



The Ethan Allen Letter

IDEAS FOR VERMONT'S FUTURE

A Monthly Publication of The Ethan Allen Institute

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More Taxation By Unaccountable Strangers

COMMENTARY

On June 15 the Public Service Board issued its long-expected order agreeing to the consolidation of Central Vermont Public Service and Green Mountain Power into a new “Combined Company”. The new entity, serving 256,000 Vermont electric customers, will be owned, ultimately, by the government of Quebec.

Every party submitting views to the Board supported the merger. That was because the consolidation of the service territories and operations of the two utilities will unquestionably result in large efficiencies, some \$500 million over 20 years if one believes the PSB.

The deal dates back to the November 2010 offer by a Canadian energy company called Fortis to buy CVPS. The CVPS directors agreed to Fortis’s offer.

But suddenly Gaz Metro, owner of Green Mountain Power, appeared with a better deal. After several frantic weeks of offers and counteroffers,

Gaz came away the winner. Its much larger combined company would produce much lower power costs for Vermont customers, than Fortis merely replacing the ownership of the present CVPS.

Gov. Shumlin early saw the prospective savings as a boon to Vermont ratepayers – but also as a huge pot of money that the state’s regulator machinery could divert to fund some of his favorite government programs.

Thus Shumlin’s Department of Public Service pushed Gaz to agree to shift \$10 million of the savings into weatherization programs, plus another \$2 million into promoting “thermal efficiency”. These programs are run by the state’s community action agencies. In all, the combined company will donate \$21 million to weatherization and a new entity called the CEED (Community Energy and Efficiency Development) Fund.

This happens to be the \$21 million owed to CVPS ratepayers under an earlier PSB order, to make sure ratepayers shared in the big payout if CVPS was bought or merged. The Governor and the Department urgently argued that giving back the money to CVPS ratepayers, as clearly required a decade ago, would be a

waste of good money that the government could better direct to finance “societal benefits”.

To justify this theft, the PSB found that “the expense of providing this windfall recovery to CVPS ratepayers would put at risk all the extraordinary actual and potential benefits of the merger for ratepayers and the citizens of Vermont.”

Whoa! The Board is saying here that Gaz Metro would walk away from a deal supposed to yield \$500 million in benefits over 20 years, if the Board required Gaz to peel out \$21 million to pay off those annoying ratepayers?

Gaz was so eager to make the deal that it kept raising its bid price, and agreed to pay Fortis \$19.5 million just for going away. Does anyone seriously believe that Gaz would walk away from this enormously lucrative deal in a dispute over a lousy \$21 million?

Probably not. The key thing to remember is that in addition to a promised \$144 million in direct ratepayer benefits over ten years, the merger deal offered the governor a chance to get his hooks on millions of

See **More Taxation**, Page 6

The Ethan Allen Letter

The Ethan Allen Institute is an independent, non-profit, nonpartisan public policy research and educational organization, incorporated in 1993 under Vermont law.

The Institute sponsors and conducts research on important public policy questions facing the people of Vermont, and makes its findings and recommendations known through various channels to the general public, the news media, and civic leaders at all levels.

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PRESIDENT'S MESSAGE

A Tale of Two Cities



“It was the best of times, it was the worst of times; it was the age of wisdom, it was the age of foolishness ...”. Many Vermonters may take Charles Dickens’s opening of the *Tale of Two Cities* (set during the French Revolution) to heart.

There are numerous entries under the “worst of times” category. The excesses emanating from Montpelier are too many to count: the \$5 billion single payer health care experiment, a long list of tax and fee increases, the continuing campaign to shut down our most reliable source of electricity, the imposition of an expensively subsidized Green Energy economy, the adoption of ever more far reaching environmental regulations, falling \$3 billion behind on pension and benefit funding – these are have all accelerated, thanks to the current legislature.

The Ethan Allen Institute is dedicated to finding, explaining, and providing you with ammunition to combat efforts to increase the power of the State – and leave less power with you.

