August 5, 2014

Richard Epstein, once of U. of Chicago Law, and now of the Hoover Institution, and **Mario Loyola** penned a look at the federal takeover of state governments.

The tug of war between the president and Congress is steadily escalating. The most recent sign of incipient institutional breakdown is House Speaker John Boehner's suit against President Obama for rewriting laws and stepping on Congress's turf.

But lurking in the wings is a second separation-of-powers issue, just as important, that Americans have mostly overlooked—the separation between federal and state government. In many areas, that vital divide is fast disappearing, owing to a relentless expansion of federal power. And both political parties share the blame.

Programs like Medicaid, Common Core, the Clean Air Act, and the federal highway system enjoy popular support because they appear to allow the federal government to accomplish things all Americans want, at least in the short run. But those programs often turn states into mere field offices of the federal government, often against their will, in turn creating a host of structural problems.

Federal officials exert enormous influence over state budgets and state regulators, often behind the scenes. The new federalism replaces the "laboratories of democracy" with heavy-handed, once-size-fits-all solutions. Uniformity wins but diversity loses, along with innovation, local choice, and the Constitution's necessary limits on government power.

Take Medicaid. ...

The impeachment wish continues to get critical media attention. This time from **Ross Douthat** of the NY Times.

... in political terms, there is a sordid sort of genius to the Obama strategy. The threat of a unilateral amnesty contributes to internal G.O.P. chaos on immigration strategy, chaos which can then be invoked (as the president did in a Friday news conference) to justify unilateral action. The impeachment predictions, meanwhile, help box Republicans in: If they howl — justifiably! — at executive overreach, the White House gets to say "look at the crazies — we told you they were out for blood."

It's only genius, however, if the nonconservative media — honorable liberals and evenhanded moderates alike — continue to accept the claim that immigration reform by fiat would just be politics as usual, and to analyze the idea strictly in terms of its political effects (on Latino turnout, Democratic fund-raising, G.O.P. internal strife).

This is the tone of the media coverage right now: The president may get the occasional rebuke for impeachment-baiting, but what the White House wants to do on immigration is assumed to be reasonable, legitimate, within normal political bounds.

It is not: It would be lawless, reckless, a leap into the antidemocratic dark.

And an American political class that lets this Rubicon be crossed without demurral will deserve to live with the consequences for the republic, in what remains of this presidency and in presidencies yet to come.

John Fund thinks censure is an appropriate remedy.
... It is important for our overall political health that we focus our criticism on President Obama's unconstitutional acts and omissions rather than on the president himself. Lawmakers can word a censure resolution carefully to do this. Impeachment, on the other hand, would inevitably be viewed by many as a personal attack on President Obama.

But while impeachment isn't appropriate, Congress must not simply acquiesce to President Obama's numerous violations of the first Article of the Constitution, which is: "All legislative Powers herein granted shall be vested in a Congress of the United States." In the 1830s, Senator Henry Clay of Kentucky offered a Senate resolution denouncing as unconstitutional President Andrew Jackson's actions against the Bank of the United States. He warned his fellow Senators: "The premonitory symptoms of despotism are upon us; and if Congress does not apply an instantaneous and effective remedy, the fatal collapse will soon come on."

A resolution of censure would serve as a warning, a sort of constitutional yellow card, that Congress and the American people will not tolerate abuses of power indefinitely and that presidents who so overreach risk having a permanent blot on their record. President Obama should not be removed from office, but we will need more than mere criticism or even a lawsuit to remind him that his first duty is to uphold the laws, and that he is falling short.

WSJ OpEd on sailing making a comeback with commercial shipping.
As the shipping industry struggles with high fuel costs and tepid demand, some innovators say that high-tech sails may hold the secret to cheaper and cleaner fuel.

Chief among them is a group of maritime veterans whose company, Windship Technology, is working to revive the wind-powered merchant ship with sails made from metal alloys and carbon fibers.

A few companies have tried harnessing wind energy for shipping, though the technology is still largely in its initial development phase. Concepts have ranged from giant parachutes to towering cylindrical rotors. Rolls Royce and U.K.-based B9 Shipping are jointly developing a sail-natural gas hybrid system for small cargo ships.

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The Atlantic
The United State of America
by Richard A. Epstein and Mario Loyola

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But lurking in the wings is a second separation-of-powers issue, just as important, that Americans have mostly overlooked—the separation between federal and state government. In many areas, that vital divide is fast disappearing, owing to a relentless expansion of federal power. And both political parties share the blame.

