detail the depth of the malaise that has set in Obama’s America . According to the survey, US satisfaction in 2011 ranked as the second lowest since 1979, with “on average, 17 per cent satisfied with national conditions”. In the words of Gallup:

Throughout 2011, an average of 17% of Americans said they were satisfied with the way things are going in the United States. That is the second-lowest annual average in the more than 30-year history of the question, after the 15% from 2008. Satisfaction has averaged as high as 60% in 1986, 1998, and 2000.

The 11% readings from August and September are just four percentage points above the all-time low single-poll reading of 7% from Oct. 10-12, 2008, recorded after the financial crisis, passage of the TARP legislation, and a sharp downturn in stock values.

Gallup’s polling chimes with several other surveys from *Rasmussen*, *CBS News*, *Associated Press* and *Reuters* showing that more than two thirds of Americans still believe the country is moving down the wrong direction. The latest RealClear Politics Average has 70 per cent of Americans believing the United States is on the “wrong track”. At the same time, the unemployment level remains at 8.6 per cent, a dangerously high level for any incumbent president. After all, as even *The New York Times* acknowledged back in June, “no American president since Franklin Delano Roosevelt has won a second term in office when the unemployment rate on Election Day topped 7.2 per cent.”

And the national debt has reached truly terrifying proportions under Obama’s big government leadership. As former Reagan adviser Bruce Bartlett noted in a must-read piece this week describing the findings of the just-released 2011 Treasury *Financial Report of the United States Government*:

According to the report, the federal debt — simply the cumulative value of all past budget deficits less surpluses — was \$10.2 trillion on Sept. 30. But the government also owed \$5.8 trillion to federal employees and veterans. Social Security’s unfunded liability — promised benefits over expected Social Security revenues — was \$9.2 trillion over the next 75 years, or about 1 percent of the gross domestic product. Medicare’s unfunded liability was \$24.6 trillion, or 3 percent of G.D.P.

Altogether, the Treasury reckons the government's total indebtedness at \$51.3 trillion – five times the size of the national debt. This would be an unbearable burden if it had to be paid by the current generation out of current resources, for it approximately equals the entire net worth of American households.

America is a superpower on a precipice, sinking under debt, historic rates of unemployment, expensive healthcare reforms, and a continuing housing market crisis. But instead of a presidency that grasps reality and is serious about getting this great nation back on its feet, the American people are saddled with leadership that is intent on bankrupting and condemning them to decades of decline. Barack Obama sits at the helm of a sinking ship holed below the waterline by arrogance and hubris, driven by liberal elites who are fundamentally out of touch with a disillusioned electorate. President Obama's contempt for public opinion as well as the US Constitution, coupled with his failing big government agenda, will ultimately prove his downfall in an increasingly conservative nation that won't readily accept the liberal mantra that it's best days are behind it.

Right Turn

Obama, the constitutional anarchist

The lawless president

by Jennifer Rubin

President Obama's recess appointment of three members of the [National Labor Relations Board](#) and [Richard Cordray](#) to the Consumer Financial Protection Bureau continues to reverberate. The most compelling [legal analysis](#) on the subject is offered by conservative legal figures, most aptly today by Todd Gaziano of the Heritage Foundation and former attorney general Ed Meese:

"Article I, Section 5, of the Constitution states that neither house of Congress may adjourn for more than three days without the consent of the other house. The House of Representatives did not consent to a Senate recess of more than three days at the end of last year, and so the Senate, consistent with the requirements of the Constitution, must have some sort of session every few days.

The president and anyone else may object that the Senate is conducting "pro forma" sessions, but that does not render them constitutionally meaningless, as some have argued. In fact, the Senate did pass a bill during a supposedly "pro forma" session on Dec. 23, a matter the White House took notice of since the president signed the bill into law. The president cannot pick and choose when he deems a Senate session to be "real."