EAI’s 2011-2012 *Vermont Voters’ Report Card* is in the mail to members current and former. We selected votes which clearly display how well disposed our legislators are to individual liberty, limited government, personal responsibility, and the creation of wealth. If you find your representative has voted in a puzzling way, use the telephone to inquire. These are opportunities for the citizen conversations that should take place before an election.

The July membership mailing also includes our “Informed Citizens Questions” pocket card, with ten questions we hope citizens will see that every office seeker answers. Our website at www.ethanallen.org is rich with ten years of voter report cards, all of our major reports and commentaries, and many other resources, including numerous links to other sites.

We have a literacy campaign for economic freedom in Vermont. Each of us needs to do our part, to make it the best of times. Where our mailing asks for a renewed contribution, please give what you can.



PRESIDENT

P.S.: The American Nuclear Society has just recognized Meredith Angwin and her associate Howard Shaffer for their good work with EAI’s Energy Education Project. We are proud and delighted by their well merited award. (See page 5).



The Ethan Allen Institute presents –
Sheraton Economic Series 2012

The Milton Friedman Centennial Program

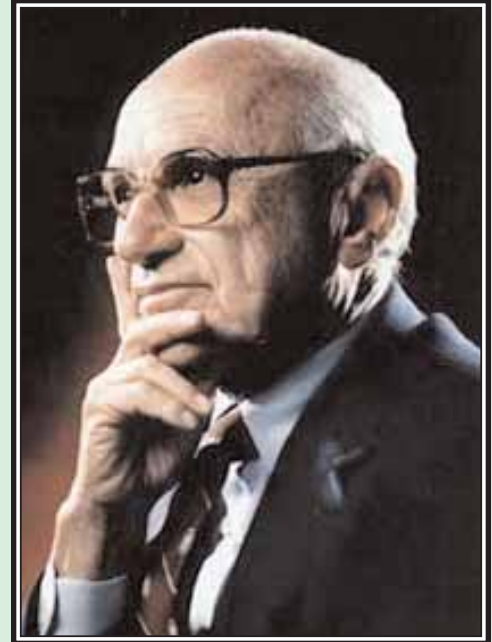
honoring the 100th birthday of the Nobel Prize-winning economist
and champion of parental choice in education.

Going Independent in Vermont

Sheraton Burlington Conference Center

University Amphitheatre

Tuesday, July 31, 2012 – 7:00 p.m.



For nearly two centuries, the Village of North Bennington has maintained a unique commercial and social identity, and since the 1870s has operated its own schools. After creation of the Mount Anthony Union High School, North Bennington has continued to maintain its own public K-6 graded school.

Beginning in 2006 the Vermont Board and Department of Education launched a renewed effort to pressure small schools into Regional Education Districts. North Bennington Village voters declined the invitation to consolidate, and voted to convert their public K-6 village school into the independent North Bennington School. In doing so, they have faced unexpected legal, physical, and financial challenges. Discussing those challenges will be:

Raymond Mullineaux, chairman of the North Bennington Graded School Prudential Committee (the Village public school board).

Eva Sutton, co-chair of the steering committee for a new independent school.

Tom Martin, principal of the public school and principal-designate of the new independent North Bennington School.

The Sheraton Economic Series is sponsored by the Ethan Allen Institute, hosted by the Sheraton Burlington Conference Center, and cosponsored by the Vermont Economy Newsletter, Vermont Business Magazine, Vermont Tiger, True North Radio, and the Lake Champlain Regional Chamber of Commerce.

Public invited – reservations not necessary – no admission charge.



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More Single Payer Hokum

Letter to the *Reformer* and *Times Argus*:

In a letter recently published in this newspaper, a Mimi Morton of Guilford was highly critical of my view of what I described as the misleading language used by the backers of Green Mountain Care to promote their government-run health care system.

Ms. Morton made the statement that “The Green Mountain Care board has made clear that it has studied Quebec and intends to create a system unique to Vermont.”

This assertion intrigued me, so I filed an open records request with the GMC Board for any materials prepared or used by the Board relating to the Quebec single payer system.