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Federal officials exert enormous influence over state budgets and state regulators, often behind the scenes. The new federalism replaces the “laboratories of democracy” with heavy-handed, once-size-fits-all solutions. Uniformity wins but diversity loses, along with innovation, local choice, and the Constitution’s necessary limits on government power.

Take Medicaid. On the surface, it looks like a federal matching-grant for state health care programs targeted at the needy. In fact it is the opposite: a way to rope states into match-funding a federal program. Federal Medicaid funds come with so many strings attached that states have little room to deviate from federal dictates—except by expanding their programs to fiscally unsustainable levels, which Medicaid actually encourages the states to do.

A state’s participation in Medicaid is supposed to be voluntary. The Supreme Court has insisted in such cases as *New York v. United States* (1992) that the federal government can’t command the states to regulate according to federal instructions. But if a state rejects Medicaid and decides to establish its own program for the needy, there is a huge penalty: It loses its share of Medicaid funds, but its citizens still have to pay Medicaid taxes, meaning state residents end up paying twice for the same services. That means less money for schools and roads and other things they need.

Facing this penalty, states have little choice but to comply and be essentially deputized into federal service. In the 2012 decision *NFIB v. Sebelius*, the Supreme Court held that states couldn’t be threatened with the loss of their existing Medicaid funds just because they refused to comply with the Medicaid expansion required by Obamacare. That was “a gun to the head,” said the Court—coercion, pure and simple.

But the Court failed to see that even losing new Medicaid funds also imposes a double tax, albeit on a smaller scale. Virtually every federal program of assistance to the states involves intrusive conditions and coercive penalties. States lose Medicaid funds if they refuse to comply with intricate requirements of the Medicaid program itself. They lose federal highway funds if they drop their drinking age below 21. They lose Common Core funds for not complying with Common Core. Yet their residents have to pay for the programs either way. The amount of money involved shouldn’t make any constitutional difference; the question is one of principle, not degree. Whether a robber says, “all your money or your life,” or merely “five dollars or your life,” it’s coercion just the same.

Federal “assistance” to the states currently accounts for 30 percent of state budgets, on average. Since the early 1980s, the federal government has transferred about 15 percent of its budget to the states, which is almost as much as the federal deficit in an average year. Why does the federal government borrow so much money, only to transfer it to the states? Do the states really need that much help?

Federal "assistance" allows the feds to dictate state policies and even what the states do with large chunks of their own money.

They don't. States have their own taxing authority. The real reason for federal "assistance" lies in the conditions that come attached to it, which allow the feds to dictate state policies and even what the states do with large chunks of their own money. The result is a massive increase in real federal control and real federal spending—entirely behind the scenes.

States like Texas, Florida, and New Hampshire pride themselves on having no state income tax on individuals. But that is only literally true of the 60 or 70 percent of their budgets that comes from state revenue. With respect to the portion derived from federal sources, Washington in effect imposes a high state income tax, which it collects on their behalf. States have no choice about that. Their only viable option is to accept on bended knee the sovereign's offer to return their money back, in exchange for their obedience. It's a fair bet few Americans understand what is really going on behind the façade of federal assistance.

Federal dominance is often justified as the only way to secure uniform laws. But states don't need coercion to achieve that end. The Uniform Commercial Code of 1962, for example, was a marked improvement over the old state common law of contracts, and it greatly facilitated interstate commerce. Every state has adopted it, with the partial exception of Louisiana, which kept its old French civil code for sales. The American law of contracts was successfully modernized and harmonized without any federal involvement, under a scheme that gave free rein to diversity and local choice.

Similarly, Common Core was originally an initiative of the National Governors Association, with no federal involvement, but the Obama administration made participation a criterion for federal education grants. That's where many states cry foul. States that comply are rewarded in part from taxes collected in states that buck Common Core—the familiar coercion at the heart of federal grants.

Money isn't the only lever the feds use to increase their influence over state governments. Formally, the federal government can't *require* states to implement federal regulations. But environmental regulations show how easy it is to get around that constraint. The Clean Air Act *allows* the states to issue federal permits—but only under federally approved state implementation plans, or SIPs. Those plans must meet a dizzying number of conditions; otherwise, the EPA trumps with a federal implementation plan, or FIP.