Senate Majority Leader Harry Reid found this entirely compelling, until this week. (Gaziano and Meese write: "When Senate Majority Leader Harry Reid (D-Nev.) kept the chamber in pro forma sessions at the end of the George W. Bush administration, he declared that was sufficient to prevent Bush's use of the recess appointment power. Reid was right, whether or not his tactics were justified.") At the time, neither the mainstream media or liberal lawyers decried Reid's move. The Democrats (presumably including the then-junior senator from Illinois) themselves understood that the Congress controls its own schedule.

And if you prefer the analysis of the Justice Department, the last word which we know about (Obama won't say whether he bothered to ask his Justice Department or what the lawyers said)

has provided 20 years of guidance to constitutionally respectful presidents. [David Rivkin and Lee Casey](#) remind us of it:

The traditional test, as articulated in a 1989 published opinion by the Justice Department's own constitutional experts in the Office of Legal Counsel, is "whether the adjournment of the Senate is of such duration that the Senate could 'not receive communications from the President or participate as a body in making appointments.'" Today's Senate, which is controlled by the president's own party, is fully capable of performing both functions in accordance with its rules. Indeed, the Senate is so much in session that on Dec. 23 — three days after beginning its pro forma session — it passed President Obama's current highest legislative priority: a two-month payroll tax holiday, which the president promptly signed.

The argument that [Obama is justified](#) in taking this extra-constitutional step because the Senate was obstructionist is factual wrong and legally irrelevant. The NLRB nominees were sent up *in December* and have yet to have a single hearing. But if they had been filibustered, the analysis would be the same. Under our system of divided government, the Senate is empowered to block, by vote or filibuster, the president's nominees. What's next — implementing legislation that has been filibustered?

The argument that pro forma sessions aren't real is also belied by the facts. After all, as a former Justice Department lawyer [reminds us](#): "The [Congressional Record] for Dec. 23 shows that Senate Majority Leader Harry Reid specifically asked for unanimous consent for H.R. 3765 so 'that if the House passes and sends to the Senate a bill which is identical to the text extension of the reduced payroll tax, unemployment insurance, TANF, and the Medicare payment fix, the bill be considered read three times and passed.' . . . That's not a 'gimmick.' That's legislating."

The left — big surprise — views the Constitution as irrelevant when the president (so long as he's acting for good and noble reasons) has important things to do. It is especially distasteful that he is willing to provoke a constitutional furor and throw the actions of both entities into uncertainty (any actions undertaken by improperly installed appointees are invalid) as a political stunt, to boost his leftist base and pick a fight with a co-equal branch. It's the politics of Chicago and Newt Gingrich, daring anyone to stop him.

But on the left there is a growing sense of queasiness. Do they really want to set the precedent for President Romney or Santorum? And really, with this ploy why would the president ever submit to the ordinary confirmation process? The left-leaning [Bloomberg View](#) editorial board writes:

We understand why the president, out of deep frustration, went around Republican senators. . . . Nevertheless, our desire to have effective regulation doesn't trump our reservations over the president's unusual methods. . . .

We think the president, who is making confrontation with congressional Republicans a major theme of his re-election effort, is choosing politics over principle, and playing dangerously with the Constitution's checks and balances, in choosing to tell the Senate when it is and is not in session.

[Tim Noah](#) at the New Republic likewise grasps the lack of legal support for the president's action: "I'm having trouble understanding how the recess appointment of Cordray can possibly

withstand a legal challenge. And I'm really having trouble understanding why Obama didn't take advantage of his constitutional window [January 3], when the Senate was inarguably in recess." Because he wants the fight, not the appointees.

Obama is playing to the very worst inclinations on the left — the contempt for the strictures of precedent and the Constitution, which act as a check on needless confrontation, government overreach and legal chaos. Obama has made worse decisions in his presidency (putting the Afghanistan war on an election timetable), but he has never made one so destructive of the fabric of the Constitution and the comity that is essential for productive governance.