The Board’s counsel responded to my request with admirable alacrity. The answer is that the GMC Board has not produced or acquired a single piece of paper contrasting Quebec single payer with the coming Green Mountain Care.

– John McClaughry, Ethan Allen Institute

Decoding the Language of Green Mountain Care

COMMENTARY

The Shumlin Administration is proceeding at flank speed to realize its breathtakingly ambitious promise of “comprehensive, affordable, high-quality, publicly financed health care coverage for all Vermont residents in a seamless manner regardless of income, assets, health status, or availability of other health coverage” – Green Mountain Care.

The Administration advocates –including Gov. Shumlin himself – deserve credit for openly describing GMC as a “single payer” system. Ideally, every health care dollar spent, aside from modest copays and over the counter remedies, would first be taken from everyone via taxation.

Then the government – the single payer – would distribute the money to health care providers in payment for their approved services to everyone, less, of course, the usual government handling charge. The funds must be spent so that all covered Vermonters receive “affordable and appropriate health care at the appropriate time in the appropriate setting,” at least until the money runs out.

The less forthright GMC advocates shy away from the term “single payer”. They prefer terms like “unified and universal health care system”. That’s because “single payer” invites a comparison with the 40-year-old government-run system operating just across our northern border.

This is a comparison the GMC advocates earnestly want to avoid, since an examination of the Quebec

system can quickly lead to the conclusion – largely justified – that single payer health care will unavoidably result in rationing, waiting lines, maddening bureaucracies, demoralized doctors and nurses, shabby facilities, obsolete technology, declining quality of care, and of course much higher taxation.

The advocates have an interesting twist on the word “choice.” In a *Vermont Digger* interview, GMC Chair Anya Rader Wallack observed “[the present] system [is] too complicated and convoluted for anyone to understand, it’s hard to make rational choices.”

It’s certainly true that the present health care system can be difficult to understand, and sometimes people and even doctors make poor choices. But when Rader Wallack touts the role of government in replacing your confused choices with her Board’s expert choices, all of a sudden you realize that you won’t have many choices left. Anya and her board are making them for you.

And why not?, they would say. The Board can’t afford to squander the few billions of dollars they control on unnecessary treatments that you and your doctor might find most suitable. So if the Board’s finds that its choice of treatment for you fits into its mandate for delivering “appropriate health care at the appropriate time in the appropriate setting”, you’ll get it, if there’s any money left.

If your and your doctor’s choice doesn’t square with the Board’s choice, you won’t get it – unless of course you care to pay for it out of your own pocket out of what’s left after paying your GMC tax bill.

“Choice” also appears in another context. Act 48 says “every Vermon-

ter should be able to choose his or her health care providers.” A Quebecker would scoff and reply, “very well, but just how am I supposed to find a provider, eh?”

What Quebec has done is this: “We can only extract so much money from the taxpayers. Money pays bills submitted by providers. The more providers there are, the more bills we’ll have to pay. So let’s reduce the number of providers (by limiting medical school graduates and paying doctors to retire), and limit how much doctors can bill (by capping their payments each quarter). Presto! Problem solved!”

Since the GMC Board has the power to determine “reasonable rates for health care professionals”, in view of “health care professional cost-containment targets”, scarce revenues will force the Board to drive down doctor compensation until, as in Quebec, enough doctors emigrate or retire to achieve the Board’s cost containment target. Again, the Board makes the choices, and good luck to you in finding a doctor who will take you as a patient.

Another term rich in implications is “global budget”. What that term actually means is this: the Board sets the coming year budget for all (thus “global”) providers. When the providers draw down their allotted funds, that’s it. Presto! Cost containment!

There are more examples of Green Mountain Care’s special uses of language, but these should serve to make the point. The advocates of a taxpayer-financed remake of our \$5 billion health care landscape need to candidly explain to Vermonters, in plain language, the challenges, contradictions, consequences, and costs unavoidable in this mega-project.