When EPA comes in with its FIP, it often comes to "crucify" local industries, as former EPA Regional Administrator Al Armendariz boasted at a closed-door meeting early in the Obama administration. The crucifixion takes the form of costly added requirements and endless delays. The federal government basically says to uncooperative states, "Implement our regulations for us, or we'll do it ourselves, and your constituents will be sorry." Predictably, constituents pressure state officials to protect them from the dire prospect of EPA implementing its own regulations, as we saw when Texas at first resisted implementing EPA's new greenhouse gas regulations.

These problems have their roots in a major constitutional transformation that began a hundred years ago. In 1913, the 16th Amendment was ratified, allowing Congress to institute a real income tax for the first time. Later that year the 17th Amendment provided for direct election of senators. These two changes made the government much bigger and more "national." That era also gave birth to the modern administrative state, which has steadily absorbed the rule-making functions of Congress. Then came President Franklin D. Roosevelt's New Deal, with its insistence on intrusive regulations of labor and agriculture that were clearly outside Congress's constitutional power to regulate commerce "among the several states."

The Supreme Court at first mounted some resistance, but then, starting in 1937, it dramatically backed down. In *Steward Machine Co. v. Davis* the Court allowed the government to attach pretty much any condition to a federal tax rebate. Five years later, in *Wickard v. Filburn*, the Court allowed the federal government to regulate virtually any activity of an economic nature. These rulings opened the door to the "great consolidation of Government" that the Constitution's original opponents had warned of during the ratification debates.

One result has been the integration of federal and state governments under federal control, a process that abounds with hidden problems, starting with accountability. When Americans vote in state and local elections, they think they are voting on state and local policies. But often they are just deciding which local officials get to implement the dictates of distant and insulated federal bureaucrats, whom even Congress can't control.

Federal-state integration also creates strong incentives to expand government power at every level. State officials get to claim credit for 30 percent more spending than they raise in taxes without having to pay any political price for higher taxation. Meanwhile, federal officials claim credit for addressing national problems through the largely hidden use of state resources. Medicaid might never have passed Congress if proponents of the bill hadn't been able to shift the program's true costs to state budgets.

The original Constitution kept overall government intrusion to a minimum, by placing most government spending and regulation in the exclusive domain of the states. Interstate competition reigned both for taxation and regulation. But things took a dramatic turn for the worse in 1923, when the Supreme Court ruled in two related cases, *Massachusetts v. Mellon* and *Frothingham v. Mellon*, that neither states nor their citizens had the power to challenge federal grants for going beyond the limits of the federal spending power. Left with no way to block unconstitutional spending programs, the most states could do was refuse to accept their fair share of federal grants—a worthless protection. The federal takeover began a few decades later in the most modest of ways: the national highway program.

Until 1956, the nation's highways were built and managed exclusively by states, which had even cooperated among themselves to develop a national system of numbering highways for ease of travel, without federal involvement. President Eisenhower correctly saw the need for a system of federal roads for defense and interstate commerce. His mistake was to involve the states in building that system.

Today states are so reliant on federal highway funds—which come directly from gasoline taxes they collect—that Congress uses the funds as a cudgel to enforce state agencies' compliance with such unrelated federal dictates as the Clean Air Act and the 21-year drinking age. As recently as *NFIB*, the Supreme Court continued to insist that such penalties are mere encouragement, not rising to the level of coercion; but, as a recent symposium of the *Yale Law Journal* shows, nobody on the right or left takes its homage to federalism seriously anymore.

A common justification for federal overreach is that it allows for administrative convenience, but the Constitution doesn't exist for the convenience of the government. Its purpose is to protect the people from government abuse. By leaving most government spending and regulation within the exclusive domain of states, the original Constitution created a dynamic framework of interstate regulatory competition. Citizens and businesses could choose to live in whatever state they wanted, a choice they could make with increasing ease as the nation's communications and transportation dramatically improved, and states competed to offer an attractive package of services and taxation.

Just like cable-TV providers offer premium channels in pricy packages and basic cable at a cut rate, some states and municipalities offered lots of services and benefits—and higher taxes—while others offered smaller government and a lower tax bill. That larger menu meant more choices.

This interstate regulatory competition could accommodate a wide diversity of approaches, from the progressive safety blanket of Wisconsin to the frontier freedom of Texas. Vigorous interstate competition tended to punish excessive government, leading for example to higher growth rates in states with less restrictive labor laws. It also made it more difficult for special interests to wield government as a tool for extracting benefits from the rest of society in the form of hidden subsidies, cartels, and monopolies. Where special interests reign, market efficiency is lost, leaving everyone worse off.

The easier it is for people to choose between state options, the weaker the case for federal control of markets.