American.com

Children of the Corn: The Renewable Fuels Disaster

How government policy can push more than 100 million people below the extreme poverty line.

by Aaron Smith



Deficit hawks, environmentalists, and food processors are celebrating the expiration of the ethanol tax credit. This corporate handout gave \$0.45 to ethanol producers for every gallon they produced and cost taxpayers \$6 billion in 2011. So why did the powerful corn ethanol lobby let it expire without an apparent fight? The answer lies in legislation known as the Renewable Fuel Standard (RFS), which creates government-guaranteed demand that keeps corn prices high and generates massive farm profits. Removing the tax credit but keeping the RFS is like scraping a little frosting from the ethanol-boondoggle cake.

The RFS mandates that at least 37 percent of the 2011-12 corn crop be converted to ethanol and blended with the gasoline that powers our cars. The ethanol mandate is causing corn demand to outstrip supply by more and more each year, creating a vulnerable market in which even the slightest production disturbance will have devastating consequences for the world's poor. It is time for the federal government to stop requiring cars to burn food.

Human mouths and motor engines provide the main sources of demand for corn. Market prices determine the form in which corn enters the food system; it may be an ingredient in your breakfast cereal, fed to cattle to produce steaks, or exported to Mexico to make tortillas. Market prices do not determine how much corn gets converted to ethanol for motor fuel use. The RFS mandate requires a massive quantity of corn to be converted to ethanol each year regardless of price or available supply.

Ethanol mandates were introduced in 2005, causing ethanol plants to sprout across the country. Firms could enter the ethanol industry secure in the knowledge that the government had guaranteed demand for their product. By the end of 2005, 4.3 billion gallons of ethanol-producing capacity existed and 1.8 billion gallons of capacity was under construction. One year later, capacity under construction had tripled and represented more production than existed at the time.

The ethanol construction boom gave the corn market fair warning of an impending increase in demand and enabled it to absorb the initial onslaught. Inventories accumulated and a record number of corn acres were planted in 2007. Nevertheless, production has been unable to keep up with demand. According to the most recent USDA estimates, carryover stocks into the 2012 crop year will be only 6.7 percent of annual use, a level seen only once since 1950. Ethanol policy is now affecting food prices more than ever.

The current price of corn on the Chicago Mercantile Exchange is about \$6.50 per bushel—almost triple the pre-mandate level. What would the price be if ethanol production had been frozen at 2005 levels? In the 2005-06 crop year, 1.6 billion bushels of corn were used to produce ethanol; in the 2010-11 crop year, 5.0 billion bushels were. When corn is processed into ethanol, approximately one-third of its caloric value is retained in a byproduct known as distiller's grains, which is fed to animals. Thus, an increase of 3.4 billion bushels of corn used for ethanol production implies a loss of 2.3 billion bushels to the food system, equivalent to about 16 percent of the total U.S. supply of corn.

If these 2.3 billion bushels were returned to the food system, users would increase consumption and farmers would reduce production until prices had declined enough to absorb the excess supply. In recent research, Michael Adjemian of the U.S. Department of Agriculture and I estimate that under current market conditions corn users would consume 2 percent more corn for every 10 percent reduction in price. Nathan Hendricks of Kansas State University estimates that U.S. farmers would plant 3 percent fewer acres to corn for every 10 percent reduction in price. Summing these effects implies that the market could absorb 5 percent more corn for every 10 percent price reduction. Thus, returning 16 percent of supply to the food system would reduce corn prices by about 32 percent.

A decline in corn prices would also stimulate declines in prices of other food commodities such as wheat, rice, and soybeans, which are substitutes for corn on both the supply and demand side. Michael Roberts of North Carolina State University and Wolfram Schlenker of Columbia University estimate that reducing corn ethanol production to zero would lower the price of calories from corn, soybeans, wheat, or rice by 20 percent.