Coates Explains Vermont's \$3 Billion Pension Problem

The State of Vermont's unfunded liabilities for teachers and state employee retirement benefits has now reached the \$3 billion mark, reports the state's leading pension benefit expert David Coates CPA, and "this shortfall doesn't resonate with our elected officials." Coates presented his analysis of this staggering shortfall at the Institute's Sheraton Economic Series program on June 19.

Total unfunded pension and retiree health care liabilities	6/30/09	6/30/11
State	\$1.1B	\$1.4B
Teachers	\$1.6B	\$1.6B
Total	\$2.7B	\$3.0B

Based on actuaries' reports, the state's unfunded liabilities shot up from \$2.7 billion in mid-2009 to \$3 billion in mid-2011, and have undoubtedly increased since then.

Coates said that in mid-2013 the Annual Required Contribution for Other Post Employment Benefits (OPEB) for state employees and teachers will total \$118 million. Gov. Shumlin this year asked for, and the legislature approved, only \$29 million for state employees' OPEB, and zero for teachers' OPEB.

This means that the money to pay for teacher's OPEB is simply subtracted from the teachers' retirement fund, which causes it to fall even further below the actuarial require-

ments. "This is the elephant in the room", Coates said.

Over the years, he said, Vermont has "overpromised and underfunded". As of last year, the state employees' pension fund was 79.6 percent funded; the teachers fund was 63.8 percent funded. Coates said that the Government Accounting Standards Board is about to require that all unfunded liabilities be incorporated in the state's balance sheets (now they are only mentioned in a footnote).

Coates believes this enormous problem must be dealt with courageously before Vermont hits a "tipping point". Among the remedies are switching to defined contribution retirement plans like private industry, requiring retirees to pay a larger share of their benefits, and tying all benefits to the social security retirement age.

Among those who filled the University Amphitheatre were candidates for Governor: Randy Brock (R); Treasurer: Wendy Wilton (R); Auditor: Vince Illuzzi (R); Senate: Robert Letovsky (I); and House: George Schiavone (R), Connie Quimby (R), Jim Peyton (R), and Bob Hooper (D).

The presentation was cosponsored by the Vermont Business Roundtable, the Vermont Chamber of Commerce, the Lake Champlain Regional Chamber, *Vermont Business Magazine*, Vermont Tiger, Vermont Economy Newsletter, and True North Reports.

EAI's Meredith Angwin Wins National Award

American Nuclear Society (ANS) President Eric Loewen, PhD, presented ANS members Meredith J. Angwin and Howard C. Shaffer III with Presidential Citations in recognition of their successful public information efforts in Vermont and elsewhere.

"Meredith Angwin and Howard Shaffer have inspired nuclear proponents across the country by shaping the public debate over nuclear energy using facts and technical credibility," said Loewen. "Their success in making sure that accurate information is shared in public venues will continue to benefit the nation moving forward."

Angwin is director of the Ethan Allen Institute's Energy Education Project, to help people in Vermont



understand their energy options in terms of cost, reliability, environmental impact and government support.

The project website is www.energyeai.org and Meredith's blog appears at yesvy.blogspot.com.

Supreme Court Activism: “Today’s [health care act] decision says Congress does not need to call a regulation a tax – Congress and the President can even insist it is not a tax – if the Supreme Court can rationalize it as one: the Rational Tax Test.” (Greg Conko, CEI 6/28/12)

“What Congress said the individual mandate *is*, the Court said is not constitutional. What Congress said the mandate is *not*, the Court ruled *is* constitutional. Everybody got that? And the Supreme Court just told Congress

NEWS & VIEWS

it is okay to lie to the people to avoid political accountability.” – Michael Cannon (NRO 6/28/12)

Report Card Published: EAI’s biennial *Vermont Voters’ Report Card* (2011-12) will be in the mail to members on July 6. It will highlight nine House and nine Senate roll call votes over the past two years, that we believe are of greatest significance for

Vermonters. Members and other groups are welcome to request copies for distribution, and also download the Report Card from the website. (PDF, 5x8”, two sheets printed front and back.)