Even today, states with high taxes, tough zoning laws, and restrictive labor laws tend to lose out to those with a lighter footprint—witness the tens of thousands of people—especially poor people—moving to Texas every year. The easier it is for people to choose between state options, the weaker the case for federal control of markets.

That leaves heavily regulated and highly taxed states at a disadvantage in the competition for people and businesses. Those states have cleverly solved much of their problem by using the federal government to impose higher taxes and regulation across the states. Burdened by often-costly progressive policies, states such as California, Massachusetts, and New York form coalitions in Congress to neutralize the advantage of states like Wyoming, Texas, and Florida. Protection from competition is the strongest impetus for the integration of federal and state governments under an umbrella of overall federal control.

That process undercuts one of the great advantages of a modern economy: the *choice* that mobility offers to families and businesses. It hastens the erosion of one of our most essential constitutional protections, the separate domains of federal and state governments, each confined to its proper sphere of authority.

American society is blessed with a diverse array of institutions. Not everything needs to be done by government power, either federal or state. When government must act, it's best to turn to the lowest unit of government capable of dealing effectively with the issue. The Constitution was meant to enshrine that very principle, in order to protect individuals and communities from the pervasive and often overbearing power of central government.

The mounting federal takeover of the states started slowly during the New Deal and has intensified substantially, especially in recent years. That inexorable trend is leading to unsustainable levels of government spending and a regulatory regime that grows more intrusive and oppressive by the day. One solution is paramount: Strengthen the vital but oft-neglected separation of federal and state governments.

Richard A. Epstein is the Laurence A. Tisch Professor of Law at New York University. He is the author of The Classical Liberal Constitution: The Uncertain Quest for Limited Government.

Mario Loyola is a senior fellow at the Texas Public Policy Foundation.

NY Times

Obama's Impeachment Game

by Ross Douthat

SOMETHING rather dangerous is happening in American politics right now, all the more so for being taken for granted by many of the people watching it unfold.

I do not mean the confusion of House Republicans, or the general gridlock in Congress, which are impeding legislative action on the child migrant crisis (among other matters). Incompetence and gridlock are significant problems, indeed severe ones, but they're happening within the context of a constitutional system that allows for — and can survive — congressional inaction.

What is different — more cynical and more destructive — is the course President Obama is pursuing in response.

Over the last month, the Obama political apparatus — a close aide to the president, the Democratic Congressional Campaign Committee and the "independent" voices at MSNBC — has been talking nonstop about an alleged Republican plan to impeach the president. John Boehner's symbolic lawsuit against the White House has been dubbed "impeachment lite," Sarah Palin's pleas for attention have been creatively reinterpreted as G.O.P. marching orders, and an entire apocalyptic fund-raising campaign has been built around the specter of a House impeachment vote.

Anyone paying attention knows that no such impeachment plan is currently afoot. So taken on its own, the impeachment chatter would simply be an unseemly, un-presidential attempt to raise money and get out the 2014 vote.

But it isn't happening in a vacuum, because even as his team plays the impeachment card with gusto, the president is contemplating — indeed, all but promising — an extraordinary abuse of office: the granting of temporary legal status, by executive fiat, to up to half the country's population of illegal immigrants.

Such an action would come equipped with legal justifications, of course. Past presidents have suspended immigration enforcement for select groups, and Obama himself did the same for certain younger immigrants in 2012. A creative White House lawyer — a John Yoo of the left — could rely on those precedents to build a case for the legality of a more sweeping move.

But the precedents would not actually justify the policy, because the scope would be radically different. Beyond a certain point, as the president himself has conceded in the past, selective enforcement of our laws amounts to a de facto repeal of their provisions. And in this case the de facto repeal would aim to effectively settle — not shift, but settle — a major domestic policy controversy on the terms favored by the White House.

This simply does not happen in our politics. Presidents are granted broad powers over foreign policy, and they tend to push the envelope substantially in wartime. But domestic power grabs are usually modest in scope, and executive orders usually work around the margins of hotly contested issues.

In defense of going much, much further, the White House would doubtless cite the need to address the current migrant surge, the House Republicans' resistance to comprehensive immigration reform and public opinion's inclination in its favor.

But all three points are spurious. A further amnesty would, if anything, probably incentivize further migration, just as Obama's previous grant of legal status may well have done. The public's views on immigration are vaguely pro-legalization — but they're also malleable, complicated and, amid the border crisis, trending rightward. And in any case we are a republic of laws, in which a House majority that defies public opinion is supposed to be turned out of office, not simply overruled by the executive.