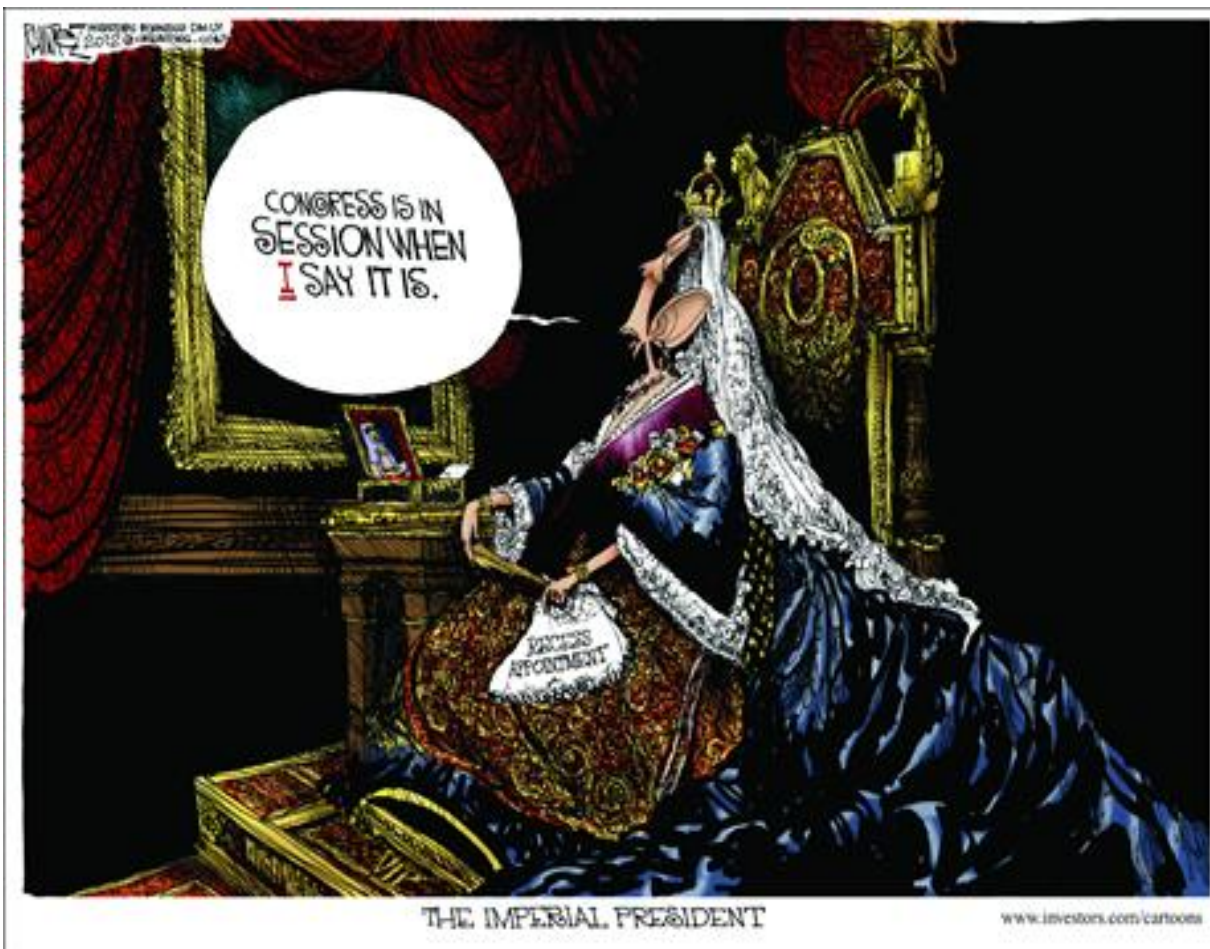
Corn price increases have relatively small effects on grocery prices in the United States, which are dominated by processing and marketing costs. However, consumers in the poorest parts of the world spend a high proportion of their budget on food commodities such as corn. World Bank researchers Maros Ivanic, Will Martin, and Hassan Zaman estimate that the ethanol-