NH Choice Update: We reported earlier that the NH legislature approved by better than 2/3 votes a business tax credit toward contributions to independent school scholarship funds.

Continued on Page 7

The Supreme Court Decision – Initial EAI Comment to the Media

As I pointed out in a commentary two years ago*, the Federal government can, arguably, impose a tax on almost anything, including personal behavior. In 2009 the House passed just such a bill, taxing failure to purchase government-approved health insurance.

But then-President Obama and the Democratic Senate got cold feet about creating an intrusive new federal tax not likely to be popular. They converted the House-passed bill to a regulatory measure based on the commerce power.

Obama then went on national television (ABC) to say he “absolutely rejects” the charge that his health insurance mandate – which became the Affordable Care Act – was a tax.

But it soon became clear to Obama that extending the commerce power mandate wouldn’t survive a Constitutional challenge. Suddenly, as the Justice Department defended the ACA in the Florida case, the mandate was recast as a tax.

The upshot is that, thanks to the Court, America now has a new fed-

eral tax on personal behavior that Congress never enacted. I’m waiting for candidate Obama to boldly defend the idea of a new federal tax on people’s existence as a strong reason for his re-election. Lots of luck with that.

– John McClaughry,
vice president,
Ethan Allen Institute

*See “The ObamaCare Tax on Your Existence” at http://ethanallen.org/html/health_care.html#TheObamaCareTax [7/27/10]

More Taxation By Unaccountable Strangers

Continued from Page 1

dollars to fund his pet projects, without hitting up the taxpayers or snatching it from some other budget item.

One of the fashionable items that the new CEED Fund will feed is “renewable energy subsidies”. An expert for the DPS suggested, for example, that the Fund might subsidize installation of electric vehicle charging stations at private homes. This would be a great convenience to people who have just bought a Chevy Volt subcompact (\$40,000, less the proposed Obama \$10,000 point of sale subsidy), not to mention a Fisker Karma (\$102,000). Some might say that they

ought to install the charging stations in their own garages at their own expense.

The DPS also envisions the CEED Fund shifting money into Shumlin’s pet Clean Energy Development Fund. The CEDF is now out of money because Entergy is no longer making its annual extortion payment, which the Fund formerly used to finance residential solar electric systems for tax shelter seeking upscale limited partnerships.

Time was, not long ago, when the PSB passed expert judgment on util-

ity structuring and power purchase agreements solely on the least cost for bringing electricity to Vermont’s consumers. Now it is steadily moving further, parceling out cash flow from a major utility merger to dubious programs based on political interests, in this case, those of the Governor.

The PSB’s Order refuting the AARP argument for giving the \$21 million back to the people who have a right to it, shows how far the Board has bought into that new role. The DPS/PSB part of state government has become a prime example of “taxation by unaccountable strangers”.

NEWS & VIEWS

Gov. John Lynch (D) vetoed the measure. On June 27 the legislature overrode his veto and enacted the bill into law. (AP 6/28/12)

Another Entergy Court Ruling: “Even though ‘It would not be inaccurate to characterize the fee as a form of blackmail for the state approval of the construction’ of a pad to store spent nuclear fuel at Vermont Yankee, Entergy is not entitled to reimbursement from the federal government for its contributions to Vermont’s Clean Energy Development fund. That was a conclusion reached by the U.S. Court of Appeals for the Federal Circuit in a decision issued on June 13.” (*Reformer*, 6/21/12)

We have regularly called the state’s war on Entergy extortion, but “blackmail” captures the same thought.

And Yet Another: On June 27 the Circuit Court of DC held that Attorney General Sorrell and his anti-nuclear partners had blown their chance to defeat the NRC’s Vermont Yankee license renewal on grounds of not having a current water discharge permit.

Said the Court: “Notwithstanding all of these opportunities to fulfill the exhaustion requirement – and the Board’s admonition that ‘filing a petition for review is mandatory for a party to exhaust its administrative remedies before seeking judicial review’ – the petitioners sat silent for two and one-half years thereafter, raising their section 401 objection only after the Commission issued the license renewal in March 2011.” Duh.