All you have to do is read comments at social media pages for right wing Senators such as Oklahoma's Jim Inhofe and Tom Coburn. Their...

What's more, given that the Democrats controlled Congress just four years ago and conspicuously failed to pass immigration reform, it's especially hard to see how Republican intransigence now somehow justifies domestic Caesarism.

But in political terms, there is a sordid sort of genius to the Obama strategy. The threat of a unilateral amnesty contributes to internal G.O.P. chaos on immigration strategy, chaos which can then be invoked (as the president did in a Friday news conference) to justify unilateral action. The impeachment predictions, meanwhile, help box Republicans in: If they howl — justifiably! — at executive overreach, the White House gets to say "look at the crazies — we *told* you they were out for blood."

It's only genius, however, if the nonconservative media — honorable liberals and evenhanded moderates alike — continue to accept the claim that immigration reform by fiat would just be politics as usual, and to analyze the idea strictly in terms of its political effects (on Latino turnout, Democratic fund-raising, G.O.P. internal strife).

This is the tone of the media coverage right now: The president may get the occasional rebuke for impeachment-baiting, but what the White House wants to do on immigration is assumed to be reasonable, legitimate, within normal political bounds.

It is not: It would be lawless, reckless, a leap into the antidemocratic dark.

And an American political class that lets this Rubicon be crossed without demurral will deserve to live with the consequences for the republic, in what remains of this presidency and in presidencies yet to come.

National Review

Don't Impeach Obama, Censure Him

The president needs a reminder that we will not indefinitely tolerate his abuse of power.

by John Fund

Forty years ago this coming week, Richard Nixon resigned the presidency. Not long before his resignation, the House Judiciary Committee' had approved articles of impeachment against him. The consensus is that Nixon had committed wrongs that amounted to the "high crimes and misdemeanors" specified in the Constitution for removal from office. There is general agreement among current White House critics that President Obama has not done so, with 2012 vice-presidential nominee Paul Ryan being the latest GOP leader to express that view.

However, President Obama may soon change people's minds if this fall he unilaterally suspends deportations of illegal aliens or extends work permits to them, using the excuse that Congress hasn't passed the kind of immigration reform he would like. After all, no less a constitutional expert than Barack Obama told a Univision town hall in 2011: "With respect to the notion that I can just suspend deportations through executive order, that's just not the case."

President Bill Clinton remains the only modern president to have been impeached by the House, although the Senate acquitted him. At the time, I was a bitter Clinton critic. But in my role as a TV pundit, I didn't support his removal as president. I've always felt that we need a middle path between routine political pummeling and ejection from office when we are dealing with a rogue executive. The House's lawsuit against the White House for altering Obamacare dozens of times without consulting Congress is fine as far as it goes, but we need to make more use of the power of censure by Congress. In addition, a lawsuit could take years to wend its way through the courts and might not even be resolved until Obama leaves office.

Impeachment is akin to detonating a nuclear weapon on the field of politics. The American people shy away from impeachment. In a new CNN poll, fully 79 percent believe it should be reserved only for "serious crimes." "Not only is its explicit purpose to legislatively overturn the sovereign judgment of the people at the ballot box, its impact on the work of the government, and on our domestic tranquility, is deeply corrosive," notes Charles Cooper, who was head of the Office of Legal Counsel in Ronald Reagan's Justice Department. The OLC is tasked with acting as counsel for the president and attorney general on the constitutionality of laws and executive actions.

Cooper does believe President Obama has crossed a line that merits a serious impeachment inquiry. He notes that President Clinton's lawyers, relying on a seminal House Judiciary Committee report on the Nixon impeachment, argued in 1998 that impeachment is to be "predicated only upon conduct seriously incompatible with . . . the proper performance of constitutional duties of the president office." Among those are "conduct undermining the integrity of office, disregard of constitutional duties and oath of office, arrogation of power, [and] abuse of the governmental process." In Cooper's view, such actions have become just part of another day at the office for President Obama. In the new CNN poll, only 33 percent of Americans favor impeaching Obama, but a full 45 percent believe he has abused his powers as president.

There is another option, short of impeachment, for sanctioning the President's unconstitutional conduct in office. The House of Representatives can and should in coming months prepare and debate a unicameral resolution identifying and condemning President Obama's usurpations of legislative power and his repeated refusal to faithfully execute the laws.

