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GAZETTE

Don Robinson: What hangs in the balance on Election Day

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Many Americans care deeply about the outcome of this year's national elections, but few have as great a personal stake as those who have invested huge amounts of their own money in a concerted drive to take control of the American political system.

Last year Jane Mayer published a carefully researched account of this decades-long effort. Entitled "Dark Money: the Hidden History of the Billionaires Behind the Rise of the Radical Right," it reveals who these people are, what they want and how they plan to get it.

Some want to overturn *Roe v. Wade*, others to protect the rights of gun owners. Some pursue tactical goals, like erecting barriers to voting or developing strategies for gerrymandering legislative districts.

What unites these players, however, is not these somewhat disparate ideological goals, but a shared determination to "starve the beast" of government, cutting taxes, shrinking entitlements, curbing the welfare state.

In 1971 Lewis Powell, a corporate lawyer from Richmond (soon to be appointed to the Supreme Court by President Nixon), wrote a confidential memo to selected clients that deplored the then-growing bias against the American free enterprise system.

He argued that the greatest threat came, not from radical extremists on the left, but from "perfectly respectable elements of society" — from "the college campus, the pulpit, the media, the intellectual and literary journals, the arts and sciences."

He called on corporate America to wage "guerrilla warfare" against those who seek "insidiously" to undermine the free enterprise system. It was, in Mayer's words, "a counter-revolutionary call to arms for corporate America," and it included a blueprint for a takeover of the American political system by business-oriented people.

Soon money poured forth from the Koch and Bradley brothers, Richard Mellon Scaife and others who had enormous amounts of money to invest in the campaign. Organizations like the Heritage

and Olin foundations and the Cato Institute took shape and began to sponsor programs at major universities.

In October 1969, 80 black students took over the student union at Cornell. They left the building with their clenched fists held high in black power salutes and brandishing guns. Conservative journalist David Horowitz called it “the most disgraceful occurrence in the history of American higher education.” (Did the NRA come to the defense of these gun-owners in the exercise of their Second Amendment rights?)

Cornellian John Olin decided to swing the bulk of his philanthropy behind the effort to purge higher education of such dangerous mischief.

Money’s worth?

Have these billionaires gotten their money’s worth? Cumulatively these donations helped to end 40 years of Democratic control of the House of Representatives that lasted from Eisenhower’s first term until Bill Clinton’s second. The Heritage Foundation boasted that 61 percent of the policies urged in their phone-book sized list of recommendations was enacted under Reagan.

In 2009, with the American war in Iraq grinding to a miserable conclusion and the global economy collapsing, Obama moved into the White House. He had ambitious plans domestically — restructuring health care and the financial industries, limiting pollution and curbing climate change. He had campaigned in 2008 against the imperial presidency, and he was eager to work closely with Congress, which was still controlled by Democrats.

But opponents in Congress and the judiciary were waiting for him. They declared that they would limit him to a single, unproductive term. After some early victories, Obama’s effort lost steam.

Obama’s decisive victory over Mitt Romney in 2012 produced no thaw between him and Republicans on Capitol Hill. He could get no traction on issues like gun control or immigration or climate change.

In October 2013 Sen. Ted Cruz mounted a campaign to block appropriations to fund the federal government, and it shut down for 16 days. For the president, this was the last straw.

In his State of the Union address in January 2014, he laid down the gauntlet: “Whenever I can take steps without legislation to expand opportunity for more American families, that’s what I’m going to do.” Obama began to exercise his rule-making power with a vengeance. It was his responsibility, he said, to make the government a “model employer.”

The program proceeded on a number of fronts. The White House issued orders requiring all federal contractors to grant paid sick leave; he banned them from discriminating against gay, lesbian, bisexual and transgendered people; he extended workplace protection to all employees of federal contractors. According to the New York Times, these rules covered an estimated 29

million workers, and many employers in the private sector (firms like Ikea, Gap and Disney) followed suit.

There were trade-offs for these benefits, and the costs were often borne by businesses and passed along to their customers. Republican leaders like Paul Ryan complained that the new rules were resulting in “less jobs, less businesses, less prosperity, lower take-home pay.”

2016 campaigns

These conflicts are now playing out in the 2016 campaigns, and there will be a verdict of sorts on Nov. 8. Whoever wins will have many promises to keep and is sure to face stiff opposition in Congress and in the courts.

John Podesta, Obama’s chief of staff when many of these regulatory initiatives were mounted, is now director of Hillary Clinton’s campaign. If she wins and Congress resists her, we can expect her to pick up where Obama left off.

But it may not be smooth sledding. As professor and dean of the law school at Harvard, Elena Kagan wrote positively about the growth of the administrative state. She now serves on the US Supreme Court.

If Clinton wins and political circumstances force or induce her to govern by administrative decree, can Justice Kagan be relied upon to accept everything she does? And if the lower courts tip toward judges appointed by a Democratic president, will they too give government by administrative decree a free rein?

We should be careful what we hope for. Even in the hands of Democrats, a president governing virtually alone is still not a very good idea.