Canadian Doctor Wait: Here’s an add-on to our page 4 commentary that noted the problem of finding a primary care doctor in Canada. “Growing numbers of Canadians are growing frustrated searching for a primary care physician. One Canadian writes that she called all 84 doctors who were listed as practicing within six miles from her home, ‘Some of their receptionists were polite. Some were

surly. All rejected me.’” – “The soul-destroying search for a family doctor”, *Toronto Globe and Mail* (8/11/11).

Public Employee Pensions: “In California, among others, the state deducts union dues from public employee paychecks and sends these directly to the unions, thus saving them the need to persuade public employees to sign up to let the union bosses use their money in elections...What happens when the umbilical cord is broken? It happened in Wisconsin last year as part of Governor Walker’s reform legislation.”

“Dues stopped flowing from the state treasury to the unions. They had to sell their services to the workers. Result: dues paying is down to 28 percent of the Wisconsin public work force.” – Peter Hannaford (*AmSpec* 6/7/12)

Canadian Health Care Wait Times: “Canadians seeking surgical or other therapeutic treatment faced a median wait time of 19.0 weeks in

2011, the longest wait time since 1993. The median surgical wait time in 2011 jumped to 19.0 weeks from 18.2 weeks in 2010, exceeding the previous all-time high of 18.3 weeks recorded in 2007, according to the 21st annual edition of *Waiting Your Turn: Wait Times for Health Care in Canada*, released by the Fraser Institute. (12/21/11)

Vermont’s Licensing Burden: “Vermont is the 44th most broadly and onerously licensed state. This ranking is primarily because Vermont licenses only 27 of the 102 low- to moderate-income occupations studied. On average, it requires these aspiring practitioners to pay \$174 in fees, lose 402 days to education and experience and take two exams. These requirements make for the ninth most burdensome licensing laws.

“Aspiring cosmetologists across the country pay average fees of \$142, but Vermont charges \$235 in fees. As one of only seven states that license entry-level dental assistants, Vermont charges the highest fees of \$110; the average in other states is \$50.” Institute for Justice, *License to Work*, June 2012)





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June 27, 2012

Entergy Smack Down

MEDIA

On Tuesday the U.S. Circuit Court of Appeals in Washington tossed into the trash can the most recent desperate attempt by Attorney General William Sorrell and the New England (Anti-Nuclear) Coalition to overturn the already-issued license to Entergy to operate Vermont Yankee for twenty more years.

The plaintiffs in this case claimed that the Nuclear Regulatory Commission was precluded from issuing a license extension to Vermont Yankee because Entergy had not had its water pollution permit renewed since 2001.

Skipping to the final page of the 20-page decision: “We conclude that the petitioners failed to exhaust their administrative remedies before the Commission and thereby waived the right to raise their section 401 [water discharge] objection on judicial review. Accordingly, we deny their petitions for review.”

The Court said, in effect, “Hey, how come you didn’t raise all that during the years of regulatory combat before the Atomic Safety and Licensing Board and its parent, the Nuclear Regulatory Commission?”

Sorrell & Company offered a handful of reasons why, despite the fact that they hadn’t thought to pursue the issue earlier, the Court should set aside the NRC decision and allow Sorrell to raise the 401 permit issue now.

The Court patiently explained that Sorrell could have followed any one of six different routes to satisfy the federal requirement of exhaustion of administrative remedies before going to court. “Yet,” it wrote, “notwithstanding all of these opportunities to fulfill the exhaustion requirement – and the Board’s admonition that “filing a petition for review is mandatory for a party to exhaust its administrative remedies before seeking judicial review – the petitioners sat silent for two and one-half years thereafter, raising their section 401 objection only after the Commission issued the license renewal in March 2011.”

We are frankly fed up with the endless Sorrell-Shumlin war against Entergy and Vermont Yankee. Thus we are glad that Sorrell’s administrative legal incompetence gave Entergy this resounding courtroom victory.