The Congressional Research Service has identified a number of historical precedents in which the Senate or the House has adopted a resolution of censure or disapproval of a president or other executive or judicial officers. Indeed, in 1998, Democratic senator Dianne Feinstein and 37 co-sponsors introduced a joint resolution in the Senate that enumerated President Clinton's various misdeeds, and "condemn[ed] his wrongful conduct in the strongest terms." Likewise, Minority Leader Nancy Pelosi and other Democratic members of the House proposed similar resolutions, declaring that President Clinton's actions "fully deserve the censure and condemnation of the American people and the Congress."

It is important for our overall political health that we focus our criticism on President Obama's unconstitutional acts and omissions rather than on the president himself. Lawmakers can word a censure resolution carefully to do this. Impeachment, on the other hand, would inevitably be viewed by many as a personal attack on President Obama.

But while impeachment isn't appropriate, Congress must not simply acquiesce to President Obama's numerous violations of the first Article of the Constitution, which is: "All legislative Powers herein granted shall be vested in a Congress of the United States." In the 1830s, Senator Henry Clay of Kentucky offered a Senate resolution denouncing as unconstitutional President Andrew Jackson's actions against the Bank of the United States. He warned his fellow Senators: "The premonitory symptoms of despotism are upon us; and if Congress does not apply an instantaneous and effective remedy, the fatal collapse will soon come on."

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WSJ

A High Seas Comeback for Sails? Shipping Industry Sees Potential

Some Think Wind Power Could Be Key to Cutting Costs and Pollution

by Eric Yep

SINGAPORE—As the shipping industry struggles with high fuel costs and tepid demand, some innovators say that high-tech sails may hold the secret to cheaper and cleaner fuel.

Chief among them is a group of maritime veterans whose company, Windship Technology, is working to revive the wind-powered merchant ship with sails made from metal alloys and carbon fibers.

A few companies have tried harnessing wind energy for shipping, though the technology is still largely in its initial development phase. Concepts have ranged from giant parachutes to towering cylindrical rotors. Rolls Royce and U.K.-based B9 Shipping are jointly developing a sail-natural gas hybrid system for small cargo ships.

London-based Windship is unique in moving into a higher weight class of long-haul cargo vessels—larger than 40,000 tons, and up to a quarter-mile long.

Cargo ships can range from as small as 3,000 tons to more than 400,000 tons and carry three types of freight—bulk items such as minerals and coal, liquids like crude oil and fuels, as well as containers for consumer goods. These oceangoing ships often travel on specific trade routes with specific destinations and cargoes—such as the massive 380,000-to- 400,000-ton Valemax ships used to carry iron ore to China from Brazil.

Guy Walker, co-founder of Windship, says the company's winglike sails can generate 2½ times the power of conventional canvas sails.

Windship has only finished computerized modeling, so far. It plans to set up in Singapore to build and test a prototype by the second quarter of 2015.

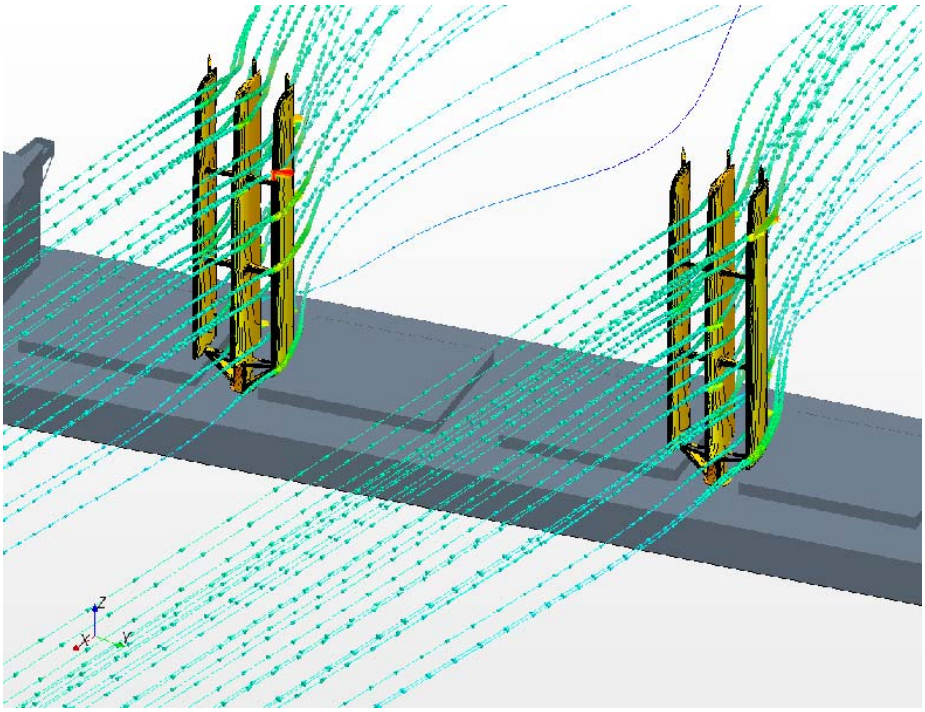
The Windship consortium includes Robert Elliott, chairman of law-firm Linklaters; independent consultant David Barrow ; Lars Carlsson, a former chairman of the trade body Intertanko; and yacht designer Simon Rogers.

"We are in close discussions with owners and charterers who have a more open mind-set and can see what an economic advantage really looks like," said Mr. Walker. He said Singapore is an "obvious center" and "fertile ground" in which to base its activities.

The city-state favors green initiatives and has floated several environment-friendly shipping initiatives, which include monetary grants. Windship has yet to qualify for any of these programs.

The shipping industry has been in the doldrums over the past few years and has struggled to recover from the global financial crisis, which sapped global consumption and trade levels. Shipping companies invested billions before the downturn in expanding capacity in anticipation of demand that never materialized. This overcapacity weakened freight costs even more.

As the global economy slowly recovers, demand still hasn't risen to precrisis levels.



Oil prices are another problem, keeping well above $100 a barrel since the downturn and eating into shipping margins. Shipping economics depend heavily on fuel costs, which make up as much as 80% of total freight expenses at current oil prices. For instance, a large cargo vessel, such as a Panamax ship or a Long Range 1 tanker with a dead weight tonnage of as much as 74,000 tons, burns around 37 tons of shipping fuel a day. That's $6.1 million of fuel in a single year.

Windship estimated that three of its rigs costing a total of around $10.5 million can cut fuel costs by a third, or around $2 million a year, on an existing ship, and by half on a new ship, based on 10-year wind patterns analyzed for more than 3,000 sea routes.

"The saving has to be so great that it is a no-brainer," Mr. Walker said.

When asked if it would be willing to adopt new wind-based technologies, shipping giant Maersk said such systems could yield interesting fuel savings, but added that the technology is still at a conceptual stage.

"Most of these technologies require considerable investments, so they should yield substantial fuel saving benefits for them to become attractive," said Jasper Boessenkool, head of strategic R&D at Maersk Maritime Technology.

Ships move 90% of all items traded globally, and shipping rates are based on specific trade routes. Windship's Mr. Walker said a Valemax trade route that moves 170 million tons of iron ore a year on 300 large ships can save more than two million tons of fuel oil a year. That is $1.5 billion of fuel.

Windship says it can also help ships meet tighter emissions regulations.

Ships burn around 10% of the world's oil, but are more polluting because they burn bunker fuel, a heavier product than gasoline or diesel. The maritime sector accounts for about 3.3% of global man-made emissions, according to the International Maritime Organization, which aims to cut shipping emissions by 30% by 2020.

Windship faces some obstacles.

As with every new technology, the capital for Windship to do an actual working demonstration will be a problem to find, said Dimitris Argyros, lead environmental specialist at Lloyd's Register, which conducted some of the modeling tests for Windship.

Moreover, no wind-based innovation has succeeded so far. A sail-based design by Danish marine architects Knud E. Hansen A/S didn't materialize because of a lengthy payback period. The company's senior naval architect Jesper Kanstrup said projects with wing masts, rotors or kites keep popping up on a regular basis, but they have a hard time catching the interest of shipowners.

Other experts, such as Peter Lundahl Rasmussen, senior marine technical officer at trade body BIMCO, cited safety concerns during storms, reduced visibility, unwieldy masts that obstruct cargo handling, maintenance costs and constant route changes.


Presidential Legacies
FOUR SCORE AND SEVEN YEARS AGO...
THE ONLY THING WE HAVE TO FEAR, IS FEAR ITSELF.
ASK NOT WHAT YOUR COUNTRY CAN DO FOR YOU, ASK WHAT YOU CAN DO FOR YOUR COUNTRY.
MR. GORBACHEV, TEAR DOWN THIS WALL.
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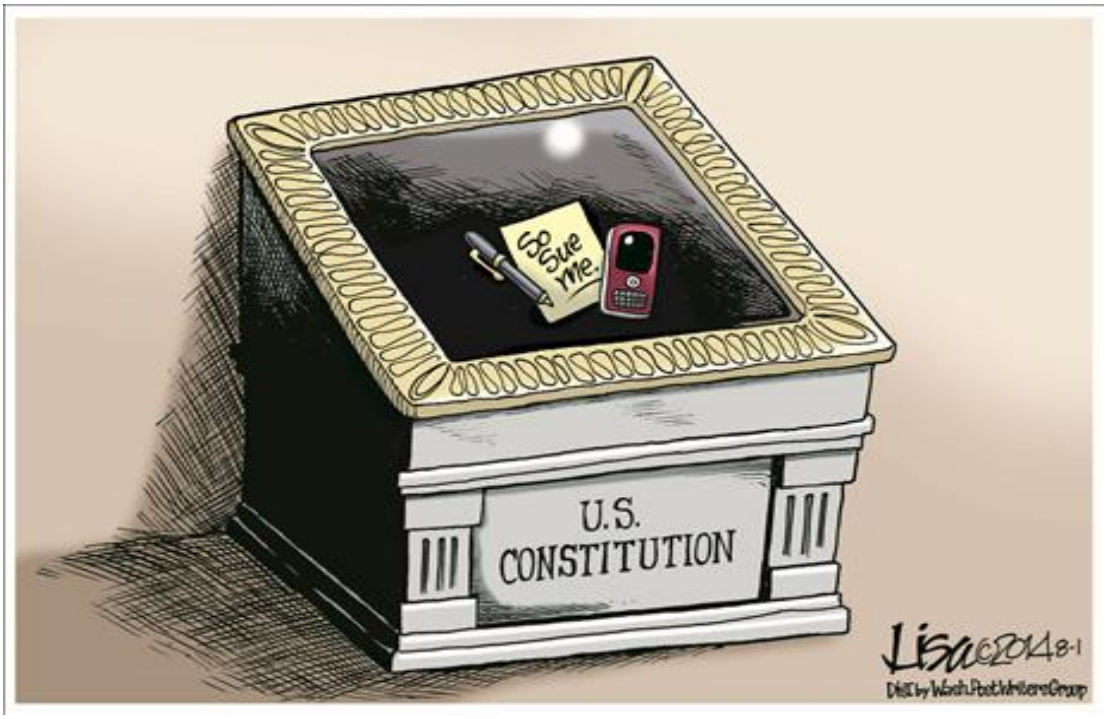
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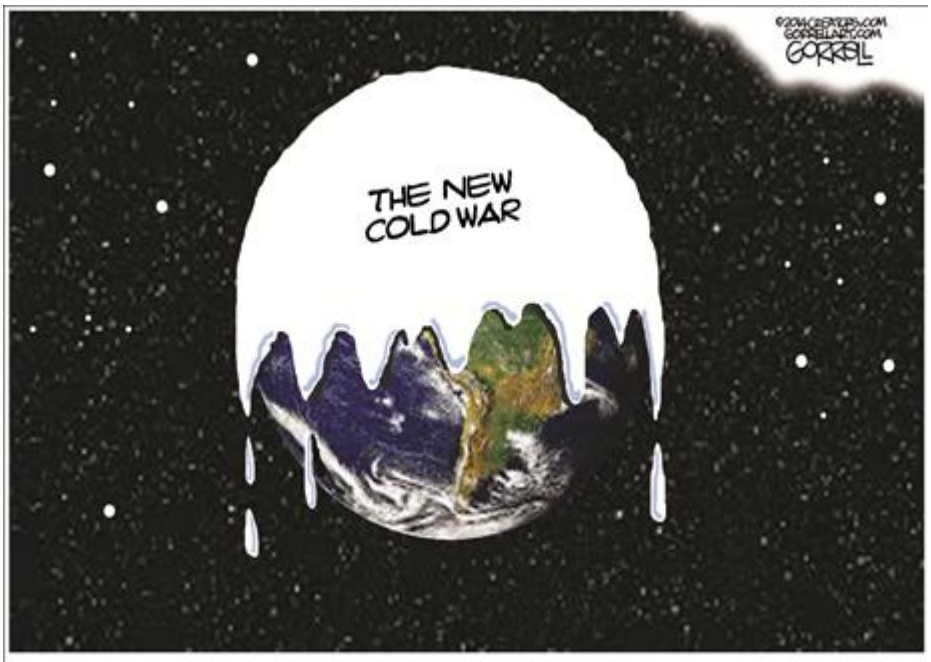

SO MUCH FOR GLOBAL WARMING