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Paul Remarks Have Deep Roots

By JONATHAN WEISMAN

Republican candidate Rand Paul's controversial remarks on the 1964 Civil Rights Act unsettled GOP leaders this week, but they reflect deeply held iconoclastic beliefs held by some in his party, and many in the tea-party movement, that the U.S. government shook its constitutional moorings more than 70 years ago.

Mr. Paul and his supporters rushed to emphasize that his remarks did not reflect racism but a sincerely held, libertarian belief that the federal government, starting in the Roosevelt era, gained powers that set the stage for decades of improper intrusions on private businesses.

Mr. Paul, the newly elected GOP Senate nominee in Kentucky, again made headlines Friday when he told ABC's "Good Morning America" that President Barack Obama's criticism of energy giant BP and of its oil-spill response was "really un-American."

That followed a tussle over the landmark civil-rights law, which Mr. Paul embraced after suggesting Wednesday that the act may have gone too far in mandating the desegregation of private businesses. Late Friday, NBC said that Mr. Paul had cancelled a scheduled appearance on the Sunday morning show "Meet the Press," a rare development in the history of the widely watched political program. The network said it was asking Mr. Paul to reconsider.

In tea-party circles, Mr. Paul's views are not unusual. They fit into a "Constitutionalist" view under which the federal government has no right to dictate the behavior of private enterprises. On the stump, especially among tea-party supporters, Mr. Paul says "big government" didn't start with President Obama, Lyndon Johnson's Great Society of the 1960s or the advance of central governance sparked by World War II and the economic boom that followed.

He traces it to 1937, when the Supreme Court, under heated pressure from President Franklin Roosevelt, upheld a state minimum-wage law on a 5-4 vote, ushering in the legal justification for government intervention in private markets.

Until the case, *West Coast Hotel v. Parrish*, the Supreme Court had sharply limited government action that impinged on the private sector, infuriating Mr. Roosevelt so much that he threatened to expand the court and stack it with his own appointees.

"It didn't start last year. I think it started back in 1936 or 1937, and I point really to a couple of key constitutional cases... that all had to do with the commerce clause," Mr. Paul said in an interview before Tuesday's election, in which he defeated a Republican establishment candidate, hand-picked by Senate Minority Leader Mitch McConnell (R, Ky.).

Mr. Paul has said that, if elected, one of his first demands will be that Congress print the constitutional justification on any law it passes.

Last week, Mr. Paul encouraged a tea-party gathering in Louisville to look at the origins of "unconstitutional government." He told the crowd there of *Wickard v. Filburn*, a favorite reference on the stump, in which the Supreme Court rejected the claims of farmer Roscoe Filburn that wheat he grew for his own use was beyond the reach of federal regulation. The 1942 ruling upheld federal laws limiting wheat production, saying Mr. Filburn's crop affected interstate commerce. Even if he fed his wheat to his own livestock, the court reasoned, he was implicitly affecting wheat prices. If he had bought the wheat on the market, he would subtly have raised the national price of the crop.

"That's when we quit owning our own property. That's when we became renters on our own land," Mr. Paul told the crowd.

In an interview, Mr. Paul expressed support for purely in-state gun industries, in which firearms are produced in one state with no imported parts and no exports. Guns produced under those circumstances can't be subjected to a federal background check, waiting period or other rules, he reasons.

"I'm not for having a civil war or anything like that, but I am for challenging federal authority over the states, through the courts, to see if we can get some better rulings," he said.

To supporters, such ideological purity has made the Bowling Green ophthalmologist a hero.

"He's going back to the Constitution," said Heather Toombs, a Louisville supporter who came to watch him at a meet-and-greet at a suburban home last week. "He's taking back the government."

But to Democrats, some Republicans and even some libertarians, Mr. Paul's arguments seem detached from the social fabric that has bound the U.S. together since 1937. The federal government puts limits on pollutants from corporations, monitors the safety of toys and other products and ensures a safe food supply—much of which Mr. Paul's philosophy could put in question.

David Boaz, executive vice president of the libertarian Cato Institute, said that in many ways Americans are freer now than they were in any pre-1937 libertarian Halcyon day. Women and black citizens can vote, work and own property. "Micro-regulations" that existed before the Supreme Court shift, which controlled trucking, civil aviation and other private pursuits, are gone.

"Sometimes he talks the way libertarians talk in political seminars," Mr. Boaz said of Mr. Paul. "There are not really many people who want to reverse *Wickard*, but there are many professors who could make a good case for it."

"Rand Paul apparently has a deeply held conviction that corporations should be allowed to do what they see fit without oversight or accountability," Kentucky Attorney General Jack Conway, Mr. Paul's Democratic opponent in the Senate contest, said Friday.

Mr. Paul's views differ from those of the Republican Party on some fundamental matters. Mr. Paul opposes the anti-terrorism PATRIOT Act, which he says infringes on civil liberties. He opposed the war in Iraq and says any war cannot be waged unless and until Congress formally declares it. And he has expressed misgivings about the nation's drug laws.

Senate Minority Whip Jon Kyl (R, Ariz.) told the newspaper Politico that Mr. Paul's civil rights comments were comparable to "a debate like you had at 2 a.m. in the morning when you're going to college. But it doesn't have a lot to do with anything."

—Jean Spencer and Douglas A. Blackmon contributed to this article.

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