TABOR backers don't care about Colorado

Viewpoint

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Well, it appears that the Strict-Constructionist Feast Days are upon us again. You know, that regular ritual when Colorado's enemies of "judicial activism" point with rage to the latest holes shot in Doug Bruce's constitutional cheese, The Taxpayers' Bill of Rights.

A few weeks ago, the Colorado Supreme Court rejected efforts to declare unconstitutional a 2007 amendment to the School Finance Act. The amendment reduced the school-tax revenue from state sources, and offset that loss with increased revenue from county taxes generated by property value increases. Without that law, the state education fund was staring at bankruptcy.

An angry right wing, non-taxpaying collective auditioned far and wide for the role of plaintiff, settling on three county commissioners, five taxpayers and a café. (Apparently the partridge in a pear tree was busy.) They sued Gov. Bill Ritter, their sworn political enemy, claiming the new state law was a tax increase and therefore infringed upon Bruce's sacred TABOR tax wall.

Their logic goes like this: The sacred freedom of private financial markets is violated by government regulation. The government's cost of regulating those markets is paid for from taxes.

Therefore, if you starve the government through constitutional amendments such as TABOR, governors and legislatures won't be able to regulate the financial markets or maintain a public school system, or public transportation system, or a public health system, or a public justice system, or a public safety system — except for prisons. Therefore, TABOR will save us from our hated enemy — our government.

The Colorado Supreme Court recently upheld Ritter's and the state Legislature's amendment to the school finance laws, rejecting the claim that it unconstitutionally offended TABOR.

So now, the Bruce boys have begun with the trash talk. TABOR's "very simple" text is outrageously being subjected to constitutional interpretation; worse yet, it's being done by judges.

These same judges, the Bruce-Backer Boys argue, need to be removed from office in order "to signal how much we [the people] cherish liberty."

As these tireless, patriotic fundraisers seek your contributions for their latest "Save America!" cause, here are a few things to consider:

• First, Colorado's "Taxpayers' Bill of Rights" amendment to our constitution was drafted by Bruce, financed by Howard Rich and promoted by Grover Norquist.

Bruce isn't the type of person you want walking around inside your constitution with a wrench or a pen. Rich is an outrageously wealthy New York City developer who has written letters to 11,000 "liberals" telling them that he has each of them under surveillance.

Norquist is a Washington, D.C., political self-promoter, whose claim to fame, according to his book jackets, is a life commitment to starve all government "down to the size where we can drown it in the bathtub." These guys have no record of having any concern for the people of Colorado — ever.

We're not talking about Jefferson, Madison or Franklin here. We're talking Bruce, Rich and Norquist.

• Second, Colorado's "Taxpayer's Bill of Rights" isn't simple prose. It's incomprehensible. It clearly states all kinds of things that are obvious falsehoods, and its rule-and-regulation language is gibberish. Cases in point:

(1) Colorado's Taxpayers' Bill of Rights is not a fundamental right, not a "Bill of Right." It doesn't matter what Bruce named it.

(2) For years, the Group that Formerly Ran America has ranted against "judicial activists," judges whose legal rulings were based on analyses that included a law's context, history, precedent, purposes and results, as well as its text. The group demanded, when it was convenient for their causes, that meaning be derived solely from a law's text, marketing their demands under the brand of "strict constructionist." It doesn't work.

(3) TABOR'S text, along with being crazy-wrong in its legal representations, goes on at length with unintelligible rule-making. The trial judge in the School Finance Act case, while fighting mightily to resolve the case based on some simple reading of TABOR's text, was forced to point out the difficulty in "untangling" TABOR, "especially as its provisions relate to calculation of limits on collection of revenue, voting requirements, and allocation of revenue among various school districts consistent with the School Finance Act ... "

You can't resolve the constitutional meaning of Bruce's prose by solely pouring over his text. You can, however, develop vertigo.

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(4) TABOR's representation that its "preferred interpretation shall reasonably restrain most the growth of government" would have Bruce as the "preferred" interpreter of TABOR'S role within the Constitution. It doesn't work that way in a constitutional republic that provides for an independent judiciary. You'd have to go to North Korea.

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(5) TABOR's boast that it "supercede[s] conflicting state constitutional, state statutory, charter, or other state or local provisions" is bogus.

It's one thing to let Bruce draft an amendment to your constitution. It's another to allow Bruce's handiwork to become the Constitution's super-monarch, before which all other provisions fall away (re North Korea).

Here's the point: Be grateful that we live in a constitutional democracy with a republican form of government, and independent judges who are obliged to interpret our constitutions.

If you want someplace where constitutional interpretation is performed through the repeated recitations of some misanthrope's belief system, that would be — you guessed it — North Korea.

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