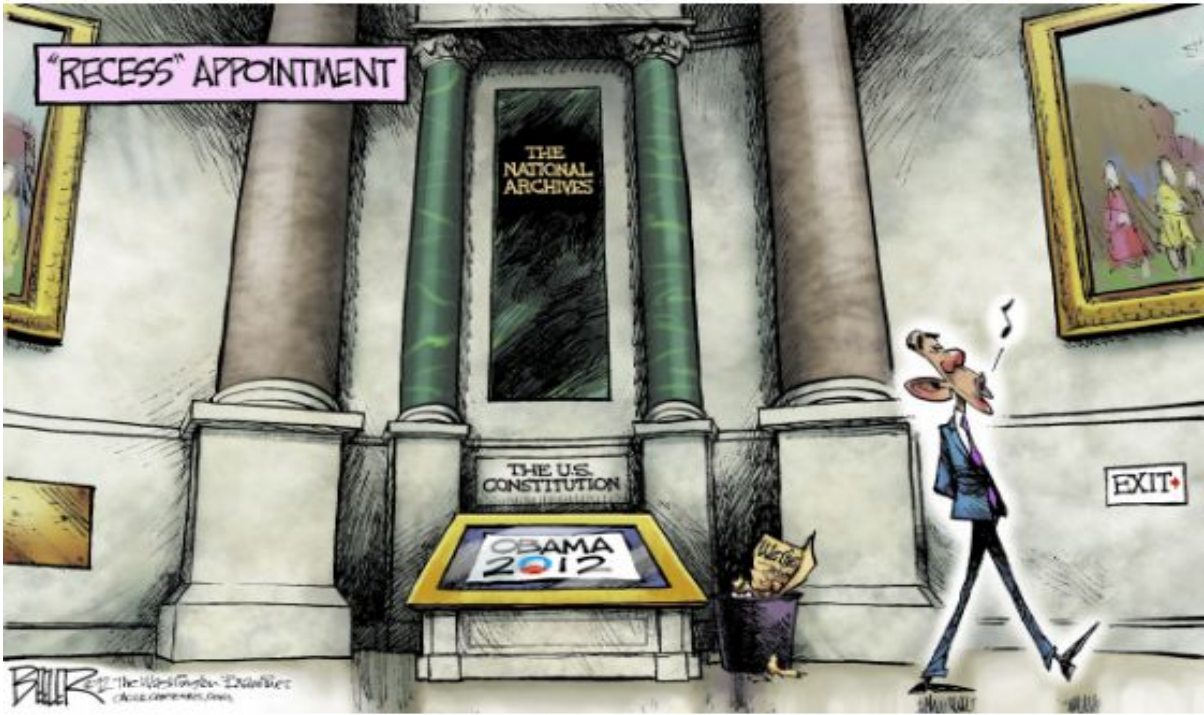
induced price spike between June and December 2010 forced 44 million people below the extreme poverty line of \$1.25 per day and that price increases from 2005-08 forced 105 million people below the extreme poverty line.

At most, removing the tax credit will cause ethanol production to drop to mandated levels. In 2011, ethanol production may exceed the mandate by as much as 1 billion gallons. Above-mandate ethanol production uses 0.37 billion bushels of corn and, after accounting for distiller's grains, it removes 0.25 billion bushels from the food system, or 1.7 percent of total supply. Thus, even if all above-mandate ethanol production becomes unprofitable upon removal of the tax credit, corn prices will drop by only 3.4 percent.

Low stockpiles place the corn market in a perilous position. If the 2012 crop is even slightly smaller than expected, then prices will rise even further and plunge millions more people into extreme poverty. If they were unconstrained by mandates, ethanol producers would reduce their use of corn in response to high prices. Jim Costa (D-California) and Bob Goodlatte (R-Virginia) recently introduced legislation that would allow such a response; under their proposal the mandate would be reduced when corn stockpiles are low. This proposal is an important step in the right direction but is not enough. Eliminate the mandates completely and let the ethanol industry stand on its own feet